

AMENDED IN SENATE FEBRUARY 29, 2000

AMENDED IN ASSEMBLY MAY 24, 1999

AMENDED IN ASSEMBLY MARCH 10, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 107**

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**Introduced by Assembly Members ~~Knox and Villaraigosa~~**

***Member Knox***

*(Principal coauthor: Senator Hayden)*

*(Coauthors: Assembly Members Alquist, Aroner, Keeley,*

*Longville, Strom-Martin)*

*(Coauthor: Senator Perata)*

December 22, 1998

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~~An act to add Article 9 (commencing with Section 22867) to Chapter 1 of Part 5 of Division 5 of Title 2 of the Government Code, relating to the Public Employees' Medical and Hospital Care Act. An act to add Chapter 6 (commencing with Section 16643) to Part 2 of Division 4 of Title 2 of the Government Code, relating to public employee retirement system investments.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 107, as amended, Knox. ~~Public employees' health benefits: domestic partners~~ *employee retirement system investments.*

*The California Constitution provides that the Legislature by statute may prohibit public retirement board investments*

where it is in the public interest to do so and provided that the prohibition satisfies retirement board fiduciary standards.

This bill would prohibit new or additional investments by the Public Employees' Retirement System and the State Teachers' Retirement System, on and after January 1, 2001, in tobacco companies, as defined, and would require a divestment of those existing investments by July 1, 2002. The bill would make related legislative findings and declarations.

~~The existing Public Employees' Medical and Hospital Care Act authorizes the Board of Administration of the Public Employees' Retirement System to provide health benefits plan coverage to state and local public employees and annuitants and their family members.~~

~~This bill would authorize the state and local employers to elect to include within the definition of "family member," domestic partners, as defined, who have submitted certificates of eligibility to the board. This bill would require forms containing specified information to be filed under penalty of perjury, thereby extending the scope of the existing crime of perjury and imposing 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 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. Article 9 (commencing with Section~~
- 2 ~~SECTION 1. The Legislature hereby finds and~~
- 3 ~~declares as follows:~~
- 4 ~~(a) The Public Employees' Retirement System and~~
- 5 ~~the State Teachers' Retirement System hold investments~~
- 6 ~~of \$989,097,528 in tobacco companies. These substantial~~
- 7 ~~holdings are in direct conflict with the aims of California's~~
- 8 ~~healthcare programs, and present an unnecessary~~



1 *financial risk to the retirement funds due to the ongoing*  
2 *legal and regulatory problems of the tobacco industry.*

3 *(b) According to the State Department of Health*  
4 *Services, the cost to the State of California for medical*  
5 *care for persons with tobacco related illness is*  
6 *\$630,000,000 annually. An additional \$50,000,000 is spent*  
7 *each year by the state on anti-smoking education*  
8 *programs seeking to prevent teen smoking, reduce adult*  
9 *smoking, and educate the public on the health hazards of*  
10 *smoking. Despite these significant expenditures, the*  
11 *state's public pension funds are the largest public*  
12 *institutional investors in tobacco products in the world.*

13 *(c) In 1999, the leading cigarette manufacturer's stock*  
14 *lost 52 percent of its value. Other public institutional*  
15 *investors, such as the States of New York and Florida,*  
16 *have restricted or ceased tobacco industry investments in*  
17 *recognition of the long-term uncertainty in the industry*  
18 *and instability of the stock prices.*

19 *(d) It is in the best interests of the people of the State*  
20 *of California and in accordance with the fiduciary*  
21 *responsibilities of the state pension systems to*  
22 *immediately cease any new investments in tobacco*  
23 *products and to divest existing holdings as soon as*  
24 *practicable.*

25 *SEC. 2. Chapter 6 (commencing with Section 16643)*  
26 *is added to Part 2 of Division 4 of Title 2 of the*  
27 *Government Code, to read:*

28  
29 *CHAPTER 6. PROHIBITED INVESTMENTS*

30  
31 *16643. The definitions in this section shall govern the*  
32 *construction and interpretation of this chapter.*

33 *(a) "Investment" or "invest" means the commitment*  
34 *of funds or other assets to a business firm, including a loan*  
35 *or other extension of credit made to that firm, or security*  
36 *given for the other assets to that business enterprise, or*  
37 *the beneficial ownership or control of a share or interest*  
38 *in that business firm, or of a bond or other debt*  
39 *instrument issued by that business firm.*

1 (b) "Public employee retirement funds" means the  
2 Public Employees' Retirement Fund and the Teachers'  
3 Retirement Fund.

