
HOUSE COMMITTEE AMENDMENTS

2017 Regular Session

Substitute for Original House Bill No. 549 by Representative Hodges as proposed by the House Committee on Retirement

This document reflects the content of a substitute bill but is not in a bill form; page numbers in this document DO NOT correspond to page numbers in the substitute bill itself.

To amend and reenact R.S. 42:1301(4), 1302(B), and 1303(1) and to enact R.S. 42:1301(10), (11), (12), and (13) and 1303.2 and R.S. 49:328, relative to the Louisiana Deferred Compensation Plan; to provide an optional investment in a treasury fund under certain circumstances; to prohibit certain mandated investments in companies that boycott Israel; to provide for membership on the Deferred Compensation Commission; to provide for quorum; to provide for the duties of the state treasurer; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 42:1301(4), 1302(B), and 1303(1) are hereby amended and reenacted and R.S. 42:1301(10), (11), (12), and (13) and 1303.2 are hereby enacted to read as follows:

§1301. Definitions

The following words and phrases used in this Chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

* * *

(4) "Ex officio member" means the state treasurer, the commissioner of administration, the commissioner of insurance, ~~or~~ the commissioner of financial institutions, the speaker of the House of Representatives, or the president of the Senate.

* * *

(10) "Boycott Israel" shall have the meaning provided in R.S. 49:328.

(11) "Company" shall have the meaning provided in R.S. 49:328.

(12) "Core mandated investment" means an investment that the commission requires participants to purchase as a condition of participation in the Louisiana Deferred Compensation Plan.

(13) "Investment fund manager" means any individual or company that contracts with the commission or the administrator to provide financial services or advice or to assist the commission or the administrator in selecting investment products to be placed on a list of core mandated investments.

§1302. Louisiana Deferred Compensation Commission

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B. (1) The Commission shall consist of ~~seven~~ nine members as follows:

~~(1)~~ (a) The state treasurer.

~~(2)~~ (b) The commissioner of administration.

~~(3)~~ (c) The commissioner of insurance.

~~(4)~~ (d) The commissioner of financial institutions.

(e) The speaker of the House of Representatives.

(f) The president of the Senate.

~~(5)~~ (g) Three participant members who shall be elected by participants in accordance with rules promulgated by the Commission.

(2) Four members of the commission shall constitute a quorum for the transaction of business.

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§1303. Powers and duties

The commission shall have the following powers and duties:

(1) (a) To select the investments and to enter into contracts with the providers of such investments.

(b) If the commission requires participants to purchase shares in certain core mandated investments as a condition of participation in the plan, the commission shall offer a treasury index, treasury bond, or treasury money market fund with an average maturity date in excess of three years as an investment option as one of the core mandated investment products.

* * *

§1303.2. Investment in companies that boycott Israel prohibited

A. The purpose of the Section is to ensure that if the commission requires participants to purchase shares in certain core mandated investments as a condition of participating in the plan, those investments will not include investments in companies that boycott Israel.

B. (1) By September fifteenth of each year beginning in 2017, the commission shall obtain the list of countries that boycott Israel maintained by the state treasurer as provided in R.S. 49:328.

(2) Within thirty days of receipt of the list obtained pursuant to Paragraph (1) of this Subsection, the commission shall forward the list to the investment fund managers who are under contract with the commission or the administrator.

C. Within one year of receipt of the list obtained pursuant to Subsection B of this Section and on an annual basis thereafter, the commission, with the advice and counsel of the administrator and the investment fund managers, shall make every effort to divest of the core mandated investments that boycott Israel in compliance with the provisions of this Section.

D. (1) To ensure that the provisions of this Section are properly implemented, the commission shall require any investment fund manager to provide the commission with a list of comparable investments that can replace the investment in a company that boycotts Israel. The comparable investment shall be economically equivalent to the investment in a company that boycotts Israel with respect to return and risk in the appropriate time horizon and equivalent with respect to fees.

(2) The commission shall not be required to divest of a particular core mandated investment in any company that boycotts Israel under either of the following circumstances:

(a) The commission determines that there is no alternative investment available that complies with the provisions of Paragraph (1) of this Subsection.

(b) The selection of the alternative investment for that particular core mandated investment would be inconsistent with the commissions's fiduciary responsibilities under the law.

Section 2. R.S. 49:328 is hereby enacted to read as follows:

§328. Identifications of companies that boycott Israel

A. For purposes of this Section, the following definitions apply:

(1) "Boycott Israel" means a refusal to deal, the termination of business activities, or other actions that are intended to limit commercial relations with Israel or persons or entities doing business in Israel or territories controlled by Israel, if those actions are taken either:

(a) In compliance with or adherence to calls for a boycott of Israel other than those boycotts to which 50 U.S.C. §4607(c) applies.

(b) In a manner that discriminates on the basis of nationality, national origin, or religion and that is not based on a valid business reason.

(2) "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, or limited liability company, including a wholly owned subsidiary, parent company, or any affiliate thereof that exists to make a profit or a mutual fund which contains stocks or bonds.

B.(1) By August fifteenth of each year beginning in 2017, the treasurer shall make his best effort to identify and list all companies that boycott Israel and shall make the list of companies available to state agencies and the public by posting the list on the treasurer's website.

