AN ACT to amend the retirement and social security law, in relation to limitations on investments of public pension funds

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

Section 1. This act shall be known and may be cited as the "fossil fuel divestment act".

§ 2. Section 423 of the retirement and social security law, as amended by chapter 770 of the laws of 1970, is amended to read as follows:

§ 423. Investments. On and after April first, nineteen hundred sixty-seven, the comptroller shall invest the available monies of the common retirement fund in any investments and securities authorized by law for each retirement system and shall hold such investments in his name as trustee of such fund, notwithstanding any other provision of this chapter. Participating interests in such investments shall be credited to each retirement system in the manner and at the time specified in subdivision two of section four hundred twenty-two of this article.

To assist in the management of the monies of the common retirement fund, the comptroller shall appoint an investment advisory committee consisting of not less than seven members who shall serve for his term of office. A vacancy occurring from any cause other than expiration of term shall be filled by the comptroller for the remainder of the term. Each member of the committee shall be experienced in the field of investments and shall have served, or shall be serving, as a senior officer or member of the board of an insurance company, banking corporation or other financial or investment organization authorized to do business in the state of New York. The committee shall advise the comptroller.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.
troller on investment policies relating to the monies of the common
retirement fund and shall review, from time to time, the investment
portfolio of the fund and make such recommendations as may be deemed
necessary.

(b) The comptroller shall appoint a separate mortgage advisory commit-
tee, with the advice and consent of the investment advisory committee,
to review proposed mortgage and real estate investments by the common
retirement fund. In making investments, as authorized by law, the comp-
troller shall be guided by policies established by each committee from
time to time; and, in the event the mortgage advisory committee disap-
proves a proposed mortgage or real estate investment, such shall not be
made.

(c) No officer or employee of any state department or agency shall be
eligible for membership on either committee. Each committee shall
convene periodically on call of the comptroller, or on call of the
chairman. The members of each committee shall be entitled to reimburse-
ment for their actual and necessary expenses but shall receive no
compensation for their services.

3. (a) Notwithstanding any provision of law to the contrary, the comp-
troller shall not have the power to invest the available monies of the
common retirement fund 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 compa-
nies’ proven oil, gas and coal reserves. The comptroller shall, in
accordance with sound investment criteria and consistent with his or her
fiduciary obligations, divest any such stocks or other securities whether
they are owned directly or held through separate accounts or any
commingled funds. Divestment pursuant to this subdivision must be
completed within five years of the effective date of this subdivision.

(b) The comptroller shall be permitted to cease divesting from compa-
nies 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 common retirement fund 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 common retirement fund assum-
ing 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
comptroller shall provide a written report to the attorney general, the
senate standing committee on civil service and pensions, and the assem-
ibly standing committee on governmental employees, 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.
(c) Within sixty days of the effective date of this subdivision, the comptroller shall facilitate the identification of fossil fuel companies from which the common retirement fund is required to divest under paragraph (a) of this subdivision, and file a copy of this list with the attorney general, the senate standing committee on civil service and pensions, and the assembly standing committee on governmental employees. Annually thereafter, the public fund shall file a report with the attorney general, the senate standing committee on civil service and pensions, and the assembly standing committee on governmental employees that includes: (i) all investments sold, redeemed, divested or withdrawn in compliance with paragraph (a) of this subdivision; and (ii) all prohibited investments from which the common retirement fund has not yet divested under paragraph (a) of this subdivision.

§ 3. This act shall take effect immediately.