



## GOVERNANCE, TRANSPARENCY, AND LABOR RELATIONS POLICY COMMITTEE

Thursday, March 21, 2024

10:00 a.m.- 2:00 p.m

Marriott Burbank Airport Hotel  
2500 N. Hollywood Way, Burbank

### General Briefing

10:00 a.m.

*Upon adjournment, individual policy committee meetings will begin*

### AGENDA

#### I. Welcome and Introductions

Speakers: Chair Frank Aurelio Yokoyama, Council Member, Cerritos  
Vice Chair Jaime Patino, Council Member, Union City

#### II. Public Comment

#### III. Artificial Intelligence Update

*Informational*

Speaker: Michael Karanicolas, Executive Director, Institute for Technology,  
Law & Policy, UCLA

#### IV. California Public Records Act Presentation

*Informational*

Speakers: Donald A. Larkin, City Attorney, City of Morgan Hill  
Darren Ziegler, Deputy Director of PRA Services and E-Discovery  
Counsel, Best Best & Krieger LLP

#### V. CalPERS Update

*Informational*

Speaker: Daniel Brown, Chief, CalPERS Legislative Affairs Division

#### VI. Legislative Agenda (Attachment A and B)

*Action*

- Proposed Amendments to SB 252 (Gonzalez) Public Retirement Systems:  
Fossil Fuels: Divestment.

#### VII. Legislative Update

*Informational*

Speaker: Johnnie Pina, Legislative Affairs, Lobbyist

#### VIII. Adjourn

**Next Virtual Meeting: Thursday, June 20, 9:30 a.m.-12:30 p.m.**

*Brown Act Reminder: The League of California Cities' Board of Directors has a policy of complying with the spirit of open meeting laws. Generally, off-agenda items may be taken up only if:*

- 1) Two-thirds of the policy committee members find a need for immediate action exists and the need to take action came to the attention of the policy committee after the agenda was prepared (Note: If fewer than two-thirds of policy committee members are present, taking up an off-agenda item requires a unanimous vote); or*

- 2) A majority of the policy committee finds an emergency (for example: work stoppage or disaster) exists.*

*A majority of a city council may not, consistent with the Brown Act, discuss specific substantive issues among themselves at League meetings. Any such discussion is subject to the Brown Act and must occur in a meeting that complies with its requirements.*



**GOVERNANCE, TRANSPARENCY AND LABOR RELATIONS POLICY COMMITTEE  
Legislative Agenda**

**Staff:** Johnnie Pina, Legislative Affairs, Lobbyist  
Betsy Montiel, Policy and Legislative Affairs Analyst

**1. Proposed Amendments to: [SB 252](#) (Gonzalez) Public Retirement Systems: Fossil Fuels: Divestment.**

**Overview:**

On January 12, 2024, five Cal Cities Board Members sent a letter to Senator Lena Gonzalez requesting amendments be taken to her SB 252 (Attachment B). As written, SB 252 would require CalPERS and CalSTRS to divest from fossil fuel by 2031. The proposed amendments would instead delegate to individual cities, counties, special districts and school districts the decision on whether to have their CalPERS or CalSTRS portfolios be free of fossil fuel companies. After hearing a presentation on the amendments in the January meeting, the GTLR Policy committee voted to bring these amendments back as an action item for the committee's consideration.

**Description of Amendments:**

1. The amendments would provide local governments and school districts that contract with CalPERS and CalSTRS the option to specify their investment portfolios be free of investments in fossil fuel companies. Excluding the conditions of the current bill which prohibit the boards from investing in fossil fuel companies. Further, the amendments commit the Legislature to declaring that it finds it "in the public interest" to give local government agencies and school districts the option to choose retirement investment portfolios that are free from assets in fossil fuel industries.
2. Amendments include the removal of provisions regarding liquidation requirements of assets in fossil fuel companies by July 1, 2031.
3. Amendments to the bill would also remove the reporting condition, which requires boards to provide a list of fossil fuel companies pertaining to which assets have been liquidated.
4. The current bill reads, "board members and other officers shall be held harmless and be eligible for indemnification in connection with actions taken pursuant to the bill's requirements, as specified."
  - An amendment to this section would extend this protection to employees of CalPERS and CalSTRS.
5. Changes to the bill would provide the following two acknowledgments from the Legislature:
  - a. The Legislature to acknowledge not all local agencies that participate in public employee retirement funds desire or have the financial ability to cover any risks from divestments in fossil fuel companies.

