

# Deferred Compensation Plan BOARD REPORT 16-17

Date: April 11, 2016  
To: Board of Deferred Compensation Administration  
From: Staff  
Subject: Staff Report – Projects & Activity Report

*Board of Deferred  
Compensation Administration  
John R. Mumma, Chairperson  
Michael Amerian, Vice-Chairperson  
Cliff Cannon, First Provisional Chair  
Raymond Ciranna, Second Provisional Chair,  
Wendy G. Macy, Third Provisional Chair  
Linda P. Le  
Thomas Moutes  
Robert Schoonover  
Don Thomas*

## **Recommendation:**

That the Board of Deferred Compensation Administration receive and file staff's update on Plan projects and activities during March 2016.

## **Discussion**

This report provides updates and informational items relative to the following:

### **A. CURRENT/UPCOMING PROJECTS & BOARD MEETING CALENDAR**

**Projects** – Personnel Department staff are responsible for four primary functions relative to executing the City's Deferred Compensation Plan: communications, operations, administration, and governance. Below are certain key projects that staff have been working on:

#### **Communications**

- *External Financial Services Firm Communications:* At the March Board meeting, staff reported that an external financial services firm, Steel Peak Wealth Management Services, had sent out solicitations to City employees which could be interpreted to suggest that they were a Plan-endorsed provider. In response, with the Board's approval, staff sent a letter to Steel Peak on March 18, 2016. As of the date of this report, staff has not received response from the firm.

Additionally, staff sent out a Citywide email on March 15, 2016 to notify employees that Steel Peak was not endorsed by the Plan. Staff also placed language into the 1<sup>st</sup> Quarter Newsletter to notify participants and reinforce the message that the Plan does not affiliate itself with any outside financial services firms.

- *1Q Newsletter & Statements:* Staff and Empower are in the process of finalizing newsletter content; the newsletter and statements will be mailed mid to late April.
- *Annual Review:* Staff completed the annual review of the *When You Retire* and *Deferring Extra Pay* flyers, along with the informational sheets found within the Account Management Tool.

## Operations

- *Participant Services:* Staff continues to assist participants with questions and issues related to loan defaults, minimum required distributions, special catch-up enrollment, and contribution scheduling issues related to participants wishing to maximize their contributions in 2016.

## Administration

- *Third-Party Administrator Request for Proposals (TPA RFP):* The deadline for proposal submission was March 24, 2016. Staff received proposals from two firms. Staff will coordinate performance exams and evaluate the responses; a selection recommendation should be brought for Board consideration at the June meeting.
- *Plan Contracts:* All recently pending DCP contracts are now formally executed. The Galliard contract was executed on April 13, 2016.
- *Union Bank:* Following the Board's action on March 15, 2016, staff is presently developing a contract with Union Bank to provide services for the Plan's FDIC-Insured Savings Account. As of the writing of this report, Union Bank is finalizing their recommended revisions to language in the contract draft and the trading agreement to be held with Empower Retirement. Staff anticipates a services commencement date of October 1, 2016, in order to start services with a new quarter as well as building in enough time to execute the contract and prepare appropriate participant materials.
- *Staffing Update:* Daniel Powell, Management Assistant, began working with the Plan on April 4, 2016. He will oversee communications and outreach projects, and will work with tracking and coordinating metrics for the Plan. The Benefits Specialist position was filled by previous incumbent, Claudia Guevara, who returns to the Plan on April 18, 2016. Her position is responsible for facilitating bi-weekly payroll contributions, loan repayments and distribution requests, and assisting participants with a wide range of transactions including purchases of service credit, rollovers, accrued leave contributions, etc.

A summary of all completed and upcoming projects for Division staff is provided as Attachment A.

**Meeting Calendar** – Staff maintains a calendar of upcoming Board meetings and proposed topics. This calendar includes the annual meeting plan and will be refined and updated as the Board meets and objectives/assignments are refined for the coming year. The current calendar is provided as Attachment B.

