

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MJC
11-18-91

RULE REVIEW CHECKLIST

File No. 1869
DATE RECEIVED 11-14-91
REVIEW DATE 11-25-91
DUE DATE 12.2.91
(DIS)APPROVED 12.2.91 mjc
WITHDRAWN _____

Docket No. 05 0009 0656
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 11-18-91
REVISOR (DIS)APPROVED _____
FILED W/SEC. OF STATE ~~12/4/91~~ 12/20/91
RETURNED TO AGENCY ~~12-4-91~~ 12-23-91

✓ Rule as adopted (4 copies)

_____ Notice to Solicit Outside Information/Opinion (if applicable)
_____ Date published in State Register
_____ Comments

_____ Petition for Adoption of a Rule

✓ Board's Authorizing Resolution
July 19, 1991 Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
352.03 subd 4 Statutory Authority
No statement Small Business Statement
_____ Expenditure of public money statement
August 1, 1991 Signature

✓ Statement of Need and Reasonableness (if applicable)
no statement Small Business Statement
_____ Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
August 16, 1991 Dated 30/25 days before adoption
✓ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
August 19, 1991 Date 30/25 days before adoption

✓ 180-day deadline from:
✓ Effective date of law requiring rule (14.12) (both rules) amendments don't apply
✓ end of comment period (§ 14.26) (rules without hearing)
_____ effective date of statutory authority (§ 14.29) (emergency rules)

✓ Resolution Adopting
Nov 12, 1991 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
October 31, 1991 Date

_____ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Nancy Joyer Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable)

_____ Affidavit of Mailing Notice to Attorney General (if applicable)

DEPARTMENT: Office of the Attorney General **STATE OF MINNESOTA**

OFFICE MEMORANDUM

DATE: December 23, 1991

TO: PAUL L. GROSCHEN
Executive Director
Minnesota State Retirement System
529 Jackson Street
St. Paul

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Election of Board Members

The above-referenced rule has been approved as to its legality by the Attorney General on December 2, 1991.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJC:sc

cc: Nancy J. Joyer
William Brown, Chief Judge
MaryAnn Hruby

STATE OF MINNESOTA

MINNESOTA STATE RETIREMENT SYSTEM

BOARD OF DIRECTORS

In the matter of the Proposed Amendment and Adoption of Revised Rules of the Board of Directors of the Minnesota State Retirement System

STATEMENT OF NEED AND REASONABLENESS

The above captioned rules are amendments to existing rules of the Board of Directors of the Minnesota State Retirement System. The last time the above captioned rules were amended was May 18, 1981.

A revision of the rules is necessary for administrative reasons. The Board of Directors' specific statutory authority to adopt such rules is set forth in Minnesota Statutes section 352.03, subd. 4 (4).

The need for amendment to the rule being amended is as follows:

2 MCAR § 3.0001

Formerly, the election material was sent to departments in bulk, not preidentified as to the individual. Now, the eligible employees' names will be preprinted on the envelopes containing the election material. The names are preprinted on the envelopes to ensure that each eligible employee receives a ballot. An employee eligible to vote is one that is paid salary from which retirement deductions are taken in the last full pay period in December. As a result, the mailing of election material must be delayed one month to the end of January. The counting of the ballots is also delayed by one month. In addition, the employees will be furnished a preprinted label which can be used to return the ballots in the teller envelopes. The label will be coded with an identification number. This is to obviate the need for the employee to enter the social security number on the teller envelope. The social security number requirement as part of the identification process has been eliminated because employees objected to having the social security number visable as part of the return address on the teller envelope. The identification on the teller envelope is checked against a computer record to ensure that the employee is eligible to vote.

Although a correctional employee plan member has been elected and served on the Board of Directors since 1974, no specific board rule was adopted to provide for the election. The election has been conducted the same as the state employee board member election. This amendment corrects the oversight.

Minnesota State Retirement System

Adopted Permanent Rules Relating to Election of Board Members

Rules as Adopted

7900.0200 STATE EMPLOYEE MEMBER.

Subpart 1. **Biennial election.** The procedure for the biennial election of the four state employee members of the board of directors as provided in Minnesota Statutes, section 352.03, and laws amendatory thereof, shall be as in subparts 2 to 5.

Subp. 2. **Nominations.** Any employee covered by the system who desires to be a candidate for membership on the board of directors shall file a nominating petition signed by ten employees covered by the system with the executive director of the system not later than October 1 of each odd-numbered year. A candidate may not withdraw candidacy after October 15. If the employees whose names are filed are eligible for election or reelection as members of the board of directors as provided by Minnesota Statutes, section 352.03, and laws amendatory thereof, their names and the names of the department in which they are employed shall be printed upon the ballots sent to employees covered by the system as provided in subparts 2 and 4. The name of any employee covered by the system may be written in on the ballot provided for that purpose.

Subp. 3. **Election materials.** Between January 26 of each even-numbered year and the following February 5 inclusive, the executive director shall send by mail, express, or regular messenger service notices of election to be held, ballots, and envelopes to the respective heads of departments and state agencies having employees who are covered by the system. The heads of departments and state agencies shall deliver or cause to be delivered to each employee who receives salary or wages from which deductions are made for the system on the department's or agency's payroll abstract covering the last full

pay period ending in December of the preceding year a notice of election that two members are to be elected to the board of directors, each notice to be accompanied by a ballot and two envelopes. Department heads shall also mail election material to their employees on approved leave of absence or seasonal layoff during the last full pay period in December of the preceding year and shall certify to the executive director the names of the employees to whom ballots were mailed. The Minnesota State Retirement System shall reimburse the departments for the cost of the postage for the mailing.

Subp. 4. **Voting.** Each employee participating in the election shall place the ballots, not exceeding two, imprinted with the names of the candidates of the employee's choice, or shall write or indicate by appropriate mark on the blank ballot provided for that purpose the names, not exceeding a vote for a total of two candidates, of any state employees covered by the system for whom the employee wishes to vote for directors, place the ballots in the envelope marked "ballots" (upon which there shall be no writing except the printed word "ballots" and the words "insert ballots and seal" on the flap); thereafter seal and place in the envelope, likewise sealed, addressed to: Tellers, Minnesota State Retirement System, at its office in St. Paul, Minnesota 55107.

The employee shall print or type the employee's name and home address, or place the label provided that contains an election authorization number in the upper left-hand corner of the envelope addressed to said tellers, and return it to the office of the system not later than March 1, in each even-numbered year. If the employee so elects, the employee may place the tellers' envelope in another envelope and mail or deliver this to the retirement system. Ballots in envelopes postmarked any time up to midnight on March 1 of each even-numbered year shall be counted, as shall ballots in envelopes received at the office of the system by messenger service up to the close of office hours on March 1 of each even-numbered year, or, if March 1 falls on a Saturday or

Sunday, postmarked any time up to midnight or received up to the close of office hours on the following Monday of each even-numbered year, provided instructions prescribed have been complied with. Heads of departments and agencies shall promptly notify the executive director of the retirement system that notices, ballots, and envelopes have been delivered to the employees as required.

Subp. 5. **Verification.** The name and election authorization number in the upper left-hand corner of envelopes addressed to the tellers shall be checked against a computerized representation of payroll abstracts covering the last full pay period ending in December and a certified listing of those on seasonal layoff or leave of absence, and if the name of the employee on the envelope is found and deductions are taken for the retirement fund which are not deductions in error from the salary of an employee not covered by the system, or if the employee is on approved leave of absence or seasonal layoff during the pay period, the envelope shall be noted as "eligible," and if the name of the employee does not appear thereon, the envelope shall be noted as "not eligible." The envelopes noted as "eligible" shall be placed in one container and those noted as "not eligible" in another. At 8:00 a.m. on the third Thursday in March in even-numbered years, three tellers appointed by the board of directors shall meet and verify the notations on the sealed envelopes addressed to the tellers who shall then remove and set aside the sealed ballot envelopes of those employees verified as eligible to vote.

