

File No. 230185

Committee Item No. \_\_\_\_\_

Board Item No. 39

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: \_\_\_\_\_

Date: \_\_\_\_\_

Board of Supervisors Meeting

Date: February 28, 2023

### Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Award Letter
- Application
- Public Correspondence

### OTHER

- SB 252
- CSAC/LCC Confirmation 021523
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Prepared by: Arthur Khoo

Date: February 23, 2023

Prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

1 [Supporting California State Senate Bill No. 252 (Gonzalez) - Public Retirement Systems:  
2 Fossil Fuels: Divestment]

3 **Resolution supporting California State Senate Bill No. 252, introduced by Senator Lena**  
4 **Gonzalez, requiring the California Public Employees' Retirement System (CalPERS)**  
5 **and the California State Teachers' Retirement System (CalSTRS) to divest from fossil**  
6 **fuel companies.**

7  
8 WHEREAS, On January 30, 2023, Senator Lena Gonzalez, introduced Senate Bill NO.  
9 252 to amend Government Code, Section 16642, and add Section 7513.76 to prohibit the  
10 governing boards of the California Public Employees' Retirement System (CalPERS) and the  
11 California State Teachers' Retirement System (CalSTRS) from making new investments or  
12 renewing existing investments of public employee retirement funds in a fossil fuel company,  
13 as defined; and

14 WHEREAS, Senate Bill No. 252 would require these pension funds to stop investing in  
15 fossil fuel companies immediately and divest all their holdings in the largest 200 companies by  
16 2030; and

17 WHEREAS, Fossil fuels are the primary drivers of climate change due to their  
18 significant carbon emissions. Divesting from fossil fuels sends a clear signal to the fossil fuel  
19 industry and governments that Americans are no longer willing to support activities that harm  
20 the planet and exacerbate climate change; and

21 WHEREAS, The financial risks associated with investing in fossil fuels are increasing.  
22 As the world moves towards renewable energy, fossil fuel investments are likely to become  
23 less profitable and even become stranded assets, leading to significant financial losses for  
24 investors; and

25

1           WHEREAS, On April 23, 2013, the San Francisco Board of Supervisors passed, by a  
2 unanimous vote, a Resolution urging the San Francisco Retirement Board of the San  
3 Francisco Employees' Retirement System (SFERS) to divest from publicly-traded fossil fuel  
4 companies; and

5           WHEREAS, On September 12, 2017, the San Francisco Board of Supervisors again  
6 passed, by unanimous vote, a Resolution urging SFERS to divest from publicly-traded fossil  
7 fuel companies; and

8           WHEREAS, On January 31, 2022, The Rules Committee of the San Francisco Board  
9 of Supervisors passed, by unanimous vote, a Charter Amendment (First Draft) to adopt a  
10 Declaration of Policy urging the Retirement Board to divest from fossil fuels; and

11           WHEREAS, On file with the Clerk of the Board of Supervisors in File No. 211288,  
12 which is hereby declared to be a part of this resolution as if set forth fully herein; and

13           WHEREAS, On June 6, 2016, the largest public pension fund in Washington, D.C.  
14 successfully purged its \$6.4 billion fund of all direct holdings in fossil fuels. The District of  
15 Columbia Retirement Board joins more than 500 cities, philanthropies, universities and other  
16 organizations worldwide with assets totaling more than \$3.4 trillion that have divested from at  
17 least some fossil fuels or pledged to do so; and

18           WHEREAS, On January 10, 2018, New York City Mayor Bill de Blasio announced the  
19 City is moving forward with full fossil fuel divestment; and

20           WHEREAS, Divesting from fossil fuels creates an opportunity to invest in more  
21 sustainable industries that align with California's social and environmental goals which will  
22 encourage the growth of renewable energy and other sustainable industries, and mitigate  
23 climate change; now, therefore, be it

24           RESOLVED, That the Board of Supervisors of the City and County of San Francisco  
25 supports Senate Bill No. 252, requiring the CalPERS and CalSTRS to divest their fossil fuel

1 holdings; and, urges CalPERS and CalSTRS to take a stand against climate change,  
2 minimize financial risks, and promote social and environmental responsibility.

3 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San  
4 Francisco directs the Clerk of the Board of Supervisors to transmit a copy of this Resolution to  
5 Senator Lena Gonzalez and Senator Scott Weiner as well as to the Executive Directors of  
6 CalPERS and CalSTRS.

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**Introduced by Senators Gonzalez, Stern, and Wiener**January 30, 2023

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An act to amend Section 16642 of, and to add Section 7513.76 to, the Government Code, relating to public retirement systems.

## LEGISLATIVE COUNSEL'S DIGEST

SB 252, as introduced, Gonzalez. Public retirement systems: fossil fuels: divestment.

