Agenda Item 5b

April 13, 2015

ITEM NAME: Senate Bill 185 (de León) – Public Divestiture of Thermal Coal Companies Act

As Amended March 25, 2015

PROGRAM: Total Fund

ITEM TYPE: Legislation – Action

RECOMMENDATION

Take **No Position** on Senate Bill (SB) 185 (Attachment 1). The March 25, 2015 version of SB 185 reflects amendments developed jointly by the California Public Employees' Retirement System (CalPERS) and the California State Teachers' Retirement System (CalSTRS). However, further amendment is recommended to remove the requirement that CalPERS consult with the Secretary of the California Environmental Protection Agency (CalEPA) when assessing the feasibility of divesting from fossil fuels. Staff believes implementation of SB 185 could be completed consistent with the CalPERS Board of Administration (Board) policy on divestment as outlined in the CalPERS Total Fund Investment Policy (Attachment 2) and only requires action when it is consistent with the Board's fiduciary responsibilities.

EXECUTIVE SUMMARY

SB 185 requires CalPERS and CalSTRS to constructively engage publicly traded coal companies (Company) that generate 50 percent or more of their revenue from mining thermal coal. If following engagement, a Company is not transitioning its business model to adapt to clean energy generation, it requires CalPERS to sell or transfer any investments in that Company, and report to the Legislature and the Governor regarding these investments within specific timeframes. SB 185 does not require divestment if CalPERS determines, in good faith, the action would not be consistent with its fiduciary responsibilities. The bill also requires a report on the feasibility of divesting from additional fossil fuel investments such as natural gas and petroleum.

Senator Kevin de León is to be commended for his leadership in tackling climate issues. CalPERS recognizes climate change as presenting risks and opportunities to investment decision making. We are tackling climate change issues through policy advocacy, engagement with portfolio companies, and investing in climate change solutions. Engagement is the first call of action and is the most effective form of communicating concerns with the companies in which CalPERS invests. This is why, when it comes to climate change and its risks, CalPERS' view is that the path to change lies in engaging energy companies, instead of divesting them. If we sell our shares then we lose our ability as shareowners to influence companies to act responsibly.

STRATEGIC PLAN
Divesting in response to external initiatives is outside the scope of the CalPERS 2012-17 Strategic Plan.

INVESTMENT BELIEFS
This agenda item supports Investment Belief 3 that investment decisions may reflect wider stakeholder views, provided they are consistent with its fiduciary duty to members and beneficiaries. The subject matter of SB 185 is also consistent with Investment Belief 9 in that risk is multi-faceted and not fully captured through measures such as volatility or tracking error. As a long-term investor, CalPERS must consider risk factors, for example climate change and natural resource availability, that emerge slowly over long time periods, but could have a material impact on company or portfolio returns.

BACKGROUND

1. <u>Constitutional Authority and Fiduciary Responsibility</u>
   Article XVI, Section 17 of the California Constitution gives the boards of public retirement systems in California plenary authority and fiduciary responsibility for investment of pension assets and administration of the system. The Constitution expressly provides that the retirement board of a public pension fund shall have the sole and exclusive fiduciary responsibility over the assets of the public pension or retirement system. It further requires the fiduciary of the public pension or retirement system to discharge his or her duties solely in the interest of, and for the exclusive purpose of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system. The Constitution also requires the boards of public pension funds to diversify the investments of the systems so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly not prudent to do so.

   The Constitution, however, provides that the Legislature may by statute continue to prohibit certain investments by a retirement board where it is in the public interest to do so, and provided that the prohibition satisfies the standards of fiduciary care and loyalty required of a retirement board.

2. <u>California Divestment Legislation Trends</u>
   Divestment, or pressuring institutional investors to divest of securities, is a method which attempts to apply economic stress on companies, groups, or countries whose practices are not condoned by investors or interest groups. In California, the practice of requiring pension funds to divest began in 1986 with the passing of legislation to divest from firms doing business with South Africa. From that point, the California Legislature has introduced dozens of bills that would encourage or require divesting from various companies and countries. The South Africa, Arab League’s economic

boycott, Sudan and Iran legislation were the only successful divestment bills passed by the Legislature and signed by the Governor.

