



Rep. Sara Feigenholtz

Filed: 4/15/2015

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LRB099 11218 RPS 34054 a

1 AMENDMENT TO HOUSE BILL 4011

2 AMENDMENT NO. _____. Amend House Bill 4011 by replacing
3 everything after the enacting clause with the following:

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. In determining whether a business boycotts
13 Israel, a State agency shall consult the list of restricted
14 companies developed by the Illinois Investment Policy Board in
15 accordance with Section 1-110.16 of the Illinois Pension Code.
16 For the purposes of this Section, "boycott Israel" means

1 engaging in actions that are politically motivated and are
2 intended to penalize, inflict economic harm on, or otherwise
3 limit commercial relations with the State of Israel or
4 businesses based in the State of Israel or in territories
5 controlled by the State of Israel.

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

8 (40 ILCS 5/1-110.16 new)

9 Sec. 1-110.16. Transactions prohibited by retirement
10 systems; companies that boycott Israel, Iran-restricted
11 companies, and Sudan-restricted companies.

12 (a) As used in this Section:

13 "Boycott Israel" means engaging in actions that are
14 politically motivated and are intended to penalize,
15 inflict economic harm on, or otherwise limit commercial
16 relations with the State of Israel or companies based in
17 the State of Israel or in territories controlled by the
18 State of Israel.

19 "Company" means any sole proprietorship, organization,
20 association, corporation, partnership, joint venture,
21 limited partnership, limited liability partnership,
22 limited liability company, or other entity or business
23 association, including all wholly owned subsidiaries,
24 majority-owned subsidiaries, parent companies, or

1 affiliates of those entities or business associations,
2 that exist for the purpose of making profit.

3 "Illinois Investment Policy Board" means the board
4 consisting of an appointment of the board of a pension fund
5 or investment board created under Article 15, 16, or 22A of
6 this Code and 4 members appointed by the Governor.

7 "Direct holdings" in a company means all publicly
8 traded securities of that company that are held directly by
9 the retirement system in an actively managed account or
10 fund in which the retirement system owns all shares or
11 interests.

12 "Indirect holdings" in a company means all securities
13 of that company that are held in an account or fund, such
14 as a mutual fund, managed by one or more persons not
15 employed by the retirement system, in which the retirement
16 system owns shares or interests together with other
17 investors not subject to the provisions of this Section or
18 that are held in an index fund.

19 "Iran-restricted company" means a company that meets
20 the qualifications under Section 1-110.15 of this Code.

21 "Private market fund" means any private equity fund,
22 private equity funds of funds, venture capital fund, hedge
23 fund, hedge fund of funds, real estate fund, or other
24 investment vehicle that is not publicly traded.

25 "Restricted companies" means companies that boycott
26 Israel, Iran-restricted companies, and Sudan-restricted

1 companies.

2 "Retirement system" means a retirement system
3 established under Article 2, 14, 15, 16, or 18 of this Code
4 or the Illinois State Board of Investment.

5 "Sudan-restricted company" means a company that meets
6 the qualifications under Section 1-110.6 of this Code.

7 (b) Notwithstanding any provision of law to the contrary,
8 beginning January 1, 2016, Sections 110.15 and 1-110.6 of this
9 Code shall be administered in accordance with this Section.

10 (c) By April 1, 2016, the Illinois Investment Policy Board
11 shall make its best efforts to identify all Iran-restricted
12 companies, Sudan-restricted companies, and companies that
13 boycott Israel and assemble those identified companies into a
14 list of restricted companies, to be distributed to each
15 retirement system.

16 These efforts shall include the following, as appropriate
17 in the Illinois Investment Policy Board's judgment:

18 (1) reviewing and relying on publicly available
19 information regarding Iran-restricted companies,
20 Sudan-restricted companies, and companies that boycott
21 Israel, including information provided by nonprofit
22 organizations, research firms, and government entities;

23 (2) contacting asset managers contracted by the
24 retirement systems that invest in Iran-restricted
25 companies, Sudan-restricted companies, and companies that
26 boycott Israel;

1 (3) contacting other institutional investors that have
2 divested from or engaged with Iran-restricted companies,
3 Sudan-restricted companies, and companies that boycott
4 Israel; and

5 (4) retaining an independent research firm to identify
6 Iran-restricted companies, Sudan-restricted companies, and
7 companies that boycott Israel.

