

AMENDED IN SENATE JULY 18, 2007  
AMENDED IN SENATE JUNE 14, 2007  
AMENDED IN ASSEMBLY JUNE 1, 2007  
AMENDED IN ASSEMBLY MAY 1, 2007  
AMENDED IN ASSEMBLY APRIL 17, 2007  
AMENDED IN ASSEMBLY MARCH 12, 2007  
AMENDED IN ASSEMBLY MARCH 5, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 221**

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**Introduced by Assembly Member Anderson**

**(Principal coauthors: Assembly Members Levine, Lieber, Lieu,  
Ma, and Solorio)**

**(Coauthors: Assembly Members Adams, Benoit, Caballero, Cook,  
De Leon, DeVore, Duvall, Emmerson, Evans, Feuer, Gaines,  
Garrick, Horton, Houston, Huffman, Jeffries, Keene, Leno,  
Plescia, ~~Sharon Runner~~, Portantino, Sharon Runner, Silva, Spitzer,  
Strickland, Tran, and Villines)**

*(Coauthors: Senators Ashburn, Battin, Cogdill, Oropeza, Romero,  
Runner, and Steinberg)*

January 29, 2007

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An act to amend Section 16642 of, and to add Section 7513.7 to, the Government Code, relating to investments.

## LEGISLATIVE COUNSEL'S DIGEST

AB 221, as amended, Anderson. Public retirement systems: investments: Iran.

The California Constitution provides that the Legislature may by statute prohibit retirement board investments if it is in the public interest to do so, and providing that the prohibition satisfies specified fiduciary standards.

Existing law prohibits the Public Employees' Retirement System and the State Teachers' Retirement System from investing public employee retirement funds in a company with active business operations in Sudan, as specified. Existing law also requires these retirement systems to sell or transfer any investments in a company with business operations in Sudan. Existing law requires these retirement systems to submit an annual report to the Legislature regarding any investments in a company with business operations in Sudan and the sale or transfer of those investments. Existing law requires the state to indemnify, from the General Fund, and hold harmless the present, former, and future board members, officers, and employees of, and investment managers under contract with, these retirement systems by reason of any decision to restrict, reduce, or eliminate investments in Sudan, as specified.

This bill would create the California Public Divest from Iran Act and additionally prohibit the Public Employees' Retirement System and the State Teachers' Retirement System from investing public employee retirement funds in a company with business operations in Iran that is invested in or engaged in business operations with entities in the defense or nuclear sectors of Iran, or the company is invested or engaged in business operations with entities involved in the development of petroleum or natural gas resources of Iran, and that company is subject to sanctions under federal law, as specified, or the company is engaged in business operations with an Iranian organization *that has been* labeled as a terrorist organization by the United States government. The bill would require the Board of Administration of the Public Employees' Retirement System and the Teachers' Retirement Board of the State Teachers' Retirement System to sell or transfer any investments in a company with business operations in Iran, until Iran is removed from the United States Department of State's list of countries that have been determined to repeatedly provide support for acts of international terrorism and the President of the United States determines and certifies that Iran has ceased its efforts to design, develop, manufacture, or

acquire a nuclear explosive device or related materials and technology, as specified. The bill would make related legislative findings and declarations.

This bill would require these boards to report to the Legislature any investments in a company with business operations in Iran and the sale or transfer of those investments, subject to the fiduciary duty of these boards, by January 1, 2009, and every year thereafter.

This bill would indemnify from the General Fund and hold harmless the present, former, and future board members, officers, and employees of, and investment managers under contract with, these retirement systems.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares as follows:

2 (a) The Securities and Exchange Commission has determined  
3 that business activities in foreign states such as Iran sponsoring  
4 terrorism and that are subject to sanctions by the United States  
5 may materially harm the share value of foreign companies. Shares  
6 in these foreign companies may be held in the portfolio of public  
7 retirement systems in this state.

8 (b) Publicly traded companies in the United States are  
9 substantially restricted in doing business in or with foreign states  
10 such as Iran that the United States Department of State has  
11 identified as sponsoring terrorism.

