

Title 2. Administration
Division 1. Administrative Personnel
Chapter 3. Department of Human Resources
Subchapter 1. General Civil Service Rules
Article 27. 457 Deferred Compensation Plan
Section 599.942 INVESTMENTS

NOTICE OF PROPOSED RULEMAKING

The California Department of Human Resources (CalHR) proposes to amend the regulation described below after considering all comments, objections, and recommendations.

I. PUBLIC HEARING

CalHR has not scheduled a public hearing on this proposed action. However, CalHR will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

II. WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to CalHR. Comments may also be submitted by facsimile (FAX) at 916-327-1885 or by e-mail to joseph.mesich@calhr.ca.gov. The written comment period closes at 12:00 a.m. on January 17, 2023. CalHR will only consider comments received at CalHR's office by that time. Submit comments to the following address:

Joseph Mesich, Investment & Project Analyst
California Department of Human Resources
1515 S Street, North Building, Suite 500
Sacramento, CA 95811

III. AUTHORITY AND REFERENCE

Government Code section 19815.4 authorizes CalHR to formulate, adopt, amend, or repeal rules, and regulations affecting the purposes, responsibilities and jurisdiction of the department that are consistent with the law and necessary for administration of its programs. Government Code section 19993.05 allows the Savings Plus Program the flexibility to offer the investment options that are in the best interest of its participants.

IV. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Code of Regulations section 599.942 was adopted in January 1986 and specifies that the state's 457 Deferred Compensation Plan shall consist of a savings plan, two annuity products, both fixed and variable; and one mutual fund provider. The purpose of this regulation was to ensure a minimum number of options were provided to participants.

In 1998, the Legislature passed Assembly Bill 1416, enacting Government Code section 19993.05 and required CalHR to include a variety of investment choices, including but not limited to stocks, bonds, open ended mutual funds, and annuities, for program participants.

Senate Bill 1504 (Chapter 903, Statutes of 2018) amended Government Code section 19993.05, known as the Freedom of Financial Choice Act by removing statutory requirements for the Savings Plus Program to offer specific investment options, including annuity products, and gave CalHR the exclusive authority to determine investment options for the Savings Plus Program.

Due to the revision and broader language of available investment options under the Government Code section 19993.05, Savings Plus is able to amend section 599.942 and harmonize regulations to the Savings Plus Plan documents. The regulatory amendments will allow the Savings Plus Program the necessary flexibility while still specifying certain parameters for investment options.

V. EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

CalHR evaluated whether or not the proposed amendment is inconsistent or incompatible with existing state regulations. These are the only regulations concerning what the State's 457 Deferred Compensation Plan shall consist of. Therefore, the proposed amendment is not inconsistent nor incompatible with other existing state regulations.

VI. ANTICIPATED BENEFITS FROM THIS PROPOSED REGULATION

The proposed regulation will remove the requirement to offer certain specified investment options, will align regulatory language with the amended Government Code section 19993.05 and existing Savings Plus Plan document language, and allow the Savings Plus Program the flexibility to offer investment options that are in the best interest of its participants.

VII. DISCLOSURES REGARDING THE PROPOSED ACTION

CalHR has made the following initial determinations:

1. Mandate on local agencies and school districts: None.
2. Cost or savings to any state agency: The current regulation does not have any fiscal impact on state agencies, local government, or private sector business. The proposed amendment would not change this assessment.
3. Cost to any local agency or school district, which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
4. Other nondiscretionary cost or savings imposed on local agencies: None.
5. Cost or savings in federal funding to the state: None.
6. Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
7. Cost impacts on representative private person or business: CalHR is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
8. Results of the Economic Impact Assessment/Analysis:

Adoption of these regulations will not:

- a. Create or eliminate jobs within California;
- b. Create new businesses or eliminate existing businesses within California; or
- c. Affect the expansion of businesses currently doing business within California.
- d. Create new benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

Adoption of these regulations will:

- e. The proposed regulatory change will remove the requirement to offer certain specified investment options, align regulatory language with existing Plan Document language and Government Code section 19993.05 and allow the flexibility to offer investment options that are at a lower cost and in the best interest of its participants.

9. Significant effect on housing costs: None.

10. Small Business Impact: The proposed regulation amendment has no impact on small businesses. This only regulates the internal process by which the state HR departments shall ensure only those who are truly qualified dependents of active employees are receiving benefits, and does not extend in any way to private businesses or the general public.

VIII. CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), CalHR must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of agency, would be more effective in carrying out the purpose for which the action is proposed; or would be as effective and less burdensome to affected private persons; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposed described in this Notice.

CalHR invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the hearing, if one is requested, or during the written comment period.

IX. CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Joseph Mesich, Investment & Project Analyst
California Department of Human Resources
1515 S Street, North Building, Suite 500
Sacramento, CA 95811
Telephone: 916-324-0519
E-mail: joseph.mesich@calhr.ca.gov

The backup contact person for these inquiries is:

Jodi LeFebre, Legislative Coordinator
California Department of Human Resources
1515 S Street, North Building, Suite 500
Sacramento, CA 95811
Telephone: 916-214-6119
E-mail: jodi.lefebvre@calhr.ca.gov

Please direct requests for copies of the proposed text (the “express terms”) of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Joseph Mesich at the above address.

X. AVAILABILITY OF THE STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

CalHR will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address during normal business hours. As of the date this notice is published, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons.

XI. AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, CalHR may adopt the proposed amendment to the regulation as described in this notice. If CalHR makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) availability to the public, and will submit a copy to anyone who has submitted a written comment, for at least 15 days before CalHR adopts the regulation as revised. Please send requests for copies of any modified regulation to the attention of Joseph Mesich at the address indicated above. CalHR will accept written comments on the modified regulation for 15 days after the date on which they are made available.

XII. AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Joseph Mesich at the above address.

XIII. AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strike out can be accessed through our website at www.calhr.ca.gov.

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