House Bill 2601

Sponsored by Representative PHAM K, Senator GOLDEN, Representative GAMBA; Representative DEXTER, Senators CAMPOS, DEMBROW, JAMA (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Requires State Treasurer to exit from certain carbon-intensive investments, subject to fiduciary duties.

Requires State Treasurer to develop plan to protect state investments from risks related to climate change.

Requires State Treasurer to issue periodic reports on actual and planned progress towards completion of duties imposed under Act.

A BILL FOR AN ACT

Relating to investment funds.

Whereas the October 2021 Climate Scan Report commissioned by the State Treasurer showed that the state's investments are at significant risk under current investment strategies; and

Whereas the State Treasurer is already prudently investing the Public University Fund under a restriction against companies listed on the Carbon Underground 200 list; now, therefore,

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 to 8 of this 2023 Act are added to and made a part of ORS chapter 293.

SECTION 2. Sections 2 to 8 of this 2023 Act may be cited as the Treasury Investment and Climate Protection Act of 2023.

SECTION 3. As used in sections 2 to 8 of this 2023 Act:

(1) “Carbon-intensive investment” means an investment in an entity that is:

(a) Listed on the Carbon Underground 200 list, the Urgewald Global Coal Exit List, or the Urgewald Global Oil and Gas Exit List; or

(b) A coal producer, an oil and gas producer or a provider of equipment, services, transportation or storage related to oil and gas.

(2) “Carbon Underground 200 list” means the list of carbon reserve holders identified by FFI Solutions.

(3) “Climate solutions” means entities that derive a majority of their revenue from climate mitigation, adaptation and resilience activities, including renewable energy, energy efficiency, nature-based solutions, including mitigation in the forest sector, and climate-responsive social protection, pollution prevention and low-carbon buildings.

(4) “Coal producer” means an entity that derives at least 10 percent of annual revenue from thermal coal production, that accounts for more than one percent of global production of thermal coal or whose reported coal reserves contain more than 0.3 gigatons of potential carbon dioxide emissions, or a parent or subsidiary of such an entity.

(5) “Investment funds” has the meaning given that term in ORS 293.701.
(6) “Oil and gas producer” means any entity that derives at least 20 percent of annual revenue from oil or gas production, that accounts for more than one percent of global oil or gas production or whose reported combined oil and gas reserves contain more than 0.1 gigatons of potential carbon dioxide emissions.

(7) “Oil or gas production” means exploration, extraction, drilling, production, refining, processing or distribution activities related to oil or gas.

(8) “Thermal coal production” means mining, transport, processing or exploration activities related to thermal coal.

(9) “Urgewald Global Coal Exit List” means the list of coal industry participants identified by the Urgewald organization.

(10) “Urgewald Global Oil and Gas Exit List” means the list of oil and gas industry participants identified by the Urgewald organization.

SECTION 4. (1) The duties imposed on the Oregon Investment Council and the State Treasurer by sections 2 to 8 of this Act are subject to the provisions of this section.

(2) The council and the State Treasurer shall carry out the duties imposed by sections 2 to 8 of this Act without incurring material contractual penalty and in a reasonable and prudent manner by investment in acceptable institutions at comparable or better rates and returns in light of the risk and investment horizon appropriate for each investment fund.

(3) Nothing in sections 2 to 8 of this Act is intended to abrogate the fiduciary responsibilities of the council and State Treasurer as described in ORS 293.721 and 293.726.

SECTION 5. (1) The State Treasurer shall ensure that no carbon-intensive investments are acquired for any investment fund.

(2) The State Treasurer may not execute or renew contracts that will result in, or are reasonably likely to result in, the acquisition of carbon-intensive investments for any investment fund.

SECTION 6. (1) The State Treasurer, as soon as practicable and no later than six months from the effective date of this Act, shall exit from any publicly traded investment held in an investment fund in an entity listed on the Carbon Underground 200 list.

