



Rep. Arthur Turner

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1 AMENDMENT TO SENATE BILL 452

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 452 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by  
5 changing Sections 1-109.1 and 1-109.3 and by adding 1-113.21 as  
6 follows:

7 (40 ILCS 5/1-109.1) (from Ch. 108 1/2, par. 1-109.1)

8 Sec. 1-109.1. Allocation and Delegation of Fiduciary  
9 Duties.

10 (1) Subject to the provisions of Section 22A-113 of this  
11 Code and subsections (2) and (3) of this Section, the board of  
12 trustees of a retirement system or pension fund established  
13 under this Code may:

14 (a) Appoint one or more investment managers as  
15 fiduciaries to manage (including the power to acquire and  
16 dispose of) any assets of the retirement system or pension

1 fund; and

2 (b) Allocate duties among themselves and designate  
3 others as fiduciaries to carry out specific fiduciary  
4 activities other than the management of the assets of the  
5 retirement system or pension fund.

6 (2) The board of trustees of a pension fund established  
7 under Article 5, 6, 8, 9, 10, 11, 12 or 17 of this Code may not  
8 transfer its investment authority, nor transfer the assets of  
9 the fund to any other person or entity for the purpose of  
10 consolidating or merging its assets and management with any  
11 other pension fund or public investment authority, unless the  
12 board resolution authorizing such transfer is submitted for  
13 approval to the contributors and pensioners of the fund at  
14 elections held not less than 30 days after the adoption of such  
15 resolution by the board, and such resolution is approved by a  
16 majority of the votes cast on the question in both the  
17 contributors election and the pensioners election. The  
18 election procedures and qualifications governing the election  
19 of trustees shall govern the submission of resolutions for  
20 approval under this paragraph, insofar as they may be made  
21 applicable.

22 (3) Pursuant to subsections (h) and (i) of Section 6 of  
23 Article VII of the Illinois Constitution, the investment  
24 authority of boards of trustees of retirement systems and  
25 pension funds established under this Code is declared to be a  
26 subject of exclusive State jurisdiction, and the concurrent

1 exercise by a home rule unit of any power affecting such  
2 investment authority is hereby specifically denied and  
3 preempted.

4 (4) For the purposes of this Code, "emerging investment  
5 manager" means a qualified investment adviser that manages an  
6 investment portfolio of at least \$10,000,000 but less than  
7 \$10,000,000,000 and is a "minority owned business", "female  
8 owned business" or "business owned by a person with a  
9 disability" as those terms are defined in the Business  
10 Enterprise for Minorities, Females, and Persons with  
11 Disabilities Act.

12 It is hereby declared to be the public policy of the State  
13 of Illinois to encourage the trustees of public employee  
14 retirement systems, pension funds, and investment boards to use  
15 emerging investment managers in managing their system's  
16 assets, encompassing all asset classes, and increase the  
17 racial, ethnic, and gender diversity of its fiduciaries, to the  
18 greatest extent feasible within the bounds of financial and  
19 fiduciary prudence, and to take affirmative steps to remove any  
20 barriers to the full participation in investment opportunities  
21 afforded by those retirement systems, pension funds, and  
22 investment boards.

23 On or before January 1, 2010, a retirement system, pension  
24 fund, or investment board subject to this Code, except those  
25 whose investments are restricted by Section 1-113.2 of this  
26 Code, shall adopt a policy that sets forth goals for

1 utilization of emerging investment managers. This policy shall  
2 include quantifiable goals for the management of assets in  
3 specific asset classes by emerging investment managers. The  
4 retirement system, pension fund, or investment board shall  
5 establish 3 separate goals for: (i) emerging investment  
6 managers that are minority owned businesses; (ii) emerging  
7 investment managers that are female owned businesses; and (iii)  
8 emerging investment managers that are businesses owned by a  
9 person with a disability. The goals established shall be based  
10 on the percentage of total dollar amount of investment service  
11 contracts let to minority owned businesses, female owned  
12 businesses, and businesses owned by a person with a disability,  
13 as those terms are defined in the Business Enterprise for  
14 Minorities, Females, and Persons with Disabilities Act. The  
15 retirement system, pension fund, or investment board shall  
16 annually review the goals established under this subsection.

