

1 S.42

2 Introduced by Senators Ram Hinsdale, Clarkson, Hardy, McCormack,

3 Perchlik, Vyhovsky, Watson and White

4 Referred to Committee on Government Operations

5 Date: January 26, 2023

6 Subject: State Treasurer; Vermont Pension Investment Commission;

7 investment and oversight of retirement systems' assets; divestment

8 Statement of purpose of bill as introduced: This bill proposes to require the
9 Vermont Pension Investment Commission to (1) on or before August 15, 2023,
10 review the assets of the Vermont State Employees' Retirement System, the
11 State Teachers' Retirement System, and the Municipal Employees' Retirement
12 System to determine the extent to which they are invested in the fossil fuel
13 industry, and (2) on or before November 15, 2023, develop and submit to the
14 House Committee on Government Operations and Military Affairs, the Senate
15 Committee on Government Operations, and the Joint Pension Oversight
16 Committee a plan to divest the investments of the Vermont State Employees'
17 Retirement System, the State Teachers' Retirement System, and the Municipal
18 Employees' Retirement System from the fossil fuel industry by December 31,
19 2030. This bill also prohibits the Commission from investing the assets of the
20 Vermont State Employees' Retirement System, the State Teachers' Retirement

1 System, and the Municipal Employees' Retirement System in the fossil fuel
2 industry on or after July 1, 2031.

3 An act relating to divestment of State pension funds of investments in the
4 fossil fuel industry

5 It is hereby enacted by the General Assembly of the State of Vermont:

6 ~~Sec. 1. DIVESTMENT OF PUBLIC PENSION FUNDS; FOSSIL FUELS;~~

7 ~~VERMONT PENSION INVESTMENT COMMISSION; PLAN AND~~

8 ~~REPORT~~

9 ~~(a) Definitions. As used in this section:~~

10 ~~(1) "Fossil fuel" means an energy source formed in the earth's crust~~
11 ~~from decayed organic material. The term includes petroleum, coal, natural~~
12 ~~gas, heating oils, light and heavy diesel oil, motor gasoline, propane, butane,~~
13 ~~residential fuel oils, kerosene, and aviation fuels. "Fossil fuel" does not mean~~
14 ~~biodiesel as that term is defined in 10 V.S.A. § 585.~~

15 ~~(2) "Fossil fuel company" means any company that:~~

16 ~~(A) is among the 200 publicly traded companies with the largest~~
17 ~~fossil fuel reserves in the world;~~

18 ~~(B) is among the 30 largest public company owners in the world of~~
19 ~~coal-fired power plants.~~

1 ~~(C) has as its core business the construction or operation of fossil~~
2 ~~fuel infrastructure;~~

3 ~~(D) has as its core business the exploration, extraction, refining,~~
4 ~~processing or distribution of fossil fuels; or~~

5 ~~(E) receives more than 50 percent of its gross revenue from~~
6 ~~companies that meet the definition under subdivision (A), (B), (C) or (D) of~~
7 ~~this subdivision (2).~~

8 ~~(3) "Fossil fuel infrastructure" means oil or gas wells, oil or gas~~
9 ~~pipelines and refineries; oil, coal, or gas-fired power plants; oil and gas storage~~
10 ~~tanks; fossil fuel export terminals; and any other infrastructure used~~
11 ~~exclusively for fossil fuels.~~

12 ~~(b) Review. On or before August 1, 2023, the Vermont Pension Investment~~
13 ~~Commission, in consultation with the Office of the State Treasurer, shall~~
14 ~~review the extent to which the assets of the Vermont State Employees'~~
15 ~~Retirement System, the State Teachers' Retirement System, and the Municipal~~
16 ~~Employees' Retirement System are invested in stocks, securities, or other~~
17 ~~obligations of any fossil fuel company or any subsidiary, affiliate, or parent of~~
18 ~~any fossil fuel company.~~

19 ~~(c) Plan. The Commission, in accordance with sound investment criteria~~
20 ~~and consistent with fiduciary obligations, shall develop a plan to divest any~~
21 ~~such holdings identified in the review described in subsection (b) of this~~

1 ~~section on or before December 31, 2030; provided, however, nothing in the~~
2 plan shall preclude de minimis exposure of any funds held by the Commission
3 to the stocks, securities, or other obligations of any fossil fuel company or any
4 subsidiary, affiliate, or parent of any fossil fuel company.

