SENATE, No. 416

STATE OF NEW JERSEY

220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:
Senator BOB SMITH
District 17 (Middlesex and Somerset)

Co-Sponsored by:
Senators Turner, Gill, Codey, Diegnan, Ruiz, Vitale, Gopal, Cryan, Stack, Rice, Zwicker and Johnson

SYNOPSIS

Prohibits investment by State of pension and annuity funds in, and requires divestment from, 200 largest publicly traded fossil fuel companies.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 10/6/2022)

AN ACT concerning the investment of State pension and annuity funds and supplementing P.L.1950, c.270 (C.52:18A-79 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. Notwithstanding any provision of law to the contrary, no asset of any pension or annuity fund under the jurisdiction of the Division of Investment in the Department of the Treasury, or its successor, shall be invested in any stock, debt, or other security of any company, or any subsidiary, affiliate, or parent of any company, that is among the 200 largest publicly traded fossil fuel companies, as established by carbon content in the companies' proven oil, gas, and coal reserves.

b. The State Investment Council and the Director of the Division of Investment shall, in accordance with sound investment criteria and consistent with their fiduciary obligations, take appropriate action to divest any such stock, debt, or other security, whether owned directly or held through separate accounts or any commingled funds. Divestment pursuant to this section shall be completed by January 1, 2022, with the exception of companies engaged in the mining, extraction, or production of coal, divestment from which shall be completed no later than 24 months after the effective date of this act, P.L. , c. (pending before the Legislature as this bill). This subsection shall not be construed to require the premature or otherwise imprudent sale, redemption, divestment, or withdrawal of an investment.

c. (1) The Director of the Division of Investment shall be permitted to cease divesting from companies under subsection a. of this section, reinvest in companies from which it divested under that subsection, or continue to invest in companies from which it has not yet divested, upon clear and convincing evidence showing that as a direct result of such divestment, the total and aggregate value of all assets in the pension and annuity funds under the jurisdiction of the Division of Investment becomes or shall become, within a reasonable period of time, equal to or less than 99.5 percent, or 100 percent less 50 basis points, of the hypothetical value of all assets in the pension and annuity funds under the jurisdiction of the Division of Investment assuming no divestment from any company had occurred under subsection a. of this section.

(2) Cessation of divestment, reinvestment, or any subsequent ongoing investment authorized by this subsection shall be strictly limited to the minimum steps necessary to avoid the contingency set forth in paragraph (1) of this subsection. For any cessation of divestment, and in advance of such cessation, authorized by this subsection, the director shall provide a written report to the Governor, the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and the Attorney General, updated on February 1 of

each year as applicable, setting forth the reasons and justification, supported by clear and convincing evidence, for the director's decisions to cease divestment, to reinvest, or to remain invested in a fossil fuel company.

d. The council and the director shall facilitate the identification of fossil fuel companies from which the divestment is required under subsection a. of section and submit a report, within 120 days of the effective date of this act and on February 1 of each year thereafter, listing such companies to the Governor, the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and the Attorney General. The report submitted on February 1 of each year shall be filed by the director and shall include all investments sold, redeemed, divested, or withdrawn in compliance with this section, and all prohibited investments from which divestment has not occurred under this section. The report shall provide a description of the progress that the division has made since the previous report in implementing subsection a. of this section.

e. The members of the State Investment Council, jointly and individually, and State officers and employees involved therewith, shall be indemnified and held harmless by the State of New Jersey 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 that these council members, State officers, and State employees may sustain by reason of any decision to restrict, reduce, or eliminate investments pursuant to this act.

2. This act shall take effect immediately.

STATEMENT

This bill prohibits the Director of the Division of Investment from investing any assets of the State retirement funds in any of the top 200 companies that hold the largest carbon content fossil fuel reserves.

Under the bill, divestment from coal companies must be completed within two years, and from all other fossil fuel companies by January 1, 2022. The director may cease divestment or reinvest in previously divested companies if the director demonstrates that as a direct result of the divestment, the funds have or will become equal to or less than 99.5 percent, or 100 percent less 50 basis points, of the hypothetical value of all assets under the director's management, assuming no divestment from any company had occurred. The State Investment Council and the director are to identify all companies subject to divestment, and the director is to report annually on the progress of divestment.

The State of New Jersey recognizes climate change as a real and substantial threat, and is committed to efforts aimed at curbing global warming. To that end, the State will stand, with a host of other institutions across the country, against profiting from companies that are accelerating climate change by removing those companies from its pension and annuity funds portfolio. This divestment also considers the funds' fiduciary obligations, in that the Paris climate agreement targets for reducing greenhouse gas emissions could produce scores of "stranded assets," or fuel reserves that cannot be burned in order to meet those targets, rendering the profitability of these companies uncertain. It is at this critical juncture in the race against time to prevent climate change that this State reduces its financial interest in those companies inimical to that goal.