

WSR 24-17-060
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed August 15, 2024, 10:24 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-13-103.

Title of Rule and Other Identifying Information: Deferred compensation plan (DCP) revisions.

Hearing Location(s): On September 26, 2024, at 3:00 p.m. Microsoft Teams link is available on <https://www.drs.wa.gov/sitemap/rules/#proposed-rule-hearings>, Meeting ID 255 330 665 343, Passcode x7rwvC; or phone 833-322-1218, Code 912 139 296#.

Date of Intended Adoption: October 1, 2024.

Submit Written Comments to: Bianca Stoner, Department of Retirement Systems (DRS), P.O. Box 48380, Olympia, WA 98504-8380, email drs.rules@drs.wa.gov, beginning September 3, 2024, 8:00 a.m., by September 24, 2024, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Bianca Stoner, phone 360-664-7291, email drs.rules@drs.wa.gov, by September 24, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Completing implementation of the required minimum distribution provision from the SECURE Act of 2022 and revising language to align with other DCP WAC.

Statutory Authority for Adoption: RCW 41.50.[0]50 and the SECURE Act of 2022 (P.L. 117-328).

Statute Being Implemented: The SECURE Act of 2022 (P.L. 117-328).

Rule is necessary because of federal law, the SECURE Act of 2022 (P.L. 117-328).

Name of Proponent: DRS, governmental.

Name of Agency Personnel Responsible for Implementation: Seth Miller, DRS, P.O. Box 48380, Olympia, WA 98504-8380, 360-664-7304.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 (5)(a)(i) does not apply to this proposed rule, and DRS is not voluntarily making it applicable.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: Rules from DRS only affect members and beneficiaries of the state retirement systems and participating public employers, so they do not affect small businesses.

Scope of exemption for rule proposal:

Is fully exempt.

August 15, 2024
Bianca Stoner
Rules Coordinator

OTS-5494.2

AMENDATORY SECTION (Amending WSR 22-17-049, filed 8/11/22, effective 9/11/22)

WAC 415-501-488 How will the account be distributed if my beneficiary is my spouse? If you die with money in your account and your beneficiary is your spouse, an account will be established in your spouse's name.

(1) The distribution options will be provided to your spouse when DCP is notified of your death. Your spouse may choose the method of distribution (installment payments or lump sum) and may be subject to a required minimum distribution each calendar year until ~~((your))~~ the account is exhausted.

~~((a) The department must receive your spouse's election at least 30 days before distribution is to begin.~~

~~(b) Receiving more than the required minimum distribution during one calendar year does not excuse your spouse from taking the required minimum in any calendar year to which the required minimum applies.))~~

(2) Required minimum distribution. ~~((The required minimum distribution in each of the relevant calendar years is based on life expectancies set forth in the treasury regulations.))~~ If applicable, the department will begin distribution according to the minimum distribution requirements in the Internal Revenue Code Section 401 (a) (9).

Receiving more than the required minimum distribution during one calendar year does not excuse your spouse from taking the required minimum in the following calendar year(s).

(3) If your spouse dies before the entire account is exhausted, the remainder of the account will be paid according to their beneficiary election(s) on file (see WAC 415-501-480). If there is no beneficiary election on file, the remaining balance will be paid to their estate.

AMENDATORY SECTION (Amending WSR 22-17-049, filed 8/11/22, effective 9/11/22)

WAC 415-501-491 How will the account be distributed if my beneficiary is not my spouse? If you die with money in your account and your beneficiary is an individual other than your spouse, an account will be established in your beneficiary's name.

(1) For rules governing distribution to an entity other than an individual (e.g., a trust, estate, or organization), see WAC 415-501-493.

(2) The distribution options will be provided to your beneficiary when DCP is notified of your death, and will be based on treasury rules in effect at that time.

~~(3) ((The department must receive your beneficiary's election at least 30 days before distribution is to begin.))~~ Required minimum distribution. If applicable, the department will pay out any required minimum distribution(s) according to the Internal Revenue Code Section 401 (a) (9).

(4) If your beneficiary dies before the entire account is exhausted, the remainder of the account will be paid according to their beneficiary election(s) on file (see WAC 415-501-480). If there is no beneficiary election on file, the remaining balance will be paid to their estate.

AMENDATORY SECTION (Amending WSR 20-17-006, filed 8/5/20, effective 9/5/20)

WAC 415-501-495 Will the department honor domestic relations orders? (1) The department will honor a domestic relations order (DRO) only if the order:

(a) Was entered by a court of competent jurisdiction pursuant to the domestic relations law of any state;

(b) Establishes a right of a spouse or former spouse to a portion of your deferred compensation account pursuant to a division of property;

(c) Clearly states either the dollar amount or a percentage of the account to be transferred to the account of the spouse or former spouse from your account; and

(d) Provides your name and date of birth, and the name and date of birth of your spouse or former spouse.

(2) You must provide the address and Social Security number of both you and your spouse or former spouse to the department.

(3) To implement a DRO, the department will establish a separate account for the spouse or former spouse in the amount specified in subsection (1)(c) of this section. The transfer(s) will be prorated across all funds and money sources based on the amount awarded to the spouse or former spouse. Thereafter, the spouse or former spouse may provide investment instructions under WAC 415-501-475.

(4) Your spouse or former spouse may choose a method of distribution, including an eligible direct rollover.

(5) If a DRO filed with the department prior to January 1, 2002, provides that distribution to the spouse or former spouse is not available until you separate from service, the department will comply with the express terms of the order unless it is subsequently amended.

(6) Required minimum distribution and determining age requirements for distribution. If the spouse or former spouse has (~~not elected another method of distribution before~~) a balance in their account at the time the original account holder reaches ((age seventy-two)) the required minimum distribution age, the department will begin distribution in accordance with the minimum distribution requirements (~~in IRC~~) as designated in Internal Revenue Code Section 401 (a)(9) and the treasury regulations thereunder.

(7) If the spouse or former spouse dies before the account is fully distributed, the remaining balance will be paid according to the beneficiary election(s) on file (see WAC 415-501-480). If there is no beneficiary election on file, the remaining balance will be paid to their estate.