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Correspondence Memorandum

Date: March 29, 2023

To: Deferred Compensation Board

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

Shelly Schueller, Director
Wisconsin Deferred Compensation Program

Subject: Legislative Update: SECURE 2.0 and 2023-2025 State Biennial Budget Request

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

This memo provides an update on recent federal legislation that impacts the Wisconsin Deferred Compensation Program (WDC) and summarizes the status of the Department of Employee Trust Funds' 2023–2025 state biennial budget request.

Federal Legislation: SECURE 2.0
Congress passed the Consolidated Appropriations Act of 2023 on December 23, 2022, and the legislation was signed into law by President Biden on December 29, 2022. The final bill included the SECURE 2.0 Act of 2022. SECURE 2.0 is a combination of three pension reform bills: Securing a Strong Retirement Act (House), Enhancing American Retirement Now (EARN) Act (Senate Finance), and the Retirement Improvement and Savings Enhancements to Supplement Healthier Investment for the Nest Egg (RISE & SHINE) Act (Senate Health, Education, Labor and Pensions committee bill).

SECURE 2.0 builds on retirement plan changes made by the SECURE Act of 2019 and includes multiple provisions that impact the WDC. SECURE 2.0 includes minor technical changes as well as provisions intended to improve retirement savings and simplify administration. There are different effective dates for various provisions and clarification is needed on several new provisions before the Board considers them. For s. 457 governmental plans like the WDC, the deadline for implementation is the last day of the first plan year beginning on or after January 1, 2027 (for the WDC, this is December 31, 2027**).** However, SECURE 2.0 also says that plans must operate in accordance with the provisions of SECURE 2.0 as of the applicable effective date.

Pamela S Henning

Reviewed and approved by Pam Henning, Assistant Deputy Secretary
Electronically Signed 03/31/2023

Board	Mtg Date	Item #
DC	04.20.23	7

The attachment to this memo, SECURE 2.0 Summary for Governmental Plans, provides an overview of the SECURE 2.0 provisions impacting the WDC. Key provisions include:

- Elimination of the “first day of the month” requirement for contributions to s. 457 plans
- Altering catch-up provisions
  - Increasing catch-up limits for older employees
  - Requiring catch-up contributions to be made on a Roth basis for employees earning $145,000 or more in the preceding calendar year. Note: A drafting error in SECURE 2.0 that technically eliminates all catch-up contributions instead of just pre-tax contributions starting in 2024 has been identified. Most believe this was not Congress’ intent and a correction be passed by Congress. ETF will continue to monitor this as eliminating catch-up contributions would impact the WDC.
- Changing required minimum distribution (RMD) requirements
  - Increasing the RMD age again to age 73 (for a person who attains age 72 after December 31, 2022), effective immediately
  - Reducing the penalty for failure to take a timely RMD from 50% to 25%, effective immediately
  - Eliminating pre-death RMDs from designated Roth accounts
- Easing distribution rules
  - By permitting reliance on an employee’s self-certification for unforeseen financial emergency withdrawals
  - For emergency personal expenses of $1,000 or less, once per year
  - To domestic abuse victims
  - For terminally ill employees, with physician certification
  - For qualified federally declared disasters
  - For long-term care contracts
  - For public safety officer health insurance premium payments
  - For qualified public safety officers ages 50 or older or with 25 years of service

Some SECURE 2.0 provisions may require changes to Wisconsin Administrative Code and the WDC Plan and Trust document to maintain compliance with federal law, and some of the SECURE 2.0 provisions are optional. ETF will continue to analyze the legislation and will return to future Board meetings to discuss SECURE 2.0 provisions including potential revisions to the WDC Plan and Trust document, implementation considerations in conjunction with the WDC’s record keeper (Empower), and a timeline.

2023-2025 State Biennial Budget Request

On February 15, 2023, Governor Evers gave his 2023-2025 State Budget Address. The budget bill has been submitted to the Legislature, where both houses will spend the next few months analyzing the bill and making modifications. Usually, in summer, the Legislature will deliver an amended budget bill to the Governor for review, approval, and/or partial veto.

Upon initial review, we have identified a number of provisions affecting ETF and/or Wisconsin Retirement System (WRS) benefit programs that may be of interest to the Board. Some of the highlights include:

ETF Administration and Oversight

- **General Wage Adjustments** – Provides general wage adjustments for most state employees of 5% on July 1, 2023, and an additional 3% on July 1, 2024.

- **Full Funding of Salary and Fringe Benefits** – Continues full funding of ETF's current operations. The proposed ETF 2023-25 budget consists of an overall funding increase of approximately 18%.

- **Modernization-Related Ongoing IT Expenses** – Provides 7.0 FTE and a permanent increase to base funding of $3.6m in FY 2024 and $8.1m in FY 2025 to support increases for ongoing operational IT expenses associated with the Insurance Administration System (IAS), data management, and consulting/contractor costs related to replacing outdated legacy IT systems. The budget **did not** provide funding for the Pension Administration System (PAS) but includes non-statutory language directing ETF to include PAS funding in the 2025-2027 biennial budget request.

- **Critical Customer Service Functions** – Provides 7.0 FTE Trust Funds Specialists to maintain basic, critical customer service functions for members and employers related to significant increases in the member and employer populations that ETF serves.

- **Financial and Actuarial Compliance and Reporting** – Provides 1.0 FTE Accountant Advanced and 1.0 FTE Actuarial Analyst to fulfill its actuarial and accounting responsibilities related to actuarial valuations, financial reporting, and the proper implementation of accounting statements promulgated by the Governmental Accounting Standards Board (GASB).

- **Mandatory LAB Actuarial Audit –** Provides one-time funding of $17,000 SEG in FY 2024 and $174,000 SEG in FY 2025 to contract with the Legislative Audit Bureau (LAB) for the actuarial audit of the Wisconsin Retirement System that is statutorily required at least once every five years and for actuarial services related to performing a Governmental Accounting Standards Board valuation audit related to the retiree life insurance and sick leave programs.

- **Disability Program Redesign** – Decouples Sick Leave from the State Income Continuation Insurance (ICI) Plan Premium and Benefit Determinations. Premiums would be based on an elimination period and income instead of the employee's sick leave balance. Additionally, the provision eliminates the requirement to use sick leave before receiving benefits. Finally, this provision transfers oversight of the ICI and Long-Term Disability Insurance programs from the Group Insurance Board to the ETF Board.

- **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. This was changed from ETF's request for unclassified positions. ETF's internal auditor and staff shall continue to serve until the ETF Board makes an appointment under this provision.

Retirement Services

- **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 Law** – Provides that retirees can return to a WRS employer if: (a) at least 30 days have passed since the employee left employment with a participating employer; (b) the employee does not have an agreement to return to work; and (c) the employee elects to not become a participating employee in the WRS.

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

Attachment A: NAGDCA's SECURE 2.0 Summary for Governmental Plans