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**AB-1320 Public employee retirement systems: prohibited investments: Turkey.** (2019-2020)

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**Assembly Bill No. 1320**

**CHAPTER 459**

An act to amend, repeal, and add Section 16642 of, and to add and repeal Section 7513.74 of, the Government Code, relating to public employee retirement systems.

[ Approved by Governor October 02, 2019. Filed with Secretary of State October 02, 2019. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1320, Nazarian. Public employee retirement systems: prohibited investments: Turkey.

The California Constitution grants the retirement board of a public employee retirement system plenary authority and fiduciary responsibility for investment of moneys and administration of the retirement fund and system. The California Constitution qualifies this grant of powers by reserving to the Legislature the authority to prohibit investments if it is in the public interest and the prohibition satisfies standards of fiduciary care and loyalty required of a retirement board. Existing law prohibits the boards of administration of the Public Employees' Retirement System and the State Teachers' Retirement System from making investments in certain countries and in thermal coal companies, as specified, subject to the boards' plenary authority and fiduciary responsibility for investment of moneys and administration of the systems.

This bill, upon the passage of a federal law that imposes sanctions on the government of Turkey for failure to officially acknowledge its responsibility for the Armenian Genocide, would prohibit the boards of administration of the Public Employees' Retirement System and the State Teachers' Retirement System from making additional or new investments, or renewing existing investments, of public employee retirement funds in an investment vehicle in the government of Turkey that is issued by the government of Turkey or that is owned by the government of Turkey. The bill would require the boards to liquidate existing investments in the government of Turkey within 18 months of the passage of the above-described federal law. The bill would require these boards to make specified reports to the Legislature and the Governor regarding these actions within one year of the passage of a federal law imposing those sanctions on the government of Turkey and on or before January 1, 2024. The bill would specify that its provisions do not require a board to take any action that the board determines in good faith is inconsistent with its constitutional fiduciary responsibilities to the retirement system. The bill would indemnify from the General Fund and hold harmless the present, former, and future board members, officers, and employees of, and investment managers under contract with, the boards, in connection with actions relating to these investments. The bill would repeal the above-described prohibited investment and reporting provisions on January 1, 2025, or if a determination is made by the board, the Department of State, the Congress of the United States, or another appropriate federal agency that the government of Turkey has officially acknowledged its responsibility for the Armenian Genocide, whichever occurs first.

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 the following:

(a) The State of California has officially recognized the Armenian Genocide each year for decades and has repeatedly urged the Republic of Turkey to acknowledge the facts of the Armenian Genocide and work toward a just resolution, honor its obligations under international treaties and human rights laws, end all forms of religious discrimination and persecution, and return Christian church properties to their rightful owners.

(b) Genocide is defined by the United Nations as an act “committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group.”

(c) Genocide denial is widely viewed as among the final stages of genocide and serves to perpetuate the effects of genocide even after the active phases of extermination, massacres, forced marches, and deportation have ended.

(d) The government of Turkey has engaged and continues to engage in an ongoing campaign of genocide denial and historical revisionism by refusing to acknowledge its responsibility for the Armenian Genocide, refusing to compensate its victims, and actively pursuing a well-funded political lobbying campaign throughout the United States, including in California, to rewrite history and defeat legislation recognizing the Armenian Genocide.

(e) The government of Turkey has engaged, and continues to engage, in efforts to effect Armenian cultural erasure since the founding of the Republic of Turkey, including, but not limited to, ethnic cleansings and the destruction of sacred Armenian religious sites.

(f) A reference in Turkey by any scholar, journalist, or other person to the massacre and deportation of Armenians in 1915 to 1923, inclusive, as genocide can be criminally prosecuted under Article 301 of the Turkish Penal Code.

(g) The State of California is home to the largest Armenian American population in the United States, and Armenians living in California, most of whom are direct descendants of the survivors of the Armenian Genocide, have enriched our state through their leadership and contributions in business, agriculture, academia, government, and the arts, yet continue to suffer the effects of the continued denial campaign by the government of Turkey.

(h) The State of California, as the world's fifth largest economy as of February 2019, and in accordance with principles of human rights and justice, has taken the lead in adopting legislation to divest from South Africa for its policy of apartheid, Sudan for its genocide in Darfur, and Iran for its support of international terrorism, imposing economic consequences upon regimes that engage in conduct and policy that violate human rights or constitute crimes against humanity.

(i) It is the government of Turkey, not the people of Turkey, that is responsible for Turkey's continued egregious violations of human rights and active pursuit of genocide denial, cultural erasure, and historical revisionism.

(j) Investment in the Republic of Turkey enables its government to continue to deny justice to the Armenian people.

