



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2046

Introduced 2/25/2005, by Sen. Iris Y. Martinez

SYNOPSIS AS INTRODUCED:

40 ILCS 5/1-109.3 new
40 ILCS 5/1-109.4 new
40 ILCS 5/1A-109.1 new
40 ILCS 5/1A-113
30 ILCS 805/8.29 new

Amends the Illinois Pension Code. Creates the General Assembly Task Force on Financial Asset Management and Investment to better enforce compliance with provisions concerning emerging investment managers, assist the General Assembly in the review and clarification of certain material, develop standardized reporting forms that all pension funds are required to complete, and provide recommendations and suggestions to the General Assembly for improvement in the reporting process of pension funds and recommendations for improving the opportunity of emerging Illinois-based firms to participate in the management of pension fund assets. Provides that the Senate Committee on Pensions and Investments may administer oaths and affirmations and summon and compel the attendance of and examine under oath any officer, trustee, agent, actuary, attorney, or employee connected either directly or indirectly with any pension fund, or any other person having information regarding the condition, affairs, management, and administration of a pension fund. Provides that the Committee may require any person having possession of any record, book, paper, contract, or other document pertaining to a pension fund to surrender it or to otherwise afford the Committee access to it. Provides enforcement procedures. Provides that pension funds shall publish minutes, agendas, requests for proposal, and requests for information concerning all efforts at encouraging the maximum participation of emerging Illinois-based firms and shall provide to the Governor and the General Assembly data regarding participation that sets forth the commissions and fees received by qualified firms, and any fee-sharing arrangements, rebates, or other agreements in which the firms share their compensation with other business entities. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB094 11240 AMC 42360 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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 adding
5 Sections 1-109.3, 1-109.4, and 1A-109.1 and changing Section
6 1A-113 as follows:

7 (40 ILCS 5/1-109.3 new)

8 Sec. 1-109.3. General Assembly Task Force.

9 (a) There is created the General Assembly Task Force on
10 Financial Asset Management and Investment to better enforce
11 compliance with the provisions of Section 1-109.1(4) of this
12 Code. The Task Force shall consist of the following members:

13 (1) One member of the General Assembly appointed by the
14 Senate President.

15 (2) One member of the General Assembly appointed by the
16 Senate Minority Leader.

17 (3) One member of the General Assembly appointed by the
18 Speaker of the House.

19 (4) One member of the General Assembly appointed by the
20 House Minority Leader.

21 (5) The following members appointed by the 4
22 legislative leaders and approved by the members of the
23 Senate:

24 (A) One member representing the pension funds
25 established under this Code.

26 (B) One member appointed from among the ranks of
27 emerging Illinois-based asset management
28 professionals.

29 (C) One member appointed from the ranks of emerging
30 Illinois-based broker-dealers.

31 (b) The members of the Task Force shall have the authority
32 to meet on a quarterly basis to assist the General Assembly in

1 the review and clarification of the material provided under the
2 provisions of this Code. The Task Force shall further develop,
3 at the General Assembly's direction, standardized reporting
4 forms that all pension funds are required to complete. The Task
5 Force is directed to ensure that these forms present all
6 information in a clear and concise manner, in terms that are
7 readily understandable. These report formats shall, upon
8 completion, also be employed by pension funds in the filing of
9 the Emerging Manager Report already required under Section
10 1-109.1(4).

11 (c) The Task Force shall also provide, on a quarterly
12 basis, recommendations and suggestions to the General Assembly
13 for improvement in the reporting process of pension funds and
14 recommendations for improving the opportunity of emerging
15 Illinois-based firms to participate in the management of
16 pension fund assets.

17 (d) For the purposes of this Section, "pension fund" means
18 any public pension fund, annuity and benefit fund, or
19 retirement system established under this Code.

20 (40 ILCS 5/1-109.4 new)

21 Sec. 1-109.4. Senate Committee on Pensions and
22 Investments. The Senate Committee on Pensions and Investments
23 may administer oaths and affirmations and summon and compel the
24 attendance of and examine under oath any officer, trustee,
25 agent, actuary, attorney, or employee connected either
26 directly or indirectly with any pension fund, or any other
27 person having information regarding the condition, affairs,
28 management, or administration of a pension fund. The Committee
29 may require any person having possession of any record, book,
30 paper, contract, or other document pertaining to a pension fund
31 to surrender it or to otherwise afford the Committee access to
32 it.

33 If any person fails to obey the summons of the Committee or
34 refuses to surrender or afford access to any such record, book,
35 paper, contract, or other document, then the Committee may

1 apply to the circuit court of the county in which the principal
2 office of the pension fund involved is located, and the court,
3 if it finds that the Committee has not exceeded its authority
4 in the matter, may, by order duly entered, require the
5 attendance of witnesses and the production of all relevant
6 documents required by the Committee in carrying out its
7 responsibilities under this Code. Upon refusal or neglect to
8 obey the order of the court, the court may compel obedience by
9 proceedings for contempt of court.

