



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5571

by Rep. Mark Batinick

SYNOPSIS AS INTRODUCED:

- 40 ILCS 5/1-113.2
- 40 ILCS 5/1-113.4
- 40 ILCS 5/1-113.4a
- 40 ILCS 5/1-113.5
- 40 ILCS 5/1-113.3 rep.

Amends the General Provisions Article of the Illinois Pension Code. Authorizes downstate police and downstate firefighter pension funds to invest in commingled accounts of the Illinois Metropolitan Investment Funds. Provides that a pension fund's total investment in certain life insurance accounts managed by insurance companies and mutual funds managed through an investment adviser, in combination with certain other investments, shall not exceed 65% of the pension fund's net present assets. Requires contracts between an investment adviser and the board of trustees of a downstate police or downstate firefighter pension fund to include a requirement that the investment adviser make annual reports to the board concerning net returns. Repeals a provision specifying additional permitted investments for pension funds with net assets of \$2,500,000 or more. Makes conforming and other changes.

LRB100 20679 RPS 36132 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

1 AN ACT concerning public employee benefits.

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

4 Section 5. The Illinois Pension Code is amended by changing
5 Sections 1-113.2, 1-113.4, 1-113.4a, and 1-113.5 as follows:

6 (40 ILCS 5/1-113.2)

7 Sec. 1-113.2. List of permitted investments for all Article
8 3 or 4 pension funds. Any pension fund established under
9 Article 3 or 4 may invest in the following items:

10 (1) Interest bearing direct obligations of the United
11 States of America.

12 (2) Interest bearing obligations to the extent that
13 they are fully guaranteed or insured as to payment of
14 principal and interest by the United States of America.

15 (3) Interest bearing bonds, notes, debentures, or
16 other similar obligations of agencies of the United States
17 of America. For the purposes of this Section, "agencies of
18 the United States of America" includes: (i) the Federal
19 National Mortgage Association and the Student Loan
20 Marketing Association; (ii) federal land banks, federal
21 intermediate credit banks, federal farm credit banks, and
22 any other entity authorized to issue direct debt
23 obligations of the United States of America under the Farm

1 Credit Act of 1971 or amendments to that Act; (iii) federal
2 home loan banks and the Federal Home Loan Mortgage
3 Corporation; and (iv) any agency created by Act of Congress
4 that is authorized to issue direct debt obligations of the
5 United States of America.

6 (4) Interest bearing savings accounts or certificates
7 of deposit, issued by State or federally chartered banks or
8 savings and loan associations, to the extent that the
9 deposits are insured by agencies or instrumentalities of
10 the federal government.

11 (5) (Blank). ~~Interest bearing savings accounts or~~
12 ~~certificates of deposit, issued by State of Illinois~~
13 ~~chartered banks or savings and loan associations, to the~~
14 ~~extent that the deposits are insured by agencies or~~
15 ~~instrumentalities of the federal government.~~

16 (6) Investments in credit unions, to the extent that
17 the investments are insured by agencies or
18 instrumentalities of the federal government.

19 (7) Interest bearing bonds of the State of Illinois.

20 (8) Pooled interest bearing accounts managed by the
21 Illinois Public Treasurer's Investment Pool in accordance
22 with the Deposit of State Moneys Act, interest bearing
23 funds or pooled or commingled accounts of the Illinois
24 Metropolitan Investment Funds, and interest bearing funds
25 or pooled accounts managed, operated, and administered by
26 banks, subsidiaries of banks, or subsidiaries of bank

1 holding companies in accordance with the laws of the State
2 of Illinois.

3 (9) Interest bearing bonds or tax anticipation
4 warrants of any county, township, or municipal corporation
5 of the State of Illinois.

6 (10) Direct obligations of the State of Israel, subject
7 to the conditions and limitations of item (5.1) of Section
8 1-113.

9 (11) Money market mutual funds managed by investment
10 companies that are registered under the federal Investment
11 Company Act of 1940 and the Illinois Securities Law of 1953
12 and are diversified, open-ended management investment
13 companies; provided that the portfolio of the money market
14 mutual fund is limited to the following:

15 (i) bonds, notes, certificates of indebtedness,
16 treasury bills, or other securities that are
17 guaranteed by the full faith and credit of the United
18 States of America as to principal and interest;

19 (ii) bonds, notes, debentures, or other similar
20 obligations of the United States of America or its
21 agencies; and

22 (iii) short term obligations of corporations
23 organized in the United States with assets exceeding
24 \$400,000,000, provided that (A) the obligations mature
25 no later than 180 days from the date of purchase, (B)
26 at the time of purchase, the obligations are rated by

1 at least 2 standard national rating services at one of
2 their 3 highest classifications, and (C) the
3 obligations held by the mutual fund do not exceed 10%
4 of the corporation's outstanding obligations.

