

Public Act 099-0128

SB1761 Enrolled

LRB099 10953 RPS 31300 b

AN ACT concerning finance.

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

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

(40 ILCS 5/1-110.16 new)

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

(a) As used in this Section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) retaining an independent research firm to identify Iran-restricted companies, Sudan-restricted companies, and

companies that boycott Israel.

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

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

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

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

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

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

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

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

(4) The provisions of this subsection (f) do not apply to the retirement system's indirect holdings or private market funds. The Illinois Investment Policy Board shall submit letters to the managers of those investment funds containing restricted companies requesting that they consider removing the companies from the fund or create a

similar actively managed fund having indirect holdings devoid of the companies. If the manager creates a similar fund, the retirement system shall replace all applicable investments with investments in the similar fund in an expedited timeframe consistent with prudent investing standards.

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

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

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

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

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

(l) If any provision of this amendatory Act of the 99th General Assembly or its application to any person or circumstance is held invalid, the invalidity of that provision or application does not affect other provisions or applications

of this amendatory Act of the 99th General Assembly that can be given effect without the invalid provision or application.