

ASSEMBLY BILL

No. 2833

Introduced by Assembly Member Cooley

February 19, 2016

An act to add Section 7514.7 to the Government Code, relating to retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2833, as introduced, Cooley. Public retirement: pension funds: disclosures.

The California Constitution commits to the retirement board of a public pension or retirement system plenary authority and fiduciary responsibility for investment of moneys and administration of the system. Existing law requires a retirement board to develop and implement a policy requiring disclosure of payments to placement agents, as defined, in connection with system investments in or through external managers that includes prescribed elements. Existing law requires disclosure of campaign contributions or gifts made by a placement agent to any member of a public pension retirement board, as specified. Existing law requires a public retirement system to obtain an actuarial valuation of the system not less than triennially and submit audited financial statements to the State Controller who then publishes a report on the financial condition of public retirement systems.

This bill, for contracts entered into on and after January 1, 2017, would require a public pension or retirement system to require private equity fund managers, partnerships, portfolio companies, and affiliates to make specified disclosures regarding fees and expenses in connection with limited partner agreements on a form prescribed by the system. Consistent with requirements relating to public records, the bill would

require a public pension or retirement system to disclose the information received in connection with the limited partner agreements at least once annually at a meeting open to the public. The bill would make a statement of legislative intent. Because this bill would impose new requirements on local entities relating to the collection of information and its presentation at an open meeting, it would impose a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. It is the intent of the Legislature in enacting this
2 section to increase the transparency of fees paid by public pension
3 funds to private equity general partners. Pension funds pay
4 significant fees to private equity firms and do not have sufficient
5 information regarding the character and amount of those fees. As
6 fiduciaries, public fund trustees have a duty to maximize
7 investment returns in order to ensure promised benefits are
8 adequately funded and to minimize taxpayer costs. Because fees
9 paid to private equity general partners reduce returns, public fund
10 trustees need to be able to see and understand all of the fees they
11 are charged.

12 SEC. 2. Section 7514.7 is added to the Government Code, to
13 read:

14 7514.7. (a) Every public pension or retirement system shall
15 require its private equity fund managers, partnerships, portfolio
16 companies, and affiliates to make the following disclosures, on a

1 form prescribed by the system, in regard to each limited partner
2 agreement:

3 (1) The fees and expenses that the retirement system pays
4 directly to the private equity fund managers and partnerships
5 subject to the agreement.

6 (2) The fees and expenses not included in paragraph (1) that are
7 paid from the private equity fund, including carried interest, to the
8 private equity fund general partners and affiliates.

9 (3) The fees and expenses paid by the private equity portfolio
10 companies to the private equity fund general partners and affiliates.

11 (b) Consistent with the requirements of Section 6254.26, a public
12 pension or retirement system shall disclose the information received
13 pursuant to subdivision (a) at least once annually at a meeting open
14 to the public.

15 (c) For purposes of this section, the following definitions shall
16 apply:

17 (1) “Carried interest” means a share of the profits of a private
18 equity fund that is due to the fund manager or general partner.

19 (2) “Private equity” means an asset class consisting of equity
20 securities and debt in operating companies that are not publicly
21 traded on a stock exchange.

22 (d) This section shall apply to contracts the system entered into,
23 extended, renewed, or amended on or after January 1, 2017.

24 SEC. 3. The Legislature finds and declares that Section 1 of
25 this act, which adds Section 7514.7 to the Government Code,
26 furthers, within the meaning of paragraph (7) of subdivision (b)
27 of Section 3 of Article I of the California Constitution, the purposes
28 of that constitutional section as it relates to the right of public
29 access to the meetings of local public bodies or the writings of
30 local public officials and local agencies. Pursuant to paragraph (7)
31 of subdivision (b) of Section 3 of Article I of the California
32 Constitution, the Legislature makes the following findings:

33 The information in the disclosures required under subdivisions
34 (a) and (b) of Section 7514.7 of the Government Code are
35 necessary to ensure public confidence in the integrity of
36 investments made by retirement boards pursuant to limited partner
37 agreements.

38 SEC. 4. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district under this act would result from a legislative mandate that
2 is within the scope of paragraph (7) of subdivision (b) of Section
3 3 of Article I of the California Constitution.

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