
DIGEST

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HB 685 Engrossed

2017 Regular Session

Hodges

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.

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 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. 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 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, subject to an appropriation by the legislature, forward the list to the investment fund managers who are under contract with the commission or plan administrator. Proposed law requires that the commission, with the advice and counsel of the administrator and the investment fund managers, make every effort to divest the core mandated funds of all investments of 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 that 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 of any company that boycotts Israel if the commission determines that there is no alternative investment available that is a comparable investment, 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, or if the legislature fails to appropriate funds necessary to carry out proposed law.

Proposed law requires the legislative auditor to assist the legislature in determining if an appropriation is necessary to carry out proposed law by reviewing annual fees charged by the plan administrator and investment fund managers and the fees charged by administrators and investment fund managers in other states who have enacted similar laws to screen and divest of investments in states that boycott Israel.

b. Commission Membership

Present law provides that the commission shall consist 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 elected by plan participants.

Proposed law adds the speaker of the House of Representatives and the president of the Senate, or their designees, as 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)