

BEFORE THE PUBLIC EMPLOYEES' RETIREMENT BOARD
OF THE STATE OF MONTANA

In the matter of the adoption of New)	NOTICE OF PROPOSED
Rule I pertaining to commencement)	ADOPTION
of guaranteed annual benefit)	
adjustment)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Concerned Persons

1. On August 25, 2018, the Public Employees' Retirement Board proposes to adopt the above-stated rule.

2. The Public Employees' Retirement Board will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Montana Public Employee Retirement Administration no later than 5:00 p.m. on July 27, 2018, to advise us of the nature of the accommodation that you need. Please contact Kris Vladic, Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-2578; fax (406) 444-5428; TDD (406) 444-1421; or e-mail kvladic@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I COMMENCEMENT OF GUARANTEED ANNUAL BENEFIT ADJUSTMENT (1) If otherwise eligible, a retired member of any retirement system will receive their first guaranteed annual benefit adjustment (GABA) in their January benefit if they have been receiving a monthly benefit in every month for at least 12 months. Except as provided in (2), commencement of the 12-month period starts the month in which the first benefit payment is made, not the month for which any part of the payment is due.

(2) In the event a member timely applies to begin retirement in January of any year, but through no fault of the member the January payment is not paid until a later month, the member will be eligible for GABA the January immediately following commencement of payment of the benefit.

(a) "Timely applies" is dependent upon individual circumstances, but in any event a fully completed application must be filed on or before the 10th of any month in order to be considered timely for receipt of a retirement benefit payment in that month.

(b) MPORS DROP applications must be filed pursuant to ARM 2.43.4609(4) in order to be considered "timely."

AUTH: 19-2-403, 19-3-1605, 19-5-901, 19-5-902, 19-6-710, 19-6-711, 19-6-712, 19-8-1105, 19-9-1009, 19-9-1010, 19-9-1013, 19-13-1010, 19-13-1011, MCA

IMP: 19-2-908, 19-3-1605, 19-5-901, 19-5-902, 19-6-710, 19-6-711, 19-6-712, 19-7-711, 19-8-1105, 19-9-1009, 19-9-1010, 19-9-1013, 19-9-1207, 19-13-1010, 19-13-1011, MCA

REASON: Administrative delay outside the control of the member can result in members who terminate service and apply for retirement starting January 1 of any year not receiving a retirement benefit payment in January. Rather, assuming they are eligible, the January and any subsequent monthly benefit payments may be paid in a later month. This rule is necessary to clarify that when the delay is not attributable to a member eligible to retire in January, the member will be eligible to receive a GABA the following January. If the delay is attributable to the member's delinquency, the 12-month time period will not commence until the month initial payment occurs. This is consistent with the legislature's stated intent when adopting Section 43, Ch. 370, L. 1997: "The retirement date is the date on which the member accepts the first benefit payment. An inactive member who has not met all eligibility requirements for retirement, including proper submission of a written application for retirement benefits, should not be considered a 'retiree' during the period of time before the member actually began receiving benefit payments, even though the member may later receive payments retroactive to an earlier commencement date."

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Montana Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-3154; fax (406) 444-5428; or e-mail mpera@mt.gov, and must be received no later than 5:00 p.m., August 3, 2018.

5. If persons who are directly affected by the proposed amendments wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Kris Vladic at the above address no later than 5:00 p.m., August 3, 2018.

6. If the Public Employees' Retirement Board receives requests for a public hearing on the proposed amendments from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed amendment; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 64 based on approximately 642 participants in the Defined Benefit Retirement Plan that have retired in calendar year 2018.

7. The Public Employee Retirement Administration maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to

receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the Montana Public Employee Retirement Administration.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the Public Employees' Retirement Board has determined that the adoption of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Melanie A. Symons
Melanie A. Symons
Chief Legal Counsel
and Rule Reviewer

/s/ Maggie Peterson
Maggie Peterson
Vice President
Public Employees' Retirement Board

Certified to the Secretary of State June 26, 2018.