

2016 Regular Session

SENATE BILL NO. 53

BY SENATOR BROWN

EMPLOYMENT. Provides for the Louisiana Secure Choice Savings Plan. (gov sig)

1 AN ACT

2 To enact Part V of Chapter 3 of Title 23 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 23:295.1 through 295.7, to create the Louisiana Secure Choice
4 Savings Plan; to specify the purpose of the Plan; to establish a board of trustees; to
5 provide for employer and employee rights and responsibilities under the Plan; to
6 provide for provider selection; to provide for timing, amount, and methods of benefit
7 payments; to provide for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Part V of Chapter 3 of Title 23 of the Louisiana Revised Statutes of 1950,
10 comprised of R.S. 23:295.1 through 295.7, is hereby enacted to read as follows:

11 **PART V. LOUISIANA SECURE CHOICE SAVINGS PLAN**

12 **§295.1. Purpose**

13 **The Legislature of Louisiana finds that retirement security is of great**
14 **importance to individuals and to society as a whole. While social security**
15 **provides some income replacement for the elderly, the disabled, and survivors,**
16 **it is considered only one leg of a three-legged stool. If the social security**
17 **payments are not supported by personal savings and some other source of**

1 monthly payments, the annuitant risks a reduced standard of living, possibly
2 falling into poverty, and becoming reliant on aid from other people or
3 government services. Personal savings rates are down. Even for those with some
4 savings, it is difficult to accumulate sufficient wealth to assure a steady stream
5 of livable income. Due to investment risk and fee schedules for individual
6 investors, the net savings in specialized retirement accounts does not increase
7 at a rate comparable to pooled investments managed by experts. Additionally,
8 the current wealth accumulation instruments available to private-sector
9 employees, while providing for "roll-overs" or trustee-to-trustee transfers, are
10 not seamlessly portable from one employer to another.

11 §295.2. Establishment of Plan

12 A. The Louisiana Secure Choice Savings Plan ("Plan") is established as
13 a private entity, charged with overseeing the investment of the pool of assets
14 accumulated through the contributions provided for in this Part. The purpose
15 of the Plan is to provide retirement and death benefits to the participants while
16 affording the maximum portability of these benefits for the participants.

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

22 §295.3. Board of trustees

23 A. There is hereby established the Louisiana Secure Choice Savings Plan
24 Board of Trustees ("Board") to manage the funds of the Plan. The Board shall
25 have five members, as follows:

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

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

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

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

6 **B. On or before September 2, 2016, each nominating entity shall submit**
7 **the initial list of nominees to the appointing authority. On or before September**
8 **30, 2016, the appointing authority shall notify the treasurer of the appointment.**
9 **On or before November 4, 2016, the treasurer shall convene the initial meeting**
10 **of the Board. The term of office of the initial board members shall expire**
11 **concurrent with the expiration of the current governor's term.**

12 **C. Beginning in 2020 and every four years thereafter, each nominating**
13 **entity shall submit a list of nominees to the appointing authority by the fifteenth**
14 **day of January. The appointing authority shall notify the treasurer of the**
15 **appointment by the thirtieth day of January. The treasurer shall convene the**
16 **first meeting of the Board for that term on or before the third Monday in**
17 **February.**

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

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

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

29 **G. When the federal government provides for a tax-qualified plan**

1 structure that, if applied to the Plan, would allow the participants' contributions
2 to be exempt from federal taxation, the Board shall take any action necessary
3 to secure tax-qualified status for the Plan, including proposing amendments to
4 this Part.

5 §295.4. Criteria for selection of providers

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

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

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

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

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

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

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

25 §295.5. Employer participation

26 A. Except as provided in Subsection F of this Section, each private
27 employer operating within the state of Louisiana that does not offer any other
28 type of employer-sponsored retirement savings plan shall inform all employees
29 of the provisions of this Part within thirty days after the effective date.

1 Thereafter, each employer to which this Section applies shall inform each new
2 employee of the provisions of this Part within thirty days of the hire date.

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

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

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

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

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

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

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

23 E. An employer that fails to comply with the provisions of this Part shall
24 be subject to penalties.

25 F. The provisions of this Part shall not mandate action by any church,
26 any employer that has been in existence for fewer than twenty-four months, or
27 any employer with fewer than twenty-five employees; however, such an
28 employer may voluntarily comply with the provisions of this Part in order to
29 provide the benefits to its employees.

1 **§295.6. Employee participation**

2 **A.(1) An employee is deemed to have elected to participate in the Plan**
3 **unless he opts out on a form provided by the Board and transmitted to the**
4 **Board by his employer. An employee's election not to participate in the Plan**
5 **shall expire after two years.**

6 **(2) An employee who elects to participate in the Plan, or who is deemed**
7 **to have elected to participate, shall have a minimum of three percent of his**
8 **gross wages withheld by his employer each pay period. The rate of contribution**
9 **shall increase by one percent each year with a maximum of either fifteen**
10 **percent or one hundred dollars per pay period. In no case shall contributions**
11 **exceed the maximum as established by federal law.**

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

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

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

25 **B. The employee contributions shall not be subject to taxation by the**
26 **state of Louisiana.**

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

29 **D. A Plan participant may at any time withdraw his funds from his**

1 provider by terminating participation in the Plan as provided in Subsection C
2 of this Section and subject to reasonable notice as established in the provider's
3 agreement with the participant. The withdrawal shall be subject to any
4 applicable fees, penalties, and taxes.

5 §295.7. Benefit payment; liability

6 A. A provider shall pay benefits in accordance with one of the following:

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

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

16 B. A participant may elect the time to start receiving benefit payments
17 from the Plan, except that a participant may not elect to receive benefit
18 payments before reaching the age of sixty and shall begin receiving benefit
19 payments before the age of seventy-two.

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

23 Section 2. The Board is hereby authorized to receive any appropriation or loan the
24 legislature may provide for advancing the purposes of this Act.

25 Section 3. This Act shall become effective upon signature by the governor or, if not
26 signed by the governor, upon expiration of the time for bills to become law without signature
27 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
28 vetoed by the governor and subsequently approved by the legislature, this Act shall become
29 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Margaret M. Corley.

DIGEST

SB 53 Original

2016 Regular Session

Brown

Proposed law creates the Louisiana Secure Choice 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 certain 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 the state of 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.

(Adds R.S. 23:295.1-295.7)