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SB-1089 Public employee retirement systems: prohibited investments: Turkey. (2021-2022)

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Senate Bill No. 1089

CHAPTER 541

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

[Approved by Governor September 25, 2022. Filed with Secretary of State September 25, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1089, Wilk. 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.

Existing law, 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, prohibits 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. Existing law repeals the above-described prohibited investment and reporting provisions on January 1, 2025, or if a determination is made by the board, the United States 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.

This bill would change the January 1, 2025, sunset date to January 1, 2035.

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

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

SECTION 1. Section 7513.74 of the Government Code is amended 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 United States 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, 2035.