5 (d) Report.

6 (1) On or before November 15, 2023, the Commission shall submit a
7 report on the review and plan described in subsections (b) and (c) of this
8 section to the House Committee on Government Operations and Military
9 Affairs and the Senate Committee on Government Operations and to the Joint
10 Pension Oversight Committee.

11 (2) Beginning on January 15, 2024, and annually thereafter until
12 January 15, 2030, the Commission shall submit a report to the House
13 Committee on Government Operations and Military Affairs and the Senate
14 Committee on Government Operations and the Joint Pension Oversight
15 Committee on the progress of divestment described in this section.

16 (3) On or before January 15, 2031, the Commission shall make a final
17 report to the House Committee on Government Operations and Military
18 Affairs and the Senate Committee on Government Operations and the Joint
19 Pension Oversight Committee regarding completion of divestment described in
20 this section.

1 ~~Sec. 2. DIVESTMENT PLAN; VERMONT PENSION INVESTMENT~~

2 COMMISSION; APPROPRIATION

3 In FY 2024, the amount of \$100,000.00 in general funds is appropriated to
4 the Vermont Pension Investment Commission to develop the plan and report
5 described in Sec. 1 of this act.

6 Sec. 3. 3 V.S.A. § 521 is amended to read:

7 § 521. DEFINITIONS

8 As used in this chapter:

9 * * *

10 (5) “Fossil fuel” means an energy source formed in the earth’s crust
11 from decayed organic material. The term includes petroleum, coal, natural
12 gas, heating oils, light and heavy diesel oil, motor gasoline, propane, butane,
13 residential fuel oils, kerosene, and aviation fuel. “Fossil fuel” does not mean
14 biodiesel as that term is defined in 10 V.S.A. § 585.

15 (6) “Fossil fuel company” means any company that:

16 (A) is among the 200 publicly traded companies with the largest fossil
17 fuel reserves in the world;

18 (B) is among the 30 largest public company owners in the world of
19 coal-fired power plants;

20 (C) has as its core business the construction or operation of fossil
21 fuel infrastructure,

1 ~~(D) has as its core business the exploration, extraction, refining,~~
2 ~~processing, or distribution of fossil fuels; or~~

3 ~~(E) receives more than 50 percent of its gross revenue from~~
4 ~~companies that meet the definition under subdivision (A), (B), (C) or (D) of~~
5 ~~this subdivision (6).~~

6 ~~(7) "Fossil fuel infrastructure" means oil or gas wells, oil or gas~~
7 ~~pipelines and refineries, oil, coal, or gas-fired power plants; oil and gas storage~~
8 ~~tanks; fossil fuel export terminals; and any other infrastructure used~~
9 ~~exclusively for fossil fuels.~~

10 Sec. 4. 3 V.S.A. § 523 is amended to read:

11 § 523. VERMONT PENSION INVESTMENT COMMISSION; DUTIES

12 (a) General. The Vermont Pension Investment Commission shall be
13 responsible for the investment of the assets of the Vermont State Teachers'
14 Retirement System, the Vermont State Employees' Retirement System, and the
15 Vermont Municipal Employees' Retirement System pursuant to section 472 of
16 this title, 16 V.S.A. § 1943, and 24 V.S.A. § 5063. The Commission shall
17 strive to maximize total return on investment, within acceptable levels of risk
18 for public retirement systems, in accordance with the standards of care
19 established by the prudent investor rule under 14A V.S.A. § 902. The
20 Commission may, in its discretion, subject to approval by the Attorney
21 General, also enter into agreements with municipalities administering their

1 ~~own retirement systems to invest retirement funds for those municipal pension~~
2 plans. The State Treasurer shall serve as the custodian of the funds of all three
3 retirement systems. The Commission may, in its discretion, also enter into
4 agreements with the State Treasurer to invest the State Employees'
5 Postemployment Benefits Trust Fund, established in section 479a of this title,
6 and the Retired Teachers' Health and Medical Benefits Fund, established in 16
7 V.S.A. § 1944b.