4 (c) "Tobacco company" means a business entity that  
5 makes more than 10 percent of its gross revenue from  
6 tobacco products or has more than 10 percent of its  
7 personnel involved in tobacco products or has more than  
8 10 percent of its business activity in tobacco products.

9 16644. On or after January 1, 2001, the governing  
10 boards administering the public employee retirement  
11 funds shall not make additional or new investments in any  
12 tobacco company.

13 16645. (a) The governing boards administering the  
14 public employee retirement funds shall divest existing  
15 investments in tobacco companies so that as of July 1,  
16 2002, those retirement funds shall no longer be invested  
17 in tobacco companies.

18 (b) This section shall not apply to any loan or extension  
19 of credit for which an agreement is entered into before  
20 January 1, 2001.

21 22867) is added to Chapter 1 of Part 5 of Division 5 of Title  
22 2 of the Government Code, to read:

23

24 Article 9. Domestic Partners

25

26 22867. It is the purpose of this article to provide  
27 employers the ability to offer health care coverage  
28 through this part to the domestic partners of their  
29 employees and annuitants.

30 22868. For this part only, and only for the purposes of  
31 providing health care coverage pursuant to this part, a  
32 domestic partner is an adult in a domestic partnership as  
33 defined in Section 22869 who has submitted to the system  
34 on a form designated by the board a certificate of  
35 eligibility pursuant to Section 22872.

36 22869. For this part only, and only for the purposes of  
37 providing health care coverage pursuant to this part, a  
38 domestic partnership exists when all of the following  
39 occur:

40 (a) Both persons have a common residence.



1 ~~(b) One of the persons is enrolled as an employee or~~  
2 ~~annuitant of an employer contracting with the board for~~  
3 ~~health benefits coverage.~~

4 ~~(c) Both persons agree to be jointly responsible for~~  
5 ~~each others basic living expenses incurred during the~~  
6 ~~domestic partnership.~~

7 ~~(d) Neither person is married nor a member of~~  
8 ~~another domestic partnership.~~

9 ~~(e) The two persons are not related by blood in a way~~  
10 ~~that would prevent them from being married to each~~  
11 ~~other in this state.~~

12 ~~(f) Both persons are at least 18 years of age.~~

13 ~~(g) Both persons file a certificate of eligibility~~  
14 ~~pursuant to Section 22872.~~

15 ~~22870. (a) For the purposes of this part only, a~~  
16 ~~domestic partnership shall terminate when any of the~~  
17 ~~following occurs:~~

18 ~~(1) One partner gives or sends to the other partner a~~  
19 ~~notarized, written notice that he or she is terminating the~~  
20 ~~partnership.~~

21 ~~(2) One of the domestic partners dies.~~

22 ~~(3) One of the domestic partners marries.~~

23 ~~(4) The domestic partners no longer have a common~~  
24 ~~residence. A temporary separation resulting from work,~~  
25 ~~education, or health-related requirements shall not~~  
26 ~~constitute the cessation of a common residence.~~

27 ~~(b) Upon termination of the partnership, the~~  
28 ~~employee or annuitant shall notify the board by filing, on~~  
29 ~~a form designated by the board, a certification of~~  
30 ~~termination of eligibility. The form shall include a~~  
31 ~~statement whereby the employee or annuitant shall~~  
32 ~~certify under penalty of perjury that he or she has notified~~  
33 ~~his or her domestic partner of the termination of the~~  
34 ~~partnership. All benefits provided by this article shall~~  
35 ~~cease as of the last day of the month following the receipt~~  
36 ~~of the certification of termination of eligibility.~~

37 ~~(c) No person who was a member of a domestic~~  
38 ~~partnership that was terminated pursuant to this section~~  
39 ~~shall be eligible for health coverage pursuant to this~~  
40 ~~article until at least six months after the effective date of~~



1 the certification of termination of eligibility that  
2 terminated the previous partnership.