Subp. 6. **Tabulation.** After the verification required in subpart 5 is completed, the small envelopes containing the ballots shall be opened and ballots tabulated by the tellers. The two candidates receiving the highest number of votes shall be the elected members of the board of directors for terms of four years as provided by Minnesota Statutes, section 352.03, subdivision 1. In the case of a tie vote as to any candidates, the election shall be resolved by lot.

7900.0300 STATE PATROL FUND MEMBER.

Members of the state patrol retirement fund shall elect one of their membership to serve as a member of the board of directors. The election of a board member shall be separate and distinct, but shall be conducted at the same time by the same tellers and shall follow the same procedure as prescribed in part 7900.0200. The term of the state patrol fund member elected begins on the first Monday in May after the member's election. Members shall serve for four years and until the successor is elected and has qualified.

7900.0400 RETIRED STATE EMPLOYEE MEMBER.

Subpart 1. **Exceptions from election procedure.** As provided in Minnesota Statutes, section 352.03, retired state employees shall elect one retired state employee to serve as a member of the board of directors. The election of a board member shall be separate and distinct but shall be conducted at the same time by the same tellers and shall follow the same procedure as prescribed in part 7900.0200, except as in subparts 2 to 5.

Subp. 2. **Eligibility.** Retired employees who are eligible for election to the board and eligible to vote for a candidate for the board shall be any persons receiving an annuity from Minnesota State Retirement System as of January 1 of each even-numbered year.

Subp. 3. **Notice of election.** Between July 1 and August 15 of each odd-numbered year the director shall mail a notice of election to all eligible retired employees giving them notice of election and instructions for becoming a candidate for membership on the board.

Subp. 4. **Candidates.** Any eligible retired employee who desires to be a candidate for membership on the board of directors must submit a nominating petition, signed by ten or more eligible retired employees, to the executive director of the system not later than October 1 in each odd-numbered year. If the retired employees whose names are filed are eligible to

election as members of the board of directors their names shall be printed in alphabetical order upon the ballots sent to retired employees as hereinafter provided.

No nominee may withdraw candidacy after October 10. The name of any eligible retired employee of the system may be written in on the ballot in the space provided for that purpose.

Subp. 5. **Voting.** In February of each even-numbered year, the executive director shall mail ballots and envelopes to the retired employees eligible to vote. The election material shall be mailed to the last address given to the system by the retired employee unless the retired employee notifies the system in writing by November 1 of a different address to be used for this purpose. The name and election authorization number in the upper left-hand corner of the envelopes addressed to the tellers shall be checked against the annuity payments for January of each even-numbered year.

7900.0410 CORRECTIONAL EMPLOYEE PLAN MEMBER.

Covered employees of the correctional employees plan shall elect one of their members to serve as a member of the board of directors. The election of the board member shall be separate and distinct, but shall be conducted at the same time by the same tellers and shall follow the same procedure prescribed in part 7900.0200. The term of the correctional employee shall begin on the first Monday in May after the employee's election. Members shall serve a term of four years and until the successor is elected and has qualified.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

DEC 20 1991

Joan Anderson Growe
Secretary of State

4:00 PM PB

APPROVED AS TO FORM AND LEGALITY
December 2 19 91
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

DEPARTMENT: Office of the Attorney General **STATE OF MINNESOTA**

OFFICE MEMORANDUM

DATE: December 4, 1991

TO: PAUL L. GROSCHEN
Executive Director
Minnesota State Retirement System
529 Jackson Street
St. Paul

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General mjc

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to Election of Board Members

The above-referenced rule has been approved as to its legality by the Attorney General on December 2, 1991.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJC:sc

cc: Nancy J. Joyer
William Brown, Chief Judge
MaryAnn Hruby

12/19/31

Statutes Authority
352.03 subd 4
subd 4 The board shall
(3) establish rules to administer this chapter and chapters 3A, 352B, 352D, and 490

end of comment period Sept 19, 1991

SONAR
no justification 7900.0200 subd 3
why June Dec of odd-numbered years to Jan of even numbered years
no justification of 7900.0200 subd 4
lines 9-12 - Heads of departments ... moved from one place to another

no justification for 7900.0410
Correctional Employee Plan Member
See last ¶ in SNR

11-19-91

STATE OF MINNESOTA
MINNESOTA STATE RETIREMENT SYSTEM

In the Matter of the Proposed
Rules Relating to Election
of Board Members,
Minn. Rules Parts 7900.0200,
7900.0300, and 7900.0410

DECLARATION OF COUNSEL

I, Nancy J. Joyer, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules ch. 2010 have been followed. For Attorney General billing purposes, the four-digit docket client code is 0656.

Nancy J. Joyer
Special Assistant Attorney General

.DE9

CERTIFICATE OF THE
BOARD OF DIRECTORS OF MSRS

AUTHORIZING RESOLUTION

I, Francis C. Marshall, do hereby certify that I am a member and the chairman of the of Board of Directors of the Minnesota State Retirement System, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Board of Directors duly and properly called and held on the 19th day of July, 1991, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

"RESOLVED, that Paul L. Groschen, the executive director of MSRS, is hereby granted the authority and directed to sign and to give the Notice of the Board's Intent to Adopt a rule without a public hearing governing MSRS relating to the timing of the election of board members to all persons who have registered their names with the Board for that purpose and publish the Notice and rule in the State Register, and to perform any and all acts incidental thereto."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 19th day of July, 1991.

Francis C. Marshall
Chairman of the Board

Robert A. Whitaker
Attest by

Minnesota State Retirement System

In the Matter of the Proposed Adoption of the Rule of the Board of Directors of the Minnesota State Retirement System

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

(1) Notice is hereby given that the Board of Directors of the Minnesota State Retirement System intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 352.03, subd. 4.

(2) All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. (3) Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. (4) If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. (6) Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

(5) Comments or written requests for a public hearing must be submitted to:

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

(8) The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

(10) A copy of the proposed rule is attached to this notice.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from the Minnesota State Retirement System upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Paul L. Groschen, Minnesota State Retirement System.

8/1/91
Date

Paul L. Groschen
Executive Director

Minnesota State Retirement System

Proposed Permanent Rules Relating to Election of Board Members

Rules as Proposed

7900.0200 STATE EMPLOYEE MEMBER.

Subpart 1. **Biennial election.** The procedure for the biennial election of the four state employee members of the board of directors as provided in Minnesota Statutes, section 352.03, and laws amendatory thereof, shall be as in subparts 2 to 5.

Subp. 2. **Nominations.** Any employee covered by the system who desires to be a candidate for membership on the board of directors shall file a nominating petition signed by ten employees covered by the system with the executive director of the system not later than October 1 of each odd-numbered year. A candidate may not withdraw ~~his~~ candidacy after October 15. If the employees whose names are ~~thus~~ filed are eligible for election or reelection as members of the board of directors as provided by Minnesota Statutes, section 352.03, and laws amendatory thereof, their names and the names of the department in which they are employed shall be printed upon the ballots sent to employees covered by the system as provided in subparts 2 and 4. The name of any employee covered by the system may be written in on the ballot provided for that purpose.

