



Sen. Terry Link

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LRB098 08854 RPS 60388 a

1 AMENDMENT TO HOUSE BILL 1165

2 AMENDMENT NO. _____. Amend House Bill 1165 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by
5 changing Sections 1-113.2, 1-113.3, 1-113.4, 1-113.4a, 1A-108,
6 3-128, and 4-121 and by adding Section 1-113.4b as follows:

7 (40 ILCS 5/1-113.2)

8 Sec. 1-113.2. List of permitted investments for all Article
9 3 or 4 pension funds. Any pension fund established under
10 Article 3 or 4 may invest in the following items:

11 (1) Interest bearing direct obligations of the United
12 States of America.

13 (2) Interest bearing obligations to the extent that they
14 are fully guaranteed or insured as to payment of principal and
15 interest by the United States of America.

16 (3) Interest bearing bonds, notes, debentures, or other

1 similar obligations of agencies of the United States of
2 America. For the purposes of this Section, "agencies of the
3 United States of America" includes: (i) the Federal National
4 Mortgage Association and the Student Loan Marketing
5 Association; (ii) federal land banks, federal intermediate
6 credit banks, federal farm credit banks, and any other entity
7 authorized to issue direct debt obligations of the United
8 States of America under the Farm Credit Act of 1971 or
9 amendments to that Act; (iii) federal home loan banks and the
10 Federal Home Loan Mortgage Corporation; and (iv) any agency
11 created by Act of Congress that is authorized to issue direct
12 debt obligations of the United States of America.

13 (4) Interest bearing savings accounts or certificates of
14 deposit, issued by federally chartered banks or savings and
15 loan associations, to the extent that the deposits are insured
16 by agencies or instrumentalities of the federal government.

17 (5) Interest bearing savings accounts or certificates of
18 deposit, issued by State of Illinois chartered banks or savings
19 and loan associations, to the extent that the deposits are
20 insured by agencies or instrumentalities of the federal
21 government.

22 (6) Investments in credit unions, to the extent that the
23 investments are insured by agencies or instrumentalities of the
24 federal government.

25 (7) Interest bearing bonds of the State of Illinois.

26 (8) Pooled interest bearing accounts managed by the

1 Illinois Public Treasurer's Investment Pool in accordance with
2 the Deposit of State Moneys Act, interest bearing funds or
3 pooled accounts of the Illinois Metropolitan Investment Funds,
4 and interest bearing funds or pooled accounts managed,
5 operated, and administered by banks, subsidiaries of banks, or
6 subsidiaries of bank holding companies in accordance with the
7 laws of the State of Illinois.

8 (9) Interest bearing bonds or tax anticipation warrants of
9 any county, township, or municipal corporation of the State of
10 Illinois.

11 (10) Direct obligations of the State of Israel, subject to
12 the conditions and limitations of item (5.1) of Section 1-113.

13 (11) Money market mutual funds managed by investment
14 companies that are registered under the federal Investment
15 Company Act of 1940 and the Illinois Securities Law of 1953 and
16 are diversified, open-ended management investment companies;
17 provided that the portfolio of the money market mutual fund is
18 limited to the following:

19 (i) bonds, notes, certificates of indebtedness,
20 treasury bills, or other securities that are guaranteed by
21 the full faith and credit of the United States of America
22 as to principal and interest;

23 (ii) bonds, notes, debentures, or other similar
24 obligations of the United States of America or its
25 agencies; and

26 (iii) short term obligations of corporations organized

1 in the United States with assets exceeding \$400,000,000,
2 provided that (A) the obligations mature no later than 180
3 days from the date of purchase, (B) at the time of
4 purchase, the obligations are rated by at least 2 standard
5 national rating services at one of their 3 highest
6 classifications, and (C) the obligations held by the mutual
7 fund do not exceed 10% of the corporation's outstanding
8 obligations.

9 (12) General accounts of life insurance companies
10 authorized to transact business in Illinois.

11 (13) Mutual funds comprised of bonds or money market
12 instruments managed by an investment company defined and
13 registered under the federal Investment Company Act of 1940 and
14 registered under the Illinois Securities Law of 1953 that has
15 been in operation for at least 3 years and has total net assets
16 of \$150 million or more across all share classes.

