

AMENDED IN SENATE APRIL 22, 2004

AMENDED IN SENATE APRIL 13, 2004

SENATE BILL

No. 1632

Introduced by Senator Figueroa

February 20, 2004

An act to add Section 7513.7 to the Government Code, relating to public pension systems.

LEGISLATIVE COUNSEL'S DIGEST

SB 1632, as amended, Figueroa. Public pension systems: investments.

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

This bill would require the public ~~pensions~~ *pension* systems within the state, *to the extent feasible*, 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.

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



1 its consumers and investors have tremendous influence on the
2 environment and public health worldwide.

3 (b) As the business activities of multinational corporations
4 extend across the globe, the practices of these corporations
5 increasingly affect the environment, public health, labor and
6 human rights of communities everywhere.

7 (c) Californians have little or no access to critical information
8 on corporate practices in California and abroad, as corporations
9 often are not required to publicly disclose their overseas
10 environmental, human rights, and labor practices, even if they are
11 *though they may be* employing practices that violate human rights
12 or are harmful to communities or the environment.

13 (d) The disclosure of relevant information, both financial and
14 nonfinancial, is central to the ability of consumers and
15 shareholders to make sound economic decisions. Studies
16 increasingly show that good management of environmental and
17 social issues is linked to good overall management practices.

18 (e) Current securities disclosure rules and the Securities and
19 Exchange Commission do not provide adequate instruction and
20 enforcement to ensure that companies disclose the full scope of
21 potential material risks and liabilities stemming from
22 environmental or social harms. Poor disclosure or lack of
23 disclosure of social and environmental risks and liabilities can
24 constrain proper risk analysis and threaten shareholder value.

25 (f) Fiduciaries who manage funds for public pension systems,
26 such as the Public Employees' Retirement System and the State
27 Teachers' Retirement System, need better and more
28 comprehensive information about corporate environmental and
29 social practices in order to evaluate a company's internal controls,
30 financial risks, and earnings potential.

31 SEC. 2. Section 7513.7 is added to the Government Code, to
32 read:

33 7513.7. (a) Each public pension system in the state shall, *to*
34 *the extent feasible*, request the following information from any
35 corporation described in subdivision (b):

36 (1) Whether the corporation has adopted and monitors
37 compliance with international human rights standards, including
38 the International Labor Organization's Core Labor Principles, as
39 expressed in its Declaration on Fundamental Principles and Rights
40 at Work.



1 (2) Whether the corporation has been cited or penalized for
2 public health or human rights, environmental, employment,
3 consumer protection, or corruption-related violations abroad or
4 domestically and, if so, the cumulative value of the penalties.

5 (3) Whether the corporation has adopted an environmental
6 management system or is a member of CERES or the Global
7 Reporting Initiative, to ensure that its facilities, contractors, and
8 key subcontractors are environmentally responsible.

9 (b) This section shall apply to any corporation if the capital
10 stock of the corporation is held within the internal equity index
11 fund of an investment portfolio of the respective public pension
12 system . This section does not apply to small businesses as defined
13 by the Small Business Administration.

14 (c) Each public pension system shall report to the Legislature
15 regarding the corporate information received pursuant to this
16 section and shall make that information available to the public by
17 whatever means the system deems feasible, including posting the
18 information on the system’s Web site, unless to do so would be
19 inconsistent with the system’s fiduciary duties to its members and
20 retirees.

21 (d) Nothing in this section shall be construed to limit the ability
22 of a public pension system to execute its fiduciary duty, including
23 its ability to diversify investments, or to require any public pension
24 system to make any investment decision or to impose different or
25 additional criteria on existing or potential investments.

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

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

