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Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5655
U.S. Department of Labor
200 Constitution Avenue N.W.
Washington, DC 20210
VIA EMAIL: e-ORI@dol.gov

RE: Savings Arrangements Established by State Political Subdivisions for Non-Governmental Employees (RIN 1210-AB76)

To Whom It May Concern:

I am writing to express my support, with some qualifications, for the proposed rule RIN 1210-AB76, which would provide a safe harbor under the Employee Retirement Income Security Act ("ERISA") for auto-IRA programs established by political subdivisions such as cities. As Philadelphia City Controller I sit on the Board of Directors of the Philadelphia Public Employee Retirement System and have a long-standing commitment to improving conditions for both workers and small businesses in our country's 5th largest city.

Philadelphia, the poorest large city in the US, is facing a growing population of workers who are failing to save adequately for their retirement. It is well established in the literature that individuals are far more likely to save for retirement if an option is made available to them in their workplace. Unfortunately, a report released by my office in May 2016 indicates that 54% of employees in Philadelphia (about 334,000) do not have access to a workplace retirement savings plan. Research that my office is currently conducting with Philadelphia's small business community indicates that up to two-thirds of our City's small businesses do not offer employer-sponsored retirement coverage; the main reasons cited by business owners are cost and complexity. The proposed rule would assist employers and employees by allowing cities to create plans that would automatically enroll them into an IRA plan unless they opt out. By including local governments, local policymakers will gain a tool that may be able to help them to address the serious issue of retirement security that is facing our communities.

The Department of Labor has legitimate concerns that small local governments may lack the scale, expertise, and experience to effectively manage a retirement savings program. While I support the proposed rule's concept of threshold criteria, I would ask that the Department amend paragraph(4)(ii) so that automatic qualification is reserved for political subdivisions that have populations greater than or equal to the smallest state, and sponsor one or more retirement plans for their own employees. If a political subdivision meets one of these criteria but not both (population or retirement plan sponsorship), it can petition the Department for access to the safe harbor.

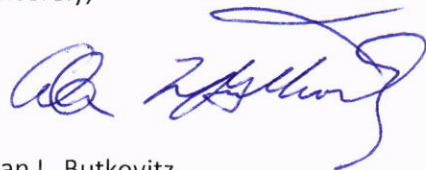
The Department also has legitimate concerns that local government programs might overlap or be duplicative of state operated programs, per Paragraph (h)(4)(iii). At present, the Commonwealth of Pennsylvania has no active plan to create a Secure Choice-type program; in 2015 the General Assembly passed a resolution calling on the state's Legislative Budget and Finance Committee to study the issue, but to date that resolution has failed to get out of the Finance committee. In short, there does not seem to be an option on the horizon in our state that would address the needs of workers whose employers do not have or are not seeking to establish savings plans. Nevertheless, colleagues in other cities have expressed concern that the rule would leave room for state government to block implementation of a local plan, even when the state has no plan of its own. I hope the Department will consider leaving room for cities to develop plans unless there is a truly duplicative state plan.

I should also add that I was pleased to read Footnote 5 in the proposed rule, which appears to extend the rationale in the November 18, 2015 Interpretive Bulletin RIN 1210-AB74 allowing states to create Multi-Employer Plans ("MEPs") to political subdivisions such as cities. The MEP option would allow cities to create citywide ERISA-covered plans such as 401(k)s, which could lower costs for employer participation through economies of scale and reduction of administrative costs, since a state-sponsored MEP would be considered a single ERISA plan for purposes of reporting. Such an arrangement would also allow for employer contributions, among other advantages.

While at present I do not endorse any particular solution to Philadelphia's retirement security dilemmas, I believe it is worth allowing major municipalities a range of options to create retirement savings program for workers that do not have access to employer sponsored plans. I applaud the DOL for proposing to allow cities like Philadelphia to exercise that option.

Philadelphia is a national leader in worker protection. We were among the first cities to mandate paid sick leave and to create a minimum wage standard of \$12 an hour for all City-funded contracts and subcontracts. With your leadership and further support, we will also be able to confront the issue of retirement security.

Sincerely,



Alan L. Butkovitz
City Controller