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Chairman Phil Mendelson

Councilmember Tommy Wells

Councilmember Jack Evans

Councilmember Muriel Bowser

Councilmember David Grosso

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Phil Mendelson introduced the following bill which was referred to the Committee on _____.

To require the divestment, and prohibit the investment, of public funds in the stocks, securities, or other obligations of certain companies which hold the largest fossil fuel reserves and to provide for the identification of companies with the largest fossil fuel reserves.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Fossil Fuel Divestment Act of 2013”.

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) “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 that exists for the purpose of making

1 profit.

2 (2) "Direct holdings" in a company means all securities of the company that are held
3 directly by the public fund or in an account or fund in which the public fund owns all shares or
4 interests.

5 (3) "Inactive business activities" means the mere continued holding or renewal of
6 rights to property previously operated for the purpose of generating revenues but not presently
7 deployed for such purpose.

8 (4) "Indirect holdings" in a company means all securities of the company that are
9 held in an account or fund, such as a mutual fund, managed by one or more persons not
10 employed by the public fund, in which the public fund owns shares or interests together with
11 other investors not subject to the provisions of this act.

12 (5) "Public fund" means the assets of the District of Columbia Retirement Board and
13 the Annuitants' Health and Life Insurance Employer Contribution Trust Fund, as well as the
14 District of Columbia Retirement Board and Chief Financial Officer that manage those assets.

15 (6) "Scrutinized business activities" means business activities that have resulted in a
16 company becoming a scrutinized company.

17 (7) "Scrutinized company" means any company that, with actual knowledge, on
18 or after January 1, 2013 possesses enough fossil fuel reserves to qualify as one of 200 publicly-
19 traded companies with the largest coal, oil, and gas reserves, as measured by the gigatons of
20 carbon dioxide that would be emitted if those reserves were extracted and burned.

21 (8) "Substantial action specific to fossil fuel reserves" means adopting, publicizing,
22 and implementing a formal plan to cease scrutinized business activities within one year and to
23 refrain from any such new business activities.

1 Sec. 3. Identification of companies.

2 (a) Within 90 days after the effective date of this act, the public fund shall make its best
3 efforts to identify all scrutinized companies in which the public fund has direct or indirect
4 holdings. Such efforts shall include reviewing and relying, as appropriate in the public fund's
5 judgment, on publicly available information regarding companies that possess enough fossil fuel
6 reserves to qualify as one of 200 publicly-traded companies with the largest coal, oil, and gas
7 reserves subject to this act, including information provided by nonprofit organizations, research
8 firms, international organizations, and government entities.

9 (b) On or before the 1st meeting of the public fund held 90 days after the effective date of
10 this act, the public fund shall compile a list of all scrutinized companies entitled "Scrutinized
11 Companies with Activities in the Fossil Fuel Energy Sector List."

12 (c) The public fund shall update and make publicly available annually the Scrutinized
13 Companies with Activities in the Fossil Fuel Energy Sector List.

14 Sec. 4. Required actions.

15 (a) For each scrutinized company on the Scrutinized Companies with Activities in the
16 Fossil Fuel Energy Sector List:

17 (1)(A)(i) For each company in which the public fund has direct holdings newly
18 identified under section 3, the public fund shall send a written notice informing the company of
19 its scrutinized company status and that it may become subject to divestment by the public fund.

20 (ii) The notice shall inform the company of the opportunity to
21 clarify its fossil fuel-related activities and encourage the company, within 90 days, to cease its
22 scrutinized business activities or convert such activities to inactive business activities to avoid
23 qualifying for divestment by the public fund. The notice shall be sent no later than 135 days

1 after the company is placed on the list.

2 (B) If, within 90 days after the public fund's notice to a company
3 pursuant to this paragraph, the company announces by public disclosure substantial action
4 specific to fossil fuel reserves, the public fund may maintain its direct holdings, but the company
5 shall remain on the Scrutinized Companies with Activities in the Fossil Fuel Energy Sector List
6 pending completion of its cessation of scrutinized business activities.

7 (2)(A) If, after 90 days following the public fund's 1st notice to a company
8 pursuant to paragraph (1) of this subsection, the company has not announced by public
9 disclosure substantial action specific to fossil fuel reserves, or the public fund determines or
10 becomes aware that the company continues to have scrutinized business activities, the public
11 fund, within 4 years after the expiration of such 90-day period, shall sell, redeem, divest, or
12 withdraw all publicly-traded securities of the company from the public fund's direct holdings.

