

**MINUTES**  
**Louisiana Deferred Compensation Commission Meeting**  
**July 19, 2022**

The monthly meeting of the Louisiana Deferred Compensation Commission was held on Tuesday, July 19, 2022, in the office of the Plan Administrator, 9100 Bluebonnet Centre Blvd, #203, Baton Rouge, LA, 70809 at 10:00 a.m.

**Members Present**

Virginia Burton, Chairman, Participant Member  
Andrea Hubbard, Vice Chairman, Co-Designee of the Commissioner of Administration  
Doug Buras, Co-Designee of Commissioner of Financial Institutions  
Beverly Hodges, Participant Member  
Julius Roberson, Designee of the LA State Treasurer  
Laney Sanders, Secretary, Participant Member

**Members Not Present**

Stewart Guerin, Designee of the Commissioner of Insurance  
Scott Jolly, Co-Designee of Commissioner of Financial Institutions  
Representative Lance Harris, Designee of the Speaker of the LA House of Representatives  
Senator Ed Price, Designee of the President of the Louisiana State Senate

**Others Present**

Craig Cassagne, State of Louisiana Attorney General's Office, Baton Rouge  
Brett Robinson, State of Louisiana Attorney General's Office, Baton Rouge  
Karen Scott, Sr Client Services Manager, Empower, Denver-*via video conference*  
Shannon Dyse, Relationship Manager, Empower, Baton Rouge  
Jo Ann Carrigan, Sr. Field Administrative Support, Empower, Baton Rouge

**Call to Order**

Ms. Burton called the meeting to order at 10:00 a.m. Ms. Carrigan called roll of Commission members.

**Public Comments**

Ms. Burton stated that the meeting is accessible to the public and invited anyone who had joined the meeting to participate in the call. There were no public comments.

**Swearing in of Beverly Hodges, Participant Member**

Mr. Robinson swore in Ms. Hodges as Participant Member of the LA Deferred Comp Commission. Ms. Hodges was elected as a Participant Member of the Commission in June, 2022. Commission members welcomed Ms. Hodges.

**Election of Commission Officers**

Written "Election of Officer" ballots were provided to each member of the Commission. Ms. Burton reviewed the names of the officers from the June 2021-June 2022 period. Ms. Hodges

asked if anyone was interested in any position. Ms. Sanders stated that she would be happy to remain as the Commission's secretary. Ms. Burton stated that she came prepared to serve in the capacity of chairperson for the July meeting. Mr. Dyse announced the election results:

Virginia Burton,	Chairman
Andrea Hubbard,	Vice Chairman
Laney Sanders,	Secretary

Mr. Buras thanked the new officers for their willingness to serve.

### **Approval of Commission Meeting Minutes of June 21, 2022**

The minutes of the June 21, 2022 Commission Meeting were reviewed. Ms. Sanders motioned to accept the minutes as presented. Mr. Roberson seconded the motion. The Commission unanimously approved the motion.

### **Administrator's Report**

**Plan Update as of June 30, 2022:** Mr. Dyse reviewed the Plan Update as of June 30, 2022. Assets as of June 30, 2022: \$1,979.47 Billion; Asset Change YTD: -\$307.26 Million representing a 13.44% decrease since end of year, 2021. Contributions YTD: \$58.65 Million; Distributions continue to outpace contributions. YTD: \$66.91 Million. Net Investment Difference YTD: -\$299.00 Million.

**UPA – June 2022:** Mr. Dyse reviewed the UPA report for the month of June, 2022. Additions included interest/dividends for June. There were no deductions during the month of June. The closing balance as of June 30, 2022, was \$1,182,906.53. Ms. Hodges asked if the UPA was an operating account for the Commission. Mr. Dyse confirmed that this was the case. At some point soon, Wilshire, the Commission's investment consultant, will complete an evaluation of the UPA. Ms. Burton stated that the Commission's intent is to maintain one year of reserves in the UPA. Fees have been set to ratchet the UPA balance down. Mr. Dyse shared that the aggregate annual Plan fees will be reduced by \$97,000 due to Empower's net reduction in recordkeeping fees and increase in service fee of the Stable Value Fund.

**UEW Report – June 2022:** Mr. Dyse presented the UEW Report for the month of June, 2022. Eleven requests were submitted and all eleven were approved.

