

# SB3749



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB3749

Introduced 2/14/2020, by Sen. Iris Y. Martinez

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/1-109.1

from Ch. 108 1/2, par. 1-109.1

Amends the General Provisions Article of the Illinois Pension Code. In a provision requiring a retirement system, pension fund, or investment board to adopt a policy setting forth goals for the utilization of emerging investment managers, provides that the goals established shall be based on the total dollar amount of fees paid under (instead of the total dollar amount of) investment contracts let to minority-owned businesses, women-owned businesses, and businesses owned by a person with a disability. Makes related changes. Requires the goals to be established on or before January 1, 2021. Provides that it shall be the aspirational goal for a retirement system, pension fund, or investment board subject to the Code to use emerging investment managers for not less than 20% of the fees paid in each asset class (instead of 20% of the total funds under management). Effective immediately.

LRB101 20279 RPS 69821 b

FISCAL NOTE ACT  
MAY APPLY

PENSION IMPACT  
NOTE ACT MAY  
APPLY

A BILL FOR

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 Section 1-109.1 as follows:

6 (40 ILCS 5/1-109.1) (from Ch. 108 1/2, par. 1-109.1)

7 Sec. 1-109.1. Allocation and delegation of fiduciary  
8 duties.

9 (1) Subject to the provisions of Section 22A-113 of this  
10 Code and subsections (2) and (3) of this Section, the board of  
11 trustees of a retirement system or pension fund established  
12 under this Code may:

13 (a) Appoint one or more investment managers as  
14 fiduciaries to manage (including the power to acquire and  
15 dispose of) any assets of the retirement system or pension  
16 fund; and

17 (b) Allocate duties among themselves and designate  
18 others as fiduciaries to carry out specific fiduciary  
19 activities other than the management of the assets of the  
20 retirement system or pension fund.

21 (2) The board of trustees of a pension fund established  
22 under Article 5, 6, 8, 9, 10, 11, 12 or 17 of this Code may not  
23 transfer its investment authority, nor transfer the assets of

1 the fund to any other person or entity for the purpose of  
2 consolidating or merging its assets and management with any  
3 other pension fund or public investment authority, unless the  
4 board resolution authorizing such transfer is submitted for  
5 approval to the contributors and pensioners of the fund at  
6 elections held not less than 30 days after the adoption of such  
7 resolution by the board, and such resolution is approved by a  
8 majority of the votes cast on the question in both the  
9 contributors election and the pensioners election. The  
10 election procedures and qualifications governing the election  
11 of trustees shall govern the submission of resolutions for  
12 approval under this paragraph, insofar as they may be made  
13 applicable.

14 (3) Pursuant to subsections (h) and (i) of Section 6 of  
15 Article VII of the Illinois Constitution, the investment  
16 authority of boards of trustees of retirement systems and  
17 pension funds established under this Code is declared to be a  
18 subject of exclusive State jurisdiction, and the concurrent  
19 exercise by a home rule unit of any power affecting such  
20 investment authority is hereby specifically denied and  
21 preempted.

22 (4) For the purposes of this Code, "emerging investment  
23 manager" means a qualified investment adviser that manages an  
24 investment portfolio of at least \$10,000,000 but less than  
25 \$10,000,000,000 and is a "minority-owned business",  
26 "women-owned business" or "business owned by a person with a

1 disability" as those terms are defined in the Business  
2 Enterprise for Minorities, Women, and Persons with  
3 Disabilities Act.

4 It is hereby declared to be the public policy of the State  
5 of Illinois to encourage the trustees of public employee  
6 retirement systems, pension funds, and investment boards to use  
7 emerging investment managers in managing their system's  
8 assets, encompassing all asset classes, and increase the  
9 racial, ethnic, and gender diversity of its fiduciaries, to the  
10 greatest extent feasible within the bounds of financial and  
11 fiduciary prudence, and to take affirmative steps to remove any  
12 barriers to the full participation in investment opportunities  
13 afforded by those retirement systems, pension funds, and  
14 investment boards.

