

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

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| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
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| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
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OTHER

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| <input type="checkbox"/> | <input checked="" type="checkbox"/> | SB 252 |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | CSAC/LCC Confirmation 021523 |
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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

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.

Introduced by Senators Gonzalez, Stern, and Wiener

January 30, 2023

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.

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

(f) 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.

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

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

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

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

16642. (a) Present, future, and former board members of the Public Employees' Retirement System or the State Teachers' Retirement System, jointly and individually, state officers and employees, research firms described in subdivision (d) of Section 7513.6, and investment managers under contract with the Public Employees' Retirement System or the State Teachers' Retirement 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](#)

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
Office: 415-554-7450
Direct: 415-554-7419
melody.hsu@sfgov.org
[Sign up](#) to receive our [newsletter here!](#)

From: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Sent: Wednesday, February 15, 2023 10:11 AM
To: Hsu, Melody (BOS) <melody.hsu@sfgov.org>
Cc: Angulo, Sunny (BOS) <sunny.angulo@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>; BOS Legislation, (BOS) <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

jocelyn.wong@sfgov.org | www.sfbos.org

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

Due to the current COVID-19 health emergency and the Shelter in Place Order, the Office of the Clerk of the Board is working remotely while providing complete access to the legislative process and our services



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

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

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

Cc: BOS-Legislative Aides <bos-legislative_aides@sfgov.org>; Angulo, Sunny (BOS) <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

Office: 415-554-7450

Direct: 415-554-7419

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:

