DEFERRED COMPENSATION – SECTION 457

The District, either alone or by contract with other political subdivisions, may create and administer a deferred compensation plan, the federal income tax treatment of which is governed by Section 457 of the Internal Revenue Code of 1986, and its subsequent amendments, for its employees and may assess a fee on each participating employee for administering the plan.

The organization and implementation of such a deferred compensation plan shall be in accordance with Chapter 609, Subchapter B, Government Code.

Gov't Code Ch. 609

A political subdivision may contract with an employee of the political subdivision for the deferment of any part of the employee's compensation.

Except as provided by Government Code 609.5025, to participate in a deferred compensation plan, an employee must consent in the contract to automatic payroll deductions in an amount equal to the deferred amount.

Gov't Code 609.007(a), (c)

ANNUITIES – SECTION 403(b)

The District may enter into an agreement with an employee to reduce the employee's salary for the purposes of making direct contributions to or purchases of an annuity or investment product that meets the requirements of Internal Revenue Code Section 403(b) and otherwise satisfies the definition of "qualified investment product." The District may enter into a salary reduction agreement only if the qualified investment product is an eligible qualified investment and is registered with the Teacher Retirement System (TRS) under V.A.T.S. Article 6228-5, Section 8A. *Art. 6228a-5, Sec. 4(7), 5(a), V.A.T.S.*

DEFINITIONS

"Eligible qualified investment" means a qualified investment product offered by a company that:

1. Is certified to TRS under V.A.T.S. Article 6228-5, Section 5; or
2. Is eligible to certify to TRS under V.A.T.S. Article 6228-5, Section 8.

34 TAC 53.1(8)

A "certified company" is a company that meets all TRS certification requirements. Certified companies shall be placed on the TRS list of certified companies as long as the certification has not expired or been rejected or revoked. *34 TAC 53.1(3)*

"Qualified investment product" means an annuity or investment that:

1. Meets the requirements of Section 403(b), Internal Revenue Code of 1986, and its subsequent amendments;

2. Complies with applicable federal insurance and securities laws and regulations; and

3. Complies with applicable state insurance and securities laws and rules.

"Salary reduction agreement" means an agreement between the District and an employee to reduce the employee's salary for the purpose of making direct contributions to or purchases of a qualified investment product.

Art. 6228a-5, Sec. 4 (3), (5), (7), V.A.T.S.

EMPLOYEE DESIGNATION

An employee is entitled to designate any agent, broker, or company through which a qualified investment product may be purchased or contributions may be made.

PAYROLL DEDUCTION

To the greatest degree possible, the District shall require that contributions to eligible qualified investments be made by automatic payroll deduction and deposited directly in the investment accounts.

Art. 6228a-5, Sec. 5(e), (f), V.A.T.S.

PROHIBITIONS ON DISTRICT

The District may not:

1. Refuse to enter into a salary reduction agreement with an employee if the qualified investment product that is the subject of the salary reduction is an eligible qualified investment and is registered with TRS under V.A.T.S. Article 6228-5, Section 8A, except as provided by item 8 below and unless:

   a. The eligible qualified investment product that is the subject of the salary reduction agreement is offered by a company that does not comply with the District's administrative requirements;

   b. The District imposes the administrative requirements uniformly on all companies that offer eligible qualified investment products; and

   c. The administrative requirements are necessary to comply with employer responsibilities imposed by:

      (1) Section 403(b), Internal Revenue Code of 1986, and its subsequent amendments;

(2) Any other provision of the Internal Revenue Code of 1986 that applies to Section 403(b);

(3) Any regulation adopted in relation to a law described by subsection (1) or (2) that is effective after December 31, 2007; or

(4) Any change to V.A.T.S. Article 6228-5 that becomes effective after January 1, 2007;

2. Require or coerce an employee's attendance at any meeting at which qualified investment products are marketed;

3. Limit the ability of an employee to initiate, change, or terminate a qualified investment product at any time the employee chooses;

4. Grant exclusive access to an employee by discriminating against or imposing barriers to any agent, broker, or company that provides qualified investment products;

5. Grant exclusive access to information about an employee's financial information, including information about an employee's qualified investment products, to a company or agent or affiliate of a company offering qualified investment products unless the employee consents in writing to the access;

6. Accept any benefit from a company or from an agent or affiliate of a company that offers qualified investment products;

7. Use public funds to recommend a qualified investment product offered by a company or an agent or affiliate of a company that offers a qualified investment product; or

8. Enter into or continue a salary reduction agreement with an employee if the qualified investment product that is the subject of the salary reduction agreement is not an eligible qualified investment, including the investment product of a company whose certification has been denied, suspended, or revoked without first providing the employee with notice in writing that:

   a. Indicates the reason the subject of the salary reduction agreement is no longer an eligible qualified investment or why certification has been denied, suspended, or revoked; and

   b. Clearly states that by signing the notice the employee is agreeing to enter into or continue the salary reduction agreement.

Art. 6228a-5, Sec. 9, V.A.T.S.