CALSTRS
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STATE AND CONSUMER SERVICES AGENCY

BILL ANALYSIS

| ***CONFIDENTIAL-Government Code §6254(l)*** | | |
|---|---|---|
| Department: California State Teachers' Retirement System | Author: Anderson | Bill Number: AB 221 |
| Internal Routing: | Sponsor: Author | Version: Amended July 18, 2007 |
| Subject: Public Retirement Systems: Investments: Iran | | Related Bills: SB 461 (Ashburn) |

## SUMMARY

Assembly Bill 221 finds that investments in publicly traded foreign companies with business operations in Iran, designated by the U.S. as the premier state sponsor of terrorism, are liable to be sanctioned under United States law thereby carrying increased risk. The bill intends to protect the California State Teachers' Retirement System (CalSTRS) and the California Public Employees Retirement System (CalPERS) from this increased risk by requiring them to divest from investments in such companies when such divestment is consistent with their fiduciary responsibilities. It also requires CalSTRS and CalPERS to report such divestment activity to the Legislature and indemnifies the Board.

## PURPOSE OF THE BILL

AB 221 seeks to reduce the risk to public pension funds from investments in businesses that have operations in Iran, which is sponsoring terrorism and developing nuclear weaponry. Additionally, the author wants to ensure both public pension systems do not unwittingly contribute to Iranian terrorism and the buildup of nuclear arms.

| Departments That May Be Affected: CalSTRS | | | |
|---|---|---|---|
| ☐ New / Increased Fee | ☐ Governor's Appointment | ☐ Legislative Appointment | |
| ☐ State Mandate | ☐ Urgency Clause | ☐ Regulations Required | ☒ Legislative Report |

| Board Position | Agency Secretary Position | Governor Office Use Only |
|---|---|---|
| ☐ S ☐ O ☐ Defer to: | ☐ S ☐ O ☐ Defer to: | ________ Position Approved |
| ☐ SA ☒ OUA | ☐ SA ☐ OUA | ________ Position Disapproved |
| ☐ N ☐ NP | ☐ N ☐ NP | ________ Position Noted |
| ☐ NA | ☐ NA | ________ No Position |
| Director Date | Agency Secretary Date | By Date |

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## BOARD POSITION

**Oppose unless amended.** The Board condemns terrorism, violations of human rights in Iran and wherever it occurs. However, AB 221 is inconsistent with CalSTRS' investment policy, its Statement of Investment Responsibility, and its legislative Geo-Political Risk Strategy. It infringes on the Board's constitutionally based fiduciary authority and duty and will result in fewer investment opportunities. Additionally, the bill's overly broad criteria defining companies to be sanctioned will make implementation difficult to impossible.

## SUMMARY OF AMENDMENTS

The amendment of June 18, 2007:

- Added to Section 7513.7(b)(2) the requirement that the Iranian organization with which the targeted company is doing business must be one which "has been" labeled a terrorist organization by the Unites States government. In principle, this opens up the criterion to include any Iranian organization that has ever been so labeled at any time rather than only those Iranian organizations that are currently so labeled.

The amendments of June 14, 2007:

- Added Iranian natural gas to those resources that would make those companies engaged in doing business in such subject to divestment.
- Gave identified businesses one year from the date of initial notice to take substantial action, as defined, before CalSTRS will take further action.
- Added a severability clause.

The amendments of June 1, 2007:

- As a condition of targeting for divestment, added Iranian petroleum resources to those industries that would make those companies engaged in doing business in such subject to divestment and required that they also be subject to sanctions under the Iranian Sanctions Act of 1996.

