

AMENDED IN SENATE APRIL 16, 2015

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~~ 92032 of the ~~Government Education~~ Code, relating to ~~public records~~: *postsecondary education*.

LEGISLATIVE COUNSEL'S DIGEST

SB 574, as amended, Pan. ~~Public records: public investment funds: disclosure.~~ *University of California: regent meetings: closed meetings.*

Existing law generally requires meetings of the Regents of the University of California to be conducted in accordance with the Bagley-Keene Open Meeting Act, unless otherwise provided. Existing law further authorizes the Regents of the University of California to conduct closed sessions to discuss specified matters, including, among others, matters involving the purchase or sale of investments for endowment and pension funds.

This bill would specify that the provisions authorizing the regents to conduct a closed meeting to discuss matters involving the purchase of sale of investments for endowment and pension funds do not apply to investments in a private equity fund, venture fund, hedge fund, or absolute return fund unless the regents have received from the fund, and disclosed to the public, certain information set forth in specified provisions of the California Public Records Act.

~~Existing law, the California Public Records Act, requires state 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 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 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-no*.

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

- 1 *SECTION 1. Section 92032 of the Education Code is amended*
- 2 *to read:*
- 3 92032. Notwithstanding Article 9 (commencing with Section
- 4 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the
- 5 Government Code:
- 6 (a) The Regents of the University of California, as occasioned
- 7 by necessity, may hold special meetings. The regents shall give
- 8 public notice for these meetings. This notice shall be given by

1 means of a notice hand delivered or mailed to each newspaper of
2 general circulation and television or radio station that has requested
3 notice in writing, so that the notice may be published or broadcast
4 at least 72 hours before the time of the meeting. The notice shall
5 specify the time, place, and agenda of the special meeting. The
6 regents shall not consider any business not included in the agenda
7 portion of the notice. Failure to comply with this subdivision shall
8 not be excused by the fact that no action was taken at the special
9 meeting.

10 (b) The Regents of the University of California may conduct
11 closed sessions when they meet to consider or discuss any of the
12 following matters:

13 (1) Matters affecting national security.

14 (2) The conferring of honorary degrees or other honors or
15 commemorations.

16 (3) Matters involving gifts, devises, and bequests.

17 (4) (A) Matters involving the purchase or sale of investments
18 for endowment and pension funds.

19 (B) *This paragraph shall not apply to investments in a private*
20 *equity fund, venture fund, hedge fund, or absolute return fund,*
21 *unless the regents have received from the fund, and disclosed to*
22 *the public, the information specified in subdivision (b) of Section*
23 *6254.26 of the Government Code.*

24 (5) Matters involving litigation, when discussion in open session
25 concerning those matters would adversely affect, or be detrimental
26 to, the public interest.

27 (6) The acquisition or disposition of property, if discussion of
28 these matters in open session could adversely affect the regents'
29 ability to acquire or dispose of the property on the terms and
30 conditions they deem to be in the best public interest.

31 (7) (A) Matters concerning the appointment, employment,
32 performance, compensation, or dismissal of university officers or
33 employees, excluding individual regents other than the president
34 of the university.

35 (B) (i) Action taken by a committee of the regents, and final
36 action by the full board of regents, on a proposal for the
37 compensation package of the following executive officers shall
38 occur in an open session of each of those bodies, and shall include
39 a disclosure of the compensation package and rationale for the
40 action:

- 1 (I) The President of the University of California.
- 2 (II) The chancellor of an individual campus.
- 3 (III) A vice president.
- 4 (IV) The treasurer or the assistant treasurer.
- 5 (V) The general counsel.
- 6 (VI) The regents' secretary.

7 (ii) Members of the public shall be afforded the opportunity to
 8 address the committee and full board on the proposal during or
 9 before consideration of the action item.

10 (C) Discussion by a committee of the regents of, and action on,
 11 an executive compensation program or policy, and any final action
 12 by the full board of regents on that program or policy, shall occur
 13 in open session of each of those bodies.

