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MEMORANDUM

To: Audit & Governance Committee Members
From: John Meyer, Director of Contributions and Plan Management
Sent: May 12, 2020
Subject: Discussions and Action Items

Overview

On May 12, 2020, the Audit & Governance Committee (“AGC”) will review four items that may warrant action or discussion, and which may result in recommendations to the full Plans Management Board (“Board”). The AGC will review (a) a proposed policy relating to the training of Board and committee members, (b) 457 Plan amendments related to the SECURE Act, (c) reactivation of the State’s administration fee for the 457 Plan, and (d) the schedule of training for Board and committee members. The following information provides additional background on the four items.

Training Policy

The [Training Policy](#) is designed to ensure that Board and committee members understand their fiduciary and other legal obligations and obtain and maintain the level of knowledge and expertise needed to oversee the administration of the plans. The Office of State Treasurer (“OST”) drafted the policy based on research from other states and in consultation with Cammack and the Deputy Attorney General. The policy will be incorporated in the Plans Management Board Governance Manual. The proposed Training Policy contemplates that the Board will approve a training schedule for: (a) fiduciary duties and best practices, (b) the State’s Code of Conduct, and (c) the State’s Freedom of Information Act, 29 Del. C. §§ 10001-10007 (“FOIA”), and Public Records Law, 29 Del. C. §§ 501-526 (“PRL”). The policy states that fiduciary training will be provided by outside tax counsel and/or the Board’s independent investment advisor, (b) Code of Conduct training shall be provided by counsel for the Public Integrity Commission, and (c) FOIA and PRL training will be provided by the Deputy Attorney General assigned to OST. The Board shall approve the providers of any additional training. Scheduled training sessions are mandatory for appointed Board and committee members and designees of ex officio members. Ex officio members are encouraged to attend. Appointed members or designees who are unable to participate in a mandatory training session as scheduled must promptly coordinate with OST to review the session recording and related training materials and confirm in writing to OST when the training has been completed

Action Item: Discuss whether to recommend the adoption of the Training Policy.

457 Plan Amendment (SECURE Act)

In December of 2019, President Trump signed into law the Further Consolidated Appropriations Act, which included the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019. The Act includes a number of retirement savings and employee benefit changes. In February 2020, the AGC discussed two amendments for the 457 Plan. The first amendment, mandatory in nature, would increase the age for required minimum distributions from 70 ½ years of age to 72 years of age. The second amendment, permissive in nature, would reduce the age for in-service distributions from 70 ½ years of age to 59 ½ years of age. The changes are reflected in [draft Amendment Three to the 457\(b\) Plan](#).

Action Item: Discuss whether to recommend the adoption of Amendment Three to the 457(b) Plan.

457 State Administration Fee Suspension

In June 2018, the Board approved using 457 legacy fees to offset plan expenses and suspended the State administration 457 fee through June 2019. The initial projections indicated that legacy fees would cover two years of expenses and leave a budget reserve of approximately \$200,000. The Board approved continuing the suspension in June 2019 for another four calendar quarters. As of May 1, 2020, the budget reserve is approximately \$220,000.

Action Item: Discuss whether to recommend the activation of the State administration fee for the 457(b) Plan.

Board Training Dates

Potential training session dates for 2020 include the September 1, 2020 and the December 8, 2020 Board meetings. Training topics may include (a) fiduciary duties and best practices, (b) the State's Code of Conduct, and (c) FOIA and PRL, and (d) any other Board-requested training.

Action Item: Recommend a schedule for (a) fiduciary training, (b) Code of Conduct training, (c) FOIA and PRL training, (d) and any other Board-requested training.