## B. STAFFING AND COMMITTEE ASSIGNMENTS

**Staffing Summary** – Following is a summary of staff positions supporting the Deferred Compensation Plan:

Position Authority	Incumbent Class	Function	Est. Percent Reimbursed by DCP	Staff Member
<b>Personnel</b>				
Chief Personnel Analyst	Chief Personnel Analyst	Division Chief	20%	Steven Montagna
Senior Personnel Analyst II	Senior Personnel Analyst II	Plan Manager	60%	Alexandra Castillo
Senior Personnel Analyst I	Senior Management Analyst I	Administration	100%	Esther Chang
Management Analyst II	Management Analyst II	Operations	90%	Matthew Vong
Management Analyst II	Management Assistant	Communications	90%	Daniel Powell
Benefits Specialist	Sr. Administrative Clerk	Participant Services	90%	Claudia Guevara
<b>City Attorney</b>				
Assistant City Attorney	Assistant City Attorney	Board Counsel	25%	Curt Kidder
Legal Assistant	Legal Assistant	Participant Legal Services	40%	Vicky Williams

**Committee Membership** – Following is the new committee roster as designated by the Board Chairperson, effective July 20, 2015:

<b>Plan Governance &amp; Administrative Issues Committee</b>
<b>John R. Mumma, Chair</b>
Cliff Cannon
Linda P. Le
Michael Amerian

<b>Investments Committee</b>
<b>Raymond Ciranna, Chair</b>
Thomas Moutes
Michael Amerian
Don Thomas

## C. OTHER ITEMS

### Legislative Update – SB 1297

The California Senate is considering a bill that would further advance the implementation of auto-enrollment programs within public plans. Plans would still need to incorporate auto-enrollment provisions into collective bargaining agreements. Consideration of the legislation was scheduled for a vote by the Senate’s Public Employment and Retirement Committee on April 11, 2016; the item was pulled prior to the meeting and no information is available on rescheduling. Staff will monitor this legislation and report back to the Board with relevant updates. The text of the proposed bill is attached for reference.

Submitted by: \_\_\_\_\_  
Esther Chang

Approved by: \_\_\_\_\_  
Steven Montagna

## DEFERED COMPENSATION

Legend:

G = Governance

C = Communications

O = Operations

A = Administration

## COMPLETED PROJECTS: MARCH 2016

#	STATUS		PROJECT	DUE DATE	COMPLETED?	NOTES
1	Completed	G	Board Report - Minutes	03/31/16	Y	For February
2	Completed	G	Board Report - Staff Report	03/31/16	Y	For February
3	Completed	G	Board Report - FDIC Provider Recommendation	03/31/16	Y	
4	Completed	G	Board Report - External Financial Services, Steel Peak Wealth Management	03/31/16	Y	
5	Completed	G	Board Ethics Filings	03/31/16	Y	
6	Completed	A	DCP TPA RFP - Preliminary Requirements Review	03/31/16	Y	Due to vendors 3/4/16
7	Completed	A	DCP TPA RFP - Final Q&A Doc	03/31/16	Y	
8	Completed	A	Consulting Services - Finalize Segal Contract	03/31/16	Y	Executed
9	Completed	A	PSP TPA Services RFP - Development	03/31/16	Y	
10	Completed	C	Plan Highlights	03/31/16	Y	2016 Annual Update
11	Completed	C	When You Retire	03/31/16	Y	2016 Annual Update
12	Completed	C	Deferred Extra Pay	03/31/16	Y	2016 Annual Update
13	Completed	C	Account Management Tool Flyers	03/31/16	Y	2016 Annual Update (6 pages)
14	Completed	C	Newsletter 1Q 2016 - Development of Articles	03/31/16	Y	
15	Completed	C	Citywide Notice - External Financial Services	03/31/16	Y	
16	Completed	C	Correspondence to Steel Peak	03/31/16	Y	
17	Completed	O	2015 Contributions Review	03/31/16	Y	
18	Completed	O	2015 Catch-Up Code Removal and Review	03/31/16	Y	
19	Completed	O	Plan Payroll & Transaction Processing	03/31/16	Y	Ongoing

