



Rep. Sara Feigenholtz

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LRB099 11218 RPS 34340 a

1 AMENDMENT TO HOUSE BILL 4011

2 AMENDMENT NO. _____. Amend House Bill 4011 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Procurement Code is amended by
5 adding Section 50-36.5 as follows:

6 (30 ILCS 500/50-36.5 new)

7 Sec. 50-36.5. Prohibition on contracts with businesses
8 that boycott Israel. Notwithstanding any other provision of
9 this Code, on and after the effective date of this amendatory
10 Act of the 99th General Assembly, a State agency shall not
11 enter into a contract subject to this Code with a business that
12 boycotts Israel. In determining whether a business boycotts
13 Israel, a State agency shall consult the list of restricted
14 companies developed by the Illinois Investment Policy Board in
15 accordance with Section 1-110.16 of the Illinois Pension Code.
16 For the purposes of this Section, "boycott Israel" means

1 engaging in actions that are politically motivated and are
2 intended to penalize, inflict economic harm on, or otherwise
3 limit commercial relations with the State of Israel or
4 businesses based in the State of Israel or in territories
5 controlled by the State of Israel.

6 Section 10. The Illinois Pension Code is amended by adding
7 Section 1-110.16 as follows:

8 (40 ILCS 5/1-110.16 new)

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

12 (a) As used in this Section:

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

19 "Company" means any sole proprietorship, organization,
20 association, corporation, partnership, joint venture,
21 limited partnership, limited liability partnership,
22 limited liability company, or other entity or business
23 association, including all wholly owned subsidiaries,
24 majority-owned subsidiaries, parent companies, or

1 affiliates of those entities or business associations,
2 that exist for the purpose of making profit.

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

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

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

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

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

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

26 "Retirement system" means a retirement system

1 established under Article 2, 14, 15, 16, or 18 of this Code
2 or the Illinois State Board of Investment.

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

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

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

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

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

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

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

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

9 (4) retaining an independent research firm to identify
10 Iran-restricted companies, Sudan-restricted companies, and
11 companies that boycott Israel.

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

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

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

25 (2) If, following the Illinois Investment Policy
26 Board's engagement pursuant to this subsection (e) with a

1 restricted company, that company ceases activity that
2 designates the company to be an Iran-restricted company, a
3 Sudan-restricted company, or a company that boycotts
4 Israel, the company shall be removed from the list of
5 restricted companies and the provisions of this Section
6 shall cease to apply to it unless it resumes such
7 activities.

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

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

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

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

23 (4) The provisions of this subsection (f) do not apply
24 to the retirement system's indirect holdings or private
25 market funds. The Illinois Investment Policy Board shall
26 submit letters to the managers of those investment funds

1 containing restricted companies requesting that they
2 consider removing the companies from the fund or create a
3 similar actively managed fund having indirect holdings
4 devoid of the companies. If the manager creates a similar
5 fund, the retirement system shall replace all applicable
6 investments with investments in the similar fund in an
7 expedited timeframe consistent with prudent investing
8 standards.

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

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

25 (i) The cost associated with the activities of the Illinois
26 Investment Policy Board shall be borne by the boards of each

1 pension fund or investment board created under Article 15, 16,
2 or 22A of this Code.

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

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

17 (l) If any provision of this amendatory Act of the 99th
18 General Assembly or its application to any person or
19 circumstance is held invalid, the invalidity of that provision
20 or application does not affect other provisions or applications
21 of this amendatory Act of the 99th General Assembly that can be
22 given effect without the invalid provision or application.

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.".