

CITY OF BALTIMORE
ORDINANCE **21.043**
Council Bill 21-0066

Introduced by: Councilmember Conway, President Mosby, Councilmembers Costello, Stokes,
Middleton, Torrence, Ramos, Burnett, Porter, Bullock

Introduced and read first time: April 19, 2021

Assigned to: Public Safety and Government Operations Committee

Committee Report: Favorable with amendments

Council action: Adopted

Read second time: June 21, 2021

AN ORDINANCE CONCERNING

Retirement Systems – Precluded Investment and Divestment – Fossil Fuel Companies

FOR the purpose of prohibiting the new investment of certain retirement funds in fossil fuel companies; requiring the divestment of certain retirement funds in fossil fuel companies within a certain timeframe; requiring certain reviews; specifying a certain procedure for the divestiture of investments; authorizing certain exemptions; defining certain terms; and providing for a special effective date.

BY adding

Article 22 - Retirement Systems
Section(s) 7(a)(2), 23(c), and 35(a)(3)
Baltimore City Code
(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 22. Retirement Systems

Subtitle – Employees’ Retirement System

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

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1 § 7. Management of funds.

2 (a) Trustee of funds.

3 ...
4 (2) FOSSIL FUEL INVESTMENTS.

5 (I) DEFINITIONS.

- 6 1. IN THIS PARAGRAPH (2), THE FOLLOWING TERMS HAVE THE MEANINGS
7 INDICATED.
- 8 2. A. "ACTIVELY MANAGED SEPARATE ACCOUNT" MEANS ASSETS OF THE
9 SYSTEM THAT ARE ACTIVELY MANAGED AT THE DIRECTION OF THE BOARD
10 OF TRUSTEES AND HELD IN A SEPARATE ACCOUNT.
- 11 B. "ACTIVELY MANAGED SEPARATE ACCOUNT" DOES NOT INCLUDE:
- 12 1. AN INDEXED FUND;
13 2. A PRIVATE EQUITY FUND;
14 3. A HEDGE FUND;
15 4. A REAL ESTATE FUND; OR
16 5. ANY OTHER COMMINGLED OR PASSIVELY MANAGED FUND.
- 17 3. "COMPANY" MEANS ANY SOLE PROPRIETORSHIP, ORGANIZATION,
18 ASSOCIATION, CORPORATION, LIMITED LIABILITY COMPANY, UTILITY,
19 PARTNERSHIP, JOINT VENTURE, OR ANY OTHER ENTITY OR BUSINESS
20 ASSOCIATION, INCLUDING ANY WHOLLY-OWNED SUBSIDIARY, MAJORITY-
21 OWNED SUBSIDIARY, OR PARENT ENTITY OF ANY COMPANY.
- 22 4. "DIVEST" OR "DIVESTMENT ACTION" MEANS SELLING, REDEEMING,
23 TRANSFERRING, EXCHANGING, OR OTHERWISE DISPOSING OR REFRAINING FROM
24 FURTHER INVESTMENT IN CERTAIN INVESTMENTS.
- 25 5. "FOSSIL FUEL COMPANY" MEANS A COMPANY LISTED IN THE 200 PUBLICLY
26 TRADED COAL, OIL, AND GAS COMPANIES THAT HOLD REPORTED FOSSIL FUEL
27 RESERVES WITH THE LARGEST POTENTIAL CARBON EMISSIONS, AS RANKED AND
28 UPDATED ANNUALLY IN THE FOSSIL FREE INDEXES US ("FFIUS") THE CARBON
29 UNDERGROUND 200 OR ANY SUCCESSOR INDEX.

30 (II) NEW INVESTMENTS PROHIBITED.

31 EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH (2), THE BOARD OF
32 TRUSTEES MAY NOT MAKE ANY NEW INVESTMENTS IN ANY FOSSIL FUEL COMPANY
33 WITHIN AN ACTIVELY MANAGED SEPARATE ACCOUNT.

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1 (III) PERIODIC REVIEW.

2 AT LEAST EVERY 6 MONTHS, THE BOARD OF TRUSTEES SHALL REVIEW THE
3 INVESTMENT HOLDINGS IN EACH ACTIVELY MANAGED SEPARATE ACCOUNT AND
4 IDENTIFY EACH INVESTMENT IN ANY FOSSIL FUEL COMPANY.

5 (IV) DIVESTMENT.

