

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 2473

Introduced by Assembly Member Cooper

February 19, 2020

An act to add Section 6254.32 to the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

AB 2473, as introduced, Cooper. Public investment funds.

Existing law, the California Public Records Act, requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies. Existing law excludes from the disclosure requirement certain records regarding alternative investments in which public investment funds invest.

This bill would exempt from disclosure under the act specified records regarding an internally managed private loan made directly by a public investment fund, including quarterly and annual financial statements of the borrower or its constituent owners, unless the information has already been publicly released by the keeper of the information.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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. Section 6254.32 is added to the Government
2 Code, to read:

3 6254.32. (a) Notwithstanding any provision of this chapter or
4 other law, the following records regarding an internally managed
5 private loan made directly by a public investment fund shall not
6 be subject to disclosure pursuant to this chapter unless the
7 information has already been publicly released by the keeper of
8 the information:

9 (1) Due diligence materials that are proprietary to the public
10 investment fund, any participating underwriting syndicate, the
11 borrower, or any of the borrower's constituent owners or
12 guarantors.

13 (2) Private loan agreements and all related documents.

14 (3) Records containing information regarding the borrower or
15 its constituent owners.

16 (4) Quarterly and annual financial statements of the borrower
17 or its constituent owners.

18 (5) Materials relating to collateral pledged in support of the
19 private loan.

20 (6) Meeting materials of creditors' committees or similar
21 records.

22 (b) Notwithstanding subdivision (a), the following information
23 contained in records described in subdivision (a) shall be subject
24 to disclosure pursuant to this chapter and shall not be considered
25 a trade secret exempt from disclosure:

26 (1) The name and address of each borrower.

27 (2) The dollar amount of each private loan made to each
28 borrower by the public investment fund since inception.

29 (3) The annualized time-weighted return of each private loan.

30 (4) For each private loan, the aggregate amount of undrawn
31 loan commitments.

32 (c) Records related to a public investment fund's indirect
33 funding of a private loan via a fund or other type of externally
34 managed investment vehicle shall remain subject to Sections
35 6254.26 and 7514.7 of the Government Code.

36 (d) For purposes of this section, the following definitions shall
37 apply:

1 (1) "Private loan" means a loan made pursuant to or evidenced
2 by a loan agreement, debt instrument, or other evidence of
3 indebtedness, if that lending arrangement is exempt from
4 registration as a security under federal securities laws.

5 (2) "Public investment fund" means a public pension or
6 retirement system or a public endowment or foundation.

7 SEC. 2. The Legislature finds and declares that Section 1 of
8 this act, which adds Section 6254.32 to the Government Code,
9 imposes a limitation on the public's right of access to the meetings
10 of public bodies or the writings of public officials and agencies
11 within the meaning of Section 3 of Article I of the California
12 Constitution. Pursuant to that constitutional provision, the
13 Legislature makes the following findings to demonstrate the interest
14 protected by this limitation and the need for protecting that interest:

15 This act is necessary to protect information that is not appropriate
16 for public disclosure.