

AMENDED IN ASSEMBLY APRIL 12, 2016

AMENDED IN ASSEMBLY MARCH 28, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2833

Introduced by Assembly Member Cooley

February 19, 2016

An act to add Section 7514.7 to the Government Code, relating to retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2833, as amended, Cooley. Public retirement systems: funds: disclosures.

The California Constitution commits to the retirement board of a public pension or retirement system plenary authority and fiduciary responsibility for investment of moneys and administration of the system. Existing law requires a retirement board to develop and implement a policy requiring disclosure of payments to placement agents, as defined, in connection with system investments in or through external managers that includes prescribed elements. Existing law requires disclosure of campaign contributions or gifts made by a placement agent to any member of a public pension retirement board, as specified. Existing law requires a public retirement system to obtain an actuarial valuation of the system not less than triennially and submit audited financial statements to the State Controller who then publishes a report on the financial condition of public retirement systems.

This bill, for contracts entered into on and after January 1, 2017, would require a public pension or retirement system, including that of

the University of California, to require alternative investment vehicles, as defined, to make specified disclosures regarding fees, expenses, and *the gross and net* rate of return in connection with these vehicles and the underlying ~~investments~~ *investments, as well as other specified information*, on a form prescribed by the system. Consistent with requirements relating to public records, the bill would require a public pension or retirement system, including that of the University of California, to disclose the information received in connection with alternative investment vehicles, ~~with other specified information~~, at least once annually at a meeting open to the public. The bill would make a statement of legislative intent. Because this bill would impose new requirements on local entities relating to the collection of information and its presentation at an open meeting, it would impose a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. It is the intent of the Legislature in enacting this
- 2 section to increase the transparency of fees paid by public pension
- 3 funds to alternative investment vehicles. Pension funds pay
- 4 significant fees to alternative investment vehicles and do not have
- 5 sufficient information regarding the character and amount of those
- 6 fees. As fiduciaries, public fund trustees have a duty to maximize
- 7 investment returns in order to ensure promised benefits are
- 8 adequately funded and to minimize taxpayer costs. Because fees
- 9 paid to alternative investment vehicles reduce returns, public fund

1 trustees need to be able to see and understand all of the fees they
2 are charged.

3 SEC. 2. Section 7514.7 is added to the Government Code, to
4 read:

5 7514.7. (a) Every public pension or retirement system,
6 including that of the University of California, shall require each
7 alternative investment vehicle in which it invests to make the
8 following disclosures, *at least annually, and* on a form prescribed
9 by the system:

10 (1) ~~The annual~~ fees and expenses that the retirement system
11 pays directly to the alternative investment ~~vehicle:~~ *vehicle, the*
12 *fund manager, or related parties.*

13 (2) ~~The annual~~ fees and expenses not included in paragraph (1)
14 that are paid from the alternative ~~investment,~~ *investment vehicle,*
15 including carried interest, to the ~~alternative investment vehicle:~~
16 *fund manager or related parties.*

17 (3) ~~The annual~~ fees and expenses paid by the portfolio
18 ~~companies~~ *positions* held within the alternative investment *vehicle*
19 to the ~~alternative investment vehicle:~~ *fund manager or related*
20 *parties.*

21 (4) The gross *and net* rate of return of each alternative
22 investment vehicle since inception.

23 (5) *Any additional information described in subdivision (b) of*
24 *Section 6254.26.*

25 (b) Every public pension or retirement system, including that
26 of the University of California, shall disclose the ~~following~~
27 *information provided pursuant to subdivision (a)* at least once
28 annually *in a report presented* at a meeting open to the ~~public:~~
29 *public.*

30 ~~(1) The information received pursuant to subdivision (a). The~~
31 ~~disclosure of this information shall be consistent with the~~
32 ~~restrictions described in subdivision (a) of Section 6254.26.~~

33 ~~(2) The information described in subdivision (b) of Section~~
34 ~~6254.26.~~

35 (c) For purposes of this section:

36 (1) "Alternative investment" means an investment in a private
37 equity fund, venture fund, hedge fund, or absolute return fund.

38 (2) "Alternative investment vehicle" means the limited
39 partnership, limited liability company, or similar legal structure
40 through which ~~the state or local~~ a public pension or retirement

1 ~~system~~ system, including the University of California, invests in
 2 an alternative investment.

3 (3) “Fund manager” means the general partner, managing
 4 manager, adviser, or other person or entity with primary
 5 investment decisionmaking authority over an alternative investment
 6 vehicle and related parties of the fund manager.

7 ~~(3)~~

8 (4) “Carried interest” means ~~a any share of the profits of from~~
 9 an alternative investment vehicle that is ~~due~~ allocated to a fund
 10 manager or general ~~partner~~. partner, including allocations of
 11 alternative investment vehicle profits received by a fund manager
 12 in consideration of having waived fees that the fund manager might
 13 otherwise have been entitled to receive.

14 (5) “Portfolio positions” means individual portfolio investments
 15 made by the alternative investment vehicle.

16 (d) This section shall apply to contracts the system entered into,
 17 extended, renewed, or amended on or after January 1, 2017.

18 SEC. 3. The Legislature finds and declares that Section 2 of
 19 this act, which adds Section 7514.7 to the Government Code,
 20 furthers, within the meaning of paragraph (7) of subdivision (b)
 21 of Section 3 of Article I of the California Constitution, the purposes
 22 of that constitutional section as it relates to the right of public
 23 access to the meetings of local public bodies or the writings of
 24 local public officials and local agencies. Pursuant to paragraph (7)
 25 of subdivision (b) of Section 3 of Article I of the California
 26 Constitution, the Legislature makes the following findings:

27 The information in the disclosures required under subdivisions
 28 (a) and (b) of Section 7514.7 of the Government Code is necessary
 29 to ensure public confidence in the integrity of investments made
 30 by retirement boards pursuant to alternative investment vehicles.

31 SEC. 4. No reimbursement is required by this act pursuant to
 32 Section 6 of Article XIII B of the California Constitution because
 33 the only costs that may be incurred by a local agency or school
 34 district under this act would result from a legislative mandate that
 35 is within the scope of paragraph (7) of subdivision (b) of Section
 36 3 of Article I of the California Constitution.