

2017 Regular Session

HOUSE BILL NO. 549

BY REPRESENTATIVE HODGES AND SENATORS COLOMB, MILKOVICH, AND MIZELL

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

DEFERRED COMPENSATION: Requires the Louisiana Deferred Compensation Plan to provide a voluntary option investment, provides for commission membership, and requires reporting

1 AN ACT

2 To amend and reenact R.S. 42:1301(3), (4), (5), and (6), 1302(B), 1303(1), (2), (9), and (10),
3 and 1307 and to enact R.S. 42:1301(10) and 1303.2, relative to deferred
4 compensation for retirement purposes; to provide an option for participants in the
5 Louisiana Deferred Compensation Plan to make voluntary, optional cash
6 contributions to a savings account within the Louisiana Deferred Compensation Plan;
7 to provide for definitions; to clarify the definition of savings accounts; to provide for
8 hardship cases; to provide for membership on the Deferred Compensation
9 Commission; to provide for reporting; to provide that changes in the plan be sent to
10 the House Committee on Retirement and the Senate Committee on Retirement; to
11 make technical changes; to provide for an effective date; and to provide for related
12 matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 42:1301(3), (4), (5), and (6), 1302(B), 1303(1), (2), (9), and (10), and
15 1307 are hereby amended and reenacted and R.S. 42:1301(10) and 1303.2 are hereby
16 enacted to read as follows:

17 §1301. Definitions

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

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(3) "Custodial financial institution" means a financial institution or institutions in which either of the following apply:

(a) ~~funds~~ Funds are deposited between the date on which they are deferred from a participant's compensation and the date on which they are transmitted to an investment product company.

(b) Cash is held for those participants who choose to keep some or all of their contributions in a savings account in which voluntary, optional cash contributions are deposited.

(4) "Ex officio member" means the state treasurer, the commissioner of administration, the commissioner of insurance, ~~or~~ the commissioner of financial institutions, the chairman of the House Committee on Retirement, or the chairman of the Senate Committee on Retirement.

(5) "Investment product" means any fixed annuity, variable annuity, life insurance contract, savings account in which voluntary optional cash contributions shall be deposited, or any other form of investment selected by the Commission for the purpose of receiving funds under the plan.

(6) "Participant" means either of the following:

(a) ~~a~~ A person whose compensation is currently subject to deferrals in accordance with Section 457 of the United States Internal Revenue ~~Code, or Code.~~

(b) ~~a~~ A person whose compensation has previously been subject to deferrals in accordance with Section 457 of the United States Internal Revenue Code and whose contributions have not been withdrawn.

* * *

(10) "Voluntary, optional cash contribution" means a voluntary contribution made by the participant of some portion or all of the participant's monetary contribution to the plan that shall be available for the participant in case it is necessary for the participant to file an application for withdrawal or deferral

1 modification based upon hardship as provided for in R.S. 42:1303(10) or for use
2 otherwise in retirement.

3 §1302. Louisiana Deferred Compensation Commission

4 * * *

5 B. The Commission shall consist of ~~seven~~ nine members as follows:

6 (1) The state treasurer.

7 (2) The commissioner of administration.

8 (3) The commissioner of insurance.

9 (4) The commissioner of financial institutions.

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

12 (6) The chairman of the House Committee on Retirement.

13 (7) The chairman of the Senate Committee on Retirement.

14 * * *

15 §1303. Powers and duties

16 The commission shall have the following powers and duties:

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

19 (b) To select one or more custodial financial institutions to provide savings
20 accounts into which participants may deposit voluntary, optional cash contributions.

21 (2) To select the administrator, to enter into a contract with such firm and to
22 do all such things as may be required in order to insure proper administration of the
23 plan. In exercising this function, the Commission shall act only after soliciting
24 proposals from interested firms in accordance with specifications prepared by the
25 Commission. The preceding sentence notwithstanding, the Commission may enter
26 into a contract, without the necessity of soliciting proposals, with a nonprofit
27 corporation whose membership is limited to participants and is open to all
28 participants. The ~~commission~~ Commission shall require the administrator to furnish
29 bonds of the type and amount deemed appropriate by the ~~commission~~ Commission.

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(9) To prepare and make available to participants and to the House Committee on Retirement and the Senate Committee on Retirement an annual report concerning the status of the plan, which report shall supply information such as rates of return on, or performance of, investment products.