3 22871. Notwithstanding any other provision of law, a  
4 domestic partner shall be included in the definition of a  
5 family member for purposes of Sections 22777, 22778,  
6 subdivision (a) of Section 22791, Sections 22811, 22811.5,  
7 22811.6, 22812, 22813, 22815, subdivision (c) of Section  
8 22816, Sections 22816.3, 22816.35, 22817, 22819, 22823,  
9 subdivision (a) of Section 22825, subdivision (a) of  
10 Section 22825.1, Section 22825.7, paragraph (1) of  
11 subdivision (b) of Section 22840.2, subdivision (f) of  
12 Section 22840.2, subdivision (b) of Section 22856, and  
13 Section 22859.

14 22871.1. Notwithstanding Section 22871 or any other  
15 provision of law, a domestic partner shall not be included  
16 in the definition of a family member for purposes of  
17 subdivisions (e) and (f) of Section 22754, subdivision (a)  
18 of Section 22811.6, and Section 22821.

19 22871.2. Notwithstanding subdivision (f) of Section  
20 22754 or any other provision of law, a domestic partner  
21 shall be considered to be a family member for purposes  
22 of Section 22810 except that a domestic partner shall not  
23 be considered a family member for purposes of continued  
24 health coverage eligibility upon the death of the  
25 employee or annuitant.

26 22872. (a) In order to receive any benefit provided  
27 by this article, an employee or annuitant and his or her  
28 domestic partner shall complete, have notarized, and file  
29 on a form designated by the board, a certificate of  
30 eligibility.

31 (b) The form shall also include a signed statement  
32 indicating that the employee or annuitant agrees that he  
33 or she may be required to reimburse the employer, their  
34 designated health services plan, and the system, for any  
35 expenditures made by the employer, their designated  
36 health services plan, and the system, for medical claims,  
37 processing fees, administrative charges, costs, and  
38 attorney's fees on behalf of the domestic partner if any of  
39 the submitted documentation is found to be incomplete,  
40 inaccurate, or fraudulent.



1 ~~22873. (a) Any employer may, at its option, offer~~  
2 ~~health benefits pursuant to this article, to the domestic~~  
3 ~~partners of its employees and annuitants.~~

4 ~~(b) The employer shall notify the board, in a manner~~  
5 ~~prescribed by the board, that it is electing to provide~~  
6 ~~health care coverage through this article to the domestic~~  
7 ~~partners of its employees and annuitants.~~

8 ~~(c) The employer shall provide to the system any~~  
9 ~~information deemed necessary by the board to determine~~  
10 ~~eligibility under this article.~~

11 ~~22874. Notwithstanding any other provision of law,~~  
12 ~~this article shall not be construed to extend any vested~~  
13 ~~rights to any person nor be construed to limit the right of~~  
14 ~~the Legislature to subsequently modify or repeal any~~  
15 ~~provision of this article.~~

16 ~~22875. This article shall apply to (a) only those~~  
17 ~~employees who are members of bargaining units which~~  
18 ~~have signed a memorandum of understanding between~~  
19 ~~their employer and the recognized employee~~  
20 ~~organization to adopt the benefits accorded under this~~  
21 ~~article, and (b) to the members of the Public Employees'~~  
22 ~~Retirement System who are employed by the Assembly,~~  
23 ~~the Senate, the Judicial Council, and the California State~~  
24 ~~University only if the Assembly Rules Committee, the~~  
25 ~~Senate Rules Committee, the Judicial Council, and the~~  
26 ~~Board of Trustees of the California State University,~~  
27 ~~respectively, make this section applicable to their~~  
28 ~~employees.~~

29 ~~SEC. 2. No reimbursement is required by this act~~  
30 ~~pursuant to Section 6 of Article XIII B of the California~~  
31 ~~Constitution because the only costs that may be incurred~~  
32 ~~by a local agency or school district will be incurred~~  
33 ~~because this act creates a new crime or infraction,~~  
34 ~~eliminates a crime or infraction, or changes the penalty~~  
35 ~~for a crime or infraction, within the meaning of Section~~  
36 ~~17556 of the Government Code, or changes the definition~~  
37 ~~of a crime within the meaning of Section 6 of Article~~  
38 ~~XIII B of the California Constitution.~~

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