ANALYSIS

1. SB 185 Requirements, if Enacted

   Specifically, SB 185:

   - Makes findings that the combustion of coal resources is the single largest contributor to global climate change in the United States, that climate change affects all parts of the California economy and environment, and that the Legislature has adopted numerous laws to mitigate greenhouse gas emissions and to adapt to a changing climate.
   - Declares the Legislature's intent to require the governing boards of CalPERS and CalSTRS, consistent with, and not in violation of, their fiduciary responsibilities, to divest their holding of thermal coal companies, as defined, as one part of the state's broader efforts to decarbonize the California economy and to transition to clean, pollution free energy resources.
   - Defines "investment" as the purchase, ownership, or control of publicly issued stock, corporate bonds, or other debt instruments issued by a company.
   - Defines "thermal coal" as coal used to generate electricity, and distinguishes it from metallurgical or coking coal.
   - Defines "thermal coal company" as a publicly traded company that generates 50 percent or more of its revenue from the mining of thermal coal, as determined by the Board.
   - Prohibits the Board from making additional or new investments or renew existing investments of public employee retirement funds in a thermal coal company.
   - Requires the Board to liquidate investments in a thermal coal company on or before July 1, 2017. In making a determination to liquidate investments, it requires the Board to constructively engage with a thermal coal company to establish whether the company is transitioning its business model to adapt to clean energy generation, such as through a decrease in its reliance on thermal coal as a revenue source.
   - Specifies that its provisions do not require the Board to take any action if it determines and adopts findings, in good faith and based on publicly available information, that the action would violate the board's fiduciary responsibilities described in Section 17 of Article XVI of the California Constitution.
   - Indemnifies present, future, and former board members of CalPERS and CalSTRS, jointly and individually, along with state officers, employees, and investment managers for any decision to restrict, reduce, or eliminate investments in thermal coal companies.
   - Requires the Board to submit a report to the Legislature and the Governor on or before January 1, 2018, that:
     - Identifies the thermal coal companies from which it has liquidated its investments.

  - Identifies companies that the Board engaged and determined are transitioning to clean energy generation, with supporting documentation to substantiate its findings;
  - Identifies companies that the Board has not liquidated its investments as a result of a determination and adoption of findings that a sale or transfer of investments is inconsistent with specified constitutional and statutory fiduciary responsibilities.
- Requires the Board to assess the feasibility of divesting from additional fossil fuel investments, such as natural gas and petroleum, and its implications, in consultation with CalEPA, and summarize that assessment in its report to the Legislature and the Governor.

2. Author's Intent

According to the author,
"Coal combustion for energy generation is the single leading cause of the pollution that causes global climate change. According to the United States Energy Information Service and the Union of Concerned Scientists, 'coal plants are the nation's top source of carbon dioxide (CO2) emissions, the primary cause of global warming. In 2011, utility coal plants in the United States emitted a total of 1.7 billion tons of CO2. A typical coal plant generates 3.5 million tons of CO2 per year.'"

"Burning coal is also a leading cause of smog, acid rain, and toxic air pollution. Some emissions can be significantly reduced with readily available pollution controls, but most U.S. coal plants have not installed these technologies. Coal clearly is the highest polluting source of energy per unit consumed so it's a logical place to begin the effort of investing with our values."

3. CalPERS Engagement on Climate Change

CalPERS has a fiduciary duty to be a principled and effective investor to meet our financial commitments to our members and employer partners. We believe engagement, using our shareowner voice, is the first call of action, and results show that it is an effective form of communicating concerns. Examples of CalPERS using its voice include:

- CalPERS is a member of the Ceres-led Investor Network on Climate Risk – a network of over 100 U.S. institutional investors, representing more than $10 trillion, advocating a policy agenda that calls on governments and regulators to introduce carbon pricing and disclosure, so that risks can be addressed effectively.
- CalPERS is a signatory of the United Nations (UN) supported Principles for Responsible Investment and helped craft its six tenets that serve as a guide for investors to better understand the implications of sustainability and how to incorporate these issues into their investment decision making and ownership practices.
- CalPERS joined forces with Ceres in urging the U.S. Securities and Exchange Commission (SEC) to issue guidance requiring disclosure of climate change risks

in corporate filings. The work led to a major milestone in 2010 when the SEC approved the first economy-wide guidance for climate change disclosure.