20	Completed	O	Participant & Payroll Issues Resolution	03/31/16	Y	Ongoing
<b>PENDING PROJECTS</b>						
<b>APRIL 2016</b>						
1	Completed	G	Board Report - Minutes	04/30/16	Y	For March
2	Completed	G	Board Report - Staff Report	04/30/16	Y	For March
3	Completed	G	Board - Coordination of Investment Mgr Presentation & Mercer	04/30/16	Y	
4	Completed	A	Stable Value - Finalize Galliard Contract	04/30/16	Y	Executed 4/13/16
5	PENDING	A	Union Bank - Contract Review by Vendor	04/30/16		Pending
6	PENDING	C	1Q Newsletter - Finalize for Print & Distribution	04/30/16		Pending
7	PENDING	C	Targeted Beneficiary Email Project - Development	04/30/16		Pending
8	PENDING	C	New Employee Welcome Packet - Development	04/30/16		Pending
9	PENDING	C	Fee Disclosure Flyer	04/30/16		Pending
10	PENDING	C	Responses to NAGDCA Benchmarking Survey	04/30/16		Pending
11	PENDING	C	New Brand Style Guide	04/30/16		Pending
12	PENDING	O	Plan Payroll & Transaction Processing	04/30/16		Ongoing
13	PENDING	O	Participant & Payroll Issues Resolution	04/30/16		Ongoing
14	PENDING	O	Catch Up Unused Bucket - To fix amounts reset at 2015 end.	04/30/16		Pending. SOS Ticket #767404
15	PENDING	O	Loan Default Reversal - Hold Harmless	04/30/16		Pending
<b>MAY 2016</b>						
16	PENDING	G	Board Report - Minutes	05/30/16		For April
17	PENDING	G	Board Report - Staff Report	05/30/16		For April
18	PENDING	G	Board Report - DCP Annual Report - 2015	05/30/16		Pending
19	PENDING	G	2016-17 Training Program Preferences	05/30/16		Pending
20	PENDING	G	Board Report - Participation & Communications	05/30/16		Pending
21	PENDING	A	Union Bank - Contract Review by City Attorney	05/30/16		Pending

22	PENDING	A	Union Bank - 1022 Review Request	05/30/16		Pending
23	PENDING	A	Union Bank - Contract & Requirements Review by Personnel Admin. Services	05/30/16		Pending
24	PENDING	A	Union Bank - Trading Agreement with Empower	05/30/16		Pending
25	PENDING	A	2015 Annual Report	05/30/16		Pending
26	PENDING	A	PSP TPA RFP - Posting	05/30/16		Pending
27	PENDING	A	Governance Documents Review	05/30/16		Plan Document, Bylaws, Travel Policy - review of Board's authority, etc.
28	PENDING	C	2Q 2016 Newsletter - Article Development	05/30/16		Pending
29	PENDING	C	2Q 2016 Newsletter - Formatting & Layout Review	05/30/16		Pending
30	PENDING	C	Calculator Revisions	05/30/16		Remove Tier 2, add Tier 3 for LACERS
31	PENDING	C	Revise Pension Savings Plan Highlights	05/30/16		Pending
32	PENDING	C	Accrued Leave - Flier and Form Revisions	05/30/16		Pending
33	PENDING	C	Catch Up - Form revisions	05/30/16		Pending
34	PENDING	C	Distribution Options Guide - Tax and Loan revisions	05/30/16		Pending
35	PENDING	O	Plan Payroll & Transaction Processing	05/30/16		Ongoing
36	PENDING	O	Participant & Payroll Issues Resolution	05/30/16		Ongoing
<b>JUNE 2016</b>						
37	PENDING	G	Board Report - Minutes	06/30/16		For May
38	PENDING	G	Board Report - Staff Report	06/30/16		For May
39	PENDING	G	Board Report - DCP TPA RFP Selection Recommendation	06/30/16		Pending
40	PENDING	G	Board Report - Quarterly Reimbursements, 1Q 2016	06/30/16		Pending
41	PENDING	A	Union Bank - Contract Approval from CAO/Mayor	06/30/16		Pending
42	PENDING	A	Union Bank - Contract Execution	06/30/16		Pending
43	PENDING	C	2Q 2016 Newsletter - Empower Editor & Compliance Reviews	06/30/16		Pending
44	PENDING	C	FDIC - Fund Sheet Revision	06/30/16		Pending
45	PENDING	C	FDIC - Web Banner Design	06/30/16		Pending

