

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE H: DEFERRED COMPENSATION  
CHAPTER I: ILLINOIS STATE BOARD OF INVESTMENT

PART 2700  
STATE (OF ILLINOIS) EMPLOYEES' DEFERRED COMPENSATION PLAN

**SUBPART A: INTRODUCTION AND PURPOSE OF PLAN**

Section

- 2700.100 Establishment of Plan
- 2700.110 Purpose of Plan
- 2700.120 Economic Growth and Tax Relief Reconciliation Act of 2001 Good Faith Amendment (Repealed)

**SUBPART B: DEFINITIONS**

Section

- 2700.200 Definitions

**SUBPART C: ADMINISTRATION**

Section

- 2700.300 Responsibilities of the Department
- 2700.310 Responsibilities of the Board
- 2700.320 Deferred Compensation Hardship Committee
- 2700.330 Applicable Law

**SUBPART D: PARTICIPATION IN THE PLAN**

Section

- 2700.400 Eligibility
- 2700.410 Enrollment
- 2700.415 Designation of Beneficiary
- 2700.420 Minimum Deferral
- 2700.430 Basic Annual Limitation
- 2700.435 Age 50 Catch-up Annual Deferral Contribution
- 2700.440 Special Section 457 Catch-up Limitation
- 2700.450 Revocation of Deferral

**SUBPART E: ESTABLISHMENT OF RETIREMENT AGE**

Section

- 2700.500 Normal Retirement Age
- 2700.510 Alternative Normal Retirement Age

**SUBPART F: PARTICIPANT'S ACCOUNTS, INVESTMENTS AND STATEMENTS**

Section

- 2700.600 Deferred Compensation Accounts
- 2700.610 Allocation of Investment Earnings or Losses
- 2700.620 Investment Fund Valuation
- 2700.630 Administrative Costs
- 2700.640 Method of Making Investment Requests
- 2700.650 Participant Statements
- 2700.660 Custodial Account
- 2700.670 Investment Funds

2700.680 Rollovers to the Plan  
2700.690 Plan-to-Plan Transfers to the Plan

**SUBPART G: DISTRIBUTIONS**

Section  
2700.700 Distribution Events  
2700.710 Beneficiary Election of Method of Distribution  
2700.720 Election of Delayed Distribution Date (Repealed)  
2700.730 Election of Method of Distribution  
2700.735 Distribution for Certain Balances of \$5,000 or Less  
2700.740 Unforeseeable Emergency  
2700.745 Plan-to-Plan Transfers from the Plan  
2700.750 Permissive Service Credit Transfers  
2700.760 Leave of Absence

**SUBPART H: MISCELLANEOUS**

Section  
2700.800 Nonassignability  
2700.810 Payments to Minors and Incompetents  
2700.820 Missing Persons  
2700.830 Severability  
2700.840 Days and Dates  
2700.850 Domestic Relations Orders  
2700.860 IRS Levy  
2700.870 Mistaken Contributions

**SUBPART I: AMENDMENT OR TERMINATION OF PLAN**

Section  
2700.900 Amendment of Plan  
2700.910 Termination of Plan  
2700.920 Merger with Prior Plans

2700.APPENDIX A Administrative Rules (Repealed)

AUTHORITY: Implementing section 457 of the Internal Revenue Code (26 USCA 457, et seq., as now or hereafter amended) and implementing and authorized by Section 22A-111.1 and Article 24 of the Illinois Pension Code [40 ILCS 5/22A-111.1 and Art. 24].

SOURCE: Emergency rule adopted at 3 Ill. Reg. 11, p. 161, effective March 6, 1979, for a maximum of 150 days; adopted at 3 Ill. Reg. 13, p. 7, effective March 19, 1979; amended at 3 Ill. Reg. 36, p. 436, effective August 29, 1979; amended at 4 Ill. Reg. 1, p. 45, effective December 26, 1979; amended at 6 Ill. Reg. 9655, effective July 23, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 10845, effective August 31, 1983; emergency amendments at 13 Ill. Reg. 629, effective January 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 9308, effective May 31, 1989; emergency amendment at 17 Ill. Reg. 19976, effective November 2, 1993, for a maximum of 150 days; emergency expired April 2, 1994; amended at 18 Ill. Reg. 7224, effective May 2, 1994; amended at 21 Ill. Reg. 10050, effective July 15, 1997; emergency amendment at 23 Ill. Reg. 566, effective January 1, 1999, for a maximum of 150 days; amendment at 23 Ill. Reg. 6039, effective May 5, 1999; emergency amendment at 26 Ill. Reg. 478,

effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7442, effective May 6, 2002; emergency amendment at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 8408, effective April 21, 2006.

#### **SUBPART A: INTRODUCTION AND PURPOSE OF PLAN**

##### **Section 2700.100 Establishment of Plan**

- a) The rules adopted in this part shall constitute the State Employees' Deferred Compensation Plan ("Plan").
- b) When effective this Plan shall succeed and replace all Prior Plans. All accounts established and amounts deferred and invested under Prior Plans shall be subject to and administered under the rules of this Plan.

##### **Section 2700.110 Purpose of Plan**

- a) The purpose of this Plan is to allow Employees to designate a portion of their Compensation to be withheld each month by the State of Illinois and invested at the discretion of and in a manner approved by the Board until Severance of Employment, Unforeseeable Emergency or death of the Employee.
- b) Participation in this Plan shall not be construed to establish or create an employment contract between the Employee and the State of Illinois.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

##### **Section 2700.120 Economic Growth and Tax Relief Reconciliation Act of 2001 Good Faith Amendment (Repealed)**

(Source: Repealed at 30 Ill. Reg. 8408, effective April 21, 2006)

#### **SUBPART B: DEFINITIONS**

##### **Section 2700.200 Definitions**

- a) Whenever used in the Plan, the following terms shall have the meanings set forth below unless otherwise expressly provided, and when the defined meaning is intended, the term is capitalized:

"Account Balance" means the bookkeeping account maintained with respect to each Participant that reflects the value of the Deferred Compensation credited to the Participant, including Annual Deferrals, the earnings or loss of the Investment Fund (net of Investment Fund expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distribution made to the Participant or the Participant's Beneficiary. If a Participant has more than one Beneficiary at the time of the Participant's death, then a separate Account Balance shall be maintained for each Beneficiary. The Account Balance includes any account established for rollover contributions and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after a Participant's death,

and any account or accounts established for an alternate payee (as defined in section 414(p)(8) of the Internal Revenue Code of 1954).

"Alternate Retirement System" means this Plan, which is described in section 457 of the Internal Revenue Code, when used for purposes of section 3121(b)(7)(F) of the Code to exclude contractual employees from mandatory Social Security coverage.

"Annual Deferral" means the amount of Compensation deferred in any year.