- In a Global Investor Statement on Climate Change, CalPERS joined 365 investors representing $24 trillion in assets at the 2014 UN Climate Summit to call on governments to develop an ambitious global agreement on climate change by the end of 2015. This Statement supports policy making that encourages capital deployment at scale to finance the transition to a low carbon economy and encourage investment in climate change adaptation; provide stable, reliable and economically meaningful carbon pricing that helps redirect investment commensurate with the scale of the climate change challenge; and phase out subsidies for fossil fuels.
- CalPERS is an active thought leader of the Ceres Carbon Asset Risk Initiative that draws together 70 global investors managing more than $3 trillion of collective assets. The initiative asks more than 45 large oil and gas, coal, and electric power companies to assess the financial risks that climate change poses to corporate business plans – companies on the list include ExxonMobil, BHP Billiton, Rio Tinto, and Vale. Recent achievement of this initiative includes British Petroleum and Shell having agreed to back shareowner proposals on climate risk reporting.
- CalPERS is targeting 33 companies in the energy sector this proxy season calling for shareowners to have the right to nominate directors to corporate boards – proxy access. Changing corporate directors is one of the best ways to change corporate practices. Recent proxy access proposals at companies engaged by CalPERS have won a majority of support, including Nabors Industries, Chesapeake Energy, and Verizon Communications.

4. <u>Evaluating and Implementing Thermal Coal Divestment</u>
   Existing Board policy (Attachment 2) for responding to external or internal divestment initiatives, addresses initiatives that seek to achieve certain goals that do not appear to be primarily investment-related. However, CalPERS has historically viewed climate change as an investment issue, adopted investment beliefs and principles in that regard, and consistently engaged companies, other institutional investors, governments, and non-governmental organizations to formulate strategies to address the risks and opportunities posed by climate change and transition to low- and no-carbon energy sources. While the Board's divestment policy generally prohibits divesting in response to divestment initiatives, it does permit CalPERS to use constructive engagement, where consistent with fiduciary duties, to help divestment initiatives achieve their goals.

5. <u>Evaluating Fossil Fuel Divestment</u>
   If enacted, SB 185 requires CalPERS, in consultation with CalEPA, to make a comprehensive assessment of the feasibility of divesting of additional fossil fuel investments, such as natural gas and petroleum, and its implications for the fund. Staff recommends removal of the requirement that CalPERS consult with CalEPA when assessing the feasibility of divestment. Any assessment of a divestment

decision must be consistent with the Board's fiduciary duty, and the Board should consult with CalPERS fiduciary counsel or experts as it deems appropriate.

BUDGET AND FISCAL IMPACTS

If the Board takes action to divest, program costs would include investment transaction and administrative costs to divest of thermal coal companies and then subsequently complete the reporting requirements mandated by January 1, 2018. Total cost will depend on the number of CalPERS holdings in companies that meet the criteria for divestment pursuant to SB 185. Currently, it is expected that CalPERS portfolio includes publicly traded common stock and fixed income investments in thermal coal companies as defined by SB 185.

BENEFITS/RISKS

1. Benefits
   - May improve CalPERS standing when engaging with electric power generators that burn thermal coal to encourage them to transition to low or no-carbon fuel sources.
   - May reduce stakeholder perception that CalPERS investments contribute to climate change.

2. Risks
   - Eliminating alternatives from the investment opportunity set reduces diversification and return potential.
   - Eliminating a specific industry or market segment is atypical to CalPERS normal investment activity and removes CalPERS ability to affect change through engagement.
   - There is some risk of a "slippery slope" of external parties directing portfolio activities. This is mitigated somewhat by the fiduciary language in the bill.

ATTACHMENTS

Attachment 1 – Senate Bill 185, as amended March 25, 2015
Attachment 2 – Excerpt from the CalPERS Total Fund Investment Policy
Attachment 3 – Legislative History

DANNY BROWN, Chief
Legislative Affairs Division

WYLIE TOLLETTE
Chief Operating Investment Officer

AMENDED IN SENATE MARCH 25, 2015

SENATE BILL No. 185

Introduced by Senator De León

February 9, 2015

An act to ~~add Article 5 (commencing with Section 7524) to Chapter 21 of Division 7 of Title 1 of~~ *amend Section 16642 of, and to add Section 7513.75 to,* the Government Code, relating to public retirement systems.

