

1 TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
2 SUBTITLE H: DEFERRED COMPENSATION
3 CHAPTER I: ILLINOIS STATE BOARD OF INVESTMENT
4

5 PART 2700
6 STATE (OF ILLINOIS) EMPLOYEES' DEFERRED COMPENSATION PLAN
7

8 SUBPART A: INTRODUCTION AND PURPOSE OF PLAN
9

10	Section	
11	2700.100	Establishment of Plan
12	2700.110	Purpose of Plan
13	2700.120	Economic Growth and Tax Relief Reconciliation Act of 2001 Good Faith 14 Amendment (Repealed)
15	2700.125	Forms

16
17 SUBPART B: DEFINITIONS
18

19	Section	
20	2700.200	Definitions

21
22 SUBPART C: ADMINISTRATION
23

24	Section	
25	2700.300	Responsibilities of the Department
26	2700.310	Responsibilities of the Board
27	2700.311	Standards Governing the Selection of Investment Options
28	2700.312	Responsibilities of the Pay Agency
29	2700.315	Responsibilities of the Recordkeeper
30	2700.320	Deferred Compensation Hardship Committee
31	2700.330	Applicable Law

32
33 SUBPART D: PARTICIPATION IN THE PLAN
34

35	Section	
36	2700.400	Eligibility
37	2700.410	Enrollment
38	2700.415	Designation of Beneficiary
39	2700.420	Allowable Deferrals
40	2700.425	Automatic Escalation of Deferred Compensation Rate for Auto-Enrolled 41 Participants
42	2700.430	Basic Annual Limitation
43	2700.435	Age 50 Catch-up Annual Deferral Contributions

44 2700.440 Special Section 457 Catch-up Limitation

45 2700.450 Revocation of Deferral

46

47 SUBPART E: ESTABLISHMENT OF RETIREMENT AGE

48

49 Section

50 2700.500 Normal Retirement Age

51 2700.510 Alternative Normal Retirement Age

52

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

54

55 Section

56 2700.600 Deferred Compensation Accounts

57 2700.610 Allocation of Investment Earnings or Losses

58 2700.620 Investment Option Valuation

59 2700.630 Administrative Costs

60 2700.640 Method of Making Investment Requests

61 2700.650 Participant Statements

62 2700.660 Custodial Account

63 2700.670 Investment Options

64 2700.680 In-Plan Conversions and Rollovers to the Plan

65 2700.690 Plan-to-Plan Transfers to the Plan

66

67 SUBPART G: DISTRIBUTIONS

68

69 Section

70 2700.700 Distribution Events

71 2700.710 Beneficiary Election of Method of Distribution

72 2700.720 Election of Delayed Distribution Date (Repealed)

73 2700.730 Election of Method of Distribution

74 2700.735 Distribution for Certain Balances of \$5,000 or Less

75 2700.740 Unforeseeable Emergency

76 2700.745 Plan-to-Plan Transfers from the Plan

77 2700.750 Permissive Service Credit Transfers

78 2700.760 Leave of Absence

79 2700.770 Loans

80

81 SUBPART H: MISCELLANEOUS

82

83 Section

84 2700.800 Nonassignability

85 2700.810 Payments to Minors and Incompetents

86 2700.820 Missing Persons

- 87 2700.830 Severability
- 88 2700.840 Days and Dates
- 89 2700.850 Domestic Relations Orders
- 90 2700.860 IRS Levy
- 91 2700.870 Mistaken Contributions

92

93 SUBPART I: AMENDMENT OR TERMINATION OF PLAN

94

- 95 Section
- 96 2700.900 Amendment of Plan
- 97 2700.910 Termination of Plan
- 98 2700.920 Merger with Prior Plans

