

AMENDED IN SENATE MARCH 29, 2012

SENATE BILL

No. 955

Introduced by Senators Pavley and Rubio
(Principal coauthor: Assembly Member Alejo)

(Coauthor: Senator DeSaulnier)

(Coauthors: Assembly Members Ammiano, Blumenfield, Perea, Solorio, Wieckowski, and Williams)

January 5, 2012

An act to add Section ~~20211~~ 7514.2 to the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 955, as amended, Pavley. ~~Public Employees' Retirement System: employees' retirement: pension fund management.~~

Existing law establishes various public retirement systems, including, among others, the Public Employees' Retirement System (PERS), the State Teachers' Retirement System (STRS), the Judges' Retirement System II, and various county retirement systems pursuant to the County Employees Retirement Law of 1937. These systems provide defined pension benefits to public employees based on age, service credit, and final compensation. The California Constitution confers upon the retirement boards of public retirement systems plenary authority and fiduciary responsibility for the investment of moneys of those systems.

~~The Public Employees' Retirement Law creates the Public Employees' Retirement Fund, which is a trust fund created and administered solely for the benefit of the members and retired members of the Public Employees' Retirement System and their survivors and beneficiaries. The Board of Administration of the Public Employees' Retirement~~

System has the exclusive control of the administration and investment of moneys in the retirement fund:

This bill would ~~require the board~~ *authorize these public retirement system boards, consistent with their fiduciary duties and the standard for prudent investment,* to prioritize ~~an~~ investment in an in-state infrastructure project over ~~alternative a comparable~~ out-of-state infrastructure projects ~~if the investment in the in-state project is consistent with the board’s fiduciary duties to minimize the risk of loss and to maximize the rate of return~~ *project.*

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

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

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Due to the current economic recession in which the residents
4 of the state and the nation as a whole find themselves, infrastructure
5 investment represents a significant opportunity to spur job growth
6 while improving California’s infrastructure, which is important to
7 maintain business competitiveness.

8 (2) While California may be emerging from the recession, over
9 2,000,000 Californians remain unemployed.

10 (3) Investments in infrastructure can provide much needed
11 employment opportunities for Californians struggling to find work,
12 as well as provide a steady rate of return for investment funds that
13 invest in those projects.

14 (4) The California Public Employees’ Retirement System
15 (CalPERS) has announced plans to invest eight hundred million
16 dollars (\$800,000,000) in both public and private infrastructure,
17 including, but not limited to, transportation, energy, natural
18 resources, utilities, water, communications, and other social support
19 services.

20 ~~(5) Because CalPERS investments stem from contributions~~
21 ~~made by California’s workers, those investments should remain~~
22 ~~in California to the maximum extent possible.~~

23 (5) *The California State Teachers’ Retirement System (CalSTRS)*
24 *plans to invest up to five hundred- million dollars (\$500,000,000)*
25 *in infrastructure projects.*

1 (b) Accordingly, it is the intent of the Legislature in enacting
2 this act, consistent with the plenary authority and fiduciary
3 responsibilities of the retirement boards of public pension or
4 retirement systems under Section 17 of Article XVI of the
5 California Constitution, that those retirement boards that have
6 specifically targeted infrastructure investment policies prioritize
7 investments in projects located in California.

8 *SEC. 2. Section 7514.2 is added to the Government Code, to*
9 *read:*

10 *7514.2. (a) As used in this section, the following definitions*
11 *shall apply:*

12 *(1) "Board" means the retirement board of a public pension*
13 *or retirement system, as defined in subdivision (h) of Section 17*
14 *of Article XVI of the California Constitution.*

15 *(2) "Infrastructure" includes, but is not limited to,*
16 *telecommunications, power, transportation, ports, petrochemical,*
17 *and utilities.*

18 *(b) The board may, subject to and consistent with its fiduciary*
19 *duties and the standard for prudent investment set forth in Section*
20 *20190 of this code and Section 17 of Article XVI of the California*
21 *Constitution, prioritize investment in an in-state infrastructure*
22 *project over a comparable out-of-state project.*

23 *(c) The Legislature encourages the board to prioritize investment*
24 *in in-state infrastructure projects over alternative out-of-state*
25 *infrastructure projects if the investments in the in-state projects*
26 *are consistent with the board's fiduciary duties to minimize the*
27 *risk of loss and to maximize the rate of return.*

28 ~~*SEC. 2. Section 20211 is added to the Government Code, to*~~
29 ~~*read:*~~

30 ~~*20211. (a) For the purposes of this section, "infrastructure"*~~
31 ~~*includes, but is not limited to, telecommunications, power,*~~
32 ~~*transportation, port, petrochemical, and utilities.*~~

33 ~~*(b) Except as provided in subdivision (d), the board shall*~~
34 ~~*prioritize an investment in an in-state infrastructure project over*~~
35 ~~*an alternative out-of-state infrastructure project if the investment*~~
36 ~~*in the in-state project is consistent with the board's fiduciary duties*~~
37 ~~*to minimize the risk of loss and to maximize the rate of return.*~~

38 ~~*(c) Except as provided in subdivision (d), the board may invest*~~
39 ~~*in out-of-state infrastructure projects only after having considered*~~
40 ~~*existing California infrastructure project proposals and determining*~~

1 ~~that investment in the in-state projects would not be consistent~~
2 ~~with the board's fiduciary duties to its members when compared~~
3 ~~to out-of-state infrastructure projects.~~

4 ~~(d) Nothing in this section shall require the board to take action~~
5 ~~that is not consistent with its plenary authority and fiduciary~~
6 ~~responsibilities as described in Section 17 of Article XVI of the~~
7 ~~California Constitution.~~