SENATE DOCKET, NO. 625 FILED ON: 1/15/2015

SENATE . . . . . No. 1350

The Commonwealth of Massachusetts

PRESENTED BY:

Benjamin B. Downing

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to public investment in fossil fuels.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Benjamin B. Downing	*Berkshire, Hampshire, Franklin and Hampden*	
Stephen Kulik	*1st Franklin*	
Chris Walsh	*6th Middlesex*	
Michael F. Rush	*Norfolk and Suffolk*	
Cory Atkins	*14th Middlesex*	
Peter V. Kocot	*1st Hampshire*	
Marjorie C. Decker	*25th Middlesex*	
Thomas M. McGee	*Third Essex*	
Sal N. DiDomenico	*Middlesex and Suffolk*	
Cynthia S. Creem	*First Middlesex and Norfolk*	
Carmine L. Gentile	*13th Middlesex*	
Lori A. Ehrlich	*8th Essex*	
Patricia D. Jehlen	*Second Middlesex*	
Kenneth J. Donnelly	*Fourth Middlesex*	
Eileen M. Donoghue	*First Middlesex*	
Daniel A. Wolf	*Cape and Islands*	
Paul W. Mark	*2nd Berkshire*	

Gailanne M. Cariddi	*1st Berkshire*	
Frank I. Smizik	*15th Norfolk*	
James B. Eldridge	*Middlesex and Worcester*	
Benjamin Swan	*11th Hampden*	
Marc R. Pacheco	*First Plymouth and Bristol*	
Anthony W. Petruccelli	*First Suffolk and Middlesex*	*6/25/2015*

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By Mr. Downing, a petition (accompanied by bill, Senate, No. 1350) of Benjamin B. Downing, Stephen Kulik, Chris Walsh, Michael F. Rush and other members of the General Court for legislation relative to public investment in fossil fuels. Public Service.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1225* OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to public investment in fossil fuels.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. As used in this act the following words shall, unless the context clearly requires otherwise, have the following meanings:—

"Board", the pension reserves investment management board established in section 23 of chapter 32 of the General Laws.

"Company", a 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 exist for profit-making purposes.

10 “Direct holdings”, all securities of a company held directly by the public fund or in an
11 account or fund in which the public fund owns all shares or interests.

12 “Fossil fuel company”, a company identified by a Global Industry Classification System
13 code in one of the following sectors: (1) coal and consumable fuels; (2) integrated oil and gas;
14 (3) oil and gas exploration and production.

15 “Indirect holdings”, all securities of a company held in an account or fund, such as a
16 mutual fund, managed by 1 or more persons not employed by the public fund, in which the
17 public fund owns shares or interests together with other investors not subject to this act.

18 “Public fund”, the Pension Reserves Investment Trust or the Pension Reserves
19 Investment Management Board charged with managing the pooled investment fund consisting of
20 the assets of the State Employees’ and Teachers’ Retirement Systems as well as the assets of
21 local retirement systems under the control of the board.

22 SECTION 2. Notwithstanding any general or special law to the contrary, within 30 days
23 of the effective date of this act, the public fund shall facilitate the identification of all fossil fuel
24 companies in which the fund owns direct or indirect holdings.

25 SECTION 3. Notwithstanding any general or special law to the contrary, the public fund
26 shall take the following actions in relation to fossil fuel companies in which the fund owns direct
27 or indirect holdings.

28 (a) The public fund shall sell, redeem, divest or withdraw all publicly-traded securities of
29 each company identified in section 2 according to the following schedule: (i) at least 20 per cent
30 of such assets shall be removed from the public fund’s assets under management within 1 year of

31 the effective date of this act; (ii) 40 per cent of such assets shall be removed from the public
32 fund's assets under management within 2 years of the effective date of this act; (iii) 60 per cent
33 of such assets shall be removed from the public fund's assets under management within 3 years
34 of the effective date of this act; (iv) 80 per cent of such assets shall be removed from the public
35 fund's assets under management within 4 years of the effective date of this act and (v) 100 per
36 cent of such assets shall be removed from the public fund's assets under management within 5
37 years of the effective date of this act.

38 (b) At no time shall the public fund acquire new assets or securities of fossil fuel
39 companies.

40 (c) Notwithstanding anything in this act to the contrary, subsections (a) and (b) shall not
41 apply to indirect holdings in actively managed investment funds; provided, however, that the
42 public fund shall submit letters to the managers of such investment funds containing fossil fuel
43 companies requesting that they consider removing such companies from the investment fund or
44 create a similar actively managed fund with indirect holdings devoid of such companies. If the
45 manager creates a similar fund, the public fund shall replace all applicable investments with
46 investments in the similar fund in an expedited timeframe consistent with prudent investing
47 standards. For the purposes of this section, private equity funds shall be deemed to be actively
48 managed investment funds.

49 SECTION 4. Notwithstanding any general or special law to the contrary, with respect to
50 actions taken in compliance with this act, the public fund shall be exempt from any conflicting
51 statutory or common law obligations, including any such obligations with respect to choice of

52 asset managers, investment funds or investments for the public fund's securities portfolios and
53 all good faith determinations regarding companies as required by this act.

54 SECTION 5. Notwithstanding any general or special law to the contrary, the public fund
55 shall be permitted to cease divesting from companies under subsection (a) of section 3, reinvest
56 in companies from which it divested under said subsection (a) of said section 3 or continue to
57 invest in companies from which it has not yet divested upon clear and convincing evidence
58 showing that the total and aggregate value of all assets under management by, or on behalf of,
59 the public fund becomes: (i) equal to or less than 99.5 per cent; or (ii) 100 per cent less 50 basis
60 points of the net value of all assets under management by, or on behalf of, the public fund in the
61 previous year as a direct result of divestment. Cessation of divestment, reinvestment or any
62 subsequent ongoing investment authorized by this section shall be strictly limited to the
63 minimum steps necessary to avoid the contingency set forth in the preceding sentence.

64 For any cessation of divestment, and in advance of such cessation, authorized by this
65 subsection, the public fund shall provide a written report to the attorney general, the senate and
66 house committees on ways and means and the joint committee on public service, updated semi-
67 annually thereafter as applicable, setting forth the reasons and justification, supported by clear
68 and convincing evidence, for its decisions to cease divestment, to reinvest or to remain invested
69 in fossil fuel companies.

70 SECTION 6. The public fund shall file a copy of the list of fossil fuel companies in
71 which the fund owns direct or indirect interests with the clerks of the senate and the house of
72 representatives and the attorney general within 30 days after the list is created. Annually
73 thereafter, the public fund shall file a report with the clerks of the senate and the house of

74 representatives and the attorney general that includes: (1) all investments sold, redeemed,
75 divested or withdrawn in compliance with subsection (a) of section 3 and (2) all prohibited
76 investments from which the public fund has not yet divested under subsection (a) of said section
77 3.