The amendments of May 1, 2007:

- Cited Iran as an example of those countries that sponsor terrorism and which are involved in the proliferation of weapons of mass destruction.
- Added to the declarations that Public Law provides for sanctions against any entity that has invested at least $20 million to develop the petroleum resources of Iran.
- Laid blame on the Government of Iran, not the people of Iran, for its terrorist support.
- Stated that it is the Board which will identify those companies in which they shall not invest as they deem appropriate through publicly available information including, but not limited to, information provided by non-profit and other organizations and government entities.
- Whereas previous to this amendment the entity engaged in business operations in Iran would have been determined by the Department of State, this amendment specified that it is now determined by the United States Government.
- Struck the subdivision prohibiting investment in companies that supply military equipment or equipment that may be used for military purposes where there are not safeguards to prevent such use.
- Added to the Board's legislative reporting duty that it annually calculate and report any financial results including costs or investment losses resulting from the bill's provisions.
- Specified that, for the bill to become inoperative the Department of State must remove Iran from its list of countries that repeatedly support terrorism and, pursuant to the Iran Sanctions Act of 1996, the President must certify to Congress that Iran has ceased its efforts to design, develop, manufacture, or acquire a nuclear explosive device or related materials and technology.

## LEGISLATIVE HISTORY

H.R. 2347 (2007) would require the U.S. government, through an agency designated by the President, to publish every 6 months a list of U.S. and foreign companies that have an investment of more than $20 million in the energy sector of Iran and would permit state and local governments to divest their pension plans and other funds under their control of any company on the list. The measure also indemnifies the systems, their officers and any persons or companies providing services related to such divestment action.

Chapter 441, Statutes of 2006, (AB 2179—Leslie) indemnified from the state General Fund all current or former regents, officers, employees, and contractors of the University of California (UC) from all liability for any decision of the UC Regents not to invest in any company involved in significant business activities that provide revenue to the Sudanese government.

Chapter 442, Statutes of 2006 (AB 2941—Koretz) required CalSTRS and CalPERS to divest from companies having business operations in the Sudan, according to specified criteria.

Resolution Chapter 98, Statutes of 2005 (ACR 11—Dymally) requested that CalSTRS and CalPERS encourage in the funds those companies that are doing business in Sudan to refrain from actions that promote or otherwise enable human rights violations in the Sudan.

AB 2745—Kaloogian (2000) would have encouraged CalSTRS and CalPERS not to invest in foreign companies that pose a threat to national security and to annually report to the Legislature regarding such investments, as specified. Held in Assembly Appropriations Committee.

SB 1928—Haynes (2000) would have encouraged the CalSTRS and CalPERS not to invest in foreign companies that pose specified threats. Held in the Assembly Appropriations Committee.

Chapter 341 Statutes of 1999 (SB 105—Burton) mandated that CalSTRS report investments in companies operating in Northern Ireland and that it encourage affirmative action there, as specified. The bill did not require divestment, but allowed engagement.

Chapter 30. Statutes of 1994 (SB 1285—Watson) repealed AB 134, the 1986 South African divestment bill, and granted indemnification of the Board. The Board supported this bill because it was consistent with the Board's fiduciary duty and expanded its investment opportunities.

Chapter 1254, Statutes of 1986 (AB 134—M. Waters) required state pension systems to divest state trust moneys annually by one-third the value of their investments in firms with business operations in South Africa or business arrangements with the government of South Africa and in financial institutions making or increasing loans or extensions of credit to the government of South Africa or a South African corporation. The bill specified exemptions and granted Board indemnification.

## PROGRAM BACKGROUND

With an approximately $171 billion portfolio, CalSTRS is invested in a wide variety of securities around the globe. As such, CalSTRS assets are invested in many multi-national companies that do business across the world. Some of these companies carry on business in countries where the United States government or the United Nations (UN) have expressed concerns about human rights conditions and state sponsored terrorism.

United States Sanctions

The United States first listed Iran as a state sponsor of terrorism on January 19, 1984. According to the U.S. State Department, Iran remains the most active state sponsor of terrorism.

