

CHAPTER 7905
MINNESOTA STATE RETIREMENT SYSTEM
PUBLIC EMPLOYEES' DEFERRED
COMPENSATION PLAN RULES

7905.0100 DEFINITIONS.
 7905.0200 ESTABLISHMENT OF PLAN.
 7905.0300 PURPOSE OF PLAN.
 7905.0400 APPLICABLE LAW.
 7905.0500 TERMS: GENDER AND NUMBER.
 RESPONSIBILITIES OF DIRECTOR
 7905.0600 ADMINISTRATION OF PLAN.
 7905.0700 WRITTEN AGREEMENT.
 7905.0800 COPIES OF PLAN, PAMPHLETS, AND
 ACCOUNT STATEMENTS.
 PARTICIPATION IN PLAN
 7905.0900 ELIGIBILITY.
 7905.1000 ENROLLMENT.
 7905.1100 MINIMUM DEFERRAL.
 7905.1200 MAXIMUM DEFERRAL.
 7905.1300 MODIFICATIONS TO AMOUNT
 DEFERRED.
 7905.1400 REVOCATION OF DEFERRAL.
 7905.1500 DURATION OF ELECTION TO DEFER
 COMPENSATION.

7905.1600 DEFERRAL ADJUSTMENTS.
 PARTICIPANTS' ACCOUNTS, INVESTMENTS,
 AND DISTRIBUTION
 7905.1700 DEFERRED COMPENSATION
 ACCOUNTS AND VALUATION.
 7905.1800 UNSECURED GENERAL CREDITOR.
 7905.1900 INVESTMENT OF FUNDS.
 7905.2000 DISTRIBUTION EVENTS.
 7905.2100 METHODS OF DISTRIBUTION.
 7905.2200 ELECTION OF METHOD AND TIME OF
 DISTRIBUTION.
 7905.2300 UNFORESEEABLE EMERGENCY.
 7905.2400 DESIGNATION OF BENEFICIARY.
 7905.2500 LEAVE OF ABSENCE.
 INTERPRETATION OF PLAN
 7905.2600 NONASSIGNABILITY OF CONTRACT.
 7905.2700 HEADINGS AND SUBHEADINGS.
 7905.2800 CONFLICTS.
 7905.2900 AMENDMENT OF PLAN.
 7905.3000 PRIOR PLAN.

7905.0100 DEFINITIONS.

Subpart 1. **Scope.** Whenever used in the plan, the following terms shall have the meanings as set forth in subparts 2 to 21 unless otherwise expressly provided.

Subp. 2. **Accounting date.** "Accounting date" means the date on which an investment fund is valued and earnings and/or losses are allocated to participants' deferred compensation accounts. There shall be an accounting date at least once a month on the last business day of the month and, if practical in the discretion of the board, more frequent accounting dates to reflect, as closely as possible, the earnings and/or losses with respect to a deferred compensation account from the time compensation is deferred and invested in various investment funds until it is eventually distributed according to the plan.

Subp. 3. **Beneficiary.** "Beneficiary" means the person or legal entity provided for by the plan to receive any undistributed deferred compensation which becomes payable in the event of the participant's death.

Subp. 4. **Board.** "Board" means the Minnesota State Board of Investment.

Subp. 5. **Compensation.** "Compensation" means any remuneration payable to an individual who performs service for the employer which is reportable as taxable income.

Subp. 6. **Deferred compensation.** "Deferred compensation" means that portion of the participant's compensation which the participant and employer mutually agree to defer under this plan.

Subp. 7. **Deferred compensation account.** "Deferred compensation account" means the account established for the investment of deferred compensation. It shall include the supplemental investment account and the fixed and variable annuity account.

Subp. 8. **Director.** "Director" means the executive director of the Minnesota State Retirement System.

