STATE OF NEW YORK

9241--A

IN ASSEMBLY

February 9, 2022

Introduced by M. of A. PALMESANO, TAGUE, GALLAHAN, SALKA, BYRNES, McDONOUGH, 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 Assembly, do enact as follows:

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

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

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

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

(b) Notwithstanding any provision of law to the contrary, no assets of 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.

LBD13032-02-2

shall be invested in any bank or financial institution which directly or through a subsidiary has outstanding loans to, or financial activities associated with, the mining or production of cobalt or lithium, and no such assets shall be invested in the stocks, securities or other obligations of any company which directly or through a subsidiary is engaged in business in or with cobalt or lithium mining and production, if such bank or financial institution cannot establish through approved independent monitoring that their mining operation does not use child labor and that adult miners and other workers are employed under conditions that meet accepted criteria under international standards such as the Conventions of the International Labor Organization.

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

(b) Upon completion, such exclusion list shall be made publicly available and a copy shall be sent to the temporary president of the senate and the speaker of the assembly.

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

(d) The comptroller shall, in accordance with sound investment criteria and consistent with his or her fiduciary obligations, take appropriate action to sell, redeem, divest or withdraw any investment held in violation of the provisions of this section. Such sale, redemption, divestment or withdrawal shall be completed not later than three years after the effective date of this section.

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

§ 3. This act shall take effect immediately.