



Sen. Iris Y. Martinez

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LRB099 03097 EFG 34388 a

1 AMENDMENT TO SENATE BILL 437

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 437 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by  
5 changing Section 1-113.14 as follows:

6 (40 ILCS 5/1-113.14)

7 Sec. 1-113.14. Investment services for retirement systems,  
8 pension funds, and investment boards, except those funds  
9 established under Articles 3 and 4.

10 (a) For the purposes of this Section, "investment services"  
11 means services provided by an investment adviser or a  
12 consultant other than qualified fund-of-fund management  
13 services as defined in Section 1-113.15.

14 (b) The selection and appointment of an investment adviser  
15 or consultant for investment services by the board of a  
16 retirement system, pension fund, or investment board subject to

1 this Code, except those whose investments are restricted by  
2 Section 1-113.2, shall be made and awarded in accordance with  
3 this Section. All contracts for investment services shall be  
4 awarded by the board using a competitive process that is  
5 substantially similar to the process required for the  
6 procurement of professional and artistic services under  
7 Article 35 of the Illinois Procurement Code. Each board of  
8 trustees shall adopt a policy in accordance with this  
9 subsection (b) within 60 days after the effective date of this  
10 amendatory Act of the 96th General Assembly. The policy shall  
11 be posted on its web site and filed with the Illinois  
12 Procurement Policy Board. Exceptions to this Section are  
13 allowed for (i) sole source procurements, (ii) emergency  
14 procurements, (iii) at the discretion of the pension fund,  
15 retirement system, or board of investment, contracts that are  
16 nonrenewable and one year or less in duration, so long as the  
17 contract has a value of less than \$20,000, ~~and~~ (iv) in the  
18 discretion of the pension fund, retirement system, or  
19 investment board, contracts for follow-on funds with the same  
20 fund sponsor through closed-end funds, and (v) at the  
21 discretion of the pension fund, retirement system, or  
22 investment board, contracts for the direct services of an  
23 emerging investment manager that has indirectly handled  
24 investment of assets of the pension fund, retirement system, or  
25 investment board under a manager of managers program in a  
26 successful manner satisfactory to the pension fund, retirement

1 system, or investment board. All exceptions granted under this  
2 Section must be published on the system's, fund's, or board's  
3 web site, shall name the person authorizing the procurement,  
4 and shall include a brief explanation of the reason for the  
5 exception.

6 A person, other than a trustee or an employee of a  
7 retirement system, pension fund, or investment board, may not  
8 act as a consultant or investment adviser under this Section  
9 unless that person is registered as an investment adviser under  
10 the federal Investment Advisers Act of 1940 (15 U.S.C. 80b-1,  
11 et seq.) or a bank, as defined in the federal Investment  
12 Advisers Act of 1940 (15 U.S.C. 80b-1, et seq.).

13 (c) Investment services provided by an investment adviser  
14 or a consultant appointed under this Section shall be rendered  
15 pursuant to a written contract between the investment adviser  
16 or consultant and the board.

17 The contract shall include all of the following:

18 (1) Acknowledgement in writing by the investment  
19 adviser or consultant that he or she is a fiduciary with  
20 respect to the pension fund or retirement system.

21 (2) The description of the board's investment policy  
22 and notice that the policy is subject to change.

23 (3) (i) Full disclosure of direct and indirect fees,  
24 commissions, penalties, and other compensation, including  
25 reimbursement for expenses, that may be paid by or on  
26 behalf of the consultant in connection with the provision

1 of services to the pension fund or retirement system and  
2 (ii) a requirement that the consultant update the  
3 disclosure promptly after a modification of those payments  
4 or an additional payment.

5 (4) A requirement that the investment adviser or  
6 consultant, in conjunction with the board's staff, submit  
7 periodic written reports, on at least a quarterly basis,  
8 for the board's review at its regularly scheduled meetings.  
9 All returns on investment shall be reported as net returns  
10 after payment of all fees, commissions, and any other  
11 compensation.

12 (5) Disclosure of the names and addresses of (i) the  
13 consultant or investment adviser; (ii) any entity that is a  
14 parent of, or owns a controlling interest in, the  
15 consultant or investment adviser; (iii) any entity that is  
16 a subsidiary of, or in which a controlling interest is  
17 owned by, the consultant or investment adviser; (iv) any  
18 persons who have an ownership or distributive income share  
19 in the consultant or investment adviser that is in excess  
20 of 7.5%; or (v) serves as an executive officer of the  
21 consultant or investment adviser.

22 (6) A disclosure of the names and addresses of all  
23 subcontractors, if applicable, and the expected amount of  
24 money each will receive under the contract, including an  
25 acknowledgment that the contractor must promptly make  
26 notification, in writing, if at any time during the term of

1 the contract a contractor adds or changes any  
2 subcontractors. For purposes of this subparagraph (6),  
3 "subcontractor" does not include non-investment related  
4 professionals or professionals offering services that are  
5 not directly related to the investment of assets, such as  
6 legal counsel, actuary, proxy-voting services, services  
7 used to track compliance with legal standards, and  
8 investment fund of funds where the board has no direct  
9 contractual relationship with the investment advisers or  
10 partnerships.

11 (7) A description of service to be performed.

12 (8) A description of the need for the service.

13 (9) A description of the plan for post-performance  
14 review.

15 (10) A description of the qualifications necessary.

16 (11) The duration of the contract.

17 (12) The method for charging and measuring cost.

18 (d) Notwithstanding any other provision of law, a  
19 retirement system, pension fund, or investment board subject to  
20 this Code, except those whose investments are restricted by  
21 Section 1-113.2 of this Code, shall not enter into a contract  
22 with a consultant that exceeds 5 years in duration. No contract  
23 to provide consulting services may be renewed or extended. At  
24 the end of the term of a contract, however, the consultant is  
25 eligible to compete for a new contract as provided in this  
26 Section. No retirement system, pension fund, or investment

1 board shall attempt to avoid or contravene the restrictions of  
2 this subsection (d) by any means.

3 (e) Within 60 days after the effective date of this  
4 amendatory Act of the 96th General Assembly, each investment  
5 adviser or consultant currently providing services or subject  
6 to an existing contract for the provision of services must  
7 disclose to the board of trustees all direct and indirect fees,  
8 commissions, penalties, and other compensation paid by or on  
9 behalf of the investment adviser or consultant in connection  
10 with the provision of those services and shall update that  
11 disclosure promptly after a modification of those payments or  
12 an additional payment. The person shall update the disclosure  
13 promptly after a modification of those payments or an  
14 additional payment. The disclosures required by this  
15 subsection (e) shall be in writing and shall include the date  
16 and amount of each payment and the name and address of each  
17 recipient of a payment.

18 (f) The retirement system, pension fund, or board of  
19 investment shall develop uniform documents that shall be used  
20 for the solicitation, review, and acceptance of all investment  
21 services. The form shall include the terms contained in  
22 subsection (c) of this Section. All such uniform documents  
23 shall be posted on the retirement system's, pension fund's, or  
24 investment board's web site.

25 (g) A description of every contract for investment services  
26 shall be posted in a conspicuous manner on the web site of the

1 retirement system, pension fund, or investment board. The  
2 description must include the name of the person or entity  
3 awarded a contract, the total amount applicable to the  
4 contract, the total fees paid or to be paid, and a disclosure  
5 approved by the board describing the factors that contributed  
6 to the selection of an investment adviser or consultant.  
7 (Source: P.A. 98-433, eff. 8-16-13.)".