5 (12) General accounts of life insurance companies
6 authorized to transact business in Illinois.

7 (13) Any combination of the following, not to exceed
8 10% of the pension fund's net assets:

9 (i) separate accounts that are managed by life
10 insurance companies authorized to transact business in
11 Illinois and are comprised of diversified portfolios
12 consisting of common or preferred stocks, bonds, or
13 money market instruments; and

14 (ii) separate accounts that are managed by
15 insurance companies authorized to transact business in
16 Illinois, and are comprised of real estate or loans
17 upon real estate secured by first or second mortgages.
18 ~~and~~

19 ~~(iii) mutual funds that meet the following~~
20 ~~requirements:~~

21 (13.5) Mutual funds that are managed through an
22 investment adviser, as defined under Section 1-101.4 and
23 appointed under Section 1-113.5, and that meet all of the
24 following requirements:

25 (i) ~~(A)~~ the mutual fund is managed by an investment
26 company as defined and registered under the federal

1 Investment Company Act of 1940 and registered under the
2 Illinois Securities Law of 1953;

3 (ii) ~~(B)~~ the mutual fund has been in operation for
4 at least 5 years;

5 (iii) ~~(C)~~ the mutual fund has total net assets of
6 \$250 million or more; and

7 (iv) ~~(D)~~ the mutual fund is comprised of
8 diversified portfolios of common or preferred stocks,
9 bonds, or money market instruments.

10 (14) Corporate bonds that are managed through an
11 investment advisor, as defined under Section 1-101.4 and
12 appointed under Section 1-113.5, and ~~must~~ meet all of the
13 following requirements:

14 (1) The bonds must be rated as investment grade by
15 one of the 2 largest rating services at the time of
16 purchase.

17 (2) If subsequently downgraded below investment
18 grade, the bonds must be liquidated from the portfolio
19 within 90 days after being downgraded by the manager.

20 A pension fund's total investment in the items authorized
21 under paragraph (13) and paragraph (13.5) shall not exceed 65%
22 of the market value of the pension fund's net present assets
23 stated in its most recent annual report on file with the
24 Department of Insurance.

25 (Source: P.A. 96-1495, eff. 1-1-11.)

1 (40 ILCS 5/1-113.4)

2 Sec. 1-113.4. List of additional permitted investments for
3 pension funds with net assets of \$5,000,000 or more.

4 (a) In addition to the items in Section ~~Sections~~ 1-113.2
5 ~~and 1-113.3~~, a pension fund established under Article 3 or 4
6 that has net assets of at least \$5,000,000 and has appointed an
7 investment adviser under Section 1-113.5 may, through that
8 investment adviser, invest a portion of its assets in common
9 and preferred stocks authorized for investments of trust funds
10 under the laws of the State of Illinois. The stocks must meet
11 all of the following requirements:

12 (1) The common stocks are listed on a national
13 securities exchange or board of trade (as defined in the
14 federal Securities Exchange Act of 1934 and set forth in
15 subdivision G of Section 3 of the Illinois Securities Law
16 of 1953) or quoted in the National Association of
17 Securities Dealers Automated Quotation System National
18 Market System (NASDAQ NMS).

19 (2) The securities are of a corporation created or
20 existing under the laws of the United States or any state,
21 district, or territory thereof and the corporation has been
22 in existence for at least 5 years.

23 (3) The corporation has not been in arrears on payment
24 of dividends on its preferred stock during the preceding 5
25 years.

26 (4) The market value of stock in any one corporation

1 does not exceed 5% of the cash and invested assets of the
2 pension fund, and the investments in the stock of any one
3 corporation do not exceed 5% of the total outstanding stock
4 of that corporation.

5 (5) The straight preferred stocks or convertible
6 preferred stocks are issued or guaranteed by a corporation
7 whose common stock qualifies for investment by the board.

8 (6) The issuer of the stocks has been subject to the
9 requirements of Section 12 of the federal Securities
10 Exchange Act of 1934 and has been current with the filing
11 requirements of Sections 13 and 14 of that Act during the
12 preceding 3 years.