99

- 100 2700.APPENDIX A Administrative Rules (Repealed)
- 101 2700.EXHIBIT A Administrative Rule I (Repealed)
- 102 2700.EXHIBIT B Administrative Rule II (Repealed)
- 103 2700.EXHIBIT C Administrative Rule III (Repealed)
- 104 2700.EXHIBIT D Administrative Rule IV (Repealed)
- 105 2700.EXHIBIT E Administrative Rule V (Repealed)
- 106 2700.EXHIBIT F Administrative Rule VI (Repealed)

107

108 AUTHORITY: Implementing section 457 of the Internal Revenue Code (26 U.S.C. 457) and
 109 implementing and authorized by Section 22A-111.1 and Article 24 of the Illinois Pension Code
 110 [40 ILCS 5].

111

112 SOURCE: Emergency rule adopted at 3 Ill. Reg. 11, p. 161, effective March 6, 1979, for a
 113 maximum of 150 days; adopted at 3 Ill. Reg. 13, p. 7, effective March 19, 1979; amended at 3 Ill.
 114 Reg. 36, p. 436, effective August 29, 1979; amended at 4 Ill. Reg. 1, p. 45, effective December
 115 26, 1979; amended at 6 Ill. Reg. 9655, effective July 23, 1982; rules repealed, new rules adopted
 116 and codified at 7 Ill. Reg. 10845, effective August 31, 1983; emergency amendments at 13 Ill.
 117 Reg. 629, effective January 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 9308,
 118 effective May 31, 1989; emergency amendment at 17 Ill. Reg. 19976, effective November 2,
 119 1993, for a maximum of 150 days; emergency expired April 2, 1994; amended at 18 Ill. Reg.
 120 7224, effective May 2, 1994; amended at 21 Ill. Reg. 10050, effective July 15, 1997; emergency
 121 amendment at 23 Ill. Reg. 566, effective January 1, 1999, for a maximum of 150 days;
 122 amendment at 23 Ill. Reg. 6039, effective May 5, 1999; emergency amendment at 26 Ill. Reg.
 123 478, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7442,
 124 effective May 6, 2002; emergency amendment at 29 Ill. Reg. 20050, effective November 23,
 125 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 8408, effective April 21, 2006;
 126 amended at 33 Ill. Reg. 13451, effective September 14, 2009; amended at 35 Ill. Reg. 13928,
 127 effective August 1, 2011; amended at 36 Ill. Reg. 17518, effective January 1, 2013; amended at
 128 37 Ill. Reg. 14184, effective August 23, 2013; amended at 39 Ill. Reg. 4506, effective March 16,
 129 2015; amended at 42 Ill. Reg. 16757, effective August 30, 2018; amended at 46 Ill. Reg. 15777,

effective August 31, 2022; amended at 47 Ill. Reg. 12412, effective August 4, 2023; amended at 48 Ill. Reg. _____, effective _____.

SUBPART D: PARTICIPATION IN THE PLAN

Section 2700.410 Enrollment

- a) Auto-Enrollment Eligible Employees
 - 1) An Auto-Enrollment Eligible Employee may make one of two affirmative elections during the Auto-Enrollment Opt-Out period:
 - A) Not to have Contributions made; or
 - B) To become a Participant in the Plan under subsection (b).
 - 2) An Auto-Enrollment Eligible Employee who does not make one of the two affirmative elections under subsection (a)(1) during the Auto-Enrollment Opt-Out Period will be automatically enrolled and become a Participant of the Plan following the end of the Auto-Enrollment Opt-Out Period and shall have 3% of their Compensation for each Pay Period deferred on a pretax basis into their Deferred Compensation Account. The Board may increase this default percentage amount of compensation deferred into employee accounts. (See Section 24-105.2 of the Illinois Pension Code.)
- b) Any Employee eligible to participate in the Plan may become a Participant by agreeing to a deferral of their Compensation on a pretax or Roth basis.
- c) The amount to be deferred shall be selected by the Participant at the time of enrollment, unless the Participant is automatically enrolled under subsection (a). This amount may not be less than the minimum amount allowable or exceed the basic annual limitation.
- d) The deferral shall commence as soon as administratively possible~~no sooner than the first Pay Period of the month following the date the deferral election is completed by the Employee~~, or when the Employee is automatically enrolled in accordance with subsection (a).~~However, the deferral shall only commence in that Pay Period if the Pay Agency payroll has not closed, and provided that the election is completed in good order in the month prior to the month in which the deferrals commence.~~
- e) The amount deferred may be changed by the Participant at any time. The change