17 If in any case an emerging investment manager meets the  
18 criteria established by a board for a specific search and meets  
19 the criteria established by a consultant for that search, then  
20 that emerging investment manager shall receive an invitation by  
21 the board of trustees, or an investment committee of the board  
22 of trustees, to present his or her firm for final consideration  
23 of a contract. In the case where multiple emerging investment  
24 managers meet the criteria of this Section, the staff may  
25 choose the most qualified firm or firms to present to the  
26 board.

1           The use of an emerging investment manager does not  
2 constitute a transfer of investment authority for the purposes  
3 of subsection (2) of this Section.

4           (5) Each retirement system, pension fund, or investment  
5 board subject to this Code, except those whose investments are  
6 restricted by Section 1-113.2 of this Code, shall establish a  
7 policy that sets forth goals for increasing the racial, ethnic,  
8 and gender diversity of its fiduciaries, including its  
9 consultants and senior staff. Each system, fund, and investment  
10 board shall annually review the goals established under this  
11 subsection.

12           (6) On or before January 1, 2010, a retirement system,  
13 pension fund, or investment board subject to this Code, except  
14 those whose investments are restricted by Section 1-113.2 of  
15 this Code, shall adopt a policy that sets forth goals for  
16 utilization of businesses owned by minorities, females, and  
17 persons with disabilities for all contracts and services. The  
18 goals established shall be based on the percentage of total  
19 dollar amount of all contracts let to minority owned  
20 businesses, female owned businesses, and businesses owned by a  
21 person with a disability, as those terms are defined in the  
22 Business Enterprise for Minorities, Females, and Persons with  
23 Disabilities Act. The retirement system, pension fund, or  
24 investment board shall annually review the goals established  
25 under this subsection.

26           (7) On or before January 1, 2010, a retirement system,

1 pension fund, or investment board subject to this Code, except  
2 those whose investments are restricted by Section 1-113.2 of  
3 this Code, shall adopt a policy that sets forth goals for  
4 increasing the utilization of minority broker-dealers. For the  
5 purposes of this Code, "minority broker-dealer" means a  
6 qualified broker-dealer who meets the definition of "minority  
7 owned business", "female owned business", or "business owned by  
8 a person with a disability", as those terms are defined in the  
9 Business Enterprise for Minorities, Females, and Persons with  
10 Disabilities Act. The retirement system, pension fund, or  
11 investment board shall annually review the goals established  
12 under this Section.

13 (8) Each retirement system, pension fund, and investment  
14 board subject to this Code, except those whose investments are  
15 restricted by Section 1-113.2 of this Code, shall submit a  
16 report to the Governor and the General Assembly by January 1 of  
17 each year that includes the following: (i) the policy adopted  
18 under subsection (4) of this Section, including the names and  
19 addresses of the emerging investment managers used, percentage  
20 of the assets under the investment control of emerging  
21 investment managers for the 3 separate goals, and the actions  
22 it has undertaken to increase the use of emerging investment  
23 managers, including encouraging other investment managers to  
24 use emerging investment managers as subcontractors when the  
25 opportunity arises; (ii) the policy adopted under subsection  
26 (5) of this Section; (iii) the policy adopted under subsection

1 (6) of this Section; ~~and~~ (iv) the policy adopted under  
2 subsection (7) of this Section, including specific actions  
3 undertaken to increase the use of minority broker-dealers; and  
4 (v) the policy adopted under subsection (9) of this Section.

5 (9) On or before February 1, 2015, a retirement system,  
6 pension fund, or investment board subject to this Code, except  
7 those whose investments are restricted by Section 1-113.2 of  
8 this Code, shall adopt a policy that sets forth goals for  
9 increasing the utilization of minority investment managers.  
10 For the purposes of this Code, "minority investment manager"  
11 means a qualified investment manager that manages an investment  
12 portfolio and meets the definition of "minority owned  
13 business", "female owned business", or "business owned by a  
14 person with a disability", as those terms are defined in the  
15 Business Enterprise for Minorities, Females, and Persons with  
16 Disabilities Act.

