



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB3486

Introduced 2/14/2014, by Sen. Iris Y. Martinez

SYNOPSIS AS INTRODUCED:

40 ILCS 5/1-109.1 from Ch. 108 1/2, par. 1-109.1
40 ILCS 5/1-109.3
40 ILCS 5/1-109.4 new
40 ILCS 5/1-109.5 new

Amends the General Provisions Article of the Illinois Pension Code. Provides that each public retirement system, pension fund, and investment board shall set annual goals regarding the utilization of Illinois-based financial service businesses, including businesses that are minority owned or female owned; requires information to be collected and reported. Requires each public retirement system, pension fund, and investment board to adopt utilization goals for minority or female owned businesses and to independently verify the status of each contracted business on an annual basis; includes personal and staff penalties for failure to achieve those goals. Provides that every person appointed on or after January 1, 2015 by the board of trustees of a retirement system, pension fund, or investment board to be Executive Director, Chief Investment Officer, Chief Financial Officer, or an equivalent position within that system, fund, or board, or to fill a vacancy on the board of trustees, shall be subject to Senate confirmation and shall be appointed to serve for a term of no more than 4 years. Beginning January 1, 2015, requires every current or incoming trustee, Chief Financial Officer, Chief Investment Officer, and Executive Director of any public retirement system, pension fund, or investment board to receive 10 hours of minority and female investment inclusion training, with the oversight of the Senate Public Pensions and State Investments Committee.

LRB098 19985 EFG 55210 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

1 AN ACT concerning public employee benefits.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pension Code is amended by changing
5 Sections 1-109.1 and 1-109.3 and by adding Sections 1-109.4 and
6 1-109.5 as 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
17 fund; and

18 (b) Allocate duties among themselves and designate
19 others as fiduciaries to carry out specific fiduciary
20 activities other than the management of the assets of the
21 retirement system or pension fund.

22 (2) The board of trustees of a pension fund established
23 under Article 5, 6, 8, 9, 10, 11, 12 or 17 of this Code may not

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

15 (3) Pursuant to subsections (h) and (i) of Section 6 of
16 Article VII of the Illinois Constitution, the investment
17 authority of boards of trustees of retirement systems and
18 pension funds established under this Code is declared to be a
19 subject of exclusive State jurisdiction, and the concurrent
20 exercise by a home rule unit of any power affecting such
21 investment authority is hereby specifically denied and
22 preempted.

23 (4) For the purposes of this Code, "emerging investment
24 manager" means a qualified investment adviser that manages an
25 investment portfolio of at least \$10,000,000 but less than
26 \$10,000,000,000 and is a "minority owned business", "female

1 owned business" or "business owned by a person with a
2 disability" as those terms are defined in the Business
3 Enterprise for Minorities, Females, and Persons with
4 Disabilities Act.

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

16 On or before January 1, 2010, a retirement system, pension
17 fund, or investment board subject to this Code, except those
18 whose investments are restricted by Section 1-113.2 of this
19 Code, shall adopt a policy that sets forth goals for
20 utilization of emerging investment managers. This policy shall
21 include quantifiable goals for the management of assets in
22 specific asset classes by emerging investment managers. The
23 retirement system, pension fund, or investment board shall
24 establish 3 separate goals for: (i) emerging investment
25 managers that are minority owned businesses; (ii) emerging
26 investment managers that are female owned businesses; and (iii)

1 emerging investment managers that are businesses owned by a
2 person with a disability. The goals established shall be based
3 on the percentage of total dollar amount of investment service
4 contracts let to minority owned businesses, female owned
5 businesses, and businesses owned by a person with a disability,
6 as those terms are defined in the Business Enterprise for
7 Minorities, Females, and Persons with Disabilities Act. The
8 retirement system, pension fund, or investment board shall
9 annually review the goals established under this subsection.

10 If in any case an emerging 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 emerging 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 emerging 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 an emerging investment manager does not
21 constitute a transfer of investment authority for the purposes
22 of subsection (2) of this Section.

23 (5) Each retirement system, pension fund, or investment
24 board subject to this Code, except those whose investments are
25 restricted by Section 1-113.2 of this Code, shall establish a
26 policy that sets forth goals for increasing the racial, ethnic,

1 and gender diversity of its fiduciaries, including its
2 consultants and senior staff. Each system, fund, and investment
3 board shall annually review the goals established under this
4 subsection.

5 (5.1) Each retirement system, pension fund, and investment
6 board established under this Code shall set annual goals
7 regarding the utilization of Illinois-based financial service
8 businesses, including businesses that are minority owned and
9 female owned. Each retirement system, pension fund, and
10 investment board shall maintain information on and report to
11 the Governor and the General Assembly on its utilization of
12 in-state and out-of-state financial service businesses.

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

1 (7) On or before January 1, 2010, a retirement system,
2 pension fund, or investment board subject to this Code, except
3 those whose investments are restricted by Section 1-113.2 of
4 this Code, shall adopt a policy that sets forth goals for
5 increasing the utilization of minority broker-dealers. For the
6 purposes of this Code, "minority broker-dealer" means a
7 qualified broker-dealer who meets the definition of "minority
8 owned business", "female owned business", or "business owned by
9 a person with a disability", as those terms are defined in the
10 Business Enterprise for Minorities, Females, and Persons with
11 Disabilities Act. The retirement system, pension fund, or
12 investment board shall annually review the goals established
13 under this Section.

