

# STATE TEACHERS' RETIREMENT SYSTEM

## BILL ANALYSIS

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### **Senate Bill 1245**

**Senator Hayden (As Amended 5/20/99)**

### **Position:**

**Support**

### **Proponents:**

**Association of Holocaust Survivors from former USSR, Auschwitz Study Foundation, Inc., B'Nai Tikvah Congregation, City of Los Angeles, Hebrew Union College-Jewish Institute of Religion, National Council of Jewish Women, Skirball Cultural Center, Southern California Council for Soviet Jews, Survivors of the Shoah, Valley Beth Shalom**

### **Opponents:**

**None known**

## **SUMMARY**

SB 1245, an urgency measure, requires the Teachers' Retirement Board, the Public Employees' Retirement System (CalPERS) Board of Administration and the State Treasurer to monitor and report to the Legislature investments in businesses that owe compensation to victims of slave labor from 1929 to 1945.

SB 1245 also authorizes any World War II slave labor victim or World War II forced labor victim, or heir of the victim, to bring a court action in California to recover compensation for labor performed against any person who received the benefit of that labor. The bill provides that any action brought will not be dismissed for failure to comply with the applicable statute of limitations (two years for an action based on contract) if the action is commenced on or before December 31, 2010. These latter provisions have no direct impact on CalSTRS, and are not addressed further in this analysis.

## **HISTORY**

AB 2443 (Burton) of 1989 (vetoed) would have required the Board to annually investigate the extent to which U.S. corporations operating in Northern Ireland in which CalSTRS' assets were invested were adhering to nondiscrimination principles. The Board adopted an Oppose position because the necessary information to comply with provisions of the bill was not available at the time.

AB 1330 (Burton) of 1991 (vetoed) was identical to SB 105 (Burton, 1998) which requires CalSTRS and CalPERS to produce an annual investment report (see below). The Board adopted a Neutral position.

AB 1527 (Burton) of 1993 (vetoed) was nearly identical to SB 105 (Burton, 1998) which requires CalSTRS and CalPERS to produce an annual investment report (see below). The Board adopted a Neutral position.

SB 1879 (Hayden) 1997 (vetoed) would have prohibited state trust funds and state trust moneys from being used in any business arrangements or transactions involving Swiss banks or Swiss investment firms and prohibited state moneys from being deposited with or used to make any business arrangements or transactions with Swiss banks or Swiss investment firms unless the State Treasurer determined that the bank or firm satisfactorily settled with parties involved in a dispute with the bank or firm about assets owned by Holocaust victims that were being held by the bank or firm. The bill was amended to delete provisions impacting CalSTRS investments. The Board adopted No Position on that bill.

AB 1715 (Knox) 1997 (vetoed) proposed the Holocaust Victim Insurance Relief Act of 1998 and required the Insurance Commissioner to establish and maintain the Holocaust Insurance Registry, which would have contained records and information relating to insurance policies of possible victims of the Holocaust. In addition, any Holocaust victim, or heir of a Holocaust victim, who resided in California and had a claim arising out of an insurance policy purchased or in effect in Europe before 1945 could have brought a legal action to recover on that claim. Under the bill any claim could not be dismissed for failure to comply with the statute of limitation, if the action was commenced on or before December 31, 2010.

Chapter 43, Statutes of 1998 (AB 1334) permits any Holocaust victim, or heir of a Holocaust victim, who resided in California and had a claim arising out of an insurance policy purchased in Europe between 1920 and 1945 from a specified insurer to bring a legal action to recover on a claim. Any action brought by a Holocaust victim or the heir or beneficiary of a Holocaust victim, whether a resident or nonresident of this state, seeking proceeds of the insurance policy issued or in effect between 1920 and 1945 would not have been dismissed for failure to comply with the applicable statute of limitation if commenced on or before December 31, 2010.

SB 105 (Burton) of 1998 requires the CalSTRS Board and the CalPERS Board of Administration to annually investigate the extent to which U.S. and international corporations operating in Northern Ireland, and in which the assets of these systems are invested, adhere to the principles of nondiscrimination in employment and freedom of workplace opportunity. Requires CalSTRS and CalPERS to compile a list of corporations operating in Northern Ireland and to provide information on the corporations' efforts to achieve specific goals concerning equal opportunity for employees. Requires CalSTRS and CalPERS, whenever feasible, to support shareholder resolutions designed to encourage corporations in which it has invested to pursue a policy of affirmative action in Northern Ireland. The Board adopted a Support position.

## **CURRENT PRACTICE**

CalSTRS does not currently maintain a list or monitor the System's investments in companies and their affiliates doing business in California that owe compensation to victims of Nazi slave and forced labor from 1935 to 1945.

## **DISCUSSION**

According to the author of SB 1245, under the Nazi concentration camp system, the inmates were "loaned," for a set fee, to private German industry. The inmates did not personally receive compensation for their services. German banks were also involved in slave and forced labor arrangements by financing these activities of the Nazi SS.

Governor Davis is a plaintiff in a San Francisco County Superior Court lawsuit filed as a private attorney general suit on behalf of several individual California residents who were used as slave labor and otherwise persecuted during the Nazi holocaust. A second lawsuit was filed in the Los Angeles County Superior Court (Case #BC206512) by the Simon Wiesenthal Center of Los Angeles. Causes of action in the L.A. County case include intentional infliction of emotional distress and unfair business practices. The plaintiffs are seeking recovery for the value of the services performed and punitive damages. One of the defendants named in the suit is Philipp Holzman AG, and its California subsidiary, Holzman USA and Metric Constructor's, Inc. in California. This company built the Lufthansa Aircraft Hanger in Frankfurt between 1959 and 1961.

Proposition 162, the Pension Simplification Act of 1992, granted public employees' retirement systems sole and exclusive constitutional authority over their respective investment and administrative decisions (Article XVI of the California Constitution, Section 17). The duty of a public retirement system board to its participants and beneficiaries takes precedence over any other duty set forth by the Legislature. SB 1245 is distinct, however, from previous corporate investment bills. This bill does not propose the divestment of stocks owned by the System, nor does it limit or restrict the corporations or types of stocks that may be held by the System.

The provision of SB 1245 requiring CalSTRS to monitor and report to the Legislature on investments in companies and their affiliates doing business in California that owe compensation to victims of slaved and forced labor from 1935 to 1945 does not impose a significant burden on CalSTRS. There are vendors that can provide the necessary information, and assist the System in maintaining and evaluating the data, on an ongoing basis. As drafted, however, it is not clear whether a report is submitted only once, or on an ongoing basis.

## **FISCAL IMPACT**

Benefit Program - No impact.

Administration- CalSTRS holds investments in corporations that do business in California that owe compensation to victims of slave labor between 1929 and 1945. CalSTRS holdings in these companies totaled \$1.2 billion, as of March 1, 1999.

There does not appear to be any significant cost or other impact to compile the list or monitor the system's investments in these corporations. The Investor Responsibility Research Center (IRRC) is an independent non-profit research provider whose products have been used by CalSTRS to determine the impact of divestment measures. The IRRC could provide the information needed to implement SB 1245 through their evaluation service, at an estimated total cost of under \$10,000 for each year a report was required.

## **POSITION - Support**

The bill, in its current form, would not limit the Board's investment authority, or impose any significant administrative burden on the System. In addition, monitoring the investments described in the bill would facilitate the Board's policy to support efforts to reduce "social injury" caused by corporations in which the System invests.