

**CHAPTER 7905**  
**MINNESOTA STATE RETIREMENT SYSTEM**  
**DEFERRED COMPENSATION PLAN**

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**7905.0100 DEFINITIONS.**

*[For text of subs 1 to 4, see MR ]*

Subp 4a **Board of directors.** “Board of directors” means the Minnesota State Retirement System Board of Directors

*[For text of subs 5 to 11, see MR ]*

Subp 12 **Includable compensation.** “Includable compensation” has the meaning given in section 457 of the Internal Revenue Code

*[For text of subs 13 to 18, see MR ]*

Subp 18a **Product providers.** “Product providers” means any company that has a contract with the State Board of Investment to offer an investment product under the plan or the supplemental investment fund

*[For text of subs 19 to 21, see MR ]*

Subp 22 **Unforeseeable emergency.** “Unforeseeable emergency” means a severe financial hardship to the participant as defined in section 457 of the Internal Revenue Code. The circumstances that will constitute an unforeseeable emergency will depend upon the facts of each case, but in any case payment will not be made to the extent that the hardship is, or may be relieved, through reimbursement or compensation by insurance or otherwise by liquidation of the participant’s assets to the extent the liquidation of the assets would not itself cause severe financial hardship or by cessation of deferrals under the plan

**Statutory Authority:** *MS s 352 96*

**History:** *19 SR 1158*

**7905.0200 ESTABLISHMENT OF PLAN.**

The plan shall be known as the “Minnesota state deferred compensation plan” (“plan”) and is created according to Minnesota Statutes, section 352 96 and section 457 of the Internal Revenue Code. The 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*

**History:** *19 SR 1158*

**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 board of directors for the employer until separation from service, financial hardship, or death of the employee. Any compensation deferred by employees may be invested by the board of directors, for the employer, but there is no requirement for the board of directors or employer to do so. Participation in the plan shall not be construed to establish or create an employment contract between the employee and the employer

**Statutory Authority:** *MS s 352 96*

**History:** *19 SR 1158*

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## DEFERRED COMPENSATION PLAN 7905.1300

### **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 and section 457 of the Internal Revenue Code

**Statutory Authority:** *MS s 352.96*

**History:** *19 SR 1158*

### **7905.0600 ADMINISTRATION OF PLAN.**

The board of directors 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, the plan

**Statutory Authority:** *MS s 352.96*

**History:** *19 SR 1158*

### **7905.0700 WRITTEN AGREEMENT.**

The employer or the director on behalf of the board of directors and the employer shall enter into a written agreement with each participant The 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 the plan, the amounts of compensation to be deferred, and other information the director considers necessary to administer the plan

**Statutory Authority:** *MS s 352 96*

**History:** *19 SR 1158*

### **7905.0800 COPIES OF PLAN, PAMPHLETS, AND ACCOUNT STATEMENTS.**

Pamphlets describing the 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 semiannually

**Statutory Authority:** *MS s 352 96*

**History:** *19 SR 1158*

### **7905.1000 ENROLLMENT.**

Any employee eligible to participate according to 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 the participant's compensation according to parts 7905 1100 and 7905 1200 The deferment shall be made in compliance with section 457 of the Internal Revenue Code The application shall also specify an investment preference for the deferred compensation

**Statutory Authority:** *MS s 352 96*

**History:** *19 SR 1158*

### **7905.1100 MINIMUM DEFERRAL.**

The minimum amount which may be deferred is \$10 per pay period per product provider The amounts to be deferred must be stated in whole dollars If the application indicates an amount including cents, the cents will be disregarded

**Statutory Authority:** *MS s 352 96*

**History:** *19 SR 1158*

### **7905.1200 MAXIMUM DEFERRAL.**

The total amount of deferred compensation during any taxable year shall not exceed the limits established under section 457 of the Internal Revenue Code

**Statutory Authority:** *MS s 352 96*

**History:** *19 SR 1158*

### **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 the employer

**Statutory Authority:** *MS s 352 96*

**History:** *19 SR 1158*

#### 7905.1400 REVOCATION OF DEFERRAL.

A participant may revoke an election to have compensation deferred by notifying the employer or the director acting for the employer on a form prescribed by the director.

**Statutory Authority:** *MS s 352 96*

**History:** *19 SR 1158*

#### 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 parts 7905 2000 to 7905 2400 Each participant's account shall be credited with the amount of any compensation deferred and received, and shall be further credited or debited, as applicable, with any increase or decrease resulting from investments under 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 December 19, 1983, of any bookkeeping account maintained under the prior plan

*[For text of subps 2 and 3, see M R ]*

Subp 4 **Administrative expense.** The administrative expenses of the plan will be paid under Minnesota Statutes, section 11A 17

Administrative costs for the fixed and variable annuity account shall be established by the contract as approved by the board under Minnesota Statutes, section 352 96

**Statutory Authority:** *MS s 352 96*

**History:** *19 SR 1158*

#### 7905.1900 INVESTMENT OF FUNDS.

*[For text of subpart 1, see M R ]*

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 options available under Minnesota Statutes, chapter 11A

The fixed or variable annuity account shall provide the options of a fixed annuity or a variable annuity as provided in the contract approved by the board under Minnesota Statutes, section 352.96

A participant may select a 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 product provider

Subp. 3 **Investment preference requests for future compensation.** 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 change an investment preference request for future amounts of deferred compensation.

Subp 4 **Investment preference requests for past deferred compensation.** A participant may also change an investment preference request with respect to all or part of previously deferred compensation Changes are limited to a change within the fixed or variable annuity account according to the terms of the annuity contracts or within the supplemental investment account Changes are also permitted between the fixed or variable annuity accounts according to the terms of the contract and the supplemental investment account 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*

**History:** *19 SR 1158*

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## DEFERRED COMPENSATION PLAN 7905.2100

### 7905.2100 METHODS OF DISTRIBUTION.

Subpart 1 **Election in general.** Distribution of a participant's deferred compensation account shall be made in one of the following ways, with the date of distribution determined according to part 7905.2200. Benefits shall be paid as provided in section 457 of the Internal Revenue Code. Elections by a participant as authorized in this chapter shall be made on forms approved by the director.

Subp 2 **Supplemental investment account.** A participant in the supplemental investment account will have deferred compensation distributed over a period of 60 months, unless the participant elects to have distribution made in one of the following methods:

*[For text of items A and B, see M.R.]*

C for distribution beginning before the death of the participant, in monthly installments over a period of months specified by the participant, provided, however, that the amounts payable to the participant will be paid at times that are not later than the time determined under section 401(a)(9)(G) of the Internal Revenue Code relating to incidental death benefits as prescribed by the federal tax regulations. Any amount not distributed to the participant during the participant's lifetime will continue to the beneficiary at least as rapidly as was made to the participant before death.

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 according to the withdrawal period selected. If the computation results in a monthly payment of less than \$100, the number of shares that equal approximately \$100 shall be determined and shall be redeemed and distributed to the 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. Money market and fixed interest account investment payments shall also include payment of annual interest on the invested balance. If the value of the participant's account is \$1,000 or less, distribution shall be made in a lump sum.

If an acceptable application for a lump sum withdrawal and the information necessary to process the withdrawal is received in the office of the system prior to the end of any month, the lump sum payment should be processed within the first ten working days of the following month. If not processed within ten working days, the participant will be paid interest at the rate set by the commissioner of revenue in accordance with Minnesota Statutes, section 270.75, subdivision 5. Interest will be calculated from the day after the tenth working day to the date payment is processed.

Subp 3. **Fixed or variable annuity account.** A participant in the fixed or variable annuity account will have deferred compensation distributed in the form of an annuity or systematic withdrawal payments unless, before distribution, the participant elects a lump sum distribution. The annuity or systematic withdrawal payments shall be based on one of the following methods, as selected by the participant.

*[For text of items A and B, see M.R.]*

C a period certain in which the amounts payable to the participant will be paid at times not later than the time determined under section 401(a)(9)(G) of the Internal Revenue Code relating to incidental death benefits as prescribed by the federal tax regulations. Any amount not distributed to the participant during the participant's lifetime will continue to the beneficiary at least as rapidly as was made to the participant before death.

If no election is made, the participant's deferred compensation will be paid on the basis of a five-year period certain annuity.

Notwithstanding any other rule to the contrary, if a fixed or variable annuity account is equal to or less than \$1,000, the account shall be distributed in a lump sum within 60 days following the close of the taxable year during which the distribution event occurs.

Once payments have begun on an annuity or systematic withdrawal basis, any future payments to a beneficiary will depend on the terms of the annuity or systematic withdrawal payments agreed to by the participant and the employer. If a participant dies before the end of a period certain, any remaining distributions will be paid to the beneficiary determined under part 7905.2500. If annuity payments have begun on a joint and last survivor basis, any pay-

ments 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 the plan.

**Statutory Authority:** *MS s 352.96*

**History:** *19 SR 1158*

#### 7905.2200 DATE OF DISTRIBUTION.

Subpart 1 **Election in general.** A participant may irrevocably elect, on a form approved by the director to defer payment of some or all of the amounts to a fixed or determinable future time, subject to subparts 2 to 6

Subp 2 **Electing distribution date.** A participant may designate a distribution date in accordance with section 457 of the Internal Revenue Code

*[For text of subps 3 to 5, see M R ]*

Subp. 6. **No election.** If no distribution date is elected, payment shall begin according to section 457 of the Internal Revenue Code

**Statutory Authority:** *MS s 352.96*

**History:** *19 SR 1158*

#### 7905.2300 UNFORESEEABLE EMERGENCY.

*[For text of subpart 1, see M R ]*

Subp 2 **Showing of an 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 that is likely to cause the participant great financial hardship and qualifies under section 457 of the Internal Revenue Code. The employer or director acting for the employer shall have the authority to require medical or other evidence as may be needed to determine the necessity for the 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 not exceed the amount of the deferred compensation account

The allowed distribution shall be payable by a method determined by the employer or the director acting for the employer and begin as soon as possible after notice to the participant of approval. An approved unforeseeable emergency payment from the supplemental investment account may be based on the values determined on the prior month's accounting date if the application is received by the 20th of the month

**Statutory Authority:** *MS s 352.96*

**History:** *19 SR 1158*

#### 7905.2400 DESIGNATION OF BENEFICIARY.

A participant may designate a beneficiary or beneficiaries to receive payment of the participant's deferred compensation in the event of the participant's death. If the designated beneficiary predeceases the employee and a new beneficiary has not been named or the designated beneficiary dies before receiving payment, a lump sum payment shall be made to the participant's estate. The beneficiary designation shall be in writing and must be filed with the director or company approved by the board under Minnesota Statutes, section 352.96, subdivision 2, as the case may be, before 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*

**History:** *19 SR 1158*

#### 7905.2900 AMENDMENT OF PLAN.

The board of directors acting for the employer shall have the authority to propose amendments to the plan consistent with Minnesota Statutes, section 352.96

**Statutory Authority:** *MS s 352.96*

**History:** *19 SR 1158*

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## DEFERRED COMPENSATION PLAN 7905.3000

### **7905.3000 PRIOR PLAN.**

The 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, after January 1, 1981, governed by the terms of the plan subject to items A to D.

*[For text of items A to C, see MR ]*

D The revised plan is effective September 1, 1994

**Statutory Authority:** *MS s 352 96*

**History:** *19 SR 1158*