- b. The Legislature to acknowledge that divestments are an extreme course of action to be used as a last resort. This act is based on the "extraordinary importance of reducing climate change by reducing reliance on fossil fuels."
6. Any local government agency electing a divestment option would have to act based on reasonable belief it has the financial ability to assume any additional risks. Guidelines concerning this point are outlined below using *Mobile Home Park Owners' Assoc. v. City of Carson, (1983)* as precedent.
7. Additional amendments added on after the letter was sent would make clear that it would require the requesting entities to bare all the costs of divesting securities in Fossil Fuel Companies and replacing them with other investments that are free of investments in fossil fuel companies.

### **Background:**

The letter sent to Senator Gonzalez can be found attached as **Attachment B**.

### SB 252 as currently amended:

- As currently written, this bill prohibits the boards of CalPERS and CalSTRS from investing in a fossil fuel company. The bill would prohibit the boards from making any new investments and renewing existing investments in fossil fuel companies.
- This bill would require CalPERS and CalSTRS to liquidate assets in fossil fuel companies by July 1, 2031.
- Beginning February 1, 2025, the bill would require the boards of CalPERS and CalSTRS report to the Legislature and the Governor a list of the companies for which investments were dissolved.

### CalPERS Divestment Policy

CalPERS' divestment approach can be found [here](#).

### Delegation of Authority

*Mobile Home Park Owners' Assoc. v. City of Carson, (1983)*

The letter's explanation of the doctrine that allows a legislative body to "delegate its authority" is accurate but it does not apply between the State Legislature and cities, counties, and other local agencies. The Legislature cannot "delegate" its authority to prohibit certain investments by CalPERS to individual cities, counties, and other local agencies. If the Legislature wishes to allow cities, counties and other local agencies that contract with CalPERS to prohibit certain investments, the Legislature must pass a bill that authorizes cities, counties, and other local agencies to do so.

### Fiduciary responsibility of CalPERS:

The Legislature's authority to prohibit certain investments must "satisfy the standards of fiduciary care and loyalty" required of the CalPERS Board as established in the Constitution [Article XVI, section 17(g)]. Meaning, if the Legislature authorizes cities, counties, and other local agencies to prohibit certain investments, that prohibition is subject to those same "standards of fiduciary care and loyalty." According to the Constitution, the CalPERS Board has "the sole and exclusive fiduciary responsibility over the assets of the public pension or retirement system" [Article XVI, section 17(a)].

This is how CalPERS describes its fiduciary duty: The Board and its Staff have fiduciary duties of loyalty and prudence, pursuant to the California Constitution, Article XVI, Section 17, and Government Code (GC) Section 20151, to invest "with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an enterprise of a like character and with like aims" (GC Section 20151(c)). The Board and Staff also have a fiduciary responsibility under the California Constitution to "diversify the investments of the system so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances that it is clearly not prudent to do so" (Cal. Const., Art XVI, Sec. 17, subdiv. (d)).

The fiduciary duty is further described as the responsibility to invest with "care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an enterprise of a like character and with like aims" (Gov't Code 20151).

**Fiscal Impact:**

The specific fiscal impact is unknown. However, some conclusions could be drawn from the CalPERS analysis on a bill from 2021, SB 457, which would have created a segregated investment portfolio.

CalPERS Analysis: [Senate Bill 457 \(Portantino\) – Segregated Investment Portfolio: Republic of Turkey \(PDF\)](#)

SB 252 as written, CalPERS estimated that as of December 31, 2021, of publicly traded securities held by CalPERS, that meet the criteria of a "fossil fuel company," as defined in SB 1173 (the 2021 version of SB 252) is \$7.4 billion. According to CalPERS, "Should the CalPERS Board direct investment staff to divest these securities, the estimate of transaction costs (including commissions and market impact and excluding opportunity costs) to divest and reinvest the proceeds in other securities is between \$75-\$100 million.

Every dollar in investment returns that is forgone, or expended on transaction costs and fees, must be offset by employer and employee contributions. If CalPERS were to divest from fossil fuel companies and the companies performed well, employers and employees would bear the investment loss and transaction costs to maintain divestment through increased contribution rates.