17 It is hereby declared to be the public policy of the State  
18 of Illinois to encourage the trustees of public employee  
19 retirement systems, pension funds, and investment boards to use  
20 minority investment managers in managing their systems'  
21 assets, encompassing all asset classes, and to increase the  
22 racial, ethnic, and gender diversity of their fiduciaries, to  
23 the greatest extent feasible within the bounds of financial and  
24 fiduciary prudence, and to take affirmative steps to remove any  
25 barriers to the full participation in investment opportunities  
26 afforded by those retirement systems, pension funds, and

1 investment boards.

2 The retirement system, pension fund, or investment board  
3 shall establish 3 separate goals for: (i) minority investment  
4 managers that are minority owned businesses; (ii) minority  
5 investment managers that are female owned businesses; and (iii)  
6 minority investment managers that are businesses owned by a  
7 person with a disability. The retirement system, pension fund,  
8 or investment board shall annually review the goals established  
9 under this Section.

10 If in any case a minority investment manager meets the  
11 criteria established by a board for a specific search and meets  
12 the criteria established by a consultant for that search, then  
13 that minority investment manager shall receive an invitation by  
14 the board of trustees, or an investment committee of the board  
15 of trustees, to present his or her firm for final consideration  
16 of a contract. In the case where multiple minority investment  
17 managers meet the criteria of this Section, the staff may  
18 choose the most qualified firm or firms to present to the  
19 board.

20 The use of a minority investment manager does not  
21 constitute a transfer of investment authority for the purposes  
22 of subsection (2) of this Section.

23 (Source: P.A. 96-6, eff. 4-3-09.)

24 (40 ILCS 5/1-109.3)

25 Sec. 1-109.3. Training requirement for pension trustees



1 and managers.

2 (a) All elected and appointed trustees under Article 3 and  
3 4 of this Code must participate in a mandatory trustee  
4 certification training seminar that consists of at least 32  
5 hours of initial trustee certification at a training facility  
6 that is accredited and affiliated with a State of Illinois  
7 certified college or university. This training must include  
8 without limitation all of the following:

9 (1) Duties and liabilities of a fiduciary under Article  
10 1 of the Illinois Pension Code.

11 (2) Adjudication of pension claims.

12 (3) Basic accounting and actuarial training.

13 (4) Trustee ethics.

14 (5) The Illinois Open Meetings Act.

15 (6) The Illinois Freedom of Information Act.

16 The training required under this subsection (a) must be  
17 completed within the first year that a trustee is elected or  
18 appointed under an Article 3 or 4 pension fund. The elected and  
19 appointed trustees of an Article 3 or 4 pension fund who are  
20 police officers (as defined in Section 3-106 of this Code) or  
21 firefighters (as defined in Section 4-106 of this Code) or are  
22 employed by the municipality shall be permitted time away from  
23 their duties to attend such training without reduction of  
24 accrued leave or benefit time. Active or appointed trustees  
25 serving on the effective date of this amendatory Act of the  
26 96th General Assembly shall not be required to attend the

1 training required under this subsection (a).

2 (b) In addition to the initial trustee certification  
3 training required under subsection (a), all elected and  
4 appointed trustees under Article 3 and 4 of this Code,  
5 including trustees serving on the effective date of this  
6 amendatory Act of the 96th General Assembly, shall also  
7 participate in a minimum of 16 hours of continuing trustee  
8 education each year after the first year that the trustee is  
9 elected or appointed.

10 (c) The training required under this Section shall be paid  
11 for by the pension fund.

12 (d) Any board member who does not timely complete the  
13 training required under this Section is not eligible to serve  
14 on the board of trustees of an Article 3 or 4 pension fund,  
15 unless the board member completes the missed training within 6  
16 months after the date the member failed to complete the  
17 required training. In the event of a board member's failure to  
18 complete the required training, a successor shall be appointed  
19 or elected, as applicable, for the unexpired term. A successor  
20 who is elected under such circumstances must be elected at a  
21 special election called by the board and conducted in the same  
22 manner as a regular election under Article 3 or 4, as  
23 applicable.

24 (e) Beginning January 1, 2015, every current or incoming  
25 trustee, Chief Financial Officer, Chief Investment Officer,  
26 and Executive Director of any pension fund or retirement system

1 established under any Article of this Code shall receive 10  
2 hours of minority and female investment inclusion training,  
3 with the oversight of the Senate Public Pensions and State  
4 Investments Committee.