17 (14) Investment grade corporate bonds.

18 (15) American Depository Receipts (ADRs).

19 (16) ~~(13)~~ Any combination of the following, not to exceed
20 10% of the pension fund's net assets:

21 (i) separate accounts that are managed by life
22 insurance companies authorized to transact business in
23 Illinois and are comprised of ~~diversified portfolios~~
24 ~~consisting of~~ common or preferred stocks, real
25 estate or loans upon real estate secured by first or second
26 mortgages, commodities, currency, derivatives, or money

1 market instruments;

2 (ii) limited partnerships that are comprised of common
3 or preferred stocks, bonds, real estate or loans upon real
4 estate secured by first or second mortgages, commodities,
5 currency, derivatives, or money market instruments;

6 (iii) collective trust funds that are comprised of
7 common or preferred stocks, bonds, real estate or loans
8 upon real estate secured by first or second mortgages,
9 commodities, currency, derivatives, or money market
10 instruments;

11 (iv) commingled funds that are comprised of common or
12 preferred stocks, bonds, real estate or loans upon real
13 estate secured by first or second mortgages, commodities,
14 currency, derivatives, or money market instruments;

15 (v) exchange traded funds (ETFs) that are comprised of
16 common or preferred stocks, bonds, real estate or loans
17 upon real estate secured by first or second mortgages,
18 commodities, currency, derivatives, or money market
19 instruments;

20 (vi) exchange traded notes (ETNs) that are comprised of
21 common or preferred stocks, bonds, real estate or loans
22 upon real estate secured by first or second mortgages,
23 commodities, currency, derivatives, or money market
24 instruments;

25 (vii) ~~(ii)~~ separate accounts that are managed by
26 insurance companies authorized to transact business in

1 Illinois, and are comprised of real estate or loans upon
2 real estate secured by first or second mortgages; and

3 (viii) ~~(iii)~~ mutual funds that meet the following
4 requirements:

5 (A) the mutual fund is managed by an investment
6 company as defined and registered under the federal
7 Investment Company Act of 1940 and registered under the
8 Illinois Securities Law of 1953;

9 (B) the mutual fund has been in operation for at
10 least 3 ~~5~~ years;

11 (C) the mutual fund has total net assets of \$150
12 ~~\$250~~ million or more across all share classes; and

13 (D) the mutual fund is comprised of ~~diversified~~
14 ~~portfolios of~~ common or preferred stocks, bonds, real
15 estate or loans upon real estate secured by first or
16 second mortgages, commodities, currency, derivatives,
17 or money market instruments.

18 (17) Any combination of the following, not to exceed 20% of
19 the pension fund's net assets:

20 (i) Corporate bonds rated below investment grade.

21 (ii) Non-agency mortgage backed or asset backed bonds.

22 ~~(14) Corporate bonds managed through an investment advisor~~
23 ~~must meet all of the following requirements:~~

24 ~~(1) The bonds must be rated as investment grade by one~~
25 ~~of the 2 largest rating services at the time of purchase.~~

26 ~~(2) If subsequently downgraded below investment grade,~~

1 ~~the bonds must be liquidated from the portfolio within 90~~
2 ~~days after being downgraded by the manager.~~

3 (Source: P.A. 96-1495, eff. 1-1-11.)

4 (40 ILCS 5/1-113.3)

5 Sec. 1-113.3. List of additional permitted investments for
6 pension funds with net assets of \$10,000,000 or less ~~\$2,500,000~~
7 ~~or more.~~

8 (a) In addition to the items in Section 3-113.2, a pension
9 fund established under Article 3 or 4 that has net assets of
10 \$10,000,000 or less ~~at least \$2,500,000~~ may invest a portion of
11 its net assets in the following items:

12 (1) Separate accounts that are managed by life
13 insurance companies authorized to transact business in
14 Illinois and are comprised of ~~diversified portfolios~~
15 ~~consisting of~~ common or preferred stocks, bonds, real
16 estate or loans upon real estate secured by first or second
17 mortgages, commodities, currency, derivatives, or money
18 market instruments.

