STATE OF WISCONSIN
Department of Employee Trust Funds
A. John Voelker
SECRETARY

Wisconsin Department
of Employee Trust Funds
PO Box 7931
Madison WI 53707-7931
1-877-533-5020 (toll free)
Fax 608-267-4549
etf.wi.gov

Correspondence Memorandum

Date: June 7, 2021

To: Deferred Compensation Board

From: Tarna Hunter, Director of Government Relations and Strategic Engagement
Office of the Secretary

Shelly Schueller, Director
Wisconsin Deferred Compensation Program

Subject: Legislative Update

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

Federal Legislation

On May 4, 2021, the "Securing a Strong Retirement Act of 2021" (H.R. 2954) was introduced by Ways and Means Committee Chairman Rep. Richard Neal (D-MA) and Rep. Kevin Brady (R-TX). The legislation builds on the Setting Every Community Up for Retirement Enhancement (SECURE) Act, which was enacted in December 2019. The new legislation includes provisions intended to expand retirement savings, help preserve retirement income and simplify and clarify retirement plan rules. On May 5, 2021, the House Ways and Means Committee voted unanimously to send the bill to the full House for consideration.

The following provisions impact 457(b) plans such as the WDC Program.

- **Eliminate the "first day of the month" rule for 457(b) plans.** Participants in a governmental 457(b) plan must request changes in their deferral rate prior to the beginning of the month in which the deferral will be made. This rule does not exist for other defined contribution plans. The legislation would allow such elections to be made at any time prior to the date that the compensation being deferred is available.

- **Increase age for beginning Required Minimum Distributions.** Under current law, participants are generally required to begin taking distributions from their retirement plans at age 72. The SECURE Act generally increased the required minimum distribution age to 72. The legislation increases the required minimum distribution age

Reviewed and approved by Pamela Henning, Assistant Deputy Secretary
Pamela S Henning   Electronically Signed 6/7/21

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further to 73 starting on January 1, 2022 – and increases the age further to 74 starting on January 1, 2029 and 75 starting on January 1, 2032.

- **Increase catch-up contribution.** Under current law, employees who have attained age 50 are permitted to make catch-up contributions under a retirement plan in excess of the otherwise applicable limits. The limit on catch-up contributions for 2021 is $6,500. The bill increases these limits to $10,000 (indexed), respectively, for individuals who have attained ages 62, 63 and 64, but not age 65.

- **Elective Deferrals Generally Limited to the Regular Contribution Limit.** A plan that permits an eligible participant to make catch-up contributions must require such contributions to be designated Roth contributions. The proposal applies to tax years beginning after Dec. 31, 2021.

- **Optional Treatment of Employer Matching Contributions as Roth Contributions.** The bill provides that a plan may permit an employee to designate matching contributions as designated Roth contributions. An employer matching contribution that is a designated Roth contribution shall not be excludable from gross income. This proposal would apply to contributions made after the date of the enactment.

- **Promote the Saver's Credit.** The bill requires the Treasury Secretary to take steps to increase public awareness of the credit. Additionally, it requires the Treasury Secretary to report back to Congress within 90 days of enactment summarizing the anticipated promotion of those efforts.

- **Permit plans sponsors to treat student loan payments as elective deferrals for purposes of matching contributions.** The bill permits an employer to make matching contributions under a 401(k) plan, 403(b) plan, or SIMPLE IRA with respect to "qualified student loan payments," the definition of which is broadly defined as any indebtedness incurred by the employee solely to pay qualified higher education expenses of the employee. Governmental employers would also be permitted to make matching contributions in a section 457(b) plan or another plan with respect to such repayments.

- **Provide a safe harbor for corrections of employee elective deferral failures.** This legislation would allow a grace period for plans, including 401(a), 403(b) and 457(b) plans, to correct, without penalty, reasonable errors in administering automatic enrollment and automatic escalation features. The errors must be corrected prior to 9 ½ months after the end of the plan year in which the mistakes were made.

- **Repayment of qualified birth or adoption distribution ("QBAD") limited to 3 years.** The SECURE Act included a provision that allows individuals to receive distributions from their retirement plan in the case of birth or adoption without paying the 10% additional tax. The distributions can be recontributed to a retirement plan at any time and are treated as rollovers. The bill amends the QBAD provision to restrict the recontribution period to 3 years.

- **Hardship Distributions.** Provides that, under certain circumstances, employees will be permitted to self-certify that they have had an event that constitutes a hardship for purposes of taking a hardship withdrawal.

- **Penalty-Free Withdrawals – Domestic Abuse.** The bill allows retirement plans to permit participants that self-certify that they experienced domestic abuse to withdraw a small amount of money (the lesser of $10,000 and 50 percent of the participant's account). A distribution made under this provision would not be subject to a 10 percent tax on early distributions. Additionally, a participant would have the opportunity to repay the withdrawn money to the retirement plan over 3 years and would be refunded for income taxes on money that is repaid.

ETF's 2021-23 Biennial Budget

The 2021–2023 Budget Bill, **2021 AB 68** and **2021 SB 111**, were introduced by the Joint Committee on Finance (JCF) on February 16, 2021 at the request of the Governor. In its review of the budget bill, ETF has identified the following budget provisions that may be of interest to the WDC Board.
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- **Project Positions** – Provides for the continuation of three 4-year project positions (2.0 FTE SEG Trust Funds Specialist and 1.0 FTE SEG Accountant positions). ETF requested that the current project positions be converted to permanent. Instead, the budget authorized the project positions.

- **Support for Modernization-Related Ongoing IT Expenses–** Provides a permanent increase to base funding of $317,300 in FY 2022 and $424,200 in FY 2023 to support increases for ongoing operational IT expenses related to recent ETF modernization efforts.

- **Retirement Boards Consolidation** – Consolidates the Wisconsin Retirement Board and the Teachers Retirement Board into the ETF Board. The proposed merger reduces the number of boards from three to one and the number of retirement board member positions from 35 to 13. The new ETF Board would include two ex officio members, five gubernatorial appointees, and six members elected by WRS constituents.

- **Internal Auditor** – Creates the Office of Internal Audit attached to ETF. The bill requires the ETF Board to appoint an internal auditor and internal audit staff within the classified service who report directly to the ETF Board. ETF's internal auditor and staff shall continue to serve until the ETF Board makes an appointment under this provision.

- **Trust Fund Earnings Allocation** – Provides that ETF may distribute investment gains and losses of the core and variable trust funds accounts by calculating a simple average balance using the beginning and end of year balances. Current statutory language provides that investment gains and losses shall be distributed in a ratio of each participating account's average daily balance to the total average daily balance of all participating accounts.

- **Domestic Partnerships** – Reinstates domestic partnership benefits for all state and local government employee insurance programs administered by the Department of Employee Trust Funds.

- **Return to Work for Retiring Teachers** – Provides that school districts may rehire an annuitant teacher if: (a) at least 15 days have passed since the teacher left employment with a district; (b) at the time of retirement, the teacher does not have an agreement with any school district to return to employment; and (c) upon returning to work, the teacher elects to not become a participating employee and to continue receiving their annuity.

The JCF took action on the budget during its first May 6 executive session. The JCF removed nearly 400 policy items that the governor included in his budget proposal from further consideration by the committee, including all provisions relating to ETF's benefit programs. The budget continues to fully fund ETF's current operations. ETF will monitor the budget bill as the JCF makes additional modifications and the budget moves through the legislative process.

Staff will be available at the meeting to answer any questions.