"Applicable Dollar Amount" means the amount of Compensation allowed to be deferred in any calendar year as established under section 457(e)(15) of the Code.

"Beneficiary" means the person, persons or legal entity entitled to receive any undistributed Deferred Compensation that becomes payable in the event of the Participant's death, as designated by the Participant, or provided for in accordance with the Plan.

"Board" means the Illinois State Board of Investment.

"Code" means the Internal Revenue Code of 1954 (26 USC 1 et seq.), as amended from time to time, or any successor statute.

"Compensation" means all cash compensation for services to the State, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includable in the Employee's gross income for the calendar year but for a compensation reduction election under section 125, 132(f), 401(k), 403(b) or 457(b) of the Code.

"Custodial Account" means the fund created under and subject to the Custodial Agreement.

"Custodial Agreement" means the written agreement made by and between the State and the Custodian under which the Custodial Account is maintained.

"Custodian" means a bank, as described in section 408(n) of the Internal Revenue Code, or a person who meets the non-bank trustee requirements in accordance with the regulations under section 408(a)(2) of the Code relating to the use of non-bank trustees.

"Deferred Compensation" means that portion of the Participant's Compensation that the Participant defers under this Plan.

"Deferred Compensation Account" means an account established under this Plan that is the basis for any distribution payable to the Participant under Section 2700.730 of this Part.

"Delayed Distribution Date" means the date a Participant elects to make a decision regarding distribution of the Participant's account.

"Department" means the Department of Central Management Services of the State of Illinois.

"Employee" means *any person, including a person elected, appointed or under contract, receiving compensation from the State for personal services rendered, including salaried persons* [40 ILCS 5/24-102], except that any person under contract with the Employer shall be eligible only to the extent the Internal Revenue Service or the Illinois Department of Revenue shall permit or approve.

"Employer" means the State of Illinois, including all officers, boards, commissions and agencies created by the Illinois Constitution, whether in the executive, legislative or judicial branch, all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; and administrative units or corporate outgrowths of the State government that are created by or pursuant to statute other than units of local government and their officers, school districts and boards of election commissioners; all administrative units and corporate outgrowths of the above as may be created by executive order of the Governor.

"Hardship Committee" means a committee that is responsible for determining whether any Participant has suffered an Unforeseeable Emergency and is entitled to a distribution as provided under Section 2700.740 of this Part.

"Includable Compensation" means the Employee's actual wages in box 1 of Form W-2 for a year for services to the State, as defined in section 457(e)(5) of the Code.

"Investment Fund" means any and all funds established by the Board for the investment of Deferred Compensation.

"Minor" means a Beneficiary who is under age 18 at the time a benefit under this Plan becomes payable to him or her, unless Illinois law defines another age.

"Normal Retirement Age" means age 70½ unless the Participant has elected an alternative Normal Retirement Age by written instrument delivered to the Department within 30 days after the Participant's Severance of Employment as provided in Section 2700.510 of this Part. A Participant's Normal Retirement Age determines:  
the latest time when benefits may commence under this Plan (unless the Participant continues employment after Normal Retirement Age); and

the period during which a Participant may utilize the three-year Catch-up provision of Section 2700.440 of this Part.

"Participant" means any Employee who has enrolled in this Plan as provided in Section 2700.410 of this Part and has not had a complete distribution of his or her Deferred Compensation Account.

"Pay Period" means a regular accounting period established by the State of Illinois for measuring and paying Compensation earned by Employees. A Pay Period may be monthly, semi-monthly or bi-weekly.

"Plan" means the State (of Illinois) Employees' Deferred Compensation Plan, as set forth in this Part, and as it may be amended from time to time.

"Plan Year" shall be the tax year as established by the Comptroller for payroll purposes.

"Prior Plan I" means the State Employees' Deferred Compensation Plan approved and adopted by the Board on September 10, 1976.

"Prior Plan II" means the State Employees' Deferred Compensation Plan approved and adopted by the Board on May 18, 1979.

"Prior Plan III" means the State Employees' Deferred Compensation Plan (80 Ill. Adm. Code 2700) adopted at 7 Ill. Reg. 10845, effective August 31, 1983.

"Severance from Employment" means the permanent severance of the Participant's employment relationship with the Employer by means of:

retirement;

discharge;

resignation, provided seniority or continuous service is interrupted;

layoff, unless there is a designated date for return to paid status;

expiration or non-renewal of contract, appointment or term of office;

nonreelection; or

other form of permanent severance as may be provided by appropriate law, contract or rules and regulations.

For the purposes of this definition, neither a break in State service for a period of less than 30 days nor

transfers among various branches of State Government shall be considered a Severance from Employment.

An independent contractor is considered to sever service with the Employer upon the expiration of all contracts under which services are performed for the Employer, if the expiration constitutes a good faith and complete termination of the contractual relationship.

"State" means State of Illinois.

"Unforeseeable Emergency" means severe financial hardship to the Participant resulting from an unexpected illness or accident of the Participant or of a dependent of the Participant, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant.

"Valuation Date" means the date on which an Investment Fund is valued and earnings and/or losses are allocated to Participants' Deferred Compensation Accounts. There shall be a Valuation Date at least once a month and, if practical at the discretion of the Board, more frequent Valuation Dates to reflect, as closely as possible, the earnings and/or losses of any particular Deferred Compensation Account from the time Compensation is deferred and invested in various Investment Funds until it is eventually distributed according to the Plan. It may also include each business day/the last day of the calendar month/the last day of the calendar quarter/each December 31.

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

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

#### **SUBPART C: ADMINISTRATION**

##### **Section 2700.300 Responsibilities of the Department**

- a) Subject to the general supervision of the Board as provided in Section 2700.310, the Department has the full authority to administer the Plan and promulgate, adopt, amend or revoke internal management procedures which are consistent with, and necessary to implement and maintain, this Plan.
- b) The Department, on behalf of the State of Illinois, shall enter into a written agreement with each Participant, which shall set forth:
  - 1) the obligations contained in this Plan,
  - 2) the amounts of Compensation to be deferred, and

- 3) such other information as the Department deems necessary to administer the Plan.
- c) Pamphlets describing this Plan and outlining the options and opportunities available shall be made available to eligible employees.

**Section 2700.310 Responsibilities of the Board**

- a) The Board has the responsibility for general supervision of the Plan which shall include, but not be limited to:
  - 1) establishment of the Plan,
  - 2) approving or disapproving any proposed changes in the Plan,
  - 3) if deemed necessary by the Board, obtaining Internal Revenue Service and Illinois Department of Revenue approval for the Plan or any amendments thereto, and
  - 4) reviewing any and all proposed investment offerings, each of which must be determined acceptable by the Board prior to being utilized for the investment of Deferred Compensation.
- b) Following approval by the Board of one or more types of investments, if any, to be offered to Participants, the Board shall prepare specifications and make them available to known administrators or providers of that type of investment.
- c) The selection of the successful bidder for each investment will be based on the bidder's relative ability to provide the program as specified. The Board shall have the authority to:
  - 1) waive minor informalities in bidding,
  - 2) accept more than one bid, and
  - 3) reject any and all bids.
- d) The Board has the responsibility for selecting the custodians to hold the assets of the Plan in accordance with Section 457(g) of the Code and for entering into related custodial agreements in connection therewith.

(Source: Amended at 23 Ill. Reg. 6039, effective May 5, 1999)

**Section 2700.320 Deferred Compensation Hardship Committee**

- a) A Hardship Committee shall be formed that shall be responsible for determining whether any Participant has suffered an Unforeseeable Emergency and is entitled to a distribution under Section 2700.740 of this Part.

- b) Members of this Hardship Committee shall be appointed by the Department but shall include at least:
  - 1) one Department employee, and
  - 2) two persons not employees of the Department.
- c) Members of this Committee shall be entitled to defer Compensation so long as they are otherwise eligible; however, no member of the Hardship Committee shall make any determination with respect to any interest that he or she may have under the Plan.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

#### **Section 2700.330 Applicable Law**

This Plan shall be construed, administered and governed in all respects under and by the laws of the State of Illinois and the Code.

### **SUBPART D: PARTICIPATION IN THE PLAN**

#### **Section 2700.400 Eligibility**

All Employees shall be eligible to participate in the Plan and defer Compensation immediately upon becoming employed by the State.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

#### **Section 2700.410 Enrollment**

- a) Any Employee eligible to participate in the Plan may become a Participant by agreeing in writing, on a form to be provided by the Department, to a deferment of his or her Compensation.
- b) The deferment will commence no sooner than the first Pay Period of the month following the date the form is properly completed by the Employee, accepted by the Department, and for which the Agency payroll has not closed.
- c) A new Employee may defer Compensation payable in the calendar month during which the Participant first becomes an Employee if an agreement providing for the deferral is entered into on or before the first day on which the Participant performs services for the State.
- d) The amount to be deferred will be selected by the Participant and will be agreed to at the time of enrollment. This amount may not be less than the minimum amount allowable or exceed the basic annual limitation.
- e) The amount deferred may be changed by the Participant at any time. The change shall become effective no sooner than the first Pay Period of the month following the date the

form is properly completed by the Employee and accepted by the Department.

- f) A Participant's request to defer Compensation shall remain in effect until the Participant's Severance from Employment, unless revoked prior to that time. The Department shall suspend deferrals for the remainder of the calendar year for Participants who have deferred in excess of the allowable maximum. The Department shall also withdraw and return to the Participant the excess amount deferred.
- g) Deferrals can be made by reductions in Compensation only.
- h) The Participant election shall also include the designation of Investment Funds and a designation of Beneficiary. This election shall remain in effect until a new election is filed.
- i) Acceptance by the Department shall be granted whenever forms are properly completed and the criteria set by the Plan for acceptance are met.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

#### **Section 2700.415 Designation of Beneficiary**

- a) A Participant may designate a Beneficiary or Beneficiaries who will receive any balance in the Participant's Deferred Compensation Account in the event of his or her death.
- b) A designation of Beneficiary shall be effective for subsequent distributions when received by the Department. The designation shall be in writing on a form provided by the Department for that purpose that has been signed by the Participant.
- c) A Participant may, at any time, change his or her Beneficiary by completion of the form provided by the Department.
- d) No Beneficiary shall have any rights under this Plan until the death of the Participant who has designated him or her and a separate account has been established by the Department as provided for under this Section.
- e) Participants may designate primary and contingent Beneficiaries. A contingent Beneficiary's interest will become effective only upon the death of any and all primary Beneficiaries, or if any and all of the primary Beneficiary designations have been found invalid.
- f) If more than one Beneficiary is named in either category, benefits will be paid according to the following rules:
  - 1) Beneficiaries can be designated to share equally or to receive specific percentages.

- 2) If a Beneficiary dies before the Participant, only the surviving Beneficiaries will be eligible to receive any benefits in the event of the death of the Participant. If more than two Beneficiaries are originally named to receive different percentages of the benefits, surviving Beneficiaries will share in the same proportion to each other as indicated in the original designation.
- g) A person, trust, estate or other legal entity may be designated as a Beneficiary.
- h) If a Beneficiary has not been designated, or a designation is ineffective due to the death of all Primary and Contingent Beneficiaries prior to the death of the Participant, or the designation is ineffective for any reason, the estate of the Participant shall be the Beneficiary.
- i) Upon the death of the Participant, any Beneficiary entitled to the value of the Deferred Compensation Account under the provisions of this Section shall become a "vested Beneficiary" and have all the rights of the Participant, with the exception of making any deferrals.
- j) Before the account can be distributed, the Beneficiary must provide the Department with his or her Social Security Number and a certified copy of the Participant's death certificate.
- k) In the event of a conflict between the provisions of this Section and any annuity contract purchased prior to January 1, 1999, this Section shall prevail.

(Source: Added at 30 Ill. Reg. 8408, effective April 21, 2006)

#### **Section 2700.420 Minimum Deferral**

- a) Each Employee who becomes a Participant must agree to defer a minimum amount of \$10 per Pay Period or \$20 per month, whichever is greater.
- b) The minimum for an Employee who is a contractual Employee, who is participating in the Plan and who uses the Plan as an Alternate Retirement System as defined in regulations for Code section 3121(b)(7)(F) is 7.5% of Compensation each Pay Period unless the minimum is changed by Code section 3121(b)(7)(F) regulations, in which case the minimum is whatever is prescribed by the Code. If the 7.5% minimum is less than \$10 a Pay Period or \$20 a month, the latter becomes the minimum.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

#### **Section 2700.430 Basic Annual Limitation**

The maximum amount of the Annual Deferral under the Plan for any calendar year shall not exceed the lesser of the Applicable Dollar Amount or the Participant's Includible Compensation for the calendar year. The Applicable Dollar Amount in calendar year 2005 is \$14,000; and in 2006, or after, the Applicable Dollar Amount is \$15,000, adjusted for cost-of-living after 2006 to the extent provided under section 415(d) of the Code.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

**Section 2700.435 Age 50 Catch-up Annual Deferral Contributions**

A Participant who will attain age 50 or more by the end of the calendar year is permitted to elect an additional amount of Annual Deferrals, up to the maximum age 50 catch-up Annual Deferrals for the year. The maximum dollar amount of the age 50 catch-up Annual Deferral for a year is \$4,000 for calendar year 2005; and for 2006, or after, the maximum age 50 catch-up dollar amount is \$5,000, adjusted for cost-of-living after 2006 to the extent provided under the Code.

