RETIREMENT BENEFITS. Creates a portable retirement savings plan for private sector employees. (7/1/14)

AN ACT
To create the Louisiana Retirement Savings Plan; to provide legislative findings; to specify the purpose of the Plan; to establish a board of trustees; to provide for employer and employee rights and responsibilities under the Plan; to provide for provider selection; to provide for timing, amount, and methods of benefit payment; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The Legislature of Louisiana finds that retirement security is of great importance to individuals and to society as a whole. While social security provides some income replacement for the elderly, the disabled, and survivors, it is considered only one leg of a three-legged stool. If the social security payments are not supported by personal savings and some other source of monthly payments, the annuitant risks a reduced standard of living, possibly falling into poverty, and becoming reliant on aid from other people or government services. Personal savings rates are down. Even for those with some savings, it is difficult to accumulate sufficient wealth to assure a steady stream of livable income. Due to investment risk and fee schedules for individual investors, the net savings in specialized retirement accounts does not increase at a rate comparable to pooled investments managed
by experts. Additionally, the current wealth accumulation instruments available to private-sector employees, while providing for "roll-overs" or trustee-to-trustee transfers, are not seamlessly portable from one employer to another.

Section 2.(A) The Louisiana Retirement Savings Plan ("Plan") is established as a private entity, charged with overseeing the investment of the pool of assets accumulated through the contributions provided for in this Act. The purpose of the Plan is to provide retirement and death benefits to the participants while affording the maximum portability of these benefits for the participants.

(B) All assets, proceeds, or income of the Plan, and all contributions and payments made to the Plan to provide for retirement and related benefits shall be held, invested as authorized by law, or disbursed as in trust, for the exclusive purpose of providing such benefits, withdrawals, and administrative expenses and shall not be encumbered for or diverted to any other purpose.

Section 3.(A) There is hereby established the Louisiana Retirement Savings Plan Board of Trustees ("Board") to manage the funds of the Plan. The Board shall have five members, as follows:

(1) One member appointed by the governor from a list of six nominees submitted by the Louisiana Association of Business and Industry.

(2) One member appointed by the governor from a list of six nominees submitted by the AFL-CIO.

(3) One member appointed by the speaker of the House of Representatives and one member appointed by the president of the Senate from a list of six names submitted by the Louisiana Association of Chamber of Commerce Executives.

(4) The treasurer, ex officio, or his designee.

(B) On or before September 2, 2014, each nominating entity shall submit the initial list of nominees to the appointing authority. On or before October 1, 2014, the appointing authority shall notify the treasurer of the appointment. On or before November 3, 2014, the treasurer shall convene the initial meeting of the Board. The term of office of the initial board members shall expire concurrent with the expiration of the current governor's term.
(C) Beginning in 2016 and every four years thereafter, each nominating entity shall submit a list of nominees to the appointing authority by the fifteenth day of January. The appointing authority shall notify the treasurer of the appointment by the thirtieth day of January. The treasurer shall convene the first meeting of the Board for that term on or before the third Monday in February.

(D) The Board shall elect annually from its membership a chairman and such other officers as the Board deems necessary and appropriate.

(E) Within sixty days of a vacancy on the Board, the nominating entity shall submit a list of six nominees for the position to the appropriate appointing authority. The appointing authority shall notify the chairman of the Board of the appointment within seventy-five days of the vacancy.

(F) Each member of the Board, and the Board acting collectively on behalf of the Plan, shall act with the care, skill, prudence, and diligence under the circumstances prevailing that a prudent institutional investor acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

Section 4.(A) The Board shall select no fewer than three companies to manage the pool of Plan assets attributable to the Plan participants selecting that provider. In setting the criteria for this selection, the Board shall consider, among other things, the following:

(1) The ability of the company to reduce individual risk and fees through the pooled asset management approach the company proposes to provide to Plan participants.

(2) The nature and extent of the rights and benefits to be provided for participating employees and their beneficiaries.

(3) The relation of the rights and benefits to the amount of the contributions to be made pursuant to the provisions of this Act.

(4) The suitability of the rights and benefits to the needs and interests of participating employees and their employers.

(5) The ability of the designated company or companies to provide the rights and benefits under this Act.

(B) The Board shall require the providers to manage the Plan assets with the
objective of providing each participant with a cost-effective stream of income in retirement
and reducing benefit level volatility, particularly for those approaching retirement.

Section 5.(A) Except as provided in Subsection F of this Section, each private
employer operating within the state of Louisiana that does not offer any other type of
employer-sponsored retirement savings plan shall inform all employees of the provisions of
this Act within thirty days after the effective date. Thereafter, each employer to which this
Section applies shall inform each new employee of the provisions of this Act within thirty
days of the hire date.

(B) Within a reasonable period of time before the first day of December before the
beginning of each calendar year, the employer shall notify each employee eligible to
participate in the Plan of each of the following:

(1) The payments that may be elected or treated as elected under the Plan.

(2) The opportunity to make the election to terminate participation in the Plan.

(3) The opportunity to make the election under the Plan to have contributions made
at a different percentage or in a different amount.