Subp. 3. **Election materials.** Between ~~December~~ January 26 of each ~~odd-numbered~~ even-numbered year and the following ~~January~~ February 5 inclusive, the executive director shall send by mail, express, or regular messenger service notices of election to be held, ballots, and envelopes to the respective heads of departments and state agencies having employees who are covered by the system. The heads of departments and state agencies shall deliver or cause to be delivered to each ~~such~~ employee who receives salary or wages from which deductions are made for the system on the department's or agency's payroll

Approved by Revisor PER

abstract covering the last full pay period ending in December of the preceding year a notice of election that two members are to be elected to the board of directors, each ~~such~~ notice to be accompanied by a ballot and two envelopes. Department heads shall also mail ~~such~~ election material to their employees on approved leave of absence or seasonal layoff during the last full pay period in December of the preceding year and shall certify to the executive director the names of the employees to whom ballots were mailed. The Minnesota State Retirement System shall reimburse the departments for the cost of the postage for ~~such~~ the mailing. ~~Heads of departments and agencies shall promptly notify the executive director of the retirement system that notices, ballots, and envelopes have been delivered to such employees as required.~~

Subp. 4. **Voting.** Each employee participating in the election shall place the ballots, not exceeding two, imprinted with the names of the candidates of ~~his~~ the employee's choice, or shall write or indicate by appropriate mark on the blank ballot provided for that purpose the names, not exceeding a vote for a total of two candidates, of any state employees covered by the system for whom ~~he~~ the employee wishes to vote for directors, place the ballots in the envelope marked "ballots" (upon which there shall be no writing except the printed word "ballots" and the words "insert ballots and seal" on the flap); thereafter seal and place in the envelope, likewise sealed, addressed to: Tellers, Minnesota State Retirement System, at its office in St. Paul, Minnesota ~~5510~~ 55107.

The employee shall ~~write his or her~~ print or type the employee's name, ~~department,~~ and home address, ~~and social security~~ or place the label provided that contains an election authorization number in the upper left-hand corner of the envelope addressed to said tellers, and return it to the office of the system not later than ~~February~~ March 1, in each even-numbered year. If the employee so elects, ~~he or she~~ the employee may place the tellers' envelope in another envelope and mail or deliver this to the retirement system. Ballots in

Approved by Revisor _____

envelopes postmarked any time up to midnight on ~~February~~ March 1 of each even-numbered year shall be counted, as shall ballots in envelopes received at the office of the system by messenger service up to the close of office hours on ~~February~~ March 1 of each even-numbered year, or, if ~~February~~ March 1 falls on a Saturday or Sunday, postmarked any time up to midnight or received up to the close of office hours on the following Monday of each even-numbered year, provided instructions ~~hereinbefore~~ prescribed have been complied with. Heads of departments and agencies shall promptly notify the executive director of the retirement system that notices, ballots, and envelopes have been delivered to the employees as required.

Subp. 5. **Verification.** The name and ~~social-security~~ election authorization number in the upper left-hand corner of envelopes addressed to the tellers shall be checked against ~~the department~~ a computerized representation of payroll ~~abstract-or facsimile-listing-(the-abstract~~ abstracts covering the last full pay period ending in December~~)~~ and a certified listing of those on seasonal layoff or leave of absence, and if the name of the employee on the envelope is found ~~on-such-payroll-abstract-or facsimile-listing~~ and deductions are taken for the retirement fund which are not deductions in error from the salary of an employee not covered by the system, or if the employee is on approved leave of absence or seasonal layoff during the pay period, the envelope ~~and-abstract-or-facsimile-listing~~ shall be noted as "~~found~~ eligible," and if the name of the employee does not appear thereon, the envelope shall be ~~marked~~ noted as "not ~~found~~ eligible." The envelopes noted as "~~found~~ eligible" shall be placed in one container and those ~~marked~~ noted as "not ~~found~~ eligible" in another. At ~~eight-o'clock-in the-forenoon~~ 8:00 a.m. on the third Thursday in ~~February~~ March in even-numbered years, three tellers appointed by the board of directors shall meet and verify the notations on the sealed envelopes addressed to the tellers who shall then remove and set aside the sealed ballot envelopes of those employees verified as eligible to vote.

Approved
by Revisor _____

Subp. 6. **Tabulation.** After the verification required in subpart 5 is completed, the small envelopes containing the ballots shall be opened and ballots tabulated by the tellers. The two candidates receiving the highest number of votes shall be the elected members of the board of directors for ~~a term~~ terms of four years as provided by Minnesota Statutes, section 352.03, subdivision 1~~, and laws amendatory thereof~~. In the case of a tie vote as to any candidates, the election shall be resolved by lot.

7900.0300 ~~HIGHWAY PATROLMEN'S~~ STATE PATROL FUND MEMBER.

~~As provided in Minnesota Statutes, section 352B.29, the~~ Members of the ~~highway patrolmen's~~ state patrol retirement fund shall elect one of their membership to serve as a member of the board of directors. The election of ~~such~~ a board member shall be separate and distinct, but shall be conducted at the same time by the same tellers and shall follow the same procedure as prescribed in part 7900.0200. The term of the ~~first highway patrolmen's~~ state patrol fund member ~~so~~ elected ~~shall terminate~~ begins on the first Monday in ~~March 1978~~ May after the member's election. ~~Such~~ Members shall serve for ~~a term of~~ four years and until the successor is elected and has qualified.

7900.0400 RETIRED STATE EMPLOYEE MEMBER.

Subpart 1. **Exceptions from election procedure.** As provided in Minnesota Statutes, section 352.03, retired state employees shall elect one retired state employee to serve as a member of the board of directors. The election of ~~such~~ a board member shall be separate and distinct but shall be conducted at the same time by the same tellers and shall follow the same procedure as prescribed in part 7900.0200, except as in subparts 2 to 5.

Subp. 2. **Eligibility.** Retired employees who are eligible for election to the board and eligible to vote for a candidate for the board shall be any persons receiving an annuity from Minnesota State Retirement System as of January 1 of each even-numbered year.

Approved
by Revisor _____

Subp. 3. **Notice of election.** Between July 1 and August 15~~,~~ of each odd-numbered year the director shall mail a notice of election to all eligible retired employees giving them notice of election and instructions for becoming a candidate for membership on the board.

Subp. 4. **Candidates.** Any eligible retired employee who desires to be a candidate for membership on the board of directors must submit a nominating petition, signed by ten or more eligible retired employees, to the executive director of the system not later than October 1 in each odd-numbered year. If the retired employees whose names are ~~thus~~ filed are eligible to election as members of the board of directors their names shall be printed in alphabetical order upon the ballots sent to retired employees as hereinafter provided.

No nominee may withdraw ~~his~~ candidacy after October 10. The name of any eligible retired employee of the system may be written in on the ballot in the space provided for that purpose.

Subp. 5. **Voting.** In ~~January~~ February of each even-numbered year, the executive director shall mail ballots and envelopes to the retired employees eligible to vote. The election material shall be mailed to the last address given to the system by the retired employee ~~for the mailing of the annuity checks~~ unless the retired employee notifies the system in writing by November 1 of a different address to be used for this purpose. The name and ~~social security~~ election authorization number in the upper left-hand corner of the envelopes addressed to the tellers shall be checked against ~~the annuity abstract or facsimile listing covering~~ the annuity payments for January of each even-numbered year.

7900.0410 CORRECTIONAL EMPLOYEE PLAN MEMBER.

Covered employees of the correctional employees plan shall elect one of their members to serve as a member of the board of directors. The election of the board member shall be separate and distinct, but shall be conducted at the same time by the same tellers and shall follow the same procedure prescribed in

Approved by Revisor _____

part 7900.0200. The term of the correctional employee shall begin on the first Monday in May after the employee's election. Members shall serve a term of four years and until the successor is elected and has qualified.