(Source: Added at 30 Ill. Reg. 8408, effective April 21, 2006)

**Section 2700.440 Special Section 457 Catch-up Limitation**

- a) If the applicable year is one of a Participant's last 3 calendar years ending before the year in which the Participant attains Normal Retirement Age, and the amount determined under this Section exceeds the amount computed under Sections 2700.430 and 2700.435 of this Part, then the Annual Deferral limit in the Plan shall be the lesser of:
- 1) An annual amount equal to 2 times the Applicable Dollar Amount for the applicable year as provided for in Section 2700.430 of this Part; or
  - 2) The sum of:
    - A) An amount equal to the aggregate limit, as defined in Section 2700.430 of this Part, for the current year plus each prior calendar year beginning after December 31, 2001 during which the Participant was an Employee under the Plan, minus the aggregate amount of Compensation that the Participant deferred under the Plan after December 31, 2001, plus
    - B) An amount equal to the aggregate limit referred to in section 457(b)(2) of the Code for each prior calendar year beginning after December 31, 1978 and before January 1, 2002 during which the Participant was an Employee (determined without regard to Section 2700.435 and this Section) minus the aggregate contributions to pre-2002 coordination plans for those years.

- b) In no event can the deferred amount be more than the Participant's Compensation for the applicable years.
- c) If the Participant is or has been a participant in one or more other eligible plans within the meaning of section 457(b) of the Code, then this Plan and all other eligible 457(b) plans shall be considered as one plan for purposes of applying foregoing limitations of this Section. For this purpose, the Department shall take into account any other eligible plan for which the Department receives, from the Participant, sufficient information concerning his or her participation in the other plan.
- d) In applying this Section, a year shall be taken into account only if the Participant was eligible to participate in the Plan during all or a portion of the year and Compensation deferred, if any, under the Plan during the year was subject to the basic annual limitation described in Section 2700.430 of this Part or any other plan ceiling required by section 457(b) of the Code.
- e) For purposes of subsection (a)(2)(B), "contributions to pre-2002 coordination plan" means any employer contribution, salary reduction or elective contribution under any other eligible Code section 457(b) plan, or a salary reduction or elective contribution under any Code section 401(k) qualified cash or deferred arrangement, Code section 402(h)(1)(B) simplified employee pension deferred arrangement, Code section 403(b) annuity contract, and Code section 408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in section 501(c)(18) of the Code, including plans, arrangements or accounts maintained by the Employer or any employer for whom the Participant performed services. However, the contributions for any calendar year are only taken into account for purposes of subsection (a)(2)(B) of this Section to the extent that the total of the contributions does not exceed the aggregate limit referred to in section 457(b)(2) of the Code for that year.
- f) If the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described in subsection (a), or the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described in subsection (a) when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under section 457(b) of the Code, for which the Participant provides information that is accepted by the Department, then the Annual Deferral, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable to the investment), shall be distributed to the Participant.
- g) An Employee whose employment is interrupted by qualified military service under Code section 414(u) or who is on a leave of absence for qualified military service under Code

section 414(u) may elect to make additional Annual Deferrals upon resumption of employment with the State equal to the maximum Annual Deferrals that the Employee could have elected during that period if the Employee's employment with the State had continued (at the same level of Compensation) without the interruption or leave, reduced by the Annual Deferrals, if any, actually made for the Employee during the period of the interruption or leave. This right applies for 5 years following the resumption of employment (or, if sooner, for a period equal to 3 times the period of the interruption or leave).

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

**Section 2700.450 Revocation of Deferral**

- a) Any Participant may revoke his or her election to have Compensation deferred by completing the Revocation Section of the Enrollment Form.
- b) Following notice of revocation, the Participant's full Compensation shall be restored as soon as possible. In no case shall deductions continue later than the Pay Period occurring 30 days after receipt of the revocation form and any other forms requested by the Department to fulfill the requirements of the Office of the Comptroller or any other State agency.
- c) The Department shall suspend a Participant's deferrals for the remainder of the calendar year when the Participant has deferred in excess of the allowable maximum and shall withdraw and return the excess amount deferred consistent with Section 2700.440(f) of this Part.
- d) Revocation shall not cause distribution of the Participant's Account.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

**SUBPART E: ESTABLISHMENT OF RETIREMENT AGE**

**Section 2700.500 Normal Retirement Age**

For the purposes of this Plan, Normal Retirement Age means age 70½ unless the Participant has elected an alternative Normal Retirement Age.

**Section 2700.510 Alternative Normal Retirement Age**

- a) A Participant may elect an alternative Normal Retirement Age. Such an election shall be in writing and shall be submitted to the Department.

- b) A Participant's alternative Normal Retirement Age shall not be earlier than the earliest date that the Participant will become eligible to retire and receive unreduced retirement benefits under one of the following retirement systems of which the Employee is a member:
  - 1) General Assembly Retirement System,
  - 2) State Employees' Retirement System of Illinois,
  - 3) State Universities Retirement System,
  - 4) Teachers' Retirement System of the State of Illinois, or the
  - 5) Judges Retirement System of Illinois.
- c) If the Participant is not eligible to receive benefits under a basic retirement plan maintained by the State, the Participant's alternative Normal Retirement Age may not be earlier than the attainment of age 50.
- d) The alternative Normal Retirement Age may not be later than the date the Participant attains the age of 70½ unless the Participant continues employment with the State.
- e) If the Participant continues employment after attaining age 70½, and has not elected an alternative Normal Retirement Age, the Participant's alternative Normal Retirement Age shall not be later than the age at which the Participant actually separates from the service of the State.

**SUBPART F: PARTICIPANT'S ACCOUNTS, INVESTMENTS AND STATEMENTS**

**Section 2700.600 Deferred Compensation Accounts**

- a) The State of Illinois shall establish a "Deferred Compensation Account" for each Participant which shall be the basis for any distributions payable to the Participant under Section 2700.730.
- b) Each Participant's Deferred Compensation Account shall be credited with the amount of any Compensation deferred and shall be further credited or debited, as applicable, with:
  - 1) any increase or decrease resulting from investments made by the State pursuant to Section 2700.670,
  - 2) any applicable expenses incurred by the State in maintaining and administering this Plan,
  - 3) any debits for the amount of any distribution,
  - 4) any credit for the initial value on the effective date of this Plan of any bookkeeping account maintained under the Prior Plans.

