

**Public Employees' Retirement Board  
April 14, 2016**

**Topic: Defined Contribution Plan Document Revisions**

The PERS-DCRP 401(a) Plan document was revised December 22, 2015 to incorporate changes related to the 2015 Qualification Legislation. Thereafter and as a result of the Cycle E filing of the DCRP Plan with the IRS, tax counsel recommended two changes to the Plan Document. Those changes are outlined in Amendment One.

The revision to Section 3.02, Employer Contributions, is merely grammatical and clarifies that the 0.135% additional employer contributions occurred as of July 1, 2007 and July 1, 2009.

The revision to Section 11.06, Payments to Beneficiary, reflects changes in federal law with respect to payment options available to beneficiaries of members who die prior to commencement of distributions from the member's DCRP account. Although the distribution must now occur within 60 days rather than one year, the clock does not commence until the Board becomes aware of the member's death.

Tax counsel recommends that the revisions be retroactive to the most recent effective date, December 22, 2015. Counsel knows of no reason not to make these revisions retroactive as they reflect the law as it existed at that time.

**Staff Recommendation:**

Adopt Amendment One to the DCRP Plan Document effective 12/22/2015

**Board Motion:**

Uphold staff recommendation  
or

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Moved by

\_\_\_\_\_  
Seconded by

\_\_\_\_\_  
Vote

**AMENDMENT ONE TO THE  
STATE OF MONTANA PUBLIC EMPLOYEE DEFINED CONTRIBUTION PLAN**

WHEREAS, the State of Montana Public Employee Defined Contribution Plan (“Plan”) was originally effective July 1, 2002 and most recently amended and restated December 22, 2015;

WHEREAS, to the extent consistent with sections 19-2-403 and 19-3-2104 of the Montana Code Annotated (“MCA”) and Article XVIII of the Plan, the Montana Public Employees’ Retirement Board (“Board”) has the right to amend the Plan at any time;

WHEREAS, the Board desires to amend the Plan to clarify the effective dates of certain additional employer contributions; and

WHEREAS, the Board desires to amend the Plan to clarify the Payments to Beneficiary provision;

NOW, THEREFORE, the Plan is hereby amended as follows, effective December 22, 2015:

1. Effective December 22, 2015, Section 3.02, concerning employer contributions, is hereby amended to be and read as follows:

**“Section 3.02. Employer Contributions. Subject to § 19-3-316(4), MCA, the Employer contribution shall be calculated as follows:**

- (a) 6.9%, less
  - (1) the plan choice rate determined under § 19-3-2117, MCA, less
  - (2) the education fund rate and less
  - (3) the long-term disability fund rate under § 19-3-2117; and

(b) an additional contribution of 1.27% based on increased employer contributions of 0.135% as of July 1, 2007, 0.135% as of July 1, 2009, and 1% beginning on July 1, 2013 and increased by 0.1% each fiscal year starting fiscal year 2014 through fiscal year 2024. Thereafter, the percentage is 2.27% continuing until the additional contributions terminate pursuant to § 19-3-316, MCA. The additional contributions must be allocated as set forth in § 19-3-2117, MCA.”

2. Effective December 22, 2015, Section 11.06, concerning payments to beneficiary, is hereby amended to be and read as follows:

**"Section 11.06. Payments to Beneficiary.** In the event of the Participant's death, any remaining benefit shall be distributed according to the following subject to compliance with Code Section 401(a)(9) and regulations thereunder.

(a) If the Participant had begun receiving periodic payments from the Plan that were not annuitized, the balance of the Vested Accounts shall be paid to the Beneficiary at least as rapidly as under the payment option selected by the Participant.

(b) If the Participant had begun receiving payments under an annuity contract, the Beneficiary shall be bound by all restrictions of that contract and the form of payment selected thereunder, and remaining payments, if any, shall be paid to the Beneficiary under the contract.

(c) If the Participant dies before distributions have commenced, a spouse Beneficiary may delay the commencement of benefits until as late as the date the Participant would have attained age 70½ and may elect to receive payments at such time over the Beneficiary's life expectancy.

(d) If the Participant dies before distributions have commenced, a non-spouse Beneficiary ~~may shall~~ take a lump sum ~~or roll the account balance to an individual retirement account or individual retirement annuity that is treated as an inherited individual retirement account or annuity~~ distribution or rollover. In the case of a lump sum or rollover, payment or rollover must be made no later than ~~one year~~ 60 days after receipt by the date Board of satisfactory proof of the Participant's death.

(e) Notwithstanding the foregoing, any payment to an estate, charitable organization or a trust, shall be made in a lump sum.

3. In all other respects the Plan shall be and remain unchanged.

**As approved and adopted:**

**MONTANA PUBLIC EMPLOYEES' RETIREMENT BOARD**

By: \_\_\_\_\_  
Board President

Date: \_\_\_\_\_