Third Act Vermont Position in support of
Divestment Bill S.42 and VPIC's Net-zero Proposal

March 23, 2024

To: VT House Committee on Government Operations and Military Affairs

From: Third Act Vermont[1]

Re: The Fossil Fuel Divestment Bill (S.42) and the Vermont Pension Investment Commission (VPIC) Report to the Legislature regarding VPIC's Carbon Footprint (Jan. 31, 2024).

Third Act VT respectfully urges the Committee both to pass S.42 as a divestment bill and to encourage VPIC to develop its proposed decarbonization/net-zero plan.

The Fossil Fuel Divestment Bill, S.42

Third Act Vermont supports S.42, the Fossil Fuel Divestment Bill, for three reasons:

> *First*, fossil fuels are a bad investment and have underperformed the stock market for the last decade, as shown by the 2024 Meketa Report (p.15) prepared at VPIC's request. This is consistent with separate reports from both BlackRock and Meketa finding that pension funds that have divested from fossil fuels have performed either the same or better than their benchmarks.
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> *Second*, Vermont pension funds should not be investing in an industry that is destroying Vermont's environment and contributing to billions of dollars in damage to the state by fueling devastating climate change and extreme weather events. Governor Scott noted that the costs of the extreme flooding in 2023 alone were over one billion dollars.
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> *Third,* divestment from fossil fuels will complement Vermont's "Make Big Oil Pay" bill (S.259), which will create a state Climate Superfund for fossil fuel companies to pay into for the damage they have caused to the state. Treasurer Mike Pieciak strongly supports divestment in part because superfunds such as this one will create financial liability for

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fossil fuel companies, making them even more clearly a bad investment for our pension funds. And it would make no sense for Vermont to "make big oil pay" for the ecological damage it has caused, while at the same time investing our pension funds in that same industry and financing further ecological damage.

VPIC's Report to the Legislature

Instead of divestment, the VPIC report to the Legislature proposes a "decarbonization" plan that seeks to reduce the emissions in the portfolio to net-zero. But as the 2024 Meketa Report for VPIC states, these "approaches are not mutually exclusive," and "there are many variations within each approach" (p.7). This is not an either-or choice.

Third Act Vermont supports VPIC implementing *both* a divestment and a decarbonization plan because decarbonization alone would not supplant the need for divesting our pension funds from fossil fuels. We need to phase out fossil fuel production *in addition* to cutting emissions in all industries.

California state pension plans recently offered a similar decarbonization proposal. The LA Times published a persuasive editorial explaining why divestment is still needed: *CalPERS must ditch fossil fuel investments. Its new 'sustainable' plan doesn't do that*. (Attached)

Advantages of Divestment

1. Divestment is effective.

Empirical studies have validated the effect of divestment on the fossil fuel industry. One recent study examined financial data across 33 countries from 2000 to 2015. It found "that increasing oil and gas divestment pledges in a country, particularly where these are signaled by non-financial organizations and non-governmental organizations (NGOs), are associated with lower new capital flows to domestic oil and gas companies."[2] Another study found that the public announcement of divestment from fossil fuels has a "negative effect" on fossil fuel firm stock prices.[3]

But the best evidence that divestment weakens the fossil fuel industry is that the industry is fighting against it tooth and nail. The fossil fuel industry has been

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[2] Theodor F Cojoianu, et al., *Does the fossil fuel divestment movement impact new oil and gas fundraising?* Journal of Economic Geography, Volume 21, Issue 1, January 2021, pp. 141–164. Available at https://doi.org/10.1093/jeg/lbaa027.

[3] Solomon George Zori, et al., *Market reaction to fossil fuel divestment announcements: Evidence from the United States,* Business and Society Review (Dec. 11, 2022). Available at https://doi.org/10.1111/basr.12295

pumping millions of dollars into supporting the recent push for anti-divestment legislation on the state and federal level.

