
THE CALIFORNIA PENSION PROTECTION ACT OF 1992

Section One. Title. This act shall be known and may be cited as "The California Pension Protection Act of 1992."

Section Two. Findings and Declarations. The People of the State of California hereby find and declare as follows:

(a) Retired citizens depend upon their pension benefits to meet basic necessities such as food and shelter during their retirement years. For many elderly citizens who are not eligible to participate in Social Security, pension benefits are their sole source of financial support and security.

(b) Teachers, firefighters, police officers and other local, school and state employees depend on promised pension benefits, which must be protected from political abuse and misappropriation.

(c) Politicians have undermined the dignity and security of all citizens who depend on pension benefits for their retirement by repeatedly raiding their pension funds.

(d) Political meddling has driven the federal Social Security system to the brink of bankruptcy. To protect the financial security of retired Californians, politicians must be prevented from meddling in or looting pension funds.

(e) Raids by politicians on public pension funds will burden taxpayers with massive tax increases in the future.

(f) To protect pension systems, retirement board trustees must be free from political meddling and intimidation.

(g) The integrity of our public pension systems demands that safeguards be instituted to prevent political "packing" of retirement boards, and encroachment upon the sole and exclusive fiduciary powers or infringement upon the actuarial duties of those retirement boards.

(h) In order to protect pension benefits and to avoid the prospect of higher taxes, the People must act now to shield the pension funds of this state from abuse, plunder and political corruption.

Section Three. Purpose and Intent. The People of the State of California hereby declare that their purpose and intent in enacting this measure is as follows:

(a) To protect pension funds so that retirees and employees will continue to be able to enjoy a basic level of dignity and security in their retirement years.

(b) To give voters the right to approve changes in the composition of retirement boards containing elected retirees or employee members.

(c) To protect the taxpayers of this state against future tax increases which will be required if state and local politicians are permitted to divert public pension funds to other uses.

(d) To ensure that the assets of public pension systems are used exclusively for the purpose of efficiently and promptly providing benefits and services to participants of these systems, and not for other purposes.

(e) To give the sole and exclusive power over the management and investment of public pension funds to the retirement boards elected or appointed for that purpose, to strictly limit the Legislature's power over such funds, and to

prohibit the Governor or any executive or legislative body of any political subdivision of this state from tampering with public pension funds.

(f) To ensure that all actuarial determinations necessary to safeguard the competency of public pension funds are made under the sole and exclusive direction of the responsible retirement boards.

(g) To affirm the legal principle that a retirement board's duty to its participants and their beneficiaries takes precedence over any other duty.

NOTE

Provisions deleted due to the adoption of the Proposition are printed in ~~strikeout type~~ and new provisions added by the Proposition are printed in **capitals** and are **bold**.

Section Four. Section 17 of Article XVI of the California Constitution is hereby amended to read as follows:

Section 17. The state shall not in any manner loan its credit, nor shall it subscribe to, or be interested in the stock of any company, association, or corporation, except that the state and each political subdivision, district, municipality, and public agency thereof is hereby authorized to acquire and hold shares of the capital stock of any mutual water company or corporation when the stock is so acquired or held for the purposes of furnishing a supply of water for public, municipal or governmental purposes; and the holding of the stock shall entitle the holder thereof to all of the rights, powers and privileges, and shall subject the

holder to the obligations and liabilities conferred or imposed by law upon other holders of stock in the mutual water company or corporation in which the stock is so held.

Notwithstanding ANY OTHER provisions OF LAW OR THIS CONSTITUTION to the contrary in this section and Section 6 of Article XVI, the Legislature may authorize the investment of moneys of any public pension or retirement system, subject to all of the following: **THE RETIREMENT BOARD OF A PUBLIC PENSION OR RETIREMENT SYSTEM SHALL HAVE PLENARY AUTHORITY AND FIDUCIARY RESPONSIBILITY FOR INVESTMENT OF MONIES AND ADMINISTRATION OF THE SYSTEM, SUBJECT TO ALL OF THE FOLLOWING:**

(a) **THE RETIREMENT BOARD OF A PUBLIC PENSION OR RETIREMENT SYSTEM SHALL HAVE THE SOLE AND EXCLUSIVE FIDUCIARY RESPONSIBILITY OVER THE ASSETS OF THE PUBLIC PENSION OR RETIREMENT SYSTEM. THE RETIREMENT BOARD SHALL ALSO HAVE SOLE AND EXCLUSIVE RESPONSIBILITY TO ADMINISTER THE SYSTEM IN A MANNER THAT WILL ASSURE PROMPT DELIVERY OF BENEFITS AND RELATED SERVICES TO THE PARTICIPANTS AND THEIR BENEFICIARIES.** The assets of a public pension or retirement system are trust funds and shall be held for the exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system.

