

2017 Regular Session

SENATE BILL NO. 223

BY SENATOR RISER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FUNDS/FUNDING. Prohibits investment fund managers from investing the state's special funds monies in companies and in nations that support terrorism. (7/1/17)

1 AN ACT

2 To enact Part II-B of Part I of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised

3 Statutes of 1950, to be comprised of R.S. 39:100.150 through 100.156, relative to the

4 investment of state funds; to prohibit the investment of state special funds that

5 directly or indirectly support terrorist activities; to provide for purposes, definitions,

6 application, prohibitions, reporting, deadlines, rules of implementation, and

7 penalties; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Part II-B of Part I of Chapter 1 of Subtitle I of Title 39 of the Louisiana

10 Revised Statutes of 1950, comprised of R.S. 39:100.150 through 100.156, is hereby enacted

11 to read as follows:

12 **PART II-B. PROHIBITION AGAINST INVESTMENTS IN NATIONS**

13 **THAT SUPPORT TERRORISM**

14 **§100.150. Purpose**

15 **The purpose of this Part is to assure the citizens and taxpayers of the**

16 **state of Louisiana that the monies held and invested by the state are not used**

17 **directly or indirectly to support terrorist activities and that all monetary**

1 investments in Louisiana's special funds have been screened to insure that those  
2 funds are not invested in companies connected to countries that support  
3 terrorism.

4 §100.151. Definitions

5 As used in this Part, the following terms shall have the following  
6 meanings, unless a different meaning is clearly required by context:

7 (1) "Company" means a foreign domiciled or based entity, real or  
8 juridical, which is not a subsidiary of nor owned in whole or in part by a  
9 domestic company, and which is engaged in an enterprise for financial gain.

10 (2) "Investment fund manager" means any individual or company that  
11 contracts with the state to provide financial services or to assist the state in  
12 procuring or selling investments to be held by the state in special funds.

13 (3) "Investments" means the buying or selling of any of the following  
14 securities, if and to the extent the same are at the time legal for investment of  
15 the special funds of the state:

16 (a) Shares of stock.

17 (b) Shares in a real estate investment trust.

18 (c) Corporate bonds.

19 (d) Government bonds.

20 (e) Mutual funds containing shares of stock, corporate bonds, or  
21 government bonds.

22 (f) Any other negotiable instruments.

23 (4) "Prohibited nation" means Iran, Iraq, Libya, North Korea, Sudan,  
24 or Syria.

25 (5) "Special funds" means the following funds:

26 (a) The funds listed in Part II-A of Chapter 1 of Subtitle 1 of Title 39 of  
27 the Louisiana Revised Statutes of 1950.

28 (b) The fund defined in Article VII, Section 10-A of the Constitution of  
29 Louisiana.

1                   (c) The funds defined in Article VII, Section 10.1 through 10.14 and  
2                   Section 27 of the Constitution of Louisiana.

3                   (6) "Treasurer" means the elected official provided for in Article IV,  
4                   Section 9 of the Constitution of Louisiana.

5                   §100.152. Application; prohibitions

6                   A. On or after July 1, 2017, no investment fund manager who provides  
7                   services to the state of Louisiana related to the special funds shall invest monies  
8                   from any special funds to purchase an investment in a prohibited nation, or in  
9                   a company or companies that are located in a prohibited nation, or in a mutual  
10                  fund which contains investments in a company that is located in a prohibited  
11                  nation.

12                  B.(1) Each and every investment fund manager, who provides services  
13                  to the state of Louisiana related to any special fund, shall screen all current  
14                  investments to determine if an investment of special funds monies are invested  
15                  in a prohibited nation, or in a company located in a prohibited nation, or in a  
16                  mutual fund which contains an investment in a company or companies that are  
17                  located in a prohibited nation.

18                  (2) If, after screening the investments in the special fund, the investment  
19                  fund manager determines that no such investments are currently invested in a  
20                  prohibited nation, or in a company that is located in a prohibited nation, or in  
21                  a mutual fund which contains investments in a company that is located in a  
22                  prohibited nation, the investment fund manager shall certify the same in a  
23                  report to the treasurer, as provided for in R.S. 39:100.154.

24                  (3) If, after screening the investments in the special fund, the investment  
25                  fund manager determines that monies in a special fund are invested in a  
26                  prohibited nation, or in a company that is located in a prohibited nation, or in  
27                  a mutual fund which contains investments in a company that is located in a  
28                  prohibited nation, the investment fund manager shall certify the same in an  
29                  annual report to the treasurer and prepare a plan to divest the special fund of

1 the investments and a timetable for divestment, as provided in R.S. 39:100.154.

2 (4) The treasurer shall approve the plan for divestment, or make any  
3 necessary changes to the plan, in order to implement the plan for immediate  
4 divestment of all investments in a prohibited nation, or in a company that is  
5 located in a prohibited nation, or in a mutual fund which contains investments  
6 in a company that is located in a prohibited nation in order to comply with the  
7 requirements of this Part.

