



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4685

Introduced 1/12/2006, by Rep. Robert Rita

SYNOPSIS AS INTRODUCED:

40 ILCS 5/1-113.2
40 ILCS 5/1-113.3
40 ILCS 5/1-113.4
40 ILCS 5/1-113.5

Amends the Illinois Pension Code. Increases the percentage of certain separate accounts and certain mutual funds in which a downstate police or downstate firefighter pension fund may invest. Makes changes in the types of mutual funds in which a downstate police or downstate firefighter pension fund may invest. Allows downstate police and downstate firefighter pension funds to invest a portion of their assets in exchange traded funds comprised of diversified portfolios of common or preferred stocks and bonds. Allows downstate police and downstate firefighter pension funds that have assets of at least \$5,000,000 and have appointed an investment adviser to invest a portion of their assets in nonconvertible investment grade corporate bonds and American depository receipts.

LRB094 16761 AMC 52032 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, 1-113.3, 1-113.4, 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 they
13 are fully guaranteed or insured as to payment of principal and
14 interest by the United States of America.

15 (3) Interest bearing bonds, notes, debentures, or other
16 similar obligations of agencies of the United States of
17 America. For the purposes of this Section, "agencies of the
18 United States of America" includes: (i) the Federal National
19 Mortgage Association and the Student Loan Marketing
20 Association; (ii) federal land banks, federal intermediate
21 credit banks, federal farm credit banks, and any other entity
22 authorized to issue direct debt obligations of the United
23 States of America under the Farm Credit Act of 1971 or
24 amendments to that Act; (iii) federal home loan banks and the
25 Federal Home Loan Mortgage Corporation; and (iv) any agency
26 created by Act of Congress that is authorized to issue direct
27 debt obligations of the United States of America.

28 (4) Interest bearing savings accounts or certificates of
29 deposit, issued by federally chartered banks or savings and
30 loan associations, to the extent that the deposits are insured
31 by agencies or instrumentalities of the federal government.

32 (5) Interest bearing savings accounts or certificates of

1 deposit, issued by State of Illinois chartered banks or savings
2 and loan associations, to the extent that the deposits are
3 insured by agencies or instrumentalities of the federal
4 government.

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

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

9 (8) Pooled interest bearing accounts managed by the
10 Illinois Public Treasurer's Investment Pool in accordance with
11 the Deposit of State Moneys Act and interest bearing funds or
12 pooled accounts managed, operated, and administered by banks,
13 subsidiaries of banks, or subsidiaries of bank holding
14 companies in accordance with the laws of the State of Illinois.

15 (9) Interest bearing bonds or tax anticipation warrants of
16 any county, township, or municipal corporation of the State of
17 Illinois.

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

20 (11) Money market mutual funds managed by investment
21 companies that are registered under the federal Investment
22 Company Act of 1940 and the Illinois Securities Law of 1953 and
23 are diversified, open-ended management investment companies;
24 provided that the portfolio of the money market mutual fund is
25 limited to the following:

26 (i) bonds, notes, certificates of indebtedness,
27 treasury bills, or other securities that are guaranteed by
28 the full faith and credit of the United States of America
29 as to principal and interest;

30 (ii) bonds, notes, debentures, or other similar
31 obligations of the United States of America or its
32 agencies; and

33 (iii) short term obligations of corporations organized
34 in the United States with assets exceeding \$400,000,000,
35 provided that (A) the obligations mature no later than 180
36 days from the date of purchase, (B) at the time of

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

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

8 (13) Any combination of the following, not to exceed 45%
9 ~~10%~~ of the pension fund's net assets:

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

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

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

21 (A) the mutual fund is managed by an investment
22 company as defined and registered under the federal
23 Investment Company Act of 1940 and registered under the
24 Illinois Securities Law of 1953;

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

27 (C) the mutual fund has total net assets of
28 \$100,000,000 ~~\$250 million~~ or more; and

29 (D) the mutual fund is comprised of diversified
30 portfolios of common or preferred stocks, bonds, or
31 money market instruments; ~~and-~~

32 (iv) exchange traded funds comprised of diversified
33 portfolios of common or preferred stocks and bonds.

34 (Source: P.A. 90-507, eff. 8-22-97; 91-887, eff. 7-6-00.)

35 (40 ILCS 5/1-113.3)

1 Sec. 1-113.3. List of additional permitted investments for
2 pension funds with net assets of \$2,500,000 or more.

3 (a) In addition to the items in Section 3-113.2, a pension
4 fund established under Article 3 or 4 that has net assets of at
5 least \$2,500,000 may invest a portion of its net assets in the
6 following items:

7 (1) Separate accounts that are managed by life
8 insurance companies authorized to transact business in
9 Illinois and are comprised of diversified portfolios
10 consisting of common or preferred stocks, bonds, or money
11 market instruments.

