



Board Agenda Item 57

DATE: December 9, 2025

TO: Board of Supervisors

SUBMITTED BY: Hollis Magill, Director of Human Resources

SUBJECT: Restate the County of Fresno 401(a) Defined Contribution Plan

RECOMMENDED ACTION(S):

- 1. Adopt a Resolution restating the County of Fresno 401(a) Defined Contribution Plan; and**
- 2. Approve and authorize the Chairman to execute a Nonstandardized Governmental Profit Sharing/401(k) Plan Adoption Agreement to restate the County of Fresno 401(a) Defined Contribution Plan.**

There is no Net County Cost associated with the recommended actions. Collectively, the recommended actions will amend the County of Fresno 401(a) Defined Contribution Plan (the "401(a) Plan") to 1) define which employee groups are eligible to participate in the 401(a) Plan; 2) clarify that employees are not eligible to participate in the 401(a) Plan until they start making contributions to their County of Fresno 457(b) Deferred Compensation Plan (the "457(b) Plan") account; 3) remove the option to make employer non-matching contributions, including paid leave conversions; and 4) raise the threshold for involuntary cash-out of separated employee accounts from \$1,000 to \$5,000. This item is countywide.

ALTERNATIVE ACTION(S):

Your Board may choose not to raise the threshold for involuntary cash-out of separated employee accounts from \$1,000 to \$5,000. There is no alternative to restating the 401(a) Plan, as this action is required for the County to use Nationwide Retirement Solutions' ("Nationwide") Pre-Approved Governmental Defined Contribution Plan | Basic Plan Document for the County 401(a) Plan. There is no alternative to updating the eligibility and County matching contribution actions, as the Board of Supervisors has already approved changes to both the eligible employee groups and the employer matching amounts. There is no alternative to the participation timing and non-matching contribution provisions, as they are required to bring the 401(a) Plan Document in line with current County practice.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. All costs associated with the administration of the 401(a) Plan will be borne by its participants.

DISCUSSION:

1. County of Fresno 401(a) Defined Contribution Plan

The 401(a) Plan was initially adopted by the Board of Supervisors on April 5, 2022, pursuant to Resolution No. 22-114 and Agreement No. 22-130. Agreement No. 22-130 was Nationwide's Adoption Agreement for their Non-Standardized Governmental 401(a) Pre-Approved Plan, and allowed the County to customize

certain aspects of the 401(a) Plan, such as which employees may participate and what the matching contribution amount will be.

Adoption of the 401(a) Plan allowed the County to effectuate the Board of Supervisors' prior direction to match certain employees' 457(b) Plan contributions, with the least administration and without limiting employees' maximum contribution amount or additional taxation to employees.

On March 5, 2024, the Board of Supervisors amended and restated the 401(a) Plan by adopting Resolution No. 24-059 and approving Agreement No. 24-110 to 1) allow the County more flexibility to change its employer matching contribution amount; and 2) allow the County to offer non-matching contributions and leave conversion contributions to the 401(a) Plan on behalf of employees.

The Deferred Compensation Management Council (comprised of the County Administrative Officer (CAO), Auditor-Controller/Treasurer-Tax Collector, Director of Human Resources, Retirement Administrator, one (1) Department Head appointed by the CAO and two (2) Members-At-Large (appointed by the Board of Supervisors) provides oversight to the 457(b) Plan and 401(a) Plan (collectively, the "Plans"). Nationwide provides administrative, recordkeeping and participant education services for the Plans' participants and beneficiaries, pursuant to Agreement No. 24-670, approved by the Board of Supervisors on December 17, 2024.

As of November 13, 2025, the 401(a) Plan has 4,915 participants (including active and separated County employees) and over \$10.4 million in assets. Approximately 74% of match-eligible employees are currently contributing to their 457(b) Plan account, with approximately 75% of those employees contributing enough to get the full employer match of \$50.

