

# MONTANA PUBLIC EMPLOYEES' RETIREMENT BOARD

TITLE: Delinquent Payments and Interest Penalty

POLICY NO: BOARD Admin 04      EFFECTIVE DATE: 5/26/05

## I. POLICY AND OBJECTIVES

The goal of this policy is to encourage prompt payment of employer and employee contributions by employers and to maintain the integrity of the assets and income of the pension trust funds. To attain this goal, the Public Employees' Retirement Board (the Board) acting as fiduciaries of the retirement systems, will maintain the actuarial soundness of the systems, by collecting delinquent contribution payments and interest penalties.

## II. APPLICABILITY

- A. This policy applies to all retirement systems administered by the Board.
- B. This policy complies with Montana Constitution Article VIII, Section 15 and Section 19-2-506, MCA.
  - 1. **Montana Constitution Article VIII, Section 15 (1972): Public retirement system assets.** (1) Public retirement systems shall be funded on an actuarially sound basis. Public retirement system assets, including income and actuarially required contributions, shall not be encumbered, diverted, reduced, or terminated and shall be held in trust to provide benefits to participants and their beneficiaries and to defray administrative expenses.  
(2) The governing boards of public retirement systems shall administer the system, including actuarial determinations, as fiduciaries of system participants and their beneficiaries.
  - 2. **Section 19-2-506(2), MCA: Payment of contributions by employers – accompanying reports – penalty . . .** (2) The board may collect payments delinquent under subsection (1) with an interest penalty at the rate of 9% a year or \$10 a day