8 **§100.153. Contract requirements for investment fund managers**

9 When an investment fund manager contracts with the state, or enters  
10 into a renewal contract, to provide services to the state related to the special  
11 funds, the investment fund manager shall certify as part of his initial contract,  
12 or a renewal of a contract, that the investment fund manager shall not invest or  
13 purchase an investment for any special fund in a prohibited nation, or in a  
14 company that is located in a prohibited nation, or in a mutual fund which  
15 contains investments in a prohibited nation.

16 **§100.154. Reporting; deadlines**

17 A.(1) Once the investment fund manager of a special fund has met the  
18 requirements of this Part, the manager shall certify that the requirements have  
19 been met in a report, which shall be sent to the treasurer in compliance with the  
20 deadlines set forth in Subsection B of this Section.

21 (2) The report shall include the name of each such investment which was  
22 made, the asset allocation class and sector to which it belongs pursuant to the  
23 special fund's asset allocation policy, and the amount of money of the special  
24 fund that is invested therein.

25 B.(1) The investment fund manager shall make the first report required  
26 in this Section on or before October 31 of each year, and, if monies in a special  
27 fund are currently invested in a prohibited nation, the report shall include all  
28 information regarding the plan to divest the special fund of all such investments  
29 and a time table for such divestment.

1                   **(2) A second report shall be due October 31 of each year, which shall**  
 2                   **contain information for the period between September 15 of the previous year**  
 3                   **and September 15 of the current year and shall contain information regarding**  
 4                   **the status of divestment required in this Part.**

5                   **(3) Beginning with the report due on October 31, 2019, the October 31**  
 6                   **annual report shall contain certification that no investments have been**  
 7                   **purchased in violation of this Part for the period between September 15 of the**  
 8                   **previous year and September 15 of the current year.**

9                   **C. No later than thirty days after the treasurer receives a report, the**  
 10                   **treasurer shall provide a copy of the annual report to the legislative auditor, the**  
 11                   **speaker of the House of Representatives, and the president of the Senate.**

12                   **§100.155. Rules for implementation**

13                   **The treasurer shall adopt any rules pursuant to the Administrative**  
 14                   **Procedure Act which are necessary to implement the provisions of this Part.**

15                   **§100.156. Penalties**

16                   **Any investment fund manager who fails to comply with the provisions**  
 17                   **of this Part shall be prohibited from contracting, or renewing a contract, with**  
 18                   **the state related to investment services for state special funds.**

19                   Section 2. This Act shall become effective July 1, 2017.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Carla S. Roberts.

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DIGEST

SB 223 Engrossed                    2017 Regular Session                    Riser

Present law provides that, with respect to various retirement systems in Louisiana, that investments are forbidden in prohibited nations. Present law provides that the purpose of present law is to assure the members and retirees of the state and statewide retirement systems, the state and its political subdivisions as employers, and the taxpayers of La. that the monies held in trust for the benefit of public employees are not used directly or indirectly to support terrorist activities.

Proposed law retains present law but also prohibits investments in the state's "special funds" from being invested in companies that directly, or indirectly, support terrorists countries.

Present law, with respect to various retirement systems in Louisiana, defines a "prohibited nation" to mean Iran, Libya, North Korea, Sudan, or Syria.

Proposed law retains present law but adds Iraq to the definition of "prohibited nations".

Proposed law provides for definitions, as follows:

- (1) "Company" means any foreign domiciled or based entity, real or juridical, which is not a subsidiary of nor owned in whole or in part by any domestic company, and which is engaged in an enterprise for financial gain.
- (2) "Investment fund manager" means any individual or company that contracts with the state to provide financial services or to assist the state in procuring or selling investments to be held by the state in special funds.
- (3) "Investments" means the buying or selling of any of the following securities, if and to the extent the same are at the time legal for investment of special funds of the state:
  - (a) Shares of stock.
  - (b) Shares in a real estate investment trust.
  - (c) Corporate bonds.
  - (d) Government bonds.
  - (e) Mutual funds containing shares of stock, corporate bonds, or government bonds.
  - (f) Any other negotiable instruments.
- (4) "Prohibited nation" means Iran, Iraq, Libya, North Korea, Sudan, or Syria.
- (5) "Special funds" include the following funds:
  - (a) Millennium Trust, three special subfunds, namely, Education Excellence Trust Fund, the Health Excellence Fund, and the TOPS Fund.
  - (b) Deepwater Horizon Economic Damages Collection Fund.
  - (c) Budget Stabilization Fund.
  - (d) Mineral Revenue Audit and Fund Settlement Fund.
  - (e) Louisiana Asbestos Detection and Abatement Fund.
  - (f) Coastal Protection and Restoration Fund.
  - (g) Sports Facility Assistance Fund.
  - (h) Health Care Redesign Fund.
  - (i) Community Water Enrichment Fund.
  - (j) Grants for Grads Fund.
  - (k) Sickle Cell Fund.
  - (l) Major Events Fund.
  - (m) Transportation Trust Fund.
  - (n) Louisiana Wildlife and Fisheries Conservation Fund.
  - (o) Louisiana Education Quality Trust Fund.
  - (p) Louisiana Education Quality Support Fund.
  - (q) Higher Education Louisiana Partnership Fund.
  - (r) Oilfield Site and Restoration Fund.
  - (s) Oil Spill Contingency Fund.
  - (t) Louisiana Fund.
  - (u) Artificial Reef Development Fund.
  - (v) Agricultural and Seafood Products Support Fund.
  - (w) Hospital Stabilization Fund.
  - (x) Louisiana Medical Assistance Trust Fund.
  - (y) Payments Toward the UAL Fund.
  - (z) Overcollections Fund.
  - (aa) FEMA Reimbursement Fund.
  - (bb) State Emergency Response Fund.
  - (cc) Louisiana Interoperability Communications Fund.

