

# SYSTEM REGULATION

## **31.02.11 Deferred Compensation Program**

*Approved December 19, 1995*

*Revised April 24, 1996*

*Revised January 3, 2000*

*Supplements System Policy 31.02*

### 1. GENERAL

- 1.1 Under the Deferred Compensation Program (DCP), an eligible employee may enter into an agreement with the state to reduce current earnings and to apply the proceeds of such earnings reduction to the purchase of life insurance, fixed and/or variable annuities, mutual funds, or investment contracts with banks, savings and loan associations, or credit unions. The employee is allowed to defer the payment of federal income tax on the portion of current salary contributed under this program, subject to the limitations established in Section 457 of the Internal Revenue Code. DCP is administered by the Employees Retirement System of Texas (ERS).
- 1.2 Each employee should recognize that: (a) participation in the program represents a firm, long-term commitment; (b) withdrawal of benefits is contingent upon the occurrence of certain events specified in state and federal law, including termination of employment with the State of Texas, reaching the age of 70.5, serious financial hardship, or death; (c) there are no loan provisions in the plan; and (d) comparison of costs and benefits between plans offered by two or more companies, associations, or credit unions is the responsibility of the employee.
- 1.3 Enrollment in the program is solely at the discretion of each employee. The System assumes no liability or responsibility for the income tax aspects of the DCP, the terms and provisions of any contract issued thereunder, monitoring of the financial stability of carriers, or the market condition of the participants' investments. System human resources and payroll workstation employees are specifically prohibited from counseling other employees in the various aspects of the DCP.
- 1.4 The employing System component is responsible for notifying each new employee of the availability of the program and securing the employee's written acknowledgment of notification.

### 2. ELIGIBILITY AND ENROLLMENT

- 2.1 All System employees who report personal income for federal income tax purposes on the cash receipts and disbursements method of accounting are eligible to participate in the DCP.

2.2 New participants may enroll in the DCP by executing the agreement prior to the first day of the month in which enrollment is to be effective. Participants may increase or decrease the amount of their contribution by executing an agreement prior to the first day of the month in which the change is to be effective. The agreements may be canceled at any time during the year. The maximum amount of salary that will qualify each tax year for tax deferral must be determined by each individual using the System DCP Worksheet. Contributions to other System retirement programs (Optional Retirement Program, Teacher Retirement System and Tax-Deferred Account Program) in combination with contributions to the Deferred Compensation Program cannot exceed this limit

### 3. PAYMENT OF BENEFITS

The rules regarding the distribution of a participant's deferrals and investment income are complex and are established by ERS, subject to the limitations established in the Internal Revenue Code. The ERS rules regarding distributions can be found in the Texas Administrative code at 34 TAC §87.17, or can be obtained from the System Human Resources Office.

### 4. EMERGENCY WITHDRAWAL OF FUNDS

The ERS may approve an application by a participating employee for an emergency withdrawal of funds, but only in the event of a serious emergency that is beyond the employee's control and that would cause that employee great hardship if an emergency withdrawal were not permitted. Any approved emergency withdrawal will be limited to the amount necessary to meet the emergency situation.

### 5. ADMINISTRATION OF PROGRAM

5.1 As administrator, the ERS executes all master agreements between the State of Texas and qualified insurance companies, banks, savings and loan associations, and credit unions; publishes lists of such approved companies, associations, and credit unions; and prescribes regulations necessary for the successful operation of the program.

5.2 The ERS has delegated responsibility for record-keeping and salary-reduction processing to the payroll offices of state agencies and institutions of higher education. Budget/Payroll/Personnel System workstations will maintain the records and perform the associated payroll processing functions prescribed by the ERS. Liaison with the ERS Office and coordination with the System components are the responsibility of the System Human Resources Office.

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HISTORY: Last version: April 24, 1996

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