19 (2) Mutual funds that meet the following requirements:

20 (i) the mutual fund is managed by an investment
21 company as defined and registered under the federal
22 Investment Company Act of 1940 and registered under the
23 Illinois Securities Law of 1953;

24 (ii) the mutual fund has been in operation for at
25 least 3 ~~5~~ years;

1 (iii) the mutual fund has total net assets of \$150
2 ~~\$250~~ million or more across all share classes; and

3 (iv) the mutual fund is comprised of ~~diversified~~
4 ~~portfolios of~~ common or preferred stocks, bonds, real
5 estate or loans upon real estate secured by first or
6 second mortgages, commodities, currency, derivatives,
7 or money market instruments.

8 (b) A pension fund's total investment in the items
9 authorized under this Section shall not exceed 70% ~~35%~~ of the
10 market value of the pension fund's net present assets stated in
11 its most recent annual report on file with the Illinois
12 Department of Insurance.

13 (Source: P.A. 90-507, eff. 8-22-97.)

14 (40 ILCS 5/1-113.4)

15 Sec. 1-113.4. List of additional permitted investments for
16 pension funds with net assets of \$10,000,000 or less ~~\$5,000,000~~
17 ~~or more~~.

18 (a) In addition to the items in Sections 1-113.2 and
19 1-113.3, a pension fund established under Article 3 or 4 that
20 has net assets of \$10,000,000 or less ~~at least \$5,000,000~~ and
21 has appointed an investment adviser under Section 1-113.5 may,
22 through that investment adviser, invest a portion of its assets
23 in common and preferred stocks authorized for investments of
24 trust funds under the laws of the State of Illinois. The stocks
25 must meet all of the following requirements:

1 (1) The common stocks have been ~~are~~ listed on a
2 national securities exchange or board of trade (as defined
3 in the federal Securities Exchange Act of 1934 and set
4 forth in Section 3.G of the Illinois Securities Law of
5 1953) or quoted in the National Association of Securities
6 Dealers Automated Quotation System National Market System
7 (NASDAQ NMS) for at least 5 years.

8 (2) (Blank). ~~The securities are of a corporation~~
9 ~~created or existing under the laws of the United States or~~
10 ~~any state, district, or territory thereof and the~~
11 ~~corporation has been in existence for at least 5 years.~~

12 (3) The corporation has not been in arrears on payment
13 of dividends on its preferred stock during the preceding 5
14 years.

15 (4) The market value of stock in any one corporation
16 does not exceed 5% of the cash and invested assets of the
17 pension fund, and the investments in the stock of any one
18 corporation do not exceed 5% of the total outstanding stock
19 of that corporation.

20 (5) The straight preferred stocks or convertible
21 preferred stocks are issued or guaranteed by a corporation
22 whose common stock qualifies for investment by the board.

23 (6) The issuer of the stocks has been subject to the
24 requirements of Section 12 of the federal Securities
25 Exchange Act of 1934 and has been current with the filing
26 requirements of Sections 13 and 14 of that Act during the

1 preceding 3 years.

2 (b) A pension fund's total investment in the items
3 authorized under this Section and Section 1-113.3 shall not
4 exceed 70% ~~35%~~ of the market value of the pension fund's net
5 present assets stated in its most recent annual report on file
6 with the Illinois Department of Insurance.

7 (c) A pension fund that invests funds under this Section
8 shall electronically file with the Division any reports of its
9 investment activities that the Division may require, at the
10 times and in the format required by the Division.

11 (Source: P.A. 90-507, eff. 8-22-97.)

12 (40 ILCS 5/1-113.4a)

13 Sec. 1-113.4a. List of additional permitted investments
14 for Article 3 and 4 pension funds with net assets of
15 \$10,000,000 or less ~~more~~.

16 (a) In addition to the items in Sections 1-113.2 and
17 1-113.3, a pension fund established under Article 3 or 4 that
18 has net assets of ~~at least~~ \$10,000,000 or less and has
19 appointed an investment adviser, as defined under Sections
20 1-101.4 and 1-113.5, may, through that investment adviser,
21 invest an additional portion of its assets in common and
22 preferred stocks and mutual funds.