(Source: Amended at 23 Ill. Reg. 6039, effective May 5, 1999)

**Section 2700.610 Allocation of Investment Earnings or Losses**

- a) To the extent that Investment Funds are established by the Board, Deferred Compensation Accounts shall be allocated among the Investment Funds according to the investment elections in effect on behalf of the Participants. Earnings and losses of each Investment Fund shall be based on the actual investment experience of the Investment Fund.
- b) Earnings and losses will be measured from the Valuation Date coincident with or immediately preceding the date on which any Deferred Compensation is invested in any Investment Fund to the Valuation Date coincident with or immediately preceding the date any Deferred Compensation is withdrawn from any Investment Fund.
- c) The amount of earnings or losses allocated to each Deferred Compensation Account shall reflect the proportion a Participant's Deferred Compensation Account in relation to the other Deferred Compensation Accounts having an interest in that Fund.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

**Section 2700.620 Investment Fund Valuation**

- a) Any Investment Fund under this Plan shall be valued at fair market value as of each Valuation Date.
- b) Any withdrawals or distributions made under this Plan shall be made in cash by electronic transfer, or as authorized by the State.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

**Section 2700.630 Administrative Costs**

- a) It is the intent of this Plan that it shall not be implemented or administered so as to be an expense to the State of Illinois, except for the State's obligation to pay the Deferred Compensation Accounts as provided in this Plan. Therefore, any expenses of maintaining and administering the Plan shall be borne by the Participants. Cost shall include, but not be limited to, the costs of:
  - 1) making investments, exchanges, or distributions if any,
  - 2) collecting the Deferred Compensation, and
  - 3) providing information to Participants, Employees and other agencies of the State.

- b) The method of sharing any expenses and the amount of those expenses shall be determined by the Department subject to the approval of the Board.
- c) An asset charge at an annual rate not to exceed a cap of 1 percent (.01) shall be levied against the Account of each Participant in the Plan. This charge shall be assessed solely to offset the cost incurred by the State in administering the Plan. Any asset charge will be based on this cost, but in no case may the actual charge exceed the established cap.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

**Section 2700.640 Method of Making Investment Requests**

- a) A Participant shall, at the time of enrollment, make an investment request on a form provided for that purpose by the Department.
- b) Once made, an investment request shall continue for any deferments unless later changed by the Participant.
- c) A Participant may change investment requests for future amounts of Deferred Compensation an unlimited number of times.
- d) A change in investment request shall be made to the Plan's record keeper by telephone notice or use of internet on-line access programs.
- e) A Participant may change an investment request governing amounts previously deferred. However, after June 1, 1994, amounts previously deferred into the stable value option shall not be exchanged directly or indirectly into a money market or bond fund. Any exchange from the stable value option must first be exchanged into one of the other investment options for a period of 90 days.
- f) There will be no charge for the first exchange each quarter of each Plan Year. Each additional exchange will be assessed a transaction charge of \$10.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

**Section 2700.650 Participant Statements**

- a) Each Participant shall be provided quarterly with an accounting of his or her Deferred Compensation Account including, but not limited to, the amount deferred and any amounts credited or debited up to the quarter end.
- b) Such an accounting shall be made not later than 60 days after all deferrals for the quarter have been invested.

- c) Participants are responsible for notifying the Department in writing of any investment or other error within 14 days of the receipt of any statement.
- d) The liability of the Plan to the Participants for administrative errors shall not exceed the amount necessary to correct the error. Errors under \$5.00 will not be corrected.

(Source: Amended at 18 Ill. Reg. 7224, effective May 2, 1994)

**Section 2700.660 Custodial Account**

- a) Notwithstanding any contrary provision of the Plan, in accordance with section 457(g) of the Code, all amounts of Compensation deferred pursuant to the Plan, all property and rights purchased with these amounts, and all income attributable to these amounts, property, or rights shall be held in one or more Custodial Accounts for the exclusive benefit of Participants and Beneficiaries under the Plan. For purposes of this subsection, the Custodian of any Custodial Account created pursuant to the Plan must be a bank, as described in section 408(n) of the Internal Revenue Code, or a person who meets the non-bank trustee requirements in accordance with the regulations under section 408(a)(2) of the Code relating to the use of non-bank trustees. All amounts of Compensation deferred under the Plan shall be transferred to a Custodial Account described in section 401(f) of the Code within a period that is not longer than is reasonable for the proper administration of the accounts of Participants.
- b) The Participant and his or her Beneficiary shall not have any property interest whatsoever in any specific asset of the State of Illinois on account of his or her election to defer any Compensation under this Plan.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

**Section 2700.670 Investment Funds**

- a) The Board may establish any or all of the following Funds for the investment of Deferred Compensation:
  - 1) Investment Fund A which shall be invested primarily in savings and loan or commercial bank deposits, commercial paper, or guaranteed interest contracts of insurance companies.
  - 2) Investment Fund B which shall be invested primarily in corporate or Government bonds or pooled investment vehicles, such as mutual funds, whose investment policies emphasize such investments.
  - 3) Investment Fund C which shall be invested in insurance company contracts, either on a group or individual basis, designed to provide an annuity.

- 4) Investment Fund D which shall be invested primarily in common or preferred stocks, similar equity securities or other property expected to offer growth possibilities or pooled investment vehicles, such as mutual funds, whose investment policies emphasize such investments.
- b) The Board may establish more than one Investment Fund for each category described above if deemed appropriate.
- c) The Board is specifically authorized to utilize outside investment managers to the extent deemed appropriate by the Board.
- d) The Board also has the authority to eliminate any or all of the Investment Funds created by the Plan, provided that in such event, the Department shall notify any Participant who has requested that his or her Deferred Compensation Account be measured as if invested in the Investment Fund or Funds which have been eliminated. Any such Participant shall then have the opportunity to change his or her investment request or revoke his or her deferral pursuant to Section 2700.450 regardless of any other provision of this Plan.

(Source: Amended at 18 Ill. Reg. 7224, effective May 2, 1994)

#### Section 2700.680 Rollovers to the Plan

- a) A Participant who is an Employee and who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan.
- b) The Department may require documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with section 402 of the Code and to confirm that the plan is an eligible retirement plan within the meaning of section 402(c)(8)(B) of the Code.
- c) For purposes of this Section, an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include:
  - 1) any installment payment for a period of 10 years or more;

- 2) any distribution made as a result of an Unforeseeable Emergency or other distribution that is made to a Participant; or
  - 3) for any other distribution, the portion, if any, of that distribution that is a required minimum distribution under section 401(a)(9) of the Code. Section 401(a)(9) of the Code outlines required distributions and the manner in which those distributions must be made.
- d) In addition, an eligible retirement plan means an individual retirement account described in section 408(b) of the Code, a qualified trust described in section 401(a) of the Code, an annuity plan described in section 403(a) or 403(b) of the Code, or an eligible governmental plan described in section 457(b) of the Code that accepts the eligible rollover distribution.
- e) The Plan shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is not an eligible governmental plan under section 457(b) of the Code.
- f) In addition, the Plan shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is an eligible governmental plan under section 457(b) of the Code.

