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LRB104 12439 RPS 35658 a

1 AMENDMENT TO HOUSE BILL 3961

2 AMENDMENT NO. _____. Amend House Bill 3961 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. This Act may be referred to as the Fossil Fuel
5 Divestment Act.

6 Section 5. Findings. The General Assembly finds that:

7 (1) Climate change is a real and serious threat to the
8 health, welfare, and prosperity of all Illinoisans, now
9 and in the future. Scientific evidence indicates that
10 maintaining the status quo of fossil fuel energy
11 production will lead to catastrophic results.

12 (2) Continued investment in the fossil fuel industry
13 is counterproductive to the goals set forth in the Energy
14 Transition Act. That Act, passed by the Illinois General
15 Assembly and signed into law in 2021, commits the State to
16 phasing out carbon emissions from the energy and transport

1 sectors and requires Illinois to be 100% reliant on
2 renewable energy by 2050.

3 (3) The threats posed by climate change, and the
4 necessary transformation of the global energy system to
5 mitigate it, will have a serious negative impact on
6 investors whose assets are not aligned with the goal of
7 keeping the global average temperature increase below 1.5
8 degrees Celsius.

9 (4) Continued investment in fossil fuel companies
10 poses unacceptable risk to the long-term sustainability of
11 the State's public pension funds that are under the State
12 Treasurer's control and to the long-term sustainability of
13 \$26,000,000,000 of the State's investments,
14 \$17,000,000,000 in the programs established pursuant to
15 Section 529 of the Internal Revenue Code, \$12,000,000,000
16 of the Illinois Funds, \$80,000,000 of the Secure Choice
17 Retirement Savings Programs, and \$30,000,000 in the ABLE
18 Account Program.

19 (5) Because the continued investment in fossil fuel
20 companies poses unacceptable risks to these pension funds
21 and State investments, those who hold investment authority
22 over these systems should divest from fossil fuel
23 companies. Such entities are encouraged to invest in
24 climate change solutions where consistent with acceptable
25 financial risk.

1 Section 10. The Illinois Pension Code is amended by adding
2 Section 1-110.18 as follows:

3 (40 ILCS 5/1-110.18 new)

4 Sec. 1-110.18. Fossil fuel investment prohibited.

5 (a) Definitions. In this Section:

6 "Direct holdings" means all securities of a company held
7 directly by the pension fund or in an account or fund in which
8 the pension fund owns all shares or interests.

9 "Fossil fuel company" means any company or corporation
10 that is among the top 100 publicly traded oil and gas companies
11 with the largest proven carbon reserves globally and the top
12 100 coal companies with the largest proven carbon reserves
13 globally.

14 "Indirect holdings" means all securities of a company held
15 in a publicly traded account or fund, such as a mutual fund or
16 index fund, managed by one or more persons not employed by the
17 pension fund, in which the pension fund owns shares or
18 interests together with other investors not subject to this
19 Section.

20 "Pension fund" means a retirement system established under
21 Article 2, 14, 15, 16, or 18 or the Illinois State Board of
22 Investment.

23 (b) Limitations on investments. Beginning on the effective
24 date of this amendatory Act of the 104th General Assembly, in
25 accordance with sound investment criteria and consistent with

1 fiduciary obligations, a pension fund shall not make any new
2 or additional investments or renew existing investments in
3 publicly traded stocks, securities, or other obligations of
4 any fossil fuel company or any subsidiary, affiliate, or
5 parent of any fossil fuel company. A pension fund shall not
6 indirectly invest in a fund, unless the board of trustees of
7 the pension fund is satisfied on reasonable grounds that the
8 fund is unlikely to have more than a de minimis exposure of
9 0.05% of its assets, averaged annually, directly or indirectly
10 invested in fossil fuel companies. A pension fund shall not
11 invest in any prime commercial paper or corporate bonds issued
12 by a fossil fuel company.

13 (c) Divestment.

14 (1) The board of trustees of each pension fund shall,
15 in accordance with sound investment criteria and
16 consistent with fiduciary obligations and the procedures
17 set forth in subsection (f), divest its holding in fossil
18 fuel companies within 5 years after the effective date of
19 this amendatory Act of the 104th General Assembly. Nothing
20 in this subsection precludes a de minimis exposure of
21 0.05% or less of the pension fund's assets to any indirect
22 holdings of stocks, securities, or other obligations of
23 any fossil fuel company or any subsidiary, affiliate, or
24 parent of any fossil fuel company, acquired as a good
25 faith investment.

26 (2) In the time period before the sale, redemption,

1 divestment, or withdrawal pursuant to paragraph (1), the
2 pension fund may sign onto engagement letters or
3 participate in shareholder resolutions regarding the
4 scrutinized business operations of companies identified in
5 subsection (b) in which the pension fund still owns direct
6 or indirect holdings.

7 (3) Nothing in this Section precludes or limits the
8 exercise of shareholder engagement or proxy voting rights
9 as guaranteed by a pension fund's de minimis exposure to
10 fossil fuel companies.

11 (d) Restricted company list. By January 1, 2027, the
12 Illinois Investment Policy Board shall identify fossil fuel
13 companies and shall assemble those identified companies into a
14 list of restricted companies, to be distributed to each
15 pension fund.