8 * * *

9 (i) Notwithstanding any other provision of law to the contrary, the
10 Commission, in accordance with sound investment criteria and consistent with
11 fiduciary obligations, shall not invest the assets of the Vermont State Teachers'
12 Retirement System, the Vermont State Employees' Retirement System, and the
13 Vermont Municipal Employees' Retirement System in the stocks, securities, or
14 other obligations of any fossil fuel company or any subsidiary, affiliate, or
15 parent of any fossil fuel company. Nothing in this subsection precludes de
16 minimis exposure of any funds held by the Commission to the stocks,
17 securities, or other obligations of any fossil fuel company or any subsidiary,
18 affiliate, or parent of any fossil fuel company.

19 Sec. 5. EFFECTIVE DATES

20 (a) Secs. 1, 2, and this section shall take effect on July 1, 2023.

21 ~~(b) Secs. 3 and 4 shall take effect on July 1, 2031.~~

*Sec. 1. PUBLIC PENSION FUNDS; FOSSIL FUELS; VERMONT
PENSION INVESTMENT COMMISSION; PLAN AND
REPORT*

~~*(a) Intent. It is the intent of the General Assembly that, on or before December 31, 2030, the Vermont Pension Investment Commission, consistent with sound fiduciary practice and subject to any exceptions, divest the holdings of the Vermont State Employees' Retirement System, the Vermont Teachers' Retirement System, and the Vermont Municipal Employees' Retirement System from the fossil fuel industry. It is also the intent of the General Assembly that the Vermont Pension Investment Commission establish a long-term goal to divest from any private investments that contain assets in the fossil fuel industry on or before December 31, 2040, if the Commission determines that such divestment is consistent with sound fiduciary practice.*~~

(a) Intent.

(1) It is the intent of the General Assembly that the Vermont Pension Investment Commission build upon its effective efforts to manage the State's financial risks to climate change, including investing in low carbon indexes, successfully engaging with fossil fuel and other companies, and supporting initial studies and reviews on climate change.

(2) It is also the intent of the General Assembly that, on or before December 31, 2030, the Vermont Pension Investment Commission shall, consistent with sound fiduciary practice, including consideration of any expected increased funding requirements for the actuarially determined employer contribution (ADEC) and administrative costs, and subject to any exceptions, divest the holdings of the Vermont State Employees' Retirement System, the Vermont Teachers' Retirement System, and the Vermont Municipal Employees' Retirement System from the fossil fuel industry.

(3) The General Assembly also intends that that the Vermont Pension Investment Commission establish a long-term goal to divest from any private investments that contain assets in the fossil fuel industry on or before December 31, 2040, if the Commission determines that such divestment is consistent with sound fiduciary practice.

(b) Definitions. As used in this section:

(1) "Carbon footprint" means the extent to which holdings are invested in stocks, securities, or other obligations of any fossil fuel company or any subsidiary, affiliate, or parent of any fossil fuel company.

(2) "De minimis exposure" means the aggregate amount of all fossil fuel holdings in the portfolio amounting to less than two percent of the aggregate amount of all funds invested.

(c) Review. On or before December 15, 2023, the Vermont Pension Investment Commission, in consultation with the Office of the State Treasurer, shall complete a review of the carbon footprint of the holdings of the Vermont State Employees' Retirement System, the Vermont State Teachers' Retirement System, and the Vermont Municipal Employees' Retirement System.

(d) Plan.

~~(1) Divestment. Except as provided in subdivision (2) of this subsection, the Commission, in accordance with sound investment criteria and consistent with fiduciary obligations, shall develop a plan to divest any holdings identified in the review described in subsection (c) of this section on or before December 31, 2030. The Commission shall include in the plan consideration of the State's long-term goal of divestment from any investments that are exempt from the plan pursuant to subdivision (2) of this subsection on or before December 31, 2040.~~

(1) Divestment. Except as provided in subdivision (2) of this subsection, the Commission, in accordance with sound investment criteria and consistent with fiduciary obligations, including consideration of any expected increased funding requirements for the actuarially determined employer contribution (ADEC) and administrative costs, shall develop a plan to divest any holdings identified in the review described in subsection (c) of this section on or before December 31, 2030. The Commission shall include in the plan consideration of the State's long-term goal of divestment from any investments that are ~~exempt from~~ exceptions to the plan pursuant to subdivision (2) of this subsection on or before December 31, 2040.