Subp. 9. **Employee.** "Employee" means:

A. any individual receiving compensation for services from the state of Minnesota which shall include any elected official, appointed official,

MINNESOTA RULES 1983

6197 PUBLIC EMPLOYEES' DEFERRED COMPENSATION 7905.0100

independent contractor, or employee of the state of Minnesota, including employees of departments, agencies, and instrumentalities, wherein the state legislature has specifically held such employees to be "state employees" for any one or more specific purposes such as, but not limited to, membership in the Minnesota State Retirement System, employee group insurance program, or unemployment compensation plan for state employees; or

B. any individual receiving compensation for services performed for a political subdivision of the state and shall include any elected official, appointed official, independent contractor, or employee of a political subdivision of the state, including any employee of such political subdivision or other employing unit entitled to membership in a public retirement plan, enumerated in Minnesota Statutes, section 356.20, subdivision 2.

Subp. 10. **Employer.** "Employer" means the state of Minnesota, or a political subdivision of the state of Minnesota, or an agency or instrumentality of the state of Minnesota or its political subdivisions.

Subp. 11. **Fixed and variable annuity account.** "Fixed and variable annuity account" means the investment accounts of the companies approved by the board pursuant to Minnesota Statutes, section 352.96, subdivision 2.

Subp. 12. **Includable compensation.** "Includable compensation" means the compensation remaining after any deferrals through this plan and/or any amount of compensation excluded from taxable income as a result of contributions made for the benefit of an employee under a tax-sheltered annuity or mutual fund shares held in a custodial account.

Subp. 13. **Normal retirement age.** "Normal retirement age" means the earlier of the following:

A. age 65; or

B. attainment of eligibility by the participant to commence receiving normal retirement benefits from one of the retirement systems enumerated in Minnesota Statutes, section 356.20, subdivision 2, or other Minnesota public employee pension plan of which participant is a member.

Subp. 14. **Participant.** "Participant" means any individual who has enrolled in this plan as provided in parts 7905.0900 to 7905.1600 and has not had a complete distribution of his or her deferred compensation account.

Subp. 15. **Pay period.** "Pay period" means a regular accounting period established by the employer for measuring and paying compensation earned by employees.

Subp. 16. **Plan.** "Plan" means the Minnesota public employees' deferred compensation plan as set forth herein and as it may be amended from time to time.

Subp. 17. **Prior plan.** "Prior plan" means the Minnesota deferred compensation plan approved by the attorney general and filed with the secretary of state and the commissioner of administration, November 24, 1975, and any plans established thereunder by political subdivisions of the state of Minnesota.

Subp. 18. **Projected retirement date.** "Projected retirement date" means a date established to allow deferral of underutilized amounts according to the provisions of part 7905.1200, item B. Only one projected retirement date may be designated and is to be designated on a form approved by the director.

Subp. 19. **Supplemental investment account.** "Supplemental investment account" means the Minnesota supplemental retirement investment fund as established by Minnesota Statutes, section 11A.17 and managed by the board.

Subp. 20. **Termination of service.** "Termination of service" means the permanent severance of the participant's employment relationship with the employer by means of: retirement; discharge (provided all appellate processes have been exhausted or tolled); resignation (provided seniority or continuous service is interrupted); permanent layoff; expiration or nonrenewal of

MINNESOTA RULES 1983

7905.0100 PUBLIC EMPLOYEES' DEFERRED COMPENSATION

6198

appointment or term of office; nonreelection; or such other form of permanent severance as may be provided by appropriate law, contract, or rules. For purposes of this definition, a break in employment for a period of less than 30 days shall not be considered a termination of service.

Subp. 21. **Taxable year.** "Taxable year" means the calendar year, beginning January 1 and ending on December 31.

Statutory Authority: *MS s 352.96 subd 4*

7905.0200 ESTABLISHMENT OF PLAN.

This plan shall be known as the "Minnesota public employees' deferred compensation plan" ("plan") and is hereby created in accordance with Minnesota Statutes, section 352.96. This plan shall constitute a continuation of the Minnesota deferred compensation plan, approved by the attorney general and filed with the secretary of state and the commissioner of administration, November 24, 1975.

Statutory Authority: *MS s 352.96 subd 4*

7905.0300 PURPOSE OF PLAN.

The purpose of the plan is to allow employees to designate a portion of their compensation to be withheld each pay period by the employer and invested at the discretion of and in a manner approved by the director for the employer until termination of employment, financial hardship, or death of the employee. Any compensation deferred by employees may be invested by the director for the employer but there is no requirement for the director or employer to do so. Participation in this plan shall not be construed to establish or create an employment contract between the employee and the employer.

