

ASSEMBLY, No. 2196

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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District 27 (Essex and Morris)

Assemblywoman MILA M. JASEY

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SYNOPSIS

Prohibits investment by State of pension and annuity funds in, and requires divestment from, 200 largest publicly traded fossil fuel companies.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 5/5/2021)

1 AN ACT concerning the investment of State pension and annuity
2 funds and supplementing P.L.1950, c.270 (C.52:18A-79 et seq.).

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. a. Notwithstanding any provision of law to the contrary, no
8 asset of any pension or annuity fund under the jurisdiction of the
9 Division of Investment in the Department of the Treasury, or its
10 successor, shall be invested in any stock, debt, or other security of
11 any company, or any subsidiary, affiliate, or parent of any
12 company, that is among the 200 largest publicly traded fossil fuel
13 companies, as established by carbon content in the companies'
14 proven oil, gas, and coal reserves.

15 b. The State Investment Council and the Director of the Division
16 of Investment shall, in accordance with sound investment criteria
17 and consistent with their fiduciary obligations, take appropriate
18 action to divest any such stock, debt, or other security, whether
19 owned directly or held through separate accounts or any
20 commingled funds. Divestment pursuant to this section shall be
21 completed by January 1, 2022, with the exception of companies
22 engaged in the mining, extraction, or production of coal, divestment
23 from which shall be completed no later than 24 months after the
24 effective date of this act, P.L. , c. (pending before the
25 Legislature as this bill). This subsection shall not be construed to
26 require the premature or otherwise imprudent sale, redemption,
27 divestment, or withdrawal of an investment.

28 c. (1) The Director of the Division of Investment shall be
29 permitted to cease divesting from companies under subsection a. of
30 this section, reinvest in companies from which it divested under that
31 subsection, or continue to invest in companies from which it has not
32 yet divested, upon clear and convincing evidence showing that as a
33 direct result of such divestment, the total and aggregate value of all
34 assets in the pension and annuity funds under the jurisdiction of the
35 Division of Investment becomes or shall become, within a
36 reasonable period of time, equal to or less than 99.5 percent, or 100
37 percent less 50 basis points, of the hypothetical value of all assets in
38 the pension and annuity funds under the jurisdiction of the Division
39 of Investment assuming no divestment from any company had
40 occurred under subsection a. of this section.

41 (2) Cessation of divestment, reinvestment, or any subsequent
42 ongoing investment authorized by this subsection shall be strictly
43 limited to the minimum steps necessary to avoid the contingency set
44 forth in paragraph (1) of this subsection. For any cessation of
45 divestment, and in advance of such cessation, authorized by this
46 subsection, the director shall provide a written report to the
47 Governor, the Legislature pursuant to section 2 of P.L.1991, c.164
48 (C.52:14-19.1), and the Attorney General, updated on February 1 of

1 each year as applicable, setting forth the reasons and justification,
2 supported by clear and convincing evidence, for the director's
3 decisions to cease divestment, to reinvest, or to remain invested in a
4 fossil fuel company.

5 d. The council and the director shall facilitate the identification
6 of fossil fuel companies from which the divestment is required
7 under subsection a. of section and submit a report, within 120 days
8 of the effective date of this act and on February 1 of each year
9 thereafter, listing such companies to the Governor, the Legislature
10 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and the
11 Attorney General. The report submitted on February 1 of each year
12 shall be filed by the director and shall include all investments sold,
13 redeemed, divested, or withdrawn in compliance with this section,
14 and all prohibited investments from which divestment has not
15 occurred under this section. The report shall provide a description
16 of the progress that the division has made since the previous report
17 in implementing subsection a. of this section.

18 e. The members of the State Investment Council, jointly and
19 individually, and State officers and employees involved therewith,
20 shall be indemnified and held harmless by the State of New Jersey
21 from all claims, demands, suits, actions, damages, judgments, costs,
22 charges, and expenses, including court costs and attorney's fees,
23 and against all liability, losses, and damages that these council
24 members, State officers, and State employees may sustain by reason
25 of any decision to restrict, reduce, or eliminate investments
26 pursuant to this act.

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28 2. This act shall take effect immediately.

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STATEMENT

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33 This bill prohibits the Director of the Division of Investment
34 from investing any assets of the State retirement funds in any of the
35 top 200 companies that hold the largest carbon content fossil fuel
36 reserves.

37 Under the bill, divestment from coal companies must be
38 completed within two years, and from all other fossil fuel
39 companies by January 1, 2022. The director may cease divestment
40 or reinvest in previously divested companies if the director
41 demonstrates that as a direct result of the divestment, the funds have
42 or will become equal to or less than 99.5 percent, or 100 percent
43 less 50 basis points, of the hypothetical value of all assets under the
44 director's management, assuming no divestment from any company
45 had occurred. The State Investment Council and the director are to
46 identify all companies subject to divestment, and the director is to
47 report annually on the progress of divestment.

A2196 MCKEON, JASEY

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1 The State of New Jersey recognizes climate change as a real and
2 substantial threat, and is committed to efforts aimed at curbing
3 global warming. To that end, the State will stand, with a host of
4 other institutions across the country, against profiting from
5 companies that are accelerating climate change by removing those
6 companies from its pension and annuity funds portfolio. This
7 divestment also considers the funds' fiduciary obligations, in that
8 the Paris climate agreement targets for reducing greenhouse gas
9 emissions could produce scores of "stranded assets," or fuel
10 reserves that cannot be burned in order to meet those targets,
11 rendering the profitability of these companies uncertain. It is at this
12 critical juncture in the race against time to prevent climate change
13 that this State reduces its financial interest in those companies
14 inimical to that goal.