(10)(a) To establish procedures for the processing of applications for withdrawal or deferral modification based upon hardship.

(b) To establish a procedure for advising any participant who has filed an application for withdrawal or deferral modification based upon hardship as to the amount of the voluntary, optional cash contribution, if any, that has been deposited by the participant and is available to the participant in the individual participant account.

* * *

§1303.2. Voluntary, optional cash contributions

A.(1) The administrator shall solicit requests for proposals from all interested financial institutions to establish savings accounts into which participants may deposit part or all of their retirement savings as voluntary, optional cash contributions for retirement or in case of hardship.

(2) The administrator shall make the requests for proposal provided for in Paragraph (1) of this Subsection available to the Louisiana Bankers Association for distribution to its financial institution members who may be interested in responding to the request for proposals.

(3) The request for proposals shall advise the financial institutions that the Commission shall give preference to the financial institution or institutions that offer the highest interest rate to plan participants.

(4) The administrator shall act as a fiduciary to the plan participants when seeking the proposals from financial institutions provided for in this Section and administering the voluntary, optional cash contributions savings accounts.

1 B.(1) From the financial institutions which respond to the request for
2 proposals provided for in Subsection A of this Section, the Commission shall select
3 one or more custodial financial institutions to provide savings accounts into which
4 participants may deposit voluntary, optional cash contributions.

5 (2) The Commission shall give preference to one or more financial
6 institutions that offer the highest interest rate to participants who invest part or all of
7 their retirement savings in voluntary, optional cash contribution savings accounts as
8 provided for in this Section.

9 C. No later than July 31, 2017, the administrator of the Louisiana Deferred
10 Compensation Commission shall solicit requests for proposals from all interested
11 financial institutions, as provided for in Subsection A of this Section and no later
12 than August 31, 2017, the Louisiana Deferred Compensation Commission shall
13 select and enter into contracts with one or more custodial financial institutions
14 whereby participants may deposit voluntary, optional cash contributions into savings
15 accounts, as provided for in Subsection B of this Section.

16 * * *

17 §1307. Public notice; publication

18 Public notice of the Commission's intention to enter into a contract with an
19 administrator or with an investment product company or to amend any such contract
20 shall be provided to the House Committee on Retirement and the Senate Committee
21 on Retirement and published at least ten days prior to such action in the official
22 journal of the state.

23 Section 2. The legislature finds all of the following:

24 (1) That state and local government employees benefit when employees save for
25 their own retirements.

26 (2) The ability for a government employee to have emergency access to previously
27 saved cash in times of hardships, often associated with such natural disasters as flooding and
28 hurricanes, allows for government employees to return to their employment in a more timely
29 manner.

1 (3) Due to the failure to provide a cash option for investment, as well as the
2 complicated nature and risk associated with most investments in mutual funds, stocks, and
3 bonds, it is believed that some government employees may be deterred from ever getting
4 started saving for retirement via the Louisiana Deferred Compensation Plan.

5 (4) It is believed that, by offering government employees a voluntary option in
6 which to invest cash, among other investment options, more government employees will be
7 encouraged to start saving for their retirements or possible hardships by investing in the
8 Louisiana Deferred Compensation Plan.

9 Section 3. This Act shall become effective upon signature by the governor or, if not
10 signed by the governor, upon expiration of the time for bills to become law without signature
11 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
12 vetoed by the governor and subsequently approved by the legislature, this Act shall become
13 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 549 Original

2017 Regular Session

Hodges

Abstract: Requires the Louisiana Deferred Compensation Plan to provide a voluntary option investment, provides for commission membership, and requires reporting to the legislature.

Present law provides for the La. Deferred Compensation Plan administered by the La. Deferred Compensation Commission.

Present law establishes the La. Deferred Compensation Plan pursuant to state statute and in accordance with Section 457 of the Internal Revenue Code of 1954, as amended. Present law allows participants to save some of their employment earnings for retirement in a manner which is deductible under the Internal Revenue Code of 1954.

Present law allows for participation in the Louisiana Deferred Compensation Plan for any officer or employee of the state of Louisiana or of any of its political subdivisions, or an independent contractor who has a current contract with the state or any of its political subdivisions, including any parish coroner.

