LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **HB 685** HLS 17RS 1809
Bill Text Version: **ENGROSSED**
Opp. Chamb. Action:
Proposed Amd.:
Sub. Bill For.: HB 549

Date: May 24, 2017 6:23 AM
Author: HODGES
Dept./Agy.: Louisiana Deferred Compensation Commission
Subject: Prohibits mandated investment in certain companies
Analyst: Alan M. Boxberger

DEFERRED COMPENSATION EG +$70,000 GF EX See Note

Prohibits mandated investment by participants in the Louisiana Deferred Compensation Plan in companies that boycott Israel and provides for membership of the Deferred Compensation Commission and duties of the state treasurer

Proposed law requires the state treasurer make an effort to identify and list all companies that boycott Israel and to make a list of those companies available to state agencies and the public by posting to the treasurer's website; requires the treasurer to provide notification to those companies of inclusion on the list and allows for response and amendments to the list; provides for definitions.

Proposed law provides that if the Louisiana Deferred Compensation Commission requires participants to purchase an investment as a condition of participation in the Deferred Compensation Plan, that the commission shall offer a treasury index, treasury bond or treasury money market fund with an average maturity date in excess of 3 years as an investment option for at least one of the core mandated investment products; requires the commission to acquire the list of companies boycotting Israel from the treasurer, to notify fund managers of companies on the list, and to make every effort to divest the core mandated funds of all investments of any companies included on the list; provides for comparable investments; provides for exemptions; provides for legislative auditor review; provides for adding two members to the commission; and establishes requirements for a quorum.

EXPENDITURES	2017-18	2018-19	2019-20	2020-21	2021-22	5 -YEAR TOTAL
State Gen. Fd.	$70,000	$70,000	$70,000	$70,000	$70,000	**$350,000**
Agy. Self-Gen.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Ded./Other	$0	$0	$0	$0	$0	**$0**
Federal Funds	$0	$0	$0	$0	$0	**$0**
Local Funds	$0	$0	$0	$0	$0	**$0**
Annual Total						

REVENUES	2017-18	2018-19	2019-20	2020-21	2021-22	5 -YEAR TOTAL
State Gen. Fd.	$0	$0	$0	$0	$0	**$0**
Agy. Self-Gen.	$0	$0	$0	$0	$0	**$0**
Ded./Other	$0	$0	$0	$0	$0	**$0**
Federal Funds	$0	$0	$0	$0	$0	**$0**
Local Funds	$0	$0	$0	$0	$0	**$0**
Annual Total	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

EXPENDITURE EXPLANATION

Proposed law will create an annual SGF expenditure of approximately $70,000 for the Louisiana Department of the Treasury. The Treasury reports that it will be required to subscribe to an index service that covers holdings in relevant funds and additionally subscribe to a screening service from that index service that will filter out companies that are identified as "companies that boycott Israel" as defined in proposed law. Constituent level index data generally has a cost of approximately $50,000 per year and screening services cost approximately $20,000 annually.

The LFO assumes proposed law will not create a direct material expenditure for the La Deferred Compensation Commission although it may impact the tax-deferred status of the deferred compensation plan (see NOTE below). Proposed law adds the speaker of the House of Representatives and the president of the Senate to the commission membership, which will result in nominal travel and/or per diem expenditures for either the commission or the legislature. Proposed law provides that the commission shall offer a treasury index, treasury bond or treasury money market fund as one of its core mandated investment products, which should not create a material cost. Proposed law requires that the commission utilize the list of companies identified as ones that "boycott Israel," and subject to legislative appropriation, to notify investment fund managers to divest investments within the Louisiana Deferred Compensation Plan (Plan) from those companies. The commission reports that it currently has no direct or indirect relationship with fund managers, those relationships are between plan participants and fund managers. This may create nominal one-time and potential future ad-hoc expenditures associated with changes to the investment portfolio as the Treasury identifies companies. The cost of changes would fall on plan participants. The commission reports that proposed law will likely expose the plan and the commission to legal liability under the provisions of IRC Code 457 (g), which specifies that a plan maintained by an eligible employer ... shall not be treated as an eligible deferred compensation plan unless all assets and income of the plan ... are held in trust for the exclusive benefit of participants and their beneficiaries.

NOTE: The Deferred Compensation Plan is a voluntary contribution retirement plan and includes no state funds. All monies held in the Plan are paid from approximately 40,000 employee participants and retirees as a tax qualified 457 plan pursuant to 26 USC 457(b) with current assets in excess of $1.7 B. Plan members pay fees of up to $90 per year, which provide for the operating and fiduciary costs of the plan. The Commission reports that the provisions of proposed law could potentially result in disqualification of the Plan under 26 USC 457 (b) by establishing social criteria for investment at the direction of the state which is unrelated to the economic performance of the plan, and by directing the commission to comply with certain duties specified by the state to investigate and comply with social criteria but which may be seen as funded by private participant assets (the bill seems to indicate this activity is subject to legislative appropriation). Should the Plan lose status as a 457 plan, participant investments would revert to taxable income.

REVENUE EXPLANATION

There is no anticipated direct material effect on governmental revenues as a result of this measure.

Senate — Dual Referral Rules

☐ 13.5.1 >= $100,000 Annual Fiscal Cost {S&H}

☐ 13.5.2 >= $500,000 Annual Tax or Fee Change {S&H}

House

☐ 6.8(F)(1) >= $100,000 SGF Fiscal Cost {H & S}

☐ 6.8(G) >= $500,000 Tax or Fee Increase or a Net Fee Decrease {S}

Evan Brasseaux

Evan Brasseaux
Staff Director