

HOUSE No. 2504

The Commonwealth of Massachusetts

PRESENTED BY:

Mindy Domb

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to mandate the review of climate risk in order to protect public pension beneficiaries and taxpayers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>1/20/2023</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>1/20/2023</i>

HOUSE No. 2504

By Representative Domb of Amherst, a petition (accompanied by bill, House, No. 2504) of Mindy Domb and Lindsay N. Sabadosa relative to public pension fund divestment from climate risk investments and negative economic impacts from carbon producing industries. Public Service.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 4170 OF 2021-2022.]

The Commonwealth of Massachusetts

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**In the One Hundred and Ninety-Third General Court
(2023-2024)**
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An Act to mandate the review of climate risk in order to protect public pension beneficiaries and taxpayers.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 29 of the General Laws is hereby amended by adding the following
2 section:-

3 Section 72. (a) As used in this section the following words shall, unless the context
4 clearly requires otherwise, have the following meanings:-

5 “Biofuel”, any fuel made from biomass.

6 “Board”, the pension reserves investment management board established pursuant to
7 section 23 of chapter 32.

8 “Climate risk investments,” any fossil fuel investments or investment in other industries,
9 including, but not limited to biofuel, that may have a negative impact on the global climate, that
10 scientific evidence has established as contributing to climate change, that conflict with or
11 undermine the commonwealth’s climate goals, and that pose a risk to the portfolio performance
12 for beneficiaries of the public fund.

13 “Committee”, the climate risk investment review committee established pursuant to
14 subsection (c).

15 “Direct holdings”, all securities of a company held directly by the public fund or in an
16 account or fund in which the public fund owns all shares or interests.

17 “Fossil fuel investments”, any stocks or other securities of a corporation or company
18 within the fossil fuel industry or any subsidiary, affiliate or parent of any corporation or company
19 among the 200 largest publicly traded fossil fuel companies, as established by carbon in the
20 companies’ proven oil, gas and coal reserves.

21 “Indirect holdings”, all securities of a company held in an account or fund, such as a
22 mutual fund, managed by 1 or more persons not employed by the public fund, in which the
23 public fund owns shares or interests together with other investors not subject to this section or
24 section 23C of chapter 32.

25 “Public fund”, the Pension Reserves Investment Trust or the pension reserves investment
26 management board in charge of managing the pooled investment fund consisting of the assets of
27 the state employees’ and teachers’ retirement systems as well as the assets of local retirement
28 systems under the control of the board.

29 (b) This section applies only to direct and indirect holdings by the public fund.

30 (c) There shall be within the office of the treasurer, but not subject to its supervision or
31 control, a Climate Risk Investment Review Committee consisting of the following 11 voting
32 members: the state treasurer or a designee, who shall serve as chair; the secretary of
33 administration and finance or a designee; the comptroller or a designee; the executive director of
34 the public employee retirement administration commission; the executive director of the pension
35 reserves investment management board; 1 individual appointed by the governor, who shall be in
36 a position to oversee implementation of chapter 8 of the acts of 2021; 2 individuals appointed by
37 the treasurer, 1 of whom shall be an expert in state public finance and 1 of whom shall be an
38 expert in divestment planning; and 1 individual appointed by the secretary of energy and
39 environmental affairs who shall be a climate scientist. The

40 house and senate chairs and the ranking minority members of the joint committee on
41 environment, natural resources and agriculture shall be nonvoting members of the committee.

42 Each individual appointed by the governor, treasurer and secretary of energy and environmental
43 affairs shall serve terms established by the appointing authority, but not longer than 4 years.

44 Each appointed individual may serve a second or subsequent terms, and each appointed
45 individual may continue to serve after the individual's term expires if desired by the appointing
46 authority. The state treasurer shall determine the necessity of and calculate the amount of funds
47 needed to compensate members for their participation. Funding shall be included in the state
48 treasurer's request for funding as part of its budget process.

49 (d) The chair shall call meetings of the committee every 8 weeks; provided, however, that
50 the chair may call meetings of the committee more frequently if the chair determines that more

51 frequent meetings of the committee are necessary to perform its duties. The chair shall call the
52 first meeting of the committee within 4 weeks following the effective date of this section.