2. County of Fresno 401(a) Plan Document

When the 401(a) Plan was initially adopted, the County had the option of creating a custom plan document or using Nationwide's pre-approved 401(a) plan document. The County elected to use Nationwide's Non-Standardized Governmental 401(a) Pre-Approved Plan because this option would provide the County with the following benefits:

- **Regulatory Compliance & Reduced Risk.** Nationwide's plan documents are pre-approved and structured to comply with IRS and Department of Labor requirements, which minimizes the risk of errors or omissions that could expose the County to audits, penalties, or 401(a) Plan disqualification.
- **Cost Savings.** The County avoids the cost of drafting and maintaining a custom plan document, which requires legal review, ongoing updates, and specialized expertise.
- **Flexibility.** While the plan document is standardized, the County is still able to customize contribution rules, eligibility, and employer match policies.

Since the 401(a) Plan was last amended and restated, Nationwide has changed their pre-approved 401(a) plan document template from the Non-Standardized Governmental 401(a) Pre-Approved Plan to the Pre-Approved Governmental Defined Contribution Plan | Basic Plan Document, and their Adoption Agreement For Nationwide Financial Services, Inc. Non-Standardized Governmental 401(a) Pre-Approved Plan to the Nonstandardized Governmental Profit Sharing/401(k) Plan Adoption Agreement. These changes require the County to restate the 401(a) Plan.

The Pre-Approved Governmental Defined Contribution Plan | Basic Plan Document and Nonstandardized Governmental Profit Sharing/401(k) Plan Adoption Agreement (the "Proposed Adoption Agreement") are used by Nationwide for both 401(a) and 401(k) plans, but only those sections of the Proposed Adoption Agreement which relate to the 401(a) Plan were modified.

The Proposed Adoption Agreement is attached to the proposed resolution as Attachment A. The Pre-Approved Governmental Defined Contribution Plan | Basic Plan Document is attached to the proposed resolution as Attachment B.

3. Changes to Agreement No. 24-110 within the Proposed Adoption Agreement

Since the 401(a) Plan was last amended and restated, the Board of Supervisors has approved employer matching contributions for bargaining unit 01, 14, and 35 employees who are in retirement tiers 4 and 5 (General and Safety) and bargaining unit 38 was decertified and the classifications were moved into employee groups whose retirement tiers 4 and 5 employees are eligible for employer matching contributions. Therefore, these employees are now eligible to participate in the 401(a) Plan. In addition, the Board of Supervisors has approved an increase in the employer matching contribution amount from \$25 to \$50 for all eligible employees.

During the review process, it was determined that additional updates and clarifications were needed to facilitate the overall administration of the 401(a) Plan. The significant changes from Agreement No. 24-110 to the Proposed Adoption Agreement are summarized below.

Item 12.b.7 of Agreement No. 24-110 - Excluded Employees: Since Agreement No. 24-110 was approved, the Board of Supervisors has approved matching contributions for all retirement tier 4 and 5 employees who are in bargaining units 01, 14, and 35. In addition, on October 7, 2025 the Board moved the Sheriff's Captain classification to the Senior Management group and the Assistant Sheriff classification to the Assistant Department Head group, pursuant to the Civil Service Commission's decertification of the Fresno County Sheriff's Captain Association as the exclusive representative for Representation Unit 38.

These actions necessitated changes to the 401(a) Plan eligibility criteria, as Item 12.b.7 of Agreement No. 24-110 excludes the following employees from participation in the 401(a) Plan "1) All employees who are not in retirement tier 4 & 5; and 2) All employees in bargaining units 01, 10, 14, and 38; and 3) All employees in the Sheriff's Lieutenant position (County of Fresno Job Classification Number 4080)". The Proposed Adoption Agreement removes this language and replaces it in Section 3-1(l) of the Proposed Adoption Agreement with Addendum 1, which lists the excluded employee groups by retirement tier. In addition, bargaining units 01 and 14, as well as the Sheriff's Lieutenant position (County of Fresno Job Classification Number 4080) were removed from the list of excluded bargaining units/positions.

Item 14.h of Agreement No. 24-110 - Effective Date of Participation (Entry Date): The language defining the effective date in Agreement No. 24-110 as "No later than the first day of the second pay period after the Employee's date of hire" was removed. Section 4-2(a) of the Proposed Adoption Agreement defines the Entry Date as "Immediate. The date the minimum age and service requirements are satisfied." Section 4-1 of the Proposed Adoption Agreement also notes -

- In Section 4-1(a)(1) that there is no minimum service requirement for participation in the 401(a) Plan; and
- In Section 4-1(a) that an eligible employee is defined as "Any Employee who (1) is eligible to participate/not excluded from participating in the 401(a) Plan; and (2) is making 457(b) contributions."