15 On or before January 1, 2021 ~~2010~~, a retirement system,  
16 pension fund, or investment board subject to this Code, except  
17 those whose investments are restricted by Section 1-113.2 of  
18 this Code, shall adopt a policy that sets forth goals for  
19 utilization of emerging investment managers. This policy shall  
20 include quantifiable goals for the management of assets in  
21 specific asset classes by emerging investment managers. The  
22 retirement system, pension fund, or investment board shall  
23 establish 3 separate goals for: (i) emerging investment  
24 managers that are minority-owned businesses; (ii) emerging  
25 investment managers that are women-owned businesses; and (iii)  
26 emerging investment managers that are businesses owned by a

1 person with a disability. The goals established shall be based  
2 on the percentage of total dollar amount of fees paid under  
3 investment service contracts let to minority-owned businesses,  
4 women-owned businesses, and businesses owned by a person with a  
5 disability, as those terms are defined in the Business  
6 Enterprise for Minorities, Women, and Persons with  
7 Disabilities Act. The retirement system, pension fund, or  
8 investment board shall annually review the goals established  
9 under this subsection.

10 If in any case an emerging investment manager meets the  
11 criteria established by a board for a specific search and meets  
12 the criteria established by a consultant for that search, then  
13 that emerging investment manager shall receive an invitation by  
14 the board of trustees, or an investment committee of the board  
15 of trustees, to present his or her firm for final consideration  
16 of a contract. In the case where multiple emerging investment  
17 managers meet the criteria of this Section, the staff may  
18 choose the most qualified firm or firms to present to the  
19 board.

20 The use of an emerging investment manager does not  
21 constitute a transfer of investment authority for the purposes  
22 of subsection (2) of this Section.

23 (5) Each retirement system, pension fund, or investment  
24 board subject to this Code, except those whose investments are  
25 restricted by Section 1-113.2 of this Code, shall establish a  
26 policy that sets forth goals for increasing the racial, ethnic,

1 and gender diversity of its fiduciaries, including its  
2 consultants and senior staff. Each retirement system, pension  
3 fund, or investment board shall make its best efforts to ensure  
4 that the racial and ethnic makeup of its senior administrative  
5 staff represents the racial and ethnic makeup of its  
6 membership. Each system, fund, and investment board shall  
7 annually review the goals established under this subsection.

8 (6) On or before January 1, 2010, a retirement system,  
9 pension fund, or investment board subject to this Code, except  
10 those whose investments are restricted by Section 1-113.2 of  
11 this Code, shall adopt a policy that sets forth goals for  
12 utilization of businesses owned by minorities, women, and  
13 persons with disabilities for all contracts and services. The  
14 goals established shall be based on the percentage of total  
15 dollar amount of all contracts let to minority-owned  
16 businesses, women-owned businesses, and businesses owned by a  
17 person with a disability, as those terms are defined in the  
18 Business Enterprise for Minorities, Women, and Persons with  
19 Disabilities Act. The retirement system, pension fund, or  
20 investment board shall annually review the goals established  
21 under this subsection.

22 (7) On or before January 1, 2010, a retirement system,  
23 pension fund, or investment board subject to this Code, except  
24 those whose investments are restricted by Section 1-113.2 of  
25 this Code, shall adopt a policy that sets forth goals for  
26 increasing the utilization of minority broker-dealers. For the

1 purposes of this Code, "minority broker-dealer" means a  
2 qualified broker-dealer who meets the definition of  
3 "minority-owned business", "women-owned business", or  
4 "business owned by a person with a disability", as those terms  
5 are defined in the Business Enterprise for Minorities, Women,  
6 and Persons with Disabilities Act. The retirement system,  
7 pension fund, or investment board shall annually review the  
8 goals established under this Section.