46	PENDING	C	FDIC - Web Banner Announcement	06/30/16		Pending
47	PENDING	C	Investment Performance Document - Revisions	06/30/16		FNs to be updated for FDIC; review for other fund changes as well.
48	PENDING	O	Plan Payroll & Transaction Processing	06/30/16		Ongoing
49	PENDING	O	Participant & Payroll Issues Resolution	06/30/16		Ongoing
<b>JULY 2016</b>						
50	PENDING	G	Board Report - Minutes	07/31/16		For June
51	PENDING	G	Board Report - Staff Report	07/31/16		For June
52	PENDING	G	Board Report - Travel Policy	07/31/16		Pending
53	PENDING	G	Board Report - Plan Governance Documents Review Schedule	07/31/16		Pending
54	PENDING	G	Board Report - Investment Issues Review Schedule	07/31/16		Pending
55	PENDING	G	Board Report - 2016 National Retirement Security Week Campaign Proposal	07/31/16		Pending
56	PENDING	C	2Q 2016 Newsletter - Investment Performance Document Review	07/31/16		Pending
57	PENDING	C	2Q 2016 Newsletter - Mail & Print	07/31/16		Pending
58	PENDING	O	Plan Payroll & Transaction Processing	07/31/16		Ongoing
59	PENDING	O	Participant & Payroll Issues Resolution	07/31/16		Ongoing
<b>UPCOMING</b>						
60	PENDING	G	Board Report - Beneficiary Campaign Summary	05/31/16		Pending
61	PENDING	G	Board Report - Distributions & Contributions - Retirees who return to work	TBD		Pending
62	PENDING	G	Report back recapping presentation on Financial Wellness from Strategic Planning Meeting	TBD		Pending
63	PENDING	G	Letter to City Council re 10% Early Distribution Penalty	TBD		Pending
64	PENDING	G	Board Report - Proxy Share Voting	TBD		To add to Gov Review
65	PENDING	G	PSP Program Review - Proposal for Terminated Accounts	TBD		Pending
66	PENDING	G	Loan Policy Document	TBD		Pending
67	PENDING	G	Board Report - Historical Contribution History	TBD		Pending
68	PENDING	G	Board Report - SAS Form	TBD		Pending
69	PENDING	G	Review of CA Governmental Plan - Demographic Files	TBD		Pending
70	PENDING	G	Board Report - Contractor Evaluation Policy	TBD		Pending

71	PENDING	G	Board Report - Retirement/Pension System Retired Loan Payments	TBD	Pending
72	PENDING	G	Investments Committee Meeting: Investment Policy Review - Termination	TBD	Pending
73	PENDING	G	Research adding other Plan type in order to increase savings opportunities (from 8/21/12 BDCA meeting)	TBD	Pending
74	PENDING	G	Deemed IRA	TBD	Pending
75	PENDING	G	Auto-Glide Investment Allocations	TBD	Pending
76	PENDING	G	Board Report - Transition Manager Procurement	TBD	Pending
77	PENDING	G	Revisit Plan Audit	TBD	Pending
78	PENDING	G	Board Report - 2014 PSP Annual Report	TBD	Pending
79	PENDING	C	Research - Video Content Development & Social Media Capabilities	TBD	Pending
80	PENDING	C	Website Tutorial/Education Videos	TBD	Pending
81	PENDING	C	Letter Notification to Participants RE: Catch-Up Eligibility ("Attained Age Letters")	TBD	Pending
82	PENDING	C	EZ Enrollment Form	TBD	Pending
83	PENDING	C	Enrollment Guide Revision	TBD	Pending
84		C	DROP Options Guide update-revisions	TBD	Pending
85	PENDING	C	Enrollment Form Revision Phase 2 (Auto escalation & PSP Rollover addition)	TBD	Pending
86	PENDING	C	DROP participant fee comparison graphic flier	TBD	Pending
87	PENDING	C	Roth 457 Intro Guide Revise/Redesign	TBD	Pending
88	PENDING	C	DCP Glossary	TBD	Pending
89	PENDING	C	Communications Plan: List of alternative DC publications and outlets (LACERS, Pensions, Union pubs, etc.)	TBD	Pending
90	PENDING	A	Budget procedural revisions	TBD	Pending
91		O	Catch Up Contribution changes allowed online	TBD	Pending
92	PENDING	O	PSP Account Consolidation	TBD	Pending
93	PENDING	O	Domestic Partners Research and Review with City Attorney and California Peers	TBD	Pending
94	PENDING	O	Online Enrollment Functionality	TBD	Pending
95	PENDING	O	Pre-Audit Testing - Phase II	TBD	Pending
96	PENDING	O	PST Retroactive Adjustments - Meeting w/ LACERS & Controller	TBD	Pending
97	PENDING	O	DCP Workprocesses Review & Documentation	Ongoing	Pending