Divestment is key to defunding the plans the fossil fuel industry has to spend $1.5 trillion on developing new oil and gas fields. The International Energy Agency has concluded that if these new fields are developed, it will be impossible for the earth to avoid catastrophic global overheating.[4] As UN Secretary General António Guterres stated following release of the 2022 IPCC report on the global climate crisis,

> *Investing in new fossil fuels infrastructure is moral and economic madness. Such investments will soon be stranded assets—a blot on the landscape and a blight on investment portfolios*.[5]

2. Divestment is less costly and requires no additional staff.

The Meketa Report notes that divestment would require "no additional staff and minimal additional time to identify and monitor ongoing exposure to fossil fuel companies" (p.40). In contrast, the decarbonization/net-zero proposal VPIC supports would require "the greatest additional staff and external resources" (p.41). If the Committee amends S.42 to include VPIC's decarbonization plan, it will also need to provide additional staff and funding for VPIC to implement the plan.

The amended Divestment Bill already addresses VPIC's concerns.

VPIC's opposition to divestment overlooks the provisions already added to S.42 to address its concerns:

- Exemption for Private Investment: VPIC claims that "broad fossil fuel divestment would lead to a phaseout of VPIC's private market investment program" and a reduction in the rate of return. But S.42 was amended at VPIC's request to expressly exempt private investment. That exemption stays in place as long as VPIC finds it is financially prudent. S.42 only requires divestment in the public markets, and even there only to the extent VPIC finds it is financially prudent to do so. S.42 thus has no effect on VPIC's private market investment program. And since VPIC's private investments are,

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[4] International Energy Agency (IEA), *Net Zero by 2050, A Roadmap for the Global Energy Sector* p. 21 (May 2021). Available at https://www.iea.org/reports/net-zero-by-2050; *See also* Kelly Trout, et al., *Existing fossil fuel extraction would warm the world beyond 1.5 °C,* IOP Science, Environmental Research, Letters (May 17, 2022). Available at https://iopscience.iop.org/article/10.1088/1748-9326/ac6228

[5] United Nations Press Release, Secretary General, *Secretary-General Warns of Climate Emergency, Calling Intergovernmental Panel's Report 'a File of Shame', While Saying Leaders 'Are Lying', Fueling Flames* (April 4, 2022). Available at https://press.un.org/en/2022/sgsm21228.doc.htm

according to the Meketa Report, already effectively divested of fossil fuels (only 0.02% are in fossil fuels), there is no need for VPIC to take any action with regard to its private investments.

- 2% de minimis exemption: VPIC claims that "selling off shares in the energy companies negates our ability to effect positive change through our proxy votes and to invest in energy transition." But again, S.42 was amended at VPIC's request to address this concern. The bill includes a 2% de minimis exemption, which exempts from divestment amounts below 2% of the portfolio. The active investments VPIC has in fossil fuel companies (shares which give VPIC proxy votes) are well below this 2% level, and thus VPIC can continue to hold these shares and continue to engage through proxy voting to encourage the energy transition.

In addition, VPIC's proposed amendment to raise the de minimis exemption from 2% to 2.5% appears to be an effort to meet the goal just by moving the goalpost: VPIC's total portfolio has only 2.5% invested in fossil fuels. So with this amendment, VPIC could claim the goal is already achieved. This amendment should be rejected.

Third Act VT does support VPIC's proposed amendments providing for indemnification, no private cause of action, and application of the statutory prudent investor rule. Third Act VT has separately proposed these exact same amendments.

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Because VPIC's decarbonization/net-zero proposal does not supplant the need for divestment, Third Act VT urges the Committee both to pass S.42 as a divestment bill and to encourage VPIC to develop its proposed decarbonization plan.

Los Angeles Times

OPINION

Editorial: CalPERS must ditch fossil fuel investments. Its new 'sustainable' plan doesn't do that

An oil refinery looms over Wilmington in 2016. Billions of California public employees' retirement funds are invested in fossil fuel companies. (Rick Loomis / Los Angeles Times)

BY THE TIMES EDITORIAL BOARD

DEC. 3, 2023 5 AM PT

California's two big public pension funds have been under increasing pressure to divest from fossil fuels as other big institutional investors move to shed their holdings in oil companies and other heavily polluting industries. And it's not hard to see why.