Approved
by Revisor _____

STATE OF MINNESOTA
MINNESOTA STATE RETIREMENT SYSTEM

In the Matter of the Proposed Amendment to Rules Governing the Election of Board Members, Minn. Rules, Chapter 7900

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Jean Brezinski, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. § 14.14, subd. 1a and 14.22 that their names be placed on the Minnesota State Retirement System's rulemaking mailing list is accurate, complete, and current as of this 16th day of August, 1991.

That on the 16th day of August, 1991, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States Mail a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Jean M. Brezinski

Subscribed and sworn to before me
this 16th day of August, 1991.

Linda R. Mullen
Notary Public

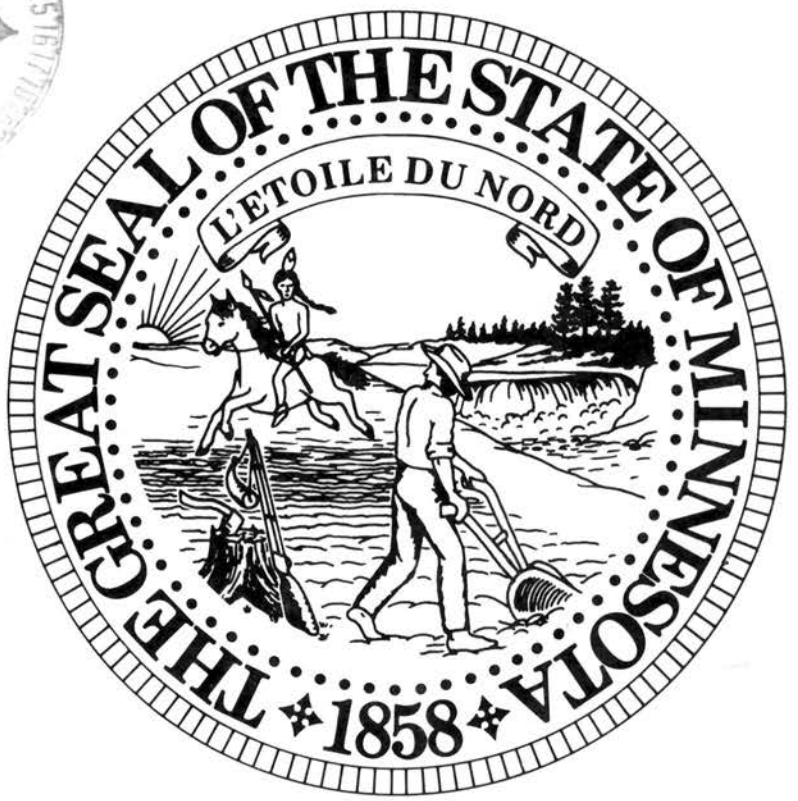
LINDA R. MULLEN
NOTARY PUBLIC-MINNESOTA
MY COMMISSION EXPIRES FEBRUARY 21, 1995

The Minnesota

State Register

Department of Administration—Print Communications Division

AUG 1991
RECEIVED
MINNESOTA STATE
RETIREMENT
SYSTEM



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(Tuesday if Monday is a holiday)

Monday 19 August 1991

Volume 16, Number 8

Pages 289-416

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State Register

Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, containing executive and commissioners' orders, proposed and adopted rules, official and revenue notices, state and non-state contracts, contract awards, grants, a monthly calendar of cases to be heard by the state supreme court, and announcements.

***A Contracts Supplement* is published every Thursday and contains additional state contracts and advertised bids, and the most complete source of state contract awards available in one source.**

Printing Schedule and Submission Deadlines

Vol. 16 Issue Number	*Submission deadline for Adopted and Proposed Rules, Commissioners' Orders**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
#8	Monday 5 August	Monday 12 August	Monday 19 August
#9	Monday 12 August	Monday 19 August	Monday 26 August
#10	Monday 19 August	Monday 26 August	Tuesday 3 September
#11	Monday 26 August	Friday 30 August	Monday 9 September

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the ***State Register*** editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

The ***State Register*** is published every Monday (Tuesday when Monday is a holiday) by the State of Minnesota, Department of Administration, Print Communications Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to *Minnesota Statutes* § 14.46. A ***State Register*** *Contracts Supplement* is published every Thursday. The Monday edition is the vehicle for conveying all information about state agency rulemaking, including official notices; hearing notices; proposed, adopted and emergency rules. It also contains executive orders of the governor; commissioners' orders; state contracts and advertised bids; professional, technical and consulting contracts; non-state public contracts; state grants; decisions of the supreme court; a monthly calendar of scheduled cases before the supreme court; and other announcements. The Thursday edition contains additional state contracts and advertised bids, and the most complete listing of contract awards available in one source.

In accordance with expressed legislative intent that the ***State Register*** be self-supporting, the following subscription rates have been established: the Monday edition costs $140.00 per year and includes an index issue published in August (single issues are available at the address listed above for $3.50 per copy); the combined Monday and Thursday editions cost $195.00 (subscriptions are not available for just the *Contracts Supplement*); trial subscriptions are available for $60.00, include both the Monday and Thursday edition, last for 13 weeks, and may be converted to a full subscription anytime by making up the price difference. No refunds will be made in the event of subscription cancellation.

Both editions are delivered postpaid to points in the United States, second class postage paid for the Monday edition at St. Paul, MN, first class for the Thursday edition. Publication Number 326630 (ISSN 0146-7751).

Subscribers who do not receive a copy of an issue should notify the ***State Register*** circulation manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

Arne H. Carlson, Governor

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Department of Administration

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FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

SENATE

Briefly-Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

Session Review—Summarizes actions of the Minnesota Senate.

Contact: Senate Public Information Office
Room 231 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

Session Weekly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

This Week—weekly interim bulletin of the House.

Session Summary—Summarizes all bills that both the Minnesota House of Representatives and Minnesota Senate passed during their regular and special sessions.

Contact: House Information Office
Room 175 State Office Building, St. Paul, MN 55155
(612) 296-2146

INCENTIVE PLANS

7810.8900 REQUIREMENTS, GENERALLY.

Subpart 1. **Petition for approval.** A telephone company that elects to be subject to regulation under *Minnesota Statutes*, section 237.58, may file a petition with the commission for approval of an incentive plan under *Minnesota Statutes*, section 237.625.

Subp. 2. **Scope.** The filing requirements of this part and parts 7810.8905 to 7810.8940 are minimum requirements. A telephone company may file, and the commission may consider, additional information to determine whether to approve, reject, or change a proposed incentive plan and to determine whether the commission has substantial reason to believe that existing rates are inappropriate.

7810.8905 PETITION.

An incentive plan petition must include:

A. the legal name, address, and telephone number of the company and its designated contact person;

B. if the company will be represented by an attorney, the name, address, and telephone number of the attorney;

C. the date of the filing, which is the date the commission receives the company's filing or the date designated by the company, whichever is later;

D. the proposed effective date of the incentive plan;

E. the proposed duration of the incentive plan;

F. the signature and title of the company officer or representative authorizing the petition;

G. a brief narrative explaining why a general rate change proceeding is or is not appropriate;

H. an explanation of whether and, if so, how the proposed incentive plan will benefit the company's customers;

I. an explanation of how the proposed incentive plan will allow the company to maintain or improve the quality of its service;

J. the proposed notice of the proposed incentive plan to the company's customers; and

K. the informational requirements in parts 7810.8910 to 7810.8940.

7810.8910 RATE BASE SCHEDULES.

Subpart 1. **Comparison schedule.** The incentive plan petition must include a schedule comparing the following jurisdictional amounts:

A. the rate base approved by the commission in the company's most recent general rate change proceeding; and

B. the corresponding rate base for the most recent fiscal year. The corresponding rate base must incorporate the applicable rate base adjustments and components allowed or required by the commission in the company's most recent general rate change proceeding.