On October 29, 1987, President Reagan issued an executive order imposing an import embargo on Iranian-origin goods and services which, under the authority of the Security and Development Cooperation Act of 1985, gave rise to the Iranian Transactions Regulations (the "ITR"). In 1995, President Clinton issued executive orders prohibiting U.S. involvement with petroleum development in Iran and virtually all trade and investment activities with Iran by U.S. persons, wherever located. As a result, most American companies are barred from operating in Iran. Nevertheless, foreign companies are allowed to operate in Iran unless their own governments similarly prohibit such activities.

That being said, several efforts have been made to sanction foreign companies for conducting business operations either in Iran or with Iranian entities. Specifically, the Iran Sanctions Act "the ISA," originally the Iran-Libya Sanctions Act, was signed into law by President Clinton on August 5, 1996 (Public Law 104-172). The ISA calls for the President to impose various sanctions on foreign companies that make an investment of more than $20 million in one year in Iran's energy sector. However, the ISA contains within it, a provision allowing for the President to waive sanctions if the country where the violating firm is based agrees to impose its own sanctions or if the President certifies that doing so is important to the U.S. national interest. As a result of international disagreements regarding the usefulness of sanctions and an EU threatened counter-measure in the World Trade Organization, on May 18, 1998, President Clinton waived sanctions, citing the latter grounds regarding U.S. national interest. Recent efforts to force the executive branch to apply specific sanctions have largely been ineffective though the ISA itself has been successfully extended until December 31, 2011. Nevertheless, to date, no sanctions have been imposed on any foreign company under the ISA.

In response to the increasing threat of a nuclear armed Iran, the Iran Nonproliferation Act[1] "the INA" (Public Law 106-178) was signed into law in March 2000. The INA sanctions prohibit listed foreign companies from doing business with the U.S. government and will prevent them from being able to purchase certain U.S. technologies. The list does not however prohibit investment in such companies by other U.S. entities. Over 40 entities and individuals have been sanctioned under the INA since 2001.

In 2001, the SEC created an Office of Global Security Risk to provide guidance about such investments. In 2004, Congress directed the new SEC office to list all companies traded on American stock exchanges that do business in terrorist countries. However, according to several state officials as well as correspondence between them and the SEC, the SEC has provided only limited information.

UN Sanctions

The UN Security Council unanimously approved a binding resolution (Resolution 1737) under Chapter 7 on December 23, 2006 sanctioning Iran for refusing to suspend nuclear enrichment programs. That resolution called for freezing the assets of individuals and entities identified as having a key role in Iran's nuclear program, prohibited countries from supplying Iran with dual-use equipment and barred Iran from exporting any nuclear weapons-related equipment or technology to other countries. A second UN resolution (Resolution 1747) cosponsored by Britain, France and Germany was recently approved on March 25, 2007, by the UN Security Council that allowed for broadening the scope of UN sanctions imposed on Iran in December 2006. These sanctions include the banning of arms exports from Iran and imposing a freeze on the financial assets of 28 individuals and entities.

CalSTRS Investment Policies and Practices

The fiduciary standards in the Teachers' Retirement Law require the Board, CalSTRS officers and employees to discharge their duties with respect to CalSTRS solely in the interests of the

[1] http://thomas.loc.gov/cgi-bin/bdquery/z?d106:h.r.1883:

members and beneficiaries for the exclusive purpose of providing benefits, and to defray reasonable expenses of administering the plan.

Under the provisions of Article XVI, Section 17 of the California Constitution, as amended by Proposition 162 (The Pension Protection Act of 1992), the Board has plenary authority and fiduciary responsibility over the investment of retirement plan assets. The authority confers upon the Board the exclusive duty to manage and diversify those assets with the care, skill, and diligence of a prudent person engaged in a similar enterprise, so as to maximize investment returns and minimize the risk of loss. When considering investments, the preservation of principal and maximization of income is the primary and underlying criteria for the selection and retention of securities. The Constitution also states, however, that the Legislature may, by statute, continue to prohibit certain investments by a retirement board where it is in the public interest to do so, and provided the prohibition satisfies the standards of fiduciary care and loyalty required of a retirement board.