LEGISLATIVE COUNSEL'S DIGEST

SB 185, as amended, De León. Public retirement systems: Public Divestiture of Thermal Coal Companies Act.

The California Constitution provides that the Legislature may by statute prohibit retirement board investments if it is in the public interest to do so, and providing that the prohibition satisfies specified fiduciary standards.

Existing law prohibits the Public Employees' Retirement System and the State Teachers' Retirement System from investing public employee retirement funds in a company with active business operations in Sudan, as specified, and requires these retirement systems to liquidate any investments in a company with business operations in Sudan. Existing law also prohibits these retirement systems from investing in a company that has specified investments in the energy sector of Iran, as defined, including in a company that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas.

This bill would ~~create the Public Divestiture of Thermal Coal Companies Act and require~~ *prohibit* the boards of the Public Employees' Retirement System and the State Teachers' Retirement System ~~to divest~~

~~the~~ *from making new investments or renewing existing investments of* public employee retirement funds ~~of any investments~~ in a thermal coal company, as ~~defined, and prohibit additional or new investments or the renewal of existing investments in a thermal coal company~~ *defined*. This bill would ~~also~~ require the boards to liquidate ~~the~~ investments ~~of the board in a thermal coal company, as specified. This bill would require these actions to be undertaken consistently with the board's fiduciary responsibilities specified in the California Constitution.~~ *in thermal coal companies on or before July 1, 2017, and would require 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. The bill would require the boards, in consultation with the Secretary of the California Environmental Protection Agency, to make a comprehensive assessment of the feasibility and implications of divesting the retirement system funds of additional fossil fuel investments, such as natural gas and petroleum. The bill would provide that it does not require a board to take any action if the board determines and adopts findings that the action would violate the board's fiduciary responsibilities established in the constitution.* The bill would make related legislative findings and declarations.

This bill would require, on or before January 1, ~~2017,~~ *2018,* these boards to file a report to the Legislature and the Governor, containing specified information, including a list of ~~investments and~~ companies of which ~~it has divested~~ *they have liquidated their investments. The bill would provide that board members and other officers and employees shall be held harmless and be eligible for indemnification in connection with actions taken pursuant to the bill's requirements, as specified*.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 7513.75 is added to the Government Code, to read:

7513.75. (a) The Legislature finds and declares all of the following:

(1) The combustion of coal resources is the single largest contributor to global climate change in the United States.

(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) The purpose of this article 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 holding of thermal coal power as one part of the state's broader efforts to decarbonize the California economy and to transition to clean, pollution free energy resources.

(b) As used in this section, the following definitions 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 profit-making 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.

(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) "Thermal coal" means 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) "Thermal coal company" means a publicly traded company that generates 50 percent or more of its revenue from the mining of thermal coal, as determined by the board.

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

(d) The board shall liquidate investments in a thermal coal company on or before July 1, 2017. In making a determination to liquidate investments, the board shall constructively engage with a thermal coal company to establish whether the company is transitioning its business model to adapt to clean energy

generation, such as through a decrease in its reliance on thermal coal as a revenue source.

(e) On or before January 1, 2018, the board shall file a report with the Legislature, in compliance with Section 9795, and the Governor, which shall include the following:

(1) A list of thermal coal companies of which the board has liquidated its investments pursuant to subdivision (d).

(2) A list of companies with which the board engaged pursuant to subdivision (d) that the board established were transitioning to clean energy generation, with supporting documentation to substantiate the board's determination.

(3) A list of thermal coal companies of which the board has not liquidated its investments as a result of a determination made pursuant to subdivision (g) 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.

(f) In consultation with the Secretary of the California Environmental Protection Agency, the board shall make a comprehensive assessment of the feasibility of divesting the public employee retirement funds of additional fossil fuel investments, such as natural gas and petroleum, and its implications for the funds. A summary of this assessment shall be included in the report required by subdivision (e).

(g) This section does not require the board to take any action if the board determines and adopts findings, in good faith and based on publicly available information, that the action would violate the board's fiduciary responsibilities described in Section 17 of Article XVI of the California Constitution.

SEC. 2. Section 16642 of the Government Code is amended to read:

16642. 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 and 7513.7~~ *7513.6, 7513.7, and 7513.75*.