Subp. 2. **Explanation.** An accompanying written explanation must cite each rate base issue determined by the commission in the most recent general rate change proceeding, where it appears in the commission's order, and the adjustment the company has made for each issue. If an adjustment is not made for an issue, the explanation must state the reason why an adjustment is not required.

The company shall explain significant changes in dollar amounts for the comparison schedule.

7810.8915 OPERATING INCOME STATEMENT.

The incentive plan petition must include a schedule comparing the following jurisdictional amounts:

A. the operating income statement approved by the commission in the company's most recent general rate change proceeding; and

B. the corresponding operating income statement for the most recent fiscal year. The corresponding operating income statement must incorporate the applicable operating income statement adjustments and components allowed or required by the commission in the company's most recent general rate change proceeding.

An accompanying written explanation must cite each operating income statement issue determined by the commission in the most recent general rate change proceeding, where it appears in the commission's order, and the adjustment the company has made for each issue. If an adjustment is not made for an issue, the explanation must state the reason why an adjustment is not required.

The company shall explain significant changes in dollar amounts for the comparison schedule.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

7810.8920 RATE OF RETURN.

The incentive plan petition must include a schedule comparing the following amounts:

A. the rate of return approved by the commission in the company's most recent general rate change proceeding, including the capital structure, the cost of short-term debt, the cost of long-term debt, the cost of preferred stock, and the return on common equity;

B. the realized rate of return for the most recent fiscal year, including the capital structure, the cost of short-term debt, the cost of long-term debt, the cost of preferred stock, and the realized return on common equity; and

C. the required rate of return for the most recent fiscal year, including the capital structure, the cost of short-term debt, the cost of long-term debt, the cost of preferred stock, and the required return on common equity. The company shall explain how it developed the required rate of return.

The company shall explain significant changes in dollar amounts and costs included in the comparison schedule.

7810.8925 REVENUE DEFICIENCY OR SURPLUS.

The incentive plan petition must include a schedule comparing the revenue deficiency or surplus amounts calculated by using the following:

A. the rate base, operating income statement, and rate of return approved by the commission in the company's most recent general rate change proceeding;

B. the corresponding rate base, operating income statement, and realized rate of return for the most recent fiscal year; and

C. the corresponding rate base, operating income statement, and required rate of return for the most recent fiscal year.

7810.8930 FINANCIAL MARKET SCHEDULE.

The incentive plan petition must include a schedule showing 12 months of prime interest rates, or 12 months of treasury bill rates, or other financial market indicators, during the following periods:

A. the test year used as the basis for determining the company's revenue requirements in the most recent general rate change proceeding; and

B. the company's most recent fiscal year.

7810.8935 OPERATING EFFICIENCY.

The incentive plan petition must include the following:

A. an explanation of how the proposed incentive plan will provide an incentive to the company to improve its operating efficiency;

B. a projection of which operations the company expects to become more efficient as a result of the proposed incentive plan; and

C. an explanation of why the operations identified in item B cannot be improved without the proposed incentive plan.

7810.8940 SHARED EARNINGS.

The incentive plan petition must include the terms and conditions of the company's proposal to share its increased earnings with its customers. The petition must also include:

A. an explanation of how increased earnings will be shared;

B. a statement showing whether increased earnings will be shared by giving customers credits against bills or by lowering rates;

C. an assessment of the risks borne by the company and those borne by its customers;

D. an explanation of how increased earnings will be measured by the company and periodically reported to the commission; and

E. a description of proposed pass-through of cost increases and decreases.

State Retirement System

Proposed Permanent Rules Relating to Election of Board Members

Notice of Intent to Adopt a Rule Without a Public Hearing in the Matter of the Proposed Adoption of the Rule of the Board of Directors of the Minnesota State Retirement System

NOTICE IS HEREBY GIVEN that the Board of Directors of the Minnesota State Retirement System intends to adopt the above-

entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, section 352.03, subd. 4.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

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

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from the Minnesota State Retirement System upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Paul L. Groschen, Minnesota State Retirement System.

Dated: 1 August 1991

Paul L. Groschen
Executive Director

Rules as Proposed

7900.0200 STATE EMPLOYEE MEMBER.

Subpart 1. **Biennial election.** The procedure for the biennial election of the four state employee members of the board of directors as provided in *Minnesota Statutes*, section 352.03, and laws amendatory thereof, shall be as in subparts 2 to 5.

Subp. 2. **Nominations.** Any employee covered by the system who desires to be a candidate for membership on the board of directors shall file a nominating petition signed by ten employees covered by the system with the executive director of the system not later than October 1 of each odd-numbered year. A candidate may not withdraw ~~his~~ candidacy after October 15. If the employees whose names are ~~thus~~ filed are eligible for election or reelection as members of the board of directors as provided by *Minnesota Statutes*, section 352.03, and laws amendatory thereof, their names and the names of the department in which they are employed shall be printed upon the ballots sent to employees covered by the system as provided in subparts 2 and 4. The name of any employee covered by the system may be written in on the ballot provided for that purpose.

Subp. 3. **Election materials.** Between ~~December~~ January 26 of each ~~odd-numbered~~ even-numbered year and the following ~~January~~ February 5 inclusive, the executive director shall send by mail, express, or regular messenger service notices of election to be held, ballots, and envelopes to the respective heads of departments and state agencies having employees who are covered by the system.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

The heads of departments and state agencies shall deliver or cause to be delivered to each ~~such~~ employee who receives salary or wages from which deductions are made for the system on the department's or agency's payroll abstract covering the last full pay period ending in December of the preceding year a notice of election that two members are to be elected to the board of directors, each ~~such~~ notice to be accompanied by a ballot and two envelopes. Department heads shall also mail ~~such~~ election material to their employees on approved leave of absence or seasonal layoff during the last full pay period in December of the preceding year and shall certify to the executive director the names of the employees to whom ballots were mailed. The Minnesota State Retirement System shall reimburse the departments for the cost of the postage for ~~such~~ the mailing. ~~Heads of departments and agencies shall promptly notify the executive director of the retirement system that notices, ballots, and envelopes have been delivered to such employees as required.~~

Subp. 4. **Voting.** Each employee participating in the election shall place the ballots, not exceeding two, imprinted with the names of the candidates of ~~his~~ the employee's choice, or shall write or indicate by appropriate mark on the blank ballot provided for that purpose the names, not exceeding a vote for a total of two candidates, of any state employees covered by the system for whom ~~he~~ the employee wishes to vote for directors, place the ballots in the envelope marked "ballots" (upon which there shall be no writing except the printed word "ballots" and the words "insert ballots and seal" on the flap); thereafter seal and place in the envelope, likewise sealed, addressed to: Tellers, Minnesota State Retirement System, at its office in St. Paul, Minnesota ~~55101~~ 55107.

The employee shall ~~write his or her~~ print or type the employee's name~~, department,~~ and home address, ~~and social security~~ or place the label provided that contains an election authorization number in the upper left-hand corner of the envelope addressed to said tellers, and return it to the office of the system not later than ~~February~~ March 1, in each even-numbered year. If the employee so elects, ~~he or she~~ the employee may place the tellers' envelope in another envelope and mail or deliver this to the retirement system. Ballots in envelopes postmarked any time up to midnight on ~~February~~ March 1 of each even-numbered year shall be counted, as shall ballots in envelopes received at the office of the system by messenger service up to the close of office hours on ~~February~~ March 1 of each even-numbered year, or, if ~~February~~ March 1 falls on a Saturday or Sunday, postmarked any time up to midnight or received up to the close of office hours on the following Monday of each even-numbered year, provided instructions ~~hereinbefore~~ prescribed have been complied with. Heads of departments and agencies shall promptly notify the executive director of the retirement system that notices, ballots, and envelopes have been delivered to the employees as required.