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. These provisions qualify 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 the Public Employees' Retirement System and the State Teachers' Retirement System from making new investments or renewing existing investments of public employee retirement funds in a thermal coal company, as defined. Existing law requires the boards to liquidate investments in thermal coal companies on or before July 1, 2017, and requires the boards, in making a determination to liquidate investments, to constructively engage with thermal coal companies to establish whether the companies are transitioning their business models to adapt to clean energy generation. Existing law provides that it does not require a board to take any action unless the board determines in good faith that the action is consistent with the board's fiduciary responsibilities established in the California Constitution.

This bill would prohibit the boards of the Public Employees' Retirement System and the State Teachers' Retirement System from making new investments or renewing existing investments of public employee retirement funds in a fossil fuel company, as defined. The bill would require the boards to liquidate investments in a fossil fuel company on or before July 1, 2030. The bill would temporarily suspend the above-described liquidation provision upon a good faith determination by the board that certain conditions materially impact normal market mechanisms for pricing assets, as specified, and would make this suspension provision inoperative on January 1, 2035. The bill would provide that it does not require a board to take any action unless the board determines in good faith that the action is consistent with the board's fiduciary responsibilities established in the California Constitution.

This bill would require the boards, commencing February 1, 2025, and annually thereafter, to file a report with the Legislature and the Governor, containing specified information, including a list of fossil fuel companies of which the board has liquidated their investments. The bill would provide that board members and other officers and employees shall be held harmless and be eligible for indemnification in connection with actions taken pursuant to the bill's requirements, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7513.76 is added to the Government  
2 Code, to read:  
3 7513.76. (a) The Legislature finds and declares all of the  
4 following:  
5 (1) The combustion of coal, oil, and natural gas, known as fossil  
6 fuels, is the single largest contributor to global climate change.  
7 (2) Climate change affects all parts of the California economy  
8 and environment, and the Legislature has adopted numerous laws  
9 to mitigate greenhouse gas emissions and to adapt to a changing  
10 climate.  
11 (3) Fossil fuel companies' plans to expand production, public  
12 relations campaigns, and efforts to obstruct climate stabilization

1 policies are incompatible with California’s climate goals, and our  
2 obligation to current and future generations.

3 (4) The production of fossil fuels and the effects of climate  
4 change resulting from the use of fossil fuels all lead to  
5 disproportionate adverse impacts on low-income communities and  
6 communities of color.

7 (5) A transition away from fossil fuels to clean energy will  
8 create greater employment, support the economy, and improve  
9 public health.

10 (6) The purpose of this section is to require the Public  
11 Employees’ Retirement System and the State Teachers’ Retirement  
12 System, consistent with, and not in violation of, their fiduciary  
13 responsibilities, to divest their holdings of fossil fuel company  
14 investments as one part of the state’s broader efforts to decarbonize  
15 the California economy and to transition to clean, pollution-free  
16 energy resources.

17 (b) As used in this section, the following definitions apply:

18 (1) “Board” means the Board of Administration of the Public  
19 Employees’ Retirement System or the Teachers’ Retirement Board  
20 of the State Teachers’ Retirement System, as applicable.

21 (2) “Company” means a sole proprietorship, organization,  
22 association, corporation, partnership, venture, or other entity, or  
23 its subsidiary or affiliate, that exists for profitmaking purposes or  
24 to otherwise secure economic advantage.

25 (3) “Investment” means the purchase, ownership, or control of  
26 publicly issued stock, corporate bonds, or other debt instruments  
27 issued by a company. “Investments” also includes purchase,  
28 ownership, or control of mutual funds and exchange-traded funds,  
29 unless the board is satisfied on reasonable grounds that a mutual  
30 fund or exchange-traded fund is unlikely to have in excess of 2  
31 percent of its assets, averaged annually, directly or indirectly  
32 invested in fossil fuel companies.

33 (4) “Public employee retirement funds” means the Public  
34 Employees’ Retirement Fund described in Section 20062 of this  
35 code, and the Teachers’ Retirement Fund described in Section  
36 22167 of the Education Code.

37 (5) “Fossil fuel” means petroleum oil, natural gas, and thermal  
38 coal. Thermal coal is coal used to generate electricity, such as that  
39 which is burned to create steam to run turbines. Thermal coal does  
40 not mean metallurgical coal or coking coal used to produce steel.

1 (6) “Fossil fuel company” means one of the 200 largest publicly  
2 traded fossil fuel companies, as established by carbon content in  
3 the companies’ proven oil, gas, and coal reserves.

4 (c) The board shall not make additional or new investments or  
5 renew existing investments of public employee retirement funds  
6 in a fossil fuel company.

7 (d) (1) The board shall liquidate investments in a fossil fuel  
8 company on or before July 1, 2030.