~~SECTION 1. Article 5 (commencing with Section 7524) is added to Chapter 21 of Division 7 of Title 1 of the Government Code, to read:~~

~~Article 5. Public Divestiture of Thermal Coal Companies Act~~

~~7524. This article may be known and cited as the Public Divestiture of Thermal Coal Companies Act.~~

~~7524.1. The Legislature finds and declares all of the following:~~

~~(a) The combustion of coal resources is the single largest contributor to global climate change in the United States.~~

~~(b) 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.~~

~~(c) The purpose of this article 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 holding of thermal coal power as one part of the state's broader efforts to decarbonize the California economy and to transition to clean, pollution free energy resources.~~

~~7524.2. For purposes of this article, the following definitions shall apply:~~

~~(a) "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.~~

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

~~(c) "Investment" means the purchase, ownership, or control of stock of a company, association, or corporation, corporate bonds~~

~~or other debt instruments issued by a company, or the commitment of funds or other assets to a company, including a loan or extension of credit to that company.~~

~~(d) "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.~~

~~(e) "Thermal coal company" means a company engaged in the combustion of coal as determined by the board using Bloomberg Global Coal Index, Carbon Tracker, and Energy Transition Advisors Indices.~~

~~7524.3. Consistent with the board's fiduciary responsibilities as described in Section 17 of Article XVI of the California Constitution, and by the earliest feasible date after the enactment of this article, the board shall undertake all of the following:~~

~~(a) The board, shall divest the public employee retirement funds of any investments in a thermal coal company.~~

~~(b) The board shall not make additional or new investments or renew existing investments in a thermal coal company.~~

~~(c) The board shall liquidate the investments of the board in a thermal coal company no later than eighteen months after this article applies to that company.~~

~~7524.4. On or before January 1, 2017, the board shall file a report with the Legislature, in compliance with Section 9795, and the Governor on the following:~~

~~(a) Actions it has taken to implement this article, including a list of investments and companies of which it has divested.~~

~~(b) Recommendations to ensure the board is able to act consistent with its fiduciary responsibilities as described in Section 17 of Article XVI of the California Constitution.~~

~~(c) In consultation with the Secretary of the California Environmental Protection Agency, a comprehensive assessment of the feasibility of divesting the public employee retirement funds of additional fossil fuel investments such as natural gas and petroleum and its implications for the fund.~~

~~7524.5. Nothing in this article 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 as described in Section 17 of Article XVI of the California Constitution.~~

O

California Public Employees' Retirement System

Total Fund Investment Policy Sections

VII. Divestment

Purpose

This section sets forth CalPERS policy (Policy) for responding to external or internal initiatives to cause CalPERS to sell investments or refrain from making additional investments (Divesting) for the purpose of achieving certain goals that do not appear to be primarily investment-related, such as promoting social justice (Divestment Initiatives). Typically, Divestment Initiatives focus on companies that do business in a specified country, are engaged in a specified industry, or in specific practices deemed undesirable by federal and state law (*e.g.*, human rights violations) (Targeted Companies).

CalPERS investment in a company does not necessarily signify that it approves of the company's policies, products, or actions. CalPERS, nevertheless, wants companies in which it invests to meet high corporate governance, ethical, and social standards of conduct. The Committee believes that this generally will promote superior long-term investment performance

CalPERS Board of Administration (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).)

These fiduciary obligations generally forbid CalPERS from sacrificing investment performance for the purpose of achieving goals that do not directly relate to CalPERS operations or benefits. Divesting appears to almost invariably harm investment performance, such as by causing transaction costs (e.g., the cost of selling assets and reinvesting the proceeds) and compromising investment strategies.

In addition, there appears to be considerable evidence that Divesting is an ineffective strategy for achieving social or political goals, since the usual consequence is often a mere transfer of ownership of divested assets from one investor to another. Investors that divest lose their ability as shareowners to influence the company to act responsibly.

This Policy, therefore, generally prohibits Divesting in response to Divestment Initiatives, but permits CalPERS to use constructive engagement, where consistent with fiduciary duties, to help Divestment Initiatives achieve their goals.