**Existing Cal Cities Policy:**

*Divestment in industries that may run contrary to environmental or other broad policy goals as an investment strategy can present challenging conflicts for CalPERS in balancing current affairs against its fiduciary duty to maximize retirement investments.*

*Cal Cities supports CalPERS' priority to its members as stated in the State Constitution Article 16, Section 17, "[a] retirement board's duty to its participants and their beneficiaries shall take precedence over any other duty."*

*Cal Cities supports responsible investment strategies that balance the short and long-term ability of CalPERS to meet its financial commitments to its members.*

*Any divestment policy must be well vetted and must include the opportunity to identify alternative revenue sources consistent with the intended impact of the divestment and CalPERS' fiduciary responsibilities outlined above.*

Cal Cities recognizes that climate change is both immediate and long term, with the potential for profound environmental, social, and economic impacts to the planet and to California. Although uncertainty remains about the pace, distribution, and magnitude of climate change, Cal Cities recognizes the need for immediate actions to mitigate the sources of greenhouse gas emissions.

### **Staff Comments:**

The League of California Cities is currently opposed to SB 252 and has a history of opposing divestment legislation based on our existing policy. In 2022, two divestment bills were brought back to the committee and our Board of Directors. The committee and the Board stayed the course and continued a position of opposing divestment legislation.

### Similar Past Legislation

[SB 457 \(Portantino\)](#), as introduced 02/16/2021, would have required CalPERS to provide a school district or a city the option to elect an investment portfolio that does not contain investment vehicles issued or owned by the government of the Republic of Turkey. The CalPERS Board adopted an oppose position on this bill, stating they would have to create a segregated trust fund and that would infringe on the CalPERS Board's constitutional fiduciary duty and impose unreasonable operational risk and expenses to establish a segregated trust fund.

CalPERS Analysis: [Senate Bill 457 \(Portantino\) – Segregated Investment Portfolio: Republic of Turkey \(PDF\)](#)

The League of Cities was also opposed to SB 457 (Portantino) for similar reasons. The opposition letter can be found [here](#).

### Additional Comments on Amendments:

- The letter suggests that there are at least two ways that CalPERS could offer the option of a portfolio free of investments in fossil fuel companies. However, each of these options require CalPERS to make certain investment decisions. [Cities, counties, and other local agencies are not making investment decisions]. Those decisions must "satisfy the standards of fiduciary care and loyalty" required of CalPERS, by the Constitution. The amendments fail to account for this step in the process. [NOTE: the statute prohibiting investments in Sudan is subject to the Board's determination that disinvestment is consistent with the Board's fiduciary responsibilities (Gov't 7513.6(h)(2))].
- The amendments (Section 7513.76(c)) are framed around the language of "delegation." The appropriate language is "A city, county, etc. may...." In addition to this change in framing, any grant of authority must very clearly be made subject to the provisions of Article XVI, section 17 of the Constitution. To this regard, the amendments are unclear.
- Section 7513.76(c)(2), regarding acceptance of investment risk is empty without a requirement to indemnify CalPERS. For example, each of the statutes that the Legislature has passed prohibiting certain CalPERS investments requires the State

General Fund to indemnify the CalPERS board members from liability (i.e., damages), for investment decisions regarding these prohibitions (Gov't 16642).

- Because the Legislature's authority to prohibit certain investments is found in the Constitution, the amendments may be improved if they prohibited CalPERS from investing in fossil fuels to the extent that local agencies choose those investment funds (that are free of fossil fuels). In other words, retain the authority to prohibit certain investments with the Legislature. This may be a legally "safer" way of honoring Article XVI, section 17 of the Constitution.

**Question for Consideration:**

- Should Cal Cities take a position on the proposed amendments?
- Are these amendments possible - legally and logistically?
- Would this policy create a slippery slope of separate funds for any number of things local jurisdictions may not want their money invested in? Is that sustainable?
- Would this bill satisfy the divestment proponents in future years?
- Should this be an option for cities regardless of the cost?

**Staff Recommendation:**

Cal Cities staff recommends the committee discuss and make a recommendation to the Board of Directors.

**Committee Recommendation:**

**Board Action:**



January 12, 2024

ATTACHMENT B

Senator Lena Gonzalez  
1021 O Street, Suite 7720  
Sacramento, CA 95814

Re.: Suggested Restructuring of S.B. 252 to Create Fossil Fuel Free CalPERS Option

Dear Senator Gonzalez:

We write to suggest a restructuring of your bill, S.B. 252. As currently written, S.B. 252 would require CalPERS and CalSTRS to divest themselves of investments in the 200 largest publicly traded fossil fuel companies by 2031. The proposed restructuring would delegate to individual cities, counties, special districts and school districts the decision on whether to have their CalPERS or CalSTRS portfolios be free of investments in fossil fuel companies.

The suggested restructuring could remove some of the most significant opposition to S.B. 252. For instance, the League of California Cities (“Cal Cities”) has a blanket policy of opposing all divestment bills, and so it has opposed S.B. 252. But there has never been an optional divestment bill before, and the restructured bill is consistent with the Cal Cities’ number one core value, which is local control. Similarly, the valid concerns of organized labor could be tempered by required findings that would need to be made by any local government agency electing an investment portfolio free of investments in fossil fuel companies (see below).

Two aspects of this proposal present novel issues:

**1. Ability of Legislature to Delegate Authority Granted to it by the State Constitution to Local Government Agencies and School Districts**

California Constitution, Art. XVI, Sec. 17(g), enacted by California voters as part of Proposition 162 in 1992, authorizes the legislature to prohibit certain investments by CalPERS or CalSTRS “where it is in the public interest to do so.” The legislature has exercised this authority in the past, prohibiting investments in thermal coal and in companies doing business in Sudan.

The proposal to have the legislature delegate this authority to individual cities, counties, special districts and school districts, while novel, rests on strong legal ground. The delegation issue has been addressed repeatedly by the California Supreme Court, most recently in *Carson Mobilehome Park Owners’ Assoc. v. City of Carson*, 35 Cal.3d 184 (1983). In *Carson*, the court stated “An unconstitutional delegation of authority occurs only when a legislative body (1) leaves the resolution of a fundamental policy issue to others or (2) fails to provide adequate direction for the implementation of that policy.” *Carson*, 35 Cal.3d at 190 (emphasis added).

The *Carson* court proceeded to uphold a City of Carson ordinance delegating mobilehome rent controls to a city rental review board, where the ordinance specified that maximum rents were to be “just, fair and reasonable” but did not specify any particular methodology or formula. *Carson*, 35

Cal.3d at 190-91. This was held to constitute “sufficient standards” to constitute a constitutionally permissible delegation of legislative authority. *Carson*, 35 Cal.3d at 191.

Accordingly, the proposed amendment to S.B. 252 includes “adequate direction” within the meaning of *Carson* to support the legislature delegating to local government agencies the decision of whether or not to divest fossil fuel investments from their retirement investment portfolios. Specifically, any local jurisdiction choosing to specify an investment portfolio free of fossil fuel companies would be required to make the following four findings:

- (1) That the importance of having an investment portfolio free of investments in fossil fuel companies outweighs the investment risk of so doing to the local government agency or school district;
- (2) That the local government agency or school district acknowledges that the investment risk of said decision shall rest entirely with the local government agency or school district and not with CalPERS or CalSTRS or anyone else;
- (3) That the local government agency or school district reasonably believes it has the financial ability to assume any additional risk of electing to have an investment portfolio free of investments in fossil fuel companies, including employer contribution rates that may differ from what it would have paid had it not elected to have an investment portfolio free of investments in fossil fuel companies; and
- (4) That notwithstanding any additional risk of electing to have an investment portfolio free of investments in fossil fuel companies, the local government agency or school district reaffirms its commitment to fully fund all pension benefits earned by its employees and retirees.

The requirement of these four findings should constitute “sufficient standards” to constitute a constitutionally permissible delegation of legislative authority within the meaning of *Carson*.

## **2. Practical Ability of CalPERS and CalSTRS to Offer Option of Portfolio Free of Fossil Fuel Company Securities**

CalPERS has estimated that it has \$9.4 billion invested in fossil fuel companies subject to divestment under S.B. 252; the figure for CalSTRS is \$5.4 billion. (Senate Rules Committee Analysis of S.B. 252, at page 3.) CalPERS had \$439 billion in total investments as of June 30, 2023; CalSTRS had \$308 billion as of September 30, 2023.


At least two options would seem feasible for CalPERS and CalSTRS to offer the option of a portfolio free of investments in fossil fuel companies. First, they could continue to keep all investments in a single pool, sell a proportional amount of fossil fuel securities on behalf of local government agencies opting for a fossil fuel free portfolio, add replacement investments, and allocate investment returns through an accounting true-up.