53 (e) (1) The committee shall: (i) study and review on a continuing basis the risk associated
54 with all investments made by the board in any climate risk investments; and (ii) assess the
55 readiness of the public fund for the purposes of implementing the sale, redemption, divestment or
56 withdrawal of climate investments. The committee shall, in accordance with sound investment
57 criteria and consistent with the committee's fiduciary obligations, take into account that climate
58 risk investments have financial risks to pension beneficiaries and the commonwealth's taxpayers.
59 The committee shall provide recommendations and a series of decisions to mitigate those risks
60 through an active decarbonization of the pension portfolio.

61 (2) The committee shall, on or before 180 days after the effective date of this section,
62 develop a plan to sell, redeem, divest or withdraw from climate risk investments, or any other
63 investment as determined by the committee, that are not aligned with the commonwealth's
64 climate goals. The plan shall detail how to expeditiously sell, redeem, divest or withdraw from
65 climate risk investments that contribute toward greenhouse gas emissions, and from 100 per cent
66 of these investments not later than January 1, 2026 pursuant to clause (2) of subsection (c) of
67 section 23C of chapter 32.

68 (f) Annually, not later than December 15, the committee shall file a report with the board,
69 the governor and the clerks of the house of representative and the senate detailing the
70 committee's recommendations as to divestment from climate risk investments and any plan to
71 limit negative economic impacts or divest from carbon producing industries. The committee's
72 report shall direct the board's actions.

73 (g) The committee shall be subject to sections 18 to 25, inclusive, of chapter 30A and
74 chapter 66. The committee shall maintain a website and shall make available all meeting
75 materials not later than 7 days after a meeting of the committee.

76 SECTION 2. Section 23 of chapter 32 of the General Laws is hereby amended by
77 inserting after subdivision 8, inserted by section 14 of chapter 358 of the acts of 2020, the
78 following subdivision:-

79 (9) The PRIM Board shall not approve or ratify any fossil fuel investments. The PRIM
80 Board shall not approve or ratify any climate risk investments as defined in section 23C.

81 SECTION 3. Said chapter 32, as so appearing, is hereby amended by inserting after
82 section 23B the following section:-

83 Section 23C. (a) As used in this section the following words shall, unless the context
84 clearly requires otherwise, have the following meanings:-

85 “Actively managed investment funds”, any investment fund that is managed by a single
86 manager or a management team who makes decisions regarding how to invest money held in the
87 fund.

88 “Biofuel”, any fuel made from biomass.

89 “Board”, the pension reserves investment management board established pursuant to
90 section 23 of chapter 32.

91 “Climate risk investments,” as defined in section 72 of chapter 29.

92 “Committee”, the climate risk investment review committee established pursuant to
93 section 72 of chapter 29.

94 “Direct holdings”, all securities of a company held directly by the public fund or in an
95 account or fund in which the public fund owns all shares or interests.

96 “Fossil fuel investments”, any stocks or other securities of a corporation or company
97 within the fossil fuel industry or any subsidiary, affiliate or parent of any corporation or company
98 among the 200 largest publicly traded fossil fuel companies, as established by carbon in the
99 companies’ proven oil, gas and coal reserves.

100 “Indirect holdings”, all securities of a company held in an account or fund, such as a
101 mutual fund, managed by 1 or more persons not employed by the public fund, in which the
102 public fund owns shares or interests together with other investors not subject to this section.

103 “Public fund”, the Pension Reserves Investment Trust or the pension reserves investment
104 management board in charge of managing the pooled investment fund consisting of the assets of
105 the state employees’ and teachers’ retirement systems as well as the assets of local retirement
106 systems under the control of the board.

107 (b) Notwithstanding any general or special law to the contrary, within 90 days of the
108 effective date of this section, the public fund, in consultation with the committee, shall identify
109 all climate risk investments in which the public fund has direct or indirect holdings. By the first
110 meeting of the public fund following the 90-day period, the public fund shall assemble all
111 climate risk investments in which it has direct or indirect holdings into a climate risk investments
112 list. The public fund shall update the climate risk investments list on a quarterly basis based on
113 evolving information gathered by the public fund and the committee.

114 (c) Notwithstanding any general or special law to the contrary, the public fund shall:

115 (1) determine the companies on the climate risk investments list, created pursuant to
116 subsection (b), in which the public fund owns direct or indirect holdings;

117 (2) not later than January 1, 2026, in accordance with sound investment criteria and
118 consistent with the public fund's fiduciary obligations, sell, redeem, divest or withdraw all
119 publicly-traded securities of each company identified in clause (1); and

120 (3) in the time period before the sale, redemption, divestment or withdrawal pursuant to
121 clause (2), the public fund may sign onto engagement letters or participate in shareholder
122 resolutions regarding the scrutinized business operations of companies identified in clause (1) in
123 which the public fund still owns direct or indirect holdings.

