

AMENDED IN ASSEMBLY APRIL 26, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2650

Introduced by Assembly Members Nazarian, Achadjian, and Wilk

February 19, 2016

An act to amend Section 16642 of, and to add Section 7513.76 to, the Government Code, relating to public employee retirement systems.

LEGISLATIVE COUNSEL'S DIGEST

AB 2650, as amended, Nazarian. Public employee retirement systems: prohibited investments: Turkey.

The California Constitution grants the retirement board of a public employee retirement system plenary authority and fiduciary responsibility for investment of moneys and administration of the retirement fund and system. The California Constitution qualifies this grant of powers by reserving to the Legislature the authority to prohibit investments if it is in the public interest and the prohibition satisfies standards of fiduciary care and loyalty required of a retirement board. Existing law prohibits the boards of administration of the Public Employees' Retirement System and State Teachers' Retirement System from making investments in certain countries and in thermal coal companies, as specified, subject to the boards' plenary authority and fiduciary responsibility for investment of moneys and administration of the systems.

This bill would prohibit the boards of administration of the Public Employees' Retirement System and State Teachers' Retirement System from making additional or new investments, or renewing existing

investments, of public employee retirement funds in an investment vehicle in Turkey that is issued by the government of Turkey or that is owned, controlled, or managed by the government of Turkey. The bill would require the boards to liquidate existing investments in Turkey in these types of investment vehicles ~~on or before July 1, 2018, within 6 months of the passage of a federal law imposing sanctions on Turkey,~~ subject to engagement with the government of Turkey regarding whether it is transitioning to publicly accepting its responsibility for the Armenian Genocide. The bill would require these boards, ~~on or before January 1, 2019, within one year of the passage of a federal law imposing sanctions on Turkey,~~ to make a specified report to the Legislature and the Governor regarding these actions. The bill would provide that its provisions do not require a board to take any action that the board determines in good faith is inconsistent with its constitutional fiduciary responsibilities to the retirement system. The 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, in connection with actions relating to these investments.

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 the following:
- 2 (a) The State of California has officially recognized the
- 3 Armenian Genocide each year for decades and has repeatedly
- 4 urged the Republic of Turkey to acknowledge the facts of the
- 5 Armenian Genocide and work toward a just resolution, honor its
- 6 obligations under international treaties and human rights laws, end
- 7 all forms of religious discrimination and persecution, and return
- 8 Christian church properties to their rightful owners.
- 9 (b) Genocide is defined by the United Nations as an act
- 10 “committed with intent to destroy, in whole or in part, a national,
- 11 ethnical, racial or religious group.”
- 12 (c) Genocide denial is widely viewed as among the final stages
- 13 of genocide and serves to perpetuate the effects of genocide even
- 14 after the active phases of extermination, massacres, forced marches,
- 15 and deportation have ended.

1 (d) The government of Turkey has engaged and continues to
2 engage in an ongoing campaign of genocide denial and historical
3 revisionism by refusing to acknowledge its responsibility for the
4 Armenian Genocide, refusing to compensate its victims, and
5 actively pursuing a well-funded political lobbying campaign
6 throughout the United States, including in California, to rewrite
7 history and defeat legislation recognizing the Armenian Genocide.

8 (e) The government of Turkey has engaged and continues to
9 engage in efforts to effect Armenian cultural erasure since the
10 founding of the Republic of Turkey, including, but not limited to,
11 ethnic cleansings and the destruction of sacred Armenian religious
12 sites.

13 (f) Reference in Turkey by any scholar, journalist, or other
14 person to the massacre and deportation of Armenians in 1915 to
15 1923, inclusive, as genocide can be criminally prosecuted under
16 Article 301 of the Turkish Penal Code.

17 (g) The State of California is home to the largest Armenian
18 American population in the United States, and Armenians living
19 in California, most of whom are direct descendants of the survivors
20 of the Armenian Genocide, have enriched our state through their
21 leadership and contributions in business, agriculture, academia,
22 government, and the arts, yet continue to suffer the effects of the
23 continued denial campaign by the government of Turkey.

24 (h) The State of California, as the world's eighth largest
25 economy, and in accordance with principles of human rights and
26 justice, has taken the lead in adopting legislation to divest from
27 South Africa for its policy of apartheid, Sudan for its genocide in
28 Darfur, and Iran for its support of international terrorism, imposing
29 economic consequences upon regimes that engage in conduct and
30 policy that violate human rights or constitute crimes against
31 humanity.

32 (i) The State of California, through its Public Employees'
33 Retirement System (PERS) and its State Teachers' Retirement
34 System (STRS), directly invests public funds in the government
35 of Turkey, which then reaps profits while actively denying the
36 Armenian Genocide, funding its continued campaign of denial, at
37 least in part, through these investments in its economy.

