

SENATE BILL No. 170

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10.2-13; IC 34-30-2-11.7.

Synopsis: Pension investments in fossil fuel companies. Requires the board of trustees of the Indiana public retirement system (system) to divest investments and investment products in a company that is publicly traded and identified as one of the 200 largest reserve-owning fossil fuel companies based on the amount of carbon emissions in a company's oil, gas, and coal reserves. Requires the system to submit a report to the interim study committee on pension management oversight and the budget committee on or before November 1 of each year through 2029. Provides for civil immunity.

Effective: July 1, 2022.

Yoder

January 6, 2022, read first time and referred to Committee on Pensions and Labor.



Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

SENATE BILL No. 170

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-10.2-13 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]:
4 **Chapter 13. Divestment From Fossil Fuel Companies**
5 **Sec. 1. As used in this chapter, "board" refers to the board of**
6 **trustees of the Indiana public retirement system established by**
7 **IC 5-10.5-3-1.**
8 **Sec. 2. (a) As used in this chapter, "company" means any of the**
9 **following that exist for profit making purposes:**
10 (1) **A sole proprietorship.**
11 (2) **An organization.**
12 (3) **An association.**
13 (4) **A corporation.**
14 (5) **A partnership.**
15 (6) **A joint venture.**
16 (7) **A limited partnership.**
17 (8) **A limited liability partnership.**



1 **(9) A limited liability company.**

2 **(10) A business association.**

3 **(b) The term includes all wholly owned subsidiaries, majority**
 4 **owned subsidiaries, parent businesses, and affiliates of such entities**
 5 **or business associations that exist for profit making purposes.**

6 **Sec. 3. As used in this chapter, "divest" means a sale,**
 7 **redemption, replacement, or any other activity that terminates the**
 8 **investment.**

9 **Sec. 4. As used in this chapter, "fund" refers to any public**
 10 **pension and retirement funds of the system (as defined in**
 11 **IC 5-10.5-1-5).**

12 **Sec. 5. As used in this chapter, "investment" refers to any**
 13 **investment that the board or system is authorized to make under**
 14 **IC 5-10.5-5 or another law.**

15 **Sec. 6. As used in this chapter, "person" means an individual or**
 16 **entity.**

17 **Sec. 7. As used in this chapter, "restricted company" means a**
 18 **company that is:**

19 **(1) publicly traded; and**

20 **(2) identified as one of the two hundred (200) largest**
 21 **reserve-owning fossil fuel companies based on the amount of**
 22 **carbon emissions in a company's oil, gas, and coal reserves.**

23 **Sec. 8. As used in this chapter, "restricted investment product"**
 24 **refers to an investment product that:**

25 **(1) is managed by one (1) or more persons:**

26 **(A) that are not employed by the system; and**

27 **(B) in which the system on behalf of the fund owns**
 28 **investments together with investors other than the system;**
 29 **and**

30 **(2) holds investments in a restricted company.**

31 **Sec. 9. As used in this chapter, "system" has the meaning set**
 32 **forth in IC 5-10.5-1-6.**

33 **Sec. 10. (a) Except as provided subsection (b), after December**
 34 **31, 2022, the system may not knowingly invest in a restricted**
 35 **company or a restricted investment product and shall divest any**
 36 **investment that the system has on behalf of a fund in accordance**
 37 **with this chapter.**

38 **(b) The system is not required to divest the system's holdings in**
 39 **short term investment funds that commingle commercial paper or**
 40 **futures.**

41 **Sec. 11. Before January 1, 2023, the board shall make a good**
 42 **faith effort to identify all restricted companies and restricted**



1 investment products in which the system holds an investment. The
 2 board may use an independent research firm to assist the board.

3 **Sec. 12.** If the board determines after a review under section 11
 4 of this chapter that the system has investments in a restricted
 5 company or a restricted investment product, the board shall
 6 establish a plan to divest the investment and complete the
 7 divestment not later than December 31, 2029.

8 **Sec. 13. (a)** On or before November 1 of each year through 2029,
 9 the board shall submit a report in an electronic format under
 10 IC 5-14-6 to the interim study committee on pension management
 11 oversight established by IC 2-5-1.3-4 and the budget committee.

12 **(b)** The report must include at least the following information,
 13 as of the date of the report:

- 14 (1) A copy of the restricted company list.
 15 (2) All publicly traded securities sold, redeemed, divested, or
 16 withdrawn in compliance with section 10 of this chapter.
 17 (3) All short term investment funds that are exempted from
 18 divestment under section 10 of this chapter.
 19 (4) Any progress made under section 12 of this chapter.

20 **Sec. 14.** With respect to actions taken in compliance with this
 21 chapter, including all good faith determinations regarding
 22 companies on the restricted company list, the system shall be
 23 exempt from any conflicting statutory or common law obligations,
 24 including any obligations with respect to choice of asset managers,
 25 investment funds, or investments for fund securities portfolios.

26 **Sec. 15. (a) Both:**

- 27 (1) the state and officers, agents, and employees of the state;
 28 and
 29 (2) the system and the board members, executive director,
 30 officers, agents, and employees of the system;

31 are immune from civil liability for any act or omission related to
 32 the removal of an asset from a fund under this chapter.

33 **(b)** In addition to the immunity provided under subsection (a),
 34 both:

- 35 (1) the officers, agents, and employees of the state; and
 36 (2) the board members, executive director, officers, agents,
 37 and employees of the system;

38 are entitled to indemnification from the system for all losses, costs,
 39 and expenses, including reasonable attorney's fees, associated with
 40 defending against any claim or suit relating to an act authorized
 41 under this chapter.

42 **Sec. 16.** The provisions of this chapter are severable in the



1 **manner provided under IC 1-1-1-8(b).**
2 SECTION 2. IC 34-30-2-11.7 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2022]: **Sec. 11.7. IC 5-10.2-13-15 (Concerning**
5 **removal of certain assets from a public pension or employee**
6 **retirement fund administered by the board of trustees of the**
7 **Indiana public retirement system).**

