

AMENDED IN SENATE MAY 4, 2004  
AMENDED IN SENATE APRIL 22, 2004  
AMENDED IN SENATE APRIL 13, 2004

**SENATE BILL**

**No. 1632**

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**Introduced by Senator Figueroa**

February 20, 2004

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An act to *add Sections 2254.5 and 17108 to the Corporations Code, and 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 systems have fiduciary responsibility over the assets of the public pension or retirement systems.

This bill would require the public 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 provide that a corporation that submits information to those systems that it knows or should know is false or contains material misrepresentations of fact may be subject to a \$10,000 civil penalty.* 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  
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 though  
14 they may be employing practices that violate human rights or are  
15 harmful to 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  
31 comprehensive information about corporate environmental and  
32 social practices in order to evaluate a company's internal controls,  
33 financial risks, and earnings potential.

34 SEC. 2. *Section 2254.5 is added to the Corporations Code, to*  
35 *read:*

36 2254.5. *Any corporation that submits information to a public*  
37 *pension system in the state pursuant to subdivision (a) of Section*  
38 *7513.7 of the Government Code that it knows or should know is*



1 *false or that contains material misrepresentations of fact is subject*  
2 *to the penalty provisions under subdivision (f) of Section 7513.7*  
3 *of the Government Code.*

4 *SEC. 3. Section 17108 is added to the Corporations Code, to*  
5 *read:*

6 *17108. Any limited liability company that submits*  
7 *information to a public pension system in the state pursuant to*  
8 *subdivision (a) of Section 7513.7 of the Government Code that it*  
9 *knows or should know is false or that contains material*  
10 *misrepresentations of fact is subject to the penalty provisions*  
11 *under subdivision (f) of Section 7513.7 of the Government Code.*

12 *SEC. 4. Section 7513.7 is added to the Government Code, to*  
13 *read:*

14 7513.7. (a) Each public pension system in the state shall, to  
15 the extent feasible, request the following information from any  
16 corporation described in subdivision (b):

17 (1) Whether the corporation has adopted and monitors  
18 compliance with international human rights standards, including  
19 the International Labor Organization’s Core Labor Principles, as  
20 expressed in its Declaration on Fundamental Principles and Rights  
21 at Work.

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

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

30 (b) This section shall apply to any corporation if the capital  
31 stock of the corporation is held within the internal equity index  
32 fund of an investment portfolio of the respective public pension  
33 ~~system~~ system. This section does not apply to small businesses  
34 as defined by the Small Business Administration.

35 (c) Each public pension system shall report to the Legislature  
36 regarding the corporate information received pursuant to this  
37 section and shall make that information available to the public by  
38 whatever means the system deems feasible, including posting the  
39 information on the system’s Web site, unless to do so would be



1 inconsistent with the system’s fiduciary duties to its members and  
2 retirees.

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

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

12 (f) A corporation that submits information under this section  
13 that it knows or should know is false or contains material  
14 misrepresentations of fact may be subject to ~~liability for damages~~  
15 ~~or equitable relief under applicable provisions of law.~~ *a civil*  
16 *penalty not exceeding ten thousand dollars (\$10,000) for every*  
17 *violation. An action under this subdivision may be filed only by the*  
18 *Attorney General, a district attorney, or a city attorney.*