The CalSTRS investment portfolio is managed and governed by a series of comprehensive investment policies. This helps maintain a consistent and thoughtful investment approach, which experts cite as critical for institutional investment success. Over the past years, the Board's Investment Committee has dealt with major issues of geopolitical risk. To help identify and evaluate investment risks relating to conditions such as recognition of the rule of law, shareholder rights, human rights, the environment, terrorism and others, CalSTRS has developed a list of 20 Risk Factors to serve as a guide for its emerging market investment managers to reduce CalSTRS' exposure to crisis situations around the globe.

Recently, CalSTRS staff has actively engaged companies suspected of conducting business in Iran. Specifically, CalSTRS has written letters to 13 companies held as part of the investment portfolio to determine exactly what type of business they may or may not be conducting in Iran. CalSTRS requested that responses be received by July 31, 2007.

Also, by placing the geopolitical risk segment in the overall risk section of the CalSTRS Investment Policy and Management Plan, the 20 Risk Factors originally developed for the Emerging Markets Portfolio have recently been applied to the entire CalSTRS Portfolio. This change helps the Investment Committee manage both this current risk related to Iran and future geopolitical risk issues to further ensure that all investment decisions made, by either internal or external investment managers, consider the 20 Risk Factors when making an investment decision.

## ANALYSIS

AB 221:

- Finds that investments in publicly traded foreign companies with business operations in Iran, which sponsors terrorism, are liable to be sanctioned under United States law thereby carrying increased risk.

- Prohibits the Board of Administration of both CalSTRS and CalPERS from investing public employee retirement funds in any company that meet either of the following two criteria:
    1. *Criterion one*: The company meets this criterion if it meets either of its two parts.

   a. Part one: The company is invested in or engaged in business operations with entities in the defense or nuclear sectors of Iran.
   b. Part two: The company is invested in or engaged in business operations with entities involved in the development of Iranian petroleum or natural resources and it is subject to sanctions under the Iran Sanctions Act of 1996.
2. *Criterion two*: the company has been labeled as a terrorist organization by the United States government.

- Requires the Board to do the following by March 30, 2008:
  - Review public and other information and contact other institutional investors regarding companies with business operations in Iran,
  - Determine those companies that meet specified criteria and whether the board plans to invest or has investments in such companies,
  - Send written notice to such companies that the company may be subject to this law,
  - Request that the company take substantial action, defined as a boycott of Iran, within 90 days.

- Requires that, if the company does not make sufficient progress towards substantial action within 90 days, the Board shall not make additional or new investments or renew existing investments in that company and shall liquidate the investments of the board in that company within 18 months consistent with the Board's California Constitutional fiduciary responsibilities.

- Requires every 90 days, the board shall monitor and review the progress of the company until that company has taken substantial action in Iran.

- Requires the board to file an annual report with the Legislature describing a list of investments the board has in such companies, whether they have reduced their investments in such companies and when the Board anticipates full divestment of such investments or the reasons why a sale or transfer of investments is inconsistent with its fiduciary responsibilities.

- Permits the Board to comply with this section of law only when the board determines, in good faith, that such action is consistent with its fiduciary responsibilities.

- Exempts humanitarian, educational, journalistic, religious, or welfare companies and U.S. companies authorized by the federal government to have business operations in Iran.

- Sunsets the provisions of this bill when:
  - The U.S. Department of State removes Iran from its list of countries that provide support for international terrorism and
  - The U.S. President revokes current sanctions against Iran.

- Indemnifies the Board and CalSTRS and CalPERS staff and investment managers for any personal liability associated with divesting stock pursuant to this bill.

- Includes a severability clause. The invalidity of one provision in the bill will not make other provisions of the bill invalid as long as the valid provisions can still be carried out without the invalid provision.