### **Participant Engagement Activity-June 2022**

Mr. Dyse presented the June Participant Engagement Activity Report for the month of June in Mr. Massingill's absence. The RPA team is returning to the field in addition to maintaining virtual appointments. There were several onsite LSU visits during the month of June in New Orleans, Shreveport, and Baton Rouge. The early outcome of the meetings reflects an approximate number of 187 new enrollments (151-New Orleans; 36-Shreveport). The Baton Rouge numbers are not yet available but will be reported at the August meeting. Mr. Dyse stated that RPA's attend meetings upon request in addition to attending established meetings throughout the year at specific agencies. Proactively, RPA's have been targeting specific agencies such as sheriff's offices and top ten

employers by size. These meetings are referred to as Employer Wellness Reviews and are attended by the RPA, Mr. Massingill and Mr. Dyse. The objective is to confirm client satisfaction with the program and determine how to best meet the needs of existing participants and those eligible employees who are not enrolled in the Plan. Mr. Dyse stated that Empower has not been invited to annual meetings of Sheriff's organizations. Ms. Burton stated that there will be training during the December retreat that will include RPA attendance to discuss activity/responsibilities. Mr. Dyse reviewed the Employer Engagement List stating that the LA Community Development Authority has decided not to join the Plan at this time. There was only one person at the agency who initially expressed interest in participating in the Plan. Mr. Dyse was pleased to report that RPAs conducted the largest number of Retirement Readiness Reviews (RRR) in the second quarter – more than any time within the past six quarters. At this pace, it is anticipated that over 5,000 RRR meetings will be conducted by year end which is approaching historic numbers. Mr. Dyse reviewed the number of meetings scheduled through Time Tap noting a drop in these meetings probably because of the RPA's returning to the field/in-person activity. Virtual meetings are encouraged due to the efficiency of not losing time in driving to agencies with small employee participation. The At-Risk Campaign is the current emphasis targeting participants who are:

- 50 years of age or older and have 75% or more equity exposure.
- On the inflation side, 50 years of age or older with less than 10% equities.
- Under 50 years of age who have less than 25% equities.

The objective is to meet with participants to make sure that the account is working for them as best as possible. Mr. Dyse also announced that a Managed Account promotion began in July and will run through the end of September. Ms. Sanders asked Mr. Dyse what percentage of participants in the At-Risk category make changes after meeting with an RPA. Mr. Dyse stated he would have this information available at the August meeting.

### **Evaluation Committee**

Ms. Burton stated that there is a section on the pre-login website of [www.louisianadcp.com](http://www.louisianadcp.com) where documents are stored for public review. Ms. Burton stated that the Commission had fallen behind in updating some of those documents. Traditionally, the Commission had an "Evaluation Committee" that would evaluate the recordkeeper and submit a report every two years. The Commission Secretary usually chairs this group, and two other members make up the Evaluation Committee. Wilshire also has completed an evaluation of the recordkeeper in the past and should be asked to perform this function again. Ms. Burton asked to appoint the Committee today and stated that she would meet with Wilshire requesting their evaluation. Ms. Burton recommended that Ms. Sanders chair the Committee with Ms. Hubbard and Ms. Hodges serving as Committee members. Mr. Buras motioned to form the Evaluation Committee consisting of Ms. Sanders as Chairman, Ms. Hubbard, and Ms. Hodges. Mr. Roberson seconded the motion. Ms. Burton noted that the Commission's investment policy, as it appears on the website, is also out-of-date and that Wilshire should be asked to update this information with the goal of reviewing Wilshire's investment policy at the December meeting. Ms. Burton stated that Mr. Dyse would review the other documents on the website to make sure that the information is current. Ms. Burton instructed the Evaluation Committee to have their report available for review at the December meeting, if

possible. The December Commission Retreat is scheduled for Tuesday, December 13<sup>th</sup> to be held at the Burden Center off Essen Lane. The most recent audit should be posted to the website after Michael DeFalco, CPA presents the report at the August meeting.

### **Hardships, Loans and Tax Counsel**

Ms. Burton presented the history of the most recent request to remove a loan default from a participant's account due to administrative error by the participant's agency. Mr. Cassagne stated the loan default issue brought to the surface a greater issue related to the terms "Plan Administrator" and "Recordkeeper." Mr. Cassagne stated that these terms are blurred as they appear in the statutes, the Plan Document, and the contract. Mr. Cassagne stated that the LA Deferred Comp Commission is the Plan administrator – the Commission administers the Plan. Mr. Cassagne responded to Mr. Buras' question about Hardship responsibilities by stating that the Commission specifically delegated Hardship responsibilities to Empower a couple of years ago. Specific areas that are being reviewed include signature authority as there is not clarity in terms of who has authority to sign what document. Mr. Cassagne reported that work is being done to categorize what documents can be signed by Empower as the recordkeeper or the Commission as the Plan Administrator. The loan default reversal prompted a "Hold Harmless" letter to be generated by Empower stating that Empower would not be held liable in the event the default reversal violated any IRS rules. With this loan default issue, the Commission will seek advice from Bob Tarcza, tax counsel, to make sure that the Commission is not violating IRS rules by reversing loan defaults. Mr. Cassagne stated that he would reach out to Mr. Tarcza to receive legal guidance that covers various scenarios so that the Commission would not have to contact Mr. Tarcza every time a loan reversal is presented to the Commission. Ms. Burton stated that it may be necessary to reverse the previously approved reversal until such time as tax counsel is provided. Mr. Cassagne stated that even on those loan default issues that are the result of administrative error, Empower will require the Commission to sign a "hold harmless" agreement stating that Empower is not liable thus putting the burden on the Commission to retrieve an opinion from tax counsel. Ms. Hubbard asked if the "hold harmless" letter is a new requirement. Mr. Dyse stated that in the past, the indemnification letter has always been required but the document was signed by an Empower representative on behalf of the Commission. Mr. Dyse stated that Empower crossed a line in signing the document in the past. Ms. Burton's response to the letter was understandable as she had never seen the letter before. Empower's legal team has instructed Mr. Dyse to no longer sign the indemnification letter. The letter is not specific to the LA Deferred Comp Plan. Mr. Dyse stated that this situation illustrates the need to clarify the functions of the Plan Administrator and functions of the recordkeeper. Mr. Cassagne confirmed that Mr. Tarcza is on retainer with the Commission and is billed by the hour. Mr. Cassagne pointed out that Mr. Tarcza will also be called upon to assist in adding the Secure and Cares Act provisions to the Plan Document by the end of 2023 or 2024. The Commission is currently operating under emergency rules as it relates to the Secure and Cares Act. Ms. Sanders motioned to ask Mr. Tarcza to provide guidance as it relates to loan default procedures, clarification of the roles of the Plan Administrator and recordkeeper and assist with Plan Document updates. Ms. Hodges seconded the motion. The motion passed with no further discussion or objection.

