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AB-20 Public employee retirement systems: divestment: Dakota Access Pipeline. (2017-2018)

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Assembly Bill No. 20

CHAPTER 575

An act to add Section 7513.72 to the Government Code, relating to public employee retirement systems.

[Approved by Governor October 08, 2017. Filed with Secretary of State October 08, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 20, Kalra. Public employee retirement systems: divestment: Dakota Access Pipeline.

The California Constitution authorizes the Legislature to prohibit, by statute, investments of a retirement board if it is in the public interest to do so and if the prohibition satisfies the board's standards of fiduciary care and loyalty.

Existing law prohibits the boards of administration of the Public Employees' Retirement System and the State Teachers' Retirement System from investing funds in a company with active business operations in Sudan, as specified, from investing in a company that has certain business operations in Iran, as specified, and from investing in thermal coal companies, as defined.

This bill would require the boards of administration of the Public Employees' Retirement System and the State Teachers' Retirement System to make a specified report, on or before April 1, 2018, to the Legislature and the Governor regarding investments in the Dakota Access Pipeline, as defined. The bill would declare the intent of the Legislature that the boards, on or before April 1, 2018, review and consider factors related to tribal sovereignty and indigenous tribal rights as part of the boards' investment policies related to environmental, social, and governance issues. The bill would provide that it does not require a board to take any action unless the board determines in good faith that the action is consistent with the board's fiduciary responsibilities established in the constitution. The bill would make additional related legislative findings and declarations.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) The Dakota Access Pipeline that is being built in the southern region of North Dakota was originally planned to run north of Bismarck, North Dakota, but for a variety of reasons, including environmental concerns regarding potential harm to the water supply of Bismarck and surrounding communities, it was rerouted south.

(b) The Dakota Access Pipeline is now routed just north and upstream of the Standing Rock Sioux Reservation. Thousands of people representing over 200 indigenous tribes have set up camp in an effort to block the construction of the pipeline through sacred land and, most significantly, to protect the water supply that the Sioux tribe there relies upon for its survival.

(c) The hostility of local law enforcement and the North Dakota National Guard against unarmed protestors has reached dangerous levels. In recent confrontations, law enforcement has used water cannons against unarmed protesters in frigid

temperatures, in addition to the ongoing use of rubber bullets and chemical agents.

(d) As Californians, we must hold ourselves to a high standard of conduct, including how we invest our pension funds. This includes, morally and fiscally, the millions of dollars that the Public Employees' Retirement System and the State Teachers' Retirement System have invested in the Dakota Access Pipeline.

SEC. 2. Section 7513.72 is added to the Government Code, to read:

7513.72. (a) As used in this section:

(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 profitmaking purposes or to otherwise secure economic advantage.

(3) "Dakota Access Pipeline" means the oil pipeline connecting the Bakken oil fields in northwest North Dakota to Illinois, traveling through South Dakota and Iowa, that runs north and upstream of the Standing Rock Sioux Reservation.

(4) "Investment" means the purchase, ownership, or control of publicly issued stock, corporate bonds, or other debt instruments issued by a company.

(5) "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.

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

(1) A list of investments the board has in companies constructing, or funding the construction of, the Dakota Access Pipeline.

(2) A list of companies identified pursuant to paragraph (1) with which the board has constructively engaged, including:

(A) A detailed description of the board and its staff's engagement activities with each company, including, but not limited to, the number of engagement interactions with each company.

(B) A detailed description of the results of the engagement, including, but not limited to, agreements reached between the board and the company.

(C) An evaluation as to the efficacy of the engagement, including, but not limited to, whether the engagement resulted in a change of action by the investing firm or company with which funds were invested.

(c) It is the intent of the Legislature that on or before April 1, 2018, the board review and consider factors related to tribal sovereignty and indigenous tribal rights as part of the board's investment policies related to environmental, social, and governance issues.

(d) Nothing in this section 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 described in Section 17 of Article XVI of the California Constitution.