

AN ACT concerning public employee benefits.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Pension Code is amended by changing Section 1-109.1 and by adding Section 1-113.21 as follows:

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

Sec. 1-109.1. Allocation and Delegation of Fiduciary Duties.

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

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

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

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

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

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

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

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

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

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

person with a disability. The goals established shall be based on the percentage of total dollar amount of investment service contracts let to minority owned businesses, female owned businesses, and businesses owned by a person with a disability, as those terms are defined in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act. The retirement system, pension fund, or investment board shall annually review the goals established under this subsection.

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

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

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

consultants and senior staff. Each system, fund, and investment board shall annually review the goals established under this subsection.

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

(7) On or before January 1, 2010, a retirement system, pension fund, or investment board subject to this Code, except those whose investments are restricted by Section 1-113.2 of this Code, shall adopt a policy that sets forth goals for increasing the utilization of minority broker-dealers. For the purposes of this Code, "minority broker-dealer" means a qualified broker-dealer who meets the definition of "minority owned business", "female owned business", or "business owned by a person with a disability", as those terms are defined in the

Business Enterprise for Minorities, Females, and Persons with Disabilities Act. The retirement system, pension fund, or investment board shall annually review the goals established under this Section.

(8) Each retirement system, pension fund, and investment board subject to this Code, except those whose investments are restricted by Section 1-113.2 of this Code, shall submit a report to the Governor and the General Assembly by January 1 of each year that includes the following: (i) the policy adopted under subsection (4) of this Section, including the names and addresses of the emerging investment managers used, percentage of the assets under the investment control of emerging investment managers for the 3 separate goals, and the actions it has undertaken to increase the use of emerging investment managers, including encouraging other investment managers to use emerging investment managers as subcontractors when the opportunity arises; (ii) the policy adopted under subsection (5) of this Section; (iii) the policy adopted under subsection (6) of this Section; ~~and~~ (iv) the policy adopted under subsection (7) of this Section, including specific actions undertaken to increase the use of minority broker-dealers; and (v) the policy adopted under subsection (9) of this Section.

(9) On or before February 1, 2015, a retirement system, pension fund, or investment board subject to this Code, except those whose investments are restricted by Section 1-113.2 of this Code, shall adopt a policy that sets forth goals for

increasing the utilization of minority investment managers. For the purposes of this Code, "minority investment manager" means a qualified investment manager that manages an investment portfolio and meets the definition of "minority owned business", "female owned business", or "business owned by a person with a disability", as those terms are defined in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.

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

The retirement system, pension fund, or investment board shall establish 3 separate goals for: (i) minority investment managers that are minority owned businesses; (ii) minority investment managers that are female owned businesses; and (iii) minority investment managers that are businesses owned by a person with a disability. The retirement system, pension fund, or investment board shall annually review the goals established

under this Section.

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

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

(Source: P.A. 96-6, eff. 4-3-09.)

(40 ILCS 5/1-113.21 new)

Sec. 1-113.21. Contracts for services.

(a) Beginning January 1, 2015, no contract, oral or written, for investment services, consulting services, or commitment to a private market fund shall be awarded by a retirement system, pension fund, or investment board established under this Code unless the investment advisor, consultant, or private market fund first discloses:

(1) the number of its investment and senior staff and the percentage of its investment and senior staff who are

(i) a minority person, (ii) a female, and (iii) a person with a disability; and

(2) the number of contracts, oral or written, for investment services, consulting services, and professional and artistic services that the investment advisor, consultant, or private market fund has with (i) a minority owned business, (ii) a female owned business, or (iii) a business owned by a person with a disability; and

(3) the number of contracts, oral or written, for investment services, consulting services, and professional and artistic services the investment advisor, consultant, or private market fund has with a business other than (i) a minority owned business, (ii) a female owned business or (iii) a business owned by a person with a disability, if more than 50% of services performed pursuant to the contract are performed by (i) a minority person, (ii) a female, and (iii) a person with a disability.

(b) The disclosures required by this Section shall be considered, within the bounds of financial and fiduciary prudence, prior to the awarding of a contract, oral or written, for investment services, consulting services, or commitment to a private market fund.

(c) For the purposes of this Section, the terms "minority person", "female", "person with a disability", "minority owned business", "female owned business", and "business owned by a person with a disability" have the same meaning as those terms

have in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.

(d) For purposes of this Section, the term "private market fund" means any private equity fund, private equity fund of funds, venture capital fund, hedge fund, hedge fund of funds, real estate fund, or other investment vehicle that is not publicly traded.

