SENATE, No. 198

STATE OF NEW JERSEY

221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

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

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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.

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 no later than 12 months after the effective date of this section, 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 section. 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 section 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 section.

2. This act shall take effect immediately.

STATEMENT

This bill, would prohibit the Director of the Division of Investment (director) 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 would be required to be completed within two years, and from all other fossil fuel companies within one year. The director would be authorized to cease divestment or reinvest in previously divested companies if the director demonstrates that, as a direct result of the divestment, the State retirement funds have or will become equal to or less than 99.5 percent of their hypothetical value had no divestment occurred. Finally, the bill would require the State Investment Council and the director to report on the divestment efforts required by the bill within 120 days of the bill's effective date, and annually thereafter.