

**CITY OF BALTIMORE
COUNCIL BILL 21-0066
(First Reader)**

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

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Finance, Employees'
Retirement System, Fire and Police Employees' Retirement System, Retirement Savings Plan
Board of Trustees, Labor Commissioner, Department of Human Resources

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Retirement Systems – Precluded Investment and Divestment – Fossil Fuel Companies**

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

8 BY adding

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

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

15 **Baltimore City Code**

16 **Article 22. Retirement Systems**

17 **Subtitle – Employees' Retirement System**

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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§ 7. Management of funds.

(a) *Trustee of funds.*

...

(2) *FOSSIL FUEL INVESTMENTS.*

(i) *DEFINITIONS.*

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

(ii) *NEW INVESTMENTS PROHIBITED.*

EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH (2), THE BOARD OF TRUSTEES MAY NOT MAKE ANY NEW INVESTMENTS IN ANY FOSSIL FUEL COMPANY 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 2. IF THE BOARD OF TRUSTEES FINDS THAT A DELAY IN DIVESTING FROM A FOSSIL
29 FUEL COMPANY IS NECESSARY DUE TO ITS FIDUCIARY DUTY, THE BOARD
30 SHALL, WITHIN 30 DAYS OF THAT FINDING, REPORT THE DELAY TO THE MAYOR,
31 THE BOARD OF ESTIMATES, AND THE CITY COUNCIL AND REPORT AN
32 ESTIMATED TIMELINE FOR THE RESUMPTION OF DIVESTMENT.

33 (VI) *NOTICE.*

- 34 1. BEFORE DIVESTING FROM A FOSSIL FUEL COMPANY UNDER THIS
35 PARAGRAPH (2), THE BOARD SHALL PROVIDE WRITTEN NOTICE AND AN
36 OPPORTUNITY TO RESPOND IN WRITING TO EACH COMPANY SUBJECT TO THE
37 DIVESTMENT ACTION.

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1 2. NO DIVESTMENT ACTION MAY OCCUR UNTIL 90 DAYS FROM THE DATE OF THE
2 NOTICE DESCRIBED IN SUB-SUBPARAGRAPH 1. OF THIS SUBPARAGRAPH (VI).

3 3. NO DIVESTMENT ACTION MAY OCCUR IF THE COMPANY DEMONSTRATES TO THE
4 BOARD OF TRUSTEES THAT IT IS EXEMPT FROM DIVESTMENT UNDER
5 SUBPARAGRAPH (VII) OF THIS PARAGRAPH (2).

6 (VII) *EXEMPTION.*

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

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

17 (VII) *ANNUAL REPORT.*

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

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

28 **Subtitle – Elected Officials’ Retirement System**

29 **§ 23. Management of Funds.**

30 (C) *FOSSIL FUEL COMPANY INVESTMENTS.*

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

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

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1 (II) *NEW INVESTMENTS PROHIBITED.*

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

5 (III) *PERIODIC REVIEW.*

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

9 (IV) *DIVESTMENT.*

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

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

27 (V) *FIDUCIARY DUTY; DIVESTMENT DELAY.*

- 28 1. NOTHING IN THIS PARAGRAPH (3) REQUIRES THE BOARD OF TRUSTEES TO TAKE
29 ANY ACTION DESCRIBED IN THIS PARAGRAPH (3) THAT THE BOARD
30 DETERMINES IN GOOD FAITH TO BE INCONSISTENT WITH THE FIDUCIARY
31 RESPONSIBILITIES OF THE BOARD UNDER THIS ARTICLE 22.
- 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
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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 (3).

11 (VII) *EXEMPTION.*

12 THE DIVESTMENT REQUIREMENTS AND INVESTMENT PROHIBITIONS OF THIS
13 PARAGRAPH (3) 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;
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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
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- 28 2. A LIST OF EACH DIVESTMENT ACTION TAKEN UNDER THIS PARAGRAPH (3) 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 (3).

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

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1 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on January 1,
2 2022.