

**Public Employees' Retirement Board
October 8, 2015**

Topic: Notice of Amendment of Administrative Rules of Montana 2.43.3501 and 2.43.5101 – Adoption of Defined Contribution Plan Document and Deferred Compensation Plan Document, respectively

Staff Recommendation:

A Notice of Proposed Amendment was issued August 27, 2015, amending ARM 2.43.3501 and 2.43.5101 to adopt by reference the most recent versions of the Deferred Compensation Plan Document and the Deferred Compensation Plan Document.

One comment was received from Legislative Services regarding the statutory requirements that any publication adopted by reference must contain a "statement of the general subject matter of the omitted rule" (MCA Section 2-4-307(2)) and "description of the policy implemented" (MCA Section 2-4-305(4)). Although the commenter noted that the title of the plan documents may be sufficient to meet these requirements, MPERA has amended the rules to include a more detailed description of the plan documents being adopted by reference.

Similar amendments describe the Plans' Trust Documents in detail.

The comment period for these rules ended September 28, 2015. No other comments were received.

Staff recommends the Board approve the proposed rule amendments to ARM 2.43.3501 and 2.43.5101 and approve submittal to the Secretary of State's office of the following Notice of Amendment and Adoption Order.

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 2.43.3501 and 2.43.5101)	
pertaining to the adoption by)	
reference of the State of Montana)	
Public Employee Defined)	
Contribution Plan Document and the)	
State of Montana Public Employee)	
Deferred Compensation (457) Plan)	
Document)	

TO: All Concerned Persons

1. On August 27, 2015 the Public Employees' Retirement Board published MAR Notice No. 2-43-530 pertaining to the proposed amendment of the above-stated rules at page 1223 of the 2015 Montana Administrative Register, Issue Number 16.

2. The Public Employees' Retirement Board has amended the following rules as proposed, but with the following changes from the original proposal, 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 (August 2015 edition) that was approved by the board on August 13, 2015 and describes the terms and conditions related to the operation and administration of the plan; and

(b) State of Montana Public Employee Defined Contribution Plan Trust Agreement (July 1, 2002, edition), that was approved by the board on April 26, 2001 and September 28, 2001, and approved by the Internal Revenue Service on September 24, 2001. The trust agreement sets the board's responsibilities as trustee of the defined contribution plan and requires that the assets of the trust be used for the exclusive benefit of the plan participants and beneficiaries.

(2) remains the same.

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 (August 2015 edition), that was approved by the board on August 13, 2015, and describes the terms and conditions related to the operation and administration of the plan; and

(b) State of Montana Public Employee Deferred Compensation Plan Trust Agreement (January 1, 2002 edition), that was approved by the board on February 22, 2001, and September 28, 2001. The trust agreement sets the board's

responsibilities as trustee of the deferred compensation plan and requires that the assets of the trust be used for the exclusive benefit of the plan participants and beneficiaries.

(2) remains the same.

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

COMMENT 1: An employee of the Legislative Services Division noted that the rules proposed for amendment did not contain either a "statement of the general subject matter of the omitted rule" as required by ARM 2.4.302(2) or a "description of the policy implemented" as required by ARM 2.4.305(4). The commenter further asked if the board would amend the adoption notice to include those statements.

RESPONSE 1: The board agrees and has amended both rules to include statements that simultaneously provide a statement of the general subject matter and a description of the policy implemented. The board took the same action with respect to the trust agreements previously adopted by reference.

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

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

Certified to the Secretary of State October 19, 2015

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

(1) I, Sheena Wilson, Board President of the Public Employees' Retirement Board of the State of Montana, by virtue of and pursuant to the authority vested in me by 19-2-403, MCA, amend the following rules:

AMEND:

2.43.3501

ADOPTION OF DEFINED CONTRIBUTION PLAN
DOCUMENT AND TRUST AGREEMENT

2.43.5101

ADOPTION OF DEFERRED COMPENSATION
PLAN DOCUMENT AND TRUST AGREEMENT

(2) This order, after first being recorded in the order register of the Public Employees' Retirement Board, shall be forwarded to the Secretary of State for filing.

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

Certified to the Secretary of State October 19, 2015