Section 10. The Illinois Prepaid Tuition Act is amended by changing Section 30 as follows:

(110 ILCS 979/30)

Sec. 30. Investment Advisory Panel duties and responsibilities.

(a) Advice and review. The panel shall offer advice and counseling regarding the investments of the Illinois prepaid tuition program with the objective of obtaining the best possible return on investments consistent with actuarial soundness of the program. The panel is required to annually review and advise the Commission on provisions of the strategic investment plan for the prepaid tuition program. The panel is also charged with reviewing and advising the Commission with regard to the annual report that describes the current financial condition of the program. The panel at its own discretion also may advise the Commission on other aspects of the program.

(b) Investment plan. The Commission annually shall adopt a comprehensive investment plan for purposes of this Section. The comprehensive investment plan shall specify the investment policies to be utilized by the Commission in its administration of the Illinois Prepaid Tuition Trust Fund created by Section 35. The Commission may direct that assets of those Funds be placed in savings accounts or may use the same to purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or other investment products pursuant to the comprehensive investment plan and in such proportions as may be designated or approved under that plan. The Commission shall invest such assets with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims, and the Commission shall diversify the investments of such assets so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so. Those insurance, annuity, savings, and investment products shall be underwritten and offered in compliance with applicable federal and State laws, rules, and regulations by persons who are authorized thereunder to provide those services. The Commission shall delegate responsibility for preparing the comprehensive investment plan to the Executive Director of the Commission. Nothing in this Section shall preclude the

Commission from contracting with a private corporation or institution to provide such services as may be a part of the comprehensive investment plan or as may be deemed necessary for implementation of the comprehensive investment plan, including, but not limited to, providing consolidated billing, individual and collective record keeping and accounting, and asset purchase, control, and safekeeping.

(b-5) Investment duties. Beginning January 1, 2015, with respect to any investments for which it is responsible under this Section or any other law, the Commission shall be subject to the same requirements as are imposed upon the board of trustees of a retirement system under Sections 1-109.1(5.1), 1-109.1(9), and 1-113.21 of the Illinois Pension Code, to the extent that those requirements are not in direct conflict with any other requirement of law to which the Commission is subject.

(c) Program management. The Commission may not delegate its management functions, but may arrange to compensate for personalized investment advisory services rendered with respect to any or all of the investments under its control an investment advisor registered under Section 8 of the Illinois Securities Law of 1953 or any bank or other entity authorized by law to provide those services. Nothing contained herein shall preclude the Commission from subscribing to general investment research services available for purchase or use by others. The Commission also shall have authority to compensate

for accounting, computing, and other necessary services.

(d) Annual report. The Commission shall annually prepare or cause to be prepared a report setting forth in appropriate detail an accounting of all Illinois prepaid tuition program funds and a description of the financial condition of the program at the close of each fiscal year. Included in this report shall be an evaluation by at least one nationally recognized actuary of the financial viability of the program. This report shall be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Auditor General, and the Board of Higher Education on or before March 1 of the subsequent fiscal year. This report also shall be made available to purchasers of Illinois prepaid tuition contracts and shall contain complete Illinois prepaid tuition contract sales information, including, but not limited to, projected postsecondary enrollment data for qualified beneficiaries.

(e) Marketing plan. Selection of a marketing agent for the Illinois prepaid tuition program must be approved by the Commission. At least once every 3 years, the Commission shall solicit proposals for marketing of the Illinois prepaid tuition program in accordance with the Illinois Securities Law of 1953 and any applicable provisions of federal law. The entity designated pursuant to this paragraph shall serve as a centralized marketing agent for the program and shall have exclusive responsibility for marketing the program. No

contract for marketing the Illinois prepaid tuition program shall extend for longer than 3 years. Any materials produced for the purpose of marketing the program shall be submitted to the Executive Director of the Commission for approval before they are made public. Any eligible institution may distribute marketing materials produced for the program, so long as the Executive Director of the Commission approves the distribution in advance. Neither the State nor the Commission shall be liable for misrepresentation of the program by a marketing agent.

(f) Accounting and audit. The Commission shall annually cause to be prepared an accounting of the trust and shall transmit a copy of the accounting to the Governor, the President of the Senate, the Speaker of the House, and the minority leaders of the Senate and House of Representatives. The Commission shall also make available this accounting of the trust to any purchaser of an Illinois prepaid tuition contract, upon request. The accounts of the Illinois prepaid tuition program shall be subject to annual audits by the Auditor General or a certified public accountant appointed by the Auditor General.

(Source: P.A. 96-1282, eff. 7-26-10.)