- (dd) New Opportunities Waiver Fund.
- (ee) Revenue Stabilization Trust Fund.
- (ff) Center of Excellence for Autism Spectrum Disorder Fund.
- (gg) Unfunded Accrued Liability and Specialized Educational Institutions Support Fund.
- (hh) Higher Education Financing Fund.
- (ii) Tobacco Settlement Enforcement Fund.

(6) "Treasurer" means the elected treasurer in the Louisiana Dept. of the Treasury.

Proposed law provides that, after July 1, 2017, no investment fund manager who provides services to the state of La. related to the special funds shall invest monies from any special funds to purchase an investment in a prohibited nation, or in a company or companies that are located in a prohibited nation, or in a mutual fund which contains investments in a company that is located in a prohibited nation.

Proposed law provides that each and every investment fund manager who provides services to the state related to any special fund must screen all current investments to determine if an investment of special fund monies is invested in a prohibited nation, or in any company located in a prohibited nation, or in a mutual fund which contains an investment in a company or companies that are located in a prohibited nation.

Proposed law provides that if, after screening the investments in the special fund, the investment fund manager determines that no such investments are currently invested in a prohibited nation, or in a company that is located in a prohibited nation, or in a mutual fund which contains an investment in a company that is located in a prohibited nation, the investment fund manager shall certify the finding in a report to the treasurer.

Proposed law provides that if, after screening the investments in the special fund, the investment fund manager determines that monies in a special fund are invested in a prohibited nation, or in a company that is located in a prohibited nation, or in a mutual fund which contains investments in a company that is located in a prohibited nation, the investment fund manager shall certify the finding in an annual report to the treasurer and prepare a plan to divest a special fund of the investments and a timetable for divestment.

Proposed law provides that the treasurer shall approve the plan for divestment, or make any necessary changes to the plan, in order to implement the plan for immediate divestment of all investments in a prohibited nation, or in a company that is located in a prohibited nation, or in a mutual fund which contains investments in a company that is located in a prohibited nation in order to comply with the requirements of proposed law.

Proposed law provides that, when an investment fund manager contracts with the state or enters into a renewal contract to provide services to the state related to the special funds, the investment fund manager shall certify as part of his initial contract, or a renewal of a contract, that the investment fund manager agrees not to invest or purchase any investments for any special fund in a prohibited nation, or in a company that is located in a prohibited nation, or in a mutual fund which contains investments in a prohibited nation.

Proposed law provides that, once the investment fund manager of a special fund has met the requirements of proposed law, the manager shall certify to the treasurer that the requirements have been met in an annual report, which report shall be sent to the treasurer in compliance with the deadlines set forth in proposed law. Proposed law provides that the report shall include the name of each such investment which was made by the investment fund manager, the asset allocation class and sector to which it belongs pursuant to the special fund's asset allocation policy, and the amount of money of the special fund that is invested in the prohibited nations.

Proposed law sets forth deadlines for reporting. Proposed law provides that the investment

fund manager shall make the first report required by proposed law on or before October 31 of each year and, if monies in a special fund are invested in a prohibited nation, the report shall include all information regarding the plan to divest the special funds of all such investments and a timetable for such divestment.

Proposed law provides that a second annual report shall be due October 31 of each year, and shall contain information for the period between September 15, of the previous year and September 15 of the current year, and shall contain information regarding the status of any divestment required in proposed law. Proposed law provides that beginning with the report due on October 31, 2019, the October 31 annual report shall contain certification that no investments have been purchased in violation proposed law for the period between September 15 of the previous year and September 15 of the current year.

Proposed law provides, no later than 30 days after the treasurer receives the report from the investment fund manager, the treasurer shall provide a copy of the annual report regarding the investments of the special funds to all of the following:

- (1) The legislative auditor.
- (2) The speaker of the House of Representatives.
- (3) The president of the Senate.

Proposed law provides that the treasurer shall adopt any rules pursuant to the Administrative Procedure Act which are necessary to implement the provisions of proposed law.

Proposed law provides that any investment fund manager who fails to comply with the provisions of proposed law will be prohibited from contracting or renewing a contract, with the state related to investment services for state special funds.

Effective July 1, 2017.

(Adds R.S. 39:100.150 - 100.156)