Present law defines "investment product" to mean any fixed annuity, variable annuity, life insurance contract, savings account, or any other form of investment selected by the Commission for the purpose of receiving funds under the plan.

Proposed law clarifies that the term "savings account" as an "investment product" means an account in which cash may be deposited and maintained by a participant.

Present law defines "custodial financial institution" to mean a financial institution in which funds are deposited between the date on which they are deferred from a participant's compensation and the date on which they are transmitted to an investment product company.

Proposed law retains present law but expands the definition of a "custodial financial institution" to include any institution which holds cash for those participants who voluntarily choose to keep some or all of their contributions in a savings account in which optional cash contributions are deposited.

Proposed law adds a definition for "voluntary, optional cash contribution" to mean a voluntary contribution made by the participant of some portion or all of the participant's monetary contribution to the plan that shall be available for the participant in case it is necessary for the participant to file an application for withdrawal or deferral modification based upon hardship as provided for in present law or for use otherwise in retirement.

Present law provides that the Commission shall have power to select the investments and to enter into contracts with the providers of such investments.

Proposed law retains present law but requires the Commission to enter into contracts with one or more custodial financial institutions allowing participants to deposit voluntary optional cash contributions into savings accounts.

Present law provides that the Commission consists of seven members as follows:

- (1) The state treasurer.
- (2) The commissioner of administration.
- (3) The commissioner of insurance.
- (4) The commissioner of financial institutions.
- (5) Three participant members who shall be elected by participants in accordance with rules promulgated by the Commission.

Proposed law expands Commission membership to nine members to include the following:

- (1) The chairman of the House Committee on Retirement.
- (2) The chairman of the Senate Committee on Retirement.

Present law provides that duties of the Commission include establishing procedures for the processing of applications for withdrawal or deferral modification based upon the hardship of the participant.

Present law requires the Commission to prepare and make available to participants an annual report concerning the status of the plan, which report shall supply information such as rates of return on, or performance of, investment products.

Proposed law retains present law but provides that a copy of the annual report shall also be made available to the House Committee on Retirement and the Senate Committee on Retirement.

Present law provides that the Commission has the power to select the administrator of the plan, to enter into a contract with such firm and to do all such things as may be required in order to insure proper administration of the plan. Present law further provides that, in exercising this function, the Commission shall act only after soliciting proposals from interested firms in accordance with specifications prepared by the Commission. Present law

further provides that, the preceding sentence notwithstanding, the Commission may enter into a contract, without the necessity of soliciting proposals, with a nonprofit corporation whose membership is limited to participants and is open to all participants.

Proposed law provides that the Commission shall establish a procedure for advising participants who have filed an application for withdrawal or deferral modification based upon hardship as to the amount of the voluntary, optional cash contribution, if any, that has been deposited by participant and is available to the participant in the individual participant account.

Proposed law provides that the administrator shall solicit requests for proposals (RFP) from all interested financial institutions to establish savings accounts in which participants may invest part or all of their retirement savings as voluntary, optional cash contributions for retirement or in case of hardship.

Proposed law provides that the administrator shall make the RFP available to the La. Bankers Association for distribution to its members who may be interested in responding to the request for proposals.

Proposed law provides that the RFP shall advise the financial institutions that the Commission shall give preference to the financial institution or institutions which give the highest interest rate to participants.

Proposed law requires the administrator to act as a fiduciary to the participants when seeking proposals from financial institutions provided for in proposed law and administering the voluntary, optional cash contributions savings accounts.

Proposed law provides that the Commission shall select one or more custodial financial institutions from the responses to the RFP whereby participants may deposit voluntary, optional cash contributions into savings accounts.

Proposed law provides that the administrator shall make the RFP available to the La. Bankers Association for distribution to banks all across Louisiana who may be interested in responding to the request for proposals.

Proposed law provides that, no later than July 31, 2017, the administrator of the Commission shall solicit requests for proposals from all interested financial institutions and no later than August 31, 2017, the Commission shall select and enter into contracts with one or more custodial financial institutions whereby participants may deposit voluntary, optional cash contributions into savings accounts.

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

(Amends R.S. 42:1301(3), (4),(5), and (6), 1302(B), 1303(1), (2), (9) and (10), and 1307; adds R.S. 42:1301(10) and 1303.2)