

AMENDED IN SENATE APRIL 13, 2004

SENATE BILL

No. 1632

Introduced by Senator Figueroa

February 20, 2004

An act to add Section ~~42334~~ 7513.7 to the Government Code, relating to ~~the Treasurer~~ *public pension systems*.

LEGISLATIVE COUNSEL'S DIGEST

SB 1632, as amended, Figueroa. ~~Treasurer~~: *Public pension-plan systems*: investments.

Existing law declares that the retirement boards of public pension and retirement system have fiduciary responsibility over the assets of the public pension or retirement systems.

This bill would require the public pensions systems within the state to obtain specified information from a corporation if the stock of the corporation is held by the system, as specified; to report to the Legislature regarding that information; and to make that information available to the public, except in certain circumstances. The bill would make related findings and declarations.

~~Existing law requires the Treasurer to receive and keep moneys belonging to the state and to provide specified periodic reports to the Governor and the public. The Treasurer is an ex officio member of the retirement boards of the Public Employees' Retirement System and the State Teachers' Retirement System.~~

~~This bill would authorize the Treasurer to obtain specified information from a corporation, if the stock of the corporation is held by a public pension system in the state, or from an external fund manager of a public pension system, as specified, and to biannually report its findings regarding that information to the public.~~

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. *The Legislature finds and declares as follows:*
2 (a) *California, as the sixth largest economy in the world,*
3 *attracts multinational corporations from throughout the globe and*
4 *its consumers and investors have tremendous influence on the*
5 *environment and public health worldwide.*
6 (b) *As the business activities of multinational corporations*
7 *extend across the globe, the practices of these corporations*
8 *increasingly affect the environment, public health, labor and*
9 *human rights of communities everywhere.*
10 (c) *Californians have little or no access to critical information*
11 *on corporate practices in California and abroad, as corporations*
12 *often are not required to publicly disclose their overseas*
13 *environmental, human rights, and labor practices, even if they are*
14 *employing practices that violate human rights or are harmful to*
15 *communities or the environment.*
16 (d) *The disclosure of relevant information, both financial and*
17 *nonfinancial, is central to the ability of consumers and*
18 *shareholders to make sound economic decisions. Studies*
19 *increasingly show that good management of environmental and*
20 *social issues is linked to good overall management practices.*
21 (e) *Current securities disclosure rules and the Securities and*
22 *Exchange Commission do not provide adequate instruction and*
23 *enforcement to ensure that companies disclose the full scope of*
24 *potential material risks and liabilities stemming from*
25 *environmental or social harms. Poor disclosure or lack of*
26 *disclosure of social and environmental risks and liabilities can*
27 *constrain proper risk analysis and threaten shareholder value.*
28 (f) *Fiduciaries who manage funds for public pension systems,*
29 *such as the Public Employees’ Retirement System and the State*
30 *Teachers’ Retirement System, need better and more comprehensive*
31 *information about corporate environmental and social practices*
32 *in order to evaluate a company’s internal controls, financial risks,*
33 *and earnings potential.*
34 SEC. 2. Section ~~12334~~ 7513.7 is added to the Government
35 Code, to read:



1 ~~12334. (a) The Treasurer may~~
2 *7513.7. (a) Each public pension system in the state shall*
3 *request the following information from any corporation described*
4 *in subdivision (b) not more often than once every six months:*
5 ~~(1) Whether the corporation does business in nations that have~~
6 ~~been identified by the United States Department of State as~~
7 ~~supporting terrorism.~~
8 ~~(2) Whether the corporation does business with organizations~~
9 ~~that the United States Department of State has identified as~~
10 ~~supporting terrorism.~~
11 ~~(3) Whether the corporation directly or indirectly uses or~~
12 ~~benefits from slave or child labor.~~
13 ~~(4):~~
14 *(1) Whether the corporation has adopted and monitors*
15 *compliance with international human rights standards, including*
16 *the International Labor Organization's Core Labor Principles, as*
17 *expressed in its Declaration on Fundamental Principles and*
18 *Rights at Work.*
19 ~~(2) Whether the corporation has been directly or indirectly~~
20 ~~cited or penalized for public health or human rights,~~
21 ~~environmental, employment, consumer protection, or~~
22 ~~corruption-related violations abroad or domestically and, if so,~~
23 ~~the cumulative value of the penalties.~~
24 ~~(3) Whether the corporation has adopted an environmental~~
25 ~~management system or is a member of CERES or the Global~~
26 ~~Reporting Initiative, to ensure that its facilities, contractors, and~~
27 ~~key subcontractors are environmentally responsible.~~
28 ~~(b) This section shall apply to any corporation if the capital~~
29 ~~stock of the corporation is held in the within the internal equity~~
30 ~~index fund of an investment portfolio of a the respective public~~
31 ~~pension system in this state.~~
32 ~~(c) The Treasurer may also request the information described~~
33 ~~in subdivision (a) regarding a corporation described in subdivision~~
34 ~~(b) from any external fund manager that manages an investment~~
35 ~~portfolio for a public retirement system.~~
36 ~~(d) Every six months, there shall be placed on file for public~~
37 ~~inspection during business hours at the office of the Treasurer, and~~
38 ~~on the Treasurer's Web site, a report by the Treasurer with respect~~
39 ~~to the information, if any, gathered pursuant to this section during~~
40 ~~the immediately preceding six months. This section does not~~



1 *apply to small businesses as defined by the Small Business*
2 *Administration.*

3 *(c) Each public pension system shall report to the Legislature*
4 *regarding the corporate information received pursuant to this*
5 *section and shall make that information available to the public by*
6 *whatever means the system deems feasible, including posting the*
7 *information on the system’s Web site, unless to do so would be*
8 *inconsistent with the system’s fiduciary duties to its members and*
9 *retirees.*

10 *(d) Nothing in this section shall be construed to limit the ability*
11 *of a public pension system to execute its fiduciary duty, including*
12 *its ability to diversify investments, or to require any public pension*
13 *system to make any investment decision or to impose different or*
14 *additional criteria on existing or potential investments.*

15 *(e) Any action taken by a public pension system with respect to*
16 *a corporation that fails to provide the information requested under*
17 *this section shall be consistent with the system’s fiduciary duty to*
18 *act as a prudent investor.*

19 *(f) A corporation that submits information under this section*
20 *that it knows or should know is false or contains material*
21 *misrepresentations of fact may be subject to liability for damages*
22 *or equitable relief under applicable provisions of law.*

