

Introduced by Senator Pan

February 26, 2015

An act to amend Section 6254.26 of the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

SB 574, as introduced, Pan. Public records: public investment funds: disclosure.

Existing law, the California Public Records Act, requires state agencies and local agencies to make public records, as defined, available for inspection, subject to specified criteria, and with specified exceptions. Existing law excludes from disclosure specified records of public investment funds, regarding alternative investments, as defined, unless the information in the records has already been publicly released by the keeper of the information. Notwithstanding this exclusion, existing law provides that certain types of information contained in records regarding alternative investments in which public investment funds invest are subject to disclosure under the act, and provides that these records are not to be considered a trade secret exempt from disclosure.

This bill would also subject records with those types of information regarding alternative investments that are in the constructive possession of, or are otherwise accessible or obtainable by, a public investment fund to disclosure under the act and require a public investment fund to obtain and disclose those records.

By increasing the duties of local public investment funds, this bill would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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. Section 6254.26 of the Government Code is
2 amended to read:
3 6254.26. (a) Notwithstanding any provision of this chapter or
4 other law, the following records regarding alternative investments
5 in which public investment funds invest shall not be subject to
6 disclosure pursuant to this chapter, unless the information has
7 already been publicly released by the keeper of the information:
8 (1) Due diligence materials that are proprietary to the public
9 investment fund or the alternative investment vehicle.
10 (2) Quarterly and annual financial statements of alternative
11 investment vehicles.
12 (3) Meeting materials of alternative investment vehicles.
13 (4) Records containing information regarding the portfolio
14 positions in which alternative investment funds invest.
15 (5) Capital call and distribution notices.
16 (6) Alternative investment agreements and all related documents.
17 (b) Notwithstanding subdivision (a), the following information
18 contained in records described in subdivision (a) regarding
19 alternative investments in which public investment funds invest
20 shall be subject to disclosure *shall be obtained and disclosed by*
21 *a public investment fund* pursuant to this chapter, and shall not be
22 considered a trade secret exempt from disclosure:
23 (1) The name, address, and vintage year of each alternative
24 investment vehicle.
25 (2) The dollar amount of the commitment made to each
26 alternative investment vehicle by the public investment fund since
27 inception.

1 (3) The dollar amount of cash contributions made by the public
2 investment fund to each alternative investment vehicle since
3 inception.

4 (4) The dollar amount, on a fiscal yearend basis, of cash
5 distributions received by the public investment fund from each
6 alternative investment vehicle.

7 (5) The dollar amount, on a fiscal yearend basis, of cash
8 distributions received by the public investment fund plus remaining
9 value of partnership assets attributable to the public investment
10 fund's investment in each alternative investment vehicle.

11 (6) The net internal rate of return of each alternative investment
12 vehicle since inception.

13 (7) The investment multiple of each alternative investment
14 vehicle since inception.

15 (8) The dollar amount of the total management fees and costs
16 paid on an annual fiscal yearend basis, by the public investment
17 fund to each alternative investment vehicle.

18 (9) The dollar amount of cash profit received by public
19 investment funds from each alternative investment vehicle on a
20 fiscal year-end basis.

21 (c) For purposes of this section, the following definitions shall
22 apply:

23 (1) "Alternative investment" means an investment in a private
24 equity fund, venture fund, hedge fund, or absolute return fund.

25 (2) "Alternative investment vehicle" means the limited
26 partnership, limited liability company, or similar legal structure
27 through which the public investment fund invests in portfolio
28 companies.

29 (3) "Portfolio positions" means individual portfolio investments
30 made by the alternative investment vehicles.

31 (4) "Public investment fund" means any public pension or
32 retirement system, and any public endowment or foundation.

33 (5) "*Records*" includes *public records described in Section*
34 *6252 and records relating to the conduct of the public's business*
35 *that are in the constructive possession of, or otherwise accessible*
36 *or obtainable by, a public investment fund.*

37 SEC. 2. If the Commission on State Mandates determines that
38 this act contains costs mandated by the state, reimbursement to
39 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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