Federal and State Executive Action Pertaining to COVID-19 and Retirement Law

URS Report to the Retirement and Independent Entities Interim Committee

June 22, 2020

Temporary Suspension of Certain Post-Retirement Restrictions

On March 30, 2020, Governor Gary R. Herbert issued Executive Order 2020-9 ordering the temporary, limited suspension of some provisions of the Utah Postretirement Reemployment Restrictions Act (Utah Code Sections 49-11-1201 et seq.) during the COVID-19 state of emergency. This allows some retirees without a one-year break in service to be temporarily re-employed in positions performing critical government functions while continuing to receive their monthly pension benefits.

The Utah State Retirement Board (Board) approved Resolution 2020-02 providing rules to implement and administer the temporary exception and the Utah Retirement Systems (URS) also adopted related policies and procedures.

Key conditions allowing eligible retirees to return to work after retirement under the exception established in the Executive Order and Board Resolution include:

- Retirees being reemployed must have retired prior to March 30, 2020.
- Retirees in the Public Safety or Firefighters' Retirement Systems must be 50 years of age or older at the time of reemployment.
- Retirees in other retirement systems must be 55 years of age or older at the time of reemployment.
- The retiree must be temporarily hired to fill a critical governmental function position (including emergency services, first responders, healthcare, public health facilities, and others) during the declared state of emergency.
- Employers must notify URS of all retirees being hired under this exception as soon as possible and practical.
- These reemployed retirees may not receive any retirement related contribution from a participating employer, such as employer 401(k) contributions.
- When Utah's declared state of emergency for COVID-19 ends, this temporarily reemployed retirees must terminate that employment.

To date, seven URS retirees have returned to work with a participating employer under this temporary exemption.

More information about this reemployment and the policies and procedures for participating employers may be accessed online at http://newsroom.urs.org/COVIDPostRetirement and https://www.urs.org/Employers/index.

URS Defined Contribution Savings Plans Changes Based on Federal Legislation

First, the Setting Every Community Up for Retirement Enhancement (SECURE) Act, was signed into law on December 20, 2019. This far-reaching bill was an end-of-year appropriations act and accompanying tax measure. It made some federal law changes relating to defined contribution plans. Some significant tax provisions affected retirement savings by making it easier for small businesses to offer their employees 401(k) plans and allowing retirement benefits for long-term, part-time employees.

Second, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law on March 27, 2020. This coronavirus response bill in excess of $2 trillion aims at providing relief to various groups including individuals, small businesses, corporations, public health entities, state and local government, and others. These include options in certain retirement plans to reduce or suspend elective deferrals and expand distribution and loan options to plan participants.

The Board adopted the following plan changes for the URS Defined Contribution Savings Plans (401(k), 457, Roth IRA, Traditional IRA) based upon these two federal laws:

1. Required Minimum Distributions (RMDs)

- The SECURE Act pushed back the age at which retirement plan participants need to take a Required Minimum Distribution (RMD) from 70½ to 72, effective for participants who reach age 70½ after December 31, 2019.
- The CARES Act includes a temporary waiver of federal RMD rules in 2020 for defined contribution savings plans.

2. Penalty-Free In-Service Withdrawals for Birth & Adoption

- The Board approved plan changes pursuant to a discretionary provision of the SECURE Act that allows penalty-free withdrawals of up to $5,000 within a year following the birth or legal adoption of a child on or after January 1, 2020.
- An eligible adoptee is any individual (other than a child of the member's spouse) who is under age 18 or is physically or mentally incapable of self-support.
- The distribution must be made within one year following the birth or legal adoption of a child and can't exceed $5,000 across all of the member's retirement plans.
- A qualified birth or adoption withdrawal may be repaid to a qualifying retirement plan as a rollover contribution.
- Withdrawals made from a 401(k) may only be made from vested account balances attributable from employee elective deferrals (but not earnings on those elective deferrals).

3. Coronavirus-Related In-Service Distributions for 2020

- The Board approved plan changes pursuant to a discretionary provision of the CARES Act that allows penalty-free coronavirus-related withdrawals of up to $100,000 for qualifying members.
- To qualify, the member must:
    - Be diagnosed with COVID-19 by a test approved by the CDC;
    - Have a spouse or dependent diagnosed with COVID-19 by a test approved by the CDC; or
    - Experience adverse financial consequences as a result of: (1) being quarantined, furloughed, or laid off, or having work hours reduced due to COVID-19; (2) being unable to work due to lack of child care due to COVID-19; (3) being unable to work due to closing or reducing hours of a business you own or operate due to COVID-19; or, (4) other factors as determined by the Secretary of the Treasury.
- The total amount that a member can withdraw is limited to $100,000 across all of their retirement plans and must be made before December 31, 2020. The federal income tax associated with the withdrawal may be paid over three years, beginning with taxable year 2020. The distribution may be repaid, in one or more contributions, to an eligible retirement plan within three years of distribution.
- Withdrawals from a 401(k) account may only be made from vested account balances attributable from employee elective deferrals (but not earnings on those elective deferrals).

4. Coronavirus-Related Loan Relief

- The Board approved plan changes pursuant to a discretionary provision of the CARES Act that allows loan relief for the Defined Contribution Savings Plans Department's 401(k) and 457 plans.
- Qualified members (under the same conditions listed above for Coronavirus-Related Distributions) may defer some or all payments of a loan due during the period from enactment of the Act, March 27, 2020, through December 31, 2020.
- Loan interest will continue to accrue at the same rate as the original loan.
- Deferring payments will extend the term of the original loan by the time period corresponding to the number of delayed payments.
- The loan shall be re-amortized, and the loan payments will resume at the increased re-amortized amount by April 2021, and in accordance with IRS rules and guidance.

More information about these Defined Contributions Savings Plans changes and the applicable forms and instructions may be accessed online by following the links at http://newsroom.urs.org/COVID-19.