173 may be made by contacting the Recordkeeper and shall become effective as soon
 174 as administratively possible, or on a future Pay Period as elected by the
 175 Participant~~no sooner than the first Pay Period of the month following the date the~~
 176 ~~election is made by the Employee.~~

- 177
- 178 f) A Participant's request to defer Compensation shall remain in effect until the
 179 Participant's Severance from Employment, unless revoked prior to that time. The
 180 Pay Agency shall suspend deferrals for the remainder of the calendar year for
 181 Participants who have deferred the allowable maximum. If a Participant defers in
 182 excess of the allowable maximum, the Department and Pay Agency shall
 183 withdraw and return to the Participant the excess amount deferred. Deferrals will
 184 resume with the first paycheck received in the following calendar year.
- 185
- 186 g) Deferrals can be made by reductions in Compensation only.
- 187
- 188 h) The Participant election shall also include the designation of Investment Options.
 189 In the event the Participant fails to designate an Investment Option, the
 190 Participant shall be invested in the Plan's ~~default Target Date Funds as the Plan's~~
 191 ~~Default~~ Investment Option Alternative, consistent with the direction from the U.S.
 192 Department of Labor, as selected by the Board in accordance with Section
 193 2700.670(c). This election shall remain in effect until a new election is filed.
- 194
- 195 i) An employee who has been automatically enrolled in the Plan may elect, within
 196 90 days after enrollment, to withdraw from the Plan and receive a refund of
 197 amounts deferred, as well as any earnings after Plan fees. An employee making
 198 such an election shall forfeit all employer matching contributions, if any, made
 199 prior to the election. Any refunded amount shall be included in the employee's
 200 gross income for the taxable year in which the refund is issued. The effective date
 201 of the withdrawal will be as soon as administratively practicable. Unless the
 202 Participant affirmatively elects otherwise, any withdrawal request will be treated
 203 as an affirmative election to cease having elective deferrals made on the
 204 Participant's behalf.
- 205
- 206 j) After the Auto-Enrollment Opt-Out Period, an Auto-Enrollment Eligible
 207 Employee will be invested as follows:
- 208
- 209 1) If an Auto-Enrollment Eligible Employee does not have a contribution
 210 allocation on file, contributions will go into the Plan's default Investment
 211 Option, in accordance with subsection (h)~~Stable Value Fund~~.
- 212
- 213 2) If an Auto-Enrollment Eligible Employee already has a contribution
 214 investment allocation on file, the existing allocation will be used instead.
- 215

- 216 ~~k) If a Participant who does not have a contribution investment allocation already on~~
217 ~~file does not change the default auto enrollment arrangement of the Participant's~~
218 ~~future contribution investment allocation and/or existing investment balances, the~~
219 ~~existing Stable Value Fund account balance and future Stable Value Fund~~
220 ~~investment allocations shall be transferred to the Plan's Target Date Funds as soon~~
221 ~~as administratively possible following the Auto Enrollment Withdrawal Period.~~
222
- 223 ~~l) During the Auto Enrollment Withdrawal Period, Participants may make two~~
224 ~~separate decisions:~~
 - 226 ~~1) To keep, cancel or change the pending mix transaction for future~~
227 ~~investment allocations; or~~
 - 228 ~~2) To keep, cancel or change the pending exchange transaction.~~
- 229
- 230
- 231 ~~m) Acceptance by the Department shall be granted whenever forms are properly~~
232 ~~completed and the criteria for acceptance under Section 2700.400 are met.~~
233