Subp. 5. **Verification.** The name and ~~social security~~ election authorization number in the upper left-hand corner of envelopes addressed to the tellers shall be checked against ~~the department~~ a computerized representation of payroll ~~abstract or facsimile listing (the abstract~~ abstracts covering the last full pay period ending in December~~)~~ and a certified listing of those on seasonal layoff or leave of absence, and if the name of the employee on the envelope is found ~~on such payroll abstract or facsimile listing~~ and deductions are taken for the retirement fund which are not deductions in error from the salary of an employee not covered by the system, or if the employee is on approved leave of absence or seasonal layoff during the pay period, the envelope ~~and abstract or facsimile listing~~ shall be noted as "~~found~~ eligible," and if the name of the employee does not appear thereon, the envelope shall be ~~marked~~ noted as "not ~~found~~ eligible." The envelopes noted as "~~found~~ eligible" shall be placed in one container and those ~~marked~~ noted as "not ~~found~~ eligible" in another. At ~~eight o'clock in the forenoon~~ 8:00 a.m. on the third Thursday in ~~February~~ March in even-numbered years, three tellers appointed by the board of directors shall meet and verify the notations on the sealed envelopes addressed to the tellers who shall then remove and set aside the sealed ballot envelopes of those employees verified as eligible to vote.

Subp. 6. **Tabulation.** After the verification required in subpart 5 is completed, the small envelopes containing the ballots shall be opened and ballots tabulated by the tellers. The two candidates receiving the highest number of votes shall be the elected members of the board of directors for ~~a term~~ terms of four years as provided by *Minnesota Statutes,* section 352.03, subdivision 1~~, and laws amendatory thereof~~. In the case of a tie vote as to any candidates, the election shall be resolved by lot.

7900.0300 ~~HIGHWAY PATROLMEN'S~~ STATE PATROL FUND MEMBER.

~~As provided in *Minnesota Statutes,* section 352B.29, the~~ Members of the ~~highway patrolmen's~~ state patrol retirement fund shall elect one of their membership to serve as a member of the board of directors. The election of ~~such~~ a board member shall be separate and distinct, but shall be conducted at the same time by the same tellers and shall follow the same procedure as prescribed in part 7900.0200. The term of the ~~first highway patrolmen's~~ state patrol fund member ~~so~~ elected ~~shall terminate~~ begins on the first Monday in ~~March 1978~~ May after the member's election. ~~Such~~ Members shall serve for ~~a term of~~ four years and until the successor is elected and has qualified.

7900.0400 RETIRED STATE EMPLOYEE MEMBER.

Subpart 1. **Exceptions from election procedure.** As provided in *Minnesota Statutes,* section 352.03, retired state employees shall elect one retired state employee to serve as a member of the board of directors. The election of ~~such~~ a board member shall be separate and distinct but shall be conducted at the same time by the same tellers and shall follow the same procedure as prescribed in part 7900.0200, except as in subparts 2 to 5.

Subp. 2. **Eligibility.** Retired employees who are eligible for election to the board and eligible to vote for a candidate for the board shall be any persons receiving an annuity from Minnesota State Retirement System as of January 1 of each even-numbered year.

Subp. 3. **Notice of election.** Between July 1 and August 15~~,~~ of each odd-numbered year the director shall mail a notice of election to all eligible retired employees giving them notice of election and instructions for becoming a candidate for membership on the board.

Subp. 4. **Candidates.** Any eligible retired employee who desires to be a candidate for membership on the board of directors must submit a nominating petition, signed by ten or more eligible retired employees, to the executive director of the system not later than October 1 in each odd-numbered year. If the retired employees whose names are ~~thus~~ filed are eligible to election as members of the board of directors their names shall be printed in alphabetical order upon the ballots sent to retired employees as hereinafter provided.

No nominee may withdraw ~~his~~ candidacy after October 10. The name of any eligible retired employee of the system may be written in on the ballot in the space provided for that purpose.

Subp. 5. **Voting.** In ~~January~~ February of each even-numbered year, the executive director shall mail ballots and envelopes to the retired employees eligible to vote. The election material shall be mailed to the last address given to the system by the retired employee ~~for the mailing of the annuity checks~~ unless the retired employee notifies the system in writing by November 1 of a different address to be used for this purpose. The name and ~~social security~~ election authorization number in the upper left-hand corner of the envelopes addressed to the tellers shall be checked against ~~the annuity abstract or facsimile listing covering~~ the annuity payments for January of each even-numbered year.

7900.0410 CORRECTIONAL EMPLOYEE PLAN MEMBER.

Covered employees of the correctional employees plan shall elect one of their members to serve as a member of the board of directors. The election of the board member shall be separate and distinct, but shall be conducted at the same time by the same tellers and shall follow the same procedure prescribed in part 7900.0200. The term of the correctional employee shall begin on the first Monday in May after the employee's election. Members shall serve a term of four years and until the successor is elected and has qualified.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. §14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. §14.33 and upon the approval of the Revisor of Statutes as specified in §14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under §14.18.

Department of Human Services

Adopted Permanent Rules Relating to Chemical Dependency Care for Public Assistance Clients and the Consolidated Chemical Dependency Treatment Fund

The rules proposed and published at *State Register,* Volume 15, Number 42, pages 2257-2262, April 15, 1991 (15 SR 2257) are adopted with the following modifications:

Rules as Adopted

9530.6655 APPEALS.

Subp. 4. **Considerations in ~~denial of~~ granting or denying additional services ~~appeals~~.** The ~~recommendations of an appeals referee and the decision of the commissioner on denial of additional services appeals~~ county or the prepaid health plan shall take into consideration the following factors in determining whether to grant or deny additional services:

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

9530.7000 DEFINITIONS.

Subp. 9a. **Custodial parent.** "Custodial parent" means a birth or adoptive parent ~~with whom~~ who has physical custody or joint physical custody as defined in *Minnesota Statutes*, section 518.003, subdivision 3, paragraph (c) or (d) of a minor child ~~resides~~ at the time of assessment.

9530.7021 PAYMENT AGREEMENTS.

When the local agency, the client, and the vendor agree that the vendor will accept payment from a third-party payment source ~~agrees to pay~~ for an eligible client's treatment, the local agency, the client, and the vendor ~~may~~ shall enter into a third-party payment agreement. The agreement must stipulate that the vendor will accept, as payment in full for services provided the client, the amount the third-party payor is obligated to pay for services provided the client plus the amount of any fee owed by the client as determined under part 9530.7022. The agreement must be executed in a form prescribed by the commissioner and is not effective unless an authorized representative of each of the three parties has signed it. The local agency ~~must~~ shall maintain a record of third-party payment agreements into which the local agency has entered.

The vendor ~~must~~ shall notify the local agency as soon as possible and not less than one business day before discharging a client whose treatment is covered by a payment agreement under this part if the discharge is caused by disruption of the third-party payment.

9530.7031 VENDOR'S DUTY TO COLLECT CLIENT FEES.

A vendor ~~must~~ shall collect client fees according to the requirements of items A to G.

A. A vendor of category III or category IV rehabilitation services shall determine the fee for each client who has no responsible relative and who is not the custodial parent of a minor child. The fee ~~shall~~ must be determined monthly according to part 9530.7024 for each month the client receives rehabilitation services from the vendor.

