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Correspondence Memorandum

Date: June 2, 2022

To: Deferred Compensation Board

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

Shelly Schueller, Director
Wisconsin Deferred Compensation Program

Subject: Legislative Update

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

The 2021 Regular Session of the Wisconsin Legislature ended when the State Senate adjourned on March 9. One bill was passed by the Legislature that affect programs overseen by the Board.

2021 Session – Enacted Law

2021 Wisconsin Act 245 makes the following remedial changes recommended by ETF. The changes clarify current law or codify current practice. These technical changes may require minor modifications to procedures and forms for members and employers but do not make substantive changes. 2021 Act 245 took effect on April 10, 2022.

1. Annuity Option – Joint Survivorship
2. Outdated Qualified Domestic Relations Order Section
3. Other Governmental Service Purchase – Change “participant” to “participating employee”
4. Clarifying that a Member Cannot be Receiving a Disability Annuity and be Considered a Participating Employee
5. Employee Reimbursement Accounts – Aligning State Statutes with Federal Law
6. Correct Outdated References to Director of the Office of State Employment Relations
7. Federal SECURE Act changes to Required Minimum Distributions (RMD) and Required Beginning Date (RBD)

Reviewed and approved by Pamela Henning, Assistant Deputy Secretary
Electronically Signed 06/02/2022
Pamela L Henning

Board	Mtg Date	Item #
DC	06.09.22	14B

Federal Legislation

Rise & Shine Act
On May 26, 2022, the Senate Health, Education, Labor, and Pensions (HELP) Committee released a discussion draft of the Retirement Improvement and Savings Enhancement to Supplement Healthy Investments for the Nest Egg (RISE & SHINE) Act—legislation to strengthen people's emergency savings and retirement security. The legislation builds off provisions in the House-passed Securing a Strong Retirement Act of 2022, known as SECURE 2.0, as well as the Retirement Improvement and Savings Enhancement Act.

The discussion draft includes a number of provisions included in previously introduced bills including allowing 403(b) plans to participate in multiple employer plans; reducing the requirement for part-time workers to participate in an employer's retirement savings plan to two years of service from three years; permitting employers to offer workplace emergency savings accounts linked to defined contribution plans; requiring pension plan sponsors to provide participants and retirees with key information when offering lump-sum buyouts; and allowing employers every three years to automatically re-enroll workers who previously opted out of a retirement plan.

The draft does not include one of the major provisions featured in the House's SECURE 2.0 bill: requiring 401(k) and 403(b) plans to automatically enroll participants upon becoming eligible.

Feedback on the discussion draft was due June 2, 2022. Final legislation is expected to be introduced in mid-June. We will continue to monitor the bill and provide additional information regarding how the revised legislation impacts the WDC program.

SECURE Act 2.0
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. On March 29, 2022, the House passed the SECURE Act by a vote of 414-5. The bill has been referred to the Senate Committee on Finance.

H.R. 2954 includes the following provisions which affect 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 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 will be available at the meeting to answer questions.