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HOUSE BILL 33

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Roberto "Bobby" J. Gonzales

AN ACT

RELATING TO DEFERRED COMPENSATION; AMENDING THE DEFERRED
COMPENSATION ACT TO UPDATE DEFINITIONS, INVESTMENT OPTIONS,
TRANSMISSION METHOD AND FILING AND NOTIFICATION REQUIREMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 10-7A-2 NMSA 1978 (being Laws 1981,
Chapter 155, Section 2, as amended) is amended to read:

"10-7A-2. DEFINITIONS.--As used in the Deferred
Compensation Act:

A. "board" means the public [~~employees~~] employees
retirement board;

B. "local public body" means all political
subdivisions of the state, their agencies, instrumentalities
and institutions;

C. "local public employee" means any officer or

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1 employee to whom a local public body pays a salary for services
2 rendered;

3 D. "deferred compensation carriers" means any
4 corporation, partnership or persons [~~who provide investment~~
5 ~~options~~] providing administrative, recordkeeping or investment
6 consulting services to participants in deferred compensation
7 plans pursuant to funding agreements; and

8 E. "state employee" means any officer or employee
9 to whom the state pays a salary for services rendered."

10 SECTION 2. Section 10-7A-3 NMSA 1978 (being Laws 1984,
11 Chapter 127, Section 988.1, as amended) is amended to read:

12 "10-7A-3. DEFERRED COMPENSATION PLAN--STATE AND LOCAL
13 PUBLIC [~~BODY~~] EMPLOYEES.--

14 A. After the effective date of the Deferred
15 Compensation Act, the board shall review and approve deferred
16 compensation plans for participation by state and local public
17 employees. A deferred compensation plan shall provide for the
18 method of transfer of funds to a plan through written or
19 electronic salary reduction agreements with state and local
20 public employees and shall provide for deferral of only those
21 salary amounts upon which income taxes are eligible for
22 deferral pursuant to federal law.

23 B. Compensation deferred under any deferred
24 compensation plan shall be included with current income for
25 purposes of computing retirement contributions and benefits.

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1 C. Amounts by which salary is reduced shall be
2 transmitted [~~to the state treasurer or his designated agent who~~
3 ~~shall then transfer such amounts directly~~] to the approved
4 deferred compensation carrier.

5 D. Local public employees may [~~through formal~~
6 ~~action of their governing boards~~] participate in a deferred
7 compensation plan selected by [~~such governing board~~] their
8 local public body employer after it takes formal action
9 conforming to board requirements. If the plan selected is
10 different from the plan approved by the board, the board shall
11 have no responsibility concerning the plan. If the plan
12 selected is that approved by the board pursuant to Section
13 10-7A-5 NMSA 1978, [~~participation by employees of the local~~
14 ~~public body so selecting is effected pursuant to~~] the
15 provisions of Section 10-7A-8 NMSA 1978 shall apply."

16 SECTION 3. Section 10-7A-5 NMSA 1978 (being Laws 1984,
17 Chapter 127, Section 988.2, as amended) is amended to read:

18 "10-7A-5. DEFERRED COMPENSATION PLAN--APPROVAL.--

19 A. The board shall review proposals providing
20 investment options to participants of a deferred compensation
21 plan submitted by deferred compensation carriers [~~which~~] that
22 have been engaged for a minimum of three years in the business
23 of funding public employee deferred compensation plans
24 authorized by 26 U.S.C. Section 457 and approve [~~not more than~~
25 ~~four such~~] proposals [~~which~~] that are consistent with the goals

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1 of providing state or local public employees with an investment
2 that, in the opinion of the board, is safe and will provide a
3 reasonable return to the employees upon their reaching the
4 appropriate age or date at which they may begin receiving funds
5 from the deferred compensation plan.

6 B. The type of deferred compensation investment
7 options that may be approved include

8 ~~[(1) life insurance or annuity contracts with~~
9 ~~insurance companies licensed to conduct such business in New~~
10 ~~Mexico;~~

11 ~~(2)] mutual funds, including stock, bond or~~
12 ~~capital preservation funds [and money market funds;~~

13 ~~(3) deferred compensation investment options~~
14 ~~of New Mexico banks or savings and loan associations, such~~
15 ~~banks or savings and loan associations to provide, as security~~
16 ~~for participants' funds, collateral, such as U.S. treasury~~
17 ~~securities or other liquid securities, for amounts of~~
18 ~~participants' funds in excess of applicable depository~~
19 ~~insurance; and~~

20 ~~(4) other deferred compensation investment~~
21 ~~options, including those created by the board not requiring~~
22 ~~funding agreements with deferred compensation carriers, deemed]~~
23 ~~or any other investments determined by the board to fulfill the~~
24 ~~goals of providing viable deferred compensation for state or~~
25 ~~local public employees."~~

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1 SECTION 4. Section 10-7A-8 NMSA 1978 (being Laws 1981,
2 Chapter 155, Section 8, as amended) is amended to read:

3 "10-7A-8. DEFERRED COMPENSATION PLAN--LOCAL PUBLIC
4 EMPLOYEE PARTICIPATION.--

5 A. Local public employees shall be eligible to
6 participate in a deferred compensation plan approved by the
7 board upon the filing of [~~the governing authority's written~~
8 ~~notice~~] a local public body's participation agreement,
9 conforming to board requirements, applicable to [~~all the~~] its
10 local public employees and such other participants permitted by
11 the plan as the local public body may elect. Such filing shall
12 be made at such dates and places and in such manner as the
13 board [~~determines~~] requires.

14 B. A local public body may terminate its local
15 public employees' and other qualified participants' future
16 participation in a board-approved plan any time not less than
17 two years after the date participation has become effective,
18 upon the [~~governing authority's~~] local public body's filing of
19 written or electronic notice [~~at such dates and places as the~~]
20 conforming to board [~~determines~~] requirements."