12 (c) Public retirement systems in this state currently invest on  
13 behalf of the citizens of California in publicly traded foreign  
14 companies that may be at risk due to business ties with foreign  
15 states such as Iran that sponsor terrorism and are involved in the  
16 proliferation of weapons of mass destruction.

17 (d) Investments in publicly traded foreign companies that have  
18 business operations in or with foreign states such as Iran are liable  
19 for sanctions under United States law and risk the pensions of the  
20 dedicated public employees of this state.

21 (e) Excluding companies with business activities in foreign  
22 states such as Iran that sponsor terrorism and divesting from public  
23 portfolios will help protect the public retirement systems in this  
24 state from investment losses related to these business activities

1 and may improve the investment performance of the public  
2 retirement systems.

3 (f) Public Law 104-172, as renewed and amended in 2001 and  
4 2006, specifically provides for sanctions to be imposed on any  
5 entity that has invested at least twenty million dollars (\$20,000,000)  
6 in any year since 1996 to develop petroleum or natural gas  
7 resources of Iran.

8 (g) It is unconscionable for this state to invest in foreign  
9 companies with business activities benefiting foreign states such  
10 as Iran that commit egregious violations of human rights and  
11 sponsor terrorism.

12 (h) It is the Government of Iran, and not the people of Iran, that  
13 is responsible for Iran's support of terrorism and which commits  
14 egregious violations of human rights under which its own citizens  
15 are required to live.

16 SEC. 2. Section 7513.7 is added to the Government Code, to  
17 read:

18 7513.7. (a) As used in this section, the following definitions  
19 shall apply:

20 (1) "Board" means the Board of Administration of the Public  
21 Employees' Retirement System or the Teachers' Retirement Board  
22 of the State Teachers' Retirement System, as applicable.

23 (2) "Business operations" means maintaining, selling, or leasing  
24 equipment, facilities, personnel, or any other apparatus of business  
25 or commerce in Iran, including the ownership or possession of real  
26 or personal property located in Iran.

27 (3) "Company" means a sole proprietorship, organization,  
28 association, corporation, partnership, venture, or other entity, its  
29 subsidiary or affiliate that exists for profitmaking purposes or to  
30 otherwise secure economic advantage. "Company" also means a  
31 company owned or controlled, either directly or indirectly, by the  
32 government of Iran, that is established or organized under the laws  
33 of or has its principal place of business in the Islamic Republic of  
34 Iran.

35 (4) "Government of Iran" means the government of Iran or its  
36 instrumentalities.

37 (5) "Invest" or "investment" means the purchase, ownership,  
38 or control of stock of a company, association, or corporation, the  
39 capital stock of a mutual water company or corporation, bonds  
40 issued by the government or a political subdivision of Iran,

1 corporate bonds or other debt instruments issued by a company,  
2 or the commitment of funds or other assets to a company, including  
3 a loan or extension of credit to that company.

4 (6) “Iran” means the Islamic Republic of Iran, a territory under  
5 the administration or control of Iran, or an individual, company,  
6 or public agency located in Iran that supports the Islamic Republic  
7 of Iran.

8 (7) “Military equipment” means weapons, arms, or military  
9 defense supplies.

10 (8) “Public employee retirement funds” means the Public  
11 Employees’ Retirement Fund described in Section 20062 of this  
12 code, and the Teachers’ Retirement Fund described in Section  
13 22167 of the Education Code.

14 (9) “Substantial action” means a boycott of the government of  
15 Iran, curtailing business in Iran until that time described in  
16 subdivision (m), or selling company assets, equipment, or real and  
17 personal property located in Iran.

18 (b) The board shall not invest public employee retirement funds  
19 in a company which has business operations in Iran as identified  
20 by the board through, as the board deems appropriate, publicly  
21 available information including, but not limited to, information  
22 provided by nonprofit and other organizations and government  
23 entities, that meets either of the following criteria:

24 (1) The company (A) is invested in or engaged in business  
25 operations with entities in the defense or nuclear sectors of Iran  
26 or (B) is invested in or engaged in business operations with entities  
27 involved in the development of petroleum or natural gas resources  
28 of Iran, and that company is subject to sanctions under Public Law  
29 104-172, as renewed and amended in 2001 and 2006.