38 (j) By investing public funds in the government of Turkey, the
39 State of California as the embodiment of its citizens contradicts
40 its longstanding, just position of recognizing the Armenian

1 Genocide and urging the government of Turkey to acknowledge
2 its responsibility and work toward a just resolution by honoring
3 its obligations under international treaties and human rights laws,
4 to end all forms of religious discrimination and persecution, and
5 to return Christian church properties to their rightful owners.

6 (k) It is the government of Turkey, not the people of Turkey,
7 that is responsible for Turkey's continued egregious violations of
8 human rights and active pursuit of genocide denial, cultural erasure,
9 and historical revisionism.

10 (l) PERS currently has investment holdings in bonds directly
11 issued by the Republic of Turkey in excess of \$185,000,000.

12 (m) STRS currently has investment holdings in bonds directly
13 issued by the Republic of Turkey in excess of several hundred
14 million dollars.

15 (n) Investment in the Republic of Turkey enables its government
16 to continue to deny justice to the Armenian people.

17 (o) Divesting these funds would ensure that the State of
18 California is in no way complicit in the continued denial of the
19 Armenian Genocide by the government of Turkey and would
20 encourage said government to acknowledge the Armenian
21 Genocide and to reach a fair and just resolution of reparations for
22 the survivors of the Armenian Genocide.

23 SEC. 2. Section 7513.76 is added to the Government Code, to
24 read:

25 7513.76. (a) As used in this section, the following terms have
26 the following meanings:

27 (1) "Board" means the Board of Administration of the Public
28 Employees' Retirement System or the Teachers' Retirement Board
29 of the State Teachers' Retirement System, as applicable.

30 (2) "Government of Turkey" means the government of Turkey
31 or its instrumentalities or political subdivisions. "Government of
32 Turkey" also includes any and all investment vehicles, government
33 bonds, or financial institutions and entities that are owned,
34 controlled, or operated by the government of Turkey.

35 (3) "Turkey" means the Republic of Turkey or any territory
36 under the administration or control of Turkey.

37 (4) "Public employee retirement funds" means the Public
38 Employees' Retirement Fund described in Section 20062 and the
39 Teachers' Retirement Fund described in Section 22167 of the
40 Education Code.

(b) The board shall not make additional or new investments or renew existing investments of public employee retirement funds in any investment vehicle in Turkey that meets either of the following criteria:

(1) The investment vehicle is issued by the government of Turkey.

(2) The investment vehicle is owned, controlled, or managed by the government of Turkey.

(c) The board shall liquidate investments in Turkey in an investment vehicle described in subdivision (b) ~~on or before July 1, 2018; within six months of the passage of a federal law imposing sanctions on Turkey.~~ In making a determination whether to liquidate investments, the board shall constructively engage with the government of Turkey to establish whether the government of Turkey is transitioning to publicly accepting its responsibility for the Armenian Genocide.

~~(d) On or before January 1, 2019, Within one year of the passage of a federal law imposing sanctions on Turkey,~~ the board shall file a report with the Legislature, in compliance with Section 9795, and the Governor, that shall include the following:

(1) A list of investment vehicles in Turkey of which the board has liquidated its investments pursuant to subdivision (c).

(2) A list of investment vehicles in Turkey in connection with which the board engaged with the government of Turkey pursuant to subdivision (c), with supporting documentation to substantiate the board's determination.

(3) A list of investment vehicles in Turkey of which the board has not liquidated its investments as a result of a determination made pursuant to subdivision (e) that a sale or transfer of investments is inconsistent with the fiduciary responsibilities of the board as described in Section 17 of Article XVI of the California Constitution and the board's findings adopted in support of that determination.

(e) Nothing in this section shall require a board to take action as described in this section unless the board determines in good faith that the action described in this section is consistent with the fiduciary responsibilities of the board described in Section 17 of Article XVI of the California Constitution.

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

1 16642. Present, future, and former board members of the Public
2 Employees' Retirement System or the State Teachers' Retirement
3 System, jointly and individually, state officers and employees,
4 research firms described in subdivision (d) of Section 7513.6, and
5 investment managers under contract with the Public Employees'
6 Retirement System or the State Teachers' Retirement System shall
7 be indemnified from the General Fund and held harmless by the
8 State of California from all claims, demands, suits, actions,
9 damages, judgments, costs, charges, and expenses, including court
10 costs and attorney's fees, and against all liability, losses, and
11 damages of any nature whatsoever that these present, future, or
12 former board members, officers, employees, research firms as
13 described in subdivision (d) of Section 7513.6, or contract
14 investment managers shall or may at any time sustain by reason
15 of any decision to restrict, reduce, or eliminate investments
16 pursuant to Sections 7513.6, 7513.7, 7513.75, and 7513.76.