A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that there is increasing concern in Hawaii and worldwide about the risks from fossil fuel emissions and the climate crisis. At the 2015 United Nations Climate Change Conference in Paris, France, the nations of the world agreed that climate change presented a palpable danger that must be addressed and agreed to take all necessary actions to keep the increase in global average temperature within 3.6 degrees Fahrenheit (two degrees Celsius) and if possible, the increase in pre-industrial average temperature within 2.7 degrees Fahrenheit (1.5 degrees Celsius). Failure to do so would present grave, existential risks to humanity, agriculture, and biodiversity on a global scale.

The International Energy Agency projected that, given current rates of carbon emissions, the temperature rise by 2050 will be approximately twice the agreed-upon 3.6 degree increase, resulting in catastrophic changes in the Earth's climate, weather patterns, marine and terrestrial ecosystems, and ability
to grow food. The failure of global agriculture within the next few decades is an especially significant and growing risk.

The legislature recognizes that the risks to Hawaii are perhaps even greater as the State is vulnerable to severe storms and is currently unprepared to grow food locally to support its population. Given the severely adverse impact that the climate crisis will have on the lives of people in Hawaii and around the planet, the State has a responsibility to take all available steps to avert and mitigate it.

The world's top climate scientists also estimate that there is only a ten-year window to take any action to rapidly reduce the carbon pollution that causes global warming. If the increase in global temperature is not kept under 3.6 degrees Fahrenheit, the global climate will severely destabilize, leading to extreme storms, droughts, floods, and sea level rise that will be increasingly hard for humans to manage. Therefore, maintaining the status quo in fossil fuel energy production will lead to catastrophic results.

The legislature further finds that even before the coronavirus disease 2019 pandemic, fossil fuel investments underperformed the broader market, especially over the last
decade. Experts estimate that the demand for fossil fuels is likely to peak within the next ten years. Despite this, the majority of fossil fuel producers have not adjusted their business models to account for the changing energy market, continuing to invest billions of dollars in exploring and extracting new reserves.

However, the tide is shifting. As the global energy system transforms to mitigate climate change, there will be a serious and negative financial impact on investors whose assets are not aligned with fossil fuel reduction strategies. Over the last decade, more than 1,300 institutions representing over $14,000,000,000,000 in assets have pledged to fully or partially divest from companies that engage in fossil fuels. More recently, AP1, one of Sweden's five national pension funds, and the New York State Common Retirement Fund, one of the largest and most influential investors in the market, announced that they would divest from fossil fuels.

The legislature further recognizes that in 2020, all six major U.S. banks refused to finance Arctic drilling projects, prompting major oil and gas companies to refrain from even bidding on the leases for the oil and gas reserves in the Arctic
earlier this year. Continued investment in fossil fuel producers poses an unacceptable risk to the long-term sustainability of public funds.

The legislature notes that the University of California system pledged to remove fossil fuels from its endowment and pension portfolios last year. Major universities like Georgetown, Oxford, and Cambridge have divested from coal and tar sands. Dozens of other educational institutions, like the University of Hawaii, have divested from oil and gas as well. Given these trends, the State of Hawaii employees' retirement system should protect the public fund by reevaluating its existing investments in coal, oil, natural gas, oil and gas services, and pipeline companies, divesting when appropriate, and avoiding potential investments in fossil fuel companies.

The State is bound by a fiduciary duty to future as well as current beneficiaries of the pension fund. It is therefore incumbent upon the legislature to concern itself with how the public fund rebalances its investments to meet its financial performance targets and to favor the long-term sustainability of the fund over short-term gains. Attempting to profit from investments in companies whose business models, public relations
campaigns, and lobbying efforts not only fail to comply with Hawaii's statutory climate goals, but also puts the stability of our society and the safety of our citizens at risk. Even if fossil fuel investments were to produce acceptable returns in the near term, they present an undue long-term risk that compels trustee action on behalf of future beneficiaries. Attempting to beat the market by holding fossil fuel investments until the last possible moment is a high-risk strategy that could result in the loss of investment principal. Continuing to invest in fossil fuels is neither morally acceptable nor in compliance with the legislature's fiduciary responsibility to current and future pension beneficiaries.

Divesting fossil fuel investments would be consistent with the State's movement to one hundred per cent renewable energy resources and the safety and economic prosperity of our island state in the face of impending intense storms, food insecurity, and sea level rise. Gradual divestment over the next five years would be financially prudent, morally imperative, and responsible policymaking. The time for careful evaluation of assets and appropriate divestment is now.
Accordingly, the purpose of this Act to protect the State's employees' retirement system fund from financial risks by requiring its trustees to:

(1) Reevaluate its existing future investments in coal, oil, natural gas, oil and natural gas services, and pipeline companies;

(2) Divest, at appropriate times over the next five years, the public fund's holdings in any such companies that have not invested more in clean renewable energy sources, such as photovoltaics and wind power, than in fossil fuels or are not set up for favorable long term investment returns by having clear plans to abandon fossil fuels by 2030;

(3) Search and evaluate potential future investment funds with indirect holdings devoid of coal, oil, natural gas, oil or natural gas services, and pipeline companies; and

(4) Submit annual reports to the legislature.

