

JAN 19 2018

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# A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

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

1           SECTION 1. The legislature finds that the employees'  
2 retirement system should divest its investment portfolio of all  
3 coal, oil, and gas companies to disassociate the State's  
4 interests from that of the fossil fuel industry, to fulfill the  
5 State's fiduciary responsibility in light of ongoing divestment  
6 by other major fiduciaries such as the Norwegian Sovereign  
7 Wealth Fund, and to demonstrate the State's commitment to  
8 addressing climate change in practical application.

9           At the 2015 United Nations Climate Change Conference in  
10 Paris, France, the nations of the world agreed that climate  
11 change presents a palpable danger that must be addressed, and to  
12 take all necessary actions to keep the increase in global  
13 average temperature within 3.6 degrees Fahrenheit (two degrees  
14 Celsius), and within 2.7 degrees Fahrenheit if possible (1.5  
15 degrees Celsius) over the pre-industrial average temperature.  
16 To fail to do so represents grave, existential risks to  
17 humanity, agriculture, and biodiversity on a global scale in



1 general. The risks to the Hawaiian islands is perhaps even  
2 greater in that we are currently unprepared to grow food locally  
3 to support our population, and the failure of global agriculture  
4 within the next few decades becomes a significant and increasing  
5 risk.

6 Despite the findings of the 2015 Paris Accord, the  
7 International Energy Agency recently reported that carbon  
8 emissions have increased to record levels since 2010, and the  
9 agency has projected that continuing this current trend of  
10 carbon emissions will lead to approximately double the agreed  
11 upon 3.6 degree Fahrenheit limit by 2050, which will result in  
12 catastrophic changes in the earth's climate, weather patterns,  
13 marine and terrestrial ecosystems and the ability to grow food.  
14 This is society's present trajectory barring large-scale and  
15 rapid changes in existing patterns of production, consumption,  
16 and assessment of economic growth and societal wellbeing in  
17 general.

18 Noting the International Energy Agency's report, Bevis  
19 Longstreth, a former Commissioner of the United States  
20 Securities and Exchange Commission, has recommended divestment  
21 of fossil fuel companies as an important strategy to help



1 control carbon emissions and to reduce the financial impact on  
2 investment funds resulting from the inevitable policy changes  
3 that will be needed to reduce carbon emissions. Announcement in  
4 November 2017 by the Norwegian Sovereign Wealth Fund, the  
5 largest sovereign wealth fund in the world, of its intention to  
6 divest from oil and gas investments, in addition to its prior  
7 announcement in 2015 of its divestment from coal investments,  
8 should provide sufficient notice to the fiduciaries of the world  
9 that a global society predicated upon the continued burning of  
10 fossil fuels will without a doubt be headed for collapse, rapid  
11 reduction in the use of such fossil fuels and the substitution  
12 of renewable energy alternatives is imperative, such reduction  
13 and substitution will inevitably adversely impact the market  
14 valuation of all fossil fuel companies, and holding such fossil  
15 fuel securities can no longer be considered a wise investment.

16 In May 2015, the University of Hawaii board of regents  
17 incorporated a policy to divest its endowment funds of fossil  
18 fuel investments citing the need to show leadership on the issue  
19 of climate change, and the need to address concerns that fossil  
20 fuel company values may decrease because the measures taken to



1 address climate change in the future may impede fossil fuel  
2 assets from being developed.

3       Additionally, it is the judgment of this legislature that  
4 investment in coal, oil, and gas companies can discourage  
5 investment in competing renewable energy technologies, and  
6 therefore impedes Hawaii from achieving its renewable portfolio  
7 standard goal of one hundred per cent by 2045.

8       The purpose of this Act is to require the employees'  
9 retirement system to divest its investment portfolio of coal,  
10 oil, and gas companies within five years of this Act's effective  
11 date.

12       SECTION 2. Definitions. As used in this Act, the following  
13 definitions shall apply:

14       "Business operations" means engaging in commerce in any  
15 form, including by acquiring, developing, maintaining, owning,  
16 selling, possessing, leasing, or operating equipment,  
17 facilities, personnel, products, services, personal property,  
18 real property, or any other apparatus of business or commerce.

19       "Company" means any sole proprietorship, organization,  
20 association, corporation, partnership, joint venture, limited  
21 partnership, limited liability partnership, limited liability



1 company, or other entity or business association, including all  
2 wholly-owned subsidiaries, majority-owned subsidiaries, parent  
3 companies, or affiliates of such entities or business  
4 associations, that exists for profit-making purposes.