13 (b) A pension fund's total investment in the items
14 authorized under this Section and paragraphs (13) and (13.5) of
15 Section 1-113.2 ~~Section 1-113.3~~ shall not exceed 65% ~~35%~~ of the
16 market value of the pension fund's net present assets stated in
17 its most recent annual report on file with the Illinois
18 Department of Insurance.

19 (c) A pension fund that invests funds under this Section
20 shall electronically file with the Division any reports of its
21 investment activities that the Division may require, at the
22 times and in the format required by the Division.

23 (Source: P.A. 100-201, eff. 8-18-17.)

24 (40 ILCS 5/1-113.4a)

25 Sec. 1-113.4a. List of additional permitted investments

1 for Article 3 and 4 pension funds with net assets of
2 \$10,000,000 or more.

3 (a) In addition to the items in Section ~~Sections~~ 1-113.2
4 ~~and 1-113.3~~, a pension fund established under Article 3 or 4
5 that has net assets of at least \$10,000,000 and has appointed
6 an investment adviser, as defined under Sections 1-101.4 and
7 1-113.5, may, through that investment adviser, invest an
8 additional portion of its assets in common and preferred stocks
9 and mutual funds.

10 (b) The stocks must meet all of the following requirements:

11 (1) The common stocks must be listed on a national
12 securities exchange or board of trade (as defined in the
13 Federal Securities Exchange Act of 1934 and set forth in
14 paragraph G of Section 3 of the Illinois Securities Law of
15 1953) or quoted in the National Association of Securities
16 Dealers Automated Quotation System National Market System.

17 (2) The securities must be of a corporation in
18 existence for at least 5 years.

19 (3) The market value of stock in any one corporation
20 may not exceed 5% of the cash and invested assets of the
21 pension fund, and the investments in the stock of any one
22 corporation may not exceed 5% of the total outstanding
23 stock of that corporation.

24 (4) The straight preferred stocks or convertible
25 preferred stocks must be issued or guaranteed by a
26 corporation whose common stock qualifies for investment by

1 the board.

2 (c) The mutual funds must meet the following requirements:

3 (1) The mutual fund must be managed by an investment
4 company registered under the Federal Investment Company
5 Act of 1940 and registered under the Illinois Securities
6 Law of 1953.

7 (2) The mutual fund must have been in operation for at
8 least 5 years.

9 (3) The mutual fund must have total net assets of
10 \$250,000,000 or more.

11 (4) The mutual fund must be comprised of a diversified
12 portfolio of common or preferred stocks, bonds, or money
13 market instruments.

14 (d) A pension fund's total investment in the items
15 authorized under this Section ~~and Section 1-113.3~~ shall not
16 exceed 50% effective July 1, 2011 and 55% effective July 1,
17 2012 of the market value of the pension fund's net present
18 assets stated in its most recent annual report on file with the
19 Department of Insurance.

20 (d-5) A pension fund's total investment in the items
21 authorized under this Section and paragraphs (13) and (13.5) of
22 Section 1-113.2 shall not exceed 65% of the market value of the
23 pension fund's net present assets stated in its most recent
24 annual report on file with the Department of Insurance. The
25 changes to this Section made by this amendatory Act of the
26 100th General Assembly apply on and after the effective date of

1 this amendatory Act of the 100th General Assembly.

2 (e) A pension fund that invests funds under this Section
3 shall electronically file with the Division any reports of its
4 investment activities that the Division may require, at the
5 time and in the format required by the Division.

6 (Source: P.A. 96-1495, eff. 1-1-11.)

7 (40 ILCS 5/1-113.5)

8 Sec. 1-113.5. Investment advisers and investment services
9 for all Article 3 or 4 pension funds.

10 (a) The board of trustees of a pension fund may appoint
11 investment advisers as defined in Section 1-101.4. The board of
12 any pension fund investing in common or preferred stock under
13 Section 1-113.4 shall appoint an investment adviser before
14 making such investments.

15 The investment adviser shall be a fiduciary, as defined in
16 Section 1-101.2, with respect to the pension fund and shall be
17 one of the following:

18 (1) an investment adviser registered under the federal
19 Investment Advisers Act of 1940 and the Illinois Securities
20 Law of 1953;

21 (2) a bank or trust company authorized to conduct a
22 trust business in Illinois;

23 (3) a life insurance company authorized to transact
24 business in Illinois; or

25 (4) an investment company as defined and registered

1 under the federal Investment Company Act of 1940 and
2 registered under the Illinois Securities Law of 1953.

