

STATE TEACHERS' RETIREMENT SYSTEM

BILL ANALYSIS

Senate Bill 105.

Senator Burton (As Introduced 12/10/98)

Position:

Support, If Amended

Proponents:

**California School Employees Association (CSEA)
California Teachers Association (CTA)**

Opponents:

None known

SUMMARY

SB 105 requires the Teachers' Retirement Board (CalSTRS) and the Board of Administration of the Public Employees' Retirement System (CalPERS) to annually investigate the extent to which United States corporations operating in Northern Ireland, and in which CalSTRS and CalPERS assets are invested, adhere to the principles of nondiscrimination in employment and freedom of workplace opportunity. The bill requires CalSTRS and CalPERS to compile a list of corporations operating in Northern Ireland and provide information on the corporations' efforts to achieve specific goals concerning equal opportunity for employees. Finally, the bill requires those retirement boards, 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.

HISTORY

AB 2443 (Burton, 1989) - vetoed

SB 105 is identical to AB 2443 (Burton, 1989). The Board adopted an Oppose Unless Amended position on the earlier bill because the necessary information to comply with the bill was not available at that time.

ACR 138 (Resolution Chapter 83, 1990)

This resolution reaffirmed the Legislature's support of the MacBride Principles and directed the Office of Auditor General to determine the extent to which U.S. firms in which state retirement system funds are invested and which have business operations in Northern Ireland are adhering to specified goals encompassed in the MacBride Principles. The STRS Board did not take a position on ACR 138.

AB 1330 (Burton, 1991) - vetoed

The Board adopted a Neutral position on AB 1330, which was also identical to SB 105.

AB 1527 (Burton, 1993) - vetoed

The Board adopted a Neutral position on this bill, which was also identical to SB 105.

Other similar legislation, AB 1935 (Hayden, 1987) and ACR 139 (Hayden, 1988), died in Assembly policy committee. The Board adopted an Oppose position on AB 1935 because the necessary information to comply with the bill was not available at that time and it restricted investments in corporations not in compliance with the Principles. The Board did not adopt a position on ACR 139.

CURRENT PRACTICE

CalSTRS does not currently maintain a list or independently monitor the System's investments in domestic and/or international corporations doing business in Northern Ireland. However, it is Board policy to vote in favor of shareholder resolutions which, if implemented, prevent, reduce or eliminate social injury. Social injury includes undermining equal opportunity in employment. In addition, the CalSTRS Board specifically has, since 1989, broadly supported shareholder resolutions proposed in support of adherence to the MacBride Principles by domestic corporations.

DISCUSSION

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 105 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 Investor Responsibility Research Center (IRRC) is an independent non-profit research provider. According to the IRRC, before the British Parliament strengthened its fair employment law to promote fair employment in Northern Ireland, in the early 1980's, the New York City Comptroller's Office drafted nine principles of fair employment. These principles, known as the MacBride Principles, named for Sean MacBride, Nobel Laureate and founder of Amnesty International, consist of nine affirmative action-fair employment principles. The principles were modeled after the Sullivan Principles for South Africa. The MacBride Principles were proposed to the public in November 1984 by Irish National Caucus (INC) members Sean MacBride, John Robb, Inez McCormack and the Reverend Brian Brady. Since that time, the Principles have been actively promoted by the INC, a Washington D.C.-based non-profit organization founded in 1974 by Father Sean McManus. The INC is a group of Irish-Americans and is based in Washington D.C.

