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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 5. PERSONNEL [18000 - 22980] (Division 5 added by Stats. 1945, Ch. 123.)

PART 3. PUBLIC EMPLOYEES' RETIREMENT SYSTEM [20000 - 21716] (Part 3 repealed and added by Stats. 1995, Ch. 379, Sec. 2.)

CHAPTER 2. Administration of System [20090 - 20260] (Chapter 2 added by Stats. 1995, Ch. 379, Sec. 2.)

ARTICLE 3. Fiduciary Duties [20150 - 20153] (Article 3 added by Stats. 1995, Ch. 379, Sec. 2.)

20150. A board member or employee of the board shall not, directly or indirectly:

- (a) Have any interest in the making of any investment, or in the gains or profits accruing therefrom.
- (b) For himself or herself or as an agent or partner of others, borrow any funds or deposits of this system, nor use those funds or deposits in any manner except to make current and necessary payments authorized by the board.
- (c) Become an indorser, surety or obligor on investments by the board.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

20151. The board and its officers and employees shall discharge their duties with respect to this system solely in the interest of the participants and beneficiaries:

(a) For the exclusive purpose of both of the following:

- (1) Providing benefits to members, retired members, and their survivors and beneficiaries.
- (2) Defraying reasonable expenses of administering this system.

(b) Minimizing the employers' costs of providing benefits under this part.

(c) By investing 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.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

20152. Notwithstanding Section 13340, there is hereby continuously appropriated, without regard to fiscal years, from the retirement fund to the board, the amount necessary to pay for any insurance obtained pursuant to Section 7511, which payments shall be made upon warrants drawn by the Controller upon demands made by the board.

(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

20152.5. No matter involving any vendor or contractor in their individual or any other capacity shall be considered during a closed session on any transaction involving the system unless, prior to the closed session, a written disclosure has been submitted by the vendor or contractor of any campaign contributions aggregating two hundred fifty dollars (\$250) or more and any gifts aggregating fifty dollars (\$50) or more in value that the vendor or contractor has made during the preceding calendar year to any member of the board or any officer or employee of the system. Failure to disclose the campaign contributions and gifts shall provide the basis for disqualification of the contractor or the vendor.

(Added by Stats. 1998, Ch. 923, Sec. 5. Effective January 1, 1999.)

20153. (a) During the process leading to an award of any contract by the system, no member of the board or its staff shall knowingly communicate concerning any matter relating to the contract or selection process with any party financially interested in the contract or an officer or employee of that party, unless the communication is (1) part of the process expressly described in the request for

proposal or other solicitation invitation, or (2) part of a noticed board meeting, or (3) as provided in subdivision (c). Any applicant or bidder who knowingly participates in a communication that is prohibited by this subdivision shall be disqualified from the contract award.

(b) During the evaluation of any prospective investment transaction, no party who is financially interested in the transaction, or an officer or employee of that party, may knowingly communicate with any board member concerning any matter relating to the transaction or its evaluation, unless the financially interested party discloses the content of the communication in a writing addressed and submitted to the executive officer and the board prior to the board's action on the prospective transaction. This subdivision shall not apply to communications that are part of a noticed board meeting, or as provided in subdivision (c).

(1) The writing shall disclose the date and location of the communication, and the substance of the matters discussed. The board shall prescribe other procedures concerning this disclosure.

(2) Any board member who participates in a communication subject to this subdivision shall also have the obligation to disclose the communication to the executive officer and board, prior to the board's action on the prospective transaction. The board shall prescribe procedures for this disclosure, including procedures to apply to board members who fail to disclose communications as required by the subdivision.

(3) Consistent with its fiduciary duties, the board shall determine the appropriate remedy for any knowing failure of a financially interested party to comply with this subdivision including, but not limited to, outright rejection of the prospective investment transaction, reduction in fee received, or any other sanction.

(4) The communications disclosed under this subdivision shall be made public, either at the open meeting of the board in which the transaction is considered, or if in closed session, upon public disclosure of any closed session votes concerning the investment transaction.

(c) The procedures and prohibitions prescribed by this section shall not apply to:

(1) Communications that are incidental, exclusively social, and do not involve the system or its business, or the board or staff member's role as a system official.

(2) Communications that do not involve the system or its business and that are within the scope of the board or staff member's private business or public office wholly unrelated to the system.

(Amended by Stats. 1998, Ch. 923, Sec. 6. Effective January 1, 1999.)