(Source: Added at 30 Ill. Reg. 8408, effective April 21, 2006)

**Section 2700.690 Plan-to Plan Transfers to the Plan**

- a) Participants who participate in another eligible governmental plan under section 457(b) of the Code may transfer assets to the Plan as provided in this Section. A transfer is permitted only if the other plan provides for the direct transfer of a Participant's interest in the other plan to the Plan.
- b) The transfer is permitted only in the form of cash or other similar property deemed acceptable to the Department.
- c) The Department may require documentation from the other plan as it deems necessary to effectuate the transfer in accordance with section 457(e)(10) of the Code and 26 CFR 1.457-10(b) (2005) and to confirm that the other plan is an eligible governmental plan as defined in 26 CFR 1.457-2(f) (2005).

- d) The amount transferred shall be credited to the Participant's Account Balance and shall be held, accounted for, administered and otherwise treated in the same manner as an Annual Deferral by the Participant under the Plan, except that the transferred amount shall not be considered an Annual Deferral under the Plan in determining the maximum deferral under Section 2700.430 of this Part.

(Source: Added at 30 Ill. Reg. 8408, effective April 21, 2006)

#### **SUBPART G: DISTRIBUTIONS**

##### **Section 2700.700 Distribution Events**

- a) Distributions under this Plan will be made in accordance with the regulations under section 401(a)(9) of the Code (26 CFR 54 (2005)). The provisions reflecting section 401(a)(9) override any distribution options in the Plan inconsistent with section 401(a)(9).
- b) A Participant's Deferred Compensation Account may begin to be distributed 30 days after the date of one of the following events:
  - 1) Severance from Employment,
  - 2) Death, or
  - 3) Delayed Distribution Date.
- c) A Participant's Deferred Compensation Account may begin to be distributed as soon as possible but not later than 30 days after determination of an Unforeseeable Emergency by the Hardship Committee.
- d) A Participant, with \$5,000 or less in his or her Deferred Compensation Account, may elect to cash out the Account in compliance with conditions specified in Section 2700.735 of this Part.
- e) No distributions will be made to a Participant who is employed as an independent contractor before a date that is at least 12 months after the day on which his or her employment contract expires. Should the independent contractor be re-employed by the State as either an Employee or independent contractor during the 12-month waiting period, no distribution will be started on the projected distribution date. If the contractor has attained age 70½ at the time the contract is terminated, the 12-month waiting period is waived.
- f) Participants are responsible for notifying the Department of their Termination of Service.

- g) Beneficiaries are responsible for notifying the Department of the death of the Participant and supplying the Department with a certified copy of the Death Certificate.
- h) A Participant who does not receive the initial distribution until the calendar year following the year in which he or she reaches age 70½ or separates, if he or she works past age 70½, will receive at least 2 taxable distributions in the same year.
- i) If a Participant has a separate account attributable to rollover contributions to the Plan, the Participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account.
- j) An alternate payee, pursuant to the terms of a qualified domestic relations order, may at any time elect to receive a distribution of all or any portion of the amount held and maintained on behalf of the alternate payee upon the proper execution and designation under the qualified domestic relations order.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

**Section 2700.710 Beneficiary Election of Method of Distribution**

- a) Commencing in the calendar year following the calendar year of the Participant's death, the Participant's Account Balance shall be paid to the Beneficiary in a lump sum.
- b) Alternatively, if the Beneficiary with respect to the Participant's Account Balance is a natural person, at the Beneficiary's election, distribution can be made in annual installments (calculated in a manner that is similar to installments under Section 2700.730 of this Part) with the distribution period determined in the following manner:
  - 1) If the Beneficiary is the Participant's surviving spouse, the distribution period is equal to the Beneficiary's life expectancy using the single life table in 26 CFR 1.401(a)(9)-9, A-1 (2005) for the spouse's age on the spouse's birthday for that year.
  - 2) If the Beneficiary is not the Participant's surviving spouse, the distribution period is the Beneficiary's life expectancy determined in the year following the year of the Participant's death using the single life table in 26 CFR 1.401(a)(9)-9, A-1 (2005) for the Beneficiary's age on the Beneficiary's birthday for that year, reduced by one for each year that has elapsed after that year.
- c) For any year, a Beneficiary can elect distribution of a greater amount (not to exceed the amount of the remaining Account Balance) rather than the amount calculated under Section 2700.710(b).

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

**Section 2700.720 Election of Delayed Distribution Date (Repealed)**

(Source: Repealed at 30 Ill. Reg. 8408, effective April 21, 2006)

**Section 2700.730 Election of Method of Distribution**

- a) In an election to commence benefits as provided for under Section 2700.700 of this Part, a Participant entitled to a distribution of benefits may elect to receive payment in any of the following forms of distribution:
- 1) a lump sum payment of the total Account Balance; or
  - 2) annual installment payments through the year of the Participant's death, the amount payable each year equal to a fraction of the Account Balance equal to 1 divided by the distribution period set forth in the Uniform Lifetime Table at 26 CFR 1.401(a)(9)-9, A-2 (2005) for the Participant's age on the Participant's birthday for that year.
    - A) If the Participant's age is less than age 70, the distribution period is 27.4 plus the number of years that the Participant's age is less than age 70.
    - B) At the Participant's election, this annual payment can be made in monthly, quarterly or semi-annual installments.
    - C) The Account Balance for this calculation (other than the final installment payment) is the Account Balance as of the end of the year prior to the year for which the distribution is being calculated.
    - D) For any year, the Participant can elect distribution of a greater amount (not to exceed the amount of the remaining Account Balance) rather than the amount calculated under subsection (a)(2)(C).
- b) A Participant or the surviving spouse of a Participant (or a Participant's former spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Code) who is entitled to an eligible rollover distribution may elect, at the time and in the manner prescribed by the Department, to have all or any portion of the distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover. An eligible retirement plan means an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, a qualified trust described in section 401(a)

of the Code, an annuity plan described in section 403(a) or 403 (b) of the Code, or an eligible governmental plan described in section 457(b) of the Code, that accepts the eligible rollover distribution.

- c) For purposes of this Section, an eligible rollover distribution means any distribution of all or any portion of a Participant's Account Balance, except that an eligible rollover distribution does not include:
  - 1) any installment payment under subsection (a) of this Section for a period of 10 years or more;
  - 2) any distribution made under Section 2700.740 of this Part as a result of an Unforeseeable Emergency; or
  - 3) the portion, if any, of the distribution that is a required minimum distribution under section 401(a)(9) other than those distributions described in subsections (c)(1) and (c)(2).
- d) In no event shall any distribution under this Section begin later than the latter of:
  - 1) April 1 of the year following the calendar year in which the Participant attains age 70½; or
  - 2) April 1 of the year following the year in which the Participant retires or otherwise has a Severance from Employment.
- e) If distributions commence in the calendar year following the latter of the calendar year in which the Participant attains age 70½ or the calendar year in which the Severance from Employment occurs, the distribution on the date that distribution commences must be equal to the annual installment payment for the year that the Participant has a Severance from Employment determined under subsection (a)(2) of this Section, and an amount equal to the annual installment payment for the year after Severance from Employment determined under subsection (a)(2) of this Section must also be paid before the end of the calendar year of commencement.
- f) Any election made under this Section may be revoked at any time.
- g) Any portion of the Deferred Compensation Account that has not been distributed shall continue to be credited and/or debited according to the provisions of Sections 2700.600 and 2700.610 of this Part.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

