

DEPARTMENT OF EMPLOYEE RELATIONS

IN THE MATTER OF THE PROPOSED
AMENDMENT OF RULES REGARDING DEFINITIONS
IN PERSONNEL RULES AND DEPOSITS OF
SOCIAL SECURITY CONTRIBUTIONS BY COVERED
PUBLIC EMPLOYERS

STATEMENT OF NEED
AND REASONABLENESS

The above-captioned rules are amendments to existing Personnel rules of the Department of Employee Relations. The last time these sections of the above-captioned rules were amended was January 1, 1983.

These amended rules need to be adopted so that: 1) all definitions are incorporated within the rule on definitions; and, 2) to allow implementation of the revised deposit schedule for social security contributions enacted into law by the passage in U.S. Congress of the Social Security Amendments of 1983, Public Law 98-21 enacted on April 20, 1983 (Exhibit A) and to repeal obsolete rules. Social Security Administration's record-keeping and reporting instructions to State Social Administrators will be revised to reflect the new deposit schedule for social security contributions. (Exhibit B, Handbook for State Social Security Administrators, Informational Release No. 48, dated May 23, 1983.) The authority of the Department of Employee Relations to promulgate and adopt rules is M.S. 43A.04, Subd. 3 and M.S. 355.05.

Specifically,

1. 2 MCAR § 2.303 Definitions.

This rule is amended to incorporate the definition of "Handicapped" in the rule entitled "definitions." Currently, the definition is included in a separate rule 2 MCAR § 2.225, which is the only definition included in 2 MCAR § 2.303. All definitions should be incorporated within a single rule.

2. 2 MCAR § 2.406 B. 1.

This section has been revised to require that public employers covered by the State Social Security Agreement be required to remit social security contributions to the State agency twice a month for covered State and local governmental employees. Contributions on wages paid during the first 15 days of each calendar month will be due on the 20th of that month; contributions on wages paid from the 16th through the last day of each month will be due on the 5th day of the following month. These changes will be effective for contributions due on wages paid after December 31, 1983. Under existing rules, the contributions from the political subdivisions are due within the 15-day period following the end of the month in which the wages are paid.

This revision is necessary because present State rules are based upon federal social security law requiring the State to deposit contributions within the 30-day period following the end of the month. This depositing requirement was revised by Social Security Amendments of 1983, Public Law 98-21.

Under the revised depositing schedule set forth in the federal legislation, the State is required to deposit contributions on wages paid during the first through fifteenth day of each month by the last day of such month. For wages paid between the sixteenth and the last day of each month, the State is required to deposit the contributions by the fifteenth day of the following

month. The proposed schedule is reasonable in that it allows ample time for the reporting units to make their social security contribution remittances to the State Agency and at the same time provides the State Agency the minimum time necessary to properly receive, record and deposit with the State Treasurer the contributions from the 2,300 covered reporting units prior to the deadline for the consolidated deposit of social security contributions with the Federal Government.

3. 2 MCAR § 2.406 B. 5.

The section has been revised to preclude the need for any future rule amendments relating to the rate of interest charged delinquent reporting units. Under federal social security law, the annual interest rate charged the State by Social Security Administration on late payments of social security contributions on the earnings of State and local governmental employees is 6 per cent per annum. Our present State rules in this section and in 2 MCAR § 2.409 and 2 MCAR § 2.413 establishes 6 per cent per annum as the rate charged reporting units for delinquent contributions to the State Agency. The revised rule would not change this rate at this time.

However, the U.S. House of Representatives' Bill containing the Social Security Amendments of 1983 included a provision for changing the rate of interest charged the State by Social Security Administration on late payments of social security contributions. (Exhibit C excerpts from Congressional Record--House, dated March 24, 1983.) The U.S. House-Senate Conference Committee did not include this provision in the final enactment. However, Social Security Administration has advised this office that efforts will be made in the future to enact the change in the rate of interest charged.

The proposed rule would automatically incorporate into the State rules any change enacted at the Federal level. It further provides that the same rate charged the State would be applied to the reporting units, thus it is reasonable.

4. 2 MCAR § 2.409

This section provides the State with authority and methods to collect delinquent payments with interest at 6 per cent per annum. The proposed revision applies only to the rate of interest with the same rationale as in 2 MCAR § 2.406 B. 5.

5. 2 MCAR § 2.413

This section provides interest on quarterly reports for periods prior to 1981 that are not received within the prescribed time limits. Here again, the proposed revision applies to the rate of interest with the same rationale as in 2 MCAR § 2.406 B. 5.

6. 2 MCAR § 2.225

This rule is repealed because the context of the rule has been incorporated into 2 MCAR § 2.303 and is now redundant.

7. 2 MCAR § 2.2301

This rule is obsolete and no longer needed.