AB 221 requires the Board to divest from companies "invested in or engaged in business operations with entities in the defense or nuclear sectors of Iran." However, the bill does not define the terms "defense" and "nuclear." "Nuclear sector" is not a generally recognized business category and may include nuclear medicine. Additionally, the legislation does not provide a revenue dollar threshold for involvement. If a company does any business with Iran in the defense, energy or nuclear sectors, regardless of its impact on the Government of Iran or its' various activities involving terrorism and nuclear proliferation, the company would be a candidate for divestment. Indeed, the criteria in AB 221 for targeting companies are so broad that it would include virtually all U.S. businesses. This is because it includes businesses that do business with or invest in those businesses that operate in the targeted sectors and, therefore, may be far removed from those sectors. For example, a company that sells copier paper to Royal Dutch Shell would be included for divestment.

There is no federal sanctions list. Allusions in committee hearings and elsewhere to a federal list of companies to be sanctioned and that such a list would, therefore, simplify the Board's process of determining such companies are in error. Though it is true that the Iran Sanctions Act of 1996 requires the President to publish a list in the Federal Register of 'persons and entities on whom sanctions have been imposed under this Act,' the bill is permissive, allowing the President to waive sanctions for specified reasons. To date, both the Clinton and Bush administrations have waived sanctions, therefore, no list of sanctioned companies has been created.[2] Legislative proposals requiring the Executive branch of the federal government to produce a sanction list have been made in the past but have not been enacted. The State Department does publish in the Federal Register a list of companies that have been subject to sanctions under the Iran Nonproliferation Act; but the criteria for that list is too narrow for AB 221, which is broader and would cover companies that are not on this list. Absent an authoritative Federal sanctions list, AB 221 would place a regulatory burden on CalSTRS that may be legally inhibiting.

Given the President's waiver authority and the fact that no sanctions have to date been imposed, the Federal government appears to be an unreliable agent for determining how CalSTRS should conduct manage its portfolio for this purpose.

Moreover, the reliance on federal public law leaves the fund open to implementation and transparency problems. It is also not clear how a company would be removed from such a list as the Public Law cites any investment since 1996 and does not require the investment to be ongoing. Also, the Public Law has a 5-year sunset provision, which, if not renewed, would not allow for the possibility of the Public Law expiring without the President's certification.

Reliance on federal law could also be viewed as shifting the trustee's fiduciary responsibilities to a third party which would seem to be in conflict with Proposition 162. Not only does the bill's reliance on other organizations and government entities circumvent the investment authority of the Board, these organizations are not agents of the Trustees and have neither fiduciary duty to the Fund's beneficiaries nor any interest in the Fund's security. Though the bill permits the Board to not divest when divestment would be inconsistent with its fiduciary duty, the bill's

[2] Congressional Research Service, The Library of Congress, Order Code RS20871, January 25, 2007, 4.

overarching intent is to circumvent the Board's existing corporate governance policies and engagement processes and to impose on it a set of divestment criteria and a divestment process.

The response time given to companies to explain their ties to Iran appears arbitrary, requiring companies to take actions to get rid of the ties "no later than 90 days from the date the board notified the company." If these requirements are not met by day 91, then the Board must refrain from making additional or new investments or renewing investments in that company. This means that the large passive, core portfolio will not track its benchmark and that volatility and risk will be increased without any expectation of a commensurate return. This bill affects all of the asset classes in the portfolio. As the Board will have to make its findings public, the fund will be a motivated seller with an explicit selling schedule, a fact that can only weaken its selling position and worsen the divestiture impact as it did during the Sudan divestment under AB 2941 (Koretz).

Additionally, the fund could incur significant negative performance as the reduced investment opportunities would create tracking error with indexes that contain prohibited securities. Manager's performance could suffer by missing out on investment opportunities as they would have to wait until research determined that the companies were not doing business in Iran before making investments.

To reduce the tracking error that would be incurred by the equity managers, the trustees may need to change the Benchmark Modification policy to somehow cover Iran related securities as well as possibly extend it to be binding to Active managers. Fixed income would suffer possibly more severe tracking error as certain government issuers could have ties to Iran. The impact on Real Estate would likely be minimal.