(4) The opportunity under the Plan to modify the manner in which such amounts are
invested for the upcoming calendar year.

(C) Each participating employer shall designate a provider for its employees. In the
absence of an affirmative selection of a provider by the employee, contributions on behalf
of the employee shall be made to the provider designated by the employer.

(D) An employer shall not be a fiduciary with respect to the selection, management,
or administration of the Plan solely because such employer makes the Plan available;
however, employers shall be responsible for meeting the enrollment requirements and
transmitting contributions, as required under this Act.

(E) An employer that fails to comply with the provisions of this Act shall be subject
to penalties.

(F) The provisions of this Act shall not mandate action by any church, any employer
that has been in existence for fewer than nine months, or any employer with fewer than five
employees; however, such an employer may voluntarily comply with the provisions of this
Act in order to provide the benefits to its employees.

Section 6.(A)(1) An employee is deemed to have elected to participate in the Plan unless he opts out on a form provided by the Board and transmitted to the Board by his employer. An employee's election not to participate in the Plan shall expire after two years. After such two-year period and absent a new election, the employee shall be treated as having made the election to participate with the minimum contribution to the employer's designated provider.

(2) An employee who elects to participate in the Plan, or who is deemed to have elected to participate, shall have a minimum of three percent of his gross wages withheld by his employer each pay period.

(3) Employers may, in addition to contributions an employee elects or is treated as having elected to have made, make a contribution of up to five thousand dollars per year to the Plan on behalf of each employee eligible to participate in the Plan, provided such contributions are made in a uniform manner and are not intended to benefit solely highly compensated employees.

(4) The employer shall forward no less than monthly to the Board, and the Board to the selected provider, all employee contributions together with any funds the employer chooses to contribute on the employee's behalf. The payments shall be made on or before the last day of the month following the month in which the compensation otherwise would have been payable to the employee.

(5) The Board may promulgate rules to ensure the contribution limitations do not conflict with federal law.

(B) The employee contributions shall not be subject to taxation by the state of Louisiana.

(C) An employee may elect to terminate participation in the Plan at any time, subject to a requirement for reasonable notice as established by the Board.

(D) A Plan participant may at any time withdraw his funds from his provider by terminating participation in the Plan as provided in Subsection C of this Section and subject to reasonable notice as established in the provider's agreement with the participant. The
withdrawal shall be subject to any applicable fees, penalties, and taxes.

Section 7. (A) A provider shall pay benefits in accordance with one of the following:

(1) In the case of a participant who does not die before the annuity starting date, the benefit payable to such participant shall be provided in the form of a qualified joint and survivor annuity as defined in Section 205(d)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(d)(1)).

(2) In the case of a participant who dies before the annuity starting date and who has a surviving spouse, a qualified preretirement survivor annuity as defined in Section 205(d)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(d)(2)) shall be provided to the surviving spouse of such participant.

(B) A participant may elect the time to start receiving benefit payments from the Plan, except that a participant may not elect to receive benefit payments before reaching the age of sixty and must begin receiving benefit payments before the age of seventy-two.

Section 8. When the federal government provides for a tax-qualified plan structure that, if applied to the Plan, would allow the participants’ contributions to be exempt from federal taxation, the Board shall take any action necessary to secure tax-qualified status for the Plan, including proposing amendments to this Act.

Section 9. The Board is hereby authorized to receive any appropriation or loan the legislature may provide for advancing the purposes of this Act.

Section 10. The state of Louisiana shall have no authority over the monies in the Plan trust. The state shall have no liability for and does not guarantee the funds or benefits of this Plan.

Section 11. 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

Brown (SB 283)

Proposed law creates the Louisiana Retirement Savings Plan (Plan), a retirement savings plan for certain private sector employees, for the purpose of providing portable retirement and death benefits.

Proposed law provides for legislative findings on the importance of retirement security.

Proposed law provides for a five-member board of trustees with terms of office concurrent with the governor:

1. The treasurer, ex officio, or his designee.
2. One member appointed by the governor from a list of six nominees submitted by the Louisiana Association of Business and Industry.
3. One member appointed by the governor from a list of six nominees submitted by the AFL-CIO.
4. One member appointed by the speaker of the House of Representatives and one member appointed by the Senate president from a list of six nominees submitted by the Louisiana Association of Chamber of Commerce Executives.

Proposed law provides that the board shall select no fewer than three companies to be providers for the Plan. Specifies that the providers shall manage assets with the objective of providing a cost-effective stream of retirement income for each participant.

Proposed law requires each private employer in the state that does not offer another employer-sponsored retirement savings plan to inform employees of the existence and details of the Plan provided in proposed law. Specifies that the mandate does not apply to churches or to new or small businesses.

Proposed law provides for employee and employer contributions to the Plan, selection of Plan providers, termination of participation in the Plan, withdrawal of funds, and annuitization of benefits.

Proposed law provides that Louisiana is not liable for and does not guarantee the funds or benefits of the Plan.

Effective upon signature of the governor or lapse of time for gubernatorial action.