234 (Source: Amended at 48 Ill. Reg. _____, effective _____)

235 SUBPART G: DISTRIBUTIONS

236 Section 2700.700 Distribution Events

- 237
- 238
- 239
- 240 a) Distributions under this Plan shall be made in accordance with Code section
241 401(a)(9) (including, but not limited to, the Plan provisions described in Sections
242 2700.315 and 2700.740) and Treasury Regulations issued under section 401(a)(9),
243 including the minimum distribution incidental benefit requirement of Code
244 section 401(a)(9)(G) and Treasury Regulations 1.401(a)(9)-2 through 1.401(a)(9)-
245 9 (26 CFR 1.401(a)(9)-2 through (a)(9)-9 (2012)). However, these provisions of
246 the Code and Treasury Regulations shall override the other distribution provisions
247 of the Plan only to the extent that the other Plan provisions provide for a
248 distribution that is less rapid than is required under the provisions of the Code and
249 the Treasury Regulations.
250
- 251 b) In accordance with the Coronavirus Aid, Relief, and Economic Security Act (the
252 CARES Act; 15 U.S.C. 116), the Plan will not make required minimum
253 distributions to Plan Participants who otherwise would be required to take a
254 required minimum distribution in calendar year 2020. 2020 required minimum
255 distributions requested prior to the CARES Act passage may be recontributed to
256 the Plan in accordance with IRS guidance.
257
- 258 c) In accordance with the CARES Act, the Plan will permit Plan Participants who

259 are qualified individuals (as provided in section 2202 of the CARES Act) to
 260 request Coronavirus-Related Distributions up to an aggregate limit of \$100,000
 261 from May 29, 2020 through December 28, 2020. Plan Participants may repay all
 262 or part of the amount of a Coronavirus-Related Distribution, provided the
 263 repayment is made within 3 years after the date that the distribution was received.
 264 If repaid, the distribution will be treated as though it were repaid in a direct
 265 trustee-to-trustee transfer.

- 266
- 267 d) A Participant's Deferred Compensation Account may begin to be distributed 30
 268 days after the date of one of the following events:
 269
 - 270 1) Severance from Employment;
 - 271
 - 272 2) Death; or
 - 273
 - 274 3) Delayed Distribution Date.
 - 275
 - 276 e) A Participant's Deferred Compensation Account may begin to be distributed in
 277 the calendar year in which the Participant attains age 59½.
 278
 - 279 f) A Participant's Deferred Compensation Account may begin to be distributed as
 280 soon as possible but not later than 30 days after determination of an
 281 Unforeseeable Emergency.
 282
 - 283 g) A Participant, with \$5,000 or less in the Participant's Deferred Compensation
 284 Account, may elect to cash out the Account in compliance with conditions
 285 specified in Section 2700.735.
 286
 - 287 h) No distributions shall be made to a Participant who is employed as an
 288 independent contractor before a date that is at least 12 months after the day on
 289 which the Participant's employment contract expires. Should the independent
 290 contractor be re-employed by the State as either an Employee or independent
 291 contractor during the 12-month waiting period, no distribution shall be started on
 292 the projected distribution date. If the contractor has attained age 70½ at the time
 293 the contract is terminated, the 12-month waiting period is waived.
 294
 - 295 i) Participants are responsible for notifying the Department (e.g., email, phone call)
 296 of their Severance from Employment.
 297
 - 298 j) Beneficiaries are responsible for notifying the Department (e.g., email, phone
 299 call) or the Recordkeeper (e.g., website, phone call) of the death of the Participant
 300 and supplying the Department with a certified copy of the Death Certificate.
 301