The law would have a significant impact on the decision-making ability of the Investment Managers, both internally and externally, as it would require them to verify that new investments would not be in violation of the law. As a result of slowing down the investment process, investment returns might suffer.

In addition, after the initial research and engagement process, staff would be required to continuously monitor divested companies for a change in behavior. By forcing CalSTRS to liquidate, we would be removed from the discussion table regarding the issue of Iran. The law would require staff to notify all identified companies, held as public equity, private equity, real estate, and fixed income, of the impending divestment decision and encourage the companies to alter their current practices. Additionally, staff would be burdened with conducting this process before making any investment into any new company or issuer. Staff would also have to continually allocate time and resources to the task of monitoring investments in the portfolio as well as clearing new investments.

Among its corporate governance efforts, in March, 2007, CalSTRS joined multi-billion-dollar PG&E, BP America, Sun Micro-systems, DuPont, CalPERS and other institutional investors, asset managers and major corporations in signing a public statement calling for a mandatory national policy on reducing greenhouse gas emissions. In addition, CalSTRS has ongoing involvement with local and international organizations that promote a better understanding of the financial risks and investment opportunities posed by climate change. As a result last year, AIG, the world's largest insurance company, became the first U.S. insurer to announce a climate change policy. These efforts demonstrate that CalSTRS' engagement process can bring about corporate policy change.

Divesting will reduce investment opportunities, thus exposing the fund to more volatility and potentially negative returns. Reducing investment opportunities and incurring the cost of compliance with the law would result in increased risk and possibly poor performance which could result in an increase to the unfunded liability. AB 221 is too broad and onerous on staff resources, has too short a time frame for implementation, and would have questionable influence on the Iranian Government. Finally, the legislation does not indemnify or allocate any funds for the losses it may sustain by divesting.

## RECENT FEDERAL LEGISLATION

The House Financial Services Committee, on May 23, passed with broad bipartisan support new legislation to facilitate divestment by pension funds of investments in companies that invest in Iran's energy sector. The measure, H.R. 2347 – the "Iran Sanctions Enabling Act of 2007" – would require the U.S. government, through an agency designated by the President, to publish every 6 months a comprehensive list of U.S. and foreign companies that have an investment of more than $20 million in the energy sector of Iran.

In addition, State and local governments would be authorized to divest their pension plans and other funds under their control of any company on the list. Anticipating arguments that State divestment efforts are unwarranted intrusions into the Federal government's foreign policy authority, the legislation declares a federal policy of support to the states to divest from Iran's energy sector. This authorization is both retroactive to cover past divestment and proactive to cover future divestment. AB 221 also indemnifies the systems, their officers and any persons or companies that provide services related to this divestment action. Sen. Barack Obama (D-Ill.) introduced the companion legislation in the Senate (S. 1430).

## OTHER STATES' INFORMATION

In October, 2006, the Missouri State Treasurer convinced the Missouri State Employees Retirement System, which has $6 billion in assets, to unanimously adopt a policy to divest from companies with links to sponsors of terrorism.

Louisiana enacted legislation in 2005 authorizing the state's 13 pension funds to divest from companies doing business in and with terrorist-sponsoring nations. The Louisiana sheriff's pension fund was the first to put into place a "terror-free" investment policy. Pennsylvania recently pushed through a new statute to toughen a 2003 law requiring state authorities to report on state holdings in companies operating in terror-sponsoring countries. Similar bills have been introduced in Alaska, Arizona and Tennessee requiring those state's pension funds to report on all of their holdings in American companies active in terrorism-sponsoring countries.

The “Iran Sanctions Act of 1996,”[3] later amended,[4] intended “to deny Iran the ability to support acts of international terrorism and to fund the development and acquisition of weapons of mass destruction and the means to deliver them by limiting the development of Iran’s ability to explore for, extract refine, or transport by pipeline petroleum resources of Iran.”[5] The law required, with exceptions, the President of the United States to impose sanctions on companies with more than $20 million in business operations in Iran and, when such sanctions were imposed, to publish in the Federal Register a list of companies so sanctioned.