16 These efforts shall include the following, as appropriate
17 in the Illinois Investment Policy Board's judgment:

18 (1) reviewing and relying on the publicly available
19 lists commonly referred to as the Carbon Underground 200
20 maintained by FFI Solutions; and

21 (2) contacting asset managers contracted by the
22 pension funds that invest in publicly traded assets.

23 The Illinois Investment Policy Board shall review the list
24 of restricted companies on a quarterly basis based on evolving
25 information from, among other sources, those listed in
26 paragraph (1) of this subsection (d) and distribute any

1 updates to the list of restricted companies to the pension
2 funds and the State Treasurer.

3 (e) Illinois Investment Policy Board procedures. The
4 Illinois Investment Policy Board shall adhere to the following
5 procedures for companies on the list of restricted companies:

6 (1) For each company newly identified in subsection
7 (d), the Illinois Investment Policy Board, unless it
8 determines by an affirmative vote that it is unfeasible,
9 shall send a written notice informing the company of its
10 status and that it is subject to divestment by the pension
11 funds.

12 (2) If, following the Illinois Investment Policy
13 Board's engagement pursuant to this subsection (e) with a
14 restricted company, that company ceases activity that
15 designates the company to be on the Carbon Underground 200
16 list, the company shall be removed from the list of
17 restricted companies and the provisions of this Section
18 shall cease to apply to it unless it resumes such
19 activities.

20 (f) Pension fund procedures. Each pension fund shall
21 adhere to the following procedures for companies on the list
22 of restricted companies:

23 (1) The pension fund shall identify those companies on
24 the list of restricted companies in which the pension fund
25 owns direct holdings and indirect holdings.

26 (2) The pension fund shall instruct its investment

1 advisors to sell, redeem, divest, or withdraw all direct
2 holdings of restricted companies from the pension fund's
3 assets under management in an orderly and fiduciarily
4 responsible manner within 5 years after the effective date
5 of this amendatory Act of the 104th General Assembly or
6 within 12 months after the company appears on a revised
7 list of restricted companies.

8 (3) Provisions requiring divestment do not apply to
9 the pension fund's private market funds.

10 (4) The pension fund may not acquire securities of
11 restricted companies.

12 (5) For indirect holdings of the pension fund, the
13 Illinois Investment Policy Board shall submit letters to
14 the managers of those investment funds containing
15 restricted companies requesting that they consider
16 removing the companies from the fund or create a similar
17 actively managed fund having indirect holdings devoid of
18 the companies. If the manager creates a similar fund, the
19 pension fund shall replace all applicable investments with
20 investments in the similar fund in an expedited time frame
21 consistent with prudent investing standards. If a similar
22 fund is not created, the pension fund shall:

23 (A) for investment funds containing restricted
24 companies that are held on the effective date of this
25 amendatory Act of the 104th General Assembly, divest
26 its holdings within 5 years after the effective date

1 of this amendatory Act of the 104th General Assembly;

2 (B) for investment funds that added a holding in a
3 restricted company after the effective date of this
4 amendatory Act of the 104th General Assembly, divest
5 its holdings within 12 months after the board of the
6 pension fund became aware or was informed that the
7 restricted company was added to the investment fund's
8 holdings; or

9 (C) for funds that have holdings in companies that
10 are added to the restricted list after the initial
11 list was created, divest its holdings within 12 months
12 after the restricted company was added to the
13 restricted list.

14 Notwithstanding any provision of this Section to the
15 contrary, a pension fund may cease divestment of any indirect
16 holding if clear and convincing evidence shows that the value
17 of its investments in the prohibited list of fossil fuel
18 companies are equal to or less than 0.05% of the market value
19 of all assets under management by the pension fund. For any
20 cessation of divestment authorized by this subsection, the
21 pension fund shall provide a written notice to the Illinois
22 Investment Policy Board in advance of the cessation of
23 divestment, setting forth the reasons and justification,
24 supported by clear and convincing evidence, for its decision
25 to cease divestment under this subsection.

26 (g) Pension fund annual report. By April 1 of each year,

1 each pension fund shall provide the Illinois Investment Policy
2 Board with information regarding investments sold, redeemed,
3 divested, or withdrawn in compliance with this Section.

4 (h) Costs of the Illinois Investment Policy Board. The
5 cost associated with the activities of the Illinois Investment
6 Policy Board under this Section shall be borne by the boards of
7 each pension fund or investment board created under Article
8 15, 16, or 22A of this Code.

9 (i) Conflicting statutory and common law obligations. With
10 respect to actions taken in compliance with this Section,
11 including all good faith determinations regarding companies as
12 required by this Section, the pension fund and Illinois
13 Investment Policy Board are exempt from any conflicting
14 statutory or common law obligations, including any fiduciary
15 duties under this Article and any obligations with respect to
16 choice of asset managers, investment funds, or investments for
17 the pension fund's securities portfolios.

18 (j) Severability. If any provision of this amendatory Act
19 of the 104th General Assembly or its application to any person
20 or circumstance is held invalid, the invalidity of that
21 provision or application does not affect other provisions or
22 applications of this amendatory Act of the 104th General
23 Assembly that can be given effect without the invalid
24 provision or application.

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.".