

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

In the matter of the amendment of)	NOTICE OF PROPOSED
ARM 2.43.3501 and 2.43.5101)	AMENDMENT
pertaining to the adoption by)	
reference of the State of Montana)	NO PUBLIC HEARING
Public Employee Defined)	CONTEMPLATED
Contribution Plan Document and the)	
State of Montana Public Employee)	
Deferred Compensation (457) Plan)	
Document)	

TO: All Concerned Persons

1. On August 28, 2020, the Public Employees' Retirement Board proposes to amend the above-stated rules.

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 17, 2020, to advise us of the nature of the accommodation that you need. Please contact Kris Vlastic, 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 rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

2.43.3501 ADOPTION OF DEFINED CONTRIBUTION PLAN DOCUMENT AND TRUST AGREEMENT (1) remains the same.

(a) State of Montana Public Employee Defined Contribution Plan Document (January 2018 edition) that was approved by the board on ~~December 14, 2017~~ June 11, 2020, and describes the terms and conditions related to the operation and administration of the plan;

(b) and (2) remain the same.

AUTH: 19-3-2104, MCA
IMP: 19-3-2102, MCA

2.43.5101 ADOPTION OF DEFERRED COMPENSATION PLAN DOCUMENT AND TRUST AGREEMENT (1) remains the same.

(a) State of Montana Public Employee Deferred Compensation Plan Document (January 2018 edition), that was approved by the board on ~~December 14,~~

2017 June 11, 2020, and describes the terms and conditions related to the operation and administration of the plan; and
(b) and (2) remain the same.

AUTH: 19-50-102, MCA

IMP: 19-50-102, MCA

STATEMENT OF REASONABLE NECESSITY: The Public Employees' Retirement Board, as administrator of the Public Employee Retirement System's Defined Contribution Retirement Plan (DCRP) and the State of Montana 457(b) Deferred Compensation Plan, is proposing to revise the DCRP Plan Document and the 457(b) Deferred Compensation Plan Document to update the definition of "Eligible Retirement Plans" and to incorporate recent changes to federal law requirements as provided for in the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act).

The SECURE Act increased an individual's required minimum distribution age from age 70 1/2 to age 72. This change in federal law applies to both the Defined Contribution Retirement Plan and the 457(b) Deferred Compensation Plan. As such, Sections 11.01(b), 11.04, and 11.06(c) of the Defined Contribution Retirement Plan Document and Sections 9.01(b), 9.04(b), and 9.06(c) of the 457(b) Deferred Compensation Plan Document are amended to reflect this increase to age 72 for an individual's required minimum distribution age.

Additionally, the SECURE Act created a special rule under IRS Code Section 415(c) for "difficulty of care payments" for defined contribution plans which are otherwise excluded from gross income under IRS Code Section 131. This special rule treats "difficulty of care payments" as compensation for purposes of applying IRS Code Section 415 contribution limits to defined contribution plans. As such, Section 4.02(f) of the Defined Contribution Plan Document, which defines "compensation" for purposes of applying contribution limits under IRS Code Section 415, is amended to include a reference to the entirety of IRS Code Section 414(c), rather than only 415(c)(3), when defining "compensation" to now include "difficulty of care payments" in this definition.

An additional amendment is made to each plan document unrelated to the SECURE Act. Article XIV(b) of the Defined Contribution Plan and Section 13.02(b) of the 457(b) Deferred Compensation Plan which provide for the definition of "Eligible Retirement Plan" for purposes of defining which separate retirement plans qualify for Eligible Rollover Distributions under each plan is amended to now include SIMPLE IRAs as permitted by the IRS.

The revised plan documents were reviewed and approved by the board at its June 11, 2020 board meeting. Because the board determined to adopt the original plan documents by reference, 2-4-307(3), MCA, requires that changes to the documents also be adopted by reference. Therefore, it is necessary to amend the rules that

adopt the plan documents to indicate the version of the plan documents being adopted by reference.

The plan documents are available on the board's web page at mpera.mt.gov.

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., July 24, 2020.

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., July 24, 2020.

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 1,381 persons based on approximately 4,266 participants in the Defined Contribution Retirement Plan and 9,540 participants in the 457(b) Deferred Compensation Plan as of June 30, 2019, for a total of 13,806 participants.

7. The Public Employees' Retirement Board 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 PER Board.

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 amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ William Holahan
William Holahan
Chief Legal Counsel
and Rule Reviewer

/s/ Sheena Wilson
Sheena Wilson
President
Public Employees' Retirement Board

Certified to the Secretary of State June 16, 2020.