6 EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH (2), THE BOARD OF
7 TRUSTEES SHALL:

- 8 1. BY JULY 1, 2022, DIVEST AT LEAST 20% OF ITS INVESTMENTS IN FOSSIL
9 FUEL COMPANIES HELD IN ANY ACTIVELY MANAGED SEPARATE ACCOUNT
10 AS OF JANUARY 1, 2022;
- 11 2. BY JULY 1, 2023, DIVEST AT LEAST 40% OF ITS INVESTMENTS IN FOSSIL
12 FUEL COMPANIES HELD IN ANY ACTIVELY MANAGED SEPARATE ACCOUNT
13 AS OF JANUARY 1, 2022;
- 14 3. BY JULY 1, 2024, DIVEST AT LEAST 60% OF ITS INVESTMENTS IN FOSSIL
15 FUEL COMPANIES HELD IN ANY ACTIVELY MANAGED SEPARATE ACCOUNT
16 AS OF JANUARY 1, 2022;
- 17 4. BY JULY 1, 2025, DIVEST AT LEAST 80% OF ITS INVESTMENTS IN FOSSIL
18 FUEL COMPANIES HELD IN ANY ACTIVELY MANAGED SEPARATE ACCOUNT
19 AS OF JANUARY 1, 2022; AND
- 20 5. BY JULY 1, 2026, DIVEST AT LEAST 100% OF ITS INVESTMENTS IN FOSSIL
21 FUEL COMPANIES HELD IN ANY ACTIVELY MANAGED SEPARATE ACCOUNT
22 AS OF JANUARY 1, 2022.

23 (V) FIDUCIARY DUTY; ~~DIVESTMENT DELAY.~~

24 ~~1. NOTHING IN THIS PARAGRAPH (2) REQUIRES THE BOARD OF TRUSTEES TO TAKE~~
25 ~~ANY ACTION DESCRIBED IN THIS PARAGRAPH (2) THAT THE BOARD~~
26 ~~DETERMINES IN GOOD FAITH TO BE INCONSISTENT WITH THE FIDUCIARY~~
27 ~~RESPONSIBILITIES OF THE BOARD UNDER THIS ARTICLE 22.~~

28 1. NOTHING IN THIS PARAGRAPH (2) SHALL REQUIRE THE BOARD TO TAKE ACTION
29 AS DESCRIBED IN THIS PARAGRAPH (2) UNLESS THE BOARD DETERMINES, IN
30 GOOD FAITH, THAT THE ACTION IS CONSISTENT WITH THE FIDUCIARY DUTIES
31 AND RESPONSIBILITIES OF THE BOARD AS REQUIRED BY LAW.

32 2. IF THE BOARD OF TRUSTEES FINDS THAT A DELAY IN DIVESTING FROM A FOSSIL
33 FUEL COMPANY IS NECESSARY DUE TO ITS FIDUCIARY DUTY, THE BOARD
34 SHALL, WITHIN 30 DAYS OF THAT FINDING, REPORT THE DELAY TO THE MAYOR,
35 THE BOARD OF ESTIMATES, AND THE CITY COUNCIL AND REPORT AN
36 ESTIMATED TIMELINE FOR THE RESUMPTION OF DIVESTMENT.

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1 (VI) NOTICE.

- 2 1. BEFORE DIVESTING FROM A FOSSIL FUEL COMPANY UNDER THIS
3 PARAGRAPH (2), THE BOARD SHALL PROVIDE WRITTEN NOTICE AND AN
4 OPPORTUNITY TO RESPOND IN WRITING TO EACH COMPANY SUBJECT TO THE
5 DIVESTMENT ACTION.
- 6 2. NO DIVESTMENT ACTION MAY OCCUR UNTIL 90 DAYS FROM THE DATE OF THE
7 NOTICE DESCRIBED IN SUB-SUBPARAGRAPH 1. OF THIS SUBPARAGRAPH (VI).
- 8 3. NO DIVESTMENT ACTION MAY OCCUR IF THE COMPANY DEMONSTRATES TO THE
9 BOARD OF TRUSTEES THAT IT IS EXEMPT FROM DIVESTMENT UNDER
10 SUBPARAGRAPH (VII) OF THIS PARAGRAPH (2).

11 (VII) EXEMPTION.

