



457(b) FICA Alternative Plan and Trust

The Omnibus Budget Reconciliation Act of 1990 (OBRA 90), mandates that employees of public agencies, including school districts who are not members of the employer's existing retirement system as of January 1, 1992 be covered under Social Security or a qualifying alternate plan. The ESC Region 10 457(b) FICA Alternative Plan satisfies federal requirements and provides substantial cost savings compared to Social Security.

As a result of the legislation passed under House Bill 3459 in the 78th Texas Legislature, a 90-day waiting period is required prior to becoming a member of the Texas Teacher Retirement System (TRS) for eligible employees hired into a TRS-covered position on or after September 1, 2003. As permitted under Section 3121(b)(7)(F), the FICA Alternative Plan provides for employees to participate in a 457(b) Plan during the 90-day waiting period in lieu of Social Security. Employees who would otherwise be members of TRS except for the fact that they are in their first 90 days of employment in a TRS-covered position are eligible for the Plan.

1. **Eligibility:** An employee is eligible to participate in the FICA Alternative Plan if they meet one of the eligibility requirements listed below.

- Part-time (20 hours or less per week)
- Seasonal (five months or less per year)
- Temporary (contract of two years or less in duration)
- Not covered by TRS in a position otherwise covered by TRS

2. **Contributions:** Social Security requires that the equivalent of 12.4% of an employee's salary be contributed each month (6.2% employee, 6.2% employer). However, the FICA Alternative Plan requires only a 7.5% contribution split between the employee and the employer to a retirement account. The employer determines the contribution split. The deferrals are made on a "pre-tax" basis, unlike Social Security which are made on an "after-tax" basis.

3. **Investments:** The portfolio is a fund identical to the one offered under the Teacher/Employee Retention and Recruitment Program (TERRP) managed by TCG Investment Advisory Services LP and the ESC Region 10 TERRP Investment Advisory Committee. Since inception, the portfolio has had an average rate of return of over 16.00%. The *current investment allocation is available at www.terrp.org.*

4. **Distributions:** The employee or their beneficiary will receive the FICA Alternative Plan account balance when an employee becomes eligible for a distribution for any of the following reasons:

- Retirement
- Termination of Employment
- Unforeseen Emergency
- Changed employment status to a position covered by another retirement system (e.g., TRS)
 - > *If there have been no contributions to the account for two (2) years and the account balance is less than \$5,000, the employee may be able to request a distribution.*
 - > *If there have been no contributions to the account for two (2) years and the account balance is \$5,000 or greater, the account will only be eligible for distribution due to termination, retirement, death or disability.*
- Permanent and Total Disability
- Death

5. **Taxation:** When the employee begins to receive benefits, the funds received become taxable income. If the taxable portion of the account balance exceeds \$200, the employee can avoid immediate taxation by directing the account balance to:

- A traditional IRA
- An eligible employer plan that accepts the rollover (i.e. TRS, 403(b), 457, etc.)

6. **Designating a Beneficiary:** If the employee dies while a participant, the account balance will be distributed to the employee's beneficiary. If the employee is married at the time of death, the spouse is automatically the beneficiary. If the employee wishes to designate someone other than the spouse as beneficiary, the employee must do so in writing and the spouse must sign a spousal consent form. If the employee is unmarried at the time of death, the account balance will be paid to the employee's estate unless another beneficiary has been designated.

7. **Company Offering Services:** The company chosen to provide the 457(b) FICA Alternative Plan is PARS, a company with many years of proven expertise in administering retirement plans to public sector employees.

8. **Protection from Liability.** The District as a 457(b) plan sponsor is responsible for the types of investments offered to participants. Most 457(b) plans do not protect the District from fiduciary liability. The ESC Region 10 457(b) FICA Alternative Retirement Plan offers fiduciary protection for the District through an Investment Advisory Agreement with TCG Investment Advisory Services LP.