California Public Employees' Retirement System

Total Fund Investment Policy Sections

VII. Divestment (continued)

Statement of Policy

CalPERS will undertake constructive engagement in support of Divestment Initiatives to the extent the Committee determines to be appropriate or as required by law, but CalPERS will not sell investments in Targeted Companies or refrain from investing in them in response to Divestment Initiatives except as follows:

A. CalPERS will sell Targeted Company investments or refrain from making them to the extent investment in the Targeted Company is imprudent and inconsistent with fiduciary duties. CalPERS recognizes that the prudence of an investment may depend on its purpose. For example, it might be imprudent to retain an investment in an actively managed portfolio, but prudent to retain it in an indexed portfolio or as part of a long-short absolute return strategy.

B. To the extent required by law and consistent with fiduciary duties, CalPERS will comply with federal and constitutional California state laws that require Divesting.

C. This Policy does not require CalPERS to re-examine investment policies and practices in effect when this Policy was adopted to determine whether they were influenced by Divestment Initiatives or have or will result in Divesting.

Legislative History

1986 Chapter 1254 (AB 134, Waters) – Prohibits the use of state trust funds or state moneys to make additional or new investments, or to renew existing investments in firms doing business with or in South Africa as of January 1, 1987.
CalPERS Position: Neutral

1992 Chapter 1351 (AB 2251, Margolin) – Prohibits state trust fund and state money investments in business firms or financial institutions that engage in discriminatory business practices after January 1, 1994 relating to the Arab League's economic boycott of Israel. *CalPERS' Position: Oppose*

2000 AB 107 (Knox) – Prohibits CalPERS and CalSTRS from making new or additional investments in tobacco companies beginning January 1, 2001, and requires divestment of existing investments by July 1, 2002. Present and former Board members, officers, employees, and contracted investment managers will be indemnified by the State General Fund from all claims, demands, suits, actions, etc., incurred as a result of the required divestment. Failed Passage.
CalPERS Position: Oppose

2006 Chapter 442 (AB 2941, Koretz) – Prohibits CalPERS and CalSTRS from investing public employee retirement funds, as defined, in a company with business operations in the Sudan, that meet specified criteria, and would require the Boards of these retirement systems to sell or transfer any investments in these companies within specific timeframes and report to the Legislature regarding these investments.*CalPERS Position: Neutral, with suggested amendments.*

2007 Chapter 671 (AB 221, Anderson) – Prohibits CalPERS and CalSTRS from investing public employee retirement funds, as defined, in a company with business operations in Iran that meets the following criteria: is invested in, or is engaged in, business operations with entities in the defense or nuclear sectors of Iran, or invested or engaged in the development of petroleum or natural gas resources of Iran and that company is subject to sanctions by the Federal Government; or in a company engaged in business operations with an Iranian Organization that has been labeled a terrorist organization by the US Government. It also requires the Boards of these retirement systems to sell or transfer any investments in these companies within specific timeframes and report to the Legislature regarding these investments. *CalPERS Position: Oppose.*

2013 AB 761 (Dickenson) – Prohibits CalPERS and CalSTRS from investing in companies that manufacture firearms or ammunition for a recipient other that the United States military, and requires the sale or transfer of any existing investments in these companies. Further, this bill requires the governing board of each retirement system to report to the Legislature any investments in these specified firearms and ammunition manufacturers, and the sale or transfer of those investments, subject to their fiduciary duty, by January 1, 2015, and every year thereafter. Failed Passage. *CalPERS Position: Oppose.*

SR 18 (Leno) – Declares the California State Senate's condemnation of the Russian government's attacks on the LGBT community and enactment of laws targeting them and their supporters. Among other things, it encourages CalPERS and CalSTRS, whenever feasible and consistent with their fiduciary responsibilities, to cease making direct investments in Russia and to encourage companies in which employee retirement funds are invested and that are doing business in Russia, to refrain from actions that promote or otherwise enable human rights violations in Russia. Adopted by the State Senate on September 10, 2013. *CalPERS Position: None.*

2015 AB 1410 (Nazarian) – Prohibits CalPERS and CalSTRS from investing retirement funds in any investment vehicle owned, controlled, managed, or issued by the government of Turkey, as defined. Specifically, it requires the governing Board of each respective System to identify portfolio assets subject to engagement and divestment by June 30, 2016, to transfer or sell any assets within specific timeframes, and report to the Legislature regarding its actions. *CalPERS Position: Pending.*