

MAINE STATE LEGISLATURE

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L.D. 99

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Date: 6-2-21

(Filing No. H-338)

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REPORT C
LABOR AND HOUSING

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION

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COMMITTEE AMENDMENT "B" to H.P. 65, L.D. 99, "An Act To Require the State To Divest Itself of Assets Invested in the Fossil Fuel Industry"

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Amend the bill by striking out everything after the enacting clause and inserting the following:

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Sec. 1. 5 MRSA §135, as amended by PL 2005, c. 386, Pt. CC, §2 and PL 2013, c. 16, §10, is further amended by adding at the end a new paragraph to read:

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The Treasurer of State may not invest in any prime commercial paper or corporate bonds issued by a fossil fuel company, as defined in section 1957, subsection 1, paragraph C.

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Sec. 2. 5 MRSA §138, as amended by PL 2001, c. 44, §11 and affected by §14, is further amended by adding at the end a new paragraph to read:

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The Treasurer of State shall review the extent to which the assets of any permanent funds held in trust by the State are invested in the stocks, securities or other obligations of any fossil fuel company or any subsidiary, affiliate or parent of any fossil fuel company, as defined in section 1957, subsection 1, paragraph C. The Treasurer of State shall, in accordance with sound investment criteria and consistent with fiduciary obligations, divest any such holdings and may not invest any assets in any such stocks, securities or other obligations. Divestment pursuant to this paragraph must be complete by January 1, 2026. Nothing in this paragraph precludes de minimis exposure of any permanent funds held in trust by the State to the stocks, securities or other obligations of any fossil fuel company or any subsidiary, affiliate or parent of any fossil fuel company.

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Sec. 3. 5 MRSA §1957 is enacted to read:

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§1957. Limitation on investment in fossil fuel companies; divestment

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1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

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A. "Board" means the Board of Trustees of the Maine Public Employees Retirement System.

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B. "Fossil fuel" means coal, petroleum, natural gas or any derivative of coal, petroleum or natural gas that is used for fuel.

C. "Fossil fuel company" means any company that:

(1) Is among the 200 publicly traded companies with the largest fossil fuel reserves in the world;

(2) Is among the 30 largest public company owners in the world of coal-fired power plants;

(3) Owns any fossil fuel infrastructure;

(4) Has as its core business the exploration, extraction, refining, processing or distribution of fossil fuels; or

(5) Receives more than 50% of its gross revenue from companies that meet the definition under subparagraph (1), (2), (3) or (4).

D. "Fossil fuel infrastructure" means oil or gas wells, oil or gas pipelines and refineries; oil, coal or gas-fired power plants; oil and gas storage tanks; fossil fuel export terminals; and any other infrastructure used exclusively for fossil fuels.

2. Limitation on investment in fossil fuel company. The board may not invest the assets of any state pension or annuity fund in the stocks, securities or other obligations of any fossil fuel company or any subsidiary, affiliate or parent of any fossil fuel company unless required by fiduciary obligation and no equivalent investments are available. Nothing in this subsection precludes de minimis exposure of any funds held by the board to the stocks, securities or other obligations of any fossil fuel company or any subsidiary, affiliate or parent of any fossil fuel company.

3. Review and divestment of assets. The board shall review the extent to which the assets of any state pension or annuity fund are invested in the stocks, securities or other obligations of any fossil fuel company or any subsidiary, affiliate or parent of any fossil fuel company. The board shall, in accordance with sound investment criteria and consistent with fiduciary obligations, divest any such holdings. Divestment pursuant to this subsection must be complete by January 1, 2026. Nothing in this subsection precludes de minimis exposure of any funds held by the board to the stocks, securities or other obligations of any fossil fuel company or any subsidiary, affiliate or parent of any fossil fuel company.

4. Post on website. On a quarterly basis, the board shall post on the publicly accessible website of the Maine Public Employees Retirement System information detailing all its holdings in the public market and private equity investments.

5. Annual report. Beginning January 1, 2022 and annually thereafter, the board shall issue a report reviewing its environmental, social and governance investment policy. The report must disclose environmental performance metrics used to evaluate the investment policy, including, but not limited to:

A. Greenhouse gas emissions;

B. Climate change risk exposure;

C. Investment risk related to carbon pricing; and

D. Any other environmental performance metrics available.

The board may contract for consulting services to evaluate the environmental performance metrics under this subsection relating to the carbon emissions and environmental effects of its investment portfolio.

Sec. 4. Report to Legislature. The Treasurer of State and the Board of Trustees of the Maine Public Employees Retirement System shall report annually to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs by January 1, 2023, 2024 and 2025 regarding the progress of divestment under and the implementation of the Maine Revised Statutes, Title 5, sections 138 and 1957. The Treasurer of State and the Board of Trustees of the Maine Public Employees Retirement System shall make a final report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs by January 1, 2026 regarding completion of the divestment pursuant to this section.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

RETIREMENT SYSTEM, MAINE PUBLIC EMPLOYEES

Retirement System - Investment Review N366

Initiative: Provides ongoing funds for the administrative costs to identify the extent to which the assets of any state pension or annuity fund are invested in the stocks, securities or other obligations of any fossil fuel company or any subsidiary, affiliate or parent of any fossil fuel company and to collect the data required to meet the annual reporting requirement.

GENERAL FUND	2021-22	2022-23
All Other	\$300,000	\$300,000
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GENERAL FUND TOTAL	\$300,000	\$300,000

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment, which is a minority report of the committee, replaces the bill. The amendment adds definitions. It creates a fiduciary duty exception and allows for de minimis exposure policies for both the Treasurer of State and the Board of Trustees of the Maine Public Employees Retirement System. It requires the board to post on the Maine Public Employees Retirement System's publicly accessible website information detailing its investments. It also requires the board to disclose commonly available environmental performance metrics in its annual environmental, social and governance report. It requires the Treasurer of State and the board to annually report to the legislative committee of jurisdiction regarding the progress of divestment. The amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)



130th MAINE LEGISLATURE

LD 99

LR 4(03)

An Act To Require the State To Divest Itself of Assets Invested in the Fossil Fuel Industry

Fiscal Note for Bill as Amended by Committee Amendment *B(H-338)*

Committee: Labor and Housing

Fiscal Note Required: Yes

Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Net Cost (Savings)				
General Fund	\$300,000	\$300,000	\$300,000	\$300,000
Appropriations/Allocations				
General Fund	\$300,000	\$300,000	\$300,000	\$300,000

Fiscal Detail and Notes

This bill includes ongoing General Fund appropriations of \$300,000 per year beginning in fiscal year 2021-22 to a newly created Investment Review program account within the Maine Public Employees Retirement System (MainePERS) for the administrative costs to identify, on an ongoing basis, the extent to which the assets of any state pension or annuity fund are invested in the stocks, securities or other obligations of any corporation or company, or any subsidiary, affiliate or parent of any fossil fuel company and to collect the data required to meet the annual reporting requirement.

According to MainePERS, both the Maine Constitution and IRS plan qualification requirements restrict the use of plan assets to the exclusive purpose of providing retirement and certain related benefits. Because the costs to fulfill the requirements of this legislation are not associated with providing retirement benefits it is not appropriate to pay them out of the retirement trust fund.

Additional costs to the Office of the Treasurer of State to implement the requirements of this legislation can be absorbed within existing budgeted resources.