

AMENDED IN SENATE JULY 28, 2020

AMENDED IN ASSEMBLY JUNE 3, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2473**

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**Introduced by Assembly Member Cooper**

February 19, 2020

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2473, as amended, 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) Personal or business identifying information contained in  
15 records that would disclose the identities of any constituent owners  
16 of the borrower, regardless of whether the constituent owner is a  
17 person or legal entity.  
18 (4) Quarterly and annual financial statements of the borrower  
19 or its constituent owners.  
20 (5) Materials relating to collateral pledged in support of the  
21 private loan.  
22 (6) Meeting materials of creditors’ committees.  
23 (b) Notwithstanding subdivision (a), the following information  
24 contained in records described in subdivision (a) shall be subject  
25 to disclosure pursuant to this chapter and shall not be considered  
26 a trade secret exempt from disclosure:  
27 (1) The name and address of each borrower.  
28 (2) The dollar amount of each private loan made to each  
29 borrower by the public investment fund since inception.  
30 (3) The annualized time-weighted return of each private loan.  
31 (4) For each private loan, the aggregate amount of undrawn  
32 loan commitments.  
33 (5) The amount of principal and interest payments made to the  
34 public investment fund by each borrower since the inception of  
35 the loan.

1 (6) For each private loan, whether the loan has been in default  
2 for six months or longer.

3 (c) Records related to a public investment fund’s indirect  
4 funding of a private loan via a fund or other type of externally  
5 managed investment vehicle shall remain subject to Sections  
6 6254.26 and 7514.7.

7 (d) For purposes of this section, the following definitions shall  
8 apply:

9 (1) “Business identifying information” means any information  
10 about a legal entity that reveals a trade secret, commercial  
11 information, or financial data that is proprietary or confidential,  
12 including, but not limited to, information that may be used to  
13 distinguish or trace the identity of a person or other legal entity  
14 maintaining a constituent ownership interest in the borrower.

15 (2) “Constituent owner” means a person or legal entity that  
16 maintains a direct or indirect ownership interest in the borrower  
17 or one of its guarantors or sources of collateral for the loan,  
18 including, among others, a stockholder, member, or partner.

19 (3) “Personal identifying information” has the same meaning  
20 as defined in Section 530.55 of the Penal Code.

21 (4) “Private loan” means a loan made pursuant to or evidenced  
22 by a loan agreement, debt instrument, or other evidence of  
23 indebtedness, if that lending arrangement is exempt from  
24 registration as a security under federal securities laws.

25 (5) “Public investment fund” means ~~a public pension or~~  
26 ~~retirement system or a public endowment or foundation; the Public~~  
27 *Employees’ Retirement Fund described in Section 20170 and the*  
28 *Teachers’ Retirement Fund described in Section 22400 of the*  
29 *Education Code.*

30 SEC. 2. The Legislature finds and declares that Section 1 of  
31 this act, which adds Section 6254.32 to the Government Code,  
32 imposes a limitation on the public’s right of access to the meetings  
33 of public bodies or the writings of public officials and agencies  
34 within the meaning of Section 3 of Article I of the California  
35 Constitution. Pursuant to that constitutional provision, the  
36 Legislature makes the following findings to demonstrate the interest  
37 protected by this limitation and the need for protecting that interest:

38 ~~This act is necessary to protect information that is not appropriate~~  
39 ~~for public disclosure; strikes a balance between preserving the~~  
40 *right of the public to access information about how public funds*

- 1 *are invested and protecting the privacy of loan recipients and*
- 2 *proprietary information provided to public investment funds.*

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