

## SENATE SUMMARY OF HOUSE AMENDMENTS

SB 223

2017 Regular Session

Riser

**KEYWORD AND SUMMARY AS RETURNED TO THE SENATE**

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

**SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL**

1. Add provisions adding "separately managed accounts" to the types of funds included in the 10% limit on investments in international securities by the La. Education Quality Trust Fund.
2. Change definition of "prohibited nation" to be nations on the list of terror-sponsoring nations published by the U.S. Dept. of State.
3. Change the date the initial the treasurer's annual report is due from July 1, 2017, to July 1, 2018.
4. Change the due dates of the reports the investment fund manager is required to submit and the period covered by the report, and clarifies that only one report per year is due from the investment fund manager for each fund.
5. Adds provisions for the treasurer to make his best efforts to identify companies that boycott Israel and to be included on a list of prohibited investments.
6. Make technical changes.

**DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE**

SB 223 Reengrossed

2017 Regular Session

Riser

Present law authorizes up to 10% of the funds held in the La. Education Quality Trust Fund to be held in types of funds consisting solely of international securities.

Proposed law adds separately managed accounts to the types of funds consisting solely of international securities that fall under the limit of present law.

Proposed law states that its purpose is to assure that monies in the state's special funds are not used directly or indirectly to support terrorist activities and that state funds are not invested in companies connected to countries that support terrorism.

Proposed law prohibits the investment fund manager of any special fund to purchase any investment in a prohibited nation, in a company located in a prohibited nation, or in a mutual fund containing investments in a company located in a prohibited nation.

Proposed law defines "company" to be either of the following:

(a) As it relates to an investment in a company located in a prohibited nation, "company" means a foreign-domiciled-or-based entity, natural or juridical person which is not a subsidiary or nor owned in whole or in part by a domestic company and which is engaged in an enterprise for financial gain.

(b) As it relates to a company that boycotts Israel, "company" means a business enterprise that meets boycotts Israel as defined in proposed law.

Proposed law defines the term of "boycott Israel" to mean to refuse to deal, terminate business activities, or take 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 federal law 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.

Proposed law defines a "prohibited investment" to mean all of the following:

(a) An investment identified by the treasurer in a prohibited nation, or in a company that is located in a prohibited nation, or in a mutual fund that contains investments in a company that is located in a prohibited nation.

(b) An investment in a company that boycotts Israel."

Proposed law defines a "prohibited nation" as nation on the list of countries designated as state sponsors of terrorism on a report prepared by the U.S. Dept. of State, which as of 2015, listed Iran, Sudan, or Syria.

Proposed law applies to the following special funds:

The funds listed in Part II-A of Chapter 1 of Title 39, beginning with R.S. 39:91, the funds defined in Const. Art. VII, §§10-A, 10.1 through 10.14, and 27, which include the following:

- (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.

Proposed law provides that, on or before July 1, 2018, and every July first thereafter, the treasurer shall file a report with the legislature. The report shall include the following:

- (1) A list of investments the treasurer has in companies with business operations that satisfy the criteria for investments in prohibited nations, including the issuer and the name of the investment.
- (2) A detailed summary of the business operations in prohibited nations of any company included on the list prepared pursuant to proposed law.

Proposed law requires investment fund managers to certify that the requirements of proposed law have been made in a report submitted to the treasurer each March 31<sup>st</sup>. Proposed law requires that the report 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.

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 beginning with the report due on March 31, 2019, the report shall contain certification that no investments have been purchased in violation of proposed law for the prior calendar year.

Proposed law requires the treasurer to provide a copy of the report to the speaker of the House of Representatives, the president of the Senate, and the legislative auditor within 30 days of receipt. Requires the treasurer to also screen current investments in special funds. Requires the treasurer to certify if there are no investments in a prohibited nation or companies in the prohibited nation with the copy of the report provided.

Proposed law provides that if, after screening the investments in the special fund, the treasurer 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 treasurer shall certify the finding with the copy of the report provided. Requires that the report include a plan to divest a special fund of the investments and a timetable for divestment.

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

Proposed law requires the treasurer to add or remove a nation from the list of prohibited nations, if the U.S. Dept. of State adds or removes that nation from the list of terror-sponsoring nations as of July 1<sup>st</sup> of the current fiscal year.

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.

Proposed law requires the treasurer to make his best effort to identify and list all companies that boycott Israel. Provides that 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.

Provides that when a company that boycotts Israel is identified, the treasurer is prohibited from taking further action until he has sent 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 treasurer's office and the company is provided an opportunity to make a written comment. Provides that if the company demonstrates it has not engaged in a commerce-related or investment-related boycott, divestment, or sanction activity targeting Israel, then the treasurer shall not include the company on the list for that year. Failure of a company to demonstrate that it has not engaged in a commerce-related or investment-related boycott, divestment, or sanctions activity targeting Israel, the company may be included on the list of prohibited investments no sooner than 90 days following the date on which written notice was sent to the company.

Provides for removal from the list of prohibited investment if a company demonstrates that it is no longer engaged in the prohibited activity.

Effective July 1, 2017.

(Amends R.S. 17:3803(B)(1)(k); Adds R.S. 39:100.151 - 100.158)

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