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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO PUBLIC FINANCE - DIVESTMENT OF STATE PENSION FUNDS FROM
MILITARY CONTRACTORS

Introduced By: Senators Mack, Bell, Calkin, Anderson, Acosta, and Mendes

Date Introduced: March 11, 2021

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 35 of the General Laws entitled "PUBLIC FINANCE" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 10.4

4 DIVESTMENT OF STATE PENSION FUNDS FROM MILITARY CONTRACTORS

5 **35-10.4-1. Short title.**

6 This chapter shall be known and may be cited as the "Divestment of State Pension Funds
7 from Military Contractors Act".

8 **35-10.4-2. Definitions.**

9 As used in this chapter, the following words and terms shall have the following meanings
10 unless the context shall clearly indicate another or different meaning or intent:

11 (1) "Commission" means the state investment commission that oversees the assets of the
12 employees' retirement system of Rhode Island pursuant to chapter 10 of title 35.

13 (2) "Company" means a sole proprietorship, organization, association, corporation,
14 partnership, joint venture, limited partnership, limited liability partnership, limited liability
15 company or other entity or business association, including all wholly-owned subsidiaries, majority-
16 owned subsidiaries, parent companies or affiliates of such entities or business associations that exist
17 for profit-making purposes.

18 (3) "Direct holdings" means all securities of a company held directly by the public fund or

1 in an account or fund in which the public fund owns all shares or interests.

2 (4) "Indirect holdings" means all securities of a company held in an account or fund, such
3 as a mutual fund or hedge fund managed by one or more person not employed by the public fund,
4 in which the public fund owns shares or interests together with other investors not subject to this
5 chapter.

6 (5) "Military contractors" or "military weapon manufacturers" means arms producing
7 companies, defense contractors or military industries that primarily produce, maintain and store
8 weapons for the armed forces of nation states or non-state entities. Products include guns,
9 ammunition, missiles, military aircraft, military vehicles, and military ships.

10 (6) "Pension fund" means the pooled investment fund consisting of the assets of the state
11 employees' and teachers' retirement systems, as well as the assets of local retirement systems under
12 the control of the state.

13 **35-10.4-3. Identification of military weapon manufacturers.**

14 Within six (6) months of enactment of this chapter, the commission shall identify all
15 military weapon manufacturers where the pension fund owns direct or indirect holdings and shall
16 file a list of any such holdings with the office of attorney general, the house of representatives and
17 the senate.

18 **35-10.4-4. Policy of the commission.**

19 It shall be the settled policy of the commission and the pension fund not to invest in any
20 military weapons manufacturers. Within fourteen (14) months of enactment, the commission shall
21 sell, redeem, divest or withdraw all publicly-traded and non-publicly traded securities of each
22 company identified pursuant to § 35-10.4-3. This section shall not apply to indirect holdings in
23 actively managed investment funds; provided, however, that the public fund shall submit letters to
24 the managers of any such investment funds that contain companies identified in § 35-10.4-3,
25 requesting that they remove such companies from the investment fund or create a similar actively
26 managed fund with indirect holdings devoid of such companies.

27 **35-10.4-5. Actions taken in compliance.**

28 With respect to actions taken in compliance with this chapter, the commission and the
29 pension fund shall be exempt from any conflicting statutory or common law obligation, including
30 any such obligations with respect to choice of asset managers, investment funds, or investments for
31 the public fund's securities portfolios and all good faith determinations regarding the identification
32 of military weapons manufacturers subject to divestment pursuant to this chapter.

33 **35-10.4-6. Exceptions.**

34 Pursuant to § 35-10.4-3, the commission may cease divesting from identified companies,

1 reinvest in identified companies, and continue to invest in identified companies from which it has
2 not yet divested, upon clear and convincing evidence showing that the value for all assets under
3 management by the commission becomes equal to or less than ninety-eight and five tenths percent
4 (98.5%) one hundred fifty (150) basis points of the hypothetical value of all pension fund assets
5 under management by the commission provided no divestment for any company had occurred
6 under this chapter. Cessation of divestment, reinvestment or any subsequent ongoing investment
7 authorized by this section shall be strictly limited to the minimum steps necessary to avoid the
8 contingency set forth in this section. In advance of any cessation of divestment authorized by this
9 chapter, the commission shall provide an annual written report to the office of the attorney general,
10 the house of representatives, and the senate, setting forth the reasons and justifications, supported
11 by clear and convincing evidence, for its decisions to cease divestment, to reinvest or to remain
12 invested in companies identified in § 35-10.4-3.

13 **35-10.4-7. Indemnification.**

14 Present, future and former members of the state investment commission, jointly and
15 individually, as well as state officers, employees and investment managers under contract with the
16 commission shall be indemnified from the state general fund and held harmless by the state from
17 all claims, demands, suits, actions, damages, judgments, costs, charges and expenses, including
18 court costs and attorneys' fees, and against all liability, losses, and damages that these present,
19 future, or former board members, officers, employees, or contract investment managers may at any
20 time sustain by reason of any decision to restrict, reduce, or eliminate investments in military
21 contractors.

22 **35-10.4-8. Annual report.**

23 The commission shall file an annual report with the office of the attorney general, the house
24 of representatives, and the senate including:

25 (1) All investments sold, redeemed, divested or withdrawn in compliance with this chapter
26 within the preceding year; and

27 (2) All investments prohibited by this chapter from which the public fund has not yet
28 divested.

29 **35-10.4-9. Severability.**

30 If any clause, sentence, paragraph, section, or part of this chapter shall be adjudged by any
31 court of competent jurisdiction to be invalid, that judgment shall not affect, impair, or invalidate
32 the remainder of the chapter but shall be confined in its operation to the clause, sentence, paragraph,
33 section, or part directly involved in the controversy in which that judgment shall have been
34 rendered.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO PUBLIC FINANCE - DIVESTMENT OF STATE PENSION FUNDS FROM
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1 This act would require the state investment commission to identify and divest pension fund
2 investments in military weapon manufacturers whether held directly and indirectly with certain
3 exceptions and would also require the state investment commission to provide an annual written
4 report to the attorney general, the house, and the senate.

5 This act would take effect upon passage.

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