

April 3, 2017

Honorable Ash Kalra  
State Capitol  
Sacramento, CA 95814

Re: AB 20 (Kalra) – As Introduced on December 5, 2016  
Position: Oppose Unless Amended

Dear Assembly Member Kalra:

It is with regret that the California Teachers Association, representing more than 325,000 educators across California, must oppose AB 20 (Kalra). This measure would require the California State Teachers' Retirement System (CalSTRS) and the California Public Employees Retirement System (CalPERS) to divest funds and refrain from making additional investments in a company constructing or investing in the Dakota Access Pipeline.

The CTA stands in solidarity with the Standing Rock Sioux tribe of North Dakota and believes that the Standing Rock Sioux Nation should have the right to determine its own course of environmental protection, which has been threatened by the process used in the construction of the Dakota Access Pipeline.

While the overarching principle that this measure is trying to achieve, providing pressure on the construction and financial entities involved with the Dakota Access Pipeline, is meritorious, the practical impact will have a negative financial impact on CalSTRS which could ultimately mean teachers, school districts, and the State may bear the direct fiscal costs of this bill, which CalSTRS estimates could be as high as \$8 billion. At a time when the retirement security of California's educators is at stake, we believe that engagement, not divestment, is the appropriate tool to utilize to achieve this goal.

### **Engagement**

Engagement through educated dialogue is a highly productive way to accomplish the goal of effecting change. CalSTRS' policy is to engage with companies to change culture and behavior from the inside. If CalSTRS is not at the table, they are not able to be a voice of change not only within an investment but also as an institutional leader with other pension systems.

CalSTRS has a list of geo-political investment policies that they use as a guide for consideration when an investment decision is being made. The CalSTRS Board is actively discussing complex investments and is trying to utilize their influence to create systemic change in the international

financial market, whether it is with the Security Exchange Commission, Wall Street executive salaries, fighting for more gender and ethnic diversity on corporate boards, climate risk as well as numerous other important issues.

Christopher Ailman, CalSTRS' Chief Investment Officer has been leading his team through complex discussions regarding engagement and divestment. The following link provides a brief discussion of some of the reasons why engagement is both CalSTRS', and the CTA's, preferred primary tool regarding complex or controversial investments:

<http://www.calstrs.com/video/cio-christopher-j-ailman-corporate-engagement-and-divestment-shareholder-perspective>.

## **Divestment**

*CalSTRS has a fiduciary obligation* to protect the fund. The fund currently has an a \$96.7 billion shortfall based on their 2016 actuarial valuation. Additionally, the Teachers' Retirement Board recently lowered the rate of return from 7.5 percent to 7.25 percent, beginning on July 1, 2017, then 7.0 percent, beginning on July 1, 2018. If CalSTRS loses either money or opportunity costs from divestment, it is the members, California's K-12 and community college educators, who will bear the financial and political responsibility of addressing any new shortfall ultimately impacting our students by not being able to attract and retain educators to a profession facing a severe shortage. CalSTRS funding is extremely complex. The current mechanism for addressing the existing shortfall, AB 1469 (Bonta 2014) took almost ten years to create. Any additional gaps in funding are not easily addressed with a myriad of competing funding priorities within the Legislature.

If new holes in funding for CalSTRS are created, this will ultimately impact contribution rates for school employers and the State. Additionally, current members who were hired prior to 2013 are protected from higher rates, unless they receive an offsetting benefit, but new members, hired after 2013 are subject to the Public Employees' Pension Reform Act of 2013, created by the Legislature to address pension reforms. New teachers, whom our districts are trying to recruit and retain, may suffer by increasingly higher contribution rates to fill future shortfalls if the Teachers' Retirement Board has to further lower their rate of return due to limited investment options due to divestment.

Unfortunately, retirement funds, such as CalSTRS and CalPERS are being used as a tool for influencing social or political issues and to advance ideologies without consideration to the fiscal impact it will have on both current and future educators' retirement security. If divestment is the priority of the State, then the State of California should indemnify the fund and hold CalSTRS and CalPERS and their members harmless to any of the negative fiscal impacts that divestment could bring. Educators and public employees should not pay for the costs of this measure.

**Amendments**

Attached, are amendments that would require both CalSTRS and CalPERS to engage with companies involved with the construction or financing of the Dakota Access Pipeline. The CTA believes that these amendments would yield the author's desired outcome without hindering educators and public employees' retirement security. It is our hope that we find a different direction to move toward that will do no harm to CalSTRS and California's teachers either in the classroom, or those that we are trying to recruit to come into the classroom to address the teacher shortfall.

Feel free to contact me should you have any questions regarding our position or the attached amendments at (916) 325-1500.

Sincerely,



Jennifer Baker  
Legislative Advocate

cc: Assembly Speaker Rendon  
Asm. Com. on Public Employees, Retirement and Social Security Chair Freddie Rodriguez



**AB 20**  
**Proposed Amendments**

Section 7513.72 is added to the Government Code, to read:

7513.72. (a) As used in this section:

(1) "Board" means the Board of Administration of the Public Employees' Retirement System or the Teachers' Retirement Board of the State Teachers' Retirement System, as applicable.

(2) "Company" means a sole proprietorship, organization, association, corporation, partnership, venture, or other entity, or its subsidiary or affiliate, that exists for profit-making purposes or to otherwise secure economic advantage.

(3) "Dakota Access Pipeline" means the oil pipeline connecting the Bakken oil fields in northwest North Dakota to Illinois, traveling through South Dakota and Iowa, that runs north and upstream of the Standing Rock Sioux Reservation.

(4) "Investment" means the purchase, ownership, or control of publicly issued stock, corporate bonds, or other debt instruments issued by a company.

(5) "Public employee retirement funds" means the Public Employees' Retirement Fund described in Section 20062 of this code and the Teachers' Retirement Fund described in Section 22167 of the Education Code.

**(b) On or before January 1, 2019, the CalPERS and CalSTRS boards shall file a report with the Legislature and the Governor, which shall include the following:**

**(1) A list of investments the board has in companies constructing, or funding the construction of, the Dakota Access Pipeline.**

**(2) A list of companies pursuant to paragraph (1) with which the boards constructively engaged, including:**

**(A) A detailed description of the board and staff's engagement activities with each company.**

**(B) A detailed description of the results of the engagement, including, but not limited to, agreements reached between the board and the company.**

~~(b) On and after January 1, 2018, the board shall not make additional investments or renew existing investments of public employee retirement funds in a company constructing, or funding the construction of, the Dakota Access Pipeline.~~

~~(c) On or before July 1, 2018, the board shall liquidate its investments in a company constructing, or funding the construction of, the Dakota Access Pipeline.~~

~~(d) 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.~~

