

**BILL NUMBER: [AB 2510](#) (Cooley) as introduced February 19, 2020**

**SUMMARY**

AB 2510 seeks to expand the Collaborative Model, a Teachers' Retirement Board-sponsored effort to reduce costs by managing assets internally and expanding opportunities with external partners. It grants the board prudent flexibility to contract with investment managers and investment advisers under policies it adopts. Working closely with external managers and advisers would allow CalSTRS staff to cultivate knowledge of innovative investment strategies and to form lucrative, efficient and cost-effective investment partnerships.

**BOARD POSITION**

**Sponsor.** The board's policy is to support or sponsor legislation that is consistent with the investment policy adopted by the board as presented in the CalSTRS Investment Policy and Management Plan.

**REASON FOR THE BILL**

CalSTRS has missed beneficial investment opportunities due to its operation under the umbrella of sometimes inapplicable state procurement requirements. With this measure, the board would establish prudent and fiduciarily responsible policies to procure contracts with world-class asset managers and advisers.

**ANALYSIS**

**Existing Law:**

Most California state agencies, including CalSTRS, must abide by state contracting requirements. However, in recognition of the unique nature and mission of certain agencies, the Legislature has granted exemptions to certain proscriptive competitive bidding requirements. Among these, the California Housing Finance Agency and the California Health Benefits Exchange Board have been granted blanket exemptions from state competitive bidding requirements.

As fiduciaries, the board is bound by standards set forth in state and federal law to invest the assets of the plan in a manner that is solely in the interest of members and beneficiaries. These strict standards require fiduciaries to discharge duties in a timely fashion with care, skill, prudence and diligence at a level that exceeds the goals of California's public contracting requirements.

**This Bill:**

Consistent with existing authority set forth in the California State Constitution, this bill authorizes the board to seek and secure the highest value contracts for investment-related expertise and services under the board's terms and conditions, while still meeting the highest fiduciary standards of due diligence. This increased flexibility would allow CalSTRS to move quickly to capture investment opportunities and negotiate reduced fees or better terms.

## LEGISLATIVE HISTORY

AB 1052 (Cooley, 2016) would have authorized CalSTRS to contract for specified investment-related services under the board's terms and conditions and utilizing the processes the board deems necessary and consistent with its fiduciary duties. AB 1052 was held on the Assembly Inactive File.

AB 59 (Elder, Chapter 542, Statutes of 1989) among other things, specified that the incorporation of the board's fiduciary duties into an investment manager contract shall be evidence that the board acted with care, skill, prudence and diligence.

AB 652 (Papan, Chapter 1043, Statutes of 1983) removed the requirement that investments be made under the terms, conditions, limitations and restrictions that are imposed by the state upon savings banks. Repealed requirements for the issuance of bonds as investments and added explicit authority for the board to contract with investment manager firms. Several provisions were operative upon the passage of Proposition 21 on June 5, 1984, which enshrined fiduciary obligations in the California State Constitution and removed the constitutional restrictions limiting the amount of public retirement fund assets that could be invested in equities.

## PROGRAM BACKGROUND

Abiding by strict fiduciary standards, CalSTRS staff engage in continuous analysis of competitive opportunities within their areas of expertise, regularly reviewing performance of any significant private asset firms extensively before reaching a decision to invest. For example, CalSTRS private asset classes use a dual approval process, with staff and external consultants independently vetting investment opportunities and reaching consensus before any action is taken. Within a universe of several hundred private fund managers, only a handful may be worthy of real consideration. This vetting process is aligned with staff's fiduciary duties and is ongoing, objective and entirely performance based.

Despite this same continuous monitoring of investment managers and advisers subject to the state procurement process, the procurement requirements cause staff to exert a great deal of effort reviewing the applications of those whose past performance would otherwise disqualify them from working with CalSTRS. While completing this process, the landscape of investment opportunities may change, and costs may increase.

Within the broader investment landscape, CalSTRS competes for investment-related services against agile organizations that are not subject to California's cumbersome procurement requirements. Therefore, it can be less desirable for top-tier firms with extensive and specific investment-related expertise to compete for a CalSTRS contract.

## OTHER STATES' INFORMATION

At least 20 statewide retirement systems outside of California have varied exemptions to generalized state contracting requirements.

## FISCAL IMPACT

Program Costs/Savings – Greater flexibility in procuring new investment managers and advisers could result in significant improvement in CalSTRS' ability to meet performance objectives by taking advantage of favorable market dynamics, maximizing gains and minimizing losses.

Administrative Costs/Savings – Unknown savings in the form of reduced staff work required for the current procurement process.

**SUPPORT**

CalSTRS (Sponsor)

**OPPOSITION**

None known.

**ARGUMENTS**

Pro: Achieves the Collaborative Model’s goal of seeking to boost efficacy of guidelines and procedures, increasing responsiveness to investment opportunities as they are presented.

Enables CalSTRS staff to act as a preferred partner for world-class asset managers and advisers and to capitalize on lucrative and diverse investment opportunities.

Expands CalSTRS’ capacity to partner with peers, form joint ventures, co-invest and develop strong internal investing capabilities, ensuring a well-governed, financially sound trust fund.

Con: Creates the potential misperception of an effort to limit a competitive bidding process.

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