10 For the purposes of this Section, "pension fund" means any
11 public pension fund, annuity and benefit fund, or retirement
12 system established under this Code.

13 (40 ILCS 5/1A-109.1 new)

14 Sec. 1A-109.1. Quarterly statements.

15 (a) For the purposes of this Section, "firm" means a
16 business engaged in the active management of financial and
17 other assets and includes, but is not limited to, securities
18 traders and asset and investment managers.

19 (b) Pension funds shall publish quarterly minutes,
20 agendas, requests for proposals, and requests for information
21 concerning all efforts at encouraging the maximum
22 participation of emerging Illinois-based firms. The minutes,
23 agendas, requests for proposals, and requests for information
24 shall also include data detailing the percentage increases in
25 utilization and participation rates for such firms since the
26 previous reporting period.

27 (c) Pension funds shall provide to the Governor and the
28 General Assembly data regarding participation that, in a
29 transparent and clear manner, sets forth the commissions and
30 fees received by qualified firms, and any fee-sharing
31 arrangements, rebates, or other agreements in which the firms
32 share their compensation with other business entities.

33 (40 ILCS 5/1A-113)

34 Sec. 1A-113. Penalties.

1 (a) A pension fund that fails, without just cause, to file
2 its annual statement within the time prescribed under Section
3 1A-109, or to file its quarterly statement as required under
4 Section 1-109.4, shall pay to the Department a penalty to be
5 determined by the Department, which shall not exceed \$100 for
6 each day's delay.

7 (b) A pension fund that fails, without just cause, to file
8 its actuarial statement within the time prescribed under
9 Section 1A-110 or 1A-111 shall pay to the Department a penalty
10 to be determined by the Department, which shall not exceed \$100
11 for each day's delay.

12 (c) A pension fund that fails to pay a fee within the time
13 prescribed under Section 1A-112 shall pay to the Department a
14 penalty of 5% of the amount of the fee for each month or part of
15 a month that the fee is late. The entire penalty shall not
16 exceed 25% of the fee due.

17 (d) This subsection applies to any governmental unit, as
18 defined in Section 1A-102, that is subject to any law
19 establishing a pension fund or retirement system for the
20 benefit of employees of the governmental unit.

21 Whenever the Division determines by examination,
22 investigation, or in any other manner that the governing body
23 or any elected or appointed officer or official of a
24 governmental unit has failed to comply with any provision of
25 that law:

26 (1) The Director shall notify in writing the governing
27 body, officer, or official of the specific provision or
28 provisions of the law with which the person has failed to
29 comply.

30 (2) Upon receipt of the notice, the person notified
31 shall take immediate steps to comply with the provisions of
32 law specified in the notice.

33 (3) If the person notified fails to comply within a
34 reasonable time after receiving the notice, the Director
35 may hold a hearing at which the person notified may show
36 cause for noncompliance with the law.

1 (4) If upon hearing the Director determines that good
2 and sufficient cause for noncompliance has not been shown,
3 the Director may order the person to submit evidence of
4 compliance within a specified period of not less than 30
5 days.

6 (5) If evidence of compliance has not been submitted to
7 the Director within the period of time prescribed in the
8 order and no administrative appeal from the order has been
9 initiated, the Director may assess a civil penalty of up to
10 \$2,000 against the governing body, officer, or official for
11 each noncompliance with an order of the Director.

12 The Director shall develop by rule, with as much
13 specificity as practicable, the standards and criteria to be
14 used in assessing penalties and their amounts. The standards
15 and criteria shall include, but need not be limited to,
16 consideration of evidence of efforts made in good faith to
17 comply with applicable legal requirements. This rulemaking is
18 subject to the provisions of the Illinois Administrative
19 Procedure Act.

20 If a penalty is not paid within 30 days of the date of
21 assessment, the Director without further notice shall report
22 the act of noncompliance to the Attorney General of this State.
23 It shall be the duty of the Attorney General or, if the
24 Attorney General so designates, the State's Attorney of the
25 county in which the governmental unit is located to apply
26 promptly by complaint on relation of the Director of Insurance
27 in the name of the people of the State of Illinois, as
28 plaintiff, to the circuit court of the county in which the
29 governmental unit is located for enforcement of the penalty
30 prescribed in this subsection or for such additional relief as
31 the nature of the case and the interest of the employees of the
32 governmental unit or the public may require.

33 (e) Whoever knowingly makes a false certificate, entry, or
34 memorandum upon any of the books or papers pertaining to any
35 pension fund or upon any statement, report, or exhibit filed or
36 offered for file with the Division or the Director of Insurance

1 in the course of any examination, inquiry, or investigation,
2 with intent to deceive the Director, the Division, or any of
3 its employees is guilty of a Class A misdemeanor.

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

5 Section 90. The State Mandates Act is amended by adding
6 Section 8.29 as follows:

7 (30 ILCS 805/8.29 new)

8 Sec. 8.29. Exempt mandate. Notwithstanding Sections 6 and 8
9 of this Act, no reimbursement by the State is required for the
10 implementation of any mandate created by this amendatory Act of
11 the 94th General Assembly.

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