



State of Wisconsin  
Department of Employee Trust Funds  
Robert J. Conlin  
SECRETARY

801 W Badger Road  
PO Box 7931  
Madison WI 53707-7931  
1-877-533-5020 (toll free)  
Fax 608-267-4549  
etf.wi.gov

## Correspondence Memorandum

**Date:** February 15, 2017  
**To:** Deferred Compensation Board  
**From:** Shelly Schueller, Director  
Wisconsin Deferred Compensation Program  
**Subject:** Optional Alternate Plan and Wisconsin Select

**This memo is for informational purposes only. No Board action is required.**

Wisconsin Administrative Code Chapter ETF 70 (attached) permits the Board, at its discretion, to contract with another administrator to offer an optional alternate s. 457 plan to Wisconsin Deferred Compensation Program (WDC) participants. Although this provision has been in place since 1992, the Board has not previously sought to offer a second plan.

[The Appleton Group](#), an independent Registered Investment Advisor firm based in Appleton, Wisconsin, has launched a new s. 457 supplemental retirement savings plan called Wisconsin Select. Wisconsin Select seeks to utilize only investment managers, administrators, advisors and plan fiduciaries located in Wisconsin.

The Appleton Group approached the Department of Employee Trust Funds with a request to present to the Board an overview of its Wisconsin Select plan and potential advantages an optional alternate plan could provide for WDC participants. This Board will hear from the Appleton Group at the March 9, 2017, Board meeting. If the Board determines the concept of an alternate plan is of interest, additional discussion could occur at a future meeting.

Staff from the Department of Employee Trust Funds and the Appleton Group will be available at the meeting to answer questions.

### Attachments

- A) Wisconsin Admin. Code ETF 70
- B) Appleton Group materials
  1. Wisconsin Deferred Compensation Board – Adding an Alternate Administrator (presentation)
  2. Wisconsin Select/Economic Development (1 page flyer)
  3. Wisconsin Select (brochure)
  4. Wisconsin Admin. Code ETF 70 with Appleton Group's highlights
  5. Appleton Group's proposed administrative code changes, November 28, 2016

Reviewed and approved by Matt Stohr, Administrator  
Division of Retirement Services

Electronically Signed 2/20/17

Board	Mtg Date	Item #
DC	3.9.17	10

## Chapter ETF 70

### DEFERRED COMPENSATION PLANS

#### Subchapter I — General Provisions

ETF 70.01	Statement of purpose.
ETF 70.02	Definitions.
ETF 70.03	Board responsibilities.
ETF 70.04	Department responsibilities.
ETF 70.05	Primary plan administration.
ETF 70.06	Alternate plan administration.
ETF 70.07	Primary and alternate plan administration.

ETF 70.08	Investment providers.
ETF 70.09	Member responsibilities.
ETF 70.10	Emergency withdrawals.

#### Subchapter II — State Deferred Compensation Plan for Local Employees

ETF 70.11	Participation in the deferred compensation plan.
ETF 70.12	Effective date.
ETF 70.15	Terminating participation in the deferred compensation plan.

#### Subchapter I — General Provisions

**ETF 70.01 Statement of purpose.** The purpose of this chapter is to establish a procedure for administration of a deferred compensation program as provided by s. 40.80, Stats. The procedure includes requirements and regulations for the primary deferred compensation plan and any alternate deferred compensation plan. All plans shall be monitored, evaluated and approved by the deferred compensation board. However, only the primary plan shall be supported by the board as the official state of Wisconsin deferred compensation plan.

**History:** Cr. Register, June, 1992, No. 438, eff. 7-1-92.

**ETF 70.02 Definitions.** In this chapter, words and phrases shall have the following meanings:

(1) “Administrator” means any company with which the board contracts to provide administrative services for deferred compensation plans authorized under s. 40.80, Stats.

(2) “Alternate administrator” means any company with which the board contracts to provide administrative services for an alternate deferred compensation plan authorized under s. 40.80 (2m), Stats.

(3) “Alternate plan” means any deferred compensation plan authorized under s. 40.80 (2m), Stats., and offered by an alternate administrator.

(4) “Beneficiary” has the meaning given in s. 40.02 (8), Stats.

(5) The “board” means the deferred compensation board.

(6) The “department” means the department of employee trust funds.

(7) “Employee” means any person who receives earnings as payment for personal services rendered for the benefit of any employer including officers of the employer and is eligible to participate in the deferred compensation program.

(8) “Investment product” means any insurance or annuity contract, bank or credit union account, mutual or money market fund or other type of investment vehicle.

(9) “Investment provider” means any company that manages and offers investments products.

(10) “Member” means any employee electing to participate in the deferred compensation program.

(11) “Plan and trust document” means the document developed by the department and approved by the board to describe in detail the regulations of the program and ensure program compliance with section 457 of the internal revenue code which requires the availability of this document to members.

(12) “Primary administrator” means the company contracted to provide administrative services for the primary deferred compensation plan authorized under s. 40.80 (1), Stats.

(13) “Primary plan” means the deferred compensation plan authorized under s. 40.80 (1), Stats., and offered by the primary administrator.

(14) “Program” includes the primary plan and any alternate plan authorized under s. 40.80, Stats., and approved by the board for offering to eligible employees.

**History:** Cr. Register, June, 1992, No. 438, eff. 7-1-92; CR 08-016: cr. (4m) Register August 2008 No. 632, eff. 9-1-08; CR 11-040: renum. (1) to (4m) to be (intro.) to (4) Register July 2012 No. 679, eff. 8-1-12; CR 14-055: am. (11) Register May 2015 No. 713, eff. 6-1-15.

**ETF 70.03 Board responsibilities.** The board shall have the following responsibilities in regard to the program:

(1) Act, at all times, in a manner consistent with that of a trustee with a fiduciary duty to the program and members.

(2) Determine and implement the most efficient and cost effective method for administration of the program consistent with high quality services to members.

(3) Establish standards by which the primary administrator shall be evaluated for initial and continued participation in the primary plan.

(4) Evaluate the performance of the primary administrator, annually, to determine contractual compliance and compliance with standards as established under sub. (3).

(5) Declare the board’s official support of the primary plan to participating employers and members in the publication prepared by the department as required in s. ETF 70.04 (5) (c).

(6) Determine the initial eligibility of any potential alternate administrator that petitions the board to offer an alternate plan based on criteria established in s. ETF 70.06.

(7) Evaluate alternate administrators, annually, based on criteria established in s. ETF 70.06 to determine their continued eligibility.

(8) Define general categories of investment products to be offered under the primary plan and any alternate plan.

(9) Establish criteria by which specific investment products shall be evaluated for initial and continued participation in the primary plan or any alternate plan.

(10) Evaluate investment products offered by the administrator, annually, based on criteria established in sub. (9) to determine if the investment product continues to be acceptable for offering by the primary plan or alternate plan.

**History:** Cr. Register, June, 1992, No. 438, eff. 7-1-92; CR 11-040: renum. (1) to (11) to be (intro.) to (10), correction in (4), (5), (10), as renumbered, made under s. 13.92 (4) (b) 7., Stats., Register July 2012 No. 679, eff. 8-1-12.

**ETF 70.04 Department responsibilities.** The department shall be responsible for the following:

(1) Negotiate and implement contracts with administrators and investment companies.

(2) Monitor plan administration and ensure contract compliance.

(3) Develop and maintain a plan document that defines rules and requirements of the program regarding member enrollment in the program, member deferral amounts, distribution of account balances, and administration of the program that will be distrib-

uted, by the administrator, to new and current members by request.

(4) Provide information and recommendations to the board and its committees that shall be necessary to complete the evaluation of the primary and alternate administrator as required in s. ETF 70.03 (4) and (7) and the investment products as required in s. ETF 70.03 (10).

(5) Prepare and distribute to members an annual publication that presents a balanced and impartial overview of the primary plan and any alternate plan that includes the following:

(a) Description of investment products and corresponding investment risks.

(b) Full disclosure of all direct and indirect costs to members.

(c) Announcement of the board's official support of the primary plan as required in s. ETF 70.03 (5).

(d) General information about deferred compensation plans including the maximum deferral amount allowed under internal revenue code section 457.

(6) Review and approve all material prepared by the primary administrator and alternate administrator to describe the primary plan and alternate plan and investment products to eligible employers, employees and members.

(7) Review and issue a determination on all requests for emergency withdrawals as defined in s. ETF 70.10.

(8) Provide reports to the board at each board meeting that detail emergency withdrawals, enrollment statistics, plan assets and any other information that may be requested by the board.

**History:** Cr. Register, June, 1992, No. 438, eff. 7-1-92; CR 11-040: renum. (1) to (9) to be (intro.) to (8), correction in (5), (6) (c) made under s. 13.92 (4) (b) 7., Stats., Register July 2012 No. 679, eff. 8-1-12.

