

M E M O R A N D U M

To: Personnel Management Liaisons

Date: December 6, 1988  
Reference Code: 88-105

**THIS MEMORANDUM SHOULD BE DIRECTED TO PERSONNEL AND EMPLOYEE RELATIONS OFFICERS**

From: Department of Personnel Administration

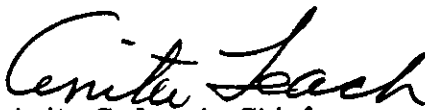
Subject: Proposed Rule on Deferred Compensation Program

The Department of Personnel Administration is amending a rule regarding the State Deferred Compensation Programs. The regulatory notice, Initial Statement of Reasons and Rule text, is attached. These materials are also being sent to the State employee organizations.

From time to time, participants request the addition of new options. As the plan has grown in size, interest in expanding the number of available options has increased. Specifically, participants request broader mutual fund choice and the availability of alternative investment types to those currently offered. This rule is being amended to expand the investment options in response to these requests.

A rule hearing has not been scheduled at this time. However, if any interested person desires a public hearing on this rule, they must submit a written request to the Department of Personnel Administration, 1515 "S" Street, North Building, Suite 108, P.O. Box 944236, Sacramento, CA 94244-2360 no later than January 3, 1989.

If you have any questions regarding this rule change, please contact John Kozusko, Administrator, Deferred Compensation Programs, at (916) 322-5070 or ATSS 492-5070 from 9:00 a.m. to 4:00 p.m. workdays.



Anita G. Leach, Chief  
Benefits Division

AGL:rd

Attachment

## **PUBLIC NOTICE**

### **DEPARTMENT OF PERSONNEL ADMINISTRATION PROPOSED AMENDMENT TO RULE 599.942**

The Department of Personnel Administration proposes the amendment of Rule 599.942, Investments, which appears in Title 2 of the California Code of Regulations.

#### **NOTICE OF PUBLIC COMMENT PERIOD**

The Department of Personnel Administration (hereinafter "DPA") invites all persons interested in the amendment of the above regulation to submit written comments related to the proposed amendment no later than January 30, 1989, in order for such comments to be considered by DPA prior to its amendment of such regulation. All written arguments, contentions, statements or other comments on the proposed amendment should be addressed to John L. Kozusko, Department of Personnel Administration, 1515 "S" Street, North Building, Suite 108, P.O. Box 944236, Sacramento, CA 94244-2360.

#### **REQUEST FOR PUBLIC HEARING**

DPA has not scheduled a public hearing on its proposed amendment, pursuant to the Administrative Procedure Act (California Government Code Section 11346.5). If any interested person desires a public hearing on the proposed DPA regulation amendment, such interested person must submit a written request that DPA conduct such a public hearing, pursuant to California Government Code Section 11346.8, by no later than January 15, 1989.

The request for a public hearing must be submitted to John L. Kozusko, Department of Personnel Administration, 1515 "S" Street, North Building, Suite 108, P.O. Box 944236, Sacramento, CA 94244-2360. Only if the written request is timely will DPA schedule a public hearing. If a hearing was held, it would be on February 2, 1989 at the Department of Personnel Administration, 1515 "S" Street, Suite 400, Sacramento, in Conference Room A at 10:00 a.m.

#### **INFORMATIVE DIGEST**

Existing Rule 599.942 provides that the State of California Plan shall consist of a savings plan, two annuity products and one mutual fund. This amendment would give the State authority to add additional investment options if desired.

#### **AUTHORITY TO ADOPT REGULATIONS**

The Department of Personnel Administration (DPA) proposes to amend this regulation under the authority granted by California Government Code Section 1985.4(d), 19816 and 19820. The purpose of this regulation is to implement, interpret and make specific California Government Code Sections 16431, 19815.4, 19819 and 19993.

INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION  
AMENDMENT

An initial statement of reasons for amending this regulation has been prepared by DPA. This statement includes the specific purpose of the regulatory action and the factual basis for determining that the regulatory action is necessary. The initial statement of reasons is available upon request. The text of the proposed regulatory action is available for public inspection at DPA and may be obtained upon request.

AMENDMENT OF PROPOSED REGULATIONS

Following the close of the public comment period, and/or public hearing, if any, DPA may amend the proposed regulation substantially as described below. Alternatively DPA may amend the regulation with modifications if the regulation as modified is sufficiently related to the original text made available to the public and it is made available for public review in its modified form at least 15 days prior to the date upon which the agency amends the regulation. A request for a copy of any regulation as modified should be addressed to John Kozusko, Department of Personnel Administration, 1515 S Street, North Building, Suite 108, Post Office Box 944236, Sacramento, California 94244-2360, (916) 322-5070. DPA will accept written comments on the regulation as modified for 15 days after the date on which it is made available.

