

12535. **RESOLUTION 25-58 AUTHORIZES THE AMENDMENTS TO THE DELAWARE RIVER AND BAY AUTHORITY'S SECTION 457(b) OF THE DEFERRED COMPENSATION PLAN AS A RESULT OF MANDATORY MODIFICATIONS OF SECURE ACT 2.0**

WHEREAS the Delaware River and Bay Authority (the "Authority") currently maintains the Delaware River and Bay Authority's Section 457(b) of the Deferred Compensation Plan (the "457(b) Plan");

WHEREAS, Pursuant to Section 7.1 of the 457(b) Plan, the Authority has the right to, at any time, amend the Plan pursuant to a resolution of the Commissioners of the Authority; and

WHEREAS the Authority now desires to amend the 457(b) Plan to allow additional provisions to the operations of the Plan; and

WHEREAS, on December 29, 2022, President Biden signed the Consolidated Appropriation Act 2023 into law; and

WHEREAS this legislation contains the SECURE (Setting Every Community Up for Retirement Enhancement) 2.0 Act of 2022 ("the SECURE Act 2.0"); and

WHEREAS the Authority now desires to amend the Deferred Compensation 457(b) Plan to adopt specific mandatory provisions of the SECURE Act 2.0, effective as set forth below; and

WHEREAS, due to changes enacted by Section 107 of the SECURE Act 2.0, the Authority wishes to increase the Required Beginning Date (i) in the case of an individual who attains age 72 after December 31, 2022, and age 73 before January 1, 2033, to age 73; and (ii) in the case of an individual who attains age 74 after December 31, 2032, to age 75; and.

WHEREAS, due to changes enacted by Section 327 of the SECURE Act 2.0, the Authority wishes to allow a surviving spouse to elect to be treated as the deceased employee with regard to the Required Minimum Distributions (RMD):(i) If the spouse is the sole designated beneficiary and the participant dies before commencing the RMD, the spouse may elect to be treated as the employee, and may not be required to commence taking the RMD until the earlier of December 31 of the calendar year in which the participant would have reached the Required Beginning Date; and (ii) if the surviving spouse dies before the RMDs to the spouse begin, RMDs shall be made as if the spouse were the employee; and

WHEREAS, due to changes enacted by Section 325 of the SECURE Act 2.0, effective January 1, 2024, the Authority wishes to eliminate Designate Roth Accounts from the computation of Required Minimum Distributions; and

WHEREAS, due to changes enacted by Section 603 of the SECURE Act 2.0, effective for plan years beginning after December 31, 2025, the Authority wishes to provide that in the case of a catch-up eligible participant whose wages (as defined in Section 3121(a) of the Internal Revenue Code of 1986 (the "Code")) for the preceding calendar year from the Authority exceed \$145,000, such catch-up eligible participant's catch up contributions must be designated Roth contributions (as defined in Section 402A(c)(1) of the Code)) made pursuant to an employee election; the Secretary of the Treasury shall adjust annually the \$145,000 amount for plan years beginning after

December 31, 2026; and

NOW, THEREFORE, BE IT RESOLVED THAT the proper officers and employees of the Authority are hereby authorized to execute the necessary amendments to the Deferred Compensation 457(b) Plan and to take whatever action to execute whatever instruments with the advice and consent of Counsel that may be necessary or convenient to carry out the foregoing resolution.

Resolution 25-58 was moved by Commissioner Mehaffey, seconded by Commissioner Houghton, and was approved by a roll call vote of 10-0.

## **Resolution 25-58 Executive Summary**

- Resolution:** Authorizes the Amendments to the Delaware River and Bay Authority’s Section 457(b) of the Deferred Compensation Plan as a Result of Mandatory Modifications of the SECURE Act 2.0
- Committee:** Personnel Committee
- Committee/Board Date:** December 16, 2025
- Purpose of Resolution:** To add specific mandatory provisions of the Setting Every Community Up for Retirement Enhancement 2.0 Act of 2022 (the “SECURE” Act 2.0) to the Authority’s Section 457(b) Deferred Compensation Plan, to be effective as set forth in SECURE Act 2.0.
- Background for Resolution:**
- On December 29, 2022, President Biden signed the Consolidated Appropriations Act, 2023, into law, which includes the SECURE Act 2.0.
- Voya (the Authority’s record keeper), Bolton Retirement (the Authority’s pension actuary), Young Conway Stargatt and Taylor (the Authority’s Benefits and Pension Legal Counsel), have reviewed the changes required/recommended under the SECURE Act 2.0.
- The Authority now desires to amend the Deferred Compensation 457(b) Plan to adopt specific mandatory provisions of the SECURE Act 2.0, effective as set forth in SECURE Act 2.0.
- The SECURE Act 2.0 increases the Required Beginning Date for Required Minimum Distributions (“RMD”). The new age for the Required Beginning Date is determined as follows:
- Increase to age 73 for those who attain age 72 after December 31, 2022, and age 73 before January 1, 2033; and
  - Increase to age 75 for an individual who attains age 74 after December 31, 2023.
- The SECURE Act 2.0 requires a change regarding surviving spouses’ elections and how they are treated upon the death of the retiree concerning the expected RMD.
- If the spouse is the sole designated beneficiary and the participant dies before commencing an RMD, the spouse may elect to be treated as the employee may not be required

to commence taking the RMD earlier than the December 31 of the calendar year in which the participant would have reached the Required Beginning Date; and

- If the surviving spouse dies before the RMDs to the spouse begin, RMDs shall be made as if the spouse were the employee.

Prior to SECURE Act 2.0 when Computing RMD, a plan had to consider both pre-tax and Roth amounts. SECURE Act 2.0 eliminates this requirement so that the designated Roth accounts in a plan are not subject to RMD during the participant's lifetime. This conforms qualified plans to the rules for IRAs for RMD computations with regard to Roth amounts.

The SECURE Act 2.0 requires the Catch-Up Contributions for 2026 to be made as Roth contributions if the employee's salary from the Authority is above the threshold of \$145,000 per year in 2025. The \$145,000 threshold is subject to the IRS annual cost-of-living adjustments in \$5,000 increments.