23 (b) The stocks must meet all of the following requirements:

24 (1) The common stocks must be listed on a national
25 securities exchange or board of trade (as defined in the

1 Federal Securities Exchange Act of 1934 and set forth in
2 paragraph G of Section 3 of the Illinois Securities Law of
3 1953) or quoted in the National Association of Securities
4 Dealers Automated Quotation System National Market System.

5 (2) The securities must be of a corporation in
6 existence for at least 5 years.

7 (3) The market value of stock in any one corporation
8 may not exceed 5% of the cash and invested assets of the
9 pension fund, and the investments in the stock of any one
10 corporation may not exceed 5% of the total outstanding
11 stock of that corporation.

12 (4) The straight preferred stocks or convertible
13 preferred stocks must be issued or guaranteed by a
14 corporation whose common stock qualifies for investment by
15 the board.

16 (c) The mutual funds must meet the following requirements:

17 (1) The mutual fund must be managed by an investment
18 company registered under the Federal Investment Company
19 Act of 1940 and registered under the Illinois Securities
20 Law of 1953.

21 (2) The mutual fund must have been in operation for at
22 least 5 years.

23 (3) The mutual fund must have total net assets of
24 \$250,000,000 or more.

25 (4) The mutual fund must be comprised of a diversified
26 portfolio of common or preferred stocks, bonds, or money

1 market instruments.

2 (d) A pension fund's total investment in the items
3 authorized under this Section and Section 1-113.3 shall not
4 exceed 50% effective July 1, 2011 and 55% effective July 1,
5 2012 of the market value of the pension fund's net present
6 assets stated in its most recent annual report on file with the
7 Department of Insurance.

8 (e) A pension fund that invests funds under this Section
9 shall electronically file with the Division any reports of its
10 investment activities that the Division may require, at the
11 time and in the format required by the Division.

12 (Source: P.A. 96-1495, eff. 1-1-11.)

13 (40 ILCS 5/1-113.4b new)

14 Sec. 1-113.4b. Permitted investments for Article 3 and 4
15 pension funds with net assets of more than \$10,000,000. An
16 Article 3 or 4 pension fund with net assets of more than
17 \$10,000,000 may invest the reserves of the Fund in any
18 reasonable and prudent investment, subject to the requirements
19 and restrictions set forth in Sections 1-109, 1-109.1, 1-109.2,
20 1-110, 1-111, 1-114, and 1-115 of this Code. Investments made
21 in accordance with Section 1-113, 1-113.2, 1-113.3, 1-113.4, or
22 1-113.4a of this Code shall be deemed prudent.

23 No bank or savings and loan association shall receive
24 investment funds as permitted by this Section, unless it has
25 complied with the requirements established pursuant to Section

1 6 of "An Act relating to certain investments of public funds by
2 public agencies", approved July 23, 1943, as now or hereafter
3 amended. The limitations set forth in that Section 6 shall be
4 applicable only at the time of investment and shall not require
5 the liquidation of any investment at any time.

6 The board of the pension fund shall have the authority to
7 enter into such agreements and to execute such documents as it
8 determines to be necessary to complete any investment
9 transaction. All investments shall be clearly held and
10 accounted for to indicate ownership by the pension fund. The
11 board of the pension fund may direct the registration of
12 securities or the holding in interests in real property in the
13 name of the pension fund or in the name of a nominee created
14 for the express purpose of registration of securities or
15 holding interests in real property by a national or state bank
16 or trust company authorized to conduct a trust business in the
17 State of Illinois.

18 Investments shall be carried at cost or at a value
19 determined in accordance with generally accepted accounting
20 principles.

21 (40 ILCS 5/1A-108)

22 Sec. 1A-108. Report to the Governor and General Assembly.

23 (a) On or before October 1 following the convening of a
24 regular session of the General Assembly, the Division shall
25 submit a report to the Governor and General Assembly setting

1 forth the latest financial statements on the pension funds
2 operating in the State of Illinois, a summary of the current
3 provisions underlying these funds, and a report on any changes
4 that have occurred in these provisions since the date of the
5 last such report submitted by the Division.

