

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 574

Introduced by Senator Pan
(Coauthor: Senator Cannella)

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 amended, 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, *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~~ *the information* is 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.~~

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. 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.

1 (4) Records containing information regarding the portfolio
2 positions in which alternative investment funds invest.

3 (5) Capital call and distribution notices.

4 (6) Alternative investment agreements and all related documents.

5 (b) Notwithstanding subdivision (a), the following information
6 contained in records described in subdivision (a) regarding
7 alternative investments in which public investment funds invest
8 shall be subject to ~~disclosure~~ *disclosure*, shall be obtained and
9 disclosed by a public investment fund pursuant to this chapter, and
10 shall not be considered a trade secret exempt from disclosure:

11 (1) The name, address, and vintage year of each alternative
12 investment vehicle.

13 (2) The dollar amount of the commitment made to each
14 alternative investment vehicle by the public investment fund since
15 inception.

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

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

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

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

28 (7) The investment multiple of each alternative investment
29 vehicle since inception.

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

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

36 (c) For purposes of this section, the following definitions shall
37 apply:

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

(2) “Alternative investment vehicle” means the limited partnership, limited liability company, or similar legal structure through which the public investment fund invests in portfolio companies.

(3) “Portfolio positions” means individual portfolio investments made by the alternative investment vehicles.

(4) “Public investment fund” means any public pension or retirement system, and any public endowment or foundation.

(5) “Records” includes public records described in Section 6252 and records relating to the conduct of the public’s business that are in the constructive possession of, or otherwise accessible or obtainable by, a public investment fund.

~~SEC. 2.—If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.~~

SEC. 2. The Legislature finds and declares that Section 1 of this act, which amends Section 6254.26 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

Increased information about the performance of alternative investments collected by local agencies, that could be leveraged by the public to more efficiently access and better monitor the investment performance of an agency’s portfolio, would be made available to the public under the act in furtherance of the purpose of Section 3 of Article I of the California Constitution.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.