

HOUSE No. 4170

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>2/19/2021</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>9/24/2021</i>
<i>Jon Santiago</i>	<i>9th Suffolk</i>	<i>9/24/2021</i>
<i>Carmin Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>9/27/2021</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>9/27/2021</i>

HOUSE No. 4170

By Ms. Domb of Amherst, a petition (accompanied by bill, House, No. 4170) of Mindy Domb and others relative to public pension fund divestment from climate risk investments and negative economic impacts from carbon producing industries. Public Service.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

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

undermine the commonwealth’s climate goals, and that pose a risk to the portfolio performance for beneficiaries of the public fund.

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

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

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

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

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

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

(c) There shall be within the office of the treasurer, but not subject to its supervision or control, a Climate Risk Investment Review Committee consisting of the following 11 voting

members: the state treasurer or a designee, who shall serve as chair; the secretary of administration and finance or a designee; the comptroller or a designee; the executive director of the public employee retirement administration commission; the executive director of the pension reserves investment management board; 1 individual appointed by the governor, who shall be in a position to oversee implementation of chapter 8 of the acts of 2021; 2 individuals appointed by the treasurer, 1 of whom shall be an expert in state public finance and 1 of whom shall be an expert in divestment planning; and 1 individual appointed by the secretary of energy and environmental affairs who shall be a climate scientist. The

house and senate chairs and the ranking minority members of the joint committee on environment, natural resources and agriculture shall be nonvoting members of the committee. Each individual appointed by the governor, treasurer and secretary of energy and environmental affairs shall serve terms established by the appointing authority, but not longer than 4 years. Each appointed individual may serve a second or subsequent terms, and each appointed individual may continue to serve after the individual's term expires if desired by the appointing authority. The state treasurer shall determine the necessity of and calculate the amount of funds needed to compensate members for their participation. Funding shall be included in the state treasurer's request for funding as part of its budget process.

(d) The chair shall call meetings of the committee every 8 weeks; provided, however, that the chair may call meetings of the committee more frequently if the chair determines that more frequent meetings of the committee are necessary to perform its duties. The chair shall call the first meeting of the committee within 4 weeks following the effective date of this section.

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

(2) The committee shall, on or before 180 days after the effective date of this section, develop a plan to sell, redeem, divest or withdraw from climate risk investments, or any other investment as determined by the committee, that are not aligned with the commonwealth's climate goals. The plan shall detail how to expeditiously sell, redeem, divest or withdraw from climate risk investments that contribute toward greenhouse gas emissions, and from 100 per cent of these investments not later than January 1, 2025 pursuant to clause (2) of subsection (c) of section 23C of chapter 32.

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

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

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

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

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

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

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

“Biofuel”, any fuel made from biomass.

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

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

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

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

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

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

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

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

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

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

(2) not later than January 1, 2025, in accordance with sound investment criteria and consistent with the public fund's fiduciary obligations, sell, redeem, divest or withdraw all publicly-traded securities of each company identified in clause (1); and

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

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

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

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

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

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

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

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

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

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

SECTION 5. Notwithstanding any general or special law to the contrary, the pension fund of the city, town, district or county that is not subject to chapter 32 of the General Laws nor under the control of the pension reserves investment management board may request and access information and reports relevant to the decision to divest from climate risk investments, as defined in section 23C of said chapter 32, from the climate risk investment review committee. 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.