STATE OF NEW YORK

5647

2017-2018 Regular Sessions

IN SENATE

April 24, 2017

Introduced by Sens. HOYLMAN, KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to requiring SUNY and CUNY trustees refrain from investing in and subsequently divest from stocks, debt or other securities of certain publicly traded fossil fuel companies

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

Section 1. The education law is amended by adding a new section 355-d to read as follows:

§ 355-d. Divestment from fossil fuels. 1. (a) On or after July first, two thousand eighteen, the board of trustees shall not invest any monies in any stocks, debt or other securities of any corporation or company, or any subsidiary, affiliate or parent of any corporation or company, among the two hundred largest publicly traded fossil fuel companies, as established by carbon content in the companies' proven oil, gas and coal reserves.

(b) On or before January first, two thousand twenty-two, the board of trustees shall divest from any stocks, debt or other securities of any corporation or company, or any subsidiary, affiliate or parent of any corporation or company, among the two hundred largest publicly traded fossil fuel companies, as established by carbon content in the companies' proven oil, gas and coal reserves, except that divestment from stocks or other securities of companies engaged in the mining, extraction or production of coal shall be completed no later than one year after the effective date of this subdivision.

(c) The board of trustees shall be permitted to cease divesting from companies under paragraph (a) of this subdivision, reinvest in companies from which it divested under paragraph (a) of this subdivision, or continue to invest in companies from which it has not yet divested upon clear and convincing evidence showing that as a direct result of such

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

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divestment, the total and aggregate value of all assets under management by, or on behalf of, the board of trustees becomes or shall become: (i) equal to or less than ninety-nine and one-half percent; or (ii) one hundred percent less fifty basis points of the hypothetical value of all assets under management by, or on behalf of, the board of trustees assuming no divestment from any company had occurred under said paragraph (a) of this subdivision. Cessation of divestment, reinvestment or any subsequent ongoing investment authorized by this section shall be strictly limited to the minimum steps necessary to avoid the contingency set forth in the preceding sentence. For any cessation of divestment, and in advance of such cessation, authorized by this subdivision, the board of trustees shall provide a written report to the attorney general and the senate and assembly standing committees on higher education, updated semi-annually thereafter as applicable, setting forth the reasons and justification, supported by clear and convincing evidence, for its decisions to cease divestment, to reinvest or to remain invested in fossil fuel companies.

2. (a) On or after July first, two thousand eighteen, an affiliated nonprofit organization or foundation shall not invest any monies in any stocks, debt or other securities of any corporation or company, or any subsidiary, affiliate or parent of any corporation or company, among the two hundred largest publicly traded fossil fuel companies, as established by carbon content in the companies' proven oil, gas and coal reserves.

(b) On or before January first, two thousand twenty-two, an affiliated nonprofit organization or foundation shall divest from any stocks, debt or other securities of any corporation or company, or any subsidiary, affiliate or parent of any corporation or company, among the two hundred largest publicly traded fossil fuel companies, as established by carbon content in the companies' proven oil, gas and coal reserves, except that divestment from stocks or other securities of companies engaged in the mining, extraction or production of coal shall be completed no later than one year after the effective date of this subdivision.

(c) An affiliated nonprofit organization or foundation shall be permitted to cease divesting from companies under paragraph (a) of this subdivision, reinvest in companies from which it divested under paragraph (a) of this subdivision, or continue to invest in companies from which it has not yet divested upon clear and convincing evidence showing that as a direct result of such divestment, the total and aggregate value of all assets under management by, or on behalf of, an affiliated nonprofit organization or foundation becomes or shall become: (i) equal or less than ninety-nine and one-half percent; or (ii) one hundred percent less fifty basis points of the hypothetical value of all assets under management by, or on behalf of, an affiliated nonprofit organization or foundation assuming no divestment from any company had occurred under said paragraph (a) of this subdivision. Cessation of divestment, reinvestment or any subsequent ongoing investment authorized by this section shall be strictly limited to the minimum steps necessary to avoid the contingency set forth in the preceding sentence. For any cessation of divestment, and in the advance of such cessation, authorized by this subdivision, an affiliated nonprofit organization or foundation shall provide a written report to the attorney general and the senate and assembly standing committees on higher education, updated semi-annually thereafter as applicable, setting forth the reasons and justification, supported by clear and convincing evidence, for its decisions to cease divestment, to reinvest or to remain invested in fossil fuel companies.

3. As used within this section, "an affiliated nonprofit organization or foundation" means an organization or foundation formed under the not-for-profit corporation law or any other entity formed for the benefit of or controlled by the state university of New York or its respective universities, colleges, community colleges, campuses or subdivisions, including the research foundation of the state university of New York, to assist in meeting the specific needs of, or providing a direct benefit to, the respective university, college, community college, campus or subdivision or the university as a whole, that has control of, manages or receives fifty thousand dollars or more annually, including alumni associations.