(2) The State Treasurer, as soon as practicable and no later than two years from the effective date of this Act, shall exit from any publicly traded investment held in an investment fund in an entity listed on the Urgewald Global Coal Exit List or the Urgewald Global Oil and Gas Exit List.

(3) The State Treasurer, as soon as practicable and no later than January 1, 2035, shall exit from any carbon-intensive investment, whether or not publicly traded, held in an investment fund. In carrying out their duties under this subsection, the State Treasurer shall prioritize exits from investments related to thermal coal, tar sands and natural gas derived from fracking.

SECTION 7. (1) No later than one year from the effective date of this Act, the State Treasurer, with the approval of the Oregon Investment Council, shall develop a plan to protect investments held in investment funds from transitional and physical climate risks, including sea level rise, wildfires, flooding, drought, increased greenhouse gas emissions and energy transition impacts. In developing the plan, the State Treasurer shall consult with the council and shall solicit and consider public testimony given at public hearings.

(2) The plan must specifically identify:

(a) The impact of climate risks on every type of state investment;
(b) Specific steps to be taken to protect state investments from climate risk and to invest in climate solutions and other opportunities arising from climate change; and

c) An environmental justice framework that reduces climate impacts on frontline communities throughout this state, including rural communities and communities of color, developed in consultation with the Environmental Justice Council in accordance with Senate Concurrent Resolution 17 (2021).

(3) After the plan is completed, the State Treasurer shall report on the plan to the Legislative Assembly in the manner provided by ORS 192.245 and make the plan publicly available.

(4) The State Treasurer shall update the plan annually and shall continually solicit and consider public testimony given at public hearings regarding the plan.

(5) Public hearings and testimony related to the plan must be accessible to the public both in person and remotely.

(6) The council shall develop and implement goals relating to increasing state investments in climate solutions.

SECTION 8. (1) On or before March 31, June 30, September 30 and December 31 of each year, the State Treasurer shall publish a report on actual and planned progress toward completion of the duties imposed by sections 2 to 8 of this 2023 Act.

(2) The Oregon Investment Council shall review each quarterly report at a public meeting that is accessible to the public both in person and remotely.

(3) If a report required under subsection (1) of this section is not timely published, the Secretary of State shall conduct audits as necessary to determine the information required in the missed report and the reason for the missed deadline. The Secretary of State shall make the results of such audits available to the public.

(4) The State Treasurer shall submit an annual report to the Legislative Assembly in the manner provided by ORS 192.245 that compiles and summarizes the information in the last four quarterly reports.

(5) The reports required under this section must include, at a minimum:

(a) A detailed description of all completed or planned exits from carbon-intensive investments, including reasoning and evidence supporting completed or planned actions;

(b) A detailed description of completed or planned investment exit reviews;

(c) A detailed description of how investment exits are planned to meet the deadlines established by sections 2 to 8 of this 2023 Act;

(d) For all publicly traded or fixed investments held in investment funds:

(A) The name and subject of the investment and the identity of any managing investor;

(B) Acquisition dates; and

(C) One-, three-, five- and ten-year average returns; and

(e) For all private investments in which the State of Oregon is a limited partner or otherwise, the following information, aggregated so as not to identify investments by firm or fund:

(A) The name and subject of the investment;

(B) The vintage year;

(C) The actual or anticipated exit date;

(D) The cash commitment for each investment or fund;

(E) Cash called, by date and amount;
(F) Cash distributed, by date and amount;
(G) Annualized return since inception on cash called and cash distributed;
(H) Fair value of residual (total and allocable to the State Treasurer’s proportion), reported as annualized 10-year rolling average;
(I) Annual fair value calculations provided to the State Treasurer by the general partner;
(J) Comparison between residual fair value history and actual exit price, if applicable;
(K) Redacted due diligence materials that are sufficient to enable the Legislative Assembly and the public to understand the actual quality of due diligence performed by the council or the State Treasurer on the suitability of each investment; and
(L) Investment contracts.

(6) The council and the State Treasurer shall make publicly available, as they presently exist or are created or updated, their policies and procedures relating to governance, investment and due diligence.