5 "Direct holdings" means all securities of a company held  
6 directly by the public fund or in an account or fund in which  
7 the public fund owns all shares or interests.

8 "Fossil fuel company" means a company identified by a  
9 Global Industry Classification Standard code in one of the  
10 following sectors:

- 11 (1) Coal and consumable fuels;
- 12 (2) Integrated oil and gas; or
- 13 (3) Oil and gas exploration and production.

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

19 "Public fund" means the employees' retirement system of the  
20 State of Hawaii or the board of trustees in charge of the  
21 employees' retirement system.



1           SECTION 3. Identification of companies. (a) By  
2 January 1, 2019, the public fund shall make its best efforts to  
3 identify all fossil fuel companies in which the public fund has  
4 direct or indirect holdings. Those efforts shall include, as  
5 appropriate:

- 6           (1) Reviewing publicly available information regarding  
7 fossil fuel companies. In conducting the review, the  
8 public fund may rely on information provided by  
9 nonprofit organizations, research firms, international  
10 organizations, and government entities;
- 11           (2) Contacting asset managers contracted by the public  
12 fund that invest in fossil fuel companies; and
- 13           (3) Contacting other institutional investors that have  
14 divested from fossil fuel companies.

15           (b) By the first meeting of the public fund after  
16 January 1, 2019, the public fund shall assemble a fossil fuel  
17 companies list of all identified fossil fuel companies in which  
18 the public fund has direct holdings.

19           (c) The public fund shall update the fossil fuel companies  
20 list on a quarterly basis based on evolving information from,  
21 among other sources, those listed in subsection (a).



1 SECTION 4. Required actions. (a) The public fund shall  
2 take the following actions in relation to the companies on the  
3 fossil fuel companies list in which the fund owns direct or  
4 indirect holdings:

5 (1) The public fund shall sell, redeem, divest, or  
6 withdraw all publicly-traded securities of each  
7 company identified in section 3 according to the  
8 following schedule:

9 (A) By July 1, 2019, at least twenty per cent of such  
10 assets shall be removed from the public fund's  
11 assets under management;

12 (B) By July 1, 2020, at least forty per cent of such  
13 assets shall be removed from the public fund's  
14 assets under management;

15 (C) By July 1, 2021, at least sixty per cent of such  
16 assets shall be removed from the public fund's  
17 assets under management;

18 (D) By July 1, 2022, at least eighty per cent of such  
19 assets shall be removed from the public fund's  
20 assets under management; and



1           (E) By July 1, 2023, one hundred per cent of such  
2           assets shall be removed from the public fund's  
3           assets under management.

4           (b) At no time shall the public fund acquire new assets or  
5 securities of companies on the fossil fuel companies list.

6           (c) Notwithstanding anything in this Act to the contrary,  
7 subsections (a) and (b) shall not apply to indirect holdings in  
8 actively managed investment funds; provided that the public fund  
9 shall submit letters to the managers of such investment funds  
10 containing fossil fuel companies informing the managers that the  
11 public fund shall be fully divested from fossil fuel companies  
12 within five years and that the managers of such investment funds  
13 shall provide an alternative within that time period or the  
14 public fund shall divest from said actively managed investment  
15 funds.

16           (d) The public fund shall also conduct a search of  
17 actively managed investment funds with indirect holdings devoid  
18 of fossil fuel companies.

19           SECTION 5. Reporting. (a) The public fund shall file a  
20 publicly-available report to the legislature that includes the



1 fossil fuel companies list within ninety days after the list is  
2 created, but no later than July 1, .

3 (b) Annually thereafter, the public fund shall file a  
4 publicly-available report to the legislature that includes:

- 5 (1) All investments sold, redeemed, divested, or withdrawn  
6 in compliance with section 4;
- 7 (2) All prohibited investments under section 4; and
- 8 (3) Any progress made under section 4.

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

16 SECTION 7. If any provision of this Act, or the  
17 application thereof to any person or circumstance, is held  
18 invalid, the invalidity does not affect other provisions or  
19 applications of the Act that can be given effect without the  
20 invalid provision or application, and to this end the provisions  
21 of this Act are severable.



# S.B. NO. 2555

1 SECTION 8. This Act shall take effect upon its approval.

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INTRODUCED BY:

  
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# S.B. NO. 2555

**Report Title:**

Coal; Oil; Gas Company Divestment; Fossil Fuel; ERS

**Description:**

Requires the employees' retirement system to divest its investment portfolio of coal, oil, and gas companies within five years and to report certain information to the legislature.

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