(b) The ~~fiduciary~~ **MEMBERS OF THE RETIREMENT BOARD** of ~~the~~ A public pension or retirement system shall discharge ~~his~~

~~or her~~ **THEIR** duties with respect to the system solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system. **A RETIREMENT BOARD'S DUTY TO ITS PARTICIPANTS AND THEIR BENEFICIARIES SHALL TAKE PRECEDENCE OVER ANY OTHER DUTY.**

(c) The ~~fiduciary~~ **MEMBERS OF THE RETIREMENT BOARD** of ~~the~~ A public pension or retirement system shall discharge ~~his~~ ~~or her~~ **THEIR** duties with respect to the system with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

(d) The ~~fiduciary~~ **MEMBERS OF THE RETIREMENT BOARD** of ~~the~~ A public pension or retirement system shall diversify the investments of the system so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly ~~prudent~~ **PRUDENT** to do so.

(e) **THE RETIREMENT BOARD OF A PUBLIC PENSION OR RETIREMENT SYSTEM, CONSISTENT WITH THE EXCLUSIVE FIDUCIARY RESPONSIBILITIES VESTED IN IT, SHALL HAVE THE SOLE AND EXCLUSIVE POWER TO PROVIDE FOR ACTUARIAL SERVICES IN ORDER TO ASSURE THE COMPETENCY OF THE ASSETS OF THE PUBLIC PENSION OR RETIREMENT SYSTEM.**

(f) **WITH REGARD TO THE RETIREMENT BOARD OF A PUBLIC PENSION OR RETIREMENT SYSTEM**

WHICH INCLUDES IN ITS COMPOSITION ELECTED EMPLOYEE MEMBERS, THE NUMBER, TERMS, AND METHOD OF SELECTION OR REMOVAL OF MEMBERS OF THE RETIREMENT BOARD WHICH WERE REQUIRED BY LAW OR OTHERWISE IN EFFECT ON JULY 1, 1991, SHALL NOT BE CHANGED, AMENDED, OR MODIFIED BY THE LEGISLATURE UNLESS THE CHANGE, AMENDMENT, OR MODIFICATION ENACTED BY THE LEGISLATURE IS RATIFIED BY A MAJORITY VOTE OF THE ELECTORS OF THE JURISDICTION IN WHICH THE PARTICIPANTS OF THE SYSTEM ARE OR WERE, PRIOR TO RETIREMENT, EMPLOYED.

(g) **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 THAT THE PROHIBITION SATISFIES THE STANDARDS OF FIDUCIARY CARE AND LOYALTY REQUIRED OF A RETIREMENT BOARD PURSUANT TO THIS SECTION.**

(h) **AS USED IN THIS SECTION, THE TERM "RETIREMENT BOARD" SHALL MEAN THE BOARD OF ADMINISTRATION, BOARD OF TRUSTEES, BOARD OF DIRECTORS, OR OTHER GOVERNING BODY OR BOARD OF A PUBLIC EMPLOYEES' PENSION OR RETIREMENT SYSTEM; PROVIDED, HOWEVER, THAT THE TERM "RETIREMENT BOARD" SHALL NOT BE INTERPRETED TO MEAN OR INCLUDE A GOVERNING BODY OR BOARD CREATED AFTER JULY 1, 1991 WHICH DOES NOT ADMINISTER PENSION OR**

RETIREMENT BENEFITS, OR THE ELECTED LEGISLATIVE BODY OF A JURISDICTION WHICH EMPLOYS PARTICIPANTS IN A PUBLIC EMPLOYEES' PENSION OR RETIREMENT SYSTEM.

Section Five. Liberal Interpretation. The provisions of this act shall be liberally interpreted to effect their purpose.

Section Six. Conflicting Law. In the event that this measure and another measure or measures relating to the public pension and retirement systems of this state, or any of them, shall appear on the statewide general election ballot on November 3, 1992, the provisions of said measures shall be deemed to be in conflict. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety and the provisions of said other measure or measures shall be null and void. In the event that said other measure or measures shall receive a greater number of affirmative votes, the provisions of this measure shall take effect to the extent permitted by law.

Section Seven. Severability. If any provision of this act shall be found or held by a court of competent jurisdiction to be invalid or unconstitutional for any reason, such invalidity or unconstitutionality shall not affect the remaining provisions of this measure, and to this end the provisions of this measure are severable.

Section Eight. Effective Date. This act shall take effect immediately upon certification of the official canvass by the Secretary of State.