**ETF 70.05 Primary plan administration.** (1) Based upon a request for proposal process, the board shall contract with one primary administrator to offer the primary plan that is approved and officially supported by the board. The administrator awarded the contract for the primary plan shall have:

(a) At least 5 years experience administering other section 457 deferred compensation programs. The administrator's experience shall include administering at least one program that meets each of the following:

1. Participation level of 30,000 members or more.
2. Program involves multiple payroll reporting agencies.
3. Record keeping includes consolidated record keeping for all investment products that are offered.

(b) Marketing and enrollment services that include the following:

1. A staffed office located in Madison and field representatives to provide services to all areas of the state.
2. Contacts to each eligible employee at least annually to describe the plan being offered by this administrator.
3. Frequent enrollment opportunities at intervals established by the board.
4. Presentations to employees that include full disclosure of all direct and indirect costs to members as well as advantages and disadvantages of participating in the plan offered by this administrator.

5. Literature and forms regarding the plan to be distributed to employees and payroll personnel that are in a form approved by the department.

(c) Member services that include the following:

1. Unlimited opportunities to increase or decrease deferral amounts.
2. Unlimited opportunities to redirect deferral amounts to any other investment product offered by the administrator.

(d) Accounting procedures and consolidated record keeping for member account transactions that maintains all individual member records and submits deferrals, transfers and withdrawals

to the investment companies offering investment products to the primary plan.

(2) The potential administrator shall agree to return all interest earned on idle funds of the plan that are held by the administrator to the department to offset plan costs.

(3) The potential administrator shall provide the necessary financial disclosure for assurance of its financial soundness.

(4) The investment products offered by the primary administrator shall meet the criteria in s. ETF 70.03 (9) and be approved by the board.

(5) The primary administrator shall provide an annual report to the board illustrating the investment performance of all investment products offered by the primary plan, as measured by criteria established under s. ETF 70.03 (8).

**History:** Cr. Register, June, 1992, No. 438, eff. 7-1-92; correction in (4), (5) made under s. 13.92 (4) (b) 7., Stats., Register July 2012 No. 679, eff. 8-1-12; CR 14-055: am. (1) (a) 1. Register May 2015 No. 713, eff. 6-1-15.

**ETF 70.06 Alternate plan administration.** (1) At its discretion, the board may contract with an alternate administrator to offer an alternate plan. An alternate plan shall not be officially supported by the board. Any administrator that meets the criteria set forth in s. ETF 70.05 (1), (2) and (3) may be allowed to offer an alternate plan. The board shall not contract with more than one alternate administrator at any one time.

(2) Investment products offered by an alternate administrator shall meet the criteria as established in s. ETF 70.03 (9) and be approved by the board and shall not duplicate any of the specific investment products offered by the primary administrator.

(3) The alternate administrator shall provide an annual report to the board that describes the investment performance of all investment products offered by the alternate plan, as measured by the criteria in s. ETF 70.03 (9).

(4) Potential alternate administrators who meet the minimum requirements as defined in subs. (1), (2) and (3) may petition the board for approval to participate in the program within a 30 day period beginning the day after publication of these rules in the Wisconsin Administrative Code and then from May 1 through May 31 of every other year starting in 1994 for approval to participate in the program as of the next calendar year. The board shall limit the number of alternate administrators to one through a request for proposal process should there ever be a second, or more, potential administrator that petitions the board.

(5) If the evaluation of an alternate administrator as required in s. ETF 70.03 (7) results in the termination of the alternate administrator's participation in the program or if their contract is not renewed, members shall be instructed to redirect deferrals and transfer existing balances from investment products offered by the terminated administrator to other investment products offered by the primary administrator or any other alternate administrator within a six-month period or other time period designated by the board. At the end of the six-month period or the date designated by the board, the board shall instruct the terminated administrator to redirect any deferrals and transfer any remaining account balances with investment products offered by the terminated administrator to board designated alternative investment products offered by the primary administrator. Surrender charges that are normally assessed against funds transferred from investment products offered by one administrator to another, shall not be assessed for transactions under this subsection.

**History:** Cr. Register, June, 1992, No. 438, eff. 7-1-92; correction in (2), (3), (5) made under s. 13.92 (4) (b) 7., Stats., Register July 2012 No. 679, eff. 8-1-12.

**ETF 70.07 Primary and alternate plan administration.** (1) All contracts with administrators shall be approved by the board and signed by the board chair or designee. Any administrator who participates in the program shall sign a contract in which the administrator agrees to:

(a) Follow all requirements and regulations of the program as defined in the plan and trust document.



(b) Share information, such as member's annual deferral amounts, with the department and any other administrator contracted by the board to ensure compliance with internal revenue code section 457.

(c) Provide full disclosure of all revenues received by the administrator from members and investment providers of their plan to the department at least annually.

(d) Provide quarterly reports to the department to allow adequate monitoring of program administration and compliance with internal revenue code section 457 regulations.

(e) Provide an annual independently audited financial statement of the administrator to the department within 120 days from the end of the calendar year.

(f) Submit to the department an acceptable contingency plan to address both data processing systems failures and administrative services interruptions.

(g) Provide to members, upon enrollment, full disclosure of all fees and charges that are assessed, either directly or indirectly as an offset of earnings, by the administrator or the investment providers. A memorandum of understanding detailing key aspects and restrictions of the primary plan or any alternate plan shall be presented to and signed by employees enrolling in either the primary plan or any alternate plan.

(h) Provide to members, when requested, a copy of the fund prospectus and annual report for each investment product offered by the administrator and the ability to transfer account balances from investment products offered by one administrator to those offered by another.

(i) Provide statements to members, at least quarterly, detailing member's year to date annual deferral amounts, account balance information and disclosure of all fees and charges affecting member's interest earnings or account balances.

(j) Provide information and counseling to members at termination of employment or retirement, regarding the options offered by the administrator for distribution of their account and timely processing of payouts. The type of distribution options offered shall include lump sum and partial lump sum payments, installment payment options and annuity options.

(2) The primary plan and any alternate plan shall reimburse the department for their proportionate share of the department's costs associated with the program.

(3) The administrator, their agents and the investment products they offer shall meet all applicable state and federal regulations including section 457 of the internal revenue code, security and exchange commission regulations, and state and federal insurance laws and regulations.

**History:** Cr. Register, June, 1992, No. 438, eff. 7-1-92; CR 14-055: am. (1) (a), (d), (e), (i) Register May 2015 No. 713, eff. 6-1-15.

**ETF 70.08 Investment providers.** (1) Investment providers offering an investment product through the primary plan or an alternate plan shall be selected by the board based on the investment product categories and criteria established under s. ETF 70.03 (8) and (9). All contracts with investment providers of the primary plan or an alternate plan shall be approved by the board and signed by the board chair or designee.

(2) Investment providers shall not be allowed to assess any direct or indirect costs to members.

(3) Based on the board's review required under s. ETF 70.03 (10), the board may determine that an investment product offered by the primary plan or an alternate plan is no longer acceptable for inclusion in the program. If the board decides to remove an investment product from the plan as a result of the product's failure to meet the criteria as established under s. ETF 70.03 (9), the product shall be phased out of the primary or alternate plan in a 2-step process over a 12 month period that shall commence on the first business day of the sixth month following the board's decision, as follows:

(a) Phase 1 of the investment product termination process shall last for 6 months during which time current members and employees newly enrolling in the primary or alternate plan shall be informed in writing that the terminating investment product does not meet board's evaluation criteria and that this *investment product is not open to new enrollments*.

1. Any members already deferring to the terminating investment product shall be informed in writing that they need to redirect future deferrals from this product to an alternative investment product offered by the primary or alternate plan by notifying the administrator of their new investment choice.

2. At the end of the 6-month period, the board shall instruct the administrator to automatically redirect any member's deferrals that have not been redirected to an alternative investment product from the terminated product into a board designated alternative investment product offered by the primary or alternate plan.

3. Existing member account balances shall be allowed to remain in the terminating investment product during this period.

(b) Phase 2 of the investment product termination process immediately follows the first 6-month period and provides an additional 6-month period during which time members shall transfer existing balances from the terminating product to another investment product offered by the primary or alternate plan.

1. If at the end of the 6-month period, any member has failed to move a remaining account balance from the terminated fund, the board shall instruct the administrator to automatically move that member's account balance into a board designated alternative investment product offered by the primary or alternate plan.

2. During the phase out process and at any time prior to the end of the second phase, the board may re-examine the performance of the terminating investment product to determine if continued plan participation is justified.

**History:** Cr. Register, June, 1992, No. 438, eff. 7-1-92; CR 08-016: am. (3) (intro.) Register August 2008 No. 632, eff. 9-1-08; correction in (1), (3), made under s. 13.92 (4) (b) 7., Stats., Register July 2012 No. 679, eff. 8-1-12.

**ETF 70.09 Member responsibilities.** (1) Employees electing to become a member of the primary or an alternate plan shall sign a memorandum of understanding prior to enrolling to certify that all program requirements and regulations have been clearly explained.