**Section 2700.735 Distribution for Certain Balances of \$5,000 or Less**

At the direction of the Participant, a Participant's total Account Balance shall be paid in a lump sum on the next Valuation Date following the direction if:

- a) the total Account Balance does not exceed \$5,000;
- b) the Participant has not previously received a distribution of the total amount payable to the Participant under this Section; and
- c) no Annual Deferral has been made with respect to the Participant during the 2-year period ending immediately before the date of the distribution.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

**Section 2700.740 Unforeseeable Emergency**

- a) A distribution of all or a portion of a Participant's Deferred Compensation Account or a change in method of distribution to a Participant shall be permitted in the event the Participant experiences an Unforeseeable Emergency.
- b) Distributions shall not be made to the extent that the hardship is or may be relieved:
  - 1) through reimbursement or compensation by insurance or otherwise;
  - 2) by liquidation of the Participant's assets to the extent the liquidation of assets would not itself cause severe financial hardship; or
  - 3) by cessation of deferrals under the Plan.
- c) A Participant's deferrals will automatically be revoked upon application for a hardship distribution.
- d) If the application is approved, the Participant cannot re-enroll for 6 months following receipt of the hardship application, unless the application is to request cessation of distribution payments.
- e) For the purposes of this Plan, a Beneficiary whose interest has "vested" in accordance with Section 2700.415 of this Part shall have all rights of a Participant to request a distribution in the event of an Unforeseeable Emergency.
- f) A Participant desiring a distribution by reason of a serious Unforeseeable Emergency must apply to the Hardship Committee and demonstrate that:

- 1) the circumstances being experienced were not under the Participant's control, and
  - 2) the circumstances constitute a real emergency that is likely to cause the Participant great financial hardship.
- g) The Hardship Committee shall have the authority to require medical or other evidence as it may need to determine the necessity for Participant's withdrawal request. In the event this information is not provided, the case will be considered closed 60 days after the date of request by the Hardship Committee.
  - h) The Hardship Committee shall reach its decision to approve or disapprove the financial hardship withdrawal request within 30 days following receipt of the completed application and necessary information required by the application or the Hardship Committee.
  - i) In the event a Participant is not satisfied with the decision of the Hardship Committee on an application for an Unforeseeable Emergency distribution or change in distribution, the Participant may appeal in writing to the Board within 15 days after receipt of the Hardship Committee's decision.
  - j) The Board shall, within 30 days after receipt of the appeal, conduct a hearing and review evidence presented by the Participant.
  - k) The Board shall then render a final decision within 15 days after the hearing that shall be binding on all parties.
  - l) If an application for an Unforeseeable Emergency distribution is approved, the distribution shall be limited to an amount sufficient only to meet the emergency and shall in no event exceed the amount of his or her Deferred Compensation Account as of the Valuation Date next preceding or coincident with the withdrawal.
  - m) The allowed distribution shall be payable in a method determined by the Hardship Committee and shall commence as soon as possible, but not later than 30 days after notice to the Participant and the Department of approval of the request by the Committee.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

**Section 2700.745 Plan-to-Plan Transfers from the Plan**

- a) Participants and Beneficiaries may elect to have all or any portion of their Account Balance transferred to another eligible governmental plan within the meaning of section 457(b) of the Code and 26 CFR 1.457-2(f) (2005).

- b) A transfer is permitted under this Section only if:
  - 1) the Participant has had a Severance from Employment with the State and is an employee of the entity that maintains the other eligible governmental plan; and
  - 2) the other eligible governmental plan provides for the acceptance of plan-to-plan transfers with respect to the Participants and Beneficiaries and for each Participant and Beneficiary to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred.
- c) Upon the transfer of assets under this Section, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount transferred for the Participant or Beneficiary.
- d) The Department may require documentation from the receiving plan as it deems appropriate or necessary to comply with this Section or to effectuate the transfer pursuant to 26 CFR 1.457-10(b) (2005).

(Source: Added at 30 Ill. Reg. 8408, effective April 21, 2006)

**Section 2700.750 Permissive Service Credit Transfers**

- a) If a Participant is also a participant in a tax-qualified defined benefit governmental plan (as defined in section 414(d) of the Code) that provides for the acceptance of plan-to-plan transfers with respect to the Participant, then the Participant may elect to have any portion of the Participant's Account Balance transferred to the defined benefit governmental plan.
- b) A transfer under this Section may be made before the Participant has had a Severance from Employment.
- c) A transfer may be made under this Section only if the transfer is either for the purchase of permissive service credit (as defined in section 415(n)(3)(A) of the Code) under the receiving defined benefit governmental plan or a repayment to which section 415 of the Code does not apply by reason of section 415(k)(3) of the Code.
- d) The amount of the transfer must be an amount equal to the amount of the intended purchase of the permissive service credit. No partial payment is allowed.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

**Section 2700.760 Leave of Absence**

- a) Any Participant who is granted a leave of absence by the Employer may continue to participate in this Plan as long as the leave of absence is approved by the Employer.

- b) If an approved leave of absence is terminated by the Employer or Employee without the resumption of the employment relationship, and if the Employee has been removed from the payroll for 30 days, the Participant shall be treated as having a Severance of Employment under this Plan, as of the date of termination of the leave, and may elect a distribution method as provided in Section 2700.730 of this Part.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

#### **SUBPART H: MISCELLANEOUS**

##### **Section 2700.800 Nonassignability**

- a) The contract entered into between the Employer and a Participant through this Plan and the benefits, proceeds or payments under this Plan cannot be sold, assigned, pledged, commuted, transferred or otherwise conveyed by an Employee, Participant or Beneficiary. Any attempt to assign or transfer shall not be recognized and shall impose no liability upon the Employer.
- b) Except as otherwise required by law and as provided in Sections 2700.850 and 2700.860 of this Part, any Deferred Compensation monies withheld pursuant to this Plan shall not be subject to attachment, garnishment, or execution, or to transfer by operation of law in the event of bankruptcy or insolvency of the Participant or otherwise.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

##### **Section 2700.810 Payments to Minors and Incompetents**

If the Department is notified that a Participant or Beneficiary entitled to receive any benefit under this Plan is adjudicated by a Court of Law to be mentally incompetent, or that a Beneficiary is a minor at the time when a benefit under this Plan becomes payable to him or her, the Department shall, upon receipt of a Court order, authorize payment of such benefit to such other person or institution, including a custodian under any State's Gift to Minors Act, who has been duly appointed as the Participant's or Beneficiary's guardian or such person or institution who is then maintaining or has custody of the Participant or Beneficiary, or to a Court of Law for distribution pursuant to that Court's order.