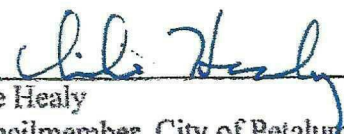
Second and alternatively, they could keep the 98% of their portfolios not invested in fossil fuel company securities in a single pool, and then create two separate pools for the remaining 2%, one with and one without fossil fuel company securities.

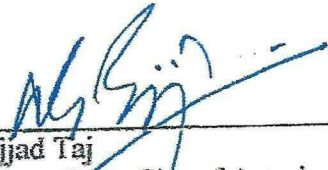
Thank you for your consideration of this matter. If there are any questions, please feel free to contact Mike Healy at [mhealy@cityofpetaluma.org](mailto:mhealy@cityofpetaluma.org) or (707)849-4663.


Sincerely,

  
Melanie Bagby  
Councilmember, City of Cloverdale  
& Cal Cities Board Member

  
Scott Bauer  
Councilmember, City of Eureka  
& Cal Cities Board Member

  
Mike Healy  
Councilmember, City of Petaluma  
& Cal Cities Board Member

  
Ali Sajjad Taj  
Mayor Pro Tem, City of Artesia  
& Cal Cities Board Member

  
Dan Wright  
Councilmember, City of Stockton  
& Cal Cities Board Member

Attachment

**Introduced by Senators Gonzalez, Stern, and Wiener  
(Coauthor: Senator Portantino)**

**January 30, 2023**

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An act to amend Section 16642 of, and to add Section 7513.76 to, the Government Code, relating to public retirement systems.

## **LEGISLATIVE COUNSEL'S DIGEST**

SB 252, as amended, Gonzalez. Public retirement systems: fossil fuels: divestment.

The California Constitution grants the retirement board of a public employee retirement system plenary authority and fiduciary responsibility for investment of moneys and administration of the retirement fund and system. These provisions qualify this grant of powers by reserving to the Legislature the authority to prohibit investments if it is in the public interest and the prohibition satisfies standards of fiduciary care and loyalty required of a retirement board.

Existing law prohibits the boards of the Public Employees' Retirement System and the State Teachers' Retirement System from making new investments or renewing existing investments of public employee retirement funds in a thermal coal company, as defined. Existing law requires the boards to liquidate investments in thermal coal companies on or before July 1, 2017, and requires the boards, in making a determination to liquidate investments, to constructively engage with thermal coal companies to establish whether the companies are transitioning their business models to adapt to clean energy generation. Existing law provides that it does not require a board to take any action unless the board determines in good faith that the action is consistent with the board's fiduciary responsibilities established in the California Constitution.

This bill would provide local government agencies and school districts that contract with the California Public Employees' Retirement System or the California State Teachers' Retirement System with the option of specifying that their retirement investment portfolios be free of investments in fossil fuel companies.

~~This bill would prohibit the boards of the Public Employees' Retirement System and the State Teachers' Retirement System from making new investments or renewing existing investments of~~

~~public employee retirement funds in a fossil fuel company, as defined. The bill would require the boards to liquidate investments in a fossil fuel company on or before July 1, 2031. The bill would temporarily suspend the above-described liquidation provision upon a good faith determination by the board that certain conditions materially impact normal market mechanisms for pricing assets, as specified, and would make this suspension provision inoperative on January 1, 2035. The bill would provide that it does not require a board to take any action unless the board determines in good faith that the action is consistent with the board's fiduciary responsibilities established in the California Constitution.~~

~~This bill would require the boards, commencing February 1, 2025, and annually thereafter, to file a report with the Legislature and the Governor, containing specified information, including a list of fossil fuel companies of which the board has liquidated their investments. The bill would provide that board members and other officers and employees of the Public Employees' Retirement System and the State Teachers' Retirement System shall be held harmless and be eligible for indemnification in connection with actions taken pursuant to the bill's requirements, as specified.~~

## DIGEST KEY

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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## BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS  
FOLLOWS:

### SECTION 1.

Section 7513.76 is added to the Government Code, to read:

#### **7513.76.**

(a) The Legislature finds and declares all of the following:

- (1) The combustion of coal, oil, and natural gas, known as fossil fuels, is the single largest contributor to global climate change.
- (2) Climate change affects all parts of the California economy and environment, and the Legislature has adopted numerous laws to mitigate greenhouse gas emissions and to adapt to a changing climate.
- (3) Fossil fuel companies' plans to expand production, public relations campaigns, and efforts to obstruct climate stabilization policies are incompatible with California's climate goals, and our obligation to current and future generations.
- (4) The production of fossil fuels and the effects of climate change resulting from the use of fossil fuels all lead to disproportionate adverse impacts on low-income communities and communities of color.
- (5) A transition away from fossil fuels to clean energy will create greater employment, support the economy, and improve public health.
- (6) The purpose of this section is to require the Public Employees' Retirement System and the State Teachers' Retirement System, consistent with, and not in violation of, their fiduciary responsibilities, to divest their holdings of fossil fuel company investments, on behalf of local government agencies



and school districts electing to have investment portfolio free of investments in fossil fuel companies, as one part of the state's broader efforts to decarbonize the California economy and to transition to clean, pollution-free energy resources.

(7) The California Constitution, Art. XVI, Sec. 17(g), provides that the Legislature may by statute prohibit retirement board investments where it is in the public interest to do so and providing that the prohibition satisfies specified fiduciary standards.

(8) Given the paramount importance of combating climate change, the Legislature finds and declares that it is in the public interest to give local government agencies and school districts that contract with the California Public Employees' Retirement System or the California State Teachers' Retirement System the option of specifying that their retirement funds not be invested in common stock or other securities issued by fossil fuel companies.

(9) The Legislature acknowledges that not all local government agencies and school districts that contract with the California Public Employees' Retirement System or the California State Teachers' Retirement System to manage their retirement investments, either wish to or have the financial ability to assume any additional risk of electing to have a retirement investment portfolio free of investments in fossil fuel companies.

(10) The Legislature acknowledges that divestment is a course of last resort that should be used sparingly and under extraordinary circumstances. This act is based on the extraordinary importance of combating climate change by reducing reliance on fossil fuels.

(b) As used in this section, the following definitions shall apply:

(1) "Board" means the Board of Administration of the Public Employees' Retirement System or the Teachers' Retirement Board of the State Teachers' Retirement System, as applicable.

(2) "Company" means a sole proprietorship, organization, association, corporation, partnership, venture, or other entity, or its subsidiary or affiliate, that exists for profitmaking purposes or to otherwise secure economic advantage.

(3) "Investment" means the purchase, ownership, or control of publicly issued stock, corporate bonds, or other debt instruments issued by a company. "Investments" also includes purchase, ownership, or control of mutual funds and exchange-traded funds, unless the board is satisfied on reasonable grounds that a mutual fund or exchange-traded fund is unlikely to have in excess of 2 percent of its assets, averaged annually, directly or indirectly invested in fossil fuel companies.

(4) "Public employee retirement funds" means the Public Employees' Retirement Fund described in Section 20062 of this code, and the Teachers' Retirement Fund described in Section 22167 of the Education Code.

(5) "Fossil fuel" means petroleum oil, natural gas, and thermal coal. Thermal coal is coal used to generate electricity, such as that which is burned to create steam to run turbines. Thermal coal does not mean metallurgical coal or coking coal used to produce steel.

(6) "Fossil fuel company" means one of the 200 largest publicly traded fossil fuel companies, as established by carbon content in the companies' proven oil, gas, and coal reserves.

(c) Pursuant to Section 1 of Article IV of the California Constitution and *Carson Mobilehome Park Owners' Assn. v. City of Carson*, 35 Cal.3d 184, 190-91 (1983), the Legislature hereby delegates its authority pursuant to Section 17(g) of Article XVI of the California Constitution, to



local government agencies or school districts that contract with the California Public Employees' Retirement System or the California State Teachers' Retirement System to manage their retirement investments, to elect that their the California Public Employees' Retirement System or the California State Teachers' Retirement System investment portfolios shall not include investments in fossil fuel companies. Local government agencies or school districts wishing to elect an investment portfolio free of investments in fossil fuel companies may do so only upon making all of the following findings:

(1) That the importance of having an investment portfolio free of investments in fossil fuel companies outweighs the investment risk of so doing to the local government agency or school district;

(2) That the local government agency or school district acknowledges that the investment risk of said decision shall rest entirely with the local government agency or school district and not with the California Public Employees' Retirement System or the California State Teachers' Retirement System or anyone else;

(3) That the local government agency or school district reasonably believes it has the financial ability to assume any additional risk of electing to have an investment portfolio free of investments in fossil fuel companies, including employer contribution rates that may differ from what it would have paid had it not elected to have an investment portfolio free of investments in fossil fuel companies; and

(4) That notwithstanding any additional risk of electing to have an investment portfolio free of investments in fossil fuel companies, the local government agency or school district reaffirms its commitment to fully fund all pension benefits earned by its employees and retirees.