(2) A member shall select one administrator for his or her deferrals. A member may not simultaneously defer earnings to the primary plan and an alternate plan.

(3) Each member shall review information provided by the administrator and the department about the investment type and performance of the investment products offered to determine which investment products best meet the member's individual needs and financial objectives.

(4) Each member shall monitor his or her own annual deferral amounts to ensure the amount does not exceed the maximum deferral amount allowed under internal revenue code section 457.

**History:** Cr. Register, June, 1992, No. 438, eff. 7-1-92; CR 14-055: r. (5) Register May 2015 No. 713, eff. 6-1-15.

**ETF 70.10 Emergency withdrawals.** (1) A participant or beneficiary may make emergency withdrawals in the event of an unforeseeable emergency under the following conditions and limitations:

(a) As defined in 26 USC 457 (b) (5) and 26 CFR 1.457-2 (h) (4), an unforeseeable emergency is one which causes severe financial hardship to the participant or beneficiary as a result of a sudden and unexpected illness or accident of the participant or beneficiary or of a dependent of the participant or beneficiary, loss of the participant's or beneficiary's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant or beneficiary.

**Note:** "A dependent of the participant" as used here is defined by the secretary of the treasury as one specified in 26 USC 152 (a).

(b) The need to send a participant's or beneficiary's child to college or the desire to purchase a home are examples of what are not unforeseeable emergencies.

(c) The facts of each case shall be ascertained to determine if the circumstances constitute an unforeseeable emergency.

(d) Withdrawal payment may not be made to the extent that the hardship is or may be relieved:

1. Through reimbursement or compensation by insurance or otherwise,

2. By liquidation of the participant's or beneficiary's assets to the extent the liquidation of these assets would not itself cause severe financial hardship, or

3. By cessation of deferrals under the plan.

(e) The withdrawal, because of an unforeseeable emergency, shall be limited to an amount reasonably needed to satisfy the emergency need.

**(2)** The administrator shall:

(a) Receive requests from participants or beneficiaries for unforeseeable emergency withdrawals,

(b) Investigate and document the facts on a form prescribed by the department, and

(d) Within 5 working days after the receipt of the information requested from the employer or other parties, either render a decision or make a recommendation to the department on a form prescribed by the department.

**(6)** The department shall prepare a report on unforeseeable emergency withdrawal activity since the last meeting of the board for presentation at the following meeting of the board.

**History:** Cr. Register, June, 1985, No. 354, eff. 7-1-85; renum. from ETF 10.01, Register, June, 1992, No. 438, eff. 7-1-92; CR 08-016: am. (intro.), (1) (a), (b), (d) 2. and (2) (a) Register August 2008 No. 632, eff. 9-1-08; CR 14-055: am. (2) (intro.), r. (2) (c), am. (2) (d), r. (3) to (5) Register May 2015 No. 713, eff. 6-1-15; correction in (2) (b) made under s. 35.17, Stats., Register May 2015 No. 713.

## Subchapter II — State Deferred Compensation Plan for Local Employees

### ETF 70.11 Participation in the deferred compensa-

**tion plan.** The governing body of any employer as defined under s. 40.02 (28), Stats., other than the state, may provide the state's deferred compensation plan for its employees by the adoption of a resolution in the form approved by the department. The employer shall forward a certified copy of the resolution to the department and the then current administrative plan provider as defined in s. 40.02 (18s), Stats.

**History:** Cr. Register, June, 1985, No. 354, eff. 7-1-85; renum. from ETF 70.10, Register, June, 1992, no. 438, eff. 7-1-92.

**ETF 70.12 Effective date.** Local implementation of the deferred compensation plan and enrollment of eligible employees may begin immediately upon acceptance, by the department, of the resolution under s. ETF 70.11.

**History:** Cr. Register, June, 1985, No. 354, eff. 7-1-85; CR 14-055: am. Register May 2015 No. 713, eff. 6-1-15.

**ETF 70.15 Terminating participation in the deferred compensation plan.** The governing body of an employer, other than the state, may terminate participation in the state deferred compensation plan after a minimum of one year from the date the certified copy of the resolution required under s. ETF 70.11 was accepted by the department, by adopting a resolution in the form approved by the department and forwarding a copy of the resolution to the department and the then current administrative plan provider as defined in s. 40.02 (18s), Stats. Enrollment and payroll deferral activities shall cease 90 days after receipt by the department of the certified copy of a resolution to terminate participation in the state's deferred compensation plan. Treatment of previous individual deferral investment specifications, accounts and benefits shall continue to be governed by the plan and investment plan provider contracts, unless the employer exercises its right of ownership under 26 CFR 1.457-2 (j) to provide for different treatment.

**Note:** Chapter ETF 70 requires several forms which are available at no charge by contacting either the department of employee trust funds or the current administrative plan provider. The forms may be obtained at no charge by writing to: department of employee trust funds, P.O. Box 7931, Madison, WI 53707-7931, or by calling: (608) 266-3285 or toll free at (877) 533-5020. The forms also are available on the department's website: [ef.wi.gov](http://ef.wi.gov) or on the Wisconsin deferred compensation program's website: [www.wdc457.org](http://www.wdc457.org).

**History:** Cr. Register, June, 1985, No. 354, eff. 7-1-85; CR 14-055: am. Register May 2015 No. 713, eff. 6-1-15.



**WISCONSIN**  
— SELECT —

## Wisconsin Deferred Compensation Board - Adding an Alternate Administrator

NOT FDIC INSURED - MAY LOSE VALUE - NO BANK GUARANTEE  
For Advisor and Financial Professional Use Only - Not for Use with the General Public

### Our First Conversation...

- ▶ November 28, 2016
  - ▶ Secretary Bob Conlin, ETF Secretary
  - ▶ Shelly Schueller, Deferred Compensation Director
  - ▶ Matt Stohr, ETF Administrator
  - ▶ Tarna Hunter, ETF Dir. Of Strategic Engagement...
  - ▶ Diana Felsman, ETF Office of Legal Services
  - ▶ Cheryllynn Wilkins, Board Liaison

## Today's Conversation...

- ▶ Wisconsin Deferred Compensation Board
  - ▶ Introduce Wisconsin Select Team
  - ▶ Overview of Second Vendor Concept
    - ▶ What we're asking...
    - ▶ What we're not asking...
  - ▶ Proposed Action Steps (with proposed timeline)
  - ▶ Support for Modifications to ETF 70.05 and ETF 70.06



# OUR SHARED FUTURE...

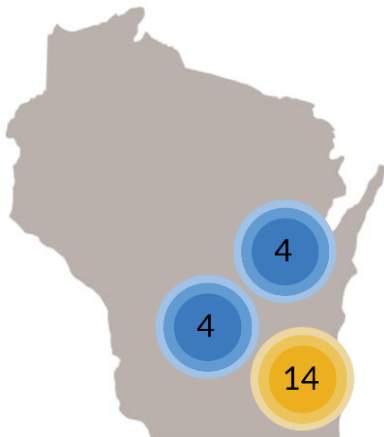
Retirement – it's something we all look forward to, and getting there should be as easy as possible.

But today's economy is challenging, and you need a retirement savings plan that's built with Wisconsin residents in mind. After all, it's a future that we're all invested in.

So discover the Wisconsin Select program. It's an employer-sponsored retirement plan built and run primarily by Wisconsin residents like you. From plan administration and investment management to fiduciary support and objective investment advice, Wisconsin Select offers it all.



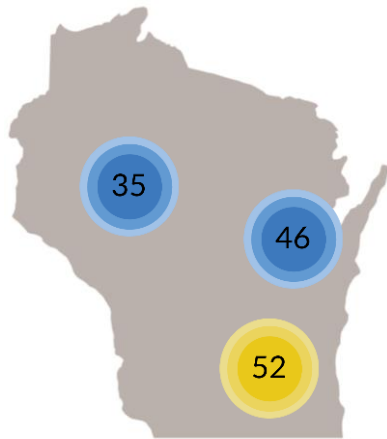
## 22 Core, Wisconsin-Domiciled Firms...