Statutory Authority: *MS s 352.96 subd 4*

7905.0400 APPLICABLE LAW.

The plan shall be construed, administered, and governed in all respects under and by the laws of the state of Minnesota, Minnesota Statutes, section 352.96.

Statutory Authority: *MS s 352.96 subd 4*

7905.0500 TERMS: GENDER AND NUMBER.

Except when otherwise indicated by the context, any masculine terminology herein shall also include the feminine and neuter and vice versa, and the definition of any terms in part 7905.0400 in the singular may also include the plural.

Statutory Authority: *MS s 352.96 subd 4*

RESPONSIBILITIES OF DIRECTOR

7905.0600 ADMINISTRATION OF PLAN.

The director has the full power and authority to administer the plan and promulgate, adopt, amend, or revoke internal management procedures which are consistent with, and necessary to implement and maintain, this plan.

Statutory Authority: *MS s 352.96 subd 4*

7905.0700 WRITTEN AGREEMENT.

The employer or the director on behalf of the employer shall enter into a written agreement with each participant. Such written agreement and other application forms shall be in a form and manner as prescribed by the director and shall set forth the obligations contained in this plan, the amounts of compensation to be deferred, and such other information as the director deems necessary to administer the plan.

Statutory Authority: *MS s 352.96 subd 4*

MINNESOTA RULES 1983

6199

PUBLIC EMPLOYEES' DEFERRED COMPENSATION 7905.1200

7905.0800 COPIES OF PLAN, PAMPHLETS, AND ACCOUNT STATEMENTS.

Pamphlets describing this plan and outlining the options and opportunities available shall be prepared under the direction of the director and made available to eligible employees. Copies of the plan will be made available upon request. Individual account statements shall be made available to each participant at least annually.

Statutory Authority: *MS s 352.96 subd 4*

PARTICIPATION IN PLAN

7905.0900 ELIGIBILITY.

All employees who are receiving compensation on or after the date the plan becomes effective, and who have not revoked earlier participation pursuant to part 7905.1400 during the most recent taxable year, shall be eligible to become participants in accordance with part 7905.1000.

Statutory Authority: *MS s 352.96 subd 4*

7905.1000 ENROLLMENT.

Any employee eligible to participate in accordance with part 7905.0900 may become a participant by agreeing with the employer in writing, on a form approved by the director, to a deferment of his or her compensation in accordance with parts 7905.1100 and 7905.1200. The deferment will commence with the first full pay period following 30 days from the date the application is properly completed by the employee and accepted by the employer or director acting for the employer. The application shall also specify an investment preference for the deferred compensation.

Statutory Authority: *MS s 352.96 subd 4*

7905.1100 MINIMUM DEFERRAL.

The minimum amount which may be deferred shall be \$10 per pay period. The amounts to be deferred must be stated in whole dollars. If the application indicates any amount which includes cents, the cents will be disregarded.

Statutory Authority: *MS s 352.96 subd 4*

7905.1200 MAXIMUM DEFERRAL.

The total amount of deferred compensation during any taxable year shall not exceed the limits provided in items A and B:

A. thirty-three and one-third percent of includable compensation or \$7,500 whichever is less; or

B. each participant may designate a projected retirement date to be on or after normal retirement age which then shall be participant's normal retirement age under the plan.

For each of three taxable years preceding his or her projected retirement date, a participant may defer an amount equal to the limits set forth in item A plus an additional amount equal to the difference between the amount of compensation which could have been deferred under this plan, and the amount which was deferred. In no event, however, can the deferral exceed \$15,000 for any taxable year.

If a participant also participates in or has amounts contributed by the employer for the purchase of a tax-sheltered annuity or mutual fund shares held in a custodial account, and part or all of such contributions are excludable from taxable income, the contributions reduce the maximums established in items A and B.

MINNESOTA RULES 1983

7905.1200 PUBLIC EMPLOYEES' DEFERRED COMPENSATION

6200

In no event can deferrals exceed an employee's compensation less deductions for FICA, any other taxes, pension contributions, and other mandatory deductions.

