

STATE OF NEW YORK

9241--A

IN ASSEMBLY

February 9, 2022

Introduced by M. of A. PALMESANO, TAGUE, GALLAHAN, SALKA, BYRNES, McDO-
NOUGH, J. M. GIGLIO, BLANKENBUSH -- Multi-Sponsored by -- M. of A.
ANGELINO -- read once and referred to the Committee on Governmental
Employees -- committee discharged, bill amended, ordered reprinted as
amended and recommitted to said committee

AN ACT to amend the retirement and social security law, in relation to
enacting the "cobalt and lithium mining and production divestment act"

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "cobalt and lithium mining and production divestment act".

3 § 2. The retirement and social security law is amended by adding a new
4 section 423-d to read as follows:

5 § 423-d. Investment of certain public funds in companies involved in
6 cobalt and lithium mining and production. 1. For the purposes of this
7 section, "cobalt and lithium mining and production" shall mean explora-
8 tion, extraction, drilling, production, refining, processing or distrib-
9 ution activities related to cobalt and lithium, for the manufacture of
10 batteries used in large-scale battery storage power stations and the
11 primary propulsion systems for electric vehicles, including, but not
12 limited to, cars, trucks and boats.

13 2. (a) Notwithstanding any provision of law to the contrary, on or
14 after the effective date of this section, no monies or assets of the
15 common retirement fund shall be invested in the stocks, securities or
16 other obligations of any institution or company engaging in cobalt and
17 lithium mining or production for the manufacture of batteries used in
18 large-scale battery storage power stations and the primary propulsion
19 systems for electric vehicles, if such company cannot establish through
20 approved independent monitoring that their mining operation does not use
21 child labor and that adult miners and other workers are employed under
22 conditions that meet accepted criteria under international standards
23 such as the Conventions of the International Labor Organization.

24 (b) Notwithstanding any provision of law to the contrary, no assets of
25 any pension or annuity fund under the jurisdiction of the comptroller

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 shall be invested in any bank or financial institution which directly or
2 through a subsidiary has outstanding loans to, or financial activities
3 associated with, the mining or production of cobalt or lithium, and no
4 such assets shall be invested in the stocks, securities or other obli-
5 gations of any company which directly or through a subsidiary is engaged
6 in business in or with cobalt or lithium mining and production, if such
7 bank or financial institution cannot establish through approved inde-
8 pendent monitoring that their mining operation does not use child labor
9 and that adult miners and other workers are employed under conditions
10 that meet accepted criteria under international standards such as the
11 Conventions of the International Labor Organization.

12 3. (a) Within six months of the effective date of this section, the
13 comptroller shall create an exclusion list consisting of all cobalt and
14 lithium producers in which stocks, securities, equities, assets or other
15 obligations the common retirement fund has any monies or assets directly
16 invested.

17 (b) Upon completion, such exclusion list shall be made publicly avail-
18 able and a copy shall be sent to the temporary president of the senate
19 and the speaker of the assembly.

20 (c) Within sixty days after the completion of the exclusion list, the
21 comptroller shall file with the legislature a report of all investments
22 held, as of the effective date of this section, which are in violation
23 of the provisions of this section. Every year thereafter, the comp-
24 troller shall report on all investments sold, redeemed, divested or
25 withdrawn in compliance with this section. Each report after the initial
26 report shall provide a description of the progress which the comptroller
27 has made since the previous report and since the effective date of this
28 section.

29 (d) The comptroller shall, in accordance with sound investment crite-
30 ria and consistent with his or her fiduciary obligations, take appropri-
31 ate action to sell, redeem, divest or withdraw any investment held in
32 violation of the provisions of this section. Such sale, redemption,
33 divestment or withdrawal shall be completed not later than three years
34 after the effective date of this section.

35 (e) This section shall not be construed to require the premature or
36 otherwise imprudent sale, redemption, divestment or withdrawal of an
37 investment.

38 § 3. This act shall take effect immediately.