WEST virginia legislature

2022 regular session

Originating

Senate Bill 730

By Senators Tarr, Sypolt, Baldwin, Brown, Clements, Geffert, Hamilton, Jeffries, Maroney, Martin, Nelson, Plymale, Roberts, Stollings, and Swope

[Originating in the Committee on Finance;
reported February 28, 2022]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §12-9-1, §12-9-2, and §12-9-3, all relating generally to authorizing divestment of state-managed funds from companies engaged in certain activities involving Russia or Russian energy; setting forth legislative findings; defining terms; authorizing public investment entities in the state to divest from Russia-restricted companies; providing that divestment from Russia-restricted companies does not violate code provisions related to prudent investment and fiduciary duties; and limiting liability of public officials or employees and members or employees of public investment entities for divestment from Russia-restricted companies.

Be it enacted by the Legislature of West Virginia:

Article 9. Divestment from Russia-restricted companies.

§12-9-1. Legislative findings.

(a) On February 24, 2022, Russian troops invaded the sovereign nation of Ukraine, carrying out an unprovoked and premeditated attack that has already led to loss of life and has threatened to destabilize global security;

(b) The United States government and its allies have announced substantial economic sanctions against Russia and Russian government-related individuals in an effort to deter the Russian military from the ongoing attack on Ukraine;

(c) The Ukrainian ambassador to the United States has called upon American businesses to cut ties with Russia to support Ukraine’s efforts to fend off Russia’s invasion; and

(d) The West Virginia Legislature supports economic sanctions against Russia in response to Russia’s unjustifiable aggression toward Ukraine and intends, by this section, to authorize and encourage state investment entities to restrict the investment or use of state funds from supporting the Russian government or Russian-state owned companies while the attack on Ukraine is ongoing.

§12-9-2. Definitions

For the purposes of this article:

 “Public investment entity” means any department, agency, board, commission, institution, spending unit, or instrumentality of state or local government that is authorized to invest or manage state or local government assets or oversee the investment of state or local government assets by a third-party financial institution or asset manager. The term includes, but is not limited to, the West Virginia Investment Management Board and the West Virginia Board of Treasury Investments.

“Russia-restricted company” includes any company, institution, or other entity that meets any of the following criteria:

(A) The entity has business operations that involve contracts with or provision of supplies or services to the government of Russia, companies in which the government of Russia has any direct or indirect equity share, consortiums or projects commissioned by the government of Russia, or companies involved in consortiums or projects commissioned by the government of Russia;

(B) More than 10 percent of the entity's revenues produced in or assets located in Russia involve oil- or gas-related activities or mineral extraction activities;

(C) The entity is a financial institution with its principal place of business or headquarters in Russia; or

(D) The entity engages in substantial operations that support or facilitate the government of Russia in its aggression toward other sovereign nations.

§12-9-3. Divestment authorized; limitation of liability.

(a) Notwithstanding any provision of this code to the contrary, a public investment entity is authorized to sell, redeem, divest, or withdraw all holdings of Russia-restricted companies from the entity’s assets under management.

(b) An action by a public official, public employee, or member or employee of a public investment entity that complies with a requirement of this section does not violate the Uniform Prudent Investor Act, contained in §44-6C-1 *et seq.* of this code, or any other provision in this code related to fiduciary duties or responsibilities.

(c) With respect to actions taken pursuant to this section, a public employee, or member or employee of a public investment entity is immune from civil or criminal liability.