8 The Illinois Investment Policy Board shall review the list
9 of restricted companies on a quarterly basis based on evolving
10 information from, among other sources, those listed in this
11 subsection (c) and distribute any updates to the list of
12 restricted companies to the retirement systems.

13 (d) The Illinois Investment Policy Board shall adhere to
14 the following procedures for companies on the list of
15 restricted companies:

16 (1) For each company newly identified in subsection
17 (c), the Illinois Investment Policy Board shall send a
18 written notice informing the company of its status and that
19 it may become subject to divestment by the retirement
20 systems.

21 (2) If, following the Illinois Investment Policy
22 Board's engagement pursuant to this subsection (d) with a
23 restricted company, that company ceases activity that
24 designates the company to be an Iran-restricted company, a
25 Sudan-restricted company, or a company that boycotts
26 Israel, the company shall be removed from the list of

1 restricted companies and the provisions of this Section
2 shall cease to apply to it unless it resumes such
3 activities.

4 (e) The retirement system shall adhere to the following
5 procedures for companies on the list of restricted companies:

6 (1) The retirement system shall identify those
7 companies on the list of restricted companies in which the
8 retirement system owns direct holdings and indirect
9 holdings.

10 (2) The retirement system shall instruct its
11 investment advisors to sell, redeem, divest, or withdraw
12 all direct holdings of restricted companies from the
13 retirement system's assets under management in an orderly
14 and fiduciarily responsible manner within 12 months after
15 the company's most recent appearance on the list of
16 restricted companies.

17 (3) The retirement system may not acquire securities of
18 restricted companies.

19 (4) The provisions of this subsection (e) do not apply
20 to the retirement system's indirect holdings in private
21 market funds. The Illinois Investment Policy Board shall
22 submit letters to the managers of those investment funds
23 containing companies that have restricted companies
24 requesting that they consider removing the companies from
25 the fund or create a similar actively managed fund having
26 indirect holdings devoid of the companies. If the manager

1 creates a similar fund, the retirement system shall replace
2 all applicable investments with investments in the similar
3 fund in an expedited timeframe consistent with prudent
4 investing standards.

5 (f) Upon request, and at least annually, each retirement
6 system shall provide the Illinois Investment Policy Board with
7 information regarding investments sold, redeemed, divested, or
8 withdrawn in compliance with this Section.

9 (g) Notwithstanding any provision of this Section to the
10 contrary, a retirement system may cease divesting from
11 companies pursuant to subsection (e) if clear and convincing
12 evidence shows that the value of investments in such companies
13 becomes equal to or less than 0.5% of the market value of all
14 assets under management by the retirement system. For any
15 cessation of divestment authorized by this subsection (g), the
16 retirement system shall provide a written notice to the
17 Illinois Investment Policy Board in advance of the cessation of
18 divestment, setting forth the reasons and justification,
19 supported by clear and convincing evidence, for its decision to
20 cease divestment under subsection (e).

21 (h) The cost associated with the activities of the Illinois
22 Investment Policy Board shall be borne by the board of a
23 pension fund or investment board created under Article 15, 16,
24 or 22A of this Code.

25 (i) With respect to actions taken in compliance with this
26 Section, including all good-faith determinations regarding

1 companies as required by this Section, the retirement system
2 and Illinois Investment Policy Board are exempt from any
3 conflicting statutory or common law obligations, including any
4 fiduciary duties under this Article and any obligations with
5 respect to choice of asset managers, investment funds, or
6 investments for the retirement system's securities portfolios.

7 (j) If any provision of this amendatory Act of the 99th
8 General Assembly or its application to any person or
9 circumstance is held invalid, the invalidity of that provision
10 or application does not affect other provisions or applications
11 of this amendatory Act of the 99th General Assembly that can be
12 given effect without the invalid provision or application.

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.".