These changes were made to clarify that employees are not eligible to participate in the 401(a) Plan until they start making contributions to their 457(b) Plan accounts. This is in line with current County practice.

Items 24.d and 24.f of Agreement No. 24-110 - Sick Leave/Vacation Leave Conversion: Items 24.d and 24.f of Agreement No. 24-110 provide for sick leave and vacation leave conversion to 401(a) Plan contributions under the following conditions: "The amounts and allocations of any conversions of sick leave and/or vacation leave...as well as any other employer non-matching contribution...will be determined by the County of Fresno Board of Supervisors in a resolution or formal written action." The County does not

currently provide a paid leave conversion benefit to its employees. Section 6-4 of the Proposed Adoption Agreement, which covers contributions of accrued sick, PTO and/or vacation leave, requires a leave conversion formula to be “definitely determinable,” i.e., specific parameters must be established. The open-ended language used in Items 24.d and 24.f of Agreement No. 24-110 is not compatible with the “definitely determinable” requirement of Section 6-4 of the Proposed Adoption Agreement. Therefore, staff is recommending that Section 6-4 of the Proposed Adoption Agreement be left blank, meaning that sick, PTO, and/or vacation leave will not be eligible for conversion under the 401(a) Plan. If the Board of Supervisors wishes to provide a definitely determinable paid leave conversion benefit to employees in the future, staff will present an amendment to the 401(a) Plan which will effectuate the implementation of such a benefit.

Item 26.B.j of Agreement No. 24-110 - Employer Matching Contributions | Matching Formula: The language in Item 26.B.j of Agreement No. 24-110, which states “Employer matching contribution amounts and allocation requirements will be determined by the Employer in its sole discretion as determined by the County of Fresno Board of Supervisors as a resolution or formal written action,” was not included in the Proposed Adoption Agreement because Section 6B-2(g) of the Proposed Adoption Agreement requires a matching formula to be definitely determinable. The Proposed Adoption Agreement includes definitely determinable matching formulas in Addendum 2, which lists the matching contribution formula by employee group/bargaining unit, in response to Sections 6B-2(g), 6B-3(b)(2) and (d), and 6B-4(c) of the Proposed Adoption Agreement to define special rules in determining the amount of matching contributions and special limits applicable to matching contributions.

Item 32.D of Agreement No. 24-110 - Conditions for Distributions Upon Severance of Employment | Involuntary Cash-Outs: Item 32.D of Agreement No. 24-110 requires participant consent for distributions over \$1,000. Section 9-2 of the Proposed Adoption Agreement states, “A Participant who terminates employment with a vested Account Balance of \$5,000 or less will receive an Involuntary Cash-Out Distribution, unless elected otherwise [in the Proposed Adoption Agreement].” Staff is recommending that no selections are made under Section 9-2 of the Proposed Adoption Agreement, which will cause the involuntary cash-out threshold for employees who separate from service to increase from \$1,000 to \$5,000. This choice is being recommended by staff to keep small dollar account balances to a minimum. This may help the County to receive more favorable fee proposals in the future, as plans with minimal small dollar accounts cost less to administer.

4. Staff Next Steps

Approval of the recommended actions will not necessitate any significant administrative changes or create any disruptions in service to participants in the Plans.

OTHER REVIEWING AGENCIES:

Best Best & Krieger, a law firm specializing in legal issues relating to defined contribution plans, advised and assisted the County in reviewing the Proposed Adoption Agreement and Resolution.

REFERENCE MATERIAL:

BAI #37, October 7, 2025
 BAI #43, August 19, 2025
 BAI #53, August 5, 2025
 BAI #24, April 8, 2025
 BAI# 45, December 17, 2024
 BAI #32, March 5, 2024
 BAI #39, April 5, 2022

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Resolution

On file with Clerk - Proposed Adoption Agreement

CAO ANALYST:

Sevag Tateosian