

2017 Regular Session

SENATE BILL NO. 223

BY SENATOR RISER

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

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

1 AN ACT

2 To enact Part II-B of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of

3 1950, to be comprised of R.S. 39:100.150 through 100.156, relative to the investment

4 of state funds; to prohibit the investment of state special funds that directly or

5 indirectly support terrorist activities; to provide for purposes, definitions, application,

6 prohibitions, reporting, deadlines, rules of implementation, and penalties; and to

7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Part II-B of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised

10 Statutes of 1950, comprised of R.S. 39:100.150 through 100.156, is hereby enacted to read

11 as follows:

12 **PART II-B. PROHIBITION AGAINST INVESTMENTS IN NATIONS**

13 **THAT SUPPORT TERRORISM**

14 **§100.150. Purpose**

15 **The purpose of this Part is to assure the citizens and taxpayers of the**

16 **state of Louisiana that the monies held and invested by the state are not used**

17 **directly or indirectly to support terrorist activities and that all monetary**

1 investments in Louisiana's special funds have been screened to ensure that those
2 funds are not invested in companies connected to countries that support
3 terrorism.

4 §100.151. Definitions

5 As used in this Part, the following terms shall have the following
6 meanings, unless a different meaning is clearly required by context:

7 (1) "Company" means a foreign-domiciled-or-based entity, natural or
8 juridical, which is not a subsidiary of nor owned in whole or in part by a
9 domestic company, and which is engaged in an enterprise for financial gain.

10 (2) "Investment fund manager" means any individual or company that
11 contracts with the state to provide financial services or to assist the state in
12 procuring or selling investments to be held by the state in special funds.

13 (3) "Investments" means the buying or selling of any of the following
14 securities, if and to the extent the same are at the time legal for investment of
15 the special funds of the state:

16 (a) Shares of stock.

17 (b) Shares in a real estate investment trust.

18 (c) Corporate bonds.

19 (d) Government bonds.

20 (e) Mutual funds containing shares of stock, corporate bonds, or
21 government bonds.

22 (f) Any other negotiable instruments.

23 (4) "Prohibited nation" means Iran, Sudan, or Syria.

24 (5) "Special funds" means the following funds:

25 (a) The funds listed in Part II-A of Chapter 1 of Subtitle I of Title 39 of
26 the Louisiana Revised Statutes of 1950.

27 (b) The fund defined in Article VII, Section 10-A of the Constitution of
28 Louisiana.

29 (c) The funds defined in Article VII, Sections 10.1 through 10.14 and

1 Section 27 of the Constitution of Louisiana.

2 (6) "Treasurer" means the elected official provided for in Article IV,
3 Section 9 of the Constitution of Louisiana.

4 §100.152. Application; prohibitions

5 A. On or before July 1, 2017, and every July first thereafter, the
6 treasurer shall file a report with the legislature. The report shall include the
7 following:

8 (1) A list of investments the treasurer has in companies with business
9 operations that satisfy the criteria for investment in prohibited nations provided
10 for in R.S. 39:100.151 including the issuer, and the name of the investment.

11 (2) A detailed summary of the business operations in prohibited nations
12 of any company included on the list prepared pursuant to Paragraph (1) of this
13 Subsection.

14 B. On or after July 1, 2017, no investment fund manager who provides
15 services to the state of Louisiana related to the special funds shall invest monies
16 from any special funds to purchase an investment in a prohibited nation, or in
17 a company or companies that are located in a prohibited nation, or in a mutual
18 fund which contains investments in a company that is located in a prohibited
19 nation, as identified by the treasurer.

20 C.(1) The treasurer, in relation to any special fund, shall screen all
21 current investments to determine if an investment of special funds monies are
22 invested in a prohibited nation, or in a company located in a prohibited nation,
23 or in a mutual fund which contains an investment in a company or companies
24 that are located in a prohibited nation.

