

Draft Ordinance

Pittsburgh's Municipal Divestment from Fossil Fuels Act

Summary:

This act seeks to protect the health and safety of Pittsburghers by divesting the City's public funds from fossil fuel companies. It requires that City funds create a list of fossil fuel companies and divest all holdings from those companies over a five-year period.

SECTION 1. SHORT TITLE. The act shall be known as the "Municipal Divestment from Fossil Fuels Act".

SECTION 2. DEFINITIONS. For the purposes of this act:

(1) "Asset manager" means the individuals or firms endowed with the responsibility to physically invest the public fund's assets. "Asset manager" may also refer to individuals or firms which advise the public fund on investment strategies.

(2) "Company" means a sole proprietorship, organization, firm, association, corporation, utility, partnership, venture, franchisor, franchisee, trust, or other entity, its wholly owned subsidiary or affiliate that exists for profitmaking purposes or to otherwise secure economic advantage.

(3) "Direct holdings" means all publicly traded securities of a company held directly by a public fund or in an account or fund in which a public fund owns all shares or interests.

(4) "Divestment action" means selling, redeeming, transferring, exchanging, or otherwise disposing or refraining from further investment in certain investments.

(5) "Fossil fuels" means an energy source formed in the earth's crust from decayed organic material. The term includes petroleum, coal, natural gas, heating oils, light and heavy diesel oil, motor gasoline, propane, butane, residential fuel oils, kerosene, and aviation fuels.

(6) "Fossil fuel company" means a company which has large reserves of fossil fuels or is a conglomerate or holding company which owns a fossil fuel company. The process for identifying fossil fuel companies is established in Section 4 of this Act.

(7) "Indirect holdings" means all publicly traded securities of a company held in an account or fund, such as a mutual fund, managed by one or more persons not employed by the public fund, in which the public fund owns shares or interests together with other investors.

(8) "Invest" or "investment" means the purchase, ownership, or control of stock or other securities of a company, corporate bonds or other debt instruments issued by a company, or the commitment of funds or other assets to a company, including a loan or extension of credit to that company.

(9) "Public fund" means the funds of the City and other funds for which the City or any officer or employee thereof shall act as custodian or trustee, wherein the legal or equitable title in such funds shall belong to persons, co-partnerships, corporations, or the Federal or State government, or any agency or political subdivision thereof other than such City.

(10) “Publicly traded securities” means ownership interest or debt instruments that are currently traded on a securities exchange that is officially recognized, sanctioned, or supervised by a governmental authority of the country in which the market is located or currently traded through the United States over-the-counter market that is reflected by the existence of an interdealer quotation system.

SECTION 3. APPLICABILITY. This act applies to all public funds, including trustee-directed pension plans, short-term accounts, endowments and foundations in which a municipal officer acts as the trustee or asset manager for the fund, and to any such funds maintained or controlled by authorities or other statutory creations of the City of Pittsburgh or the officers of such entities.

SECTION 4. IDENTIFICATION OF FOSSIL FUEL COMPANIES.

(a) Within ninety days of the effective date of this ordinance, a public fund shall make its best efforts to identify the public fund’s direct or indirect holdings in the top 100 public oil and gas companies and the top 100 public coal companies measured by size of fossil fuel reserves. Those fossil fuel companies shall be identified by reference to the Fossil Free Indexes’ The Carbon Underground list of the top 100 public coal companies and the top 100 public oil and gas companies.

(b) By the first meeting of a public fund following the ninety-day period described in Subsection 8(a), the public fund shall assemble all identified fossil fuel companies in a fossil fuel companies list.

(c) A public fund shall update the fossil fuel companies list regularly but not less frequently than annually.

(d) If the Carbon Underground list becomes unavailable or no longer current, a public fund shall endeavor to identify the 200 companies with the largest fossil fuel reserves measured by their greenhouse gas emission potential and shall assemble those companies in a fossil fuel companies list.

SECTION 5. DIVESTMENT FROM FOSSIL FUEL COMPANIES.