## BDCA UPCOMING AGENDA TOPICS

	Administrative Issues	Presentations/Training
<b>May 2016</b>	Plan Participation & Communications Strategy	Quarterly Investment & Economic Review (1Q 2016) Fund Manager Presentation (Vanguard)
	2015 DCP Annual Report	
	DCP Training Program, FY 16-17 Preferences	
<b>June 2016</b>	TPA RFP - Board Selection	TPA/Plan Statistics Review (1Q 2016)
	Quarterly Reimbursements, 1Q 2016	
<b>July 2016</b>	DCP Committees - Issues & Schedule	
	DCP Travel Policy Update	
	Proposal - National Ret. Security Campaign 2016	
<b>Aug. 2016</b>	DCP Proposed Metrics	Quarterly Investment & Economic Review (2Q 2016) Fund Manager Presentation (Galliard)
	Quarterly Reimbursements, 2Q 2016	
<b>Sep. 2016</b>	Proposed DCP Training Program, FY 17-18	TPA/Plan Statistics Review (2Q 2016)
<b>Oct. 2016</b>	2016 NAGDCA Conference Update	
<b>Nov. 2016</b>	Quarterly Reimbursements, 3Q 2016	Quarterly Investment & Economic Review (3Q 2016) Fund Manager Presentation (FDIC Banks)
<b>Dec. 2016</b>	NRSW Campaign Follow Up	TPA/Plan Statistics Review (3Q 2016)
<b>Jan. 2017</b>	2016 Meeting Attendance	
	2017 Plan Year Budget	
	2017 Board Elections - Overview	
<b>Feb. 2017</b>	Quarterly Reimbursements, 4Q 2016	Quarterly Investment & Economic Review (4Q 2016) Fund Manager Presentation (DFA, Brandes, MFS)
<b>Mar. 2017</b>		TPA/Plan Statistics Review (4Q 2016)
<b>Apr. 2017</b>	2017 Board Elections - Update	

AMENDED IN SENATE APRIL 5, 2016

**SENATE BILL**

**No. 1297**

**Introduced by Senator Pan**

February 19, 2016

An act to add Article 5 (commencing with Section 7523) to Chapter 21 of Division 7 of Title 1 of the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 1297, as amended, Pan. Public employee retirement plans: automatic enrollment and escalation.

~~The California Constitution grants the retirement board of a public pension or retirement system plenary authority and fiduciary responsibility for investment of moneys and administration of the system, as specified.~~

~~Under existing law, public employees may participate in prescribed supplemental defined benefit plans and deferred compensation plans established or maintained by employers.~~

*Existing federal law prescribes requirements for different types tax-qualified retirement plans that permit employees to contribute portions of their pre-tax wages to individual retirement accounts or that provide for deferred compensation. Existing law authorizes the Department of Human Resources to establish and administer tax-deferred saving plans in accordance with specified provisions of federal law.*

