



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4011

by Rep. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

30 ILCS 500/50-36.5 new
40 ILCS 5/1-110.16 new

Amends the Illinois Procurement Code. Prohibits a State agency from entering into a contract subject to the Code with a business that boycotts Israel. Amends the General Provisions Article of the Illinois Pension Code. Requires each of the 5 State-funded retirement systems (or the Illinois State Board of Investment where applicable) to make its best efforts to identify all companies that boycott Israel in which it has direct or indirect holdings and, under certain circumstances, to divest itself of holdings in those companies.

LRB099 11218 RPS 31751 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

1 AN ACT concerning finance.

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

4 Section 5. The Illinois Procurement Code is amended by
5 adding Section 50-36.5 as follows:

6 (30 ILCS 500/50-36.5 new)

7 Sec. 50-36.5. Prohibition on contracts with businesses
8 that boycott Israel. Notwithstanding any other provision of
9 this Code, on and after the effective date of this amendatory
10 Act of the 99th General Assembly, a State agency shall not
11 enter into a contract subject to this Code with a business that
12 boycotts Israel. For the purposes of this Section, "boycott
13 Israel" means engaging in actions that are politically
14 motivated and are intended to penalize, inflict economic harm
15 on, or otherwise limit commercial relations with the State of
16 Israel or businesses based in the State of Israel or in
17 territories controlled by the State of Israel.

18 Section 10. The Illinois Pension Code is amended by adding
19 Section 1-110.16 as follows:

20 (40 ILCS 5/1-110.16 new)

21 Sec. 1-110.16. Transactions prohibited by retirement

1 systems; companies that boycott Israel.

2 (a) As used in this Section:

3 "Boycott Israel" means engaging in actions that are
4 politically motivated and are intended to penalize, inflict
5 economic harm on, or otherwise limit commercial relations with
6 the State of Israel or companies based in the State of Israel
7 or in territories controlled by the State of Israel.

8 "Company" means any sole proprietorship, organization,
9 association, corporation, partnership, joint venture, limited
10 partnership, limited liability partnership, limited liability
11 company, or other entity or business association, including all
12 wholly owned subsidiaries, majority-owned subsidiaries, parent
13 companies, or affiliates of those entities or business
14 associations, that exists for the purpose of making profit.

15 "Direct holdings" in a company means all securities of that
16 company that are held directly by the retirement system or in
17 an account or fund in which the retirement system owns all
18 shares or interests.

19 "Indirect holdings" in a company means all securities of
20 that company that are held in an account or fund, such as a
21 mutual fund, managed by one or more persons not employed by the
22 retirement system, in which the retirement system owns shares
23 or interests together with other investors not subject to the
24 provisions of this Section.

25 "Private market fund" means any private equity fund,
26 private equity fund of funds, venture capital fund, hedge fund,

1 hedge fund of funds, real estate fund, or other investment
2 vehicle that is not publicly traded.

3 "Retirement system" means a retirement system established
4 under Article 2, 14, 15, 16, or 18 of this Code, or the
5 Illinois State Board of Investment with respect to investments
6 of the assets of any of those retirement systems under its
7 management.

8 (b) Within 90 days after the effective date of this
9 Section, each retirement system shall make its best efforts to
10 identify all companies that boycott Israel in which the
11 retirement system has direct or indirect holdings.

12 These efforts shall include the following, as appropriate
13 in the retirement system's judgment:

14 (1) reviewing and relying on publicly available
15 information regarding companies that boycott Israel,
16 including information provided by nonprofit organizations,
17 research firms, and government entities;

18 (2) contacting asset managers contracted by the
19 retirement system that invest in companies that boycott
20 Israel; and

21 (3) contacting other institutional investors that have
22 divested from or engaged with companies that boycott
23 Israel.

24 The retirement system may retain an independent research
25 firm to identify companies that boycott Israel in which the
26 retirement system has direct or indirect holdings. By the first

1 meeting of the retirement system following the 90-day period
2 described in this subsection (b), the retirement system shall
3 assemble all of those identified companies into a list of
4 companies that boycott Israel.

5 The retirement system shall annually update the list of
6 companies that boycott Israel based on evolving information
7 from, among other sources, those listed in this subsection (b).

8 (c) The retirement system shall adhere to the following
9 procedures for companies on the list of companies that boycott
10 Israel:

11 (1) The retirement system shall identify those
12 companies on the list of companies that boycott Israel in
13 which the retirement system owns direct or indirect
14 holdings.

15 (2) For each company newly identified in item (1) of
16 this subsection (c), the retirement system shall send a
17 written notice informing that company of its status and
18 that it may become subject to divestment by the retirement
19 system.

20 (3) If, within 90 days after the retirement system's
21 first engagement pursuant to this subsection (c) with a
22 company that boycotts Israel, that company ceases to
23 boycott Israel, the company shall be removed from the list
24 of companies that boycott Israel and the provisions of this
25 Section shall cease to apply to it unless it resumes its
26 boycott of Israel.

1 (d) If, after 90 days following the retirement system's
2 first engagement pursuant to subsection (c) with a company that
3 boycotts Israel, the company continues to boycott Israel, the
4 retirement system shall sell, redeem, divest, or withdraw all
5 publicly traded securities of the company from the retirement
6 system's assets under management within 12 months after the
7 company's most recent appearance on the list of companies that
8 boycott Israel.

9 (e) The retirement system may not acquire securities of
10 companies that boycott Israel on the list of companies that
11 boycott Israel.

12 (f) Each retirement system shall file a report with the
13 Public Pension Division of the Department of Financial and
14 Professional Regulation that includes the list of companies
15 that boycott Israel within 30 days after the list is created.
16 This report shall be made available to the public.

17 Each retirement system shall file an annual report with the
18 Public Pension Division, which shall be made available to the
19 public, that includes all of the following:

20 (1) a summary of correspondence with companies engaged
21 by the retirement system under items (2) and (3) of
22 subsection (c);

23 (2) all investments sold, redeemed, divested, or
24 withdrawn in compliance with subsection (d); and

25 (3) all prohibited investments under subsection (e).

26 (g) With respect to actions taken in compliance with this

1 Act, including all good-faith determinations regarding
2 companies as required by this Act, the retirement system is
3 exempt from any conflicting statutory or common law
4 obligations, including any fiduciary duties under this Article
5 and any obligations with respect to choice of asset managers,
6 investment funds, or investments for the retirement system's
7 securities portfolios.

8 (h) If any provision of this Section or its application to
9 any person or circumstance is held invalid, the invalidity of
10 that provision or application does not affect other provisions
11 or applications of this Section that can be given effect
12 without the invalid provision or application.