REPLY TO: TALLAHASSEE

MEMORANDUM

TO:	Local Government Clients
FROM:	Jim Linn, Glenn E. Thomas and Janice Rustin
DATE:	February 20, 2020
RE:	SECURE Act

In December 2019, the U.S. Congress enacted and President Trump signed into law the "Setting Every Community Up for Retirement Enhancement" (SECURE) Act. The SECURE Act includes a number of federal tax law changes to promote retirement savings. The most significant change affecting all retirement plans, including local government plans, is an increase in the age for required minimum distributions, from 70 ½ to 72. There are several other provisions of the SECURE Act that impact governmental retirement plans. These are summarized below.

Increase in Age for Required Minimum Distributions

The SECURE Act amends Internal Revenue Code Section §401(a)(9) to allow retirees to delay taking required minimum distributions (RMDs) until age 72, replacing the prior age of 70 ½. This change is effective for plan members who reach age 70 ½ after December 31, 2019. For members who reached age 70 ½ on or before December 31, 2019, there is no change; these members must take their first RMD by April 1, 2020. However, plan members who attain age 70 ½ after December 31, 2019, can now wait to take their first RMD until April 1 of the calendar year in which they reach age 72. Most governmental retirement plans, both defined benefit and defined contribution plans, currently reflect age 70 ½ as the age at which members must begin receiving benefits or distributions from the plan. These plans will need to be amended to reflect the new age 72 provision for RMDs.

Reduction in Age for Permissive In-Service Distributions

The SECURE Act also amends Sections §401(a)(36) and §457(d)(1)(A) of the Internal Revenue Code to give employers more flexibility with regard to in-service distributions by reducing the age at which plan members are eligible to receive such distributions. In-service distributions allow members to begin to receive retirement benefits before they separate from employment.

- DB plans: Under the prior law, governmental defined benefit retirement plans could (but were not required to) provide for in-service distributions beginning at age 62 for members who are not qualified public safety employees, and age 50 for qualified public safety employees (qualified public safety employees are defined as any employee of a state or political subdivision of a state who provides police protection, firefighting services or emergency medical services). Under the SECURE Act, governmental defined benefit plans can provide for in-service distributions beginning at age 59 ½.

- DC plans: Under the prior law, governmental 457(b) deferred compensation plans could provide for distributions to members no earlier than the calendar year in which the member attained age 70 ½, or when the member separated from employment. Under the SECURE Act, governmental 457(b) deferred compensation plans can now provide for in-service distributions beginning at age 59 ½.

The SECURE Act provision lowering the age for in-service distributions is permissive, not mandatory. This change is effective for plan years beginning after December 31, 2019. Qualified public safety employees may still begin to receive in-service distributions from a defined benefit plan at age 50, if provided in the plan.

Withdrawals for Birth or Adoption of a Child

The Secure Act allows plan amendments that would permit members to take withdrawals of up to $5,000 from defined contribution, 403(b) and 457(b) plans for expenses related to the birth or adoption of a child, for up to one year following the birth or adoption of the child, without the 10% early payment penalty. This is a permissive provision, not a requirement; and is effective for plan years beginning after December 31, 2019.

Please let us know if you have questions regarding these new age requirements.