13 (B) If the public fund determines or becomes aware that a company that
14 ceased scrutinized business activities following engagement pursuant to paragraph (1) of this
15 subsection has resumed such activities, the public fund shall:

16 (i) Send a written notice to the company as required under
17 paragraph (1)(A)(ii) of this subsection;

18 (ii) Add the company to the Scrutinized Companies with
19 Activities in the Fossil Fuel Energy Sector List; and

20 (iii) Sell, redeem, divest, or withdraw as may be required by
21 subparagraph (A) of this paragraph.

22 (C) The public fund shall monitor the scrutinized company that has
23 announced by public disclosure substantial action specific to fossil fuel reserves. If, after one

1 year, the public fund determines or becomes aware that the company has not implemented such
2 substantial action, within 3 months after the expiration of such one-year period, the public fund
3 shall sell, redeem, divest, or withdraw all publicly-traded securities of the company from the
4 public fund's direct holdings, and the company also shall be immediately reintroduced onto the
5 Scrutinized Companies with Activities in the Fossil Fuel Energy Sector List.

6 (b) The public fund shall not acquire securities of companies on the Scrutinized
7 Companies with Activities in the Fossil Fuel Energy Sector List.

8 (c) Notwithstanding the provisions of this act, subsection (a)(2) of this section shall not
9 apply to the public fund's indirect holdings; provided, that the public fund shall submit letters to
10 the managers of any managed investment funds containing companies on the Scrutinized
11 Companies with Activities in the Fossil Fuel Energy Sector List that they consider removing
12 such companies from the fund or create a similar actively-managed fund having indirect holdings
13 devoid of such companies. If the manager creates a similar fund without such securities or if
14 such funds are created elsewhere, the District of Columbia Retirement Board and the Office of
15 the Chief Financial Officer shall determine within 6 months whether to replace all applicable
16 investments with investments in the similar fund in an expedited time period consistent with
17 prudent investing standards. For the purposes of this section, a private equity fund shall be
18 deemed to be an actively managed investment fund.

19 (d) The District of Columbia Retirement Board and the Office of the Chief Financial
20 Officer shall comply with the requirements of this act only to the extent consistent with its
21 fiduciary duties under the District of Columbia Retirement Reform Act of 1979, approved
22 November 17, 1979 (93 Stat. 866; D.C. Official Code § 1-701 *et seq.*), and the Police Officers,
23 Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998, effective

1 September 18, 1998 (D.C. Law 12-152; D.C. Official Code § 1-901.01 *et seq.*).

2 Sec. 5. Reporting.

3 (a) The public fund shall send a report to each member of the District of Columbia
4 Retirement Board, the Council, and the Mayor that includes the Scrutinized Companies with
5 Activities in the Fossil Fuel Energy Sector List within 30 days after the list is created. The report
6 shall be made available to the public.

7 (b) Annually thereafter, the public fund shall send a publicly available report to the
8 Council and the Mayor that includes:

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

11 (2) All prohibited investments under section 4(b);

12 (3) Any progress made under section 4(c);

13 (4) A list of all publicly-traded securities held directly by the public fund; and

14 (5) A list of any investments held by the public fund that would have been
15 divested under section 4(a), but for section 4(d), including a statement of the reasons why a sale
16 or transfer of the investments is inconsistent with the fiduciary responsibilities of the District of
17 Columbia Retirement Board or the Office of the Chief Financial Officer, and the circumstances
18 under which the District of Columbia Retirement Board or the Office of the Chief Financial
19 Officer anticipates that it will sell, transfer, or reduce the investments.

20 Sec. 6. Liability.

21 Present, future, and former District of Columbia Retirement Board members and
22 employees, and Office of the Chief Financial Officer members and employees, shall be
23 indemnified by the District of Columbia from all claims and liability, including court costs and

1 attorney's fees, because of any action taken pursuant to this act.

2 Sec. 7. Fiscal impact statement.

3 The Council adopts the fiscal impact statement in the committee report as the fiscal
4 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
5 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

6 Sec. 8. Effective date.

7 This act shall take effect following approval by the Mayor (or in the event veto by the
8 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
9 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
10 24, 1973 (87 Stat. 788; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
11 Columbia Register.