5 (Source: P.A. 96-429, eff. 8-13-09.)

6 (40 ILCS 5/1-113.21 new)

7 Sec. 1-113.21. Contracts for services.

8 (a) Beginning January 1, 2015, no contract, oral or  
9 written, for investment services, consulting services, or  
10 commitment to a private market fund shall be awarded by a  
11 retirement system, pension fund, or investment board  
12 established under this Code unless the investment advisor,  
13 consultant, or private market fund first discloses:

14 (1) the number of its investment and senior staff and  
15 the percentage of its investment and senior staff who are  
16 (i) a minority person, (ii) a female, and (iii) a person  
17 with a disability; and

18 (2) the number of contracts, oral or written, for  
19 investment services, consulting services, and professional  
20 and artistic services that the investment advisor,  
21 consultant, or private market fund has with (i) a minority  
22 owned business, (ii) a female owned business, or (iii) a  
23 business owned by a person with a disability; and

24 (3) the number of contracts, oral or written, for  
25 investment services, consulting services, and professional

1       and artistic services the investment advisor, consultant,  
2       or private market fund has with a business other than (i) a  
3       minority owned business, (ii) a female owned business or  
4       (iii) a business owned by a person with a disability, if  
5       more than 50% of services performed pursuant to the  
6       contract are performed by (i) a minority person, (ii) a  
7       female, and (iii) a person with a disability.

8       (b) The disclosures required by this Section shall be  
9       considered, within the bounds of financial and fiduciary  
10       prudence, prior to the awarding of a contract, oral or written,  
11       for investment services, consulting services, or commitment to  
12       a private market fund.

13       (c) For the purposes of this Section, the terms "minority  
14       person", "female", "person with a disability", "minority owned  
15       business", "female owned business", and "business owned by a  
16       person with a disability" have the same meaning as those terms  
17       have in the Business Enterprise for Minorities, Females, and  
18       Persons with Disabilities Act.

19       (d) For purposes of this Section, the term "private market  
20       fund" means any private equity fund, private equity fund of  
21       funds, venture capital fund, hedge fund, hedge fund of funds,  
22       real estate fund, or other investment vehicle that is not  
23       publicly traded.

24       Section 10. The Illinois Prepaid Tuition Act is amended by  
25       changing Section 30 as follows:

1 (110 ILCS 979/30)

2 Sec. 30. Investment Advisory Panel duties and  
3 responsibilities.

4 (a) Advice and review. The panel shall offer advice and  
5 counseling regarding the investments of the Illinois prepaid  
6 tuition program with the objective of obtaining the best  
7 possible return on investments consistent with actuarial  
8 soundness of the program. The panel is required to annually  
9 review and advise the Commission on provisions of the strategic  
10 investment plan for the prepaid tuition program. The panel is  
11 also charged with reviewing and advising the Commission with  
12 regard to the annual report that describes the current  
13 financial condition of the program. The panel at its own  
14 discretion also may advise the Commission on other aspects of  
15 the program.

16 (b) Investment plan. The Commission annually shall adopt a  
17 comprehensive investment plan for purposes of this Section. The  
18 comprehensive investment plan shall specify the investment  
19 policies to be utilized by the Commission in its administration  
20 of the Illinois Prepaid Tuition Trust Fund created by Section  
21 35. The Commission may direct that assets of those Funds be  
22 placed in savings accounts or may use the same to purchase  
23 fixed or variable life insurance or annuity contracts,  
24 securities, evidence of indebtedness, or other investment  
25 products pursuant to the comprehensive investment plan and in

