



Agenda Item No. 3

To: Rules, Policy and Industrial Relations Committee/Committee of the Whole  
Meeting of June 8, 2007

From: Teri W. Mantony, Deputy General Manager/Administration and Development  
Joseph M. Wire, Auditor-Controller  
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Subject: **APPROVE CHANGES TO ADMINISTRATIVE POLICIES RELATIVE TO THE DISTRICT'S 457 DEFERRED COMPENSATION PLANS**

### **Recommendation**

The Rules, Policy and Industrial Relations Committee recommends that the Board of Directors approve the following actions:

1. Approve an expanded definition of “eligible” employees for participation in the District’s Deferred Compensation Plans to include Casual Vessel Masters; and,
2. Acknowledge that an employee’s deferred compensation monies may be used toward the purchase of additional service credits under the CalPERS pension plan.

### **Background**

In 1973, the Board of Directors authorized creation of a 457 Deferred Compensation Plan for District employees. Since the plan’s inception, the Board has authorized various changes to the terms of the document governing the 457 Deferred Compensation Plan (the “Plan Document”) in order to reflect changes in applicable tax law and the intended operation of the plan. Staff and legal counsel are currently reviewing the Plan Document to assure that it complies with recent changes in federal tax laws, and also that its administrative components are still appropriate given the size of the plan and the District’s current configuration and needs. It is likely that a comprehensive document revision and recommendations for enhanced plan administration will come forward later this year. In the meantime, however, two issues need to be addressed at this time.

First, as part of the 2006 bargaining cycle with the Vessel Masters Marine Engineers Beneficial Association (MEBA) unit, it was agreed that Casual Vessel Masters would be permitted to participate in the 457 Deferred Compensation Plan. The Board of Directors has approved the terms of the Vessel Masters Memorandum of Understanding which includes this provision. Currently, only regular employees (both part-time and full-time) are allowed to participate. District staff felt that it was in both the District’s and employees’ best interest to grant this item.

First, this was the only bargaining unit which brought forth a proposal to include casual employees in the 457 Deferred Compensation Plan, and on average there are only 16 casuals in this job classification. The number is fairly contained in terms of the additional administrative burden for the plan providers. Further, the Casual Vessel Masters work frequently and do not work as intermittently or sporadically as do other casuals in the District. They receive more regular pay checks, and larger amounts. Additionally, because of the high skills set and certifications required for this classification, the District felt this was a small benefit to attract and retain qualified captains. Last, the proposal was brought forward because of concerns about the stability of the MEBA pension plan. This seemed like a possible alternative to address the Vessel Masters' concerns. While approved by the Board as part of the MOU, the 457 Plan Document has not been changed, and action by the Board is needed to effect such change.

Second, Section 7.2 of the Plan Document permits participants to transfer amounts under the 457 Deferred Compensation Plan to a pension plan in order to purchase additional service credit, but only to the extent permitted by rules and procedures established to govern such transfers. To date, the District has prohibited such transfers from taking place based on the advice of legal counsel. Legal counsel had advised that, due to uncertainty in the tax laws, allowing such transfers could in certain circumstances expose the 457 Deferred Compensation Plan and its participants to adverse tax consequences.

New federal tax laws enacted last fall now clarify that such transfers are permitted, and will not trigger adverse tax consequences to the District's 457 Deferred Compensation Plan or to participating employees. Due to this new federal law, it is recommended that the District now allow such transfers to take place.

### **Fiscal Impact**

The inclusion of a limited number of Casual Vessel Masters should not materially impact the administration of the 457 Deferred Compensation Plan, or materially increase the administrative fees charged by the plan's providers, namely, ICMA and Nationwide. Also, any transfer of funds from the 457 Deferred Compensation Plan to a pension plan for purchases of additional service credit should not impact the District financially because the funds belong to plan participants, not to the District, and the service credits are priced to cover the cost of the additional benefit.