

AMENDED IN SENATE AUGUST 8, 2000

AMENDED IN SENATE JUNE 20, 2000

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

Introduced by Assembly Member Knox
(Principal coauthor: Senator Hayden)
(Coauthors: Assembly Members Alquist, Aroner, Bock,
Honda, Keeley, Longville, Romero, and Strom-Martin)
(Coauthors: Senators Perata, Solis, and Vasconcellos)

December 22, 1998

An act to add Chapter 5.5 (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 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.

This bill would also provide for indemnification from the General Fund by the state for present and former members of the governing board of the funds, officers and employees of the state, and investment managers under contract with the state from all claims, demands, suits, actions, damages, judgments, and other costs, charges, and expenses sustained by them at any time by reason of any decision not to invest in tobacco companies.

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 hereby finds and
2 declares as follows:

3 (a) The Public Employees' Retirement System and
4 the State Teachers' Retirement System hold investments
5 of nine hundred eighty-nine million ninety-seven
6 thousand five hundred twenty-eight dollars
7 (\$989,097,528) in tobacco companies. These substantial
8 holdings are in direct conflict with the aims of California's
9 healthcare programs, and present an unnecessary
10 financial risk to the retirement funds due to the ongoing
11 legal and regulatory problems of the tobacco industry.

12 (b) According to the State Department of Health
13 Services, the cost to the State of California for medical
14 care for persons with tobacco related illness is six hundred
15 thirty million dollars (\$630,000,000) annually. An
16 additional fifty million dollars (\$50,000,000) is spent each
17 year by the state on antismoking education programs
18 seeking to prevent teen smoking, reduce adult smoking,
19 and educate the public on the health hazards of smoking.
20 Despite these significant expenditures, the state's public

1 pension funds are the largest public institutional investors
2 in tobacco products in the world.

3 (c) In 1999, the leading cigarette manufacturer's stock
4 lost 52 percent of its value. Other public institutional
5 investors, such as the States of New York and Florida,
6 have restricted or ceased tobacco industry investments in
7 recognition of the long-term uncertainty in the industry
8 and instability of the stock prices.

9 (d) It is in the best interests of the people of the State
10 of California and in accordance with the fiduciary
11 responsibilities of the state pension systems to
12 immediately cease any new investments in tobacco
13 products and to divest existing holdings as soon as
14 practicable.

15 SEC. 2. Chapter 5.5 (commencing with Section
16 16643) is added to Part 2 of Division 4 of Title 2 of the
17 Government Code, to read:

18
19 CHAPTER 5.5. PROHIBITED INVESTMENTS
20

21 16643. The definitions in this section shall govern the
22 construction and interpretation of this chapter.

23 (a) "Investment" or "invest" means the commitment
24 of funds or other assets to a business firm, including a loan
25 or other extension of credit made to that firm, or security
26 given for the other assets to that business enterprise, or
27 the beneficial ownership or control of a share or interest
28 in that business firm, or of a bond or other debt
29 instrument issued by that business firm.

30 (b) "Public employee retirement funds" means the
31 Public Employees' Retirement Fund and the Teachers'
32 Retirement Fund.

33 (c) "Tobacco company" means a business entity that
34 ~~makes more than 10 percent of its gross revenue from~~
35 ~~tobacco products or has more than 10 percent of its~~
36 ~~personnel involved in tobacco products or has more than~~
37 ~~10 percent of its business activity in tobacco products.~~
38 *derives more than 10 percent of its net revenue,*
39 *excluding excise taxes, from the manufacture of*

1 *consumer tobacco products or the processing of leaf*
2 *tobacco.*

3 16644. On or after January 1, 2001, the governing
4 boards administering the public employee retirement
5 funds shall not make additional or new investments in any
6 tobacco company.

7 16644.1. (a) The governing boards administering the
8 public employee retirement funds shall divest existing
9 investments in tobacco companies so that as of July 1,
10 2002, those retirement funds shall no longer be invested
11 in tobacco companies.

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

15 16644.2. Present and former members of the
16 governing board of any public employee retirement
17 fund, jointly and individually, state officers and
18 employees, and investment managers under contract
19 with the state shall be indemnified from the General
20 Fund by the State of California from all claims, demands,
21 suits, actions, damages, judgments, costs, charges, and
22 expenses, including court costs and attorney's fees, and
23 against all liability, losses, and damages of any nature
24 whatsoever that these present or former board members,
25 officers, employees, or contract investment managers
26 shall or may at any time have sustained by reason of any
27 decision not to invest in tobacco companies pursuant to
28 this chapter.