30 (2) The company is engaged in business operations with an  
31 Iranian organization *that has been* labeled as a terrorist organization  
32 by the United States government.

33 (c) The board shall take all of the following actions no later than  
34 March 30, 2008:

35 (1) Review publicly available information regarding companies  
36 with business operations in Iran and any other information as  
37 deemed appropriate by the board.

38 (2) Contact other institutional investors that invest in companies  
39 with business operations in Iran.

1 (3) Send written notice to a company with business operations  
2 in Iran that the company may be subject to this section.

3 (d) The board shall determine, by the next applicable board  
4 meeting and based on the information and reports described in  
5 subdivision (c), if a company meets the criteria described in  
6 subdivision (b). If the board plans to invest or has investments in  
7 a company that meets the criteria described in subdivision (b), that  
8 planned or existing investment shall be subject to subdivisions (g)  
9 and (h).

10 (e) Investments of the board in a company that does not meet  
11 the criteria described in subdivision (b) are not subject to  
12 subdivision (h) if the company does not subsequently meet the  
13 criteria described in subdivision (b). The board shall identify the  
14 reasons why that company does not satisfy the criteria described  
15 in subdivision (b) in the report to the Legislature described in  
16 subdivision (i).

17 (f) (1) Notwithstanding subdivisions (d) and (e), if the board's  
18 investment in a company described in subdivision (b) is limited  
19 to investment via an externally and actively managed commingled  
20 fund, the board shall contact that fund manager in writing and  
21 request that the fund manager remove that company from the fund  
22 as described in subdivision (h). On or before June 30, 2008, if the  
23 fund or account manager creates a fund or account devoid of  
24 companies described in subdivision (b), the transfer of board  
25 investments from the prior fund or account to the fund or account  
26 devoid of companies with business operations in Iran shall be  
27 deemed to satisfy subdivision (h).

28 (2) If the board's investment in a company described in  
29 subdivision (b) is limited to an alternative fund or account, the  
30 alternative fund or account manager creates an actively managed  
31 commingled fund that excludes companies described in subdivision  
32 (b), and the new fund or account is deemed to be financially  
33 equivalent to the existing fund or account, the transfer of board  
34 investments from the existing fund or account to the new fund or  
35 account shall be deemed to satisfy subdivision (h). If the board  
36 determines that the new fund or account is not financially  
37 equivalent to the existing fund, the board shall include the reasons  
38 for that determination in the report described in subdivision (i).

39 (3) The board shall make a good faith effort to identify any  
40 private equity investments that involve companies described in

1 subdivision (b), or are linked to the government of Iran. If the  
2 board determines that a private equity investment clearly involves  
3 a company described in subdivision (b), or is linked to the  
4 government of Iran, the board shall consider, at its discretion, if  
5 those private equity investments shall be subject to subdivision  
6 (h). If the board determines that a private equity investment clearly  
7 involves a company described in subdivision (b), or is linked to  
8 the government of Iran and the board does not take action as  
9 described in subdivision (h), the board shall include the reasons  
10 for its decision in the report described in subdivision (i).

11 (g) Except as described in subdivisions (e) and (f), the board,  
12 in the board's capacity of shareholder or investor, shall notify any  
13 company described in subdivision (d) that the company is subject  
14 to subdivision (h) and permit that company to respond to the  
15 information and reports described in subdivision (c). The board  
16 shall request that the company take substantial action no later than  
17 90 days from the date the board notified the company under this  
18 subdivision. If the board determines that a company has taken  
19 substantial action or has made sufficient progress towards  
20 substantial action before the expiration of that 90-day period, that  
21 company shall not be subject to subdivision (h). The board shall,  
22 at intervals not to exceed 90 days, continue to monitor and review  
23 the progress of the company until that company has taken  
24 substantial action in Iran. A company that fails to complete  
25 substantial action within one year from the date of the initial notice  
26 by the board shall be subject to subdivision (h).

27 (h) If a company described in subdivision (d) fails to complete  
28 substantial action by the time described in subdivision (g), the  
29 board shall take the following actions:

30 (1) The board shall not make additional or new investments or  
31 renew existing investments in that company.