12 (2) Mutual funds that meet the following requirements:

13 (i) the mutual fund is managed by an investment
14 company as defined and registered under the federal
15 Investment Company Act of 1940 and registered under the
16 Illinois Securities Law of 1953;

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

19 (iii) the mutual fund has total net assets of
20 \$100,000,000 ~~\$250 million~~ or more; and

21 (iv) the mutual fund is comprised of diversified
22 portfolios of common or preferred stocks, bonds, or
23 money market instruments.

24 (3) Exchange traded funds comprised of diversified
25 portfolios of common or preferred stocks and bonds.

26 (b) A pension fund's total investment in the items
27 authorized under this Section shall not exceed 60% ~~35%~~ of the
28 market value of the pension fund's net present assets stated in
29 its most recent annual report on file with the Illinois
30 Department of Insurance.

31 (Source: P.A. 90-507, eff. 8-22-97.)

32 (40 ILCS 5/1-113.4)

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

35 (a) In addition to the items in Sections 1-113.2 and

1 1-113.3, a pension fund established under Article 3 or 4 that
2 has net assets of at least \$5,000,000 and has appointed an
3 investment adviser under Section 1-113.5 may, through that
4 investment adviser, invest a portion of its assets in common
5 and preferred stocks authorized for investments of trust funds
6 under the laws of the State of Illinois, nonconvertible
7 investment grade corporate bonds, or American depository
8 receipts. The stocks must meet all of the following
9 requirements:

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

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

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

24 (4) The market value of stock in any one corporation
25 does not exceed 5% of the cash and invested assets of the
26 pension fund, and the investments in the stock of any one
27 corporation do not exceed 5% of the total outstanding stock
28 of that corporation.

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

32 (6) The issuer of the stocks has been subject to the
33 requirements of Section 12 of the federal Securities
34 Exchange Act of 1934 and has been current with the filing
35 requirements of Sections 13 and 14 of that Act during the
36 preceding 3 years.

1 (b) A pension fund's total investment in the items
2 authorized under this Section and Section 1-113.3 shall not
3 exceed 60% ~~35%~~ of the market value of the pension fund's net
4 present assets stated in its most recent annual report on file
5 with the Illinois Department of Insurance.

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

10 (Source: P.A. 90-507, eff. 8-22-97.)

11 (40 ILCS 5/1-113.5)

12 Sec. 1-113.5. Investment advisers and investment services.

13 (a) The board of trustees of a pension fund may appoint
14 investment advisers as defined in Section 1-101.4. The board of
15 any pension fund investing in common or preferred stock, and
16 nonconvertible investment grade corporate bonds, or American
17 depository receipts under Section 1-113.4 shall appoint an
18 investment adviser before making such investments.

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

22 (1) an investment adviser registered under the federal
23 Investment Advisers Act of 1940 and the Illinois Securities
24 Law of 1953;

25 (2) a bank or trust company authorized to conduct a
26 trust business in Illinois;

27 (3) a life insurance company authorized to transact
28 business in Illinois; or

29 (4) an investment company as defined and registered
30 under the federal Investment Company Act of 1940 and
31 registered under the Illinois Securities Law of 1953.

32 (b) All investment advice and services provided by an
33 investment adviser appointed under this Section shall be
34 rendered pursuant to a written contract between the investment
35 adviser and the board, and in accordance with the board's

1 investment policy.

2 The contract shall include all of the following:

3 (1) acknowledgement in writing by the investment
4 adviser that he or she is a fiduciary with respect to the
5 pension fund;

6 (2) the board's investment policy;

7 (3) full disclosure of direct and indirect fees,
8 commissions, penalties, and any other compensation that
9 may be received by the investment adviser, including
10 reimbursement for expenses; and

11 (4) a requirement that the investment adviser submit
12 periodic written reports, on at least a quarterly basis,
13 for the board's review at its regularly scheduled meetings.
14 All returns on investment shall be reported as net returns
15 after payment of all fees, commissions, and any other
16 compensation.

17 (c) Within 30 days after appointing an investment adviser,
18 the board shall submit a copy of the contract to the Department
19 of Insurance.

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

27 (e) The board of trustees of each pension fund shall retain
28 records of investment transactions in accordance with the rules
29 of the Department of Insurance.

30 (Source: P.A. 90-507, eff. 8-22-97.)