

SENATE No. 1225

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:

Benjamin B. Downing

DISTRICT/ADDRESS:

*Berkshire, Hampshire, Franklin and
Hampden*

SENATE No. 1225

By Mr. Downing, a petition (accompanied by bill, Senate, No. 1225) of Benjamin B. Downing for legislation relative to public investment in fossil fuels. Public Service.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

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:

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

3 “Board”, the pension reserves investment management board established in section 23 of
4 chapter 32 of the General Laws.

5 “Company”, a sole proprietorship, organization, association, corporation, partnership,
6 joint venture, limited partnership, limited liability partnership, limited liability company or other
7 entity or business association, including all wholly-owned subsidiaries, majority-owned
8 subsidiaries, parent companies or affiliates of such entities or business associations that exist for
9 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 “Indirect holdings”, all securities of a company held in an account or fund, such as a
13 mutual fund, managed by 1 or more persons not employed by the public fund, in which the
14 public fund owns shares or interests together with other investors not subject to this act.

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

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

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

25 (a) The public fund shall sell, redeem, divest or withdraw all publicly-traded securities of
26 each company identified in section 2 according to the following schedule: (i) at least 20 per cent
27 of such assets shall be removed from the public fund's assets under management within 1 year of
28 the effective date of this act; (ii) 40 per cent of such assets shall be removed from the public
29 fund's assets under management within 2 years of the effective date of this act; (iii) 60 per cent
30 of such assets shall be removed from the public fund's assets under management within 3 years
31 of the effective date of this act; (iv) 80 per cent of such assets shall be removed from the public
32 fund's assets under management within 4 years of the effective date of this act and (v) 100 per
33 cent of such assets shall be removed from the public fund's assets under management within 5
34 years of the effective date of this act.

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

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

46 SECTION 4. Notwithstanding any general or special law to the contrary, with respect to
47 actions taken in compliance with this act, the public fund shall be exempt from any conflicting
48 statutory or common law obligations, including any such obligations with respect to choice of
49 asset managers, investment funds or investments for the public fund's securities portfolios and
50 all good faith determinations regarding companies as required by this act.

51 SECTION 5. Notwithstanding any general or special law to the contrary, the public fund
52 shall be permitted to cease divesting from companies under subsection (a) of section 3, reinvest
53 in companies from which it divested under said subsection (a) of said section 3 or continue to
54 invest in companies from which it has not yet divested upon clear and convincing evidence
55 showing that the total and aggregate value of all assets under management by, or on behalf of,

the public fund becomes: (i) equal to or less than 99.5 per cent; or (ii) 100 per cent less 50 basis points of the hypothetical value of all assets under management by, or on behalf of, the public fund assuming no divestment for any company had occurred under said subsection (a) of said section 3. Cessation of divestment, reinvestment or any subsequent ongoing investment authorized by this section shall be strictly limited to the minimum steps necessary to avoid the contingency set forth in the preceding sentence.

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

SECTION 6. The public fund shall file a copy of the list of fossil fuel companies in which the fund owns direct or indirect interests with the clerks of the senate and the house of representatives and the attorney general within 30 days after the list is created. Annually thereafter, the public fund shall file a report with the clerks of the senate and the house of representatives and the attorney general that includes: (1) all investments sold, redeemed, divested or withdrawn in compliance with subsection (a) of section 3 and (2) all prohibited investments from which the public fund has not yet divested under subsection (a) of said section 3.