(2) In maintaining the list of companies that boycott Israel, the treasurer may review and rely, as appropriate in his judgment, on any publicly available information regarding companies, including information from the state, non-profit organizations, research firms, international organizations, other states and other governmental entities.

C. (1) When a company is identified for inclusion on the list prepared pursuant to this Section, the treasurer shall send written notice informing the company that it has been identified as a company that boycotts Israel and that it may become subject to divestment by the state or state agencies.

(2) The treasurer shall provide an opportunity for the company to comment in writing. If the company demonstrates that it has not engaged in a commerce-

related or investment-related boycott, divestment, or sanctions activity targeting Israel, the treasurer shall not include the company on the list for that year. If the company fails to make such a demonstration, the company may be included on the list of prohibited investments no sooner than ninety days following the date on which written notice is sent to the company as provided in Paragraph (1) of this Subsection.

(3) If a company included on the list prepared pursuant to this Section ceases activity that caused the company to be included on the list and the company provides documentation to the treasurer evidencing that the company has ceased the activity, the treasurer shall remove the company from the list.

Section 3. The Louisiana State Law Institute shall place the provisions of R.S.42:1301(10), (11), (12), and (13) as enacted in this Act in alphabetical order with other definitions in R.S. 42:1301.

Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB Draft

2017 Regular Session

Abstract: Prohibits mandated investment by participants in the La. Deferred Compensation Plan (plan) in companies that boycott Israel and provides for the treasurer to compile and maintain a list of companies that boycott Israel. Adds the speaker of the House of Representatives and the president of the Senate as members of the La. Deferred Compensation Commission (commission) and provides for quorum.

I. Treasurer's list of companies that boycott Israel

Proposed law requires that by Aug. 15 for each year beginning in 2017, the state treasurer shall make his best effort to identify and list all companies that boycott Israel, as that term is defined by proposed law, and shall make that list available to state agencies and the public by posting it on the treasurer's website. In maintaining the list, the treasurer may review and rely on any publically available information regarding companies, including information

from the state, non-profit organizations, research firms, international organizations, other states and other governmental entities.

Proposed law requires that when a company is identified for inclusion in the list, the treasurer shall send written notice informing the company that it has been identified on the list and may become subject to divestment by the state or state agencies. The treasurer shall then provide opportunity for the company to comment in writing. If the company demonstrates that it has not engaged in a boycott of Israel, the treasurer shall not include the company on the list for that year. If the company fails to make such a demonstration, the company may be included on the list of prohibited investments no sooner than 90 days following the date on which written notice is sent. If a company included on the list ceases activity that caused the company to be included on the list and the company provides documentation to the treasurer evidencing that the company has ceased the activity, the treasurer shall remove the company from the list.

Proposed law defines "boycott Israel" as engaging in a refusal to deal, termination of business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel or territories controlled by Israel, if those actions are taken either (a) in compliance with adherence to calls for a boycott of Israel other than those boycotts to which 50 App. U.S.C. §2407(c) applies or (b) in a manner that discriminates on the basis of nationality, national origin, or religion and that is not based on a valid business reason.

II. La. Deferred Compensation Plan

Present law, pursuant to federal law, provides for a deferred compensation plan for public employees, which allows an employee to defer and invest some of his income. Present law provides for the plan to be administered by a commission.

a. Core mandated investments

Present law grants the commission power to select the plan investments and to enter into contracts with the providers of such investments. Proposed law retains present law and provides that if the commission requires participants to purchase an investment as a condition of participation in the plan, the commission shall offer a treasury index, treasury bond, or treasury money market fund with an average maturity date in excess of three years as an investment option as at least one of the core mandated investment products.

Proposed law requires the commission to obtain the list of countries that boycott Israel maintained by the state treasurer pursuant to proposed law and within 30 days forward the list to the investment fund managers who are under contract commission or plan administrator. Proposed law requires that within one year of receipt of the list and on an annual basis thereafter, the commission, with the advice and counsel of the administrator and the investment fund managers, shall make every effort to divest the core mandated funds of all investments in any company that boycotts Israel.

Proposed law requires the commission to require the investment fund manager to provide a list of comparable investments that can replace the investment in a company that boycotts Israel which are equivalent with respect to return and risk in the appropriate time horizon and with respect to fees.

Proposed law provides that the commission shall not be required to divest a particular core mandated investment in any company that boycotts Israel if the commission determines that there is no alternative investment available that is a comparable investment or if the selection of the alternative investment for that particular core mandated investment would be inconsistent with the commission's fiduciary responsibilities under the law.

b. Commission Membership

Present law provides that the commission shall consist of seven members as follows:

- (1) The state treasurer, ex officio.
- (2) The commissioner of administration, ex officio.
- (3) The commissioner of insurance, ex officio.
- (4) The commissioner of financial institutions, ex officio.
- (5) Three participant members elected by plan participants.

Proposed law adds the speaker of the House of Representatives and the president of the Senate, or their designees, as ex officio members of the commission. Proposed law establishes that four members of the commission shall constitute quorum.

(Amends R.S. 42:1301(4), 1302(B), and 1303(1); Adds R.S. 42:1301(10), (11), (12), and (13) and 1303.2 and R.S. 49:328)