25 (2) If, after screening the investments in the special fund, the treasurer
26 determines that no such investments are currently invested in a prohibited
27 nation, or in a company that is located in a prohibited nation, or in a mutual
28 fund which contains investments in a company that is located in a prohibited
29 nation, the treasurer shall certify the same in a report to the speaker of the

1 House of Representatives and the president of the Senate, as provided for in
2 R.S. 39:100.154.

3 (3) If, after screening the investments in the special fund, the treasurer
4 determines that monies in a special fund are invested in a prohibited nation, or
5 in a company that is located in a prohibited nation, or in a mutual fund which
6 contains investments in a company that is located in a prohibited nation, the
7 treasurer shall certify the same in an annual report to the speaker of the House
8 of Representatives and the president of the Senate and prepare a plan to divest
9 the special fund of the investments and a timetable for divestment, as provided
10 in R.S. 39:100.154.

11 (4) The treasurer shall approve the plan for divestment, or make any
12 recommended and necessary changes to the plan, in order to implement the
13 plan for immediate divestment of all investments in a prohibited nation, or in
14 a company that is located in a prohibited nation, or in a mutual fund which
15 contains investments in a company that is located in a prohibited nation in
16 order to comply with the requirements of this Part.

17 D. The provisions of this Part shall apply only to this Part and shall not
18 apply to any other Part or Chapter in Title 39 nor shall they apply to any other
19 Title of the Louisiana Revised Statutes of 1950.

20 §100.153. Contract requirements for investment fund managers

21 When an investment fund manager contracts with the state, or enters
22 into a renewal contract, to provide services to the state related to the special
23 funds, the investment fund manager shall certify as part of his initial contract,
24 or a renewal of a contract, that the investment fund manager shall not invest or
25 purchase an investment for any special fund in a prohibited nation, or in a
26 company that is located in a prohibited nation, or in a mutual fund which
27 contains investments in a prohibited nation.

28 §100.154. Reporting; deadlines

29 A.(1) Once the investment fund manager of a special fund has met the

1 requirements of this Part, the manager shall certify that the requirements have
2 been met in a report, which shall be sent to the treasurer in compliance with the
3 deadlines set forth in Subsection B of this Section.

4 (2) The report shall include the name of each such investment which was
5 made, the asset allocation class and sector to which it belongs pursuant to the
6 special fund's asset allocation policy, and the amount of money of the special
7 fund that is invested therein.

8 B.(1) The investment fund manager shall make the first report required
9 in this Section on or before October 31 of each year, and, if monies in a special
10 fund are currently invested in a prohibited nation, the report shall include all
11 information regarding the plan to divest the special fund of all such investments
12 and a time table for such divestment.

13 (2) A second report shall be due October 31 of each year, which shall
14 contain information for the period between September 15 of the previous year
15 and September 15 of the current year and shall contain information regarding
16 the status of divestment required in this Part.

17 (3) Beginning with the report due on October 31, 2019, the October 31
18 annual report shall contain certification that no investments have been
19 purchased in violation of this Part for the period between September 15 of the
20 previous year and September 15 of the current year.

21 C. No later than thirty days after the treasurer receives a report, the
22 treasurer shall provide a copy of the annual report to the legislative auditor, the
23 speaker of the House of Representatives, and the president of the Senate.

24 §100.155. Rules for implementation

25 A. The treasurer shall adopt any rules pursuant to the Administrative
26 Procedure Act which are necessary to implement the provisions of this Part.

27 B. The treasurer, in compliance with Subsection A of this Section, shall
28 add or remove a nation from the list of prohibited nations, if the United States
29 Department of State adds or removes that nation from the list of terror-

1 **sponsoring nations.**

2 **§100.156. Penalties**

3 **Any investment fund manager who fails to comply with the provisions**
 4 **of this Part shall be prohibited from contracting, or renewing a contract, with**
 5 **the state related to investment services for state special funds.**

6 Section 2. This Act shall become effective July 1, 2017.

The original instrument was prepared by Carla S. Roberts. The following digest, which does not constitute a part of the legislative instrument, was prepared by Tammy Crain-Waldrop.

DIGEST

SB 223 Reengrossed

2017 Regular Session

Riser

Present law provides that, with respect to various retirement systems in Louisiana, that investments are forbidden in prohibited nations. Present law provides that the purpose of present law is to assure the members and retirees of the state and statewide retirement systems, the state and its political subdivisions as employers, and the taxpayers of La. that the monies held in trust for the benefit of public employees are not used directly or indirectly to support terrorist activities.