124 (d) The public fund shall not acquire securities of companies on the climate risk
125 investment list created pursuant to clause (1) of subsection (c), except as provided for in
126 subsection (e).

127 (e) Notwithstanding anything in this section to the contrary, subsections (c) and (d) shall
128 not apply to indirect holdings in actively managed investment funds; provided, however, that the
129 public fund shall submit letters to the managers of such investment funds containing climate risk
130 investments requesting that the managers consider removing such climate risk investments from
131 the investment fund or create a similarly actively managed fund with indirect holdings devoid of
132 such investments. If the manager creates a similar fund devoid of climate risk investments, the
133 public fund shall replace all applicable investments with investments in the similar fund in an
134 expedited timeframe consistent with prudent investing standards. If the manager refuses to create
135 a similar fund devoid of climate risk investments, the public fund shall, in consultation with the

136 committee, develop an alternative plan to decarbonize such investment funds within 30 days of
137 receiving notice from the manager. For the purposes of this section, private equity funds shall be
138 deemed to be actively managed investment funds.

139 (f) Notwithstanding any general or special law to the contrary, with respect to actions
140 taken in compliance with this section, the public fund shall be exempt from any conflicting
141 statutory or common law obligations, including any such obligations with respect to choice of
142 asset managers, investment funds or investments for the public fund's securities portfolios and
143 all good faith determinations regarding companies as required by this section.

144 (g) The public fund shall file a copy of the climate risk investment list with the clerks of
145 the house of representatives and the senate within 30 days after the list is created. Annually
146 thereafter, not later than February 1, the public fund shall file a report with the clerks of the
147 house of representatives and the senate that includes: (1) the most recent scrutinized companies
148 list; (2) all climate risk investments sold, redeemed, divested or withdrawn in compliance with
149 this section; (3) all prohibited climate risk investments from which the public fund has not yet
150 divested pursuant to this section; (4) any progress made pursuant to subsection (e); and (5)
151 documentation that the public fund has complied with subsection (e), including, but not limited
152 to, copies of letters requesting the removal of climate risk investments from actively managed
153 investment funds and documentation as to what actions were taken by the manager of such fund
154 and the public fund subsequent to such requests.

155 SECTION 4. Notwithstanding any general or special law to the contrary, the pension
156 fund of any state agency or state authority, as defined in section 1 of chapter 29 of the General
157 Laws, not subject to chapter 32 of the General Laws shall annually review, in consultation with

158 the climate risk investment review committee established pursuant to section 72 of said chapter
159 29, all climate risk investments, as defined in section 23C of chapter 32 of the General Laws, and
160 investments in other industries that may have a negative impact on the global climate or conflict
161 or undermine the commonwealth's climate goals; provided, that when the climate risk
162 investment review committee assesses that certain

163 investments have a negative impact on the global climate or conflict with the
164 commonwealth's climate goals, the pension fund of the state agency or state authority shall
165 divest from those investments. The pension fund of the state agency or state authority shall
166 consider the economic impact of investments in industries that may have a negative impact on
167 the global climate and determine whether it is prudent, in accordance with chapter 203C, to
168 continue investment on behalf of the beneficiaries of retirement systems named in this section.

169 The pension fund of the state agency or state authority shall, in accordance with sound
170 investment criteria and consistent with the fund's fiduciary obligations, take into account that
171 carbon investments have financial risks to pension beneficiaries and take appropriate action
172 pursuant to this section.

173 SECTION 5. Notwithstanding any general or special law to the contrary, the pension
174 fund of the city, town, district or county that is not subject to chapter 32 of the General Laws nor
175 under the control of the pension reserves investment management board may request and access
176 information and reports relevant to the decision to divest from climate risk investments, as
177 defined in section 23C of said chapter 32, from the climate risk investment review committee.
178 The information and reports may include, but shall not be limited to, annual reports prepared by

179 the climate risk investment review committee pursuant to subsection (f) of section 72 of chapter
180 29 and the climate risk investment list prepared pursuant to subsection (b) of said section 23C.