C. A client's failure to pay a fee under this part ~~shall be~~ is cause for discharge from a vendor's rehabilitation program only if the discharge is in accordance with the vendor's discharge and transfer policy specified in part 9530.4300, subpart 5. However, clients committed according to *Minnesota Statutes*, chapter 253B, shall be discharged only according to *Minnesota Statutes*, chapter 253B.

Withdrawn Rules

Bureau of Mediation Services

Notice of Order Withdrawing Rule in the Matter of the Proposed Adoption of Rules of the State Bureau of Mediation Services Relating to Arbitrations

NOTICE IS HEREBY GIVEN that the Minnesota Bureau of Mediation Services has withdrawn the **Proposed Rules Relating to Arbitrations,** *Minnesota Rules* 5510.0510, subpart 4, and 5510.2930, subpart 1. Those rules appeared at 15 S.R. 1352, Monday 10 December 1990.

Persons having questions about this matter may contact Carol Clifford at the Minnesota Bureau of Mediation Services, 1380 Energy Lane, Suite Two, St. Paul, Minnesota 55108, telephone (612) 649-5423.

Dated: 19 August 1991

Peter Obermeyer
Commissioner

Executive Orders

Executive Department

Emergency Executive Order 91-15: Providing for Emergency Assistance to Officials in Winona County, Minnesota

I, ARNE H. CARLSON, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, the Sheriff of Winona County, Minnesota has requested assistance in preserving life,

STATE OF MINNESOTA
MINNESOTA STATE RETIREMENT SYSTEM

In the Matter of the Proposed Rule Governing the Election of Board Members, Minn. Rules, Chapter 7900

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE

The above-entitled matter came on for decision before the Minnesota State Retirement System Board of Directors on the 31st day of October, 1991. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Board, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering all of the evidence adduced upon the records, files and proceedings herein, the Board, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions and Order:

FINDINGS OF FACT

(1) 1. Notice of the Minnesota State Retirement System Board of Directors intent to adopt the above-entitled rule without a public hearing was published in the State Register on August 19, 1991, and was sent by mail to all persons on the list maintained by the System pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 on August 16, 1991.

(2) 2. The Statement of Need and Reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking list and published in the State Register and was available to the public.

(4) 3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. The 30-day comment period, as set out in the notice, expired on September 19, 1991.

(3) 4. No requests for public hearing were received during the comment period.

(7) 5. No requests for notice of submission to the Attorney General were received by the Board.

6. During the comment period, the Board received no written comments.

7. The Board adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The Board hereby incorporates the Statement of Need and Reasonableness into these findings.

(8) 8. The above-captioned rule is needed and reasonable.

CONCLUSIONS

1. The Minnesota State Retirement System Board of Directors duly acquired and has jurisdiction over this proceeding.

2. The Board published and served due, timely and adequate notice of the intent to adopt the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

ORDER

(9) NOW, THEREFORE, IT IS ORDERED that the attached Minn. Rules, Chapter 7900, governing the Election of Board Members, is adopted pursuant to the authority vested in the Minnesota State Retirement System Board of Directors by Minn. Stat. § 352.03, subd. 4.

MSRS BOARD OF DIRECTORS

Francis C. Marshall

Francis C. Marshall, Chair

Minnesota State Retirement System

Proposed Permanent Rules Relating to Election of Board Members

Rules as Proposed

7900.0200 STATE EMPLOYEE MEMBER.

Subpart 1. **Biennial election.** The procedure for the biennial election of the four state employee members of the board of directors as provided in Minnesota Statutes, section 352.03, and laws amendatory thereof, shall be as in subparts 2 to 5.

Subp. 2. **Nominations.** Any employee covered by the system who desires to be a candidate for membership on the board of directors shall file a nominating petition signed by ten employees covered by the system with the executive director of the system not later than October 1 of each odd-numbered year. A candidate may not withdraw ~~his~~ candidacy after October 15. If the employees whose names are ~~thus~~ filed are eligible for election or reelection as members of the board of directors as provided by Minnesota Statutes, section 352.03, and laws amendatory thereof, their names and the names of the department in which they are employed shall be printed upon the ballots sent to employees covered by the system as provided in subparts 2 and 4. The name of any employee covered by the system may be written in on the ballot provided for that purpose.

Subp. 3. **Election materials.** Between ~~December~~ January 26 of each ~~odd-numbered~~ even-numbered year and the following ~~January~~ February 5 inclusive, the executive director shall send by mail, express, or regular messenger service notices of election to be held, ballots, and envelopes to the respective heads of departments and state agencies having employees who are covered by the system. The heads of departments and state agencies shall deliver or cause to be delivered to each ~~such~~ employee who receives salary or wages from which deductions are made for the system on the department's or agency's payroll

Approved by Revisor PER

abstract covering the last full pay period ending in December of the preceding year a notice of election that two members are to be elected to the board of directors, each ~~such~~ notice to be accompanied by a ballot and two envelopes. Department heads shall also mail ~~such~~ election material to their employees on approved leave of absence or seasonal layoff during the last full pay period in December of the preceding year and shall certify to the executive director the names of the employees to whom ballots were mailed. The Minnesota State Retirement System shall reimburse the departments for the cost of the postage for ~~such~~ the mailing. ~~Heads of departments and agencies shall promptly notify the executive director of the retirement system that notices, ballots, and envelopes have been delivered to such employees as required.~~

Subp. 4. **Voting.** Each employee participating in the election shall place the ballots, not exceeding two, imprinted with the names of the candidates of ~~his~~ the employee's choice, or shall write or indicate by appropriate mark on the blank ballot provided for that purpose the names, not exceeding a vote for a total of two candidates, of any state employees covered by the system for whom ~~he~~ the employee wishes to vote for directors, place the ballots in the envelope marked "ballots" (upon which there shall be no writing except the printed word "ballots" and the words "insert ballots and seal" on the flap); thereafter seal and place in the envelope, likewise sealed, addressed to: Tellers, Minnesota State Retirement System, at its office in St. Paul, Minnesota ~~5510~~ 55107.

The employee shall ~~write his or her~~ print or type the employee's name, ~~department,~~ and home address, ~~and social security~~ or place the label provided that contains an election authorization number in the upper left-hand corner of the envelope addressed to said tellers, and return it to the office of the system not later than ~~February~~ March 1, in each even-numbered year. If the employee so elects, ~~he or she~~ the employee may place the tellers' envelope in another envelope and mail or deliver this to the retirement system. Ballots in

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envelopes postmarked any time up to midnight on ~~February~~ March 1 of each even-numbered year shall be counted, as shall ballots in envelopes received at the office of the system by messenger service up to the close of office hours on ~~February~~ March 1 of each even-numbered year, or, if ~~February~~ March 1 falls on a Saturday or Sunday, postmarked any time up to midnight or received up to the close of office hours on the following Monday of each even-numbered year, provided instructions ~~hereinbefore~~ prescribed have been complied with. Heads of departments and agencies shall promptly notify the executive director of the retirement system that notices, ballots, and envelopes have been delivered to the employees as required.

