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: November 9, 2023

To: Deferred Compensation Board

From: Shelly Schueller, Director
Wisconsin Deferred Compensation Program

Dan Hayes, Attorney
Office of Legal Services

Subject: SECURE 2.0 Update on Remaining Mandatory and Optional Sections

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

This memo provides an update on remaining provisions of SECURE 2.0 that could impact the Wisconsin Deferred Compensation Program (WDC). These provisions are divided by "mandatory" or "optional" and will be discussed at the Deferred Compensation Board (Board) meeting on December 7, 2023.

Table 1: Mandatory Sections of SECURE 2.0

Section	Topic	Status
Section 109: Increased age 50+ catch-up contribution limits	Effective January 1, 2025, the age 50+ catch-up contribution limit will be increased to the greater of $10,000 or 50 percent more than the regular catch-up limit ($7,500 for 2023) for individuals who have attained ages 60, 61, 62, and 63. The increased amounts will be indexed for inflation after 2025.	After review of this provision and the WDC Plan and Trust, ETF has determined that Article 2.05 of the Plan and Trust already references the applicable section of the Internal Revenue Code (IRC), making the section "evergreen." WDC implementation of SECURE 2.0 s. 109 will occur on January 1, 2025, when the federal code changes.
Section 306: First Day of the Month Contribution Changes	Eliminates the "first day of the month" requirement for 457(b) gov't plan participant contribution amount changes. With this change, participants may change their deferral rate any time before their compensation is available.	Plan and Trust changes completed. WDC recordkeeper fine tuning programming changes. Expected to be available for participant use on or after December 18, 2023.

Matt Stohr

Reviewed and approved by Matt Stohr, Administrator, Division of Retirement Services
Electronically Signed 11/20/2023

Board	Mtg Date	Item #
DC	12.07.23	7

Section	Topic	Status
Section 325: Roth plan distributions	Effective January 1, 2024, the pre-death RMD exemption is extended to Roth amounts in s. 457 plans.	Suggested language to implement section 325 will be reviewed and discussed as part of the "Recommended Plan and Trust Revisions" item at the December 2023 Board meeting. (Ref. DC I 12.07.23 I 9) Empower's systems will be ready by January 1, 2024.
Section 603: Higher Paid Employees to Contribute via Roth ONLY for Age 50+ Catch-Up	Effective January 1, 2026, age 50+ catch-up contributions made by participants who earn $145,000 or more in the prior year (indexed for inflation) must be made to a Roth account.	*A two-year administrative transition period was announced on August 25, 2023, moving the effective date from January 1, 2024, to January 1, 2026.* Implementation challenges include tracking participants' previous year earnings and coordinating this information between employers' payroll systems and recordkeepers.

The SECURE 2.0 sections summarized in Table 2 below are optional. These sections, which expand distribution possibilities, were authorized by Congress as it recognized that many people need greater financial flexibility. According to Forbes and CNBC, in 2022, nearly half of Americans could not cover an unexpected $400 expense[1] and 56% could not cover an unexpected $1,000 expense with savings[2].

Table 2: Optional Sections of SECURE 2.0

Section	Topic	ETF Analysis/Notes
Section 115: Withdrawals for certain emergency expenses	Allows one penalty-free withdrawal of up to $1,000 per year for "unforeseeable or immediate financial needs relating to personal or family emergency expenses" without penalty. The withdrawal may be repaid within three years. Only one withdrawal per three-year repayment period is permitted if the first withdrawal has not been repaid.	ETF recommends no action at this time as discussion regarding allowing emergency withdrawals is needed. Implementation challenges include defining "personal emergency expense," how the participant should include this withdrawal in a tax filing, and repayment of distributions.

[1] SECURE 2.0 Act Creates New Ways to Fund Emergency Savings (forbes.com) December 22, 2022.
[2] 56% of Americans can't cover a $1,000 emergency expense with savings (cnbc.com) January 19, 2022.

