

## Executive Committee Meeting

Friday, April 8, 2022

### Meeting Minutes

The Executive Committee of the Southwest Wisconsin Workforce Development Board met on Friday, April 8, 2022, via GoToMeeting. Attendance was as follows:

<b>Members Present:</b>	Ms. Maria Lauck, Chairperson Mr. Christopher Comella	Mr. James Otterstein Mr. Mike Williams
<b>Members Absent:</b>	Mr. Art Carter	Ms. Lisa Omen
<b>Staff Present:</b>	Ms. Katie Gerhards Ms. Rhonda Suda	Ms. Danielle Thousand

#### 1. Call to Order

Ms. Lauck called the meeting to order at 10:03 a.m.

#### 2. 2021 401(k) Error

Ms. Suda explained that during the December 9, 2020, full Board meeting, SWWDB administration presented a modification to SWWDB's 401(k) Retirement Plan for review and approval. The plan would be changed effective January 1, 2021 to include the following features:

- Offer a Roth contribution option;
- Allow eligible rollover contributions/transfers into the plan to be done as of date of hire; and
- Allow employees to enroll in the plan with no employer contribution until the employee has achieved standard eligibility (at least 1,000 hours of service, one year of service, and January or July entry date).

The modification was approved and the plan documents were updated by Blue Chip, SWWDB's third party program administrator of the 401(k) plan. SWWDB administration did not realize that the plan documents were drafted to mean that the immediate plan participation would be offered to all SWWDB employees regardless of the number of hours per week that the employee was scheduled to or did work.

Ms. Thousand stated that with some leased employees, their hours per week are so small that they would not be able to meet the 1,000 hours of service requirement in order for SWWDB to contribute. It was not SWWDB administration's intent to exclude anyone who would otherwise qualify. SWWDB administered the plan during 2021 under the intent of how it was believed SWWDB asked for the plan to be changed.

The error was discovered during the review of the 2021 Form 5500, the report that gets filed with the IRS. By not offering the 401(k) fringe benefit to everyone, SWWDB is in violation of the plan. SWWDB was provided two (2) options to resolve the situation.

1. **Make the Employees Whole / Corrective Action:** SWWDB would make a fully vested contribution to the plan equal to 50% of the average rate of deferrals for all employees for each year of omission. The contribution would be adjusted for earnings based on the plan's rate of return for the period in question. If anyone being corrected is eligible for match (unlikely given the situation) they would get the match they would have received had they deferred the average rate of deferral.

- 2. Amend the Plan Documents:** SWWDB can amend the plan document to add an exclusion for those not regularly scheduled to work 1,000 hours per year. There are potentially two routes here: amend now or retroactively amend back to the effective date of January 1, 2021. With this option, it would be indicated that the original intent of what SWWDB believed had been requested for the change in the plan would be written as the plan. There is a clear risk that under audit the IRS would not accept the amendment and would require corrections anyway likely with penalty and interest charged.

Ms. Suda and Ms. Thousand indicated that Option 1 may be the best option as there is less overall risk in the future and it protects both SWWDB and the employees the best. The cost is estimated to be between \$3,000 and \$4,300 in payments on behalf of the impacted employees. The cost would come out of SWWDB's corporate reserves.

Mr. Williams asked who wrote the modified plan. Ms. Suda answered that Blue Chip wrote the document that SWWDB signed. Ms. Suda apologized for the mistake and that it should have been reviewed closer.

Ms. Lauck said that Option 1 is less risky and asked if the checks employees receive will be taxable. Ms. Thousand said yes, only if upon distribution out of the plan the employees choose for a distribution rather than rollover. Those employees will have a 401(k) account opened with Empower. SWWDB administration will issue the payment and Blue Chip will take care of the rest.

Ms. Lauck also asked if SWWDB should let the leasing agencies know about this situation. Ms. Suda responded yes – an email will be sent.

Mr. Comella agrees that Option 1 would be best. After this process is said and done, this fringe benefit could be a marketing pro when it comes to hiring new staff.

Ms. Suda stated that this was an unintentional error and SWWDB administration will be more cautious when making changes to SWWDB's 401(k) plan in the future.

Ms. Lauck asked for confirmation that the amount to be paid will not affect programs, but will come entirely from SWWDB's corporate account. She also asked if it is safe to take the funds from corporate. It is situations like this why SWWDB has a comfortable corporate reserve. Ms. Thousand confirmed that SWWDB is very comfortable making the payment right away.

Mr. Otterstein said that based on discussion had, Option 1 is the best option to resolve the issue.

Motion made by Mr. Otterstein, seconded by Mr. Williams, to approve Option 1 – Make the Employees Whole/Corrective Action by SWWDB making a fully vested contribution to the Plan equal to 50% of the average rate of deferrals for all employees for each year of omission. **Motion carried unanimously.**

### **3. Approval of Meeting Minutes**

The minutes of the September 22, 2021, and November 5, 2021, Executive Committee Meetings were presented to members for review and discussion. There was no discussion.

Motion made by Mr. Comella, seconded by Mr. Williams, to approve the September 22, 2021 and November 5, 2021 meeting minutes. **Motion carried unanimously.**

### **4. Other Business**

Ms. Suda provided committee members with an update on the reauthorization of the Workforce Innovation and Opportunity Act (WIOA). It is being considered in the House of Representatives. In the coming months, SWWDB's Local Plan will need to be modified and program negotiations will be underway. If the timing is right, such items will be discussed at the next Board meeting. If not, the Executive Committee will convene.

**5. Adjournment**

Motion made by Mr. Otterstein, seconded by Mr. Williams, to adjourn the meeting at 10:27 a.m. **Motion carried unanimously.**