12 THE DIVESTMENT REQUIREMENTS AND INVESTMENT PROHIBITIONS OF THIS
13 PARAGRAPH (2) DO NOT APPLY TO ANY COMPANY THAT CAN DEMONSTRATE TO
14 THE BOARD OF TRUSTEES THAT THE COMPANY:

- 15 1. HAS STOPPED EXPLORING FOR NEW HYDROCARBONS;
- 16 2. CONTRACTUALLY AGREES NOT TO DEVELOP OR SELL 80% OF ITS CURRENT
17 PROVEN FOSSIL FUEL RESERVES; AND
- 18 3. HAS CEASED LOBBYING OR ATTEMPTING TO INFLUENCE CITY, STATE, OR
19 FEDERAL GOVERNMENT OFFICIALS TO PRESERVE FOSSIL FUEL SUBSIDIES,
20 TAX BREAKS, OR THE COMPANY'S COMPETITIVE ADVANTAGE WITH
21 RESPECT TO CLEAN, RENEWABLE ENERGY.

22 (VII) ANNUAL REPORT.

23 ON OR BEFORE JUNE 30 OF EACH YEAR, THE BOARD OF TRUSTEES SHALL SUBMIT A
24 REPORT TO THE MAYOR AND CITY COUNCIL DETAILING THE OPERATION AND
25 COMPLIANCE WITH THIS PARAGRAPH (2). THE REPORT SHALL INCLUDE:

- 26 1. IDENTIFICATION OF EACH INVESTMENT IN A FOSSIL FUEL COMPANY HELD IN
27 AN ACTIVELY MANAGED SEPARATE ACCOUNT;
- 28 2. A LIST OF EACH DIVESTMENT ACTION TAKEN UNDER THIS PARAGRAPH (2) IN
29 THE PRIOR FISCAL YEAR;
- 30 3. A DESCRIPTION OF EACH DECISION TO DELAY DIVESTMENT; AND
- 31 4. A CALCULATION OF THE ADMINISTRATIVE COST OF COMPLIANCE WITH THIS
32 PARAGRAPH (2).

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Subtitle – Elected Officials’ Retirement System

§ 23. Management of Funds.

(C) FOSSIL FUEL COMPANY INVESTMENTS.

THE PROVISIONS OF § 7(A)(2) OF THIS ARTICLE, CONCERNING THE INVESTMENT OF FUNDS IN FOSSIL FUEL COMPANIES, APPLY TO ALL FUNDS OF THE ELECTED OFFICIALS’ RETIREMENT SYSTEM.

Subtitle – Fire and Police Employees’ Retirement System

§ 35. Management of Funds.

(a) Trustee of funds.

...

(3) FOSSIL FUEL INVESTMENTS.

(i) DEFINITIONS.

1. IN THIS PARAGRAPH (3), THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.
2. A. “ACTIVELY MANAGED SEPARATE ACCOUNT” MEANS ASSETS OF THE SYSTEM THAT ARE ACTIVELY MANAGED AT THE DIRECTION OF THE BOARD OF TRUSTEES AND HELD IN A SEPARATE ACCOUNT.
B. “ACTIVELY MANAGED SEPARATE ACCOUNT” DOES NOT INCLUDE:
 1. AN INDEXED FUND;
 2. A PRIVATE EQUITY FUND;
 3. A HEDGE FUND;
 4. A REAL ESTATE FUND; OR
 5. ANY OTHER COMMINGLED OR PASSIVELY MANAGED FUND.
3. “COMPANY” MEANS ANY SOLE PROPRIETORSHIP, ORGANIZATION, ASSOCIATION, CORPORATION, LIMITED LIABILITY COMPANY, UTILITY, PARTNERSHIP, JOINT VENTURE, OR ANY OTHER ENTITY OR BUSINESS ASSOCIATION, INCLUDING ANY WHOLLY-OWNED SUBSIDIARY, MAJORITY-OWNED SUBSIDIARY, OR PARENT ENTITY OF ANY COMPANY.
4. “DIVEST” OR “DIVESTMENT ACTION” MEANS SELLING, REDEEMING, TRANSFERRING, EXCHANGING, OR OTHERWISE DISPOSING OR REFRAINING FROM FURTHER INVESTMENT IN CERTAIN INVESTMENTS.

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1 5. "FOSSIL FUEL COMPANY" MEANS A COMPANY LISTED IN THE 200 PUBLICLY
2 TRADED COAL, OIL, AND GAS COMPANIES THAT HOLD REPORTED FOSSIL FUEL
3 RESERVES WITH THE LARGEST POTENTIAL CARBON EMISSIONS, AS RANKED AND
4 UPDATED ANNUALLY IN ~~THE FOSSIL-FREE INDEXES-US ("FFIUS")~~ THE CARBON
5 UNDERGROUND 200 OR ANY SUCCESSOR INDEX.