##### **Section 2700.820 Missing Persons**

- a) If the Department is unable to ascertain the whereabouts or identity of any person who is due to receive a benefit under this Plan at the time that benefit is due, the Department shall attempt to serve notice on such person by certified mail addressed to that person's last known address.

- b) Should such attempt to serve notice fail, the Department shall ask the help of the Department of Financial Institutions in advertising the need to locate the person pursuant to 38 Ill. Adm. Code 180.
- c) Should such attempt to locate that person fail, the Department shall authorize payment of that benefit and all other benefits due such a person to the primary Beneficiary(ies).
- d) If there are no other primary Beneficiaries, the Department shall authorize payment of that benefit to the contingent Beneficiaries.
- e) If there are no contingent Beneficiaries, the Department shall authorize payment of that benefit to the estate of the Participant.
- f) If there is no open estate, or if the heirs of the estate cannot be found to open an estate, then seven years after the Participant's death, the Department shall authorize payment of that benefit to the General Revenue Fund of the State of Illinois.

(Source: Amended at 23 Ill. Reg. 6039, effective May 5, 1999)

#### **Section 2700.830 Severability**

If any provision of this Plan shall be for any reason invalid or unenforceable, the remaining provisions shall, nevertheless, continue in effect and shall not be invalidated thereby.

#### **Section 2700.840 Days and Dates**

Whenever a time limit is expressed in terms of a number of days, they shall be consecutive calendar days, including weekends and holidays. If the last day of a period of days would occur on a weekend or a holiday recognized by the State of Illinois, the last day of the period shall be the next business day following.

#### **Section 2700.850 Domestic Relations Orders**

- a) Notwithstanding Section 2700.800 of this Part, if a judgment, decree or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant is made pursuant to the domestic relations law of the state (domestic relations order), then the amount of the Participant's Account Balance shall be paid in the manner and to the person or persons so directed in the domestic relations order.
- b) Payment under a judgment, decree or order shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan.

- c) The Department shall establish reasonable procedures for determining the status of any decree or order and for effectuating distribution pursuant to the domestic relations order.

(Source: Added at 30 Ill. Reg. 8408, effective April 21, 2006)

**Section 2700.860 IRS Levy**

Notwithstanding Section 2700.800 of this Part, the Department may pay from a Participant's or Beneficiary's Account Balance the amount that the Department finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against a Participant or Beneficiary.

(Source: Added at 30 Ill. Reg. 8408, effective April 21, 2006)

**Section 2700.870 Mistaken Contributions**

If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then, within one year after the payment of the contribution and upon receipt in good order of a proper request approved by the Department, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, resulting from the good faith mistake) shall be returned directly to the Participant or, to the extent required by the Department, to the Employer, who will then return the funds to the Participant.

(Source: Added at 30 Ill. Reg. 8408, effective April 21, 2006)

**SUBPART I: AMENDMENT OR TERMINATION OF PLAN**

**Section 2700.900 Amendment of Plan**

- a) The Department shall have the authority to propose amendments to this Plan from time to time by submitting them in writing to the Board for approval.
- b) No amendment or modification shall adversely affect the rights of Participants or their Beneficiaries to the receipt of Compensation deferred prior to such amendment or modification unless required by State or Federal law to maintain the tax status of the Plan and any Compensation previously deferred.

**Section 2700.910 Termination of Plan**

- a) The Board shall have the authority to terminate this Plan, or to substitute a new Plan.
- b) Upon termination of the Plan, each Participant shall be deemed to have withdrawn from the Plan as of the date of

such termination, and the Participant's full Compensation will be restored to a nondeferred basis.

- c) The Plan will otherwise continue in effect until all Deferred Compensation Accounts have been distributed in accordance with the Plan.
- d) Changes in the Plan, termination of the Plan, or substitution of a new Plan shall be made in accordance with the Illinois Administrative Procedures Act (Ill. Rev. Stat. 1981, ch. 127, pars. 1001 et seq.).

#### **Section 2700.920 Merger with Prior Plans**

- a) This Plan constitutes an amendment and restatement of the State Employees' Deferred Compensation Plan (80 Ill. Adm. Code 2700) adopted at 7 Ill. Reg. 10845, effective August 31, 1983 (Prior Plan III).
- b) All Participants and any Compensation deferred under the Prior Plans are, from the Effective Date of this Plan, governed by the terms of this Plan subject to the following provisions:
  - 1) All deferrals elected under the Prior Plans shall continue without further action so long as they do not exceed the limits defined in Section 2700.430 of this Part.
  - 2) Any investment requests made under the Prior Plans shall continue to apply to any deferrals made under this Plan until changed by a Participant in accordance with Section 2700.640 of this Part.
  - 3) Any election of the method of distribution of benefits made through Prior Plan I shall be void, and a Participant or Beneficiary may elect the form of distribution in accordance with Sections 2700.710 and 2700.730 of this Part.
  - 4) Any election of the method of distribution of benefits made through Prior Plan II and III shall remain in full force and effect unless it conflicts with the provisions of this Plan. In the event of a conflict, a Participant or Beneficiary shall have 30 days from date of notification to elect a new method of distribution consistent with the requirements of this Plan.
- c) Any Delayed Distribution Dates elected under Prior Plan II by a Participant or Beneficiary made prior to October 27, 1982 shall remain in full force and effect and are irrevocable. Delayed Distribution Dates elected under Prior Plan II made after October 27, 1982 shall be void if they conflict with the provisions of this Plan. A Participant whose Delayed Distribution Date is void shall

have his or her Deferred Compensation Account distributed in accordance with Section 2700.730 of this Part.

- d) A Participant who has elected a Delayed Distribution Date but not yet reached it may choose, within 60 days from the effective date of this Plan, to transfer the value of the account to another eligible plan authorized under section 457 of the Code.

(Source: Amended at 30 Ill. Reg. 8408, effective April 21, 2006)

**Section 2700.APPENDIX A Administrative Rules (Repealed)**

**Section 2700.EXHIBIT B Administrative Rule II (Repealed)**

(Source: Repealed at 18 Ill. Reg. 7224, effective May 2, 1994)

**Section 2700.EXHIBIT C Administrative Rule III (Repealed)**

(Source: Repealed at 18 Ill. Reg. 7224, effective May 2, 1994)

**Section 2700.EXHIBIT D Administrative Rule IV (Repealed)**

(Source: Repealed at 18 Ill Reg. 7224, effective May 2, 1994)

**Section 2700.EXHIBIT E Administrative Rule V (Repealed)**

(Source: Repealed at 18 Ill. Reg. 7224, effective May 2, 1994)

**Section 2700.EXHIBIT F Administrative Rule VI (Repealed)**

(Source: Repealed at 18 Ill. Reg. 7224, effective May 2, 1994)