SUBSTANTIAL CHANGES WILL REQUIRE NEW NOTICE AND HEARING

If after the public comment period and/or public hearing, if any, DPA intends to amend this regulation with modifications not sufficiently related to the original text, so as to place the public on notice that such modification could result from the originally proposed regulatory action, the modified text will not be adopted without complying anew with the notice and hearing requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to California Government Code Section 11347.3, DPA is maintaining a rulemaking file for the proposed amendment. The file currently contains:

1. A copy of the proposed regulation amendment
2. A copy of this notice; and
3. A copy of the initial statement of reasons for the proposed regulatory action

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for inspection at DPA during normal business hours.

SUBMISSION OF COMMENTS, RECEIPT OF DOCUMENTS AND ADDITIONAL  
INFORMATION

Requests for the initial statement of reasons, the written comments on the proposed amendment and questions concerning the proposed amendment of this regulation should be addressed to John L. Kozusko, Department of Personnel Administration, 1515 S Street, North Building, Suite 108, Post Office Box 944236, Sacramento, California 94244-2360, (916) 322-5070 from 9:00 a.m. to 4:00 p.m.

#### LOCAL MANDATE

The proposed regulation amendment does not impose any mandate on local agencies or school districts.

#### FISCAL IMPACT

The proposed regulation amendment imposes no new cost to any State agency, no cost to any local agency or school district requiring reimbursement under Revenue and Taxation Code Section 2231, no other nondiscretionary cost or savings to local agencies, and no cost or savings in federal funding to the State.

The Administrative Procedure Act requires DPA to determine that no alternative considered by DPA would be more effective in carrying out the purpose of the proposed rule action or would be as effective and less burdensome to affected private persons than this proposed rule action.

#### SMALL BUSINESS IMPACT

The proposed regulation amendment has no adverse impact on small business.

#### PRIVATE PERSONS/BUSINESS IMPACT

The proposed regulation amendment creates no cost impact on private persons or businesses, as there are no such persons or businesses directly affected.

#### HOUSING COSTS

The proposed regulation amendment has no effect on housing costs.

**DEPARTMENT OF PERSONNEL ADMINISTRATION  
INITIAL STATEMENT OF REASONS  
AMENDMENT OF RULE 599.942**

California Code Section 19815.4 authorizes the Department of Personnel Administration to adopt rules for the administration of the State Deferred Compensation Plan.

Specific Purpose

The specific purpose of Section 599.942 is to provide the types of investments that will be permitted in the State plan.

Factual Basis

The factual basis for the determination by the Department of Personnel Administration that an amendment to this regulation is necessary is as follows.

This regulation ensures that the State plan will be in compliance with the State Constitution and the authority outlined in Government Code Sections 16431 and 19815. Internal Revenue Code Section 457 does not provide for or limit what type of investment options may be offered in a deferred compensation plan. The State of California's plan began with a savings option through Great Western Bank, an annuity option through Nationwide Life Insurance Company and Mutual funds offered by T. Rowe Price, Associates in 1974. In 1976, California Western Life Insurance Company was added as a second annuity product provider; in 1981, Nationwide Life Insurance Company expanded their annuity offerings.

From time to time participants request the addition of new options. As the plan has grown in size, interest in expanding the number of available options has increased. Specifically, participants request broader mutual fund choice and to give the employer more latitude should we choose to carry more than two annuities in the Plan. This rule is being amended to expand the investment options in response to these requests.

Recently, the State of California Deferred Compensation Program has added two mutual funds offered by T. Rowe Price, Associates including a socially responsible fund and Kemper Financial Services offering 5 mutual funds.

DEPARTMENT OF PERSONNEL ADMINISTRATION  
RULE AMENDMENT

599.942. Investments

The State Deferred Compensation Plan shall ~~consist of the following investment offerings, a savings plan, two annuity products, both fixed and variable, and one mutual fund provider~~ offer several categories of investments, such as a selection of mutual funds including a "socially responsible" mutual fund, competitive annuity products and investments which guarantee "fixed" returns. Nothing herein shall be construed to permit any type of investment prohibited by the State Constitution or to unduly limit the addition of new options.

NOTE: Authority cited: Sections 16431, 19815.4 and 19993, Government Code, Reference: Sections 19815.2, 19815.4, 19815.6, 19819, 19993, 53601 and 53602, Government Code.