



Rep. Will Guzzardi

Filed: 11/23/2016

09900SB1751ham002

LRB099 09574 RPS 51648 a

1 AMENDMENT TO SENATE BILL 1751

2 AMENDMENT NO. _____. Amend Senate Bill 1751 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 contract to build a border wall. Notwithstanding any other
9 provision of this Code, on and after the effective date of this
10 amendatory Act of the 99th General Assembly, a State agency
11 shall not enter into a contract subject to this Code with a
12 business that contracts to build a border wall. In determining
13 whether a business contracts to build a border wall, a State
14 agency shall consult the list of restricted companies developed
15 by the Illinois Investment Policy Board in accordance with
16 Section 1-110.16 of the Illinois Pension Code. For the purposes

1 of this Section, "contracts to build a border wall" means
2 entering into a contract with the federal government for the
3 purposes of building a wall along the border of Mexico and the
4 United States of America. This Section is repealed on January
5 20, 2021.

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

8 (40 ILCS 5/1-110.16)

9 Sec. 1-110.16. Transactions prohibited by retirement
10 systems; companies that boycott Israel, companies that
11 contract to build a border wall, Iran-restricted companies, and
12 Sudan-restricted companies.

13 (a) As used in this Section:

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

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

1 majority-owned subsidiaries, parent companies, or
2 affiliates of those entities or business associations,
3 that exist for the purpose of making profit.

4 "Contract to build a border wall" means entering into a
5 contract with the federal government for the purposes of
6 building a wall along the border of Mexico and the United
7 States of America.

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

10 "Direct holdings" in a company means all publicly
11 traded securities of that company that are held directly by
12 the retirement system in an actively managed account or
13 fund in which the retirement system owns all shares or
14 interests.

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

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

24 "Private market fund" means any private equity fund,
25 private equity funds of funds, venture capital fund, hedge
26 fund, hedge fund of funds, real estate fund, or other

1 investment vehicle that is not publicly traded.

2 "Restricted companies" means companies that boycott
3 Israel, companies that contract to build a border wall,
4 Iran-restricted companies, and Sudan-restricted companies.

5 "Retirement system" means a retirement system
6 established under Article 2, 14, 15, 16, or 18 of this Code
7 or the Illinois State Board of Investment.

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

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

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

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

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

1 (1) reviewing and relying on publicly available
2 information regarding Iran-restricted companies,
3 Sudan-restricted companies, and companies that boycott
4 Israel, including information provided by nonprofit
5 organizations, research firms, and government entities;

6 (2) contacting asset managers contracted by the
7 retirement systems that invest in Iran-restricted
8 companies, Sudan-restricted companies, and companies that
9 boycott Israel;

10 (3) contacting other institutional investors that have
11 divested from or engaged with Iran-restricted companies,
12 Sudan-restricted companies, and companies that boycott
13 Israel; and

14 (4) retaining an independent research firm to identify
15 Iran-restricted companies, Sudan-restricted companies, and
16 companies that boycott Israel.

17 By April 1, 2017, the Illinois Investment Policy Board
18 shall make its best efforts to identify all companies that
19 contract to build a border wall and include those companies in
20 the list of restricted companies distributed to each retirement
21 system. These efforts shall include the following, as
22 appropriate in the Illinois Investment Policy Board's
23 judgment:

24 (1) reviewing and relying on publicly available
25 information regarding companies that contract to build a
26 border wall, including information provided by nonprofit

1 organizations, research firms, and government entities;

2 (2) contacting asset managers contracted by the
3 retirement systems that invest in companies that contract
4 to build a border wall;

5 (3) contacting other institutional investors that have
6 divested from or engaged with companies that contract to
7 build a border wall; and

8 (4) retaining an independent research firm to identify
9 companies that contract to build a border wall.

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

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

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

23 (2) If, following the Illinois Investment Policy
24 Board's engagement pursuant to this subsection (e) with a
25 restricted company, that company ceases activity that
26 designates the company to be an Iran-restricted company, a

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

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

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

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

19 (3) The retirement system may not acquire securities of
20 restricted companies.

21 (4) The provisions of this subsection (f) do not apply
22 to the retirement system's indirect holdings or private
23 market funds. The Illinois Investment Policy Board shall
24 submit letters to the managers of those investment funds
25 containing restricted companies requesting that they
26 consider removing the companies from the fund or create a

1 similar actively managed fund having indirect holdings
2 devoid of the companies. If the manager creates a similar
3 fund, the retirement system shall replace all applicable
4 investments with investments in the similar fund in an
5 expedited timeframe consistent with prudent investing
6 standards.

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

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

23 (i) The cost associated with the activities of the Illinois
24 Investment Policy Board shall be borne by the boards of each
25 pension fund or investment board created under Article 15, 16,
26 or 22A of this Code.

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

9 (k) It is not the intent of the General Assembly in
10 enacting Public Act 99-128 ~~this amendatory Act of the 99th~~
11 ~~General Assembly~~ to cause divestiture from any company based in
12 the United States of America. The Illinois Investment Policy
13 Board shall consider this intent when developing or reviewing
14 the list of restricted companies.

15 (l) If any provision of Public Act 99-128 or this
16 amendatory Act of the 99th General Assembly or its application
17 to any person or circumstance is held invalid, the invalidity
18 of that provision or application does not affect other
19 provisions or applications of Public Act 99-128 or this
20 amendatory Act of the 99th General Assembly that can be given
21 effect without the invalid provision or application.

22 (m) The changes made by this amendatory Act of the 99th
23 General Assembly are inoperative on and after January 20, 2021.

24 (Source: P.A. 99-128, eff. 7-23-15.)

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.".