1 such proportions as may be designated or approved under that  
2 plan. The Commission shall invest such assets with the care,  
3 skill, prudence, and diligence under the circumstances then  
4 prevailing that a prudent man acting in a like capacity and  
5 familiar with such matters would use in the conduct of an  
6 enterprise of a like character with like aims, and the  
7 Commission shall diversify the investments of such assets so as  
8 to minimize the risk of large losses, unless under the  
9 circumstances it is clearly prudent not to do so. Those  
10 insurance, annuity, savings, and investment products shall be  
11 underwritten and offered in compliance with applicable federal  
12 and State laws, rules, and regulations by persons who are  
13 authorized thereunder to provide those services. The  
14 Commission shall delegate responsibility for preparing the  
15 comprehensive investment plan to the Executive Director of the  
16 Commission. Nothing in this Section shall preclude the  
17 Commission from contracting with a private corporation or  
18 institution to provide such services as may be a part of the  
19 comprehensive investment plan or as may be deemed necessary for  
20 implementation of the comprehensive investment plan,  
21 including, but not limited to, providing consolidated billing,  
22 individual and collective record keeping and accounting, and  
23 asset purchase, control, and safekeeping.

24 (b-5) Investment duties. Beginning January 1, 2015, with  
25 respect to any investments for which it is responsible under  
26 this Section or any other law, the Commission shall be subject

1 to the same requirements as are imposed upon the board of  
2 trustees of a retirement system under Sections 1-109.1(5.1),  
3 1-109.1(9), 1-109.3(e), and 1-113.21 of the Illinois Pension  
4 Code, to the extent that those requirements are not in direct  
5 conflict with any other requirement of law to which the  
6 Commission is subject.

7 (c) Program management. The Commission may not delegate its  
8 management functions, but may arrange to compensate for  
9 personalized investment advisory services rendered with  
10 respect to any or all of the investments under its control an  
11 investment advisor registered under Section 8 of the Illinois  
12 Securities Law of 1953 or any bank or other entity authorized  
13 by law to provide those services. Nothing contained herein  
14 shall preclude the Commission from subscribing to general  
15 investment research services available for purchase or use by  
16 others. The Commission also shall have authority to compensate  
17 for accounting, computing, and other necessary services.

18 (d) Annual report. The Commission shall annually prepare or  
19 cause to be prepared a report setting forth in appropriate  
20 detail an accounting of all Illinois prepaid tuition program  
21 funds and a description of the financial condition of the  
22 program at the close of each fiscal year. Included in this  
23 report shall be an evaluation by at least one nationally  
24 recognized actuary of the financial viability of the program.  
25 This report shall be submitted to the Governor, the President  
26 of the Senate, the Speaker of the House of Representatives, the

1 Auditor General, and the Board of Higher Education on or before  
2 March 1 of the subsequent fiscal year. This report also shall  
3 be made available to purchasers of Illinois prepaid tuition  
4 contracts and shall contain complete Illinois prepaid tuition  
5 contract sales information, including, but not limited to,  
6 projected postsecondary enrollment data for qualified  
7 beneficiaries.

8 (e) Marketing plan. Selection of a marketing agent for the  
9 Illinois prepaid tuition program must be approved by the  
10 Commission. At least once every 3 years, the Commission shall  
11 solicit proposals for marketing of the Illinois prepaid tuition  
12 program in accordance with the Illinois Securities Law of 1953  
13 and any applicable provisions of federal law. The entity  
14 designated pursuant to this paragraph shall serve as a  
15 centralized marketing agent for the program and shall have  
16 exclusive responsibility for marketing the program. No  
17 contract for marketing the Illinois prepaid tuition program  
18 shall extend for longer than 3 years. Any materials produced  
19 for the purpose of marketing the program shall be submitted to  
20 the Executive Director of the Commission for approval before  
21 they are made public. Any eligible institution may distribute  
22 marketing materials produced for the program, so long as the  
23 Executive Director of the Commission approves the distribution  
24 in advance. Neither the State nor the Commission shall be  
25 liable for misrepresentation of the program by a marketing  
26 agent.



1           (f) Accounting and audit. The Commission shall annually  
2 cause to be prepared an accounting of the trust and shall  
3 transmit a copy of the accounting to the Governor, the  
4 President of the Senate, the Speaker of the House, and the  
5 minority leaders of the Senate and House of Representatives.  
6 The Commission shall also make available this accounting of the  
7 trust to any purchaser of an Illinois prepaid tuition contract,  
8 upon request. The accounts of the Illinois prepaid tuition  
9 program shall be subject to annual audits by the Auditor  
10 General or a certified public accountant appointed by the  
11 Auditor General.

12       (Source: P.A. 96-1282, eff. 7-26-10.)".