

Introduced by Senator De LeónFebruary 9, 2015

An act to add Article 5 (commencing with Section 7524) to Chapter 21 of Division 7 of Title 1 of the Government Code, relating to public retirement systems.

LEGISLATIVE COUNSEL'S DIGEST

SB 185, as introduced, De León. Public retirement systems: Public Divestiture of Thermal Coal Companies Act.

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, and requires these retirement systems to liquidate any investments in a company with business operations in Sudan. Existing law also prohibits these retirement systems from investing in a company that has specified investments in the energy sector of Iran, as defined, including in a company that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas.

This bill would create the Public Divestiture of Thermal Coal Companies Act and require the boards of the Public Employees' Retirement System and the State Teachers' Retirement System to divest the public employee retirement funds of any investments in a thermal coal company, as defined, and prohibit additional or new investments or the renewal of existing investments in a thermal coal company. This

bill would also require the boards to liquidate the investments of the board in a thermal coal company, as specified. This bill would require these actions to be undertaken consistently with the board’s fiduciary responsibilities specified in the California Constitution. The bill would make related legislative findings and declarations.

This bill would require, on or before January 1, 2017, these boards to file a report to the Legislature and the Governor, containing specified information, including a list of investments and companies of which it has divested.

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. Article 5 (commencing with Section 7524) is
2 added to Chapter 21 of Division 7 of Title 1 of the Government
3 Code, to read:

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5 Article 5. Public Divestiture of Thermal Coal Companies Act

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7 7524. This article may be known and cited as the Public
8 Divestiture of Thermal Coal Companies Act.

9 7524.1. The Legislature finds and declares all of the following:

10 (a) The combustion of coal resources is the single largest
11 contributor to global climate change in the United States.

12 (b) Climate change affects all parts of the California economy
13 and environment, and the Legislature has adopted numerous laws
14 to mitigate greenhouse gas emissions and to adapt to a changing
15 climate.

16 (c) The purpose of this article is to require the Public
17 Employees’ Retirement System and the State Teachers’ Retirement
18 System, consistent with, and not in violation of, their fiduciary
19 responsibilities, to divest their holding of thermal coal power as
20 one part of the state’s broader efforts to decarbonize the California
21 economy and to transition to clean, pollution free energy resources.

22 7524.2. For purposes of this article, the following definitions
23 shall apply:

24 (a) “Board” means the Board of Administration of the Public
25 Employees’ Retirement System or the Teachers’ Retirement Board
26 of the State Teachers’ Retirement System, as applicable.

1 (b) “Company” means a sole proprietorship, organization,
2 association, corporation, partnership, venture, or other entity, or
3 its subsidiary or affiliate that exists for profit making purposes or
4 to otherwise secure economic advantage.

5 (c) “Investment” means the purchase, ownership, or control of
6 stock of a company, association, or corporation, corporate bonds
7 or other debt instruments issued by a company, or the commitment
8 of funds or other assets to a company, including a loan or extension
9 of credit to that company.

10 (d) “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 (e) “Thermal coal company” means a company engaged in the
15 combustion of coal as determined by the board using Bloomberg
16 Global Coal Index, Carbon Tracker, and Energy Transition
17 Advisors Indices.

18 7524.3. Consistent with the board’s fiduciary responsibilities
19 as described in Section 17 of Article XVI of the California
20 Constitution, and by the earliest feasible date after the enactment
21 of this article, the board shall undertake all of the following:

22 (a) The board, shall divest the public employee retirement funds
23 of any investments in a thermal coal company.

24 (b) The board shall not make additional or new investments or
25 renew existing investments in a thermal coal company.

26 (c) The board shall liquidate the investments of the board in a
27 thermal coal company no later than eighteen months after this
28 article applies to that company.

29 7524.4. On or before January 1, 2017, the board shall file a
30 report with the Legislature, in compliance with Section 9795, and
31 the Governor on the following:

32 (a) Actions it has taken to implement this article, including a
33 list of investments and companies of which it has divested.

34 (b) Recommendations to ensure the board is able to act
35 consistent with its fiduciary responsibilities as described in Section
36 17 of Article XVI of the California Constitution.

37 (c) In consultation with the Secretary of the California
38 Environmental Protection Agency, a comprehensive assessment
39 of the feasibility of divesting the public employee retirement funds

1 of additional fossil fuel investments such as natural gas and
2 petroleum and its implications for the fund.
3 7524.5. Nothing in this article shall require a board to take
4 action as described in this section unless the board determines, in
5 good faith, that the action described in this section is consistent
6 with the fiduciary responsibilities of the board as described in
7 Section 17 of Article XVI of the California Constitution.

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