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## CORRESPONDENCE MEMORANDUM

**DATE:** April 22, 2008  
**TO:** Wisconsin Deferred Compensation Board  
**FROM:** Shelly Schueller, Director  
Wisconsin Deferred Compensation Program  
**SUBJECT:** Proposed *Plan and Trust Document* Changes Related to State Statute Revisions

On March 21, 2008, Governor Doyle signed 2007 Assembly Bill 893 into law as 2007 Wisconsin Act 131. 2007 Wis. Act 131 became effective April 5, 2008, and is a compilation of numerous technical changes requested by the Department for the efficient operation of Department programs. The technical bill has two sections that relate to the administration of the Wisconsin Deferred Compensation Program (WDC):

- for more logical placement in the statutes, a provision in Wis. Stats. 40.80 relating to domestic relations order divisions of WDC accounts was renumbered to a provision in Wis. Stats. 40.08<sup>1</sup> relating to assignment of benefits; and
- a change in statutory standard sequence for beneficiaries under Wis. Stats. 40.02 (8) (a) 2. 2007 Wis. Act 131 eliminates the surviving spouse of a deceased child as a default beneficiary so that assets will pass to the children of the deceased child.

### Recommendation

Staff is recommending that the Board consider updating the WDC's *Plan and Trust Document* to accurately reference the State Statutes. The recommended changes are as follows:

### **Article I: Definitions**

- A revision to definition 1.01 h. "Domestic Relations Order"  
The current *Plan and Trust Document* refers to Wis. Stats. 40.80 (2r) (b). This should be revised to reflect the correct new reference: Wis. Stats. 40.08, and retain the reference to Wis. Stats. 40.80.

<sup>1</sup> According to the Legislative Reference Bureau staff, because 2007 Wisconsin Act 131 created two Wis. Stats. 40.08 (1r), the provision affecting WDC domestic relations orders is intended to be renumbered Wis. Stats. 40.08 (1u).

Reviewed and approved by Robert J. Conlin, Deputy Secretary.

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Signature

\_\_\_\_\_  
Date

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“DOMESTIC RELATIONS ORDER means a judgment, decree, or order issued by a court pursuant to a domestic relations law of any state or territory of the United States relating to a marriage that terminated after December 1, 2001, and that conforms to the requirements of Wisconsin Statutes Sections 40.08 and 40.80 and the BOARD.”

#### Article 5: Beneficiaries

- Article 5.01 explains the rights and responsibilities of WDC beneficiaries. Under Wisconsin State law, when a person does not provide a written beneficiary designation for death benefits under the Wisconsin Retirement System and the WDC, or none of the designated beneficiaries survive, there is a sequence of relatives who become beneficiaries by default. This is known as the “standard sequence.”

Under the standard sequence prior to April 5, 2008, the surviving spouse of a deceased child (i.e., a former son-in-law or daughter-in-law) was among the list of default beneficiaries. As of April 5, 2008, Wis. Act 131 eliminates the surviving spouse of a deceased child as a default beneficiary. In addition, it adds great-grandchildren and other descendants of the deceased employee and nieces, nephews, and other descendants of the deceased employee’s brothers and sisters to the list of default beneficiaries. The change in the standard sequence makes it consistent with other Wisconsin laws used to determine a decedent’s heirs.

Article 5.01 should be revised as follows:

“...In the absence of a written designation of BENEFICIARY, or if all designated BENEFICIARIES ~~so designated~~ who survive the decedent die before the ACCOUNT HOLDER, the ACCOUNT HOLDER’s BENEFICIARIES shall be determined pursuant to Wisconsin Statutes 40.02(8)(a)2., as in effect on the date of death, with all relationships determined relative to the deceased ACCOUNT HOLDER. The shares payable to the issue of a person shall be determined per stirpes. -At present, the statute provides the following sequence of potential beneficiaries:

- |                       |   |
|-----------------------|---|
| Group I               | Surviving Spouse;   |
| Group II              | Children, <del>if at least one child survives, of the deceased ACCOUNT HOLDER in which event equal shares, with</del> the share of any deceased child <del>shall be</del> payable to the <del>surviving spouse issue</del> of the child, <del>or to the surviving children if there is no spouse, or otherwise</del> <u>or, if there is no surviving issue of a deceased child, to the other eligible children in this group</u> <del>or, if deceased, their issue;</del> |
| Group III             | <del>Grandchildren;</del>   |
| <del>Group IV</del>   | Parents, <u>in equal share if both survive;</u>   |
| Group <del>V</del> IV | <del>Siblings</del> <u>Brother and sister in equal shares and the issue of any deceased brother or sister. ;</u>  |
| Group VI              | The estate of the deceased ACCOUNT HOLDER.”   |

**Article 11: Domestic Relations Order Account Divisions**

- The Article 11.01 reference to Wis. Stats. 40.80 (2r) should be revised to reflect the new reference to Wis. Stats. 40.08, as well as maintain the reference to Wis. Stats. 40.80.

“When the ADMINISTRATOR receives a judgment, decree or order (“Order”) issued by a court pursuant to a domestic relations law of any state or territory of the United States, the ADMINISTRATOR shall adhere to the procedures and requirements of Wisconsin Statutes Sections [40.08 and 40.80\(2r\)](#) and the PLAN in determining whether it is a valid DOMESTIC RELATIONS ORDER.”

- Article 11.025.b (i). also references Wis. Stats. 40.80 (2r) and should be revised to reflect the new reference to Wis. Stats. 40.08.

“Except as provided in paragraph c., if the ADMINISTRATOR has accepted a DOMESTIC RELATIONS ORDER as valid under Wis. STAT. [Sections 40.08 and 40.80 \(2r\)](#) and this Article, then any subsequent DOMESTIC RELATIONS ORDERS pertaining to the same marriage and purporting to divide the same DEFERRED COMPENSATION ACCOUNT shall be rejected.”

Department staff will be available at the meeting to discuss this memo and answer any questions you may have regarding the proposed revisions.

Attachment: Draft Revised *Plan and Trust Document*