6 The report shall also include the results of examinations
7 made by the Division of any pension fund and any specific
8 recommendations for legislative and administrative correction
9 that the Division deems necessary. The report may embody
10 general recommendations concerning desirable changes in any
11 existing pension, annuity, or retirement laws designed to
12 standardize and establish uniformity in their basic provisions
13 and to bring about an improvement in the financial condition of
14 the pension funds. The purposes of these recommendations and
15 the objectives sought shall be clearly expressed in the report.

16 (b) In its annual report to the General Assembly due on or
17 before October 1, 2014, the Division shall include its
18 recommendations for a means of consolidating or averaging the
19 various actuarial assumptions and financial conditions of the
20 Article 3 and 4 pension funds that could be used in a unified
21 and convenient way by the General Assembly in considering and
22 evaluating the effects of proposed funding and benefit reforms
23 for those pension funds.

24 (c) The requirement for reporting to the General Assembly
25 shall be satisfied by filing copies of the report with the
26 Speaker, the Minority Leader, and the Clerk of the House of

1 Representatives, the President, the Minority Leader, and the
2 Secretary of the Senate, and the Legislative Research Unit, as
3 required by Section 3.1 of the General Assembly Organization
4 Act, and filing additional copies with the State Government
5 Report Distribution Center for the General Assembly as required
6 under paragraph (t) of Section 7 of the State Library Act.

7 Upon request, the Division shall distribute additional
8 copies of the report at no charge to the secretary of each
9 pension fund established under Article 3 or 4, the treasurer or
10 fiscal officer of each municipality with an established police
11 or firefighter pension fund, the executive director of every
12 other pension fund established under this Code, and to public
13 libraries, State agencies, and police, firefighter, and
14 municipal organizations active in the public pension area.

15 (Source: P.A. 90-507, eff. 8-22-97.)

16 (40 ILCS 5/3-128) (from Ch. 108 1/2, par. 3-128)

17 Sec. 3-128. Board created. A board of 6 members ~~5 members~~
18 shall constitute a board of trustees to administer the pension
19 fund and to designate the beneficiaries thereof. The board
20 shall be known as the "Board of Trustees of the Police Pension
21 Fund" of the municipality.

22 Two members of the board shall be appointed by the mayor or
23 president of the board of trustees of the municipality
24 involved. The 3rd and 4th members of the board shall be elected
25 from the active participants of the pension fund by such active

1 participants. The 5th member shall be elected by and from the
2 beneficiaries. Beginning January 1, 2015, a 6th member of the
3 board shall be appointed by the mayor or president of the board
4 of trustees of the municipality.

5 One of the members appointed by the mayor or president of
6 the board of trustees shall serve for one year beginning on the
7 2nd Tuesday in May after the municipality comes under this
8 Article. The other initial appointed member shall serve for 2
9 years beginning on the same date. The new member appointed
10 under this amendatory Act of the 98th General Assembly shall
11 serve from the time of appointment to the second Tuesday of the
12 second May occurring after that appointment. Their successors
13 shall serve for 2 years each or until their successors are
14 appointed and have qualified.

15 The election for board members shall be held biennially on
16 the 3rd Monday in April, at such place or places in the
17 municipality and under the Australian ballot system and such
18 other regulations as shall be prescribed by the appointed
19 members of the board.

20 The active pension fund participants shall be entitled to
21 vote only for the active participant members of the board. All
22 beneficiaries of legal age may vote only for the member chosen
23 from among the beneficiaries. No person shall be entitled to
24 cast more than one ballot at such election. The term of elected
25 members shall be 2 years, beginning on the 2nd Tuesday of the
26 first May after the election.

1 Upon the death, resignation or inability to act of any
2 elected board member, his or her successor shall be elected for
3 the unexpired term at a special election, to be called by the
4 board and conducted in the same manner as the regular biennial
5 election.

6 Members of the board shall neither receive nor have any
7 right to receive any salary from the pension fund for services
8 performed as trustees in that office.

9 (Source: P.A. 83-1440.)