9 (2) Notwithstanding paragraph (1), this subdivision shall be  
10 suspended upon a good faith determination by the board that an  
11 act of God, war, or other unforeseeable event creates conditions  
12 that materially impact normal market mechanisms for pricing assets  
13 and shall only be reinstated upon a subsequent good faith finding  
14 of the board that market conditions have substantially returned to  
15 normal ex-ante. Upon such a finding, the board shall have six  
16 months to liquidate any remaining investments in a fossil fuel  
17 company.

18 (3) Paragraph (2) shall remain in effect only until January 1,  
19 2035, and as of that date is inoperative.

20 (e) (1) Commencing February 1, 2025, and annually on  
21 February 1 thereafter, the board shall create a report that includes  
22 the following:

23 (A) A list of fossil fuel companies of which the board has  
24 liquidated its investments pursuant to subdivision (d).

25 (B) A list of fossil fuel companies with which the board still  
26 has not liquidated its investments.

27 (C) A list of fossil fuel companies of which the board has not  
28 liquidated its investments as a result of a determination made  
29 pursuant to subdivision (f) that a sale or transfer of investments is  
30 inconsistent with the fiduciary responsibilities of the board as  
31 described in Section 17 of Article XVI of the California  
32 Constitution and the board’s findings adopted in support of that  
33 determination.

34 (D) An analysis of methods and opportunities to rapidly and  
35 effectively reduce dependence on fossil fuels and transition to  
36 alternative energy sources in a realistic timeframe that avoids  
37 negatively contributing to economic conditions particularly  
38 damaging to public employee retirement funds and to overall net  
39 employment earnings of the state’s workforce.



1 (2) The board shall submit the report to the Legislature, in  
2 compliance with Section 9795, and to the Governor, and shall post  
3 the report on the board’s internet website.

4 (f) Nothing in this section shall require a board to take action  
5 as described in this section unless the board determines in good  
6 faith that the action described in this section is consistent with the  
7 fiduciary responsibilities of the board described in Section 17 of  
8 Article XVI of the California Constitution.

9 SEC. 2. Section 16642 of the Government Code, as amended  
10 by Section 3 of Chapter 459 of the Statutes of 2019, is amended  
11 to read:

12 16642. (a) Present, future, and former board members of the  
13 Public Employees’ Retirement System or the State Teachers’  
14 Retirement System, jointly and individually, state officers and  
15 employees, research firms described in subdivision (d) of Section  
16 7513.6, and investment managers under contract with the Public  
17 Employees’ Retirement System or the State Teachers’ Retirement  
18 System shall be indemnified from the General Fund and held  
19 harmless by the State of California from all claims, demands, suits,  
20 actions, damages, judgments, costs, charges, and expenses,  
21 including court costs and attorney’s fees, and against all liability,  
22 losses, and damages of any nature whatsoever that these present,  
23 future, or former board members, officers, employees, research  
24 firms as described in subdivision (d) of Section 7513.6, or contract  
25 investment managers shall or may at any time sustain by reason  
26 of any decision to restrict, reduce, or eliminate investments  
27 pursuant to Sections 7513.6, 7513.7, 7513.74, ~~and 7513.75.~~  
28 *7513.75, and 7513.76.*

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

31 SEC. 3. Section 16642 of the Government Code, as added by  
32 Section 4 of Chapter 459 of the Statutes of 2019, is amended to  
33 read:

34 16642. (a) Present, future, and former board members of the  
35 Public Employees’ Retirement System or the State Teachers’  
36 Retirement System, jointly and individually, state officers and  
37 employees, research firms described in subdivision (d) of Section  
38 7513.6, and investment managers under contract with the Public  
39 Employees’ Retirement System or the State Teachers’ Retirement  
40 System shall be indemnified from the General Fund and held

1 harmless by the State of California from all claims, demands, suits,  
2 actions, damages, judgments, costs, charges, and expenses,  
3 including court costs and attorney’s fees, and against all liability,  
4 losses, and damages of any nature whatsoever that these present,  
5 future, or former board members, officers, employees, research  
6 firms as described in subdivision (d) of Section 7513.6, or contract  
7 investment managers shall or may at any time sustain by reason  
8 of any decision to restrict, reduce, or eliminate investments  
9 pursuant to Sections 7513.6, 7513.7, ~~and 7513.75~~; 7513.75, and  
10 7513.76.

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

O

**From:** [Hsu, Melody \(BOS\)](#)  
**To:** [BOS Legislation, \(BOS\)](#)  
**Cc:** [Angulo, Sunny \(BOS\)](#); [Somera, Alisa \(BOS\)](#)  
**Subject:** RE: PESKIN - Resolution In Support Senate Bill 252  
**Date:** Wednesday, February 15, 2023 10:52:47 AM  
**Attachments:** [20230SB252\\_99 \(1\).pdf](#)  
[image001.png](#)

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Hello Jocelyn,  
Please find my comments inline.

