

CHAPTER 7905
MINNESOTA STATE RETIREMENT SYSTEM
DEFERRED COMPENSATION PLAN

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7905.0100 DEFINITIONS.

[For text of subs 1 and 2, see MR]

Subp 2a **Alternate payee.** “Alternate payee” means a former spouse designated by a qualified domestic relations order or similar legal document to be entitled to all or part of a participant’s deferred compensation account

[For text of subs 3 to 10, see MR]

Subp 12 [Repealed, 26 SR 629]

[For text of subs 13 to 17, see MR]

Subp 18a [Repealed, 26 SR 629]

[For text of subp 19, see MR]

Subp. 20. **Severance from employment.** “Severance from employment” means the severance of the participant’s employment relationship with the employer by means of: retirement, discharge, provided all appellate processes have been exhausted, resignation, provided seniority or continuous service is interrupted, permanent layoff, expiration or nonrenewal of appointment or term of office, nonreelection; death, or other form of severance as may be provided by appropriate law, contract, or rules

[For text of subs 21 and 22, see MR.]

Statutory Authority: *MS s 352 96*

History: *26 SR 629*

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 the employee until severance from employment, financial hardship, or death of the employee. Any compensation deferred by employees may be invested by the board of directors. 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: *26 SR 629*

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 documents will be made available upon request. Individual account statements shall be made available to each participant at least quarterly

Statutory Authority: *MS s 352 96*

History: *26 SR 629*

7905.0900 ELIGIBILITY.

All employees who are receiving compensation who have not received a distribution based on an unforeseeable emergency as provided in part 7905.2300 within the last six months shall be eligible to become participants in accordance with part 7905.1000

Statutory Authority: *MS s 352 96*

History: *26 SR 629*

7905.1200 MAXIMUM DEFERRAL.

The total amount of deferred compensation during any taxable year shall not exceed the applicable limits established under sections 457 and 414(v), as applicable, of the Internal Revenue Code

Statutory Authority: *MS s 352 96*

History: *26 SR 629*

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 severance from employment, unless the participant modifies the amount according to part 7905.1300, or revokes the deferred compensation according to part 7905.1400 or receives a distribution under part 7905.2300

Statutory Authority: *MS s 352 96*

History: *26 SR 629*

7905.1600 DEFERRAL ADJUSTMENTS.

[For text of subpart 1, see MR]

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

[For text of subp 3, see MR]

Subp 4 **Maximum deduction.** The employer shall attempt to ensure compliance with the maximum deferral in part 7905.1200. If the amount deducted exceeds the maximum deferral in part 7905.1200, the amount of subsequent deductions for the remainder of the taxable year shall be adjusted to conform to the maximum deferral allowed for the year. If it is not possible to correct the total deduction by year end, the overage shall be refunded to the employer or participant according to section 457 of the Internal Revenue Code. A participant is responsible for any tax consequences to the participant that may arise as a result of the participant's deferrals under the plan that exceed the maximum amounts allowable

Statutory Authority: *MS s 352 96*

History: *26 SR 629*

7905.2000 DISTRIBUTION.

A participant's deferred compensation account may begin to be distributed following the occurrence of one of the following events: severance from employment, death, unforeseeable emergency, or according to part 7905.2200, subpart 7

Statutory Authority: *MS s 352 96*

History: *26 SR 629*

7905.2100 METHODS OF DISTRIBUTION.

Subpart 1 **Methods of distribution.** Distribution of a participant's, alternate payee's, or beneficiaries deferred compensation account shall be made as outlined in

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subpart 2, items A to C, with the distribution start date determined according to part 7905 2200, subpart 5 Elections by a participant as authorized in this chapter shall be made on forms approved by the director

Subp 2 **Payout options.** Benefits must be made according to section 457 of the Internal Revenue Code The following options will be provided

A a lump sum or partial lump sum,

B a lump sum purchase by the director of an annuity contract with one of the companies approved by the board under Minnesota Statutes, section 352 96, subdivision 2, or

C periodic payments over a specified period of time or specific dollar amount specified by the participant, alternate payee, or beneficiary

The payments shall conform to the minimum distribution requirements as specified in the Internal Revenue Code

Subp 3 **Default method.** If no payout election is made by the participant, alternate payee, or beneficiary, the participant's deferred compensation account will be paid according to section 457 of the Internal Revenue Code.

Statutory Authority: *MS s 352 96*

History: *26 SR 629*

7905.2200 DATE OF DISTRIBUTION.

Subpart 1. [Repealed, 26 SR 629]

Subp 2 [Repealed, 26 SR 629]

Subp 3 [Repealed, 26 SR 629]

Subp 4 [Repealed, 26 SR 629]

Subp 5. **When distribution begins.** Distribution may not begin before 30 days following severance from employment or death, except for unforeseeable emergency distributions as provided in part 7905 2300 or as listed in subpart 7

Subp 6. **No distribution date.** If the participant, alternate payee, or beneficiary does not apply for payout by the mandatory date in which payments must legally begin, payment shall be made according to section 457 of the Internal Revenue Code.

Subp 7 **Distribution election.** If, prior to severance from employment, the value of a participant's benefits under the plan does not exceed \$5,000, the participant may elect at any time to receive the value in a lump sum if

[For text of items A and B, see MR.]

Subp. 8 **Irrevocable distribution.** Any irrevocable distribution election on file prior to January 1, 2002, is void

Statutory Authority: *MS s 352 96*

History: *26 SR 629*

7905.2300 UNFORESEEABLE EMERGENCY.

Subpart 1 **Conditions permitting distribution.** A distribution of all or a part of a participant's deferred compensation account or a change in method of distribution to a participant notwithstanding the fact that distribution has begun, unless the distribution is in the form of an annuity, shall be permitted if the participant is faced with an unforeseeable emergency Deferrals under the plan shall cease as soon as possible for six months for any participant granted a distribution because of an unforeseeable emergency

[For text of subp 2, see MR]

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

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The allowed distribution shall be payable by a method determined by the director and begin as soon as possible after notice to the participant of approval.

Statutory Authority: *MS s 352 96*

History: *26 SR 629*

7905.2450 ALTERNATE PAYEE.

Amounts may be paid to an alternate payee prior to severance from employment if provided by a qualified domestic relations order or other similar document.

Statutory Authority: *MS s 352 96*

History: *26 SR 629*

7905.2500 LEAVE OF ABSENCE.

A participant who is granted a leave of absence by the employer may continue to be a participant in the 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 severance from employment under the plan.

Statutory Authority: *MS s 352 96*

History: *26 SR 629*

7905.2560 PURCHASE OF SERVICE CREDIT.

Subpart 1 **Purchase service credit.** Amounts can be transferred from the deferred compensation plan to purchase service credit in eligible plans according to section 457 of the Internal Revenue Code.

Subp 2. **Transfers to and from the plan.** The deferred compensation plan will accept rollovers from savings plans as permitted by section 457 of the Internal Revenue Code. The plan will allow transfers upon severance from employment to other savings plans as provided by section 457 of the Internal Revenue Code. The board of directors may establish policies regarding the timing and amount of allowable transfers.

Statutory Authority: *MS s 352 96*

History: *26 SR 629*

7905.2600 NONASSIGNABILITY OF CONTRACT.

The contract entered into between the employer and a participant through the plan and the benefits, proceeds, or payments under the plan cannot be sold, assigned, pledged, commuted, transferred, or otherwise conveyed by an employee, participant, or beneficiary, except to an alternate payee according to part 7905.2450. An attempt to assign or transfer shall not be recognized and shall impose no liability on the employer.

Except as otherwise required by law, deferred compensation money withheld under the 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, the employer, or the state.

Statutory Authority: *MS s 352 96*

History: *26 SR 629*