



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB6628

by Rep. Will Guzzardi

SYNOPSIS AS INTRODUCED:

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

Amends the Illinois Procurement Code. Prohibits a State agency from entering into a contract subject to the Code with a business that contracts with the federal government to build a wall along the border of Mexico and the United States of America. Amends the General Provisions Article of the Illinois Pension Code. Requires the Illinois Investment Policy Board to make its best efforts to identify all companies that contract to build a border wall and include those companies in the list of restricted companies distributed to each retirement system and the Illinois State Board of Investment. Provides that the changes made by the amendatory Act are inoperative on and after January 20, 2021. Effective immediately.

LRB099 24003 RPS 51591 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 contract to build a border wall. Notwithstanding any other
9 provision of this Code, on and after the effective date of this
10 amendatory Act of the 99th General Assembly, a State agency
11 shall not enter into a contract subject to this Code with a
12 business that contracts to build a border wall. In determining
13 whether a business contracts to build a border wall, a State
14 agency shall consult the list of restricted companies developed
15 by the Illinois Investment Policy Board in accordance with
16 Section 1-110.16 of the Illinois Pension Code. For the purposes
17 of this Section, "contracts to build a border wall" means
18 entering into a contract with the federal government for the
19 purposes of building a wall along the border of Mexico and the
20 United States of America. This Section is repealed on January
21 20, 2021.

22 Section 10. The Illinois Pension Code is amended by

1 changing Section 1-110.16 as follows:

2 (40 ILCS 5/1-110.16)

3 Sec. 1-110.16. Transactions prohibited by retirement
4 systems; companies that boycott Israel, companies that
5 contract to build a border wall, Iran-restricted companies, and
6 Sudan-restricted companies.

7 (a) As used in this Section:

8 "Boycott Israel" means engaging in actions that are
9 politically motivated and are intended to penalize,
10 inflict economic harm on, or otherwise limit commercial
11 relations with the State of Israel or companies based in
12 the State of Israel or in territories controlled by the
13 State of Israel.

14 "Company" means any sole proprietorship, organization,
15 association, corporation, partnership, joint venture,
16 limited partnership, limited liability partnership,
17 limited liability company, or other entity or business
18 association, including all wholly owned subsidiaries,
19 majority-owned subsidiaries, parent companies, or
20 affiliates of those entities or business associations,
21 that exist for the purpose of making profit.

22 "Contract to build a border wall" means entering into a
23 contract with the federal government for the purposes of
24 building a wall along the border of Mexico and the United
25 States of America.

1 "Illinois Investment Policy Board" means the board
2 established under subsection (b) of this Section.

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

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

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

17 "Private market fund" means any private equity fund,
18 private equity funds of funds, venture capital fund, hedge
19 fund, hedge fund of funds, real estate fund, or other
20 investment vehicle that is not publicly traded.

21 "Restricted companies" means companies that boycott
22 Israel, companies that contract to build a border wall,
23 Iran-restricted companies, and Sudan-restricted companies.

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

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

3 (b) There shall be established an Illinois Investment
4 Policy Board. The Illinois Investment Policy Board shall
5 consist of 7 members. Each board of a pension fund or
6 investment board created under Article 15, 16, or 22A of this
7 Code shall appoint one member, and the Governor shall appoint 4
8 members.

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

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

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

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

25 (2) contacting asset managers contracted by the
26 retirement systems that invest in Iran-restricted

1 companies, Sudan-restricted companies, and companies that
2 boycott Israel;

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

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

10 By April 1, 2017, the Illinois Investment Policy Board
11 shall make its best efforts to identify all companies that
12 contract to build a border wall and include those companies in
13 the list of restricted companies distributed to each retirement
14 system. These efforts shall include the following, as
15 appropriate in the Illinois Investment Policy Board's
16 judgment:

17 (1) reviewing and relying on publicly available
18 information regarding companies that contract to build a
19 border wall, including information provided by nonprofit
20 organizations, research firms, and government entities;

21 (2) contacting asset managers contracted by the
22 retirement systems that invest in companies that contract
23 to build a border wall;

24 (3) contacting other institutional investors that have
25 divested from or engaged with companies that contract to
26 build a border wall; and

1 (4) retaining an independent research firm to identify
2 companies that contract to build a border wall.

3 The Illinois Investment Policy Board shall review the list
4 of restricted companies on a quarterly basis based on evolving
5 information from, among other sources, those listed in this
6 subsection (d) and distribute any updates to the list of
7 restricted companies to the retirement systems.

8 (e) The Illinois Investment Policy Board shall adhere to
9 the following procedures for companies on the list of
10 restricted companies:

11 (1) For each company newly identified in subsection
12 (d), the Illinois Investment Policy Board shall send a
13 written notice informing the company of its status and that
14 it may become subject to divestment by the retirement
15 systems.

16 (2) If, following the Illinois Investment Policy
17 Board's engagement pursuant to this subsection (e) with a
18 restricted company, that company ceases activity that
19 designates the company to be an Iran-restricted company, a
20 Sudan-restricted company, or a company that boycotts
21 Israel, the company shall be removed from the list of
22 restricted companies and the provisions of this Section
23 shall cease to apply to it unless it resumes such
24 activities.

25 (f) The retirement system shall adhere to the following
26 procedures for companies on the list of restricted companies:

1 (1) The retirement system shall identify those
2 companies on the list of restricted companies in which the
3 retirement system owns direct holdings and indirect
4 holdings.

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

12 (3) The retirement system may not acquire securities of
13 restricted companies.

14 (4) The provisions of this subsection (f) do not apply
15 to the retirement system's indirect holdings or private
16 market funds. The Illinois Investment Policy Board shall
17 submit letters to the managers of those investment funds
18 containing restricted companies requesting that they
19 consider removing the companies from the fund or create a
20 similar actively managed fund having indirect holdings
21 devoid of the companies. If the manager creates a similar
22 fund, the retirement system shall replace all applicable
23 investments with investments in the similar fund in an
24 expedited timeframe consistent with prudent investing
25 standards.

26 (g) Upon request, and at least annually, each retirement

1 system shall provide the Illinois Investment Policy Board with
2 information regarding investments sold, redeemed, divested, or
3 withdrawn in compliance with this Section.

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

16 (i) The cost associated with the activities of the Illinois
17 Investment Policy Board shall be borne by the boards of each
18 pension fund or investment board created under Article 15, 16,
19 or 22A of this Code.

20 (j) With respect to actions taken in compliance with this
21 Section, including all good-faith determinations regarding
22 companies as required by this Section, the retirement system
23 and Illinois Investment Policy Board are exempt from any
24 conflicting statutory or common law obligations, including any
25 fiduciary duties under this Article and any obligations with
26 respect to choice of asset managers, investment funds, or

1 investments for the retirement system's securities portfolios.

2 (k) It is not the intent of the General Assembly in
3 enacting Public Act 99-128 ~~this amendatory Act of the 99th~~
4 ~~General Assembly~~ to cause divestiture from any company based in
5 the United States of America. The Illinois Investment Policy
6 Board shall consider this intent when developing or reviewing
7 the list of restricted companies.

8 (l) If any provision of Public Act 99-128 or this
9 amendatory Act of the 99th General Assembly or its application
10 to any person or circumstance is held invalid, the invalidity
11 of that provision or application does not affect other
12 provisions or applications of Public Act 99-128 or this
13 amendatory Act of the 99th General Assembly that can be given
14 effect without the invalid provision or application.

15 (m) The changes made by this amendatory Act of the 99th
16 General Assembly are inoperative on and after January 20, 2021.

17 (Source: P.A. 99-128, eff. 7-23-15.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.