(2) ~~Exemptions~~ Exceptions. Until such time as the Commission deems divestment to be prudent and consistent with sound fiduciary practice, the following holdings are ~~exempt from~~ exceptions to the plan:

(A) de minimis exposure of any funds held by the Commission to the stocks, securities, or other obligations of any fossil fuel company or any subsidiary, affiliate, or parent of any fossil fuel company; and

(B) private investments that contain fossil fuel company stocks, securities, or other obligations of any fossil fuel company or any subsidiary, affiliate, or parent of any fossil fuel company.

(3) Definitions and methodology. The Commission shall include in the plan described in this subsection:

(A) a definition for "fossil fuel company"; and

(B) a method for determining the metric of the portfolio's carbon footprint that allows for an exemption of private investments for the purpose of

determining the de minimis exposure.

(e) Report.

(1) On or before February 15, 2024, the Commission shall submit a report on the review described in subsections (c) of this section to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations and to the Joint Pension Oversight Committee. The report shall include any recommendations for legislative action, if necessary, to implement the divestment plan.

(2)(A) On or before September 1, 2024, the Commission shall submit a report on the plan described in subsections (d) of this section to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations and to the Joint Pension Oversight Committee. The report shall include any recommendations for legislative action, if necessary, to implement the divestment plan.

(B) Pursuant to 2 V.S.A. § 23, with approval of the Speaker of the House and the President Pro Tempore, as appropriate, the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations may each meet up to one time when the General Assembly is not in session to evaluate the report described in subdivision (A) of this subdivision (e)(2).

(3) Beginning on January 15, 2025, and annually thereafter until January 15, 2040, the Commission shall submit a report to the House Committee on Government Operations and Military Affairs, the Senate Committee on Government Operations, and the Joint Pension Oversight Committee on the progress of divestment described in this section. The report shall also include:

(A) an update on the composition and percentage of exposure of any investments exempt from the divestment plan pursuant to subdivision (c)(2) of this section; and

(B) a summary of the fee impacts and any instance of excessive charges or demands related to the rebalancing of the funds consistent with the implementation of this act.

(4) On or before January 15, 2041, the Commission shall make a final report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations and the Joint Pension Oversight Committee regarding completion of divestment described in this section.

~~Sec. 2. DIVESTMENT PLAN; VERMONT PENSION INVESTMENT
COMMISSION; APPROPRIATION~~

~~In FY 2024, the amount of:~~

~~(1) \$100,000.00 in general funds is appropriated to the Vermont Pension Investment Commission to conduct the review and develop the plan described in Sec. 1 of this act.~~

~~(2) \$127,000.00 is appropriated to the Vermont Pension Investment Commission to establish one staff position to support improvements and efficiencies in the administration of the Commission and to meet the review, planning, and reporting requirements of this act. The appropriation to the Commission shall be distributed from the following funding sources pursuant to the allocations set forth below:~~

~~(A) 40.86 percent from the Vermont State Retirement Fund, established in 3 V.S.A. § 473;~~

~~(B) 44.01 percent from the Vermont Teachers' Retirement Fund, established in 16 V.S.A. § 1944; and~~

~~(C) 15.13 percent from the Vermont Municipal Employees' Retirement Fund, established in 24 V.S.A. § 5064.~~

Sec. 2. DIVESTMENT PLAN; VERMONT PENSION INVESTMENT
COMMISSION; APPROPRIATION

In FY 2024, the amount of \$127,000.00 is appropriated to the Vermont Pension Investment Commission to establish one staff position to support improvements and efficiencies in the administration of the Commission and to meet the review, planning, and reporting requirements of this act. The appropriation to the Commission shall be distributed from the following funding sources pursuant to the allocations set forth below:

(1) 40.86 percent from the Vermont State Retirement Fund, established in 3 V.S.A. § 473;

(2) 44.01 percent from the Vermont Teachers' Retirement Fund, established in 16 V.S.A. § 1944; and

(3) 15.13 percent from the Vermont Municipal Employees' Retirement Fund, established in 24 V.S.A. § 5064.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.