

RPEA Testimony before the Senate Finance Committee

Divesting the State Pension Fund from Fossil Fuels

Hearing Room A

April 30, 2019

Edward Farrell

Executive Director

Chairwoman Krueger, members of the Finance Committee, thank you for the opportunity to comment on the divestiture legislation under consideration. I am Ed Farrell, Executive Director of the Retired Public Employees Association.

There are 1.1 million participants in the New York State Retirement System, 470,000 of whom are retirees. Needless to say, there is no other group of individuals more concerned about the financial well being of the Retirement Fund than retirees.

My comments do not center on the issue of global warming as a matter of public policy. I do, however, need to raise our concern about the decision by the Legislature, as detailed in the bill under consideration, to infringe on what we view as the constitutional responsibility of the State Comptroller, as the Sole Trustee, to administer the fund solely for the benefit of current and future retirees.

This is not to diminish the need to address climate change, but the decision of the Legislature to infringe on the responsibility of the Comptroller, as the Sole Trustee, is the wrong way to go about it. It's a matter of principle, which cannot be infringed upon.

Furthermore, the Comptroller has already taken leading steps to address climate-related risks and opportunities, including committing \$10 billion to sustainable investments and the filing of shareholder resolutions pertaining to fossil fuel emissions. As you know, just in the past two weeks, the Decarbonization Advisory Panel formed by Governor Cuomo and Comptroller

DiNapoli, issued its recommendations as to how the Retirement Fund should adjust its investment portfolio to take advantage of the transition to a low-carbon economy. The Panel recommends that the Fund transition its investments to 100% sustainable assets by 2030.

RPEA does not opine on whether or not that goal is correct, not do we opine on the investment goals contained in the bill under question. What can state, categorically, is that whatever investment strategy is undertaken, constitutionally must be the responsibility of the State Comptroller. The courts have upheld that principle, and we agree (see Sgaglione v. Levitt, McDermott v. Regan). RPEA full supports the principle of the Comptroller as the Sole Trustee of the Retirement Fund. Someone needs to be responsible and accountable for the performance of the Fund. As stated earlier, the Fund is to be administered solely for the benefit of current and future retirees, and the Legislature cannot infringe on that responsibility in order to achieve a separate political or social objective, no matter how laudable it may be.

It must be noted that there are other bills currently under consideration which would also impose investment constraints on the Comptroller's responsibility as Sole Trustee. These bills include divesture requirements on the following companies, including those who: boycott Israel, do business with Iran, produce firearms or tobacco, and contract to build a border wall. In the opinion of those who sponsor these other bills, this is an appropriate role for the Legislature. We strongly disagree! It is indeed a slippery slope upon which we do not want to embark.

In closing, I point out that there are other, proper, ways for the Legislature to address the issue of climate change. It is well established that the leading cause of greenhouse emissions is large commercial and residential buildings, particularly in metropolitan areas. The state has enacted a Green Building Code, which will address new construction or substantial renovation. As you know, just recently the New York City Council passed, and Mayor DeBlasio signed, its own version of the Green New Deal. Buildings of more than 25,000 square feet must reduce their greenhouse gas emissions 40% by 2030.

A similar bill, the Climate and Community Protection Act, is currently before the Legislature. As a matter of fact, many members of this committee are co-sponsors of that legislation. This bill, and others of a similar nature, exemplify the significant role the Legislature can play in reducing greenhouse emissions. It is the position of RPEA that the Legislature should pursue that legitimate role, rather than interfering with the fiduciary responsibility of the State Comptroller to invest the assets of the Retirement Fund solely for the benefit of current and future retirees.

I thank you for the invitation to express our concerns, and we are pleased to respond to any questions.