Proposed law retains present law but also prohibits investments in the state's "special funds" from being invested in companies that directly, or indirectly, support terrorists countries.

Present law, with respect to various retirement systems in Louisiana, defines a "prohibited nation" to mean Iran, Sudan, or Syria.

Proposed law provides for definitions, as follows:

- (1) "Company" means any foreign-domiciled-or-based entity, natural or juridical, which is not a subsidiary of nor owned in whole or in part by any domestic company, and which is engaged in an enterprise for financial gain.
- (2) "Investment fund manager" means any individual or company that contracts with the state to provide financial services or to assist the state in procuring or selling investments to be held by the state in special funds.
- (3) "Investments" means the buying or selling of any of the following securities, if and to the extent the same are at the time legal for investment of special funds of the state:
 - (a) Shares of stock.
 - (b) Shares in a real estate investment trust.
 - (c) Corporate bonds.
 - (d) Government bonds.
 - (e) Mutual funds containing shares of stock, corporate bonds, or government bonds.
 - (f) Any other negotiable instruments.
- (4) "Prohibited nation" means Iran, Sudan, or Syria.
- (5) "Special funds" include the following funds:

- (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.

- (6) "Treasurer" means the elected treasurer in the Louisiana Dept. of the Treasury.

Proposed law provides that, on or before July 1, 2017, 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 provided for in R.S. 39:100.151 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 provides that, on or after July 1, 2017, no investment fund manager who provides services to the special funds shall invest monies from any special funds to purchase an investment in a prohibited nation, or in a company or companies that are located in a prohibited nation, or in a mutual fund which contains investments in a company that is located in a prohibited nation, as identified by the treasurer.

Proposed law provides that the treasurer, in relation to any special fund must screen all current investments to determine if an investment of special fund monies is invested in a

prohibited nation, or in any company located in a prohibited nation, or in a mutual fund which contains an investment in a company or companies that are located in a prohibited nation, as identified by the treasurer.

Proposed law provides that if, after screening the investments in the special fund, the treasurer determines that no such investments are currently invested in a prohibited nation, or in a company that is located in a prohibited nation, or in a mutual fund which contains an investment in a company that is located in a prohibited nation, the treasurer shall certify the finding in a report to the speaker of the House of Representatives and the president of the Senate.

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 in an annual report to the speaker of the House of Representatives and the president of the Senate and prepare a plan to divest a special fund of the investments and a timetable for divestment.

Proposed law provides that the treasurer shall approve the plan for divestment, or make any necessary changes to the plan, in order to implement the plan for immediate divestment of all investments 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 in order to comply with the requirements of proposed law.

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, once the investment fund manager of a special fund has met the requirements of proposed law, the manager shall certify to the treasurer that the requirements have been met in an annual report, which report shall be sent to the treasurer in compliance with the deadlines set forth in proposed law. Proposed law provides that the report shall 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.

Proposed law sets forth deadlines for reporting. Proposed law provides that the investment fund manager shall make the first report required by proposed law on or before October 31 of each year and, 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 a second annual report shall be due October 31 of each year, and shall contain information for the period between September 15, of the previous year and September 15 of the current year, and shall contain information regarding the status of any divestment required in proposed law. Proposed law provides that beginning with the report due on October 31, 2019, the October 31 annual report shall contain certification that no investments have been purchased in violation proposed law for the period between September 15 of the previous year and September 15 of the current year.

Proposed law provides, no later than 30 days after the treasurer receives the report from the investment fund manager, the treasurer shall provide a copy of the annual report regarding the investments of the special funds to all of the following:

- (1) The legislative auditor.
- (2) The speaker of the House of Representatives.
- (3) The president of the Senate.

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.

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.

Effective July 1, 2017.

(Adds R.S. 39:100.150 - 100.156)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Changes definition of "prohibited nation" to include only Iran, Sudan, or Syria.
2. Adds on or before July 1, 2017, and every July first thereafter, the treasurer shall file a report with the legislature providing a list of investments and a detailed summary of business operations.
3. Requires the treasurer to identify any funds invested in a prohibited nation.
4. Requires the treasurer to file certain reports to the speaker of the House of Representatives and the president of the Senate.
5. Makes bureau and technical amendment changes.