- 302 k) A Participant who does not receive the initial distribution until the calendar year
303 following the year in which the Participant reaches the applicable age as defined
304 under Code section 401(a)(9) 72 or separates, if they work past that age 72, shall
305 receive at least 2 taxable distributions in the same year.
306
- 307 l) If a Participant has a separate account attributable to rollover contributions to the
308 Plan, the Participant may at any time elect to receive a distribution of all or any
309 portion of the amount held in the rollover account.
310
- 311 m) An alternate payee, pursuant to the terms of a qualified domestic relations order,
312 may at any time elect to receive a distribution of all or any portion of the amount
313 held and maintained on behalf of the alternate payee upon the proper execution
314 and designation under the qualified domestic relations order. An alternate payee
315 is not eligible to apply for a Loan pursuant to Section 2700.770.
316
- 317 n) If a Participant has an outstanding Loan, the Participant's or Beneficiary's accrued
318 benefit shall be subject to offset or other adjustment upon distribution, in
319 satisfaction of any outstanding Loan balance.
320
- 321 o) Notwithstanding any provision in this Part to the contrary, for a Participant's Roth
322 Contributions only, a distribution shall not be a "qualified distribution" unless it
323 meets the requirements of Code section 402A(d).
324

325 (Source: Amended at 48 Ill. Reg. _____, effective _____)
326

327 **Section 2700.710 Beneficiary Election of Method of Distribution**
328

- 329 a) If the Participant dies prior to January 1, 2022, before the account has been
330 exhausted, the remaining account values shall be paid to the Designated
331 Beneficiary or Non-Designated Beneficiary. For purposes of this Section, a
332 "Non-Designated Beneficiary" is a Beneficiary who is not a natural person, such
333 as a trust, estate or other legal entity. The Beneficiary shall have the right to elect
334 the time and method of distribution, subject to the limitations set forth by the
335 Plan, notwithstanding Section 2700.730(b), in the following manner:
336
- 337 1) If the Participant dies before the required beginning distribution date under
338 subsection 2700.710(j), payments to:
339
- 340 A) A surviving spouse may be delayed until December 31 of the year
341 in which the Participant would have attained the applicable age as
342 defined under Code section 401(a)(9)72 ~~(or 70½ if the Participant~~
343 ~~was born before July 1, 1949)~~. The entire account must be
344 withdrawn over a period not extending beyond the single life

345 expectancy of the surviving spouse. If the surviving spouse, who
346 is the Designated Beneficiary, dies prior to the required beginning
347 date, the surviving spouse's designated Beneficiary shall receive
348 distribution in full by the end of the fifth calendar year that
349 contains the fifth anniversary of the surviving spouse's death or
350 over a period of time designated by the single life expectancy of
351 the surviving spouse in the year following the year of death and
352 reduced by one for each subsequent year of distribution.

353
354 B) A non-spousal Beneficiary must be distributed in full by the end of
355 the fifth calendar year that contains the fifth anniversary of the
356 Participant's death, or distributed in full over a period of time
357 designated by the single life expectancy of the Beneficiary in the
358 year following year of death and reduced by one for each
359 subsequent year of distribution.

360
361 C) A Non-Designated Beneficiary must be distributed in full by the
362 end of the calendar year that contains the fifth anniversary of the
363 Participant's death.

364
365 2) If the Participant dies on or after the required beginning date:

366
367 A) The Beneficiary may elect to receive distribution for the period of
368 time up to, but not longer than, the Participant's life expectancy in
369 the year of death, determined by the Single Life Expectancy Table
370 and reduced by one each subsequent year, or the Beneficiary's
371 recalculated single life expectancy as of the year following the year
372 of death of the Participant. A non-spousal Beneficiary must have
373 that age reduced by one for each subsequent year of distribution.

374
375 B) A surviving spouse may elect distributions over the surviving
376 spouse's own single life expectancy. In the case of the death of the
377 surviving spouse, this period of time may be used to continue
378 payments to the spouse's declared Beneficiaries.

