



Rep. Will Guzzardi

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1 AMENDMENT TO SENATE BILL 1751

2 AMENDMENT NO. _____. Amend Senate Bill 1751 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by
5 changing Section 1-110.16 as follows:

6 (40 ILCS 5/1-110.16)

7 Sec. 1-110.16. Transactions prohibited by retirement
8 systems; companies that boycott Israel, companies that
9 contract to build a border wall, Iran-restricted companies, and
10 Sudan-restricted companies.

11 (a) As used in this Section:

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

1 State of Israel.

2 "Company" means any sole proprietorship, organization,
3 association, corporation, partnership, joint venture,
4 limited partnership, limited liability partnership,
5 limited liability company, or other entity or business
6 association, including all wholly owned subsidiaries,
7 majority-owned subsidiaries, parent companies, or
8 affiliates of those entities or business associations,
9 that exist for the purpose of making profit.

10 "Contract to build a border wall" means entering into a
11 contract with the federal government for the purposes of
12 building a wall along the border of Mexico and the United
13 States of America.

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

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

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

1 that are held in an index fund.

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

4 "Private market fund" means any private equity fund,
5 private equity funds of funds, venture capital fund, hedge
6 fund, hedge fund of funds, real estate fund, or other
7 investment vehicle that is not publicly traded.

8 "Restricted companies" means companies that boycott
9 Israel, companies that contract to build a border wall,
10 Iran-restricted companies, and Sudan-restricted companies.

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

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

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

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

25 (d) By April 1, 2016, the Illinois Investment Policy Board
26 shall make its best efforts to identify all Iran-restricted

1 companies, Sudan-restricted companies, and companies that
2 boycott Israel and assemble those identified companies into a
3 list of restricted companies, to be distributed to each
4 retirement system.

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

7 (1) reviewing and relying on publicly available
8 information regarding Iran-restricted companies,
9 Sudan-restricted companies, and companies that boycott
10 Israel, including information provided by nonprofit
11 organizations, research firms, and government entities;

12 (2) contacting asset managers contracted by the
13 retirement systems that invest in Iran-restricted
14 companies, Sudan-restricted companies, and companies that
15 boycott Israel;

16 (3) contacting other institutional investors that have
17 divested from or engaged with Iran-restricted companies,
18 Sudan-restricted companies, and companies that boycott
19 Israel; and

20 (4) retaining an independent research firm to identify
21 Iran-restricted companies, Sudan-restricted companies, and
22 companies that boycott Israel.

23 By April 1, 2017, the Illinois Investment Policy Board
24 shall make its best efforts to identify all companies that
25 contract to build a border wall and include those companies in
26 the list of restricted companies distributed to each retirement

1 system. These efforts shall include the following, as
2 appropriate in the Illinois Investment Policy Board's
3 judgment:

4 (1) reviewing and relying on publicly available
5 information regarding companies that contract to build a
6 border wall, including information provided by nonprofit
7 organizations, research firms, and government entities;

8 (2) contacting asset managers contracted by the
9 retirement systems that invest in companies that contract
10 to build a border wall;

11 (3) contacting other institutional investors that have
12 divested from or engaged with companies that contract to
13 build a border wall; and

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

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

21 (e) The Illinois Investment Policy Board shall adhere to
22 the following procedures for companies on the list of
23 restricted companies:

24 (1) For each company newly identified in subsection
25 (d), the Illinois Investment Policy Board shall send a
26 written notice informing the company of its status and that

1 it may become subject to divestment by the retirement
2 systems.

3 (2) If, following the Illinois Investment Policy
4 Board's engagement pursuant to this subsection (e) with a
5 restricted company, that company ceases activity that
6 designates the company to be an Iran-restricted company, a
7 Sudan-restricted company, or a company that boycotts
8 Israel, the company shall be removed from the list of
9 restricted companies and the provisions of this Section
10 shall cease to apply to it unless it resumes such
11 activities.

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

14 (1) The retirement system shall identify those
15 companies on the list of restricted companies in which the
16 retirement system owns direct holdings and indirect
17 holdings.

18 (2) The retirement system shall instruct its
19 investment advisors to sell, redeem, divest, or withdraw
20 all direct holdings of restricted companies from the
21 retirement system's assets under management in an orderly
22 and fiduciarily responsible manner within 12 months after
23 the company's most recent appearance on the list of
24 restricted companies.

25 (3) The retirement system may not acquire securities of
26 restricted companies.

1 (4) The provisions of this subsection (f) do not apply
2 to the retirement system's indirect holdings or private
3 market funds. The Illinois Investment Policy Board shall
4 submit letters to the managers of those investment funds
5 containing restricted companies requesting that they
6 consider removing the companies from the fund or create a
7 similar actively managed fund having indirect holdings
8 devoid of the companies. If the manager creates a similar
9 fund, the retirement system shall replace all applicable
10 investments with investments in the similar fund in an
11 expedited timeframe consistent with prudent investing
12 standards.

13 (g) Upon request, and at least annually, each retirement
14 system shall provide the Illinois Investment Policy Board with
15 information regarding investments sold, redeemed, divested, or
16 withdrawn in compliance with this Section.

17 (h) Notwithstanding any provision of this Section to the
18 contrary, a retirement system may cease divesting from
19 companies pursuant to subsection (f) if clear and convincing
20 evidence shows that the value of investments in such companies
21 becomes equal to or less than 0.5% of the market value of all
22 assets under management by the retirement system. For any
23 cessation of divestment authorized by this subsection (h), the
24 retirement system shall provide a written notice to the
25 Illinois Investment Policy Board in advance of the cessation of
26 divestment, setting forth the reasons and justification,

1 supported by clear and convincing evidence, for its decision to
2 cease divestment under subsection (f).

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

7 (j) With respect to actions taken in compliance with this
8 Section, including all good-faith determinations regarding
9 companies as required by this Section, the retirement system
10 and Illinois Investment Policy Board are exempt from any
11 conflicting statutory or common law obligations, including any
12 fiduciary duties under this Article and any obligations with
13 respect to choice of asset managers, investment funds, or
14 investments for the retirement system's securities portfolios.

15 (k) It is not the intent of the General Assembly in
16 enacting Public Act 99-128 ~~this amendatory Act of the 99th~~
17 ~~General Assembly~~ to cause divestiture from any company based in
18 the United States of America. The Illinois Investment Policy
19 Board shall consider this intent when developing or reviewing
20 the list of restricted companies.

21 (l) If any provision of Public Act 99-128 or this
22 amendatory Act of the 99th General Assembly or its application
23 to any person or circumstance is held invalid, the invalidity
24 of that provision or application does not affect other
25 provisions or applications of Public Act 99-128 or this
26 amendatory Act of the 99th General Assembly that can be given

1 effect without the invalid provision or application.

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

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