

PUBLIC HEARING
ON THE
FOSSIL FUEL DIVESTMENT ACT OF 2013, BILL
20-481

Before the
Committee of the Whole
Council of the District of Columbia

Chairman Phil Mendelson

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John A. Wilson Building
Hearing Room 412



Testimony of
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Good morning, Chairman Mendelson and members of the Committee. I am Jeffrey Barnette, Deputy Chief Financial Officer and Treasurer of the District of Columbia, and I am pleased to represent the Office of the Chief Financial Officer (OCFO) at today's hearing on proposed Bill 20-481, the "Fossil Fuel Divestment Act of 2013." The OCFO provides fiduciary oversight and management of the District's Annuitants' Health and Life Insurance Employer Contribution Trust Fund. The Annuitant fund has also been referred to as the Districts' Other Post Employment Benefit (OPEB) Plan. The information that I will present today addresses the OCFO's position on the proposed Bill 20-481.

Let me start with some background on the Annuitants' Trust Fund and the OCFO's involvement. The Annuitants' Trust Fund was established by the Annuitants' Health and Life Insurance Employer Contribution Amendment Act of 1999, effective March 7, 2000 (D.C. Law 13-54; D.C. Official Code § 1-621.09). The Chief Financial Officer ("CFO") is trustee of all investments and invested funds of the District as named fiduciary of such funds pursuant to Home Rule Act section 424(d)(12). Pursuant to this authority, the CFO established the Annuitants' Health and Life Insurance Employer Contribution Plan ("Plan"). The Plan designated the CFO as Trustee. Section 6.01 of the Plan states that "[a]ll assets of the Plan, and all income attributable to such assets, property or rights, shall be held in the Trust Fund. The Trust Fund shall be held by the Trustee for the exclusive benefit of the Annuitants' and Beneficiaries of this Plan and the assets may not be diverted to any other use." The OCFO follows the Plan document. We invest in

legally authorized investments and we do this as a fiduciary that furthers the purpose of the Annuitants' Trust Fund.

In this regard, we support the provision in Bill 20-481, in Section 4(d), that provides that the D.C. Retirement Board (DCRB) and the CFO "shall comply with the requirements of this act only to the extent consistent with its fiduciary duties." As a fiduciary, we do not believe it is in the best interest of the Trust Fund, as well as its annuitants' and beneficiaries, to limit investments. As you know, one of the major tenets of sound investment policy is asset diversification. Any restriction to diversification could have a negative impact on the performance of the overall investment portfolio.

From a financial perspective, it is difficult to determine the impact of the bill with precision. If this bill were to be enacted, however, and we were forced to divest we could be looking at liquidating as much as \$245 million or 27% of the current \$900 million portfolio. Replacement investments may not perform at the level of the existing investments and any drop in performance would eventually lead to higher contribution levels from the District. For perspective, the District contributes approximately \$100 million a year to the Trust Fund. Furthermore, the very act of divesting could be costly given the transactions costs associated with changing our portfolio. The Office of Revenue and Analysis will be able to provide more specific cost impacts with the release of the Fiscal Impact Statement.

The additional concern we have with this policy is the precedent it will establish for Trust Fund investments. Will we be asked to divest from manufacturing companies because they use fossil fuels to run their plants,

from automakers because the cars and trucks they make use fossil fuels or even from technology companies because their products have plastic which is derived from a fossil fuel? The list of companies affiliated with fossil fuels is never-ending. Furthermore, divestment of fossil fuels may lead to divestments reflecting other well-intentioned social policies. Will the next divestment be of shares in food manufacturing companies due to concerns with obesity, or in defense contractors that build fighter jets?

Finally, we are aware of growing concerns with the effects of global warming and we strongly believe that these concerns should be channeled through the entire investment management process. While divestment by investors may create financial market pressure, we believe that use of proxy voting and other forms of corporate governance practices may have a greater impact on change than divestment. Divestment will eliminate the ability to advance change through shareholder pressure or advocacy. Rather than selling our shares, by partnering with other investors like DCRB and large institutional investors to make use of proxy voting and vigilantly monitor corporate management, our voice can be stronger and more effective.

Chairman Mendelson, members of the Committee, this concludes my testimony. I am prepared to answer any questions that the Committee may have.