Statutory Authority: *MS s 352.96 subd 4*

7905.1300 MODIFICATIONS TO AMOUNT DEFERRED.

The employer shall adjust the participant's total annual compensation, on a pay period basis, by the deferred compensation amount indicated on the participant's application. That amount, subject to the limits of part 7905.1200, may be increased or decreased only by proper application to the employer or to the director acting for employer. The change shall take effect the first full pay period following 30 days from receipt and approval of the application. Only two modifications (other than a revocation of participation as provided in part 7905.1400) may be made each taxable year.

Statutory Authority: *MS s 352.96 subd 4*

7905.1400 REVOCATION OF DEFERRAL.

Any participant may revoke his or her election to have compensation deferred by so notifying the employer or the director acting for the employer in writing. The participant's full compensation on a nondeferred basis will then be restored beginning with the first full pay period following 30 days from the date notification was received; however, the participant's deferred compensation account shall be paid only as provided in parts 7905.1700 to 7905.2500. The participant may not again be eligible to defer compensation until the next taxable year.

Statutory Authority: *MS s 352.96 subd 4*

7905.1500 DURATION OF ELECTION TO DEFER COMPENSATION.

Once an election to have compensation deferred has been made by the participant, the election shall continue in effect until the participant's termination of service, unless the participant modifies the amount in accordance with part 7905.1300, or revokes the deferred compensation in accordance with part 7905.1400.

Statutory Authority: *MS s 352.96 subd 4*

7905.1600 DEFERRAL ADJUSTMENTS.

Subpart 1. Deduction exceeds pay period salary. If for any reason the deferred compensation deduction for any pay period exceeds the amount remaining after provision is made for retirement deductions, social security tax contributions, state and federal income taxes, and any other deductions required by law, then no deduction for the plan will be made for such participant for such pay period.

Subp. 2. Missed deductions; overdeductions. If a deferred compensation deduction is missed for any reason whatsoever, no adjustment shall be made on any future pay period for such missed deduction. However, if for any reason whatsoever an amount is deducted from a pay period greater than that indicated by the participant on his application, the amount overdeducted will be refunded.

Subp. 3. Change in pay period length. In the employee's application for participation in the plan, he must state the amount he wishes withheld each pay period. If for any reason the length of the period for which the employee is paid is changed from that in effect as of the date of the application, the employer or the director acting for the employer shall compute and have withheld from such employee's salary an equivalent whole dollar amount to be withheld corresponding to the new pay period length which will result in approximately the same annual amount being withheld.

MINNESOTA RULES 1983

6201 PUBLIC EMPLOYEES' DEFERRED COMPENSATION 7905.1800

Subp. 4. **Maximum deduction.** The employer shall insure compliance with the maximum deferment set forth in part 7905.1200. If the amount deducted exceeds the maximum deferment set forth in part 7905.1200, the amount of subsequent deductions for the remainder of the taxable year shall be adjusted to conform to the maximum deferment allowed for the year. If it is not possible to correct the total deduction by year end, the overage shall be refunded.

Statutory Authority: *MS s 352.96 subd 4*

PARTICIPANTS' ACCOUNTS, INVESTMENTS, AND DISTRIBUTION

7905.1700 DEFERRED COMPENSATION ACCOUNTS AND VALUATION.

Subpart 1. **Participants' accounts.** An investment account shall be established for each participant which shall be the basis for any distributions payable to the participants under part 7905.2100. Each participant's account shall be credited with the amount of any compensation deferred and received less the administrative charge set forth in subpart 4 and shall be further credited or debited, as applicable, with any increase or decrease resulting from investments pursuant to part 7905.1900, credited or debited with any investment expenses, if applicable, debited for the amount of any distribution, and credited initially with the value on the effective date of this plan of any bookkeeping account maintained under the prior plan.

Subp. 2. **Financial responsibility of employer.** The funds and assets paid into the deferred compensation account may be invested in approved investments as provided by Minnesota Statutes, section 352.96, subdivision 2 until distributed in accordance with parts 7905.2000 to 7905.2200.

The employer shall not be responsible for any loss due to the investment or failure of investment of funds and assets in said deferred compensation account, nor shall the employer be required to replace any loss whatsoever which may result from said investments.

Subp. 3. **Account and fund valuation.** The supplemental investment account is to be valued by the board as of each accounting date in accordance with the provisions of Minnesota Statutes, section 11A.17. Any withdrawals or distributions shall be made in cash. The amount paid upon such withdrawal or distribution shall be based upon the account's value as of the accounting date.

The fixed and variable annuity account is to be valued at current market value as of each accounting date on a reasonable and consistent basis and according to the terms of the contract as approved by the board pursuant to Minnesota Statutes, section 352.96.

Subp. 4. **Administrative expense.** Two percent shall be deducted each pay period from the deferred compensation invested in the supplemental investment account to pay administrative costs. The director shall review the charge levied annually and if such levy proves to be excessive or insufficient to pay all necessary costs of administration, the director shall adjust the charges accordingly after review of the necessity for the change by the legislative auditor.

Administrative costs for the fixed and variable annuity account shall be established by the contract as approved by the board pursuant to Minnesota Statutes, section 352.96.

Statutory Authority: *MS s 352.96 subd 4*

7905.1800 UNSECURED GENERAL CREDITOR.

Title to and beneficial ownership of any assets, whether in cash or investment which the employer may earmark to pay or measure any deferred compensation hereunder, shall at all times remain as a part of the general assets of the employer. The participant and his beneficiary shall not have any property interest whatsoever in any specific asset of the employer on account of his election to defer any compensation under this plan. To the extent that any

MINNESOTA RULES 1983

7905.1800 PUBLIC EMPLOYEES' DEFERRED COMPENSATION

6202

person acquires a right to receive payments from the employer under the terms of this plan, such right shall be no greater than the right of any unsecured general creditor of the employer.

Statutory Authority: *MS s 352.96 subd 4*

7905.1900 INVESTMENT OF FUNDS.

Subpart 1. Investment allowed. Any compensation deferred by employees may be invested by the employer or by the director for the employer, but there is no requirement to do so.

Subp. 2. Investment options. The participant may select an investment preference from among the options provided in the deferred compensation account. The supplemental investment account shall provide the following options: the income share account, the growth share account, and the fixed return account. The fixed and variable annuity account shall provide the following options: a fixed annuity and a variable annuity.

A participant may select any combination of these five investment account preferences by specifying on the application the amount to be deferred under each investment preference. The amount to be deferred cannot be less than \$10 per pay period per account selected.

Subp. 3. Investment preference requests. A participant shall, at the time of enrollment, make an investment preference request on an application provided for that purpose. Once made, an investment request shall continue for any deferments unless later changed by the participant.

A participant may, once in any taxable year, change his or her investment preference request for future amounts of deferred compensation. A change in investment request shall be effective with respect to compensation to be deferred for the first full pay period following 30 days from receipt of the request.

Subp. 4. Investment preference requests for past deferred compensation. A participant may also, once in any taxable year, at the same time as a change is requested under subpart 3, or in lieu of a change thereunder, change his or her investment preference request with respect to all previously deferred compensation. Such changes are limited to a change within the fixed and variable annuity account or within the supplemental investment account but not between the accounts and are also limited to transfers to fixed accounts only. These changes in investment preference shall be effected as soon as practical as cash flow to an account permits, but not later than six months after the requested change.

Statutory Authority: *MS s 352.96 subd 4*

7905.2000 DISTRIBUTION EVENTS.

A participant's deferred compensation account may begin to be distributed in accordance with parts 7905.1300 and 7905.1400 the month following the day on which one of the following events occurs: termination of service, death, unforeseeable emergency, or delayed distribution date as provided in part 7905.2200.

Statutory Authority: *MS s 352.96 subd 4*

7905.2100 METHODS OF DISTRIBUTION.

Subpart 1. Choice of method. Distribution of a participant's deferred compensation account shall be made in one of the following ways, with the method determined in accordance with part 7905.2200.

Subp. 2. Supplemental investment account. A participant in the supplemental investment account may have deferred compensation distributed in one of the following methods:

A. in a lump sum;

MINNESOTA RULES 1983

6203 PUBLIC EMPLOYEES' DEFERRED COMPENSATION 7905.2200

B. in a lump sum purchase by the director of a fixed or variable annuity contract with the companies approved by the board pursuant to Minnesota Statutes, section 352.96, subdivision 2 which contract shall include the availability of the options set forth in subpart 3; or

C. in monthly installments distributed over a period of months specified by the participant not to exceed 240 months.

The monthly installment payment from the supplemental investment account shall be determined by dividing the number of shares held by the months to be paid in accordance with the withdrawal period selected. Should such computation result in a quotient of less than ten, then ten shares shall be redeemed and distributed to such employee or beneficiary each month until the deferred compensation is depleted in its entirety. If the deferred compensation has been invested in shares of more than one investment account, shares will be redeemed in whole units proportionately to the extent possible. Fixed return investment payments shall also include payment of annual interest on the invested balance.

Subp. 3. **Fixed and variable annuity account.** A participant in the fixed and variable annuity account may have deferred compensation distributed in the form of monthly annuity payments. The annuity payments shall be based on one of the following methods: the life of the participant, the life of the participant or a period certain, whichever is greater, or the joint lifetime of the participant and a named beneficiary.

Notwithstanding any other rule to the contrary, if a fixed and variable annuity account is equal to or less than \$1,000, the account shall be distributed in a lump sum the month following a delayed distribution date not exceeding one year from the date the participant was first entitled to begin distributions.

Once payments have commenced on an annuity basis, any future payments to a beneficiary will depend on the terms of the annuity payments agreed to by the participant and the employer. If a participant dies prior to the end of a period certain, any remaining distributions will be paid to the beneficiary determined under part 7905.2400. If annuity payments have commenced on a joint and last survivor basis, any payments due after the death of the participant will be due only to the other person on which the annuity payments have been based and not any other beneficiary.

If, in fact, an annuity contract is purchased, the owner and named beneficiary shall be the employer. Any rights of participants or beneficiaries are derived solely from this plan.

Statutory Authority: *MS s 352.96 subd 4*

7905.2200 ELECTION OF METHOD AND TIME OF DISTRIBUTION.

Subpart 1. **Election.** At any time prior to the date distributions are to commence (except for unforeseeable emergency distributions as provided in part 7905.2300) a participant may elect a delayed distribution date or elect the method by which the deferred compensation account shall be distributed subject to the following rules:

A. A participant or beneficiary may elect, by filing a form provided for that purpose, to delay the commencement of distributions until after a specific future date. Such future date shall be referred to as the "delayed distribution date" for purposes of this plan.

If a participant should die prior to the delayed distribution date, the death will be treated as an event of distribution, and the beneficiary shall have the right to elect the method and time of distribution as if the beneficiary was the participant.

B. The distribution date or method of distribution may be changed at any time prior to distribution. Once payment has commenced, the distribution date or method of distribution may not be changed, except to allow a lump sum

payment of the remaining balance the month following receipt of such request from the participant.

C. Distribution may not begin prior to termination of service or death except for unforeseeable emergency distributions as provided in part 7905.2300.

Subp. 2. **Failure to elect.** If no distribution date or method of distribution is elected, then a lump sum payment shall be made to the participant the month following his or her 70th birthday or termination of employment, whichever is later. The participant shall be given 30 days' notice of the intent to make such lump sum payment.

Statutory Authority: *MS s 352.96 subd 4*

7905.2300 UNFORESEEABLE EMERGENCY.

Subpart 1. **Conditions permitting distribution.** A distribution of all or a portion of a participant's deferred compensation account or a change in method of distribution to a participant notwithstanding the fact that distribution has commenced shall be permitted in the event the participant is faced with an unforeseeable emergency.

Examples of an unforeseeable emergency may include the following: impending personal bankruptcy; unexpected and unreimbursed major expenses resulting from illness, accident, or disability of the participant or any dependent thereof; major property loss or any other type of unexpected and unreimbursed personal expense of a major nature that would not normally be budgetable; and the disability of the participant. Foreseeable personal expenditures normally budgetable, such as a down payment for a home, the purchase of an automobile, college or other educational expenses, etc., will not constitute an "unforeseeable emergency."

Subp. 2. **Demonstration of emergency.** Any participant desiring a distribution by reason of an unforeseeable emergency must demonstrate that the circumstances being experienced were not under the participant's control and constitute a real emergency which is likely to cause the participant great financial hardship. The employer or director acting for the employer shall have the authority to require such medical or other evidence as he may need to determine the necessity for participant's withdrawal request.

Subp. 3. **Amount and method of distribution.** The distribution shall be limited to an amount sufficient only to meet the emergency and shall in no event exceed the amount of his or her deferred compensation account. Any remaining benefits shall be distributed in accordance with parts 7905.2000 to 7905.2200.

The allowed distribution shall be payable by a method determined by the employer or the director acting for the employer and commence as soon as possible after notice to the participant of approval.

Statutory Authority: *MS s 352.96 subd 4*

7905.2400 DESIGNATION OF BENEFICIARY.

A participant may designate a beneficiary to receive payment of the participant's deferred compensation in the event of his or her death. With respect to deferred compensation in the supplemental investment account, only a singular beneficiary may be designated. If the designated beneficiary predeceases the employee or dies before receiving payment, a lump sum payment shall be made to the participant's estate. Such beneficiary designation shall be in writing and must be filed with the director or company approved by the board pursuant to Minnesota Statutes, section 352.96, subdivision 2, as the case may be, prior to the death of the participant. If no designation of beneficiary is filed with the director, the beneficiary shall be the surviving spouse, or if none, a lump sum payment shall be made to the participant's estate.

Statutory Authority: *MS s 352.96 subd 4*

MINNESOTA RULES 1983

6205 PUBLIC EMPLOYEES' DEFERRED COMPENSATION 7905.3000

7905.2500 LEAVE OF ABSENCE.

Any participant who is granted a leave of absence by the employer may continue to be a participant in this plan as long as the leave of absence is approved by the employer. If an approved leave of absence is terminated by the employer or employee without the resumption of the employment relationship, the participant shall be treated as having a termination of service under this plan.

Statutory Authority: *MS s 352.96 subd 4*

INTERPRETATION OF PLAN

7905.2600 NONASSIGNABILITY OF CONTRACT.

The contract entered into between the employer and a participant through this plan and the benefits, proceeds, or payments thereunder cannot be sold, assigned, pledged, commuted, transferred, or otherwise conveyed by any employee, participant, or beneficiary. An attempt to assign or transfer shall not be recognized and shall impose no liability upon the employer.

Except as otherwise required by law, any deferred compensation moneys withheld pursuant to this plan shall not be subject to attachment, garnishment, or execution, or to transfer by operation of law in the event of bankruptcy or insolvency of the participant or otherwise.

Statutory Authority: *MS s 352.96 subd 4*

7905.2700 HEADINGS AND SUBHEADINGS.

The headings and subheadings in this plan are inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.

Statutory Authority: *MS s 352.96 subd 4*

7905.2800 CONFLICTS.

In the event any form or other document used in administering the plan conflicts with the terms of the plan, the terms of the plan shall prevail.

Statutory Authority: *MS s 352.96 subd 4*

7905.2900 AMENDMENT OF PLAN.

The director acting for the employer shall have the authority to propose amendments to this plan from time to time consistent with the provisions of Minnesota Statutes, section 352.96. No amendment or modification shall adversely affect the rights of participants or their beneficiaries to the receipt of compensation deferred prior to such amendment or modification unless required by state or federal law to maintain the tax status of the plan and any compensation previously deferred.

Statutory Authority: *MS s 352.96 subd 4*

7905.3000 PRIOR PLAN.

This plan constitutes a continuation of the Minnesota deferred compensation plan approved by the attorney general and filed with the secretary of state and the commissioner of administration, November 24, 1975. All participants and any compensation deferred under the prior plan are, from the effective date of this plan, governed by the terms of this plan subject to the following provisions:

A. All deferrals elected under the prior plan shall continue without further action as long as they do not exceed the limits in part 7905.1200.

B. Any investment requests made under the prior plan shall continue to apply to any deferrals made under this plan in accordance with part 7905.1900.

C. Any election of the method of distribution of benefits made under the prior plan shall be void, and a participant or beneficiary may elect the form

MINNESOTA RULES 1983

7905.3000 PUBLIC EMPLOYEES' DEFERRED COMPENSATION

6206

of distribution in accordance with parts 7905.2100 and 7905.2200.

Statutory Authority: *MS s 352.96 subd 4*