(a) Upon completion of a fossil fuel companies list pursuant to Section 4 of this act, the public fund shall immediately determine the companies on the fossil fuel companies list in which the public fund owns direct or indirect holdings, and shall take divestment actions to sell, redeem, or withdraw all publicly traded securities of the aforementioned fossil fuel companies as quickly and prudently as practicable within five years from the effective date of this ordinance.

(b) The public funds shall make quarterly reports to the Mayor, City Council, and the public identifying to the extent possible (1) the fund’s direct and indirect holdings in fossil fuel companies, (2) the percentage of the fund’s direct and indirect holdings that are invested in fossil fuel companies, and (3) the progress of divestment from fossil fuel companies.

(c) Private equity. Public funds shall annually notify asset managers of private equity assets of the public fund that public policy in Pittsburgh is to avoid investment in fossil fuel companies and request the asset managers not undertake any investments that would constitute such operations. Prior to investing in a new private equity fund that is not in the public fund’s portfolio as of the effective date of this act, the public fund shall perform due diligence to prevent investment in any private equity fund where the offering memorandum or prospectus identifies the purpose of the private equity fund as investing in fossil fuel companies.

(d) A public fund may not invest in any indirect passively managed fund that holds direct investments in a fossil fuel company, unless such investment is made during the period of time in which the public fund is divesting itself of fossil fuels and:

- i) the indirect investment were part of the public fund's portfolio as of the effective date of this act; and
- ii) such investment is consistent with the public fund's prudent plan to divest fully.

(e) Following the five-year period within which each public fund shall divest itself of fossil fuel companies, if a new public company is identified as belonging to the list of fossil fuel companies to be divested from, the public fund shall divest any direct holdings in that company as quickly and prudently as practicable within one year from identification; the public fund shall work to divest any indirect holdings in that company within two years from identification.

(f) If a public fund manager determines that money market accounts or other cash equivalent accounts are needed for effective and responsible administration of the public fund, and if it is not feasible to screen out all potential fossil fuel investment from those accounts, then any such investment in fossil fuel companies investment shall be *de minimus*.

SECTION 6. REINVESTMENT IN SOCIALLY RESPONSIBLE INVESTMENTS.

(a) The Department of Finance and the Office of Sustainability shall, within 180 days of the effective date of this act, develop a committee to investigate the feasibility, costs, and impacts of reinvesting a portion of the funds divested in accordance with Section 5 of this act into socially responsible investments. The committee shall substantially include as members City residents who are not employed by the City or elected to City office.

(b) The committee shall review methods of socially responsible investment which include but are not limited to investments in:

- (1) Local alternative energy production such as residential solar;
- (2) Local small and medium businesses;
- (3) Local infrastructure and government improvement projects;
- (4) Weatherization and other cost-reduction improvements to government buildings;
- (5) Socially responsible funds that invest in companies that operate by moral standards approved of by their investors, such as not manufacturing or selling weapons, not trading with countries with poor human rights records, not selling addictive substances like alcohol, gambling and tobacco, and seeking out companies engaged in environmental sustainability and alternative energy.

(c) The committee shall issue progress reports to the Mayor, City Council, and the public no less frequently than quarterly, and shall endeavor to issue a set of recommendations to the Mayor and City Council within a year of the establishment of the committee.

SECTION 7. CLIMATE RISK IN CREDIT RATINGS.

(a) The City Council urges credit rating agencies to incorporate climate risks into their credit ratings for publicly held companies.

(b) The City Council intends to circulate a letter to other city councils or town boards in the state urging their signing onto a letter that will be sent to the three largest credit rating agencies, Standard & Poor's, Moody's, and Fitch Group, requesting that the credit rating agencies take steps to factor the risk of climate change in their ratings.

SECTION 8. IMMUNITY.

(a) With respect to actions taken in compliance with this act, including all good faith determinations regarding companies as required by this act, a public fund shall be exempt from any conflicting statutory or common law obligations, including any such obligations in respect to choice of asset managers, investment funds, or investments for the public fund's securities portfolios.

(b) With respect to all actions taken in good faith compliance with this act, a public fund, its board of directors, individual board members, agents, trustees, officers, employees, custodians, and fiduciaries shall be immune from any liability.

SECTION 9. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 10. EFFECTIVE DATE. This act takes effect on January 1, 2016.