The nine principles of affirmative action and fair employment embodied in the MacBride Principles state:

- (1) The increased representation of individuals from underrepresented religious groups in the work force, including managerial, supervisory, administrative, clerical, and technical jobs.
- (2) The provision of adequate security for the protection of minority employees both at the work place and while traveling to and from work.
- (3) The banning of provocative religious or political emblems from the work place.
- (4) The public advertisement of all job openings and the use of special recruitment efforts to attract applicants from underrepresented religious groups.
- (5) The establishment of layoff, recall, and termination procedures which do not, in practice, favor particular religious groupings.
- (6) The abolition of job reservations, apprenticeship restrictions, and differential employment criteria, which discriminate on the basis of religion or ethnic origin.
- (7) The development of training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees.
- (8) The establishment of procedures to assess, identify, and actively recruit minority employees with potential for further advancement.
- (9) The appointment of senior management staff members to oversee affirmative action efforts and the setting up of timetables to carryout affirmative action principles.

Support for the MacBride Principles has become significant:

- (1) Sixteen states have passed MacBride Principles legislation and the Principles have been endorsed by 40 cities (Source: *The MacBride Principles* by Father Sean McManus, December 1997).
- (2) Prominent labor organizations, including the AFL-CIO and the National Education Association, have endorsed the Principles.
- (3) Over the last three proxy seasons, the level of shareholder support for shareholder resolutions asking companies to make efforts to implement the MacBride Principles has grown from 11.8 percent to 12.9 percent.
- (4) The New York City pension funds and their allies, notably the State of Minnesota and the Interfaith Center for Corporate Responsibility, have conducted an active shareholder campaign in support of shareholder resolutions.
- (5) A number of large corporations have implemented the Principles, including AT&T, Dupont, Ford Motor Company, General Motors, IBM, 3M Corp., Philip Morris and Texaco.

The provision of SB 105 requiring CalSTRS to compile a list of specified securities would not impose a significant burden on the CalSTRS Investment Branch. There are vendors that can provide the necessary information, and assist the System in maintaining and evaluating the data, on an ongoing basis. Furthermore, it is consistent with existing Board policy to support shareholder resolutions in support of the MacBride Principles; CalSTRS has supported such resolutions when submitted by other shareholders.

FISCAL EFFECT

CalSTRS holds investments in 155 U.S. and international corporations that do business in Northern Ireland. The system's holdings in these corporations totals \$7.7 billion; this figure represents about 12 percent of CalSTRS' combined equity and fixed income portfolio, as of November 30, 1998.

There would not appear to be any significant cost or other impact to compile the list of corporations doing business in Northern Ireland. The IRRC is an independent non-profit research provider whose products were used by CalSTRS in determining the impact of divestment measures. The IRRC could provide the necessary information through their evaluation service, which covers both domestic and international equities, for about \$7,000 annually. CalSTRS staff would incur additional, absorbable costs of about \$8,000 in related staff effort.

POSITION

The Board adopted a Support, If Amended position on SB 105 (Burton). Support of shareholder resolutions in support of the Principles is consistent with the Board's current governance policy. In addition, compiling the required list would not impose a meaningful administrative burden.

The Board recommends three amendments:

- (1) The bill requires CalSTRS to investigate the extent that U.S. corporations adhere to the MacBride Principles (page 2, line 23), but other provisions concerning the development of the list (page 2, line 31) and the support of shareholder resolutions (page 3, line 38) are not specifically limited to U.S. corporations. The bill should be clarified that it applies to domestic and international corporations;
- (2) SB 105 requires the list of corporate actions in the preceding year to be compiled by January 1, one day after the end of that year. Because of the time needed to compile the information, the deadline should read on or before March 1st of each year;
- (3) The bill does not indicate if the list is to be submitted to any specific entity such as the Legislature or the Governor. The bill should be amended to specify that the report will be issued and sent to the Legislature.

The CalSTRS' proposed amendments are attached.

PROPOSED AMENDMENTS TO SB 105, ORIGINAL VERSION

- On page 2 line 7 insert: “domestic and international” after “in”
- line 12 insert: : "and international" after "United States"
- line 19 delete: "January" and insert: "March"
- line 22 insert: "and report to the Legislature on" after "investigate"
- line 23 insert: "and international" after "United States"
- line 31 insert: "domestic and international" before "corporations"
- On page 3 line 38 insert: "domestic and international" before "corporations"