- ▶ Plan Administration
- ▶ Plan Fiduciary
- ▶ Investment Management



## PLUS More than 130 Advisory Firms...



- ▶ Education Fiduciaries
- ▶ Broad Geographic Distribution
- ▶ Both Participant and Sponsor Support



**WISCONSIN**  
— SELECT —

- ▶ Example of “Next Generation” 457(b) Vendor
  - ▶ Compare and contrast to very large national and international vendors
    - ▶ “Right-sized”
    - ▶ Leading innovations in 457(b) architecture
    - ▶ Geographic focus



## What We're Asking...

- ▶ 1) ETF 70.06 states: “At its discretion, the board may contract with an alternate administrator to offer an alternate plan.”
  - ▶ Seek board support for the concept of an alternate administrator



## What We're Asking...

- ▶ 2) “Any administrator that meets the criteria set forth in s. ETF 70.05 (1), (2) and (3) may be allowed to offer an alternate plan.”
  - ▶ As currently written, ETF 70.05 inadvertently excludes any Wisconsin-domiciled administrator from qualifying
  - ▶ Seek board support for three minor modifications ETF 70.05





## What We're Asking...

- ▶ 3) "Potential alternate administrators...may petition the board for approval to participate in the program..."
  - ▶ "The board shall limit the number of alternate administrators to one through a request for proposal process should there ever be a second, or more, potential administrators that petitions the board."
  - ▶ Seek board acceptance of our petition outright or through an RFP process



## What We're Not Asking...

- ▶ Not asking you to alter your relationship with Empower in any way
  - ▶ Don't change any aspect of existing relationship or structure
  - ▶ Keep all existing funds, keep fiduciary controls, keep current advisor structure, keep everything exactly as-is



## Alternate Administrator Concept

### 7 Advantages to Participants, Sponsors and to our State

- ▶ 1) A second administrator spurs innovation
  - ▶ Plan design
  - ▶ Investment offerings
  - ▶ Fiduciary controls
  - ▶ Participant engagement
  - ▶ Communication
  - ▶ Risk-management

## Alternate Administrator Concept

### 7 Advantages to Participants, Sponsors and to our State

- ▶ 2) A second vendor can increase municipal adoption rates
  - ▶ Numerous Wisconsin municipalities currently choose other out-of-state providers like ICMA, Nationwide, Principal, et. al.
  - ▶ WDC's current c. 60% adoption rate could dramatically increase
  - ▶ Offers municipalities two fundamentally different choices

## Alternate Administrator Concept

### 7 Advantages to Participants, Sponsors and to our State

- ▶ 3) A second vendor reduces concentration risks
  - ▶ Reduces risk of systematic vendor disruptions
  - ▶ Reduces risk of utilizing only one delivery model
  - ▶ Reduces risk of key employee turnover
  - ▶ Reduces administrative burden of changing platforms/administrators in the event of an unexpected interruption (Lehman, AIG, etc.)

## Alternate Administrator Concept

### 7 Advantages to Participants, Sponsors and to our State

- ▶ 4) A second vendor fosters reasonable competition
  - ▶ Better service
  - ▶ Innovation
  - ▶ Better participant engagement
  - ▶ Better pricing



## Alternate Administrator Concept

### 7 Advantages to Participants, Sponsors and to our State

- ▶ 5) A second vendor increases accountability
  - ▶ Fiduciary controls
  - ▶ Increased compliance resources
  - ▶ Educational fiduciaries (Series 65 licensed) vs. salespeople (Series 7 licensed)
  - ▶ Opportunities for better fund oversight (example: annual on-site manager due diligence)

## Alternate Administrator Concept

### 7 Advantages to Participants, Sponsors and to our State

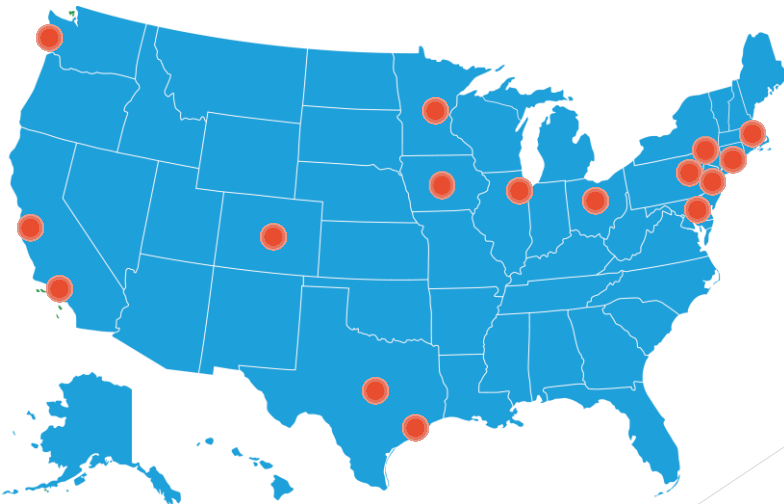
- ▶ 6) A second vendor addresses scale risk
  - ▶ “Right-sized” vendors offer:
    - ▶ Smaller funds with greater flexibility
    - ▶ Better risk-management features
    - ▶ Fewer layers of management
    - ▶ Better participant engagement (current advisor-to-participant ratio is 8,000:1)

## Alternate Administrator Concept

### 7 Advantages to Participants, Sponsors and to our State

- ▶ 7) A second vendor offers the opportunity to support the Wisconsin economy

## Sustaining the Wisconsin Economy...





▶ Wisconsin Deferred Compensation program could simultaneously provide an exceptional participant and sponsor experience, while also serving as a cornerstone of the Wisconsin economy

- ▶ Est. \$20 million of direct annual revenue
- ▶ As much as \$80 million of lost annual economic activity
- ▶ As much as \$5.6 million of lost annual WI tax revenue

\*Estimates based on average fund expense ratio, disclosed annual administration cost, and assumed index embedded trading revenue (Vanguard & Blackrock). Lost economic activity assumes 3x multiplier effect. Lost WI tax revenue assumes a 7.0% effective tax rate on lost economic activity.



### Wisconsin Select helps fund...



Public Schools



Early Childhood Development Programs



Infrastructure



Universities



Roads



Bridges



Airports



State Parks



## Proposed Timeline

Board Supports Modifications to ETF 70.05, Supports Alternate Administrator Concept

April 15, 2017

Legislature Adopts Recommended ETF 70.05 Modifications: + 60 Days

June 15, 2017

Window Opens for Board to Accept Petition(s): +30 Days

July 15, 2017

Board Selects Alternate Administrator: +30 - 60 Days

Sept 15, 2017

Alternate Administrator Coordinates Pre-launch with ETF Staff

Go-Live Date

Jan 1, 2018



**WISCONSIN**  
— SELECT —

Wisconsin Select Program  
c/o/ Appleton Group LLC  
100 W. Lawrence St.  
Suite 306  
Appleton, WI 54911

[www.wiselect401k.com](http://www.wiselect401k.com)  
920.993.7727  
Toll-Free 866.993.7727



# Wisconsin Select is One of the Largest Economic Development Initiatives in Our State

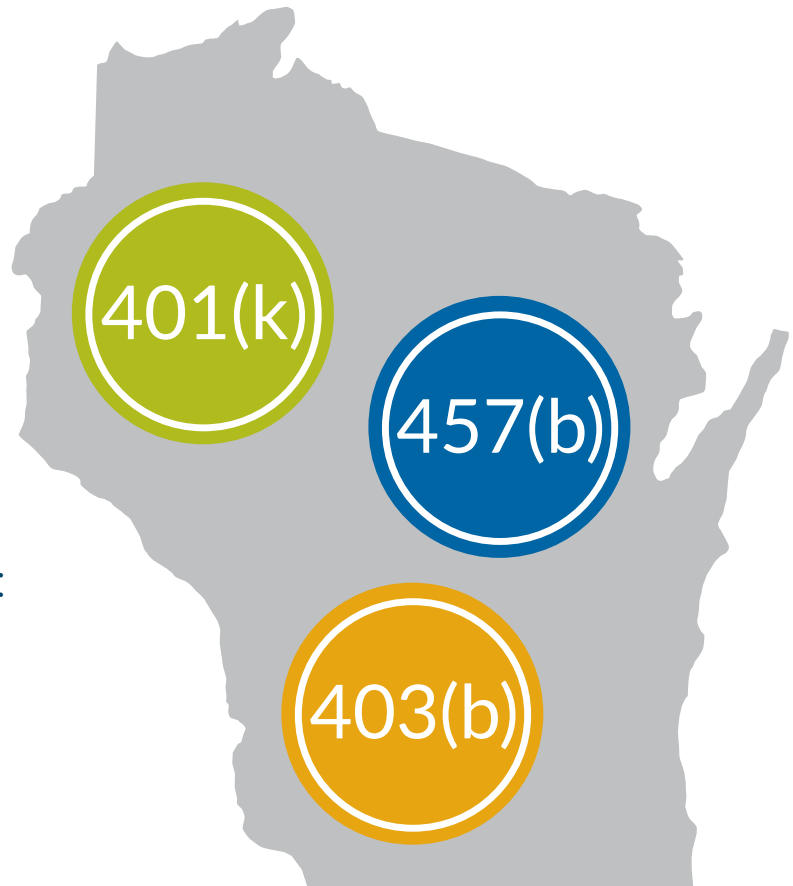
Total Assets in Wisconsin Employer-Sponsored Retirement Plans:  
**\$300 Billion**

Average Plan Cost:  
**1.22%**

Total Direct Annual Revenue:  
**\$3.66 Billion**

Total Annual Economic Activity Generated:  
**\$10.98 Billion**

Percentage of Assets Managed/Administered Out-of-State:  
**98%**



**WISCONSIN**  
— SELECT —

Annual Economic Activity Lost:  
**\$10.76 Billion**

Annual Direct Income Tax Lost:  
**\$251 Million**



# WISCONSIN

---

## SELECT

Wisconsin Select  
c/o Appleton Group LLC  
100 W. Lawrence St. Suite 306  
Appleton, WI 54911

[www.wiselect401k.com](http://www.wiselect401k.com)  
(920) 993-7727  
(866) 993-7727 (toll free)

**WISCONSIN STRENGTH • WISCONSIN VALUES • WISCONSIN SELECT**

Sources: Larkspur Data, 401(k) Averages Book, Data as of 12/31/2015. Economic activity estimate based on a 3x multiplier effect. State income tax assumptions based on a composite rate of 7.0%.