(k) Divesting funds held in trust by the Public Employees' Retirement System and the State Teachers' Retirement System to pay for public employees' retirement benefits would ensure that the State of California is in no way complicit in the continued denial of the Armenian Genocide by the government of Turkey and would encourage said government to acknowledge the Armenian Genocide and to reach a fair and just resolution of reparations for the survivors of the Armenian Genocide.

**SEC. 2.** Section 7513.74 is added to the Government Code, to read:

**7513.74.** (a) As used in this section, the following terms have the following meanings:

(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) “Government of Turkey” means the government of Turkey or its instrumentalities or political subdivisions.

(3) “Public employee retirement funds” means the Public Employees' Retirement Fund described in Section 20062 and the Teachers' Retirement Fund described in Section 22167 of the Education Code.

(4) “Turkey” means the Republic of Turkey.

(b) Upon passage of a federal law by both the United States House of Representatives and the United States Senate, and signed by the President of the United States, imposing sanctions on the government of Turkey for failure to officially acknowledge its responsibility for the Armenian Genocide, the board shall not make additional or new investments or renew existing investments of public employee retirement funds in any investment vehicle in the government of Turkey that meets either of the following criteria:

(1) The investment vehicle is issued by the government of Turkey.

(2) The investment vehicle is owned by the government of Turkey.

(c) The board shall liquidate investments as described in subdivision (b), within 18 months of the passage of a federal law, pursuant to subdivision (b), that imposes sanctions on the government of Turkey for failure to officially acknowledge its responsibility for the Armenian Genocide.

(d) Within one year of the passage of a federal law pursuant to subdivision (b) imposing sanctions on the government of Turkey for failure to officially acknowledge its responsibility for the Armenian Genocide, the board shall file a report with the Legislature, in compliance with Section 9795, and with the Governor, that shall include the following:

(1) A list of investment vehicles in the government of Turkey of which the board has liquidated its investments pursuant to subdivision (c).

(2) A list of investment vehicles in the government of Turkey of which the board has not liquidated its investments as a result of a determination made pursuant to subdivision (e) that a sale or transfer of investments is inconsistent with the fiduciary responsibilities of the board as described in Section 17 of Article XVI of the California Constitution and the board's findings adopted in support of that determination.

(e) 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.

(f) (1) Before an extension of the operation of this section, the board shall, using methods or processes as determined by the board, reevaluate the merit of continuing the prescribed divestment action, including, but not limited to, the financial effects of the divestment action on the fiduciary responsibilities of the board pursuant to Section 17 of Article XVI of the California Constitution.

(2) On or before January 1, 2024, the board shall submit a report to the Legislature with the information described in paragraph (1) on the merit of continuing the prescribed divestment action.

(3) A report submitted pursuant to this subdivision shall be submitted in compliance with Section 9795.

(g) This section shall be repealed on the earlier of the following dates:

(1) Upon a determination by the board, the Department of State, the Congress of the United States, or other appropriate federal agency, that the government of Turkey has officially acknowledged its responsibility for the Armenian Genocide.

(2) January 1, 2025.

**SEC. 3.** Section 16642 of the Government Code is amended to read:

**16642.** (a) Present, future, and former board members of the Public Employees' Retirement System or the State Teachers' Retirement System, jointly and individually, state officers and employees, research firms described in subdivision (d) of Section 7513.6, and investment managers under contract with the Public Employees' Retirement System or the State Teachers' Retirement System shall be indemnified from the General Fund and held harmless by the State of California from all claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, including court costs and attorney's fees, and against all liability, losses, and damages of any nature whatsoever that these present, future, or former board members, officers, employees, research firms as described in subdivision (d) of Section 7513.6, or contract investment managers shall or may at any time sustain by reason of any decision to restrict, reduce, or eliminate investments pursuant to Sections 7513.6, 7513.7, 7513.74, and 7513.75.

(b) This section shall remain in effect only until Section 7513.74 is repealed, and as of that date is repealed.

**SEC. 4.** Section 16642 is added to the Government Code, to read:

**16642.** (a) Present, future, and former board members of the Public Employees' Retirement System or the State Teachers' Retirement System, jointly and individually, state officers and employees, research firms described in subdivision (d) of Section 7513.6, and investment managers under contract with the Public Employees' Retirement System or the State Teachers' Retirement System shall be indemnified from the General Fund and held harmless by the State of California from all claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, including court costs and attorney's fees, and against all liability, losses, and damages of any nature whatsoever that these present, future, or former board members, officers, employees, research firms as described in subdivision (d) of Section 7513.6, or contract investment managers shall or may at any

time sustain by reason of any decision to restrict, reduce, or eliminate investments pursuant to Sections 7513.6, 7513.7, and 7513.75.

(b) This section shall become operative upon the repeal of Section 7513.74.