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**Correspondence Memorandum**

**Date:** October 27, 2020

**To:** Deferred Compensation Board

**From:** Shelly Schueller, Director  
 Wisconsin Deferred Compensation Program

Dan Hayes, Attorney  
 Office of Legal Services

**Subject:** In-Service Distributions – Potential Plan Change

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

As discussed at previous board meetings, the federal Setting Every Community Up for Retirement Enhancement Act (SECURE Act) and Bipartisan American Miners Act (Miners Act) of 2019 became law on December 20, 2019, as part of larger appropriation legislation. Since then, the IRS and Treasury Department have issued guidance related to implementing the various provisions enacted and more is forthcoming. On September 2, 2020, the IRS published Notice 2020-68 (Notice) in a question and answer format that provides guidance on certain provisions of the SECURE Act and Miners Act. One provision addressed relates to in-service distributions from § 457(b) plans such as the Wisconsin Deferred Compensation Program (WDC).

Section 104 of the Miners Act permits in-service distributions from § 457(b) plans at age 59½ instead of the current age of 72. This rule is optional, beginning on or after January 1, 2020. We believe federal guidance is now sufficiently developed to consider such a change to the WDC Plan and Trust document. We are interested in feedback on whether the board desires such a change before proposing any amendments to the Plan and Trust.

Regarding the number of WDC participants who would be affected by a change to allowing in-service distributions at age 59½, the WDC’s administrator reports the following as of October 2020:

- There are 5,277 actively working participants between age 59½ and 72.
- There are 182 actively working participants age 72 or older.
- Eight unique participants over age 72 who are actively working have utilized in-service distributions for a total of 11 withdrawals.

Reviewed and approved by David Nispel, General Counsel, Legal Services

*David H. Nispel* Electronically Signed 11/5/20

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In summary, as of October, there were 5,277 participants who would have been eligible to take in-person distributions if the change to age 59½ was in effect at that time and an additional 182 participants age 72 or older who remain eligible to withdraw in-service distributions.

The WDC's administrator, Empower Retirement, also reported that implementation and administration of in-service distributions would not be burdensome. The withdrawals are not complex. Empower's call center is trained to review disbursement rules when assisting participants with all distribution requests. If there were to be an update to WDC disbursement rules, call center resources would be updated to bring the change to the attention of representatives.

Staff will be available at the Board meeting to discuss the idea of in-service distributions with you and answer any questions.