**WISCONSIN STRENGTH • WISCONSIN VALUES • WISCONSIN SELECT**

# OUR SHARED FUTURE...

Retirement – it's something we all look forward to, and getting there should be as easy as possible.

But today's economy is challenging, and you need a retirement savings plan that's built with Wisconsin residents in mind. After all, it's a future that we're all invested in.

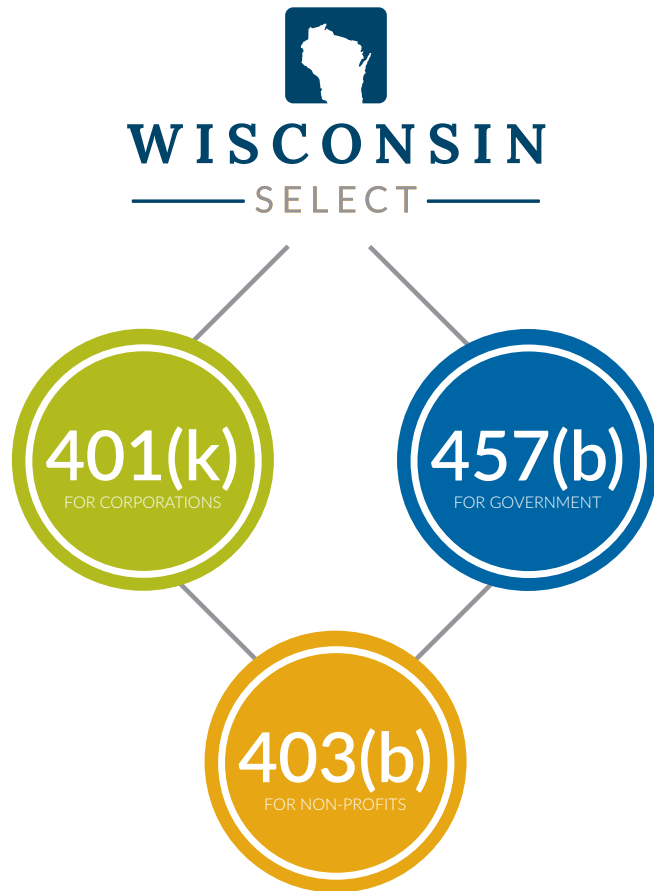
So discover the Wisconsin Select program. It's an employer-sponsored retirement plan built and run primarily by Wisconsin residents like you. From plan administration and investment management to fiduciary support and objective investment advice, Wisconsin Select offers it all.



We believe that a prosperous future for all of us is best achieved by using the experience and dedication of Wisconsin professionals who share in our love of this great state. From the earliest settlers to our most recent new residents, there's something special about the Wisconsin values of integrity, community and shared purpose. We all prosper when we put these values into action, and that's exactly what Wisconsin Select is about.

For our more than 20,000 in-state businesses, we offer the Wisconsin Select 401(k), but we're also built for non-profit employers in the form of a 403(b) and for government and UW employees as a 457(b). Together, these three structures offer a comprehensive retirement plan experience available to nearly three million in-state workers.

Discover Wisconsin strength, Wisconsin values, Wisconsin Select.







## **FIDUCIARY PROTECTION**

Every successful retirement savings plan requires a great structure, and it starts with an experienced plan fiduciary, the “quarterback” who can bring together all of the various members of the winning team. Wisconsin Select utilizes the strength and experience of Appleton Group LLC, an independent, fee-only Registered Investment Advisor located in the heart of the Fox Valley.

Founded in 2002, Appleton Group has extensive experience in plan design, investment management and selection, as well as objective market research. Serving as an ERISA 3(38) Plan Fiduciary, this firm:

- Creates and oversees easy-to-use investment fund lineups
- Manages flexible, risk-adjusted target-date investment models
- Coordinates comprehensive sponsor and participant education programs
- Communicates the many features and benefits of Wisconsin Select to a state-wide audience
- Monitors the program for any regulatory changes and manages changes and opportunities for future enhancements
- Coordinates ongoing due diligence on all service providers



APPLETON GROUP, LLC

INVESTMENT SOLUTIONS · WEALTH MANAGEMENT  
EMPLOYER-SPONSORED PLANS

**Fiduciary Protection**



## **PARTICIPANT AND SPONSOR SUPPORT**

A good experience for plan sponsors and participants requires the objective expertise of a qualified financial advisor.

The Wisconsin Select program has you covered, allowing you to choose from hundreds of in-state retirement plan advisors ready to serve both sponsor and participant needs.

Values of integrity and objectivity are the hallmarks of the advisors of Wisconsin Select. With a wide variety of backgrounds, work experiences and professional certifications, each advisor is uniquely qualified to give your plan the attention it deserves. Each advisor must be properly licensed and must agree to serve as a co-fiduciary, ensuring investment advice and guidance that is always in your participants' best interest.

And we know that because your needs may sometimes change, each employer has the freedom to select the plan advisor of their choice at any time.

Objective, unbiased investment advice is priceless. That's why we believe our advisors should be fairly compensated for the services they provide to your plan.

Honest pay for honest work - another hallmark of Wisconsin life!

**Participant and Sponsor Support**



## **ADMINISTRATION AND RECORD KEEPING**

Retirement plans need to run smoothly. We get it, and from the start, Wisconsin select was built with ease-of-use in mind.

That's why we've partnered with the credentialed team at CUNA Mutual Retirement Solutions who has been in the retirement business for over 50 years, has over 6,700 employer-sponsored plans in-force, 260,000 participants served and \$16.2 billion in assets under administration.

It is the mission of CUNA Mutual Retirement Solutions to recognize the powerful human story of the service and accomplishments of hardworking Americans and partner with financial advisors to help them meet their challenge in achieving a secure retirement. To do this, CUNA Mutual Retirement Solutions provides an array of practical retirement solutions to help real people save for the future and live retirement on their terms.



CUNA Mutual Retirement Solutions is a division of CUNA Mutual Group and the marketing name for CPI Qualified Plan Consultants, Inc., a CUNA Mutual Group member company. CUNA Mutual Group is the marketing name for CUNA Mutual Holding Company, a mutual insurance holding company, its subsidiaries and affiliates. Annuity insurance products are issued by CMFG Life Insurance Company, located in Madison, Wisconsin. Each insurer is solely responsible for the financial obligations under the policies and contracts it issues. Securities distributed by CUNA Brokerage Services, Inc. (CBSI), member FINRA/SIPC, a registered broker/dealer, 2000 Heritage Way, Waverly, Iowa 50677, toll-free 866.512.6109. Non-deposit investment and insurance products are not federally insured, involve investment risk, may lose value, and are not obligations of or guaranteed by the financial institution. Representatives offer retirement and investment education but do not provide investment, legal or tax advice. Participants are encouraged to consult their own advisors.

## **Administration and Record Keeping**





## INVESTMENT MANAGEMENT

Named a “Mutual Fund Mecca” by Bloomberg News in 2012, Wisconsin boasts a deep roster of successful, top-ranked investment managers. Who knew?

Wisconsin Select’s lineup of both experienced managers and up-and-coming young talent says it all.



Investing Involves Risk • Not FDIC Insured • No Bank or Credit Union Guarantee • May Lose Value

# Investment Management

# SUSTAINING A ROBUST WISCONSIN ECONOMY

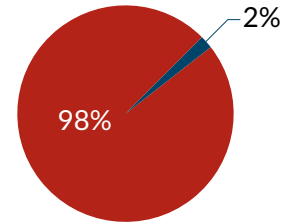
Retirement readiness and a positive participant experience are top priorities, but there's a deeper advantage to the Wisconsin Select program that you'll love.

Consider that retirement plan assets sponsored by Wisconsin employers currently total more than \$294 billion. As a whole these assets already generate as much as \$3.57 billion of annual revenue to service providers. So what's the problem?

Currently, as much as 98 percent of investment management, fiduciary support and plan administration revenue leaves our state. In addition, as much as 60 percent of advisor and plan fiduciary revenue is also sent to providers out of Wisconsin.