9 (8) Each retirement system, pension fund, and investment  
10 board subject to this Code, except those whose investments are  
11 restricted by Section 1-113.2 of this Code, shall submit a  
12 report to the Governor and the General Assembly by January 1 of  
13 each year that includes the following: (i) the policy adopted  
14 under subsection (4) of this Section, including the names and  
15 addresses of the emerging investment managers used, total  
16 dollar amount of fees paid under investment contracts with  
17 ~~percentage of the assets under the investment control of~~  
18 emerging investment managers for the 3 separate goals, and the  
19 actions it has undertaken to increase the use of emerging  
20 investment managers, including encouraging other investment  
21 managers to use emerging investment managers as subcontractors  
22 when the opportunity arises; (ii) the policy adopted under  
23 subsection (5) of this Section; (iii) the policy adopted under  
24 subsection (6) of this Section; (iv) the policy adopted under  
25 subsection (7) of this Section, including specific actions  
26 undertaken to increase the use of minority broker-dealers; and

1 (v) the policy adopted under subsection (9) of this Section.

2 (9) On or before February 1, 2015, a retirement system,  
3 pension fund, or investment board subject to this Code, except  
4 those whose investments are restricted by Section 1-113.2 of  
5 this Code, shall adopt a policy that sets forth goals for  
6 increasing the utilization of minority investment managers.  
7 For the purposes of this Code, "minority investment manager"  
8 means a qualified investment manager that manages an investment  
9 portfolio and meets the definition of "minority-owned  
10 business", "women-owned business", or "business owned by a  
11 person with a disability", as those terms are defined in the  
12 Business Enterprise for Minorities, Women, and Persons with  
13 Disabilities Act.

14 It is hereby declared to be the public policy of the State  
15 of Illinois to encourage the trustees of public employee  
16 retirement systems, pension funds, and investment boards to use  
17 minority investment managers in managing their systems'  
18 assets, encompassing all asset classes, and to increase the  
19 racial, ethnic, and gender diversity of their fiduciaries, to  
20 the greatest extent feasible within the bounds of financial and  
21 fiduciary prudence, and to take affirmative steps to remove any  
22 barriers to the full participation in investment opportunities  
23 afforded by those retirement systems, pension funds, and  
24 investment boards.

25 The retirement system, pension fund, or investment board  
26 shall establish 3 separate goals for: (i) minority investment



1 managers that are minority-owned businesses; (ii) minority  
2 investment managers that are women-owned businesses; and (iii)  
3 minority investment managers that are businesses owned by a  
4 person with a disability. The retirement system, pension fund,  
5 or investment board shall annually review the goals established  
6 under this Section.

7 If in any case a minority investment manager meets the  
8 criteria established by a board for a specific search and meets  
9 the criteria established by a consultant for that search, then  
10 that minority investment manager shall receive an invitation by  
11 the board of trustees, or an investment committee of the board  
12 of trustees, to present his or her firm for final consideration  
13 of a contract. In the case where multiple minority investment  
14 managers meet the criteria of this Section, the staff may  
15 choose the most qualified firm or firms to present to the  
16 board.

17 The use of a minority investment manager does not  
18 constitute a transfer of investment authority for the purposes  
19 of subsection (2) of this Section.

20 (10) It ~~Beginning January 1, 2016, it~~ shall be the  
21 aspirational goal for a retirement system, pension fund, or  
22 investment board subject to this Code to use emerging  
23 investment managers for not less than 20% of the total fees  
24 paid in each asset class ~~funds under management~~. Furthermore,  
25 it shall be the aspirational goal that not less than 20% of  
26 investment advisors be minorities, women, and persons with

1 disabilities as those terms are defined in the Business  
2 Enterprise for Minorities, Women, and Persons with  
3 Disabilities Act. It shall be the aspirational goal to utilize  
4 businesses owned by minorities, women, and persons with  
5 disabilities for not less than 20% of contracts awarded for  
6 "information technology services", "accounting services",  
7 "insurance brokers", "architectural and engineering services",  
8 and "legal services" as those terms are defined in the Act.

9 (Source: P.A. 99-462, eff. 8-25-15; 100-391, eff. 8-25-17;  
10 100-902, eff. 8-17-18.)

11 Section 99. Effective date. This Act takes effect upon  
12 becoming law.