379
380 C) A Non-Designated Beneficiary must be distributed in full by the
381 end of the calendar year that contains the fifth anniversary of the
382 Participant's death.

383
384 3) If the account holder is a Designated Beneficiary, distributions to a
385 successor Beneficiary may continue at least as quickly as, but no longer
386 than, the single life expectancy of the deceased designated Beneficiary
387 reduced by one for each subsequent year of distribution.

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- b) If the Participant dies on or after January 1, 2022, before the account has been exhausted, the remaining account values shall be paid to the Eligible Designated Beneficiary, Designated Beneficiary, or Non-Designated Beneficiary. The Beneficiary shall have the right to elect the time and method of distribution, subject to the limitations set forth by the Plan, notwithstanding Section 2700.730(b), in the following manner:
- 1) An Eligible Designated Beneficiary that is a surviving spouse may elect to receive distributions over the period of time up to, but not longer than, the Beneficiary single life expectancy, or in full by the end of the calendar year that contains the tenth anniversary of the Participant's death. If no election is made by September 30 of the year following the year of the Participant's death or year in which the Participant would have attained the applicable ~~turned~~ age as defined under Code section 401(a)(9)72 (or 70½ if the Participant was born before July 1, 1949), whichever is later, then the account will be distributed in full by the end of the calendar year that contains the tenth anniversary of the Participant's death.
 - 2) An Eligible Designated Beneficiary that is not a surviving spouse may elect to receive distributions over the period of time up to, but not longer than, the Beneficiary's single life expectancy, or in full by the end of the calendar year that contains the tenth anniversary of the Participant's death.
 - A) If no election is made by September 30 of the year following the year of the Participant's death or year the Participant would have turned age 72 (or 70½ if the Participant was born before July 1, 1949), whichever is later, then the account will be distributed in full by the end of the calendar year that contains the tenth anniversary of the Participant's death.
 - B) A minor child shall cease to be an Eligible Designated Beneficiary as of the date the individual reaches majority and any remaining account value must be distributed within 10 years after that date.
 - 3) Any other Designated Beneficiary must be distributed in full by the end of the calendar year that contains the tenth anniversary of the Participant's death.
 - 4) A Non-Designated Beneficiary must be distributed in full by the end of the calendar year that contains the fifth anniversary of the Participant's death.

- 430 5) In the case that a Designated Beneficiary dies before the account has been
431 entirely distributed, rules for distributions to a successor Beneficiary are as
432 follows:
433
434 A) Upon the death of a Designated Beneficiary, the account shall be
435 entirely distributed to a successor Beneficiary by the date the
436 Designated Beneficiary would have been required to receive a
437 complete distribution.
438
439 B) Upon the death of an Eligible Designated Beneficiary who is not a
440 surviving spouse, the account shall be distributed to a successor
441 Beneficiary within 10 years after the death of the Eligible
442 Designated Beneficiary.
443
444 C) Upon the death of an Eligible Designated Beneficiary who is a
445 surviving spouse:
446
447 i) If the surviving spouse dies before distributions have
448 begun, then the surviving spouse becomes the Participant
449 for purposes of this Section and for the purposes of
450 distributions to a successor Beneficiary.
451
452 ii) If the surviving spouse dies after distributions have begun
453 but before the account is entirely distributed, the remaining
454 account value shall be entirely distributed to a successor
455 Beneficiary within 10 years after the death of the Eligible
456 Designated Beneficiary.
457

458 (Source: Amended at 48 Ill. Reg. _____, effective _____)
459

460 **Section 2700.730 Election of Method of Distribution**
461

- 462 a) In an election to commence benefits as provided for under Section 2700.700, a
463 Participant entitled to a distribution of benefits may elect to receive payment in
464 any of the following forms of distribution:
465
466 1) a lump sum payment of the total Account Balance; or
467
468 2) a partial lump sum payment; or
469
470 3) ~~annual~~-installment payments on an annual, semi-annual, quarterly, or
471 monthly basis through the year of the Participant's death, the amount
472 ~~payable each year equal to a fraction of the Account Balance equal to 1~~