~~(c) The board shall not make additional or new investments or renew existing investments of public employee retirement funds in a fossil fuel company.~~

~~(d) (1) The board shall liquidate investments in a fossil fuel company on or before July 1, 2031.~~

~~(2) Notwithstanding paragraph (1), this subdivision shall be suspended upon a good faith determination by the board that an act of God, war, or other unforeseeable event creates conditions that materially impact normal market mechanisms for pricing assets and shall only be reinstated upon a subsequent good faith finding of the board that market conditions have substantially returned to normal ex-ante. Upon such a finding, the board shall have six months to liquidate any remaining investments in a fossil fuel company.~~

~~(3) Paragraph (2) shall remain in effect only until January 1, 2035, and as of that date is inoperative.~~

~~(e) (1) Commencing February 1, 2025, and annually on February 1 thereafter, the board shall create a report that includes the following:~~

~~(A) A list of fossil fuel companies of which the board has liquidated its investments pursuant to subdivision (d).~~

~~(B) A list of fossil fuel companies with which the board still has not liquidated its investments.~~

~~(C) A list of fossil fuel companies of which the board has not liquidated its investments as a result of a determination made pursuant to subdivision (f) that a sale or transfer of investments is inconsistent with the fiduciary responsibilities of the board as described in Section 17 of Article XVI of the California Constitution and the board's findings adopted in support of that determination.~~



~~(D) An analysis of methods and opportunities to rapidly and effectively reduce dependence on fossil fuels and transition to alternative energy sources in a realistic timeframe that avoids negatively contributing to economic conditions particularly damaging to public employee retirement funds and to overall net employment earnings of the state's workforce.~~

~~(2) The board shall submit the report to the Legislature, in compliance with Section 9795, and to the Governor, and shall post the report on the board's internet website.~~

(d f) Nothing in this section shall require a board to take action as described in this section unless the board determines in good faith that the action described in this section is consistent with the fiduciary responsibilities of the board described in Section 17 of Article XVI of the California Constitution.

## **SEC. 2.**

Section 16642 of the Government Code, as amended by Section 3 of Chapter 459 of the Statutes of 2019, is amended to read:

### **16642.**

(a) Present, future, and former board members of the Public Employees' Retirement System or the State Teachers' Retirement System, jointly and individually, state officers and employees, research firms described in subdivision (d) of Section 7513.6, and investment managers under contract with the Public Employees' Retirement System or the State Teachers' Retirement System shall be indemnified from the General Fund and held harmless by the State of California from all claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, including court costs and attorney's fees, and against all liability, losses, and damages of any nature whatsoever that these present, future, or former board members, officers, employees, research firms as described in subdivision (d) of Section 7513.6, or contract investment managers shall or may at any time sustain by reason of any decision to restrict, reduce, or eliminate investments pursuant to Sections 7513.6, 7513.7, 7513.74, 7513.75, and 7513.76.

(b) This section shall remain in effect only until Section 7513.74 is repealed, and as of that date is repealed.

## **SEC. 3.**

Section 16642 of the Government Code, as added by Section 4 of Chapter 459 of the Statutes of 2019, is amended to read:

### **16642.**

(a) Present, future, and former board members of the Public Employees' Retirement System or the State Teachers' Retirement System, jointly and individually, state officers and employees, research firms described in subdivision (d) of Section 7513.6, and investment managers under contract with the Public Employees' Retirement System or the State Teachers' Retirement System shall be indemnified from the General Fund and held harmless by the State of California from all claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, including court costs and attorney's fees, and against all liability, losses, and damages of any nature whatsoever that these present, future, or former board members, officers, employees, research firms as described in subdivision (d) of Section 7513.6, or contract investment managers shall or may at any time sustain by reason of any decision to restrict, reduce, or eliminate investments pursuant to Sections 7513.6, 7513.7, 7513.75, and 7513.76.

(b) This section shall become operative upon the repeal of Section 7513.74.