10 (40 ILCS 5/4-121) (from Ch. 108 1/2, par. 4-121)

11 Sec. 4-121. Board created. There is created in each
12 municipality or fire protection district a board of trustees to
13 be known as the "Board of Trustees of the Firefighters' Pension
14 Fund". The membership of the board for each municipality shall
15 be, respectively, as follows: in cities, the treasurer, clerk,
16 marshal, or chief officer of the fire department, and the
17 comptroller if there is one, or if not, the mayor; in each
18 township, village or incorporated town, the president of the
19 municipality's board of trustees, the village or town clerk,
20 village or town attorney, village or town treasurer, and the
21 chief officer of the fire department; and in each fire
22 protection district, the president and other 2 members of its
23 board of trustees and the marshal or chief of its fire
24 department or service, as the case may be; and in all the
25 municipalities above designated 3 additional persons chosen

1 from their active firefighters and one other person who has
2 retired under the "Firemen's Pension Fund Act of 1919", or this
3 Article. Notwithstanding any provision of this Section to the
4 contrary, the term of office of each member of a board
5 established on or before the 3rd Monday in April, 2006 shall
6 terminate on the 3rd Monday in April, 2006, but all incumbent
7 members shall continue to exercise all of the powers and be
8 subject to all of the duties of a member of the board until all
9 the new members of the board take office.

10 Beginning on the 3rd Monday in April, 2006, the board for
11 each municipality or fire protection district shall consist of
12 5 members, and beginning January 1, 2015, the board shall
13 consist of 6 members. Two members of the board shall be
14 appointed by the mayor or president of the board of trustees of
15 the municipality or fire protection district involved, and
16 beginning January 1, 2015, a third member of the board shall be
17 appointed by the mayor or president of the board of trustees of
18 the municipality or fire protection district. Two members of
19 the board shall be active participants of the pension fund who
20 are elected from the active participants of the fund. One
21 member of the board shall be a person who is retired under the
22 Firemen's Pension Fund Act of 1919 or this Article who is
23 elected from persons retired under the Firemen's Pension Fund
24 Act of 1919 or this Article.

25 For the purposes of this Section, a firefighter receiving a
26 disability pension shall be considered a retired firefighter.

1 In the event that there are no retired firefighters under the
2 Fund or if none is willing to serve on the board, then an
3 additional active firefighter shall be elected to the board in
4 lieu of the retired firefighter that would otherwise be
5 elected.

6 If the regularly constituted fire department of a
7 municipality is dissolved and Section 4-106.1 is not
8 applicable, the board shall continue to exist and administer
9 the Fund so long as there continues to be any annuitant or
10 deferred pensioner in the Fund. In such cases, elections shall
11 continue to be held as specified in this Section, except that:
12 (1) deferred pensioners shall be deemed to be active members
13 for the purposes of such elections; (2) any otherwise
14 unfillable positions on the board, including ex officio
15 positions, shall be filled by election from the remaining
16 firefighters and deferred pensioners of the Fund, to the extent
17 possible; and (3) if the membership of the board falls below 3
18 persons, the Illinois Director of Insurance or his designee
19 shall be deemed a member of the board, ex officio.

20 The members chosen from the active and retired firefighters
21 shall be elected by ballot at elections to be held on the 3rd
22 Monday in April of the applicable years under the Australian
23 ballot system, at such place or places, in the municipality,
24 and under such regulations as shall be prescribed by the board.

25 No person shall cast more than one vote for each candidate
26 for whom he or she is eligible to vote. In the elections for

1 board members to be chosen from the active firefighters, all
2 active firefighters and no others may vote. In the elections
3 for board members to be chosen from retired firefighters, the
4 retired firefighters and no others may vote.

5 Each member of the board so elected shall hold office for a
6 term of 3 years and until his or her successor has been duly
7 elected and qualified.

8 The board shall canvass the ballots and declare which
9 persons have been elected and for what term or terms
10 respectively. In case of a tie vote between 2 or more
11 candidates, the board shall determine by lot which candidate or
12 candidates have been elected and for what term or terms
13 respectively. In the event of the failure, resignation, or
14 inability to act of any board member, a successor shall be
15 elected for the unexpired term at a special election called by
16 the board and conducted in the same manner as a regular
17 election.

18 The board shall elect annually from its members a president
19 and secretary.

20 Board members shall not receive or have any right to
21 receive any salary from a pension fund for services performed
22 as board members.

23 (Source: P.A. 96-1000, eff. 7-2-10.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law."