Section	Topic	ETF Analysis/Notes
Section 127: Plan Linked Emergency Savings Accounts (PLESAs)	Allows a plan to include a “pension-linked emergency savings account” that meets certain requirements and makes corresponding changes to the IRC of 1986 regarding tax treatment of these accounts. A PLESA is a “sidecar” account to which non-highly compensated participants could invest up to $2,500 via Roth contributions (post-tax) in principle-protected assets and from which at least monthly withdrawals must be permitted. PLESAs are optional as of 2024.	ETF recommends no action at this time as guidance on applicability to s. 457(b) plans and other regulatory guidance is needed.
Section 311: Repayment of Qualified Birth or Adoption Distributions (QBADs)	Requires qualified birth or adoption distributions to be recontributed within three years of the distribution to qualify as a rollover contribution.	ETF recommends no action at this time as discussion regarding allowing QBADs in the plan is needed, along with resolution of issues related to repayment of distributions.
Section 312: Employer may rely on employee certifying that deemed financial emergency distribution conditions are met	Allows a plan to rely on a participant’s self-certification that an unforeseeable financial emergency eligible for distribution has occurred, that the distribution is not in excess of the amount required to satisfy the financial need, and that the employee has no alternative means reasonably available to satisfy the financial need.	ETF recommends no action until further guidance is available related to questions including self-certification limits.
Section 314: Penalty-free withdrawal from retirement plans for individual in case of domestic abuse	Permits certain penalty-free early withdrawals in the case of domestic abuse in an amount not to exceed the lesser of $10,000 (indexed) or 50% of the value of the employee’s vested account under the plan. Such eligible distributions to a domestic abuse victim may be recontributed to applicable eligible retirement plans, subject to certain requirements.	ETF recommends no action at this time as uncertainties exist including how to document self-certification and distribution repayment.
Section 326: Exception to penalty on early distributions from qualified plans for individuals with a terminal illness	Creates an exception to the 10% early withdrawal penalty for distributions to individuals who have an illness or condition that is reasonably expected to result in death in 84 months or less, as certified by a physician.	ETF recommends no action until implementation questions including establishing a physician certification process are resolved.

Section	Topic	ETF Analysis/Notes
Section 331: Special rules for the use of retirement funds in connection with qualified federally declared disasters	Provides permanent special rules governing plan distributions and loans in cases of qualified federally declared disasters if their principal home was in the disaster area and they sustained economic loss as a result of the disaster. (note: both of these must apply) • Up to $22,000 may be distributed to a participant per disaster; • Amount is exempt from the 10% early withdrawal penalty fee; • Inclusion in gross income may be spread over 3-year period; • Amounts may be recontributed to a plan or account during the 3-year period beginning on the day after the date of the distribution.	ETF recommends no action until additional clarification is provided. Implementation challenges include determining what is a “qualified disaster area” and distribution repayment.
Section 334: Long-term care contracts purchased with retirement plan distributions	Permits distributions for certain long-term care insurance contracts. The amount permitted to be distributed is the lowest of: (1) the amount paid by or assessed to the employee during the year for long-term care insurance; (2) 10% of the employee’s vested accrued benefit in the plan; or (3) $2,500 (this dollar amount will be indexed for inflation beginning in 2025). Distributions from plans and IRAs used to pay premiums for high quality, long-term care insurance would be exempt from the 10% penalty on early distributions.	*Note: This section does not take effect until 2025.* ETF recommends no action until after questions including what is “qualifying” coverage and what is “high quality coverage” are resolved.

Until additional guidance is received that resolves implementation questions including those related to clarifying various terms and resolving distribution repayment methods, ETF does not recommend the Board act on any of these SECURE 2.0 provisions.

The WDC’s record keeper, Empower, expects many system and operational changes as it works to implement SECURE 2.0 in the next several years. Empower has been surveying plan sponsors like the WDC regularly to determine where to prioritize their resources related to implementing SECURE 2.0.

ETF will continue to monitor developments related to the optional portions of SECURE 2.0 and provide updates to the Board.

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