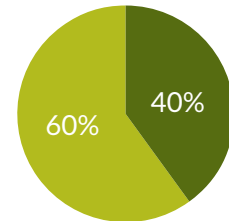
By keeping a majority of important financial services roles right here in Wisconsin, we have an opportunity to support sustainable, living-wage careers for tens of thousands of state residents while

## Currently...



■ Investment management, fiduciary support and plan administration revenue leaving Wis.

■ Investment management, fiduciary support and plan administration revenue staying in Wis.



■ Advisor revenue leaving Wis.

■ Advisor revenue staying in Wis.

simultaneously working to provide a positive retirement plan experience.

With an ongoing focus on economic development in our state, the opportunity is clear: the more wages and income tax revenue we choose to direct to qualified financial service professionals in Wisconsin, the greater the long-term benefit to all state residents.

The Wisconsin Select program helps fund our public schools, early childhood development programs, roads, bridges, infrastructure, universities, state parks, airports and more. Increased wages and income tax revenue also go to support retail businesses, manufacturers, restaurants, shopping centers, arts organizations, hospitals, sustainable agriculture, sports franchises, conservation efforts and historic preservation – all of the things that make Wisconsin life worthwhile.

It also works to create a bright future for our state. Wisconsin Select is more than just an employer-sponsored retirement plan; it's a cornerstone to a better economy for generations yet to come.

It all starts with the decision to move your plan to Wisconsin Select.

Sources: Larkspur Data, 401(k) Averages Book, Appleton Group Research. Data as of 12/31/2014.

## Wisconsin Select helps fund...



Public Schools



Early Childhood  
Development  
Programs



Roads



Bridges



Infrastructure



Universities



Airports



State Parks

# AN EASY DECISION, AN EASY MOVE

Moving your employer-sponsored plan to Wisconsin Select is a lot easier than you might think. In fact, we built it that way!

- If you currently have a plan in place and you're happy with your existing third-party advisor, in most cases you can easily keep that relationship to assist in the move and continue their service to you and your participants.

Simply have your advisor contact the Wisconsin Select transition team to receive a proposal. We'll detail the costs, features and benefits of the plan, offer you a detailed website demonstration and provide a comprehensive transition packet. We'll also work with your advisor to notify your employees of the upcoming provider change, supply enrollment kits, as well as provide an introduction to your conversion team.



From day one, our team will ensure that your HR staff is fully trained in our easy-to-use deferral processing system.

- If you wish to transition to Wisconsin Select with the services of a new advisor, contact us directly. We'll be happy to provide you with a list of qualified advisors to choose from. Your selected advisor will serve your plan every step of the way, working to ensure a smooth, easy conversion and new launch.
- If you don't currently offer a qualified retirement plan and wish to start with Wisconsin Select, we're ready to help. Our plan design specialists will work with you to create an employer-sponsored plan that meets all of your needs. We'll help you select an advisor, set a launch date and do everything to train your HR staff so you're ready for a successful start.

From transitioning existing plans to startups, Wisconsin Select is here to make it as easy as possible. Take your first step today by heading to [www.wiselect401k.com](http://www.wiselect401k.com) or call us at (920) 993-7727 or (866) 993-7727 (toll-free number).





**WISCONSIN**  
— SELECT —

Wisconsin Select  
c/o Appleton Group LLC  
100 W. Lawrence St. Suite 306  
Appleton, WI 54911



## Chapter ETF 70

### DEFERRED COMPENSATION PLANS

#### Subchapter I — General Provisions

ETF 70.01	Statement of purpose.
ETF 70.02	Definitions.
ETF 70.03	Board responsibilities.
ETF 70.04	Department responsibilities.
ETF 70.05	Primary plan administration.
ETF 70.06	Alternate plan administration.
ETF 70.07	Primary and alternate plan administration.

ETF 70.08	Investment providers.
ETF 70.09	Member responsibilities.
ETF 70.10	Emergency withdrawals.

#### Subchapter II — State Deferred Compensation Plan for Local Employees

ETF 70.11	Participation in the deferred compensation plan.
ETF 70.12	Effective date.
ETF 70.15	Terminating participation in the deferred compensation plan.

#### Subchapter I — General Provisions

**ETF 70.01 Statement of purpose.** The purpose of this chapter is to establish a procedure for administration of a deferred compensation program as provided by s. 40.80, Stats. The procedure includes requirements and regulations for the primary deferred compensation plan and any alternate deferred compensation plan. All plans shall be monitored, evaluated and approved by the deferred compensation board. However, only the primary plan shall be supported by the board as the official state of Wisconsin deferred compensation plan.

**History:** Cr. Register, June, 1992, No. 438, eff. 7-1-92.

**ETF 70.02 Definitions.** In this chapter, words and phrases shall have the following meanings:

(1) “Administrator” means any company with which the board contracts to provide administrative services for deferred compensation plans authorized under s. 40.80, Stats.

(2) “Alternate administrator” means any company with which the board contracts to provide administrative services for an alternate deferred compensation plan authorized under s. 40.80 (2m), Stats.

(3) “Alternate plan” means any deferred compensation plan authorized under s. 40.80 (2m), Stats., and offered by an alternate administrator.

(4) “Beneficiary” has the meaning given in s. 40.02 (8), Stats.

(5) The “board” means the deferred compensation board.

(6) The “department” means the department of employee trust funds.

(7) “Employee” means any person who receives earnings as payment for personal services rendered for the benefit of any employer including officers of the employer and is eligible to participate in the deferred compensation program.

(8) “Investment product” means any insurance or annuity contract, bank or credit union account, mutual or money market fund or other type of investment vehicle.

(9) “Investment provider” means any company that manages and offers investments products.

(10) “Member” means any employee electing to participate in the deferred compensation program.

(11) “Plan and trust document” means the document developed by the department and approved by the board to describe in detail the regulations of the program and ensure program compliance with section 457 of the internal revenue code which requires the availability of this document to members.

(12) “Primary administrator” means the company contracted to provide administrative services for the primary deferred compensation plan authorized under s. 40.80 (1), Stats.

(13) “Primary plan” means the deferred compensation plan authorized under s. 40.80 (1), Stats., and offered by the primary administrator.

(14) “Program” includes the primary plan and any alternate plan authorized under s. 40.80, Stats., and approved by the board for offering to eligible employees.

**History:** Cr. Register, June, 1992, No. 438, eff. 7-1-92; CR 08-016: cr. (4m) Register August 2008 No. 632, eff. 9-1-08; CR 11-040: renum. (1) to (4m) to be (intro.) to (4) Register July 2012 No. 679, eff. 8-1-12; CR 14-055: am. (11) Register May 2015 No. 713, eff. 6-1-15.

**ETF 70.03 Board responsibilities.** The board shall have the following responsibilities in regard to the program:

(1) Act, at all times, in a manner consistent with that of a trustee with a fiduciary duty to the program and members.

(2) Determine and implement the most efficient and cost effective method for administration of the program consistent with high quality services to members.

(3) Establish standards by which the primary administrator shall be evaluated for initial and continued participation in the primary plan.

(4) Evaluate the performance of the primary administrator, annually, to determine contractual compliance and compliance with standards as established under sub. (3).

(5) Declare the board’s official support of the primary plan to participating employers and members in the publication prepared by the department as required in s. ETF 70.04 (5) (c).

(6) Determine the initial eligibility of any potential alternate administrator that petitions the board to offer an alternate plan based on criteria established in s. ETF 70.06.

(7) Evaluate alternate administrators, annually, based on criteria established in s. ETF 70.06 to determine their continued eligibility.

(8) Define general categories of investment products to be offered under the primary plan and any alternate plan.

(9) Establish criteria by which specific investment products shall be evaluated for initial and continued participation in the primary plan or any alternate plan.

(10) Evaluate investment products offered by the administrator, annually, based on criteria established in sub. (9) to determine if the investment product continues to be acceptable for offering by the primary plan or alternate plan.

**History:** Cr. Register, June, 1992, No. 438, eff. 7-1-92; CR 11-040: renum. (1) to (11) to be (intro.) to (10), correction in (4), (5), (10), as renumbered, made under s. 13.92 (4) (b) 7., Stats., Register July 2012 No. 679, eff. 8-1-12.

**ETF 70.04 Department responsibilities.** The department shall be responsible for the following:

(1) Negotiate and implement contracts with administrators and investment companies.

(2) Monitor plan administration and ensure contract compliance.

(3) Develop and maintain a plan document that defines rules and requirements of the program regarding member enrollment in the program, member deferral amounts, distribution of account balances, and administration of the program that will be distrib-

uted, by the administrator, to new and current members by request.

(4) Provide information and recommendations to the board and its committees that shall be necessary to complete the evaluation of the primary and alternate administrator as required in s. ETF 70.03 (4) and (7) and the investment products as required in s. ETF 70.03 (10).

(5) Prepare and distribute to members an annual publication that presents a balanced and impartial overview of the primary plan and any alternate plan that includes the following:

(a) Description of investment products and corresponding investment risks.

(b) Full disclosure of all direct and indirect costs to members.