1. PDF copy of Senate Bill 252
  - a. attached
2. Per Board Rule 2.8.2, please confirm that organizations such as the California State Association of Counties and League of California Cities have not taken a position on these bills. If they have, please provide a copy of their statement for completeness of the file.
  - a. Confirming these organizations have not taken a position.

Lastly, since the item is requested to be placed on the For Adoption Without Committee Reference of the agenda, pursuant to Board Rule 2.1.2, please confirm that these matters are routine, not contentious in nature, and of no special interest. Thank you.

[Confirming these matters are routine, not contentious in nature, and of no special interest.](#)

Warmly,  
Melody

Melody Hsu | 徐美  
Legislative Aide | 市參事助理  
Office of Board President Aaron Peskin | 市參事佩斯金辦公室  
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[Sign up](#) to receive our [newsletter here!](#)

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**From:** BOS Legislation, (BOS) <[bos.legislation@sfgov.org](mailto:bos.legislation@sfgov.org)>  
**Sent:** Wednesday, February 15, 2023 10:11 AM  
**To:** Hsu, Melody (BOS) <[melody.hsu@sfgov.org](mailto:melody.hsu@sfgov.org)>  
**Cc:** Angulo, Sunny (BOS) <[sunny.angulo@sfgov.org](mailto:sunny.angulo@sfgov.org)>; Somera, Alisa (BOS) <[alisa.somera@sfgov.org](mailto:alisa.somera@sfgov.org)>; BOS Legislation, (BOS) <[bos.legislation@sfgov.org](mailto:bos.legislation@sfgov.org)>  
**Subject:** RE: PESKIN - Resolution In Support Senate Bill 252

Hi Melody,

Please provide the following to complete this submission:

1. PDF copy of Senate Bill 252

2. Per Board Rule 2.8.2, please confirm that organizations such as the [California State Association of Counties](#) and [League of California Cities](#) have *not* taken a position on these bills. If they have, please provide a copy of their statement for completeness of the file.

Lastly, since the item is requested to be placed on the For Adoption Without Committee Reference of the agenda, pursuant to Board Rule 2.1.2, please confirm that these matters are routine, not contentious in nature, and of no special interest. Thank you.

## **Jocelyn Wong**

Legislative Clerk

San Francisco Board of Supervisors

1 Dr. Carlton B. Goodlett Place, Room 244

San Francisco, CA 94102

T: 415.554.7702 | F: 415.554.5163

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**(VIRTUAL APPOINTMENTS)** To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

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---

**From:** Hsu, Melody (BOS) <[melody.hsu@sfgov.org](mailto:melody.hsu@sfgov.org)>

**Sent:** Wednesday, February 15, 2023 10:06 AM

**To:** Somera, Alisa (BOS) <[alisa.somera@sfgov.org](mailto:alisa.somera@sfgov.org)>; BOS Legislation, (BOS) <[bos.legislation@sfgov.org](mailto:bos.legislation@sfgov.org)>

**Cc:** BOS-Legislative Aides <[bos-legislative\\_aides@sfgov.org](mailto:bos-legislative_aides@sfgov.org)>; Angulo, Sunny (BOS) <[sunny.angulo@sfgov.org](mailto:sunny.angulo@sfgov.org)>

**Subject:** PESKIN - Resolution In Support Senate Bill 252

Good morning,

Please find President Peskin's Resolution In Support of Senate Bill 252, along with the introduction form attached. Please let us know if you would also like to co-sponsor or if you have any questions.

Thank you,

Melody

Melody Hsu | 徐美

Legislative Aide | 市參事助理

Office of Board President Aaron Peskin | 市參事佩斯金辦公室

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[melody.hsu@sfgov.org](mailto:melody.hsu@sfgov.org)

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# Introduction Form

(by a Member of the Board of Supervisors or the Mayor)



I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- 2. Request for next printed agenda (For Adoption Without Committee Reference)  
*(Routine, non-controversial and/or commendatory matters only)*
- 3. Request for Hearing on a subject matter at Committee
- 4. Request for Letter beginning with "Supervisor  inquires..."
- 5. City Attorney Request
- 6. Call File No.  from Committee.
- 7. Budget and Legislative Analyst Request (attached written Motion)
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Topic submitted for Mayoral Appearance before the Board on

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- Small Business Commission       Youth Commission       Ethics Commission
- Planning Commission       Building Inspection Commission       Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- Yes                       No

*(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)*

Sponsor(s):

Subject:

Long Title or text listed:

Signature of Sponsoring Supervisor: