

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MINNESOTA STATE REGULATIONS

Notice of filing by the Commissioner of Administration

We have received on this date, stamped and filed 2 copies of Rules and Regulations pertaining to the Minn State Retirement System (Agency or Board)

Regulation No. as Defined in Minnesota Statutes 352.96 No I Item 6

Subject: Deferred Compensation Plans

Department of Administration
Publication, Central Services Division
Documents Section
140 Centennial Office Building
St. Paul, Minnesota 55155
Telephone: (612) 296-2874

FILED
RICHARD L. BRUBACHER
Commissioner of Administration
NOV 24 1975
BY Edw Standenmaier 4:25pm
AUTH. SIGNATURE
R.S

Stamped and filed with the Secretary of State Nov 24, 1975

Rev. 9-72

ADMIN. 1000

STATE OF MINNESOTA

DEPARTMENT Attorney General

Office Memorandum

TO : Paul L. Groschen
Executive Director
Minnesota State Retirement System
529 Jackson Street
St. Paul, Minnesota 55101

DATE: November 3, 1975

FROM : Michael B. Miller
Special Assistant
Attorney General
G-19K Administration Building

SUBJECT: MSRS Deferred Compensation Plan Revised Rules

The above-captioned rules are herewith returned for review and signature of a Certificate of Compliance with Rulemaking Procedures by a member of the Attorney General's staff.

MBM/mb

Enclosure

RECEIVED
NOV 6 - 1975
MERWIN W. PETERSON
ST. PAUL, MINNESOTA

RECEIVED
NOV 1975
MINNESOTA STATE RETIREMENT SYSTEM

ADMIN. 1000

STATE OF MINNESOTA

DEPARTMENT Attorney General

Office Memorandum

TO : Michael B. Miller
Special Assistant Attorney General
Room G-19K
State Administration Building

DATE: Nov. 12, 1975

FROM : MP Merwin Peterson
Assistant Attorney General
203 Capitol Square Building

SUBJECT: MSRS Deferred Compensation Plan Revised Rules

Enclosed are rule changes and my Statement of Compliance.

MP:bjl
Encls.

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed Adoption of Revised Rules of the State of Minnesota Deferred Compensation Plan to conform with the provisions of Laws 1975, Chapter 273, extending eligibility for participation in the plan to all Minnesota Public employees and adding a fixed return account investment option.

STATEMENT OF COMPLIANCE WITH MANUAL OF RULE MAKING PROCEDURES

I, Assistant Attorney General Merwin Peterson, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

The Secretary of State provides labels but not lists of persons registered to receive notice of rule changes. Thus, copies of the list are not included.

Merwin Peterson
Assistant Attorney General

Dated: 11-12-75

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE PAUL L. GROSCHEN

EXECUTIVE DIRECTOR
OF THE
MINNESOTA STATE RETIREMENT
SYSTEM

In the matter of the Proposed Adoption of Revised Rules of the State of Minnesota Deferred Compensation Plan to conform with the provisions of Laws 1975, Chapter 273, extending eligibility for participation in the plan to all Minnesota Public employees and adding a fixed return account investment option.

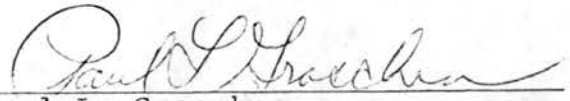
ORDER FOR HEARING

To effectively implement the administration of Laws 1975, Chapter 273, the Executive Director of the Minnesota State Retirement System deems it necessary to consider adoption of the proposed rules captioned above pursuant to the authority vested in me by Laws 1975, Chapter 273.

NOW, THEREFORE, IT IS ORDERED this 8th day of July, 1975, that a public hearing on the proposed rules captioned above be held in the Conference Room A of the Veterans Service Building, 20 West 12th Street & Columbus Avenue, St. Paul, Minnesota 55155, August 12, 1975, commencing at 9:30 A.M., and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given to all representatives of associations or other interested groups or persons who have registered their names with the Secretary of State for that purpose and all persons who are presently members of the Minnesota legislature.

STATE OF MINNESOTA
MINNESOTA STATE RETIREMENT SYSTEM



Paul L. Groschen
Executive Director

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE Paul L. Groschen
Executive Director of Minnesota
State Retirement System

In the matter of Proposed Rules
Relating to the State of Minnesota
Deferred Compensation Plan

STATEMENT OF NEED

The above captioned rules are amendments to existing rules of the State Deferred Compensation Plan. The last time the above captioned rules were amended was September 1972.

The revision of the rules was necessary to effect the provisions of Laws 1975, Chapter 273, that is, to allow all public employees in the State of Minnesota to participate in the plan and the transfer of the rule making authority from the Commissioner of Administration to the Executive Director of the Minnesota State Retirement System and also to add the fixed return account of the Minnesota Supplemental Retirement Fund as an investment option for participants in the plan which was created by a recent amendment to M.S. Chapter 11. Changes in the plan were needed to meet IRS requirements and in addition minor administrative changes were needed to improve computer processing.

Paul L. Groschen

Paul L. Groschen
EXECUTIVE DIRECTOR OF
MINNESOTA STATE RETIREMENT SYSTEM

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed Adoption of Revised Rules of the State of Minnesota Deferred Compensation Plan to conform with the provisions of Laws 1975, Chapter 273, extending eligibility for participation in the plan to all Minnesota Public employees and adding a fixed return account investment option.

CERTIFICATE

I hereby certify that the attached 424 labels ~~sheets~~ constitute the complete list of persons, associations, and other interested groups who as of 11:15 o'clock A M, this 9th day of July, 1975, have requested that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Joan Anderson Growe
Secretary of State

By Gail Dion

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed adoption of Revised Rules of the State of Minnesota Deferred Compensation Plan to conform with the provisions of Laws 1975, Chapter 273, extending eligibility for participation in the plan to all Minnesota Public Employees and adding a fixed return account investment option.

I, Paul L. Groschen, being first duly sworn, deposes and says:

That on the 9th day of July, 1975, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses certified by the Secretary of State as well as to all present members of the Minnesota legislature.

Paul L. Groschen

Paul L. Groschen
Executive Director
Minnesota State Retirement System

Subscribed and sworn to before me this 9th day of July, 1975.

Carol B. Frykholm

CAROL B. FRYKHOLM
Notary Public, Ramsey County, Minn.
My Commission Expires April 22, 1978

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE PAUL L. GROSCHEN

EXECUTIVE DIRECTOR

In the matter of the Proposed Adoption of Revised Rules of the State of Minnesota Deferred Compensation Plan to conform with the provisions of Laws 1975, Chapter 273, extending eligibility for participation in the plan to all Minnesota Public employees and adding a fixed return account investment option.

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held pursuant to M.S. 1974, Section 15.0412, Subdivision 4, in the above-entitled matter in Conference Room A at the Veterans Service Building, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota 55155, August 12, 1975, commencing at 9:30 A.M., and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard concerning adoption of the proposed rules captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted without appearing at the hearing.

A copy of the procedural rules for the hearing is attached. Copies of the proposed rules are available and may be obtained by writing to Paul L. Groschen, Executive Director of the Minnesota State Retirement System at 529 Jackson Street, St. Paul 55101. Additional copies will be available at the door on the date of the hearing.

STATE OF MINNESOTA

MINNESOTA STATE RETIREMENT SYSTEM

Paul L Groschen

Paul L. Groschen,
Executive Director

MINNESOTA STATE RETIREMENT SYSTEM

PROCEDURAL RULES FOR HEARING

The purpose of the hearing is to allow interested parties to express their views and present facts bearing upon the proposed regulations. So as to provide for an orderly presentation of evidence, the following rules will be in effect during the hearing specified in the attached Notice of Hearing:

1. Anyone wishing to be heard should indicate by signing the speaking sheet, listing his name, address, and the group which he represents. The speaking sheet will be available at the main entrance to the hearing room. It is requested that each group select one speaker only to present their views.

2. The first time the witness makes a statement he should spell his name and identify the group he is representing. Prior to making any subsequent statements he should state his name and the group which he represents. He may be sworn upon his request but it is not required. If he elects not to be sworn, that may be considered in determining the weight to be given to his testimony.

3. By giving testimony, a witness, including one who may also be a member of the panel, subjects himself to questioning by the panel. However, he is subject to cross-examination by non-members of the panel only if he affirmatively consents to being so examined. A refusal to be cross-examined may be considered in determining the weight to be given to his testimony.

4. All parties interested in introducing any written matter may do so by having it marked as an exhibit and then introduced for the record. Unsworn written matter may be received, but the fact that it is unsworn may be considered in determining the weight to be given it.

STATE OF MINNESOTA

DEFERRED COMPENSATION PLAN

Rules & Regulations
~~pursuant to MS 16.027, Subd. 8~~
pursuant to Minnesota Statutes, Section 352.96

I. ELIGIBILITY

For purposes of determining eligibility for participation in the Deferred Compensation Plan, the term "officer or employee of the State of Minnesota or political subdivision thereof" shall include any elected official, appointed official or employee of the State of Minnesota or a political subdivision, including employees of departments, agencies and instrumentalities, wherein the state legislature has specifically held such employees to be "~~state~~ public employees" for any one or more specific purposes such as, but not limited to, membership in Minnesota State Retirement System, a public retirement plan enumerated in Minnesota Statutes, Section 356.20, Subdivision 2, a public employee group insurance program, or unemployment compensation plan for ~~state~~ public employees.

II. PARTICIPATION PROCEDURES

1. Submission of Application

During periods designated by the Executive Director, Minnesota State Retirement System, an eligible employee may submit an application to the Executive Director, Minnesota State Retirement System, with respect to participation in the Deferred Compensation Plan or with respect to changes to be made in an existing participation program. However, such participation or changes in existing participation will not become effective until the following January 1st.

~~2. Changes in Previous Application~~

~~The initial application for participation in the Deferred Compensation plan must be submitted so as to be received by the Executive Director, Minnesota State Retirement System, not later than December 20th. Subsequent application s which provide changes in the participation in the income or growth accounts must be received by the Executive Director, Minnesota State Retirement System, before the last working day of such calendar year. Changes in amount must be received not later than December 20th.~~
Applications for participation in the Deferred Compensation Plan or changes in investment options or withdrawal age must be submitted to the Executive Director, Minnesota State Retirement System by December 15th. Change in age at which distribution will begin may be made only once during employee's period of ~~state~~ public service. Such change in investment option or age at which distribution is to begin will apply only to compensation deferred in any subsequent calendar year. If the employee on other than his initial application fails to indicate an amount to be withheld or his choice of investment option, withdrawal age, withdrawal period or other items requested, the Executive Director shall continue employee's previous elections or statements for such items pursuant to the terms of the Deferred Compensation Plan application.

~~3.~~ 2. Deduction Optic

The minimum amount which may be deferred shall be ~~five~~ ten dollars ~~($5.00)~~ ($10.00) 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. If the application fails to show ~~any option with respect to income or growth share accounts,~~ an investment option, the entire amount will be invested in the income share account.

While Internal Revenue Service provides no limitation on the amount of compensation which may be deferred, the gross wage is subject to retirement and social security deductions. Therefore, the amount deferred cannot exceed Gross Wages less amount needed to cover retirement deductions and social security taxes and the state and federal income taxes on such amounts. Consideration should also be given to any voluntary deductions, such as credit union, union dues, etc. However, deduction preference in computing payrolls will be given to deferred compensation deductions over any other voluntary deductions.

3. ~~4.~~ Investment Options

The participating employee may select one of ~~three~~ five investment options, that is, 100% in the Income Share Account, 100% in the Growth Share Account, ~~or~~ 50% in the Income Share Account and 50% in the Growth Share Account~~.~~ , 100% in the Fixed Return Account, or 75% in the Fixed Return Account and 25% in the Growth Share Account. The option selected will remain in effect for such calendar year and continue thereafter until changed by submission of a new application to the Executive Director, Minnesota State Retirement System. Also, shares purchased under such designation will remain in such account until distributed as hereafter provided.

4. ~~5.~~ Distribution of Assets

The participating employee will have the amount of compensation deferred paid out in monthly installments over a period of either 60 or 120 months, as indicated in his application deferring such compensation, upon reaching whatever age is indicated in such Deferred Compensation Application, or if no age is indicated, upon reaching age 65, or becoming totally and permanently disabled. The compensation so deferred will be distributed in accordance with the agreement in effect during the period the compensation was withheld. Any change in age or period for distribution will affect only compensation deferred after effective date of the change. In event of the death of the participating employee, the amount in the deferred compensation account shall be paid out in the manner hereinafter provided. ~~The distribution over the period of 60 months, indicated above, is not applicable to compensation deferred during calendar year 1972.~~ Also, if the application does not indicate the period over which distribution is to be made, 120 months will be considered as being in effect for compensation deferred pursuant to such application.

5. 6. Employee's Rights to Assets

All funds and assets, together with interest, accumulations and increments thereon, in said Deferred Compensation Account shall remain an asset of the State or political subdivision and shall be subject to State's or political subdivision ownership until such time as the participating employee's equity in the funds or assets of such account are distributed in accordance with the Deferred Compensation Agreement. The obligation of the State or political subdivision to the participating employee is a contractual obligation only and the employee shall have no preferred or specific interest by way of trust, escrow, annuity or otherwise, in and to the specific assets or funds held in the Deferred Compensation Account.

The employee's rights under the Deferred Compensation Agreement shall not be assigned, transferred or encumbered, nor shall they be subject to attachment, execution or process of any employee's creditors. Except as otherwise provided, the Deferred Compensation Agreement shall be binding upon the parties thereto, their heirs, assigns, executors, administrators, and successors in interest.

III. DEDUCTIONS

1. Payroll Deductions

The State or other employing unit shall withhold and deduct from the participating employee's total ~~annual~~ compensation, on a pay period basis, the amount indicated on the employee's application. The amounts so withheld shall be credited and paid into a Deferred Compensation Account ~~to be~~ established by the Minnesota State Retirement System. and shall be submitted to the Executive Director in a form and manner as he prescribes.

2. Deduction Exceeds Pay Period Salary Available

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, and state and federal income taxes, then no deduction for the deferred compensation plan will be made for such participant for such pay period. No future pay period ~~during the same calendar year~~ will be adjusted to take into account the loss of such deferred compensation deduction.

In case of death of the participant, deductions for the deferred compensation plan will continue on any subsequent pay check issued for such participant but subject to the provisions stated above.

3. Missed Deductions and Over-Deductions

If a deferred compensation deduction is missed on a payroll period for any reason whatsoever, no adjustment will 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

over deducted will be refunded by the Executive Director, Minnesota State Retirement System. ~~to the payroll account from which the over deduction was made and the next salary payment will be adjusted to include such refund to the participant.~~

Except as provided above, the Department of Finance ~~Administration~~, Central Payroll regulations shall apply to deductions for the Deferred Compensation Plan for any state department or agency paid through Central Payroll.

4. Change in Pay Period Length

In the employee's application for participation in the Deferred Compensation 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 ~~Executive Director, Minnesota State Retirement System,~~ employer shall compute and have withheld from such employee's salary an equivalent amount to be withheld corresponding to the new pay period length which will result in approximately the same annual amount being withheld.

5. Financial Responsibility of the State or Political Subdivision

The funds and assets paid into the Deferred Compensation Account shall be invested in shares of the Minnesota Supplemental Retirement Fund in accordance with Minnesota Statutes, Sections 11.18 to 11.24 and regulations established by the ~~Commissioner~~ Executive Director ~~of Administration~~ until distributed in accordance with the Deferred Compensation Agreement. ~~In November 1972, and each month thereafter, the Executive Director, Minnesota State Retirement System, shall invest any uninvested amounts credited to an individual's account in the Deferred Compensation Account in shares of the Minnesota Supplemental Retirement Fund. Fractional shares shall not be purchased and balances remaining amounting to less than the value of one share shall be carried forward into the succeeding month.~~

The State or political subdivision 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 State or political subdivision be required to replace any loss whatsoever which may result from said investments.

IV. BENEFICIARY

An employee may designate a singular beneficiary other than surviving spouse to receive payment of the employee's shares in the Deferred Compensation Account in the event of his death. If the designated beneficiary predeceases the employee or dies before receiving payment, the payment shall be made to the employee's estate. Such beneficiary designation shall be in writing and must be filed with the Executive Director of the Minnesota State Retirement System prior to the death of the employee. If no designation of beneficiary is filed with the Executive Director, the beneficiary shall be the surviving spouse, or if none, the employee's estate.

V. DISTRIBUTION

1. Conditions for Distribution.

The accumulated shares to the credit of any participant will be distributed upon reaching age 65, or any other age which may be specified by the employee in the Deferred Compensation Agreement; permanent disability; or death, whichever occurs first. Distribution shall begin or be made ~~on~~ in January ~~1st~~ following the year in which the Executive Director, Minnesota State Retirement System, is notified of such occurrence and has received satisfactory evidence as may be required. Permanent disability shall be evidenced by submission of Social Security Administration determination of permanent disability provided the participant is covered by social security and fulfills social security disability benefit requirements. If a social security determination is not available due to non-coverage, a doctor's statement indicating nature and extent of disability may be submitted in lieu thereof.

2. Responsibility of Participant

It is the responsibility of the participant, his heirs, or his estate administrator or executor, as the case may be, to notify the Executive Director, Minnesota State Retirement System~~,~~ or the participant's retirement fund chief administrator or former employer who in turn must notify the Executive Director, Minnesota State Retirement System of any of the above occurences before the end of the calendar year of such occurrence, so that the distribution of the assets may commence ~~on~~ in January ~~1st~~ of the following calendar year, if applicable, in accordance with the distribution provisions listed below.

If notification is not submitted to the Executive Director, Minnesota State Retirement System, employer or retirement fund, by January 1st of the calendar year following the date of death, there shall be forfeited ~~to the state~~, ten percent (10%) of the shares in the Deferred Compensation Account of such deceased employee. Thereafter, for each succeeding January 1st that elapses without such notification ~~to the Executive Director, Minnesota State Retirement System,~~ of employee's death, an additional ten percent (10%) of the shares held by such deceased employee at date of death shall be forfeited. ~~to the state.~~ However, wherein death occurred in either October, November, or December, the first ten percent (10%) forfeiture shall be waived provided ~~the Executive Director, Minnesota State Retirement System, received~~ notification of such death is given within ninty (90) days of January 1st following date of death. The amounts forfeited under this provision shall be ~~credited to the~~ allocated for administrative costs. ~~account established under Section VII of these Rules & Regulations.~~

3. Manner of Distribution

A. Upon reaching the age specified in the Deferred Compensation Application, or, if none specified, upon reaching age 65, the participating employee will receive monthly payments over the period of months selected in the application deferring such compensation consisting of an equal monthly redemption of the number of shares which such employee held at the time of reaching such age. The monthly payments shall commence in January of the year following the attainment of such age and continue until his account is depleted in its entirety.

B. In the event the employee becomes permanently disabled before the age applicable in 3A above, he will receive monthly payments over the period of months selected in the application deferring such compensation consisting of an equal monthly redemption of the number of shares which such employee held at the time of disability. The monthly payments shall commence in January of the year following submission of satisfactory evidence of such disability to the Executive Director, Minnesota State Retirement System, and continue until his account is depleted in its entirety.

C. In the event of the death of ~~the~~ a participating employee or former employee before distribution begins under 3A or 3B above, all funds in the Deferred Compensation Account of such employee shall be paid to the designated beneficiary, or if none designated, to the surviving spouse, or if none, to the estate of the deceased employee in accordance with the following:

1. If the above payment is to a designated beneficiary or to the surviving spouse, such beneficiary shall be paid monthly payments over the period of months selected in the application deferring such compensation consisting of an equal monthly redemption of the number of shares which the employee held with the payments commencing in January of the year following notification of death of the employee to the Executive Director, Minnesota State Retirement System, and continuing until the deceased employee's account is depleted in its entirety. In event of the death of the designated beneficiary or the surviving spouse while receiving monthly payments, the balance then remaining in the deceased employee's account will be paid in a lump sum to the estate of such designated beneficiary or surviving spouse in January of the year following such notification of the death of such designated beneficiary or surviving spouse.

2. If there is no designated beneficiary or surviving spouse, a lump sum payment of all funds in the Deferred Compensation account shall be made to the estate of the employee ~~as of~~ in January of the year following notification to the Executive Director, Minnesota State Retirement System, of such death.

D. In the event of the employee's death during the period of distribution under 3A or 3B above, the employee's designated beneficiary, or if none, the surviving spouse shall be entitled to the monthly payments in accordance with the schedule arrived at for payments under 3A or 3B until the Deferred Compensation Account is depleted in its entirety. If there is no designated beneficiary or surviving spouse, the balance in the Deferred Compensation Account ~~as of the date of the employee's death~~ shall be paid in a lump sum to the employee's estate as of January of the year following such notification of ~~such~~ death.

E. The employee in the application for participation in the Deferred Compensation Plan can elect for the distribution of such deferred compensation over a period of either 5 years (60 months) or 10 years (120 months). ~~Except for compensation deferred during 1972 when only the 10 year period shall be available,~~ The participating

employee may submit a new application each year indicating either a 5 year period or a 10 year period for distribution of his deferred compensation. However such election will apply only to compensation deferred in calendar years subsequent to the filing of such new application. If any application fails to indicate the period of time for distribution of the deferred compensation, the period of 10 years shall be applicable to compensation deferred pursuant to such application. The monthly payments required to be made in 3A, 3B or 3C shall be computed by dividing the total number of shares held under each period designation by 60 or 120 in accordance with the withdrawal period selected in the application or applications deferring such compensation so as to determine the number of shares to be redeemed and distributed to the employee or his beneficiary each month. Should such computation result in a quotient of less than ten (10), then ten (10) shares shall be redeemed and distributed to such employee or beneficiary each month until the Deferred Compensation Account is depleted in its entirety. ~~Where an employee has both income and growth account shares, the distribution shall be made in proportion to the total number of shares held in each account.~~ Growth and income shares are purchased and redeemed in whole units. If a participant has shares in more than one investment account, shares will be redeemed proportionally to the extent possible.

F. In the event of the employee's termination of State employment prior to reaching the oldest age specified in the Deferred Compensation Application, for causes other than provided in 3B or 3C, the Executive Director acting for the employer may, at his ~~the state may, at its~~ sole discretion, honor the provisions of the participant's deferred compensation agreement or distribute to the participant amounts from the deferred compensation account in a lump sum upon his termination, provided said lump sum does not exceed the participant's annual salary at the time of his termination, or the ~~State~~ Executive Director may pay such amounts as specified in the participant's deferred compensation agreement but commence said payments at the time of his termination.

If the ~~State~~ Executive Director elects to make payments upon participant's termination, either in a lump sum or over the period of time specified in the participant's agreement, and such determination is made prior to the fifteenth day of a month, redemption shall commence at the end of such month; otherwise, redemption shall commence at the end of the following month.

G. Notwithstanding any provisions of 3A through F above, any current ~~state~~ employee participating in the Deferred Compensation Plan or any former employee who has participated in such plan but has not reached the youngest age specified in the Deferred Compensation Application, may apply for an early withdrawal of certain amounts in the Deferred Compensation Account upon the occurrence of an emergency event as herein defined. Emergency events are defined as and limited to (1) participant's bankruptcy when evidenced by the filing of petition in bankruptcy in federal court or (2) financial losses resulting in participant's net outlay of amounts, over and above reimbursable claims, exceeding three times his gross monthly salary which said losses are occasioned by illness

or accidents to participant, his family or property, and which have or will cause great hardship to the participant or beneficiary involved. The employee shall submit such evidence as may be required by the ~~state~~ Executive Director to substantiate such loss. If withdrawal is approved by the ~~State,~~ Executive Director, payment shall be made in a lump sum and shall be limited to that amount necessary to meet the emergency situation. The balance in the Deferred Compensation Account shall, thereafter, be distributed in the manner provided in 3A through F above.

H. For each calendar year that funds are distributed, actually or constructively, from the Deferred Compensation Account, the Executive Director, Minnesota State Retirement System, shall issue to each person receiving, or entitled to receive, such payments, statement prescribed by Internal Revenue Service, informing such persons of the amounts so paid out by the ~~State.~~ Executive Director.

VI. EMPLOYEE ACCOUNT INFORMATION

~~After-October-1st-and-before-November-15th-of-each-year,~~ Annually, the Executive Director, Minnesota State Retirement System, shall provide a share account record for each participating employee, ~~a-statement~~ indicating the number of shares presently credited in such account. ~~for-such-employee,-the-current-value-of-each-such share,-and-the-cost-of-the-shares-purchased-for-such-employee-during-the-preceding-year.--The-statement-will-provide-separate-information-with-respect-to-the-income-share-account-and-the-growth account.~~ An accounting statement will be distributed annually to participants in the Deferred Compensation Plan. ~~At-the-time-of-the above-distribution-of-employee-statements,-the~~ The Executive Director, Minnesota State Retirement System, shall distribute ~~to all-state-departments,-agencies-and-instrumentalities~~ information concerning the availability of the Deferred Compensation Plan to ~~all-other~~ eligible public employees from time to time as he shall deem appropriate. ~~and-the-procedure-for-additional-employee-participation-in-such-plan.~~

VII. ADMINISTRATIVE EXPENSE

In order to provide funds ~~to-cover-the~~ for administrative costs, ~~connected-with-the-Deferred-Compensation-Plan,~~ two percent (2%) shall be deducted from ~~of~~ the Deferred Compensation ~~deduction~~ each pay period, ~~shall-be-set-aside-in-an-administrative-Costs Account-within-the-Deferred-Compensation-Account,~~ provided, however, that if ~~the-Executive-Director-of-the-Minnesota-State Retirement-System-and-the-Commissioner-of-Administration-determine the-rate-to~~ such deductions prove to be excessive or insufficient to pay all necessary ~~and-direct~~ costs of administration, ~~incurred, plus-a-reasonable-amount-for-indirect-costs,-the-rate-shall-be changed~~ the Executive Director of the Minnesota State Retirement System shall adjust the charges accordingly. ~~If-distribution-costs are-increased-by-additional-services-such-as-tax-withholding,-the Executive-Director-may-deduct-up-to-two-percent-(2%)-of-the-monthly distributions-to-cover-such-costs.~~

However, any increase in ~~such~~ administrative charges shall take effect only after the Legislative Auditor in reviewing the operations of the Minnesota State Retirement System concurs in the finding that costs of the Deferred Compensation Plan exceed the income from the 2% administrative charge.

AUGUST 12, 1975 HEARING ON
PROPOSED ADOPTION OF REVISED RULES
OF THE
MINNESOTA DEFERRED COMPENSATION PLAN

NAME	ADDRESS	ORGANIZATION
Roger A ERSKINE	41 Sherburne Ave StPaul	Minn. Ed. Assoc
Raymond D Hayes	335 M City Hall - mpls	City of mpls
Howard Zimmerman	1300 Pioneer Bldg. StPaul	Aetna Life

TRANSCRIPT OF THE HEARING ON THE PROPOSED ADOPTION OF REVISED RULES OF THE MINNESOTA DEFERRED COMPENSATION PLAN HELD ON TUESDAY, AUGUST 12, 1975, AT 9:30 A.M. IN CONFERENCE ROOM A, VETERANS SERVICE BUILDING, ST. PAUL, MINNESOTA

Before Paul L. Groschen, Executive Director
Minnesota State Retirement System.

Hearing Testimonials

Roger A. Erskine, MEA
Raymond H. Hegna, City of Minneapolis
Howard Zimmerman, Aetna Insurance Co.

Panel

Paul L. Groschen, Exec. Dir.
Arne Ulvi, Asst. Director
Carol Frykholm, Recorder

The hour of 9:30 o'clock A.M. having arrived the hearing was called to order by Mr. Groschen.

The Executive Director stated that the purpose of the hearing is to allow interested parties to express their views and present facts bearing upon the matter of the proposed adoption of revised rules of the Minnesota Deferred Compensation Plan. He stated that all persons interested in expressing their views would be given an opportunity to do so; that anyone wishing to be heard should identify himself and sign the speaking sheet; and, that all parties interested in submitting written statements may do so now or within 20 days after the hearing.

Mr. Groschen stated that there are three reasons for amending the rules:

(1) The administration of it as well as the rule making authority was transferred over to the State Retirement System. Formerly, MSRS administered it and the Department of Administration was responsible for the rules. In the last session of the legislature the rule making authority was transferred to the Minnesota State Retirement System.

(2) The inclusion of a third investment account as an option for the participant. Formerly, we had the Growth Account and the Income Account in the Minnesota Supplemental Retirement Fund as investment options for the employee. There is now a Fixed Return Account and we wanted to add that as an option. The Growth Account is basically stock; the Income is a 50-50 situation and the Fixed Return Account is an account that operates very similar to a savings account. It is not a guaranteed rate of return but a stated rate of return that we expect to earn.

(3) To open the plan to all public employees in the State of Minnesota as defined in the law and it should include any public employee who is deemed to be a public employee for any reason.

Mr. Groschen introduced the following exhibits:

(1) The Order for Hearing.

(2) The Certificate of the Secretary of State certifying a list of persons, associations and other interested groups who as of 11:15 A.M. on the 9th day of July 1975, had requested that their names be placed on file with the Secretary of State for the purpose of receiving notice of the public hearing on the proposed rules.

(3) The Notice of Hearing.

(4) The Affidavit of Mailing stating that on the 9th day of July 1975, he mailed the Notice of Hearing to all persons listed on the cerficate of the Secretary of State and to members of the legislature.

(5) The proposed rules and regulations.

Because of the close time frame, we developed the revised rules and submitted them to IRS. Because of the fact that proposed rules must be mailed 33 days prior to a public hearing, I started the rules hearing procedure prior to any indication from IRS as to what their reaction might be to the proposed changes. I do have a reaction from IRS now and it will, I believe, modify what we are proposing here. We are still in the process of negotiation with IRS but I believe on the one point they are not going to relent - while on the second point they will. I think the reason that most of you are here is the one that they have more or less put thumbs down on. They have not given me a negative ruling - what they have given me is a non-ruling - and I will just read you the response. (Mr. Groschen read their letter).

After that letter I contacted IRS. Basically, what they are saying is that the Minnesota State Retirement System is not the employer of these people and that they will only issue a ruling as between the employee and the employer. Subsequently, I talked to them again and I am sure they are not going to change their opinion on giving approval of a general plan. I mentioned that other states had general plans and that the Aetna Co. seems to offer a general plan. They assured me that the Aetna Co. is - if it is, they said they are fully aware of the statements being made that they can offer a generally approved plan and it is not a true statement. Again, even with the Aetna Co. a plan is only approved for a particular employer and you can make the assumption, if you like, that a similar plan would be approved for another employing unit. That's only an assumption. The service will only rule on a particular employer plan as run by Aetna or by any State. They said they recently gave a ruling to Ohio who tried to have an all public employee plan. Their ruling again repeated that they ruled favorably but only as state employees and any other employees would have to submit a plan for approval. So that is where we are. Like I say, we are still in negotiation but at this moment it would appear that I am going to have to revise these rules again, striking out any reference to public employee, political subdivision or employing unit and put the plan back exactly the way it was with the exception of the fixed return account and the transfer of any language that may have been changed as a result of MSRS having the rule making authority. It is my thought at this moment then to add a final section to the language which I do not have at this moment which would say in effect that any political subdivision who submits deferred compensation to me under an approved plan shall basically abide by these rules so that the administrative expense part of it will govern, the forms and the manner of application will be as I prescribed and all other things that pertain to this will pertain to theirs. That's the only way I would accept deferred compensation from a political subdivision. I think that's the way it is going to have to be at this

moment. I am also considering maybe drafting up a model plan that any political subdivision could submit and get approval of. There is only one possible exception to the way we have our plan and that's because the service has -- since we've got our approval -- taken a second look at the investment options that an employee can have. It is their position now that the employer may, but he cannot be required, to invest the money at all if he doesn't please or invest it according to the employee's option. He can but he can't be forced to. So the rule or plan would have to provide that - that the employee can elect certain options and the employing unit may, but he is not required, to submit the monies to me. Now I don't know what happens to the money if he doesn't submit them - if he doesn't invest them but that's IRS's current feeling on it. With the law as it is I think every political subdivision would have the right to engage in a deferred compensation plan. An employee could request a deferred comp deduction and I think, according to the way the law looks, the employer would have to deduct it. But I think it would be premature to do so without an approved plan. It still does not rule out a statewide plan. It just means that 2,000 plans or so will have to be submitted to IRS for approval. I think if one major unit would perhaps work with us and get things submitted quickly, we would know whether we got a plan that will hold up.

So with that, is there any person present who wishes to speak on any matter?

ROGER ERSKINE - MINNESOTA EDUCATION ASSOCIATION

In terms of making information available on the plan so that a wide enough variety of people is available to answer questions so that specifically, in this case, the MEA would be able to lay the State plan along side of the private plan that might be available and make comparisons back and forth. So if you have time available on that or if there is a way we can assist in any way, that is what we'd like to do.

MR. GROSCHEN: I think you came in late so you missed the fact that IRS turned thumbs down on the statewide plan. There is still a possibility if each unit would submit a plan to have a statewide plan. But for each unit that submits the plan for approval, it can operate through our state plan. By these rules and regulations I can't create a statewide plan.

MR. ERSKINE: By unit, you mean, as an example, if an individual school district or members of an individual school district decided to pursue this, would that be a unit?

MR. GROSCHEN: No, it's an employing unit that we deal with.

MR. ERSKINE: And what are the chances of that plan being approved?

MR. GROSCHEN: I asked them,"If I developed a plan very similar to the state, would it be apt to be approved?" And they said, "Very likely". Ours has already got the approval with one exception that I mentioned about the fact that the employer not be compelled to follow the employee's investment option nor can he be compelled to even invest the assets if he doesn't choose. But that's what I said, I think we would be willing to work with anybody to submit a model plan. You would have to have all the forms and the actual procedural plan to work through this state plan and I think we can get approval.

MR. ERSKINE: The procedure for us then would be to find a school district or group of school districts to pursue this and sit down with you or members of your staff to put together a plan so that we could receive favorable action upon the part of IRS.

MR. GROSCHEN: Right.

MR. ERSKINE: How long has the IRS turn around?

MR. GROSCHEN: A pretty fast turn around. I wrote July 9th and I got a response July 28th. I can't guarantee that.

MR. ERSKINE: But it would appear.....

MR. GROSCHEN: Yes.

MR. ERSKINE: And there is apparently a willingness on the part of IRS to approve a plan that would meet all specifications. I suspect you said already the reasons why IRS turned it down - the statewide plan.

MR. GROSCHEN: Yes, I read this letter from them. I'll see you later about this.

RAYMOND H. HEGNA, ASST. ATTORNEY, CITY OF MINNEAPOLIS

I would like to ask a couple of questions. I notice for the payments you are given a very long time in which to make determination of ..... When a man retires or dies in February there is no benefit payable to either he or to his beneficiary until the following January and it just seems to be a long time and I wondered what was the philosophy or the reason for giving such a long period of time to determine to start the payments.

Secondly, I assume that a man may make a change in the beneficiary right along. No. 4 doesn't spell out specifically but I assume he can make more than one choice of beneficiary and if the beneficiary dies, he can change his beneficiary?

Thirdly, on Page 7(G), which relates to any current employee participating or any former employee who has participated, may apply for early withdrawal, etc. What happens to a subsequent employee? Does he have that same right? Those are my three questions that I had.

MR. GROSCHEN: The reason I was hesitating, I didn't know whether the emergency payoff provisions applied to death. In my quick reading I believe they do not. The logic behind the delay basically was to take full advantage of the benefits of the deferred comp plan so that if you do not receive deferred comp monies in the same year in which there was also salary payments - that would put you right back possibly into a higher tax bracket and negate the beneficial effects of the lower tax because of lower income. That was the basic philosophy as I recall behind all of the payments being delayed until the following January.

MR. HEGNA: Shouldn't that be the employee's ..... If he doesn't care or he knows that's what's going to happen..... His big brother tells him what is best for him.

MR. GROSCHEN: Th[illegible] unfortunately, is IRS r[illegible]s. If the employee has any subsequent say over the money, that almost voids the plan. You can have only one say and that's prior to the taxable year any compensation is deducted.

MR. HEGNA: I understand that the employer can do as he pleases. I understand that, but I don't see that the employer really should use as a basis for a delay the fact that he may have to pay more income tax.

MR. GROSCHEN: Well, I guess it's just a matter of - we knew there couldn't be a subsequent decision made on it and when we developed a plan a few years back we felt it was best to defer the payment to a taxable year when the income we knew would be lower. A decision has to be made when,you know you can't change your decision at the time of death, which I certainly would agree with you, I would rather be able to make the payment in accordance with the circumstances then prevailing but the plan has to be drawn up now with the rules and regulations now. I would say more or less an arbitrary decision.

Secondly, on beneficiaries, you are correct, the beneficiary can be changed at any time - just like submitting another change of beneficiary as long as it is a singular designation.

Now the third question, could you repeat the third question?

MR. HEGNA: On Page 7(G) the Board rules state current employee or any former employee participating in the plan may apply for early withdrawal. My question was, what happens to an employee who comes into the plan subsequent to the adoption of these rules?

MR. GROSCHEN: The words 'current' and 'former' were not intended to mean as of the effective date of these rules, but as of any date - so any current employee as of any date - any former employee as of any date, so that takes care of any future employees.

MR. HEGNA: Why use the term 'current'? Why not 'any employee participating' and then you eliminate any ambiguous wording?

MR. GROSCHEN: Good point. There is another change that I am aware that must be made and that's in the administrative expense, page 8, line 3. There is the word 'deduction' deleted and I believe for clarity, that word 'deduction' should go back in. "2% shall be deducted from the deferred compensation deduction". The term deferred compensation is the whole pool where we mean just the deferred compensation deduction front load charge. That word will be reinstated.

HOWARD ZIMMERMAN - AETNA INSURANCE COMPANY

This is a question relative to the Section G. It is going to be up to the Executive Director of MSRS to determine.....hardship or would that be up to the ..... employer? In 7(G) it states it is going to be the Executive Director of MSRS who will determine the loss.

MR. GROSCHEN: It is my present thought - as I said, we are going to have to change the rules because each employing unit will have to submit a plan - I can't say with certainty but I would still think that it would be myself that would make that decision. Like I say, after I analyze

this, it may have to be the employing unit making the decision, but in cases like this I think it is going to be myself acting for the employer. It is just a matter of a centralized and standardized method. If you leave it up to each employing unit, you are liable to get too much variance in the application of the section.

ZIMMERMAN: May I ask another question? On page 4, No. 4, "Change in Pay Period Length". I read it a couple of times trying to figure out ..... Does that mean the employee has the right to make a change in his contribution factor within a year. I'm just trying to question what the definition of "Change in Pay Period Length" is.

MR. GROSCHEN: In the State plan they have participants that are on biweekly pay periods, semi-monthly, monthly, and there was one group, the legislative group, that changed every year from a biweekly to a ten day period, and others as they sometimes computerize, and what not, may go from a monthly payroll to a biweekly within a year. The attempt of this rule is to withhold for that taxable year the same approximate amount that he had agreed to have withheld. If he was on a monthly basis and he wanted $100 a month withheld, that would be $1200. If his pay period length was changed to biweekly, he received a check every two weeks, we would have his deduction amount changed so that at the end of that year, he should have approximately $1200 withheld as he had requested.

ZIMMERMAN: I have another question. I was reading through. I'm not sure of the section, but I do recall reading in the program before, that if the employee had established a deduction amount, he cannot stop his contributions to the plan unless he died.

MR. GROSCHEN: He cannot stop the deduction during the year but he can stop it for the following year by entering zero in the deduction amount column on the application.

MR. ZIMMERMAN: If your office is not notified of the death of an employee, there is a penalty (10%), and thereafter a further 10% penalty. To me it seems rather unfair and I wondered what was the reason. How is the fund harmed in any way by the fact the beneficiary doesn't notify your office of the death of the employee? Why is there a penalty?

MR. GROSCHEN: IRS rules. Again, I agree with you fully. It seems unfair, but go back to the point that if the money is not payable upon the happening of an event, merely the notification to me of the event, which we really had in our original rules that we submitted, they felt it left the plan open to munipulation. If the money is payable at death, it is the event of death that caused the payment. If the employee's heirs has a choice of waiting to any particular time when the stock market happens to be right for them to notify me of the death, then that is somewhat munipulation on their part - and again, it's constructive receipt. The moment they have the opportunity to notify me of an event that would cause a payoff, it's at that point that IRS feels that there is constructive receipt. So if they do not notify me they require "a substantial forfeiture procedure". We just dreamed up this one. It's not a thing we like but we were required to put in in the plan.

MR. ZIMMERMAN: You mean, required by the IRS ruling you received?

MR. GROSCHEN: Yes. And you can go from one state to another - one insurance company to another - and you will find different provisions. I gather from my recent conversation with IRS that they are very sorry they opened this whole thing up in the first place and they are now and have been as time passes scrutinizing plans closer and closer and at various points closer so that when they would have given a ruling two years ago, they won't give the same ruling on the same plan now. They are getting fussier and fussier.

MR. ZIMMERMAN: What's the effect of not getting the ruling anyway from IRS?

MR. GROSCHEN: It doesn't mean that your plan is not approved; it means that the individual taxpayer subjects himself to the risk, I suppose. Any other questions? It was disappointing that things would have to go this way but I'm pretty sure that's the way it will have to go. If any political subdivisions are interested in proceeding, we will certainly work with you. We haven't determined all the things, such as the informational process; even the reporting process, we are working on that now - what we would require from a payroll unit. Our present thoughts are that we would work on exception basis - have the payroll unit submit to us a check and a paper document showing us the total of the check, with any exceptions from the last report. Any exceptions would be mainly deletions because you can't add except only once a year but we are working on what we would require to take tape, cards, almost any kind of computer input but now I guess it will be dependent on those political subdivisions that care to go ahead with it.

MR. HEGNA: In reference to Mr. Zimmerman's question. I understand that the employee,once he made the determination for the year, you start with that determination for the year. You can't withdraw in June or July; you must continue on paying whatever is agreed to pay until the end of the year. Prior to the end of that taxable year, can he say, "Next year I don't want any"? I guess that's what Howard was asking. Once you make a determination to get in the plan, you are not in it forever. You can get out. Is that true?

MR. GROSCHEN: That's true. I'm looking for a copy of our application but I can't seem to find one. The employee, on the application, states the amount he wants deducted each pay period, the age at which he wants that money returned, the account in which he wants that money invested. Any of the things on that application can be changed the next year. The deductions can go up or down to zero but they are all prospective changes. It contains the age at which he wants his money back but again that age is only for future contributions.

MR. HEGNA: Isn't that a one change rather than a period of employment. You can change it once and that's it as far as that is concerned. The other thing he can change yearly.

MR. GROSCHEN: Yes.

MR. HEGNA: What type of yearly reports are given to the employees from the State fund? I think there must be some type of annual report given to the employees Do you have any information as to the type of investments, how you have done during the year as far as investment wise, expenses, etc?

MR. GROSCHEN: The employee is given a share account record which we are at the moment improving over what we've had. That, of course, shows what he has contributed, the administrative expense deduction, the share values each and every month as we purchase shares for him, his balance, everything about his contribution.

MR. ULVI: A prospectus is available from the State Investment Board. The State Investment Board handles the investment of the funds in the Minnesota Supplemental Retirement Fund and they publish a prospectus once a year that gives us information.

MR. GROSCHEN: We do not mail it to them. It is available for them. He could get a copy of the prospectus by just writing to the State Board of Investment.

Finally, a new change in these, is we are planning to give some kind of annual financial statement - a rundown on the expenses. So the prospectus that is put out by the State Board of Investment is pretty comprehensive showing all the stocks that the Minnesota Supplemental is invested in.

MR. ZIMMERMAN: As to the administrative charge, do you anticipate any change, either lowering or a possibility of increasing that because of the possible increase signing, energy, etc. that is going into handling possibly 2,000 requests for planned documents, brochures, rules, telephone requests, applications, whatever. Will there be hearings on that particular part and who makes that decision and when would that be made?

MR. GROSCHEN: We are completely in the dark as to what kind of participation we are going to have. The 2% contribution under our current membership, current participation, seems adequate. I think the answer to your question depends upon a variety of things. One, is how many participants are we going to have? Are we going to have one from each of the 2,000 political subdivisions which would be possibly quite expansive, or are we going to have just a few political subdivisions with many employees?

Secondly, how far am I going to go into the promotional aspect of it? Probably, very, very little. Just to keep the costs down. I don't, at this time, intend to change much over what I've been doing and our promotion is practically limited to one brochure, that's sent out, a year. I can see that if I had a large participation it would be more apt that I could decrease the administrative costs rather than increase, but again depending upon how much the plan is promoted. So I really can't even give you an answer because we've been talking about that ourselves. Until we have a fix on the amount of participants, I don't even think we could guess. If you notice, the administrative expense ruling No. 7, it's myself that determines when the administrative expense is excessive or insufficient. However, there shall be no change in it until after review of it by the legislative auditor. There is a safeguard or a check on us that the legislative auditor agrees a change is necessary but not a political subdivision would have an input in that, necessarily.

MR. ZIMMERMAN: Relative to your plan right now. A community or an employee in the community practically can't get into the plan until the first step is made. As I see it the community itself or subdivision has to make a judge as to whether to offer this to new employees. Would that be correct?

MR. GROSCHEN: The law says this, "At the request of an officer or employee of the State of Minnesota, or include a subdivision thereof, etc. the employing authority shall by payroll deductions defer payment of part of the compensation of the officer or employee." But it also goes on "as provided in a written agreement". So there is a little bit of a conflict here. The law seems to say if the employee wants it, it shall be done, but it does provide that it has to be done in accordance with a written agreement. I would think that until there is a deferred comp plan approved, I don't think it would behoove a political subdivision to be making deductions but I'm not going to try to answer the question that the attorney general would have to answer. Does by the employee's request force the political subdivision to enter into this thing? It is out of my area.

MR. ZIMMERMAN: Is that going to be asked the attorney general?

MR. GROSCHEN: If it becomes necessary, I suppose, but not by me. I would not have the necessary interest. It would be an employee who was asking for a deferred comp ruling deduction who was refused. Then I think it would be up to the political subdivision to ask the attorney general whether they would be forced to.

MR. ZIMMERMAN: ..... unless they are going to either get an approved plan or else go without an approved plan under the assumption that their plans - that they do adopt. Your plan meets the legal requirements anyway without getting an approved plan.

MR. GROSCHEN: I understand from talking with IRS that apparently there are many plans in operation that really do not have a favorable ruling. I think Utah is one. They have got a ruling as far as state employees go and they just assume that the ruling applies to all public employees. According to the man I was talking to that's not true. It may be perfectly all right. They may have a proper plan but I don't believe that they have a ruling that says that it really applies to all and we're given that same impression about the Aetna plan. That some of it may be operating without specific approval. So if we could get a plan and get one political subdivision approved, and then introduce that same plan in all the rest, there would be no reason why, if you don't change anything, forms from one plan to the next, that you should be able to go ahead with the plan without formal approval.

MR. ZIMMERMAN: With merely submitting of your plan, the State plan has a plan for including subdivisions, shouldn't that do it?

MR. GROSCHEN: With one exception. Under part of the letter that I didn't read, the letter went to point out, I touched on the point, that IRS is looking at certain things more closely now than they did formerly. They said in this letter that their current scrutiny doesn't affect the rulings they gave us so the plan we have is still fully approved. But Page 2, Item 3, Investment Options. As it is related to me, if a political subdivision adopted an almost identical plan, they would have to have in here, in that section, that the employer may, but is not required, to invest in accordance with the employee's options or submit the money to the director of the State Retirement System. It has to be the prerogative of the employing unit. Like I say, I don't know what he is going to do with the money if he doesn't invest it or submit it to me. The object is that it is the assets solely of the employer and so if he has to follow the directions of the employee, they feel that it then is not solely the asset of the employer. So there would be a slight change to these rules

that would be required. Otherwise, I think we have a plan with just a few minor changes in the language that would pass.

MR. ZIMMERMAN: Page 2, Item 4, just underneath 'Distribution of Assets'; when a person's selected time of retirement in the future, he is selecting an age. Then he has one option change. Is that right? Is it correct that the money he has been setting aside, up to that point, would come back to him at age 60, then this new money after he'd made a change 5 years later would then come back to 65.

MR. GROSCHEN: That's correct. Even though he may still be employed at age 60, I'd start paying him.

MR. ZIMMERMAN: Wouldn't that run contrary to the philosophy of the current composition because if he is still in that presumably higher income, 60-65, because he has been working for XYZ for a period of years. He is getting money back in now over 60 or 120 months. Whatever he selected here. If he selected sixty months he is going to be getting double or triple dollars during that time. Is there any thought about asking for a change in that?

MR. GROSCHEN: The basic reason that we had to have a period of time payout is because we cannot pay a life annuity. It takes a fund where you are working with averages, as you are quite aware, to pay out an annuity because some will live longer than the designated time and some will live shorter. So we had to devise a plan that paid out everything to that employee. We merely picked this 5 year or 10 year period. In our original plan the only payouts we had was at the designated age and at that time it was suggested to the person that he designate an age early enough the first time and if it so happened, and later when he really gets a fix on when he might retire, to change his option or his age. If he was still employed at the first designated age he merely has to double his deductions so his income for that year is substantially the same. I'm paying him and he is paying me twice as much. And it is all going to come back to him at the second age that he really wants. But now -- subsequent to that we had this payout at termination -- so now we are suggesting more that you would specify a more reasonably later age and if you do terminate prior to that, I have the option of starting to pay you. So I don't think it is necessary to change those.

MR. ZIMMERMAN: You have the option to pay a person terminating?

MR. GROSCHEN: Yes.

MR. ZIMMERMAN: What are those options?

MR. GROSCHEN: I can honor the person's original agreement, in other words, starting paying him over the periods he specifies at the age he specifies. I can pay him in a lump sum right then and there or I can start paying him periodic payments but beginning immediately over the periods he has specified - 5 or 10 years. I have three choices.

MR. ZIMMERMAN: Because the money is in effect, the assets of the employing unit - willpayments be made back to the employing unit who in turn gives it back to the employee because it's the employer's money. Is that how you are going to do that?

MR. GROSCHEN: That is one of the points I am a little vague on but no I don't think so. I think in all cases the rules will have to say that I act for the employer so I will be paying directly to the employer.

MR. ZIMMERMAN: And what about 1099 reporting forms?

MR. GROSCHEN: All coming from us.

Any other testimony?

As I said earlier, it was a disappointment but I still think that for those political subdivisions interested, we will be able to work out something. If there is no further testimony, I declare the meeting adjourned.

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE Paul L. Groschen
Director of Minnesota State
Retirement System

In the matter of the Proposed
Adoption of Rules of the State
Deferred Compensation Plan

FINDINGS OF FACT

The above-entitled matter came on for hearing before Paul L. Groschen, Director of Minnesota State Retirement System, on the 12th day of August, 1975, at 9:30 A.M. in Conference Room A. Veterans Service Building, 20 West 12th Street, St. Paul, Minnesota, 55155, after proper notice required by M.S. 1974, Section 15.0412, as amended by Laws 1975, was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, I find the following:

That the revision of rules was necessary to effect the provisions of Laws 1975, Chapter 273, to allow all public employees in the State of Minnesota to participate in the State Deferred Compensation Plan; to transfer completely the administration and rule making authority from the Commissioner of Administration to the Executive Director of Minnesota State Retirement System; to incorporate the fixed return account of the Minnesota Supplemental Fund as an investment account option; to meet IRS requirements and to improve computer processing, and

That no public testimony was offered in opposition to the proposed rules, and

That to clarify Rule I for IRS purposes, the eligibility of public employees other than state employees should be stated in a separate paragraph, and

That to satisfy an IRS requirement Rules II (3) and III (1) be amended to include a statement to the effect that the state or political subdivision may but is not required to invest the monies in accordance with the employees election, and

That for clarification the deleted word deduction be reinstated in Rule VII, and

That when such changes are made the proposed rules be adopted.

STATE OF MINNESOTA

Paul L Groschen

PAUL L. GROSCHEN, DIRECTOR
MINNESOTA STATE RETIREMENT SYSTEM

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed
Adoption of Revised Rules of
the State of Minnesota
Deferred Compensation Plan

BEFORE Paul L. Groschen
Executive Director,
Minn. State Retirement System

ORDER ADOPTING
RULES

The above entitled matter came on for hearing before Paul L. Groschen, Executive Director of the Minnesota State Retirement System, on the 12th day of August, 1975, at 9:30 A.M. in Conference Room A at the Veterans Service Building, St. Paul, Minnesota, after proper notice required by M.S. 1974, Section 15.0412, as amended by Laws 1975, was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above captioned rules.

NOW, THEREFORE, IT IS ORDERED that these rules identified as State of Minnesota, Deferred Compensation Plan, are adopted this 10th day of October, 1975, pursuant to authority vested in me by Laws 1975, Chapter 273.

STATE OF MINNESOTA

MINN. STATE RETIREMENT SYSTEM

Paul L. Groschen

Paul L. Groschen, Exec. Dir.

STATE OF MINNESOTA

DEFERRED COMPENSATION PLAN

Rules & Regulations
pursuant to Minnesota Statutes, Section 352.96

DCP I. ELIGIBILITY

For purposes of determining eligibility for participation in the Deferred Compensation Plan, the term "officer or employee of the State of Minnesota" shall include any elected official, appointed official 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 Minnesota State Retirement System, employee group insurance program, or unemployment compensation plan for state employees.

Any elected official, appointed official 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, shall also be eligible for participation in the Deferred Compensation Plan.

DCP II. PARTICIPATION PROCEDURES

1. Submission of Application

During periods designated by the Executive Director, Minnesota State Retirement System, an eligible employee may submit an application to the Executive Director, Minnesota State Retirement System, or to his employer, with respect to participation in the Deferred Compensation Plan or with respect to changes to be made in an existing participation program. The employer shall immediately forward such applications to the Executive Director, Minnesota State Retirement System. However, such participation or changes in existing participation will not become effective until the following January 1st.

Applications for participation in the Deferred Compensation Plan or changes in investment options or withdrawal age must be submitted to the Executive Director, Minnesota State Retirement System by December 15th. Change in age at which distribution will begin may be made only once during employee's period of public service. Such change in investment option or age at which distribution is to begin will apply only to compensation deferred in any subsequent calendar year. If the employee on other than his initial application fails to indicate an amount to be withheld or his choice of investment option, withdrawal age, withdrawal period or other items requested, the Executive Director shall continue employee's previous elections or statements for such items pursuant to the terms of the Deferred Compensation Plan application.

2. Deduction Options

The minimum amount which may be deferred shall be ten dollars ($10.00) 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. If the application fails to show an investment option, the entire amount will be invested in the income share account.

While Internal Revenue Service provides no limitation on the amount of compensation which may be deferred, the gross wage is subject to retirement and social security deductions. Therefore, the amount deferred cannot exceed gross wages less amount needed to cover retirement deductions and social security taxes and the state and federal income taxes on such amounts. Consideration should also be given to any voluntary deductions, such as credit union, union dues, etc. However, deduction preference in computing payrolls will be given to deferred compensation deductions over any other voluntary deductions.

3. Investment Options

The participating employee may select one of five investment options, that is, 100% in the Income Share Account, 100% in the Growth Share Account, 50% in the Income Share Account and 50% in the Growth Share Account, 100% in the Fixed Return Account, or 75% in the Fixed Return Account and 25% in the Growth Share Account. The option selected will remain in effect for such calendar year and continue thereafter until changed by submission of a new application to the Executive Director, Minnesota State Retirement System. The State or Political Subdivision may, but is not required, to invest such deferred compensation in accord with the employee's request. Also, shares purchased under such designation will remain in such account until distributed as hereafter provided.

4. Distribution of Assets

The participating employee will have the amount of compensation deferred paid out in monthly installments over a period of either 60 or 120 months, as indicated in his application deferring such compensation, upon reaching whatever age is indicated in such Deferred Compensation Application, or if no age is indicated, upon reaching age 65, or becoming totally and permanently disabled. The compensation so deferred will be distributed in accordance with the agreement in effect during the period the compensation was withheld. Any change in age or period for distribution will affect only compensation deferred after effective date of the change. In event of the death of the participating employee, the amount in the deferred compensation account shall be paid out in the manner hereinafter provided. Also, if the application does not indicate the period over which distribution is to be made, 120 months will be considered as being in effect for compensation deferred pursuant to such application.

5. Employee's Rights to Assets

All funds and assets, together with interest,accumulations and increments thereon, in said Deferred Compensation Account shall remain an asset of the State or Political Subdivision, or its successor, and shall be subject to State or Political Subdivision ownership until such time as the participating employee's equity in the funds or assets of such account are distributed in accordance with the Deferred Compensation Agreement. The obligation of the State or Political Subdivison to the participating employee is a contractual obligation only and the employee shall have no preferred or specific interest by way of trust, escrow, annuity or otherwise, in and to the specific assets or funds held in the Deferred Compensation Account.

The employee's rights under the Deferred Compensation Agreement shall not be assigned, transferred or encumbered, nor shall they be subject to attachment, execution or process of any employee's creditors. Except as otherwise provided, the Deferred Compensation Agreement shall be binding upon the parties thereto, their heirs, assigns, executors, administrators, and successors in interest.

DCPIII. DEDUCTIONS

1. Payroll Deductions

The State or other employing unit shall withhold and deduct from the participating employee's total compensation, on a pay period basis, the amount indicated on the employee's application. The amounts so withheld may, but are not required, to be credited and paid into a Deferred Compensation Account established by the Minnesota State Retirement System and shall be submitted to the Executive Director in a form and manner as he prescribes.

2. Deduction Exceeds Pay Period Salary Available

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, and state and federal income taxes, then no deduction for the deferred compensation plan will be made for such participant for such pay period. No future pay period will be adjusted to take into account the loss of such deferred compensation deduction.

In case of death of the participant, deductions for the deferred compensation plan will continue on any subsequent pay check issued for such participant but subject to the provisions stated above.

3. Missed Deductions and Over-Deductions

If a deferred compensation deduction is missed on a payroll period for any reason whatsoever, no adjustment will 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 over deducted will be refunded by the Executive Director, Minnesota State Retirement System.

Except as provided above, the Department of Finance, Central Payroll regulations shall apply to deductions for the Deferred Compensation Plan for any state department or agency paid through Central Payroll.

4. Change in Pay Period Length

In the employee's application for participation in the Deferred Compensation 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 shall compute and have withheld from such

employee's salary an equivalent amount to be withheld corresponding to the new pay period length which will result in approximately the same annual amount being withheld.

5. Financial Responsibility of the State or Political Subdivision

The funds and assets paid into the Deferred Compensation Account shall be invested in shares of the Minnesota Supplemental Retirement Fund in accordance with Minnesota Statutes, Sections 11.18 to 11.24 and regulations established by the Executive Director until distributed in accordance with the Deferred Compensation Agreement.

The State or political subdivision 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 State or political subdivision be required to replace any loss whatsoever which may result from said investments.

DCP IV. BENEFICIARY

An employee may designate a singular beneficiary other than surviving spouse to receive payment of the employee's shares in the Deferred Compensation Account in the event of his death. If the designated beneficiary predeceases the employee or dies before receiving payment, the payment shall be made to the employee's estate. Such beneficiary designation shall be in writing and must be filed with the Executive Director of the Minnesota State Retirement System prior to the death of the employee. If no designation of beneficiary is filed with the Executive Director, the beneficiary shall be the surviving spouse, or if none, the employee's estate.

DCP V. DISTRIBUTION

1. Conditions for Distribution

The accumulated shares to the credit of any participant will be distributed upon reaching age 65, or any other age which may be specified by the employee in the Deferred Compensation Agreement; permanent disability; or death, whichever occurs first. Distribution shall begin or be made in January following the year in which the Executive Director, Minnesota State Retirement System, is notified of such occurrence and has received satisfactory evidence as may be required. Permanent disability shall be evidenced by submission of Social Security Administration determination of permanent disability provided the participant is covered by social security and fulfills social security disability benefit requirements. If a social security determination is not available due to non-coverage, a doctor's statement indicating nature and extent of disability may be submitted in lieu thereof.

2. Responsibility of Participant

It is the responsibility of the participant, his heirs, or his estate administrator or executor, as the case may be, to notify the Executive Director, Minnesota State Retirement System or the participant's retirement fund chief administrator or former employer who in turn must notify the Executive Director, Minnesota State Retirement System

of any of the above occurrencesbefore the end of the calendar year of such occurrence, so that the distribution of the assets may commence in January of the following calendar year, if applicable, in accordance with the distribution provisions listed below.

If notification is not submitted to the Executive Director, Minnesota State Retirement System, employer or retirement fund, by January 1st of the calendar year following the date of death, there shall be forfeited, ten percent (10%) of the shares in the Deferred Compensation Account of such deceased employee. Thereafter, for each succeeding January 1st that elapses without such notification of employee's death, an additional ten percent (10%) of the shares held by such deceased employee at date of death shall be forfeited. However, wherein death occurred in either October, November, or December, the first ten percent (10%) forfeiture shall be waived provided notification of such death is given within ninety (90) days of January 1st following date of death. The amounts forfeited under this provision shall be allocated for administrative costs.

3. Manner of Distribution

A. Upon reaching the age specified in the Deferred Compensation Application, or, if none specified, upon reaching age 65, the participating employee will receive monthly payments over the period of months selected in the application deferring such compensation consisting of an equal monthly redemption of the number of shares which such employee held at the time of reaching such age. The monthly payments shall commence in January of the year following the attainment of such age and continue until his account is depleted in its entirety.

B. In the event the employee becomes permanently disabled before the age applicable in 3A above, he will receive monthly payments over the period of months selected in the application deferring such compensation consisting of an equal monthly redemption of the number of shares which such employee held at the time of disability. The monthly payments shall commence in January of the year following submission of satisfactory evidence of such disability to the Executive Director, Minnesota State Retirement System and continue until his account is depleted in its entirety.

C. In the event of the death of a participating employee or former employee before distribution begins under 3A or 3B above, all funds in the Deferred Compensation Account of such employee shall be paid to the designated beneficiary, or if none designated, to the surviving spouse, or if none, to the estate of the deceased employee in accordance with the following:

1. If the above payment is to a designated beneficiary or to the surviving spouse, such beneficiary shall be paid monthly payments over the period of months selected in the application deferring such compensation consisting of an equal monthly redemption of the number of shares which the employee held with the payments commencing in January of the year following notification of death of the employee to the Executive Director, Minnesota State Retirement System, and continuing

until the deceased employee's account is depleted in its entirety. In event of the death of the designated beneficiary or the surviving spouse while receiving monthly payments, the balance then remaining in the deceased employee's account will be paid in a lump sum to the estate of such designated beneficiary or surviving spouse in January of the year following such notification of the death of such designated beneficiary or surviving spouse.

2. If there is no designated beneficiary or surviving spouse, a lump sum payment of all funds in the Deferred Compensation account shall be made to the estate of the employee in January of the year following notification to the Executive Director, Minnesota State Retirement System, of such death.

D. In the event of the employee's death during the period of distribution under 3A or 3B above, the employee's designated beneficiary, or if none, the surviving spouse shall be entitled to the monthly payments in accordance with the schedule arrived at for payments under 3A or 3B until the Deferred Compensation Account is depleted in its entirety. If there is no designated beneficiary or surviving spouse, the balance in the Deferred Compensation Account shall be paid in a lump sum to the employee's estate as of January of the year following such notification of death.

E. The employee in the application for participation in the Deferred Compensation Plan can elect for the distribution of such Deferred Compensation over a period of either 5 years (60 months) or 10 years (120 months). The participating employee may submit a new application each year indicating either a 5 year period or a 10 year period for distribution of his deferred compensation. However such election will apply only to compensation deferred in calendar years subsequent to the filing of such new application. If any application fails to indicate the period of time for distribution of the deferred compensation, the period of 10 years shall be applicable to compensation deferred pursuant to such application. The monthly payments required to be made in 3A, 3B or 3C shall be computed by dividing the total number of shares held under each period designation by 60 or 120 in accordance with the withdrawal period selected in the application or applications deferring such compensation so as to determine the number of shares to be redeemed and distributed to the employee or his beneficiary each month. Should such computation result in a quotient of less than ten (10), then ten (10) shares shall be redeemed and distributed to such employee or beneficiary each month until the Deferred Compensation Account is depleted in its entirety. Growth and income shares are purchased and redeemed in whole units. If a participant has shares in more than one investment account, shares will be redeemed proportionally to the extent possible.

F. In the event of the employee's termination of public employment prior to reaching the oldest age specified in the Deferred Compensation Application, for causes other than provided in 3B or 3C, the Executive Director acting for the employer may, at his sole discretion, honor the provisions of the participant's deferred compensation agreement or distribute to the participant

amounts from the deferred compensation account in a lump sum upon his termination, provided said lump sum does not exceed the participant's annual salary at the time of his termination, or the Executive Director may pay such amounts as specified in the participant's deferred compensation agreement but commence said payments at the time of his termination.

If the Executive Director elects to make payments upon participant's termination, either in a lump sum or over the period of time specified in the participant's agreement, and such determination is made prior to the fifteenth day of a month, redemption shall commence at the end of such month; otherwise, redemption shall commence at the end of the following month.

G. Notwithstanding any provisions of 3A through F above, any employee participating in the Deferred Compensation Plan or any former employee who has participated in such plan but has not reached the youngest age specified in the Deferred Compensation Application, may apply for an early withdrawal of certain amounts in the Deferred Compensation Account upon the occurrence of an emergency event as herein defined. Emergency events are defined as and limited to (1) participant's bankruptcy when evidenced by the filing of petition in bankruptcy in federal court or (2) financial losses resulting in participant's net outlay of amounts, over and above reimbursable claims, exceeding three times his gross monthly salary which said losses are occasioned by illness or accidents to participant, his family or property, and which have or will cause great hardship to the participant or beneficiary involved. The employee shall submit such evidence as may be required by the Executive Director to substantiate such loss. If withdrawal is approved by the Executive Director, payment shall be made in a lump sum and shall be limited to that amount necessary to meet the emergency situation. The balance in the Deferred Compensation Account shall, thereafter, be distributed in the manner provided in 3A through F above.

H. For each calendar year that funds are distributed, actually or constructively, from the Deferred Compensation Account, the Executive Director, Minnesota State Retirement System, shall issue to each person receiving, or entitled to receive, such payments, statement prescribed by Internal Revenue Service, informing such persons of the amounts so paid out by the Executive Director.

DCP VI. EMPLOYEE ACCOUNT INFORMATION

Annually, the Executive Director, Minnesota State Retirement System, shall provide a share account record for each participating employee, indicating the number of shares presently credited in such account. An accounting statement will be distributed annually to participants in the Deferred Compensation Plan. The Executive Director, Minnesota State Retirement System, shall distribute information concerning the availability of the Deferred Compensation Plan to eligible public employees from time to time as he shall deem appropriate.

DCP VII. ADMINISTRATIVE EXPENSE

In order to provide funds for administrative costs, two percent (2%) shall be deducted from the Deferred Compensation deduction each pay period, provided, however, that if such deductions prove to be excessive or insufficient to pay all necessary costs of administration, the Executive Director of the Minnesota State Retirement System shall adjust the charges accordingly.

However, any increase in administrative charges shall take effect only after the Legislative Auditor in reviewing the operations of the Minnesota State Retirement System concurs in the finding that costs of the Deferred Compensation Plan exceed the income from the 2% administrative charge.

APPROVED AS TO FORM AND LEGALITY
NOV 24 1975 19
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