SENATE DOCKET, NO. 1234 FILED ON: 1/19/2023

SENATE . . . . . No. 1651

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

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 the divestment of state pension funds from nuclear weapons.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
James B. Eldridge	*Middlesex and Worcester*	
Rebecca L. Rausch	*Norfolk, Worcester and Middlesex*	*3/7/2023*

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SENATE . . . . . No. 1651

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 1651) of James B. Eldridge and Rebecca L. Rausch for legislation relative to the divestment of state pension funds from nuclear weapons. Public Service.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1703* OF 2021-2022.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

An Act relative to the divestment of state pension funds from nuclear weapons.

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.

"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.

"Direct holdings", 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", all securities of a company held in an account or fund, such as a mutual fund, managed by 1 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.

"Nuclear material", (A) plutonium; (B) uranium not in the form of ore or ore residue that contains the mixture of isotopes as occurring in nature; (C) enriched uranium, defined as uranium that contains the isotope 233 or 235 or both in such amount that the abundance ratio of the sum of those isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature; or (D) uranium 233.

"Nuclear weapon", any weapon that contains nuclear material.

"Nuclear weapon system", any device designed exclusively to carry, contain, detonate, or launch a nuclear weapon.

"Nuclear weapon producer", any company that develops, tests, produces, maintains, or engages in the trade of nuclear weapons or nuclear weapon systems.

"Public fund", the Pension Reserves Investment Trust or the Pension Reserves Investment Management Board charged with managing the pooled investment fund consisting of the assets of the state employees' and teachers' retirement systems as well as the assets of local retirement systems under the control of the board.

SECTION 2. Notwithstanding any general or special law to the contrary, within 30 days of enactment, the public fund shall identify all nuclear weapons producers in which the fund

owns direct or indirect holdings and shall file a list of any such holdings with the attorney general and the clerks of the senate and the house of representatives.

SECTION 3. Notwithstanding any general or special law to the contrary, it shall be the settled policy of the public fund and of the board of the public fund not to invest in any nuclear weapon producer. The public fund shall sell, redeem, divest or withdraw all publicly-traded and non-publicly traded securities of each company identified pursuant to section 2 of this act within 12 months of enactment. This section shall not apply to indirect holdings in actively managed investment funds; provided, however, that the public fund shall submit letters to the managers of any such investment funds that contain companies identified pursuant to section 2 of this act, requesting that they remove such companies from the investment fund or create a similar actively managed fund with indirect holdings devoid of such companies.

SECTION 4. Notwithstanding any general or special law to the contrary, with respect to actions taken in compliance with this act, the public fund shall be exempt from any conflicting statutory or common law obligation, including any such obligations with respect to choice of asset managers, investment funds, or investments for the public fund's securities portfolios and all good faith determinations regarding the identification of nuclear weapons producers subject to divestment as provided for herein.

SECTION 5. Notwithstanding any general or special law to the contrary, the public fund shall be permitted to cease divesting from companies identified pursuant to section 2 of this act, to reinvest in companies identified pursuant to section 2 of this act, or to continue to invest in companies pursuant to section 2 of this act from which it has not yet divested upon clear and convincing evidence showing that the value for all assets under management by the public fund

becomes equal to or less than 99.5 per cent (50 basis points) of the hypothetical value of all assets under management by the public fund assuming no divestment for any company had occurred under said subsection. 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. In advance of any cessation of divestment 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 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 companies identified pursuant to section 2.

SECTION 6. Present, future and former board members of the public fund, jointly and individually, state officers and employees, and investment managers under contract with the public fund shall be indemnified from the general fund and held harmless by the commonwealth from all claims, demands, suits, actions, damages, judgments, costs, charges and expenses, including court costs and attorneys fees and against all liability, losses and damages of any nature whatsoever that these present, future or former board members, officers, employees, or contract investment managers shall or may at any time sustain by reason of any decision to restrict, reduce, or eliminate investments in nuclear weapons produces.

SECTION 7. The public fund shall annually, as applicable, file a report with the attorney general and with the clerks of the senate and the house of representatives, including: (i) all investments sold, redeemed, divested or withdrawn in compliance with this act within the preceding year; and (ii) all investments prohibited by this act from which the public fund has not yet divested.