

**Public Employees' Retirement Board
June 11, 2015**

Topic: Notice of Amendment of Administrative Rule of Montana 2.43.3505 – Adoption of Amendment allowing DC Long-Term Disability Plan trust funds to be invested in a commingled trust or group trust fund

Staff Recommendation:

A Notice of Proposed Amendment was issued April 16, 2015, amending ARM 2.43.3505, Establishment of Long-Term Disability Trust Fund. The proposed amendment identifies the trust fund as a governmental plan under IRC 401(a)(24) eligible for investment in one or more group trust funds as determined by the Board of Investments.

One comment was received regarding the addition of section 19-2-504, as an implementing statute for the rule. MPERA agrees and proposes to add 19-2-504 as an additional implementing authority.

The comment period for this rule ended May 15, 2015. No other comments were received.

Staff recommends the Board approve the proposed rule amendment to ARM 2.43.3505, and approve submittal to the Secretary of State's office of the following "Notice of Amendment".

Board Motion:

- Uphold Staff Recommendation
- Other.

Moved by _____

VOTE: _____

Seconded by _____

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 2.43.3505 pertaining to)
establishment of long-term disability)
trust fund)

TO: All Concerned Persons

1. On April 16, 2015, the Public Employees' Retirement Board published MAR Notice No. 2-43-525 pertaining to the proposed amendment of the above-stated rule at page 348 of the 2015 Montana Administrative Register, Issue Number 7.

2. The Public Employees' Retirement Board has amended the following rule as proposed, but with the following change from the original proposal, new matter underlined, deleted matter interlined:

2.43.3505 ESTABLISHMENT OF LONG-TERM DISABILITY TRUST FUND
(1) through (5) remain as proposed.

AUTH: 19-3-2104, 19-3-2141, MCA
IMP: 19-2-504, 19-3-2117, 19-3-2141, MCA

3. The Public Employees' Retirement Board has thoroughly considered the comments received. A summary of the comments received and the Public Employees' Retirement Board's responses are as follows:

COMMENT #1: An employee of the Legislative Services Division noted that the implementation statutes did not include 19-2-504, MCA Investment of pension trust funds. The proposed rule amendment concerns long-term disability trust fund investments. That type of trust fund is not mentioned in the any of the current implementing statutes under the proposed amended rule.

The commenter also inquired as to who made the determination that the long-term disability plan is an Other Post-Employment Benefit (OPEB).

RESPONSE #1: The Board agrees with the implementation statute comment and has added 19-2-504, MCA to ARM 2.43.3505 implementation statutes.

The Board explained that the Board's actuary, Cheiron, made the determination that the Defined Contribution long-term disability trust fund is an OPEB. Ice Miller LLP, the Board's tax counsel, agreed with the determination.

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

/s/ Scott Moore
Scott Moore
President
Public Employees' Retirement Board

Certified to the Secretary of State June 15, 2015.