(c) Announcement of the board's official support of the primary plan as required in s. ETF 70.03 (5).

(d) General information about deferred compensation plans including the maximum deferral amount allowed under internal revenue code section 457.

(6) Review and approve all material prepared by the primary administrator and alternate administrator to describe the primary plan and alternate plan and investment products to eligible employers, employees and members.

(7) Review and issue a determination on all requests for emergency withdrawals as defined in s. ETF 70.10.

(8) Provide reports to the board at each board meeting that detail emergency withdrawals, enrollment statistics, plan assets and any other information that may be requested by the board.

**History:** Cr. Register, June, 1992, No. 438, eff. 7-1-92; CR 11-040: renum. (1) to (9) to be (intro.) to (8), correction in (5), (6) (c) made under s. 13.92 (4) (b) 7., Stats., Register July 2012 No. 679, eff. 8-1-12.

**ETF 70.05 Primary plan administration.** (1) Based upon a request for proposal process, the board shall contract with one primary administrator to offer the primary plan that is approved and officially supported by the board. The administrator awarded the contract for the primary plan shall have:

(a) At least 5 years experience administering other section 457 deferred compensation programs. The administrator's experience shall include administering at least one program that meets each of the following:

1. Participation level of 30,000 members or more.

2. Program involves multiple payroll reporting agencies.

3. Record keeping includes consolidated record keeping for all investment products that are offered.

(b) Marketing and enrollment services that include the following:

1. A staffed office located in Madison and field representatives to provide services to all areas of the state.

2. Contacts to each eligible employee at least annually to describe the plan being offered by this administrator.

3. Frequent enrollment opportunities at intervals established by the board.

4. Presentations to employees that include full disclosure of all direct and indirect costs to members as well as advantages and disadvantages of participating in the plan offered by this administrator.

5. Literature and forms regarding the plan to be distributed to employees and payroll personnel that are in a form approved by the department.

(c) Member services that include the following:

1. Unlimited opportunities to increase or decrease deferral amounts.

2. Unlimited opportunities to redirect deferral amounts to any other investment product offered by the administrator.

(d) Accounting procedures and consolidated record keeping for member account transactions that maintains all individual member records and submits deferrals, transfers and withdrawals

to the investment companies offering investment products to the primary plan.

(2) The potential administrator shall agree to return all interest earned on idle funds of the plan that are held by the administrator to the department to offset plan costs.

(3) The potential administrator shall provide the necessary financial disclosure for assurance of its financial soundness.

(4) The investment products offered by the primary administrator shall meet the criteria in s. ETF 70.03 (9) and be approved by the board.

(5) The primary administrator shall provide an annual report to the board illustrating the investment performance of all investment products offered by the primary plan, as measured by criteria established under s. ETF 70.03 (8).

**History:** Cr. Register, June, 1992, No. 438, eff. 7-1-92; correction in (4), (5) made under s. 13.92 (4) (b) 7., Stats., Register July 2012 No. 679, eff. 8-1-12; CR 14-055: am. (1) (a) 1. Register May 2015 No. 713, eff. 6-1-15.

**ETF 70.06 Alternate plan administration.** (1) At its discretion, the board may contract with an alternate administrator to offer an alternate plan. An alternate plan shall not be officially supported by the board. Any administrator that meets the criteria set forth in s. ETF 70.05 (1), (2) and (3) may be allowed to offer an alternate plan. The board shall not contract with more than one alternate administrator at any one time.

(2) Investment products offered by an alternate administrator shall meet the criteria as established in s. ETF 70.03 (9) and be approved by the board and shall not duplicate any of the specific investment products offered by the primary administrator.

(3) The alternate administrator shall provide an annual report to the board that describes the investment performance of all investment products offered by the alternate plan, as measured by the criteria in s. ETF 70.03 (9).

(4) Potential alternate administrators who meet the minimum requirements as defined in subs. (1), (2) and (3) may petition the board for approval to participate in the program within a 30 day period beginning the day after publication of these rules in the Wisconsin Administrative Code and then from May 1 through May 31 of every other year starting in 1994 for approval to participate in the program as of the next calendar year. The board shall limit the number of alternate administrators to one through a request for proposal process should there ever be a second, or more, potential administrator that petitions the board.

(5) If the evaluation of an alternate administrator as required in s. ETF 70.03 (7) results in the termination of the alternate administrator's participation in the program or if their contract is not renewed, members shall be instructed to redirect deferrals and transfer existing balances from investment products offered by the terminated administrator to other investment products offered by the primary administrator or any other alternate administrator within a six-month period or other time period designated by the board. At the end of the six-month period or the date designated by the board, the board shall instruct the terminated administrator to redirect any deferrals and transfer any remaining account balances with investment products offered by the terminated administrator to board designated alternative investment products offered by the primary administrator. Surrender charges that are normally assessed against funds transferred from investment products offered by one administrator to another, shall not be assessed for transactions under this subsection.

**History:** Cr. Register, June, 1992, No. 438, eff. 7-1-92; correction in (2), (3), (5) made under s. 13.92 (4) (b) 7., Stats., Register July 2012 No. 679, eff. 8-1-12.

**ETF 70.07 Primary and alternate plan administration.** (1) All contracts with administrators shall be approved by the board and signed by the board chair or designee. Any administrator who participates in the program shall sign a contract in which the administrator agrees to:

(a) Follow all requirements and regulations of the program as defined in the plan and trust document.

(b) Share information, such as member's annual deferral amounts, with the department and any other administrator contracted by the board to ensure compliance with internal revenue code section 457.

(c) Provide full disclosure of all revenues received by the administrator from members and investment providers of their plan to the department at least annually.

(d) Provide quarterly reports to the department to allow adequate monitoring of program administration and compliance with internal revenue code section 457 regulations.

(e) Provide an annual independently audited financial statement of the administrator to the department within 120 days from the end of the calendar year.

(f) Submit to the department an acceptable contingency plan to address both data processing systems failures and administrative services interruptions.

(g) Provide to members, upon enrollment, full disclosure of all fees and charges that are assessed, either directly or indirectly as an offset of earnings, by the administrator or the investment providers. A memorandum of understanding detailing key aspects and restrictions of the primary plan or any alternate plan shall be presented to and signed by employees enrolling in either the primary plan or any alternate plan.

(h) Provide to members, when requested, a copy of the fund prospectus and annual report for each investment product offered by the administrator and the ability to transfer account balances from investment products offered by one administrator to those offered by another.

(i) Provide statements to members, at least quarterly, detailing member's year to date annual deferral amounts, account balance information and disclosure of all fees and charges affecting member's interest earnings or account balances.

(j) Provide information and counseling to members at termination of employment or retirement, regarding the options offered by the administrator for distribution of their account and timely processing of payouts. The type of distribution options offered shall include lump sum and partial lump sum payments, installment payment options and annuity options.

(2) The primary plan and any alternate plan shall reimburse the department for their proportionate share of the department's costs associated with the program.

(3) The administrator, their agents and the investment products they offer shall meet all applicable state and federal regulations including section 457 of the internal revenue code, security and exchange commission regulations, and state and federal insurance laws and regulations.

**History:** Cr. Register, June, 1992, No. 438, eff. 7-1-92; CR 14-055: am. (1) (a), (d), (e), (i) Register May 2015 No. 713, eff. 6-1-15.

**ETF 70.08 Investment providers.** (1) Investment providers offering an investment product through the primary plan or an alternate plan shall be selected by the board based on the investment product categories and criteria established under s. ETF 70.03 (8) and (9). All contracts with investment providers of the primary plan or an alternate plan shall be approved by the board and signed by the board chair or designee.

(2) Investment providers shall not be allowed to assess any direct or indirect costs to members.

(3) Based on the board's review required under s. ETF 70.03 (10), the board may determine that an investment product offered by the primary plan or an alternate plan is no longer acceptable for inclusion in the program. If the board decides to remove an investment product from the plan as a result of the product's failure to meet the criteria as established under s. ETF 70.03 (9), the product shall be phased out of the primary or alternate plan in a 2-step process over a 12 month period that shall commence on the first business day of the sixth month following the board's decision, as follows:

(a) Phase 1 of the investment product termination process shall last for 6 months during which time current members and employees newly enrolling in the primary or alternate plan shall be informed in writing that the terminating investment product does not meet board's evaluation criteria and that this *investment product is not open to new enrollments*.

1. Any members already deferring to the terminating investment product shall be informed in writing that they need to redirect future deferrals from this product to an alternative investment product offered by the primary or alternate plan by notifying the administrator of their new investment choice.

2. At the end of the 6-month period, the board shall instruct the administrator to automatically redirect any member's deferrals that have not been redirected to an alternative investment product from the terminated product into a board designated alternative investment product offered by the primary or alternate plan.

3. Existing member account balances shall be allowed to remain in the terminating investment product during this period.

(b) Phase 2 of the investment product termination process immediately follows the first 6-month period and provides an additional 6-month period during which time members shall transfer existing balances from the terminating product to another investment product offered by the primary or alternate plan.