Mr. Dyse reviewed the loan default reversal that the Commission approved in April. The default was because of administrative error as admitted by the agency. The individual has paid off the loan, and her intent is to take out another loan. The current loan policy states that if a participant defaults on a loan, the participant may not take out another loan in the future. The participant's desire is for an exception be made to the loan policy so that she may take out a new loan. Ms. Burton confirmed that the Plan Document clearly states that a defaulted loan prevents the participant from taking out another loan. Mr. Dyse stated that the Plan Document speaks to the authority of the Commission to make exceptions to the default rule based on the credit worthiness of the participant. Mr. Cassagne read an excerpt from the Plan Document under the loan default section: The participant shall be permanently ineligible for any future loans from the Plan unless in the Administrator's sole discretion, the participant is deemed to be credit worthy and agrees to pay the loan through payroll deduction. If the Commission determines that the participant is credit worthy, an exception can be made so that the participant could take out another loan. The action that the Commission took was to remove the default when in fact, the action that the Commission has authority to take is to allow the participant to take out another loan. Ms. Burton suggested that the previously approved action of removing the loan from default be rescinded until such time as Mr. Tarcza can provide guidance under the law. Mr. Cassagne stated that the discussion is about two separate issues: Getting another loan and removing the default from the account. Defaults are reported to the IRS as Empower issues a 1099R on defaulted loans. Mr. Buras suggested that the loan default reversal be "tabled" until such time as counsel provides direction. Mr. Dyse stated that he will investigate the parameters of reversing 1099Rs. Mr. Buras motioned to table the previously approved loan default removal action of the Commission until such time at the Commission obtains an opinion from tax counsel. Ms. Hodges seconded the motion. The motion carried with no objection. Mr. Cassagne stated that if the Commission decided to use the provision in the Plan Document to approve a second loan after default, clarification would be asked of tax counsel what criteria can be used in determining credit worthiness. Ms. Sanders stated that she would review LASERS' routine policies related to loan default as a point of reference.

### **Statutory Education Requirements of Commission Members**

Mr. Cassagne informed Commission Members that one hour of Ethics and Tier 2 Financial Disclosure are required. Mr. Cassagne also pointed out that the December Retreat usually includes fiduciary training. Mr. Robinson is available to address any ethics issues as he served in Ethics prior to joining the Attorney General's office. Mr. Buras asked if the State Employee Ethics course qualifies, and Mr. Cassagne confirmed that it did. Ms. Sanders stated that LASERS has many options available on the website to help members fulfill education hours. Mr. Buras asked if the recordkeeper is tracking Commission Member training on behalf of the Commission and was told that it is not. The deadline for the submission of Ethics and Tier 2 is May 15<sup>th</sup>. Designees to the Commission must submit Ethics and Tier 2 filings – even for those who attend sporadically. The December meeting is scheduled for December 13<sup>th</sup> and lasts about four hours at the Burden Center. Mr. Dyse will work with the Commission to determine the topics to be covered at the meeting. Ms. Burton suggested the following topics be presented:

1. Marilyn Collister on best practices and a review of fiduciary duties.

2. Wilshire to review investment options/recommendations and performance review.
3. Evaluation Committee completed work along with Wilshire's evaluation of Empower.
4. An opportunity to review loan procedures.
5. Rich Massingill present RPA activity in the field including the attendance of RPAs at the meeting.

Mr. Dyse stated that Mr. DiGirolamo of Wilshire is willing to coordinate a couple of fund managers to attend the meeting if time allows.

### **Other Business**

A spreadsheet of contact information was given to each member for updating.

NAGDCA Conference will be held in Baltimore, MD on September 18-21, 2022. There is also a virtual option. The NAGDCA website includes the conference agenda.

### **Adjournment**

With there being no further items of business to come before the Commission, Chairman Burton declared the meeting adjourned at 11:17 a.m.

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Laney Sanders, Secretary