This bill, notwithstanding any other law, would authorize a state or local public employer participating in an employee *supplemental retirement savings* plan, defined to include ~~certain defined benefit plans, specified deferred compensation plans, or plans and payroll deduction~~

individual retirement account plans, to make a deduction from the wages or compensation of an employee for contributions attributable to automatic enrollment and automatic escalation in the employee retirement plan. *The bill would require an employer that provides for automatic enrollment in a supplemental retirement savings to provide a default investment option that meets specified criteria and is either a stable value product or a default investment options, as defined.* The bill would provide that an employer that provides automatic enrollment or automatic escalation in an employee retirement plan is not liable for the investment decisions made by the employer on behalf of any participating employee with respect to the default investment of contributions made for that employee to the plan, if specified requirements are met. *The bill would prohibit an employer from making deductions from the compensation of represented employees in the absence of a collectively bargained memorandum of understanding authorizing those deductions. The bill would also prohibit an employer that makes contributions to an employee retirement plan on behalf of employees from contributing at a greater rate for nonrepresented, managerial, or supervisory employees than that contributed for represented employees who are in related retirement membership classifications, except in specified instances.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 5 (commencing with Section 7523) is  
 2 added to Chapter 21 of Division 7 of Title 1 of the Government  
 3 Code, to read:

4  
 5 Article 5. Public Employee Retirement Plans: Automatic  
 6 Enrollment and Escalation

7  
 8 7523. As used in this article:

9 (a) “Automatic enrollment” means an employee *supplemental*  
 10 retirement *savings* plan provision under which an employee will  
 11 have a specified contribution made to the plan, equal to a  
 12 compensation reduction, that will be made for the employee unless  
 13 the employee affirmatively elects not to have any compensation  
 14 reduction contributions or elects a compensation reduction

1 contribution in an alternative amount, in accordance with the  
2 federal Pension Protection Act of 2006 (Public Law 109-280). An  
3 employee *supplemental retirement savings* plan may provide for  
4 automatic enrollment whether or not the employee *supplemental*  
5 *retirement savings* plan elects to provide for automatic escalation.

6 (b) “Automatic escalation” means an employee *supplemental*  
7 *retirement savings* plan provision under which an employee’s  
8 salary reduction contribution to the plan is increased by a specified  
9 amount annually up to the limits imposed by the Internal Revenue  
10 Code of 1986, as amended, unless the employee affirmatively  
11 elects not to have the automatic escalation amount deducted from  
12 compensation or elects an alternative contribution reduction  
13 amount.

14 (c) “*Default investment option*” means the investment option  
15 in which funds would be invested unless the employee selected an  
16 alternative investment option.

17 (e)

18 (d) “Employee *supplemental retirement savings* plan” means a  
19 plan described in Sections 401(k) or 403(b), or a governmental  
20 deferred compensation plan described in Section 457, or a payroll  
21 deduction individual retirement account plan described in Sections  
22 408 or 408A, of the Internal Revenue Code of 1986, as amended.

23 (e) “*Stable value product*” means an investment product or  
24 fund designed to preserve principal, provide a rate of return  
25 generally consistent with that earned on intermediate investment  
26 grade bonds, and provide liquidity for withdrawals by participants  
27 and beneficiaries, including transfers to other investment  
28 alternatives, with both of the following characteristics:

29 (1) It imposes no fees or surrender charges in connection with  
30 withdrawals initiated by a participant or beneficiary.

31 (2) It invests primarily in investment products that are backed  
32 by state or federally regulated financial institutions.

33 7523.1. (a) This article shall apply to all state and local public  
34 employee *supplemental retirement savings* plans and to their  
35 participating employers.

36 (b) The administration of this article shall comply with  
37 applicable provisions of the Internal Revenue Code and the  
38 Revenue and Taxation Code.

39 7523.2. (a) Notwithstanding any other law, and subject to the  
40 conforming limitations of Section 7523.4, a state or local public

1 employer participating in an employee *supplemental* retirement  
 2 *savings* plan may make a deduction from the wages or  
 3 compensation of an employee for contributions attributable to  
 4 automatic enrollment and automatic escalation in the employee  
 5 *supplemental* retirement *savings* plan, regardless of whether the  
 6 plan is subject to the federal Employee Retirement Income Security  
 7 Act of 1974, as amended (29 U.S.C. Sec. 1001 et seq.).