1. If at the end of the 6-month period, any member has failed to move a remaining account balance from the terminated fund, the board shall instruct the administrator to automatically move that member's account balance into a board designated alternative investment product offered by the primary or alternate plan.

2. During the phase out process and at any time prior to the end of the second phase, the board may re-examine the performance of the terminating investment product to determine if continued plan participation is justified.

**History:** Cr. Register, June, 1992, No. 438, eff. 7-1-92; CR 08-016: am. (3) (intro.) Register August 2008 No. 632, eff. 9-1-08; correction in (1), (3), made under s. 13.92 (4) (b) 7., Stats., Register July 2012 No. 679, eff. 8-1-12.

**ETF 70.09 Member responsibilities.** (1) Employees electing to become a member of the primary or an alternate plan shall sign a memorandum of understanding prior to enrolling to certify that all program requirements and regulations have been clearly explained.

(2) A member shall select one administrator for his or her deferrals. A member may not simultaneously defer earnings to the primary plan and an alternate plan.

(3) Each member shall review information provided by the administrator and the department about the investment type and performance of the investment products offered to determine which investment products best meet the member's individual needs and financial objectives.

(4) Each member shall monitor his or her own annual deferral amounts to ensure the amount does not exceed the maximum deferral amount allowed under internal revenue code section 457.

**History:** Cr. Register, June, 1992, No. 438, eff. 7-1-92; CR 14-055: r. (5) Register May 2015 No. 713, eff. 6-1-15.

**ETF 70.10 Emergency withdrawals.** (1) A participant or beneficiary may make emergency withdrawals in the event of an unforeseeable emergency under the following conditions and limitations:

(a) As defined in 26 USC 457 (b) (5) and 26 CFR 1.457-2 (h) (4), an unforeseeable emergency is one which causes severe financial hardship to the participant or beneficiary as a result of a sudden and unexpected illness or accident of the participant or beneficiary or of a dependent of the participant or beneficiary, loss of the participant's or beneficiary's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant or beneficiary.

**Note:** "A dependent of the participant" as used here is defined by the secretary of the treasury as one specified in 26 USC 152 (a).

(b) The need to send a participant's or beneficiary's child to college or the desire to purchase a home are examples of what are not unforeseeable emergencies.

(c) The facts of each case shall be ascertained to determine if the circumstances constitute an unforeseeable emergency.

(d) Withdrawal payment may not be made to the extent that the hardship is or may be relieved:

1. Through reimbursement or compensation by insurance or otherwise,

2. By liquidation of the participant's or beneficiary's assets to the extent the liquidation of these assets would not itself cause severe financial hardship, or

3. By cessation of deferrals under the plan.

(e) The withdrawal, because of an unforeseeable emergency, shall be limited to an amount reasonably needed to satisfy the emergency need.

**(2)** The administrator shall:

(a) Receive requests from participants or beneficiaries for unforeseeable emergency withdrawals,

(b) Investigate and document the facts on a form prescribed by the department, and

(d) Within 5 working days after the receipt of the information requested from the employer or other parties, either render a decision or make a recommendation to the department on a form prescribed by the department.

**(6)** The department shall prepare a report on unforeseeable emergency withdrawal activity since the last meeting of the board for presentation at the following meeting of the board.

**History:** Cr. Register, June, 1985, No. 354, eff. 7-1-85; renum. from ETF 10.01, Register, June, 1992, No. 438, eff. 7-1-92; CR 08-016: am. (intro.), (1) (a), (b), (d) 2. and (2) (a) Register August 2008 No. 632, eff. 9-1-08; CR 14-055: am. (2) (intro.), r. (2) (c), am. (2) (d), r. (3) to (5) Register May 2015 No. 713, eff. 6-1-15; correction in (2) (b) made under s. 35.17, Stats., Register May 2015 No. 713.

## Subchapter II — State Deferred Compensation Plan for Local Employees

### ETF 70.11 Participation in the deferred compensa-

**tion plan.** The governing body of any employer as defined under s. 40.02 (28), Stats., other than the state, may provide the state's deferred compensation plan for its employees by the adoption of a resolution in the form approved by the department. The employer shall forward a certified copy of the resolution to the department and the then current administrative plan provider as defined in s. 40.02 (18s), Stats.

**History:** Cr. Register, June, 1985, No. 354, eff. 7-1-85; renum. from ETF 70.10, Register, June, 1992, no. 438, eff. 7-1-92.

**ETF 70.12 Effective date.** Local implementation of the deferred compensation plan and enrollment of eligible employees may begin immediately upon acceptance, by the department, of the resolution under s. ETF 70.11.

**History:** Cr. Register, June, 1985, No. 354, eff. 7-1-85; CR 14-055: am. Register May 2015 No. 713, eff. 6-1-15.

**ETF 70.15 Terminating participation in the deferred compensation plan.** The governing body of an employer, other than the state, may terminate participation in the state deferred compensation plan after a minimum of one year from the date the certified copy of the resolution required under s. ETF 70.11 was accepted by the department, by adopting a resolution in the form approved by the department and forwarding a copy of the resolution to the department and the then current administrative plan provider as defined in s. 40.02 (18s), Stats. Enrollment and payroll deferral activities shall cease 90 days after receipt by the department of the certified copy of a resolution to terminate participation in the state's deferred compensation plan. Treatment of previous individual deferral investment specifications, accounts and benefits shall continue to be governed by the plan and investment plan provider contracts, unless the employer exercises its right of ownership under 26 CFR 1.457-2 (j) to provide for different treatment.

**Note:** Chapter ETF 70 requires several forms which are available at no charge by contacting either the department of employee trust funds or the current administrative plan provider. The forms may be obtained at no charge by writing to: department of employee trust funds, P.O. Box 7931, Madison, WI 53707-7931, or by calling: (608) 266-3285 or toll free at (877) 533-5020. The forms also are available on the department's website: [ef.wi.gov](http://ef.wi.gov) or on the Wisconsin deferred compensation program's website: [www.wdc457.org](http://www.wdc457.org).

**History:** Cr. Register, June, 1985, No. 354, eff. 7-1-85; CR 14-055: am. Register May 2015 No. 713, eff. 6-1-15.



November 28, 2016

## Recommended amendments to Chapter ETF 70 - DEFERRED COMPENSATION PLANS

**OBJECTIVE:** Modify existing *ETF 70.05 Primary plan administration* language to make it possible for Wisconsin-domiciled administrators to competitively bid on deferred compensation relationships with the State of Wisconsin.

**RATIONALE:** As currently written, there exists no in-state administrators who meet the qualifications to be considered under a competitive RFP process for the Wisconsin Deferred Compensation Program. Because of the current language, all roles and revenues (and tax dollars) are being forced to go to out-of-state providers. Three minor statutory changes should be considered:

- 1) Current language limits the administrator to 457(b) experience only, and excludes all other relevant “defined contribution” experience (i.e. 401(k), 403(b), etc.). In reality, the administrative differences between various defined contribution plans are insignificant (as demonstrated by the current administrator, Empower Retirement, who uses the same administrative platform for all three variants). Relevant 401(k) and 403(b) experience should be allowed (with the current 5-year minimum), and should be evaluated as part of the subsequent RFP process.
- 2) Current language sets a minimum participation level in a single program at 30,000 employees, which also excludes all potential in-state administrators. While a reasonably high threshold is necessary to demonstrate administrative scale, a minimum participation level of 10,000 employees in a single plan would more than suffice. As a point of reference, 99.9974% of defined contribution plans sponsored by Wisconsin employers had fewer than 10,000 participants (Source: Larkspur Data, 9/30/2016). As a matter of reference, this minimum participation number was amended in June of 2015 to the current 30,000 members from the previous 5,000 members.<sup>1</sup>
- 3) Current language specifies that the administrator must have a staffed office in Madison. Due to improved telecommunication services (i.e. email, internet, web conferencing, etc.) a staffed office in Madison is unnecessarily restrictive and should be expanded to include any location in Wisconsin. Current language specifying field representatives’ service to all areas of the state would be unchanged.

---

1

PROPOSED STATUTE REVISIONS:

\*\*\*\*

**ETF 70.05 Primary plan administration. (1)** Based upon a request for proposal process, the board shall contract with one primary administrator to offer the primary plan that is approved and officially supported by the board. The administrator awarded the contract for the primary plan shall have:

(a) At least 5 years experience administering other section 457 deferred compensation programs or section 401(k) or 403(b) defined contribution programs. The administrator's experience shall include administering at least one program that meets each of the following:

1. Participation level of ~~30,000~~ **10,000** members or more.
2. Program involves multiple payroll reporting agencies.
3. Record keeping includes consolidated record keeping for all investment products that are offered.

(b) Marketing and enrollment services that include the following:

1. A staffed office located in ~~Madison~~ Wisconsin and field representatives to provide services to all areas of the state.

\*\*\*\*