Florida passed a law[6] in June 2007 requiring Florida’s State Board of Administration, which administers Florida’s public retirement fund, to divest from companies doing business with Iran, under specified conditions and according to specified procedures. The bill passed 39 to 0 in Florida’s Senate and 118 to 0 in Florida’s House. The author stated that the bill was supported by Florida AFL-CIO, Florida Education Association, Council of American Federation of State, Municipal and Council Employees in Florida, Sudan Divestment, Genocide Intervention Network, Jewish Community Relations Council, Anti-Defamation League and “Numerous Synagogues and Churches.” There were no registered opponents. The Florida State Board of Administration, Florida’s public pension system, did not take a position on the bill.

In June, 2007, facing the threat of a bill that would have required they divest as soon as possible from all holdings in Iran and Sudan, Ohio’s five public pension systems opposed the bill because it infringed on the pensions’ fiduciary obligation but agreed to divest of approximately half of their investments in those countries without passage of the legislation.[7]

Also in June 2007, the Illinois legislature passed and sent to Governor Rod Blagojevich a bill requiring the State’s five pension systems to divest holdings in Iran-connected companies in energy and other natural resource areas.[8]

## FISCAL IMPACT

**<u>Benefit Program Cost</u> –** While the performance of the investment portfolio affects the ability to fund the benefits CalSTRS may offer its membership, AB 221 does not directly impact CalSTRS’ benefit programs. The actual cost of engagement and divestment will depend on variable such as: (1) companies identified for divestment, (2) criteria for divestment, (3) CalSTRS’ holdings in those companies, and (4) timing for such divestment not to mention the opportunity cost associated with the loss of that company to the investment portfolio.

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[3] 50 USC 1702, Public Law 104-172, August 5, 1996.

[4] Public Law 107-24 (2001) and Public Law 109-267(2006) and as renewed and amended by Public Law 109-293 (2006) also known as the “Iran Freedom Support Act.”

[5] 50 USC 1702, Public Law 104-172, August 5, 1996, Section 3 (a).

[6] Florida SB 2142, http://election.dos.state.fl.us/laws/07laws/ch_2007-088.pdf.

[7] Columbus Dispatch June 8, 2007, http://orta.org/pension_news_6-12-07.htm

[8] Pension & Investmtent, June 25, 2007, http://www.pionline.com/apps/pbcs.dll/article?AID=/20070625/REG/70622025/1039/FRONTPAGE.

**<u>Administrative Costs/Savings</u> –** The exact fiscal impact is unknown, but it is certain to be significant. CalSTRS anticipates considerable costs associated with litigation over breaches of fiduciary duty. Estimates of the impact of this bill could exceed $500 million in investment losses and more than $1 billion in future opportunity costs over five years. Additional costs of maintaining special separate accounts and increased trading costs from the loss of common stock.

## SUPPORT/OPPOSITION

**Support:** American Jewish Congress, Brotherhood Organization of a New Destiny, California Conference of Machinists, Children of Jewish Holocaust Survivors of Los Angeles, Congregation Mogen David, Jewish Community Forum of Orange County, Jewish Federation of Greater Los Angeles, Jewish Federation of Greater Santa Barbara, Jewish Labor Committee, Simon Wiesenthal Center, Stand With Us, UNITE HERE, United Food & Commercial Workers Western States Council, over 200 letters from individuals.

**Opposition:** CalSTRS, CFT, CSEA, SEIU.

## ARGUMENTS

**Pro:**

Could eliminate any perception that CalSTRS funds being invested in companies that do business in countries that support or allow inappropriate activities.

**Con:**

- Interferes with the Board’s constitutional duty to manage investments.
- Divestment criteria are overly broad and vague.
- Will likely impact investment performance adversely.

## LEGISLATIVE STAFF CONTACT

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