

# Public Employees' Retirement Board

August 13, 2015

**Topic: Proposed Amendment of Administrative Rule – Notice. No. 2-43-532**

This rule is proposed to be amended to reflect the Board's previous decision that the DCRP's Qualified Default Investment Alternative (QDIA) is the participant's age-appropriate target date fund and to further identify the target date fund as the QDIA for the state of Montana's 457(b) deferred compensation plan.

**Staff Recommendation:**

Staff recommends the Board adopt the proposed rule amendment and approve submittal to the Secretary of State's office as a "Notice of Proposed Amendment"

**Board Motion:**

Uphold Staff Recommendation

Other.

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Moved by

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Seconded by

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Vote

BEFORE THE MONTANA PUBLIC EMPLOYEE RETIREMENT BOARD  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 2.43.3504 pertaining to defined	)	AMENDMENT
contribution plan default investment	)	
fund and 2.43.5103 pertaining to	)	NO PUBLIC HEARING
deferred compensation plan	)	CONTEMPLATED
investment options	)	

TO: All Concerned Persons

1. On October 30, 2015, 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 the Public Employee Retirement Administration no later than 5:00 p.m. on September 21, 2015, 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 rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

2.43.3504 DEFINED CONTRIBUTION RETIREMENT PLAN DEFAULT INVESTMENT FUND (1) The board will identify ~~a balanced fund~~ an age-appropriate target date fund offered by the DCRP to be the default investment fund.

(2) The Unless otherwise directed by the DCRP participant, the following assets will be deposited in the default investment fund:

(a) assets initially transferred from the PERS DBRP pursuant to ARM 2.43.1030 on behalf of DCRP participants;

(b) assets transferred from a discontinued, but not replaced, investment option pursuant to ARM 2.43.3503(2); and

(c) assets received without the DCRP participant having selected investment options.

(3) These assets will remain in the default investment fund until the DCRP participant files valid investment directions and redirects assets from the default investment fund to the selected investment option(s).

AUTH: 19-2-403, 19-3-2104, MCA;

IMP: 19-3-2114, 19-3-2115, 19-3-2117, 19-3-2122, MCA

2.43.5103 DEFERRED COMPENSATION PLAN INVESTMENT OPTIONS

(1) The board will choose, regularly review, and may discontinue, add, or change investment options offered to participants of the Deferred Compensation Plan. In doing so, the board will consider recommendations of the statutorily established Employee Investment Advisory Council and follow criteria established in the Plan's Investment Policy Statement.

(2) A Deferred Compensation Plan participant with assets in a discontinued investment option will be given notice and 90 days to move assets from the investment option being discontinued to an offered investment option. Assets remaining in a discontinued investment option at the end of the 90-day period will be automatically transferred to the investment option similar in investment category and style selected by the board to replace the discontinued investment option. If the discontinued investment option is not replaced, the board will transfer the fund balance to ~~a balanced fund~~ an age-appropriate target date fund offered by the Deferred Compensation Plan.

(3) Deferred Compensation Plan participants will be provided a minimum of 30 days' notice if the board replaces or changes the stable value investment option manager. The stable value investment option assets will automatically transfer to the new manager(s).

AUTH: 19-50-102, MCA

IMP: 19-50-102, MCA

STATEMENT OF REASONABLE NECESSITY:

The Pension Protection Act of 2006 was amended by 2008 Department of Labor regulations to include Target Date Funds (TDFs) in the list of Qualified Default Investment Alternatives (QDIAs) allowed in governmental defined contribution retirement plans. At its August 11, 2011 meeting, the Public Employees' Retirement Board added TDFs to its list of available investment funds in both plans and identified the TDF as the QDIA in the DCRP.

Staff recently noted that ARM 2.43.3504 was not amended to reflect that decision and that a QDIA is needed for the state of Montana's Deferred Compensation Plan. Therefore, these rules are proposed to be amended to clarify that the QDIA for both the DCRP and the State of Montana's Deferred Compensation (457(b)) Plan is the plan participant's age-appropriate target date fund.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: 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](mailto:mpera@mt.gov), and must be received no later than 5:00 p.m., September 28, 2015.

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., September 28, 2015.

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 1,132 persons based on approximately 2,188 participants in the Defined Contribution Retirement Plan and 8,488 participants in the Deferred Compensation Plan as of June 30, 2014, for a total of 11,320 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 5 above or may be made by completing a request form at any rules hearing held by the PER Board.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that if a discrepancy exists between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

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

/s/  
President  
Public Employees' Retirement Board

Certified to the Secretary of State August 17, 2015