14 (D) Compensation for the principal officers of the regents and
 15 the officers of the university shall include salary, benefits,
 16 perquisites, severance payments (except those made in connection
 17 with a dismissal or a litigation settlement), retirement benefits, or
 18 any other form of compensation.

19 (8) Matters relating to complaints or charges brought against
 20 university officers or employees, excluding individual regents
 21 other than the president of the university, unless the officer or
 22 employee requests a public hearing.

23 (c) While a witness is being examined during any open or closed
 24 session, any or all other witnesses in the investigation may be
 25 excluded from the proceedings by the regents.

26 (d) Committees of the regents may conduct closed sessions on
 27 Medi-Cal contract negotiations.

28 (e) The nominating committee of the regents may conduct closed
 29 sessions held for the purpose of proposing officers of the board
 30 and members of the board's various committees.

31 (f) Committees of the regents may conduct closed sessions held
 32 for the purpose of proposing a student regent.

33 (g) The regents shall not be required to give public notice of
 34 meetings of special search or selection committees held for the
 35 purpose of conducting interviews for university officer positions.

36 ~~SECTION 1. Section 6254.26 of the Government Code is~~
 37 ~~amended to read:~~

38 ~~6254.26. (a) Notwithstanding any provision of this chapter or~~
 39 ~~other law, the following records regarding alternative investments~~
 40 ~~in which public investment funds invest shall not be subject to~~

- 1 disclosure pursuant to this chapter, unless the information has
2 already been publicly released by the keeper of the information:
- 3 (1) Due diligence materials that are proprietary to the public
4 investment fund or the alternative investment vehicle.
 - 5 (2) Quarterly and annual financial statements of alternative
6 investment vehicles.
 - 7 (3) Meeting materials of alternative investment vehicles.
 - 8 (4) Records containing information regarding the portfolio
9 positions in which alternative investment funds invest.
 - 10 (5) Capital call and distribution notices.
 - 11 (6) Alternative investment agreements and all related documents.
 - 12 (b) Notwithstanding subdivision (a), the following information
13 contained in records described in subdivision (a) regarding
14 alternative investments in which public investment funds invest
15 shall be subject to disclosure, shall be obtained and disclosed by
16 a public investment fund pursuant to this chapter, and shall not be
17 considered a trade secret exempt from disclosure:
 - 18 (1) The name, address, and vintage year of each alternative
19 investment vehicle.
 - 20 (2) The dollar amount of the commitment made to each
21 alternative investment vehicle by the public investment fund since
22 inception.
 - 23 (3) The dollar amount of cash contributions made by the public
24 investment fund to each alternative investment vehicle since
25 inception.
 - 26 (4) The dollar amount, on a fiscal yearend basis, of cash
27 distributions received by the public investment fund from each
28 alternative investment vehicle.
 - 29 (5) The dollar amount, on a fiscal yearend basis, of cash
30 distributions received by the public investment fund plus remaining
31 value of partnership assets attributable to the public investment
32 fund's investment in each alternative investment vehicle.
 - 33 (6) The net internal rate of return of each alternative investment
34 vehicle since inception.
 - 35 (7) The investment multiple of each alternative investment
36 vehicle since inception.
 - 37 (8) The dollar amount of the total management fees and costs
38 paid on an annual fiscal yearend basis, by the public investment
39 fund to each alternative investment vehicle.

1 ~~(9) The dollar amount of cash profit received by public~~
2 ~~investment funds from each alternative investment vehicle on a~~
3 ~~fiscal year-end basis.~~

4 ~~(e) For purposes of this section, the following definitions shall~~
5 ~~apply:~~

6 ~~(1) “Alternative investment” means an investment in a private~~
7 ~~equity fund, venture fund, hedge fund, or absolute return fund.~~

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

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

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

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

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

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

35 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
36 ~~Section 6 of Article XIII B of the California Constitution because~~
37 ~~the only costs that may be incurred by a local agency or school~~
38 ~~district under this act would result from a legislative mandate that~~

1 ~~is within the scope of paragraph (7) of subdivision (b) of Section~~
2 ~~3 of Article I of the California Constitution.~~

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