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

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

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

6 (40 ILCS 5/1-109.3)

7 Sec. 1-109.3. Training requirement for pension trustees
8 and managers.

9 (a) All elected and appointed trustees under Article 3 and
10 4 of this Code must participate in a mandatory trustee
11 certification training seminar that consists of at least 32
12 hours of initial trustee certification at a training facility
13 that is accredited and affiliated with a State of Illinois
14 certified college or university. This training must include
15 without limitation all of the following:

16 (1) Duties and liabilities of a fiduciary under Article
17 1 of the Illinois Pension Code.

18 (2) Adjudication of pension claims.

19 (3) Basic accounting and actuarial training.

20 (4) Trustee ethics.

21 (5) The Illinois Open Meetings Act.

22 (6) The Illinois Freedom of Information Act.

23 The training required under this subsection (a) must be
24 completed within the first year that a trustee is elected or
25 appointed under an Article 3 or 4 pension fund. The elected and

1 appointed trustees of an Article 3 or 4 pension fund who are
2 police officers (as defined in Section 3-106 of this Code) or
3 firefighters (as defined in Section 4-106 of this Code) or are
4 employed by the municipality shall be permitted time away from
5 their duties to attend such training without reduction of
6 accrued leave or benefit time. Active or appointed trustees
7 serving on the effective date of this amendatory Act of the
8 96th General Assembly shall not be required to attend the
9 training required under this subsection (a).

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

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

20 (d) Any board member who does not timely complete the
21 training required under this Section is not eligible to serve
22 on the board of trustees of an Article 3 or 4 pension fund,
23 unless the board member completes the missed training within 6
24 months after the date the member failed to complete the
25 required training. In the event of a board member's failure to
26 complete the required training, a successor shall be appointed

1 or elected, as applicable, for the unexpired term. A successor
2 who is elected under such circumstances must be elected at a
3 special election called by the board and conducted in the same
4 manner as a regular election under Article 3 or 4, as
5 applicable.

6 (e) Beginning January 1, 2015, every current or incoming
7 trustee, Chief Financial Officer, Chief Investment Officer,
8 and Executive Director of any pension fund or retirement system
9 established under any Article of this Code shall receive 10
10 hours of minority and female investment inclusion training,
11 with the oversight of the Senate Public Pensions and State
12 Investments Committee.

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

14 (40 ILCS 5/1-109.4 new)

15 Sec. 1-109.4. Minority or female owned business
16 utilization goals.

17 (a) As used in this Section:

18 "Minority or female owned business" means a business
19 concern that is either (i) at least 51% owned, managed, and
20 controlled without restriction by minorities or (ii) at least
21 51% owned, managed, and controlled without restriction by
22 females. A business entity may be certified as both a minority
23 owned business and a female owned business if it has at least
24 51% minority ownership and at least 51% female ownership. A
25 business entity that has less than 51% minority ownership and

1 less than 51% female ownership shall not be certified as a
2 minority or female owned business, even if the combined
3 minority and female ownership exceeds 51%.

4 "Minority or female owned business utilization goals"
5 means the statewide goals of not less than 20% of the total
6 dollar amount of contracts or the goals established by each
7 individual retirement system, pension fund or investment
8 board, whichever is greater. These minimum goals shall be
9 applied across all asset classes in which the retirement
10 system, pension fund, or investment board is invested.

11 (b) Each retirement system, pension fund, and investment
12 board must adopt minority or female owned business utilization
13 goals and shall independently verify the minority or women
14 owned business certification status of each contracted
15 business on an annual basis.

16 (c) Failure to meet the minority or female owned business
17 utilization goals in a fiscal year shall result in the
18 following consequences for a retirement system, pension fund,
19 or investment board:

20 (1) the Chief Investment Officer, Chief Financial
21 Officer, or Executive Director, whichever is relevant, and
22 the staff operating under that position, shall not be
23 eligible to receive more than 60% of their expected bonus
24 for that fiscal year; and

25 (2) the Chief Investment Officer, Chief Financial
26 Officer, or Executive Director, whichever is relevant,

1 shall be placed on a watch list for that year; and
2 (3) if the Chief Investment Officer, Chief Financial
3 Officer, or Executive Director consistently fails to meet
4 minority or female owned business utilization goals, the
5 Senate shall take that failure into consideration when
6 determining whether or not to confirm that person in his or
7 her position at the time of renewal or any subsequent
8 appointment.

9 (40 ILCS 5/1-109.5 new)

10 Sec. 1-109.5. Senate confirmation required. Every person
11 appointed on or after January 1, 2015 by the board of trustees
12 of a retirement system, pension fund, or investment board
13 established under any Article of this Code as Executive
14 Director, Chief Investment Officer, Chief Financial Officer, or
15 an equivalent position within that system, fund, or investment
16 board, or to fill a vacancy on the board of trustees, shall be
17 subject to Senate confirmation and shall be appointed to serve
18 for a term of no more than 4 years.