8 (b) *An employer that provides for automatic enrollment in a*  
 9 *supplemental employee retirement savings plan shall provide a*  
 10 *default investment option that shall meet all of the following*  
 11 *criteria:*

12 (1) *The default option has been agreed to with affected*  
 13 *employees in a memorandum of understanding that has been*  
 14 *collectively bargained in accordance with applicable laws. The*  
 15 *agreement may identify a specific default investment option or*  
 16 *allow the savings plan administrator to select the default*  
 17 *investment in compliance with the requirements of this section.*

18 (2) *The default investment is either a qualified default investment*  
 19 *alternative, as defined in Section 2550.404c-5 of Title 29 of the*  
 20 *Code of Federal Regulations, effective April 30, 2008, or a stable*  
 21 *value product.*

22 (3) *The investment option does not impose fees or surrender*  
 23 *charges in connection with withdrawals initiated by the plan*  
 24 *participant or beneficiary.*

25 (4) *Conditions for fiduciary relief described in Section*  
 26 *2550.404c-5 of Title 29 of the Code of Federal Regulations,*  
 27 *effective April 30, 2008, are met.*

28 (c) *This section does not modify the fiduciary responsibility of*  
 29 *employers or other plan officials for the selection of investment*  
 30 *funds, other than the default investment option, for participating*  
 31 *employees.*

32 (d) *The default investment option for state employees who*  
 33 *participate in the Savings Plus Program shall be the default*  
 34 *investment determined by the Savings Plus Program.*

35 ~~(b)~~

36 7523.3. (a) (1) An employer that provides automatic  
 37 enrollment or automatic escalation in an employee *supplemental*  
 38 retirement *savings* plan is not liable for the investment decisions  
 39 made by the employer that are subject to the provisions of Section  
 40 7523.2 on behalf of any participating employee with respect to the

1 default investment of contributions made for that employee to the  
2 plan, if all of the following requirements are met:

3 (A) The plan provides the participating employee at least  
4 quarterly opportunities to select investments for the employee's  
5 contributions among investment alternatives available under the  
6 plan.

7 (B) The participating employee is given notice of the investment  
8 decisions that will be made in the absence of direction from the  
9 employee, a description of all the investment alternatives available  
10 for employee investment direction under the plan, and a brief  
11 description of procedures available for the employee to change  
12 investments.

13 (C) The employee is given at least annual notice of the actual  
14 default investments made of contributions attributable to the  
15 employee.

16 (2) The relief from liability of the employer under this section  
17 extends to any employee *supplemental retirement savings* plan  
18 official who makes the actual default investment decisions on  
19 behalf of participating employees.

20 (e)

21 (b) Nothing in this section modifies any existing responsibility  
22 of employers or other plan officials for the selection of investment  
23 funds for participating employees.

24 (d)

25 (c) Nothing in this section or any other law shall be construed  
26 as authorizing an employer to withhold or divert any portion of an  
27 employee's wages to pay any tax, fee, or charge prohibited by  
28 Section 50026, whether or not the employee authorizes that  
29 withholding or diversion.

30 7523.4. (a) *An employer shall not make deductions from the*  
31 *compensation of represented employees, as described in Section*  
32 *7523.2, in the absence of a memorandum of understanding*  
33 *authorizing those deductions that has been collectively bargained*  
34 *in accordance with applicable laws.*

35 (b) *An employer that makes contributions to an employee*  
36 *supplemental retirement savings plan on behalf of employees shall*  
37 *not contribute at a greater rate to the plan for nonrepresented,*  
38 *managerial, or supervisory employees than the employer*  
39 *contributes for represented employees who are in related*

1 *retirement membership classifications except if either of the*  
2 *following apply:*

3 *(1) The related represented employees have agreed to receive*  
4 *a lower rate of contribution in a memorandum of understanding*  
5 *that has been collectively bargained in accordance with applicable*  
6 *laws.*

7 *(2) The related represented employees have agreed to not*  
8 *participate in the employee supplemental retirement savings plan*  
9 *in a memorandum of understanding that has been collectively*  
10 *bargained in accordance with applicable laws.*