3 (a-5) Notwithstanding any other provision of law, a person
4 or entity that provides consulting services (referred to as a
5 "consultant" in this Section) to a pension fund with respect to
6 the selection of fiduciaries may not be awarded a contract to
7 provide those consulting services that is more than 5 years in
8 duration. No contract to provide such consulting services may
9 be renewed or extended. At the end of the term of a contract,
10 however, the contractor is eligible to compete for a new
11 contract. No person shall attempt to avoid or contravene the
12 restrictions of this subsection by any means. All offers from
13 responsive offerors shall be accompanied by disclosure of the
14 names and addresses of the following:

15 (1) The offeror.

16 (2) Any entity that is a parent of, or owns a
17 controlling interest in, the offeror.

18 (3) Any entity that is a subsidiary of, or in which a
19 controlling interest is owned by, the offeror.

20 Beginning on July 1, 2008, a person, other than a trustee
21 or an employee of a pension fund or retirement system, may not
22 act as a consultant under this Section unless that person is at
23 least one of the following: (i) registered as an investment
24 adviser under the federal Investment Advisers Act of 1940 (15
25 U.S.C. 80b-1, et seq.); (ii) registered as an investment
26 adviser under the Illinois Securities Law of 1953; (iii) a

1 bank, as defined in the Investment Advisers Act of 1940; or
2 (iv) an insurance company authorized to transact business in
3 this State.

4 (b) All investment advice and services provided by an
5 investment adviser or a consultant appointed under this Section
6 shall be rendered pursuant to a written contract between the
7 investment adviser and the board, and in accordance with the
8 board's investment policy.

9 The contract shall include all of the following:

10 (1) acknowledgement in writing by the investment
11 adviser that he or she is a fiduciary with respect to the
12 pension fund;

13 (2) the board's investment policy;

14 (3) full disclosure of direct and indirect fees,
15 commissions, penalties, and any other compensation that
16 may be received by the investment adviser, including
17 reimbursement for expenses; and

18 (4) a requirement that the investment adviser submit
19 periodic written reports, on at least a quarterly basis and
20 on an annual basis as of the pension fund's year end, for
21 the board's review at its regularly scheduled meetings.
22 Quarterly and annual ~~All~~ returns on investment shall be
23 reported to the board as net returns after payment of all
24 fees, commissions, and any other compensation.

25 (b-5) Each contract described in subsection (b) shall also
26 include (i) full disclosure of direct and indirect fees,

1 commissions, penalties, and other compensation, including
2 reimbursement for expenses, that may be paid by or on behalf of
3 the investment adviser or consultant in connection with the
4 provision of services to the pension fund and (ii) a
5 requirement that the investment adviser or consultant update
6 the disclosure promptly after a modification of those payments
7 or an additional payment.

8 Within 30 days after the effective date of this amendatory
9 Act of the 95th General Assembly, each investment adviser and
10 consultant providing services on the effective date or subject
11 to an existing contract for the provision of services must
12 disclose to the board of trustees all direct and indirect fees,
13 commissions, penalties, and other compensation paid by or on
14 behalf of the investment adviser or consultant in connection
15 with the provision of those services and shall update that
16 disclosure promptly after a modification of those payments or
17 an additional payment.

18 A person required to make a disclosure under subsection (d)
19 is also required to disclose direct and indirect fees,
20 commissions, penalties, or other compensation that shall or may
21 be paid by or on behalf of the person in connection with the
22 rendering of those services. The person shall update the
23 disclosure promptly after a modification of those payments or
24 an additional payment.

25 The disclosures required by this subsection shall be in
26 writing and shall include the date and amount of each payment

1 and the name and address of each recipient of a payment.

2 (c) Within 30 days after appointing an investment adviser
3 or consultant, the board shall submit a copy of the contract to
4 the Division of Insurance of the Department of Financial and
5 Professional Regulation.

6 (d) Investment services provided by a person other than an
7 investment adviser appointed under this Section, including but
8 not limited to services provided by the kinds of persons listed
9 in items (1) through (4) of subsection (a), shall be rendered
10 only after full written disclosure of direct and indirect fees,
11 commissions, penalties, and any other compensation that shall
12 or may be received by the person rendering those services.

13 (e) The board of trustees of each pension fund shall retain
14 records of investment transactions in accordance with the rules
15 of the Department of Financial and Professional Regulation.

16 (Source: P.A. 95-950, eff. 8-29-08; 96-6, eff. 4-3-09.)

17 (40 ILCS 5/1-113.3 rep.)

18 Section 10. The Illinois Pension Code is amended by
19 repealing Section 1-113.3.