§ 2. The education law is amended by adding a new section 6234-a to read as follows:

§ 6234-a. Divestment from fossil fuels. 1. (a) On or after July first, two thousand eighteen, the board of trustees shall not invest any monies in any stocks, debt or other securities of any corporation or company, or any subsidiary, affiliate or parent of any corporation or company, among the two hundred largest publicly traded fossil fuel companies, as established by carbon content in the companies' proven oil, gas and coal reserves.

(b) On or before January first, two thousand twenty-two, the board of trustees shall divest from any stocks, debt or other securities of any corporation or company, or any subsidiary, affiliate or parent of any corporation or company, among the two hundred largest publicly traded fossil fuel companies, as established by carbon content in the companies' proven oil, gas and coal reserves, except that divestment from stocks or other securities of companies engaged in the mining, extraction or production of coal shall be completed no later than one year after the effective date of this subdivision.

(c) The board of trustees shall be permitted to cease divesting from companies under paragraph (a) of this subdivision, reinvest in companies from which it divested under paragraph (a) of this subdivision, or continue to invest in companies from which it has not yet divested upon clear and convincing evidence showing that as a direct result of such divestment, the total and aggregate value of all assets under management by, or on behalf of, the board of trustees becomes or shall become: (i) equal to or less than ninety-nine and one-half percent; or (ii) one hundred percent less fifty basis points of the hypothetical value of all assets under management by, or on behalf of, the board of trustees assuming no divestment from any company had occurred under said paragraph (a) of this subdivision. Cessation of divestment, reinvestment or any subsequent ongoing investment authorized by this section shall be strictly limited to the minimum steps necessary to avoid the contingency set forth in the preceding sentence. For any cessation of divestment, and in advance of such cessation, authorized by this subdivision, the board of trustees shall provide a written report to the attorney general and the senate and assembly standing committees on higher education, updated semi-annually thereafter as applicable, setting forth the reasons and justification, supported by clear and convincing evidence, for its decisions to cease divestment, to reinvest or to remain invested in fossil fuel companies.

2. (a) On or after July first, two thousand eighteen, an affiliated nonprofit organization or foundation shall not invest any monies in any stocks, debt or other securities of any corporation or company, or any

subsidiary, affiliate or parent of any corporation or company, among the two hundred largest publicly traded fossil fuel companies, as established by carbon content in the companies' proven oil, gas and coal reserves.

(b) On or before January first, two thousand twenty-two, an affiliated nonprofit organization or foundation shall divest from any stocks, debt or other securities of any corporation or company, or any subsidiary, affiliate or parent of any corporation or company, among the two hundred largest publicly traded fossil fuel companies, as established by carbon content in the companies' proven oil, gas and coal reserves, except that divestment from stocks or other securities of companies engaged in the mining, extraction or production of coal shall be completed no later than one year after the effective date of this subdivision.

(c) An affiliated nonprofit organization or foundation shall be permitted to cease divesting from companies under paragraph (a) of this subdivision, reinvest in companies from which it divested under paragraph (a) of this subdivision, or continue to invest in companies from which it has not yet divested upon clear and convincing evidence showing that as a direct result of such divestment, the total and aggregate value of all assets under management by, or on behalf of, an affiliated nonprofit organization or foundation becomes or shall become: (i) equal to or less than ninety-nine and one-half percent; or (ii) one hundred percent less fifty basis points of the hypothetical value of all assets under management by, or on behalf of, an affiliated nonprofit organization or foundation assuming no divestment from any company had occurred under said paragraph (a) of this subdivision. Cessation of divestment, reinvestment or any subsequent ongoing investment authorized by this section shall be strictly limited to the minimum steps necessary to avoid the contingency set forth in the preceding sentence. For any cessation of divestment, and in advance of such cessation, authorized by this subdivision, an affiliated nonprofit organization or foundation shall provide a written report to the attorney general and the senate and assembly standing committees on higher education, updated semi-annually thereafter as applicable, setting forth the reasons and justification, supported by clear and convincing evidence, for its decisions to cease divestment, to reinvest or to remain invested in fossil fuel companies.

3. As used within this section, "an affiliated nonprofit organization or foundation" means an organization or foundation formed under the not-for-profit corporation law or any other entity formed for the benefit of or controlled by the city university of New York or its respective universities, colleges, community colleges, campuses or subdivisions, including the research foundation of the city university of New York, to assist in meeting the specific needs of, or providing a direct benefit to, the respective university, college, community college, campus or subdivision or the university as a whole, that has control of, manages or receives fifty thousand dollars or more annually, including alumni associations.

§ 3. This act shall take effect on July 1, 2018.