CalPERS and CalSTRS have billions invested in fossil fuels, from multinational oil giants such as ExxonMobil and Chevron to government-owned companies in China and Saudi Arabia. In a state that prides itself on its climate leadership, there is obvious hypocrisy in using the retirement money of state employees and teachers to prop up companies that profit from the burning of oil and gas that's causing a catastrophic overheating of our planet. It's no wonder that so many Californians, including lawmakers, environmental activists, young people and retirees, have called for these influential funds to divest from these dangerous industries.

Last month CalPERS, which manages a portfolio of more than $462 billion, announced a new sustainable investments strategy that seems designed to address those calls, but not satisfy them. It includes a plan to more than double investment in low-carbon assets and other climate solutions to $100 billion by 2030. There's a commitment to make "more selective investments in high emitting sectors" and to hold companies accountable for reducing their carbon footprint, by establishing a process to exit those without "credible net zero plans."

OPINION

Editorial: On climate change, world leaders are saying one thing and doing another

Nov. 27, 2023

It's good to see the nation's largest public pension fund taking initial steps to shift its portfolio away from some of the highest-polluting companies that refuse to switch to cleaner technologies. But the approach is far too timid, incremental and ill-defined, and doesn't go nearly far or fast enough to respond to the scope and scale of the climate crisis. And it doesn't change the need for a real divestment mandate.

Leaders of the pension fund said the plan would accelerate their move toward their preexisting goal of achieving a net-zero portfolio by 2050. But the 28-page plan is short on details, hazy on the criteria that will be used to determine which companies to reduce investments because of insufficient climate plans, and lacks a timeline for those decisions. CalPERS staff has promised its board to come back with those details next year.

CalPERS officials don't see the strategy resulting in any across-the-board divestment that would exclude an entire sector of the economy. Instead, they believe in supporting even heavily polluting oil companies so long as they have committed to transitioning to lower-carbon technology.

OPINION

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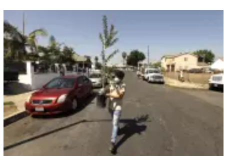
Oct. 20, 2023

In many ways, this plan seems like new wrapping on the fund's old approach of using its shareholder power to try to coax fossil fuel companies into acting more responsibly. But that has not proved very successful. Just look at the oil industry's recent actions to walk back climate pledges and launch new disinformation efforts to derail the shift to renewable energy.

CalPERS' new strategy also seems designed to head off legislation to force the pension funds to sell their investments in the largest fossil fuel companies by 2031. The bill, Senate Bill 252, passed the state Senate, but has yet to advance in the Assembly. The pension funds' leaders oppose the legislation on the grounds that it would reduce the diversification of their holdings and violate their fiduciary duty to make investments solely in the interest of maximizing returns.

CalPERS' rationale for its new strategy is similarly divorced from morality. The fund's leaders say that any decisions to reduce or shed assets will be based on the financial risks of high-polluting companies not having plans to decarbonize.

But as supporters of divestment have argued for years, casting off fossil fuel assets is at its core a financially prudent move. In a world that is rapidly shifting toward renewable energy, these investments are becoming too risky to keep.



OPINION

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Nov. 5, 2023

State Sen. Lena Gonzalez (D-Long Beach), who wrote SB 252, commended CalPERS for taking a step in the right direction, but said the strategy won't stop the divestment push.

While it is encouraging to see CalPERS officials start to take seriously calls to dump fossil fuels and prioritize renewable energy, their solution would only prolong the power and influence of an industry whose reckless and deceitful actions going back decades continue to fuel a worsening climate catastrophe. It seems clear that the only way to ensure that public pension funds move out of this risky business is by forcing them to do so through legislation.

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