6 (II) *NEW INVESTMENTS PROHIBITED.*

7 EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH (3), THE BOARD OF
8 TRUSTEES MAY NOT MAKE ANY NEW INVESTMENTS IN ANY FOSSIL FUEL COMPANY
9 WITHIN AN ACTIVELY MANAGED SEPARATE ACCOUNT.

10 (III) *PERIODIC REVIEW.*

11 AT LEAST EVERY 6 MONTHS, THE BOARD OF TRUSTEES SHALL REVIEW THE
12 INVESTMENT HOLDINGS IN EACH ACTIVELY MANAGED SEPARATE ACCOUNT AND
13 IDENTIFY EACH INVESTMENT IN ANY FOSSIL FUEL COMPANY.

14 (IV) *DIVESTMENT.*

15 EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH (3), THE BOARD OF
16 TRUSTEES SHALL:

- 17 1. BY JULY 1, 2022, DIVEST AT LEAST 20% OF ITS INVESTMENTS IN FOSSIL
18 FUEL COMPANIES HELD IN ANY ACTIVELY MANAGED SEPARATE ACCOUNT
19 AS OF JANUARY 1, 2022;
- 20 2. BY JULY 1, 2023, DIVEST AT LEAST 40% OF ITS INVESTMENTS IN FOSSIL
21 FUEL COMPANIES HELD IN ANY ACTIVELY MANAGED SEPARATE ACCOUNT
22 AS OF JANUARY 1, 2022;
- 23 3. BY JULY 1, 2024, DIVEST AT LEAST 60% OF ITS INVESTMENTS IN FOSSIL
24 FUEL COMPANIES HELD IN ANY ACTIVELY MANAGED SEPARATE ACCOUNT
25 AS OF JANUARY 1, 2022;
- 26 4. BY JULY 1, 2025, DIVEST AT LEAST 80% OF ITS INVESTMENTS IN FOSSIL
27 FUEL COMPANIES HELD IN ANY ACTIVELY MANAGED SEPARATE ACCOUNT
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30 FUEL COMPANIES HELD IN ANY ACTIVELY MANAGED SEPARATE ACCOUNT
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32 (V) *FIDUCIARY DUTY; DIVESTMENT DELAY.*

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34 ~~ANY ACTION DESCRIBED IN THIS PARAGRAPH (3) THAT THE BOARD~~
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16 NOTICE DESCRIBED IN SUB-SUBPARAGRAPH 1. OF THIS SUBPARAGRAPH (VI).

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18 BOARD OF TRUSTEES THAT IT IS EXEMPT FROM DIVESTMENT UNDER
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26 PROVEN FOSSIL FUEL RESERVES; AND
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28 FEDERAL GOVERNMENT OFFICIALS TO PRESERVE FOSSIL FUEL SUBSIDIES,
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30 RESPECT TO CLEAN, RENEWABLE ENERGY.

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36 AN ACTIVELY MANAGED SEPARATE ACCOUNT;

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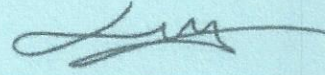
- 1 2. A LIST OF EACH DIVESTMENT ACTION TAKEN UNDER THIS PARAGRAPH (3) IN
- 2 THE PRIOR FISCAL YEAR;
- 3 3. A DESCRIPTION OF EACH DECISION TO DELAY DIVESTMENT; AND
- 4 4. A CALCULATION OF THE ADMINISTRATIVE COST OF COMPLIANCE WITH THIS
- 5 PARAGRAPH (3).

6 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
7 are not law and may not be considered to have been enacted as a part of this or any prior
8 Ordinance.

9 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on January 1,
10 2022.

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Certified as duly passed this 19 day of July, 2021



President, Baltimore City Council

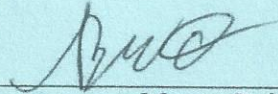
Certified as duly delivered to His Honor, the Mayor,

this 19 day of July, 2021



Chief Clerk

Approved this 1 day of October, 2021



Mayor, Baltimore City

Approved for Form and Legal Sufficiency
This 21st Day of July, 2021.

Elena R DiPietro

Chief Solicitor