473 ~~divided by the distribution period set forth in the Uniform Lifetime Table~~
 474 ~~at 26 CFR 1.401(a)(9)-9, A-2 (2008) for the Participant's age on the~~
 475 ~~Participant's birthday for that year.~~

476
 477 ~~A) If the Participant's age is less than age 70, the distribution period is~~
 478 ~~27.4 plus the number of years that the Participant's age is less than~~
 479 ~~age 70.~~

480
 481 ~~B) At the Participant's election, this annual payment can be made in~~
 482 ~~monthly, quarterly or semi-annual installments.~~

483
 484 ~~C) The Account Balance for this calculation (other than the final~~
 485 ~~installment payment) is the Account Balance as of the end of the~~
 486 ~~year prior to the year for which the distribution is being calculated.~~

487
 488 ~~D) For any year, the Participant can elect distribution of a greater~~
 489 ~~amount (not to exceed the amount of the remaining Account~~
 490 ~~Balance) rather than the amount calculated under subsection~~
 491 ~~(a)(2)(C).~~

492
 493 b) A Participant, Beneficiary ~~or the surviving spouse~~ of a Participant, (or a
 494 Participant's former spouse who is an alternate payee under a domestic relations
 495 order, as defined in section 414(p) of the Code,) who is entitled to an eligible
 496 rollover distribution may elect, at the time and in the manner prescribed under the
 497 Plan, to have ~~all or any portion of~~ the distribution paid directly to an eligible
 498 retirement plan ~~as specified by the Participant in~~ a direct rollover. An eligible
 499 retirement plan means an individual retirement account described in section
 500 408(a) of the Code, an individual retirement annuity described in section 408(b)
 501 of the Code, a qualified trust described in section 401(a) of the Code, an annuity
 502 plan described in section 403(a) or 403 (b) of the Code, or an eligible
 503 governmental plan described in section 457(b) of the Code, that accepts the
 504 eligible rollover distribution.

505
 506 c) For purposes of this Section, an eligible rollover distribution means any
 507 distribution of all or any portion of a Participant's Account Balance, except that an
 508 eligible rollover distribution does not include:

509
 510 ~~1) any installment payment under subsection (a) for a period of 10 years or~~
 511 ~~more;~~

512
 513 12) any distribution made under Section 2700.740 as a result of an
 514 Unforeseeable Emergency; or

515

- 516 23) the portion, if any, of the distribution that is a required minimum
517 distribution under section 401(a)(9) of the Code other than those
518 distributions described in subsections (c)(1) and (c)(2).
519
- 520 d) In no event shall any distribution under this Section begin later than the latter of:
521
- 522 1) April 1 of the year following the calendar year in which the Participant
523 attains the applicable age as defined under Code section 401(a)(9)~~70½~~; or
524
- 525 2) April 1 of the year following the year in which the Participant retires or
526 otherwise has a Severance from Employment.
527
- 528 e) If distributions commence in the calendar year following the latter of the calendar
529 year in which the Participant attains the applicable age as defined under Code
530 section 401(a)(9)~~70½~~ or the calendar year in which the Severance from
531 Employment occurs, the distribution on the date that distribution commences
532 must be equal to the annual installment payment for the year that the Participant
533 has a Severance from Employment determined under subsection (a)(2), and an
534 amount equal to the annual installment payment for the year after Severance from
535 Employment determined under subsection (a)(2) must also be paid before the end
536 of the calendar year of commencement.
537
- 538 f) Any election made under this Section may be revoked at any time.
539
- 540 g) Any portion of the Deferred Compensation Account that has not been distributed
541 shall continue to be credited and/or debited according to the provisions of
542 Sections 2700.600 and 2700.610.
543

544 (Source: Amended at 48 Ill. Reg. _____, effective _____)