32 (2) The board shall liquidate the investments of the board in  
33 that company no later than 18 months after this subdivision applies  
34 to that company. The board shall liquidate those investments in a  
35 manner to address the need for companies to take substantial action  
36 in Iran and consistent with the board's fiduciary responsibilities  
37 as described in Section 17 of Article XVI of the California  
38 Constitution.

1 (i) On or before January 1, 2009, and every year thereafter, the  
2 board shall file a report with the Legislature. The report shall  
3 describe the following:

4 (1) A list of investments the board has in companies with  
5 business operations in Iran, including, but not limited to, the issuer,  
6 by name, of the stock, bonds, securities, and other evidence of  
7 indebtedness.

8 (2) A detailed summary of the business operations a company  
9 described in paragraph (1) has in Iran and whether that company  
10 satisfies the criteria in subdivision (b).

11 (3) Whether the board has reduced its investments in a company  
12 that satisfies the criteria in subdivision (b).

13 (4) If the board has not completely reduced its investments in  
14 a company that satisfies the criteria in subdivision (b), when the  
15 board anticipates that the board will reduce all investments in that  
16 company or the reasons why a sale or transfer of investments is  
17 inconsistent with the fiduciary responsibilities of the board as  
18 described in Section 17 of Article XVI of the California  
19 Constitution.

20 (5) Any information described in subdivisions (d) and (e).

21 (6) A detailed summary of investments that were transferred to  
22 funds or accounts devoid of companies with business operations  
23 in Iran as described in subdivision (f).

24 (7) An annual calculation of any costs or investment losses or  
25 other financial results incurred in compliance with the provisions  
26 of this section.

27 (j) If the board voluntarily sells or transfers all of its investments  
28 in a company with business operations in Iran, this section shall  
29 not apply except that the board shall file a report with the  
30 Legislature related to that company as described in subdivision  
31 (i).

32 (k) Nothing in this section shall require the board to take action  
33 as described in this section unless the board determines, in good  
34 faith, that the action described in this section is consistent with the  
35 fiduciary responsibilities of the board as described in Section 17  
36 of Article XVI of the California Constitution.

37 (l) Subdivision (h) shall not apply to any of the following:

38 (1) Investments in a company that is primarily engaged in  
39 supplying goods or services intended to relieve human suffering  
40 in Iran.

1 (2) Investments in a company that promotes health, education,  
2 or journalistic, religious, or welfare activities in Iran.

3 (3) Investments in a United States company that is authorized  
4 by the federal government to have business operations in Iran.

5 (m) This section shall cease to be operative if both of the  
6 following apply:

7 (1) Iran is removed from the United States Department of State's  
8 list of countries that have been determined to repeatedly provide  
9 support for acts of international terrorism.

10 (2) Pursuant to Public Law 104-172, as amended, the President  
11 of the United States determines and certifies to the appropriate  
12 committee of the Congress of the United States that Iran has ceased  
13 its efforts to design, develop, manufacture, or acquire a nuclear  
14 explosive device or related materials and technology.

15 (n) This section shall be known and may be cited as the  
16 California Public Divest from Iran Act.

17 SEC. 3. Section 16642 of the Government Code is amended  
18 to read:

19 16642. Present, future, and former board members of the Public  
20 Employees' Retirement System or the State Teachers' Retirement  
21 System, jointly and individually, state officers and employees,  
22 research firms described in subdivision (d) of Section 7513.6, and  
23 investment managers under contract with the Public Employees'  
24 Retirement System or the State Teachers' Retirement System shall  
25 be indemnified from the General Fund and held harmless by the  
26 State of California from all claims, demands, suits, actions,  
27 damages, judgments, costs, charges and expenses, including court  
28 costs and attorney's fees, and against all liability, losses, and  
29 damages of any nature whatsoever that these present, future, or  
30 former board members, officers, employees, research firms as  
31 described in subdivision (d) of Section 7513.6, or contract  
32 investment managers shall or may at any time sustain by reason  
33 of any decision to restrict, reduce, or eliminate investments  
34 pursuant to Sections 7513.6 and 7513.7.

35 SEC. 4. The provisions of this act are severable. If any  
36 provision of this act or its application is held invalid, that invalidity  
37 shall not affect other provisions or applications that can be given  
38 effect without the invalid provision or application.

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