SECTION 2. Definitions. As used in this Act, the following definitions shall apply:
"Coal, oil, natural gas, oil or natural gas services, and pipeline companies" means companies identified by a Global Industry Classification Standard code in one or more of the following sub-industry sectors:

1. Coal and consumable fuels;
2. Oil and gas drilling;
3. Oil and gas equipment and services;
4. Integrated oil and gas;
5. Oil and gas exploration and production;
6. Oil and gas refining and marketing; and
7. Oil and gas storage and transportation.

"Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly-owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for profit-making purposes.

"Direct holdings" means all securities of a company held directly by the public fund or in an account or fund in which the public fund owns all shares or interests.
"Indirect holdings" means all securities of a company held in an account or fund, such as a mutual fund, managed by one or more persons not employed by the public fund, in which the public fund owns shares or interests together with other investors not subject to this Act.

"Public fund" means the employees' retirement system of the State of Hawaii or the board of trustees of the employees' retirement system.

SECTION 3. Identification of companies. (a) By January 1, 2022, the public fund shall make its best efforts to prepare a list of all coal, oil, natural gas, oil or natural gas services, and pipeline companies in which the public fund has direct or indirect holdings. Those efforts shall include, as appropriate:

(1) Reviewing publicly available information regarding coal, oil, natural gas, oil or natural gas services, and pipeline companies;

(2) Contacting asset managers contracted by the public fund that invest in coal, oil, natural gas, oil or natural gas services, and pipeline companies; and
(3) Contacting other institutional investors that have
divested from coal, oil, natural gas, oil or natural
gas services, and pipeline companies.

In conducting the review, the public fund may rely on
information provided by nonprofit organizations, research firms,
international organizations, and government entities.

(b) The public fund shall determine, by February 1, 2022,
which of the identified coal, oil, natural gas, oil or natural
gas services, and pipeline companies in which the public fund
has direct holdings have not invested more in clean renewable
energy sources, such as photovoltaics and wind power, than in
coal, oil, natural gas, oil or natural gas services, and
pipelines or are not set up for favorable long term investment
returns by having clear plans to abandon coal, oil, natural gas,
oil or natural gas services, and pipeline investments, by 2030.

(c) The public fund shall update the list of all
identified coal, oil, natural gas, oil or natural gas services,
and pipeline companies and its investment levels on a quarterly
basis based on evolving information from those sources listed in
subsection (a), among others.
SECTION 4. Required actions. (a) The public fund shall, at appropriate times over the next five years, sell, redeem, divest, or withdraw all publicly-traded securities of each company identified in section 3 that have not invested more in clean renewable energy sources, such as photovoltaics and wind power, than in fossil fuels or are not set up for favorable long term investment returns by having clear plans to abandon fossil fuels by 2030. At no time shall the public fund acquire new assets or securities of companies on the list. Notwithstanding anything in this Act to the contrary, subsections 3(a) and 3(b) shall not apply to indirect holdings in actively managed investment funds; provided that the public fund shall submit letters to the managers of such investment funds that contain coal, oil, natural gas, oil or natural gas services, and pipeline companies, informing the managers that the public fund intends to divest from coal, oil, natural gas, oil or natural gas services, and pipeline companies within five years and requesting that the managers of such investment funds provide an alternative within that time period or the public fund shall divest from said actively managed investment funds.
(b) The public fund shall conduct a search and evaluation of actively managed investment funds with indirect holdings devoid of coal, oil, natural gas, oil or natural gas services, and pipeline companies.

SECTION 5. Reporting. (a) The public fund shall submit a publicly available report that includes the coal, oil, natural gas, oil or natural gas services, and pipeline companies list and its investment levels to the legislature within thirty days after the list is created, but no later than February 1, 2022.

(b) Annually thereafter, the public fund shall submit a publicly available report that includes:

(1) All investments sold, redeemed, divested, or withdrawn in compliance with section 4;

(2) All prohibited investments under section 4 with its current levels of investments; and

(3) Any progress made under section 4, to the legislature no later than twenty days prior to the convening of each regular session.

SECTION 6. Other legal obligations. With respect to actions taken in compliance with this Act, including all good faith determinations regarding companies as required by this
Act, the public fund shall be exempt from any conflicting statutory or common law obligations, including any obligations with respect to choice of asset managers, investment funds, or investments for the public fund's securities portfolios.

SECTION 7. This Act shall take effect on July 1, 2021.

INTRODUCED BY: [Signature]
Report Title:
Company Divestment; Coal; Oil; Gas; Fossil Fuels; Employees' Retirement System

Description:
Requires the board of trustees of the Employees' Retirement System to reevaluate its existing future investments in coal, oil, natural gas, oil and natural gas services, and pipeline companies; divest, at appropriate times over the next five years, the public fund's holdings in any such companies that have not invested more in clean renewable energy sources, such as photovoltaics and wind power, than in fossil fuels or are not set up for favorable long term investment returns by having clear plans to abandon fossil fuels by 2030; search and evaluate potential future investment funds with indirect holdings devoid of coal, oil, natural gas, oil or natural gas services, and pipeline companies; and submit annual reports to the legislature.

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