Subp. 5. **Verification.** The name and ~~social security~~ election authorization number in the upper left-hand corner of envelopes addressed to the tellers shall be checked against ~~the department~~ a computerized representation of payroll ~~abstract or facsimile listing (the abstract~~ abstracts covering the last full pay period ending in December~~)~~ and a certified listing of those on seasonal layoff or leave of absence, and if the name of the employee on the envelope is found ~~on such payroll abstract or facsimile listing~~ and deductions are taken for the retirement fund which are not deductions in error from the salary of an employee not covered by the system, or if the employee is on approved leave of absence or seasonal layoff during the pay period, the envelope ~~and abstract or facsimile listing~~ shall be noted as "~~found~~ eligible," and if the name of the employee does not appear thereon, the envelope shall be ~~marked~~ noted as "not ~~found~~ eligible." The envelopes noted as "~~found~~ eligible" shall be placed in one container and those ~~marked~~ noted as "not ~~found~~ eligible" in another. At ~~eight o'clock in the forenoon~~ 8:00 a.m. on the third Thursday in ~~February~~ March in even-numbered years, three tellers appointed by the board of directors shall meet and verify the notations on the sealed envelopes addressed to the tellers who shall then remove and set aside the sealed ballot envelopes of those employees verified as eligible to vote.

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Subp. 6. **Tabulation.** After the verification required in subpart 5 is completed, the small envelopes containing the ballots shall be opened and ballots tabulated by the tellers. The two candidates receiving the highest number of votes shall be the elected members of the board of directors for ~~a term~~ terms of four years as provided by Minnesota Statutes, section 352.03, subdivision 1~~, and laws amendatory thereof~~. In the case of a tie vote as to any candidates, the election shall be resolved by lot.

7900.0300 ~~HIGHWAY PATROLMEN'S~~ STATE PATROL FUND MEMBER.

~~As provided in Minnesota Statutes, section 352B.29, the~~ Members of the ~~highway patrolmen's~~ state patrol retirement fund shall elect one of their membership to serve as a member of the board of directors. The election of ~~such~~ a board member shall be separate and distinct, but shall be conducted at the same time by the same tellers and shall follow the same procedure as prescribed in part 7900.0200. The term of the ~~first highway patrolmen's~~ state patrol fund member ~~so~~ elected ~~shall terminate~~ begins on the first Monday in ~~March 1978~~ May after the member's election. ~~Such~~ Members shall serve for ~~a term of~~ four years and until the successor is elected and has qualified.

7900.0400 RETIRED STATE EMPLOYEE MEMBER.

Subpart 1. **Exceptions from election procedure.** As provided in Minnesota Statutes, section 352.03, retired state employees shall elect one retired state employee to serve as a member of the board of directors. The election of ~~such~~ a board member shall be separate and distinct but shall be conducted at the same time by the same tellers and shall follow the same procedure as prescribed in part 7900.0200, except as in subparts 2 to 5.

Subp. 2. **Eligibility.** Retired employees who are eligible for election to the board and eligible to vote for a candidate for the board shall be any persons receiving an annuity from Minnesota State Retirement System as of January 1 of each even-numbered year.

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Subp. 3. **Notice of election.** Between July 1 and August 15~~,~~ of each odd-numbered year the director shall mail a notice of election to all eligible retired employees giving them notice of election and instructions for becoming a candidate for membership on the board.

Subp. 4. **Candidates.** Any eligible retired employee who desires to be a candidate for membership on the board of directors must submit a nominating petition, signed by ten or more eligible retired employees, to the executive director of the system not later than October 1 in each odd-numbered year. If the retired employees whose names are ~~thus~~ filed are eligible to election as members of the board of directors their names shall be printed in alphabetical order upon the ballots sent to retired employees as hereinafter provided.

No nominee may withdraw ~~his~~ candidacy after October 10. The name of any eligible retired employee of the system may be written in on the ballot in the space provided for that purpose.

Subp. 5. **Voting.** In ~~January~~ February of each even-numbered year, the executive director shall mail ballots and envelopes to the retired employees eligible to vote. The election material shall be mailed to the last address given to the system by the retired employee ~~for the mailing of the annuity checks~~ unless the retired employee notifies the system in writing by November 1 of a different address to be used for this purpose. The name and ~~social security~~ election authorization number in the upper left-hand corner of the envelopes addressed to the tellers shall be checked against ~~the annuity abstract or facsimile listing covering~~ the annuity payments for January of each even-numbered year.

7900.0410 CORRECTIONAL EMPLOYEE PLAN MEMBER.

Covered employees of the correctional employees plan shall elect one of their members to serve as a member of the board of directors. The election of the board member shall be separate and distinct, but shall be conducted at the same time by the same tellers and shall follow the same procedure prescribed in

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part 7900.0200. The term of the correctional employee shall begin on the first Monday in May after the employee's election. Members shall serve a term of four years and until the successor is elected and has qualified.

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by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Election of Board Members

AGENCY: Minnesota State Retirement System

MINNESOTA RULES: Chapter 7900

The attached rules are approved for publication in the State Register

Paul E. Rohde
Senior Assistant Revisor

CERTIFICATE OF RESOLUTION ADOPTING RULE

I, Douglas Mewhorter, do hereby certify that I am the Acting Director of the Minnesota State Retirement System, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota State Retirement System Board of Directors duly and properly called and held on the 31st day of October, 1991, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

BE IT RESOLVED, that the Minnesota State Retirement System Board of Directors hereby approves and adopts the amendments to rules governing the timing of the election of board members, pursuant to the authority vested in the Board by Minn. Stat. § 352.03, subd. 4.

BE IT FURTHER RESOLVED, that prior to publishing the rule as adopted in the State Register, Douglas Mewhorter, the Acting Director of MSRS, is authorized to make any form changes in the rule that the Revisor of Statutes or the Attorney General requires the Board to make.

BE IT FURTHER RESOLVED, that the Board adopts the attached Findings of Fact, Conclusions and Order Adopting Rule Amendments and that Douglas Mewhorter is hereby authorized to sign the above-mentioned document on behalf of the Board and to perform the necessary acts to provide that the rule shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 12th day of November, 1991.

Douglas Mewhorter

Douglas Mewhorter, Acting Director

RESOLUTION ADOPTING RULE

BE IT RESOLVED, that the Minnesota State Retirement System Board of Directors hereby approves and adopts the amendments to rules governing the timing of the election of board members, pursuant to the authority vested in the Board by Minn. Stat. § 352.03, subd. 4.

BE IT FURTHER RESOLVED, that prior to publishing the rule as adopted in the State Register, Douglas Mewhorter, the Acting Director of MSRS, is authorized to make any form changes in the rule that the Revisor of Statutes or the Attorney General requires the Board to make.

BE IT FURTHER RESOLVED, that the Board adopts the attached Findings of Fact, Conclusions and Order Adopting Rule Amendments and that Douglas Mewhorter is hereby authorized to sign the above-mentioned document on behalf of the Board and to perform the necessary acts to provide that the rule shall have the force and effect of law.

STATE OF MINNESOTA
MINNESOTA STATE RETIREMENT SYSTEM

In the Matter of the Proposed Rules Governing the Election of Board Members, Minn. Rules, Chapter 7900

AFFIDAVIT REGARDING COMMENTS RECEIVED PURSUANT TO NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Douglas Mewhorter, being duly sworn on oath deposes and says:

1. That Paul L. Groschen was the person named in the Notice of Intent to Adopt Rules Without a Public Hearing (16 S.R. 388-391, August 19, 1991) as the person to receive comments on the Board's intent to adopt rules concerning the above-entitled subject.

2. That the comment period set forth in the notice terminated at 4:30 p.m. on September 19, 1991.

3. That during the public comment period no comments were received by the Board.

4. That, upon the retirement of Paul L. Groschen, the Board authorized Douglas Mewhorter as Acting Director to complete the rulemaking process.

Douglas Mewhorter

Subscribed and sworn to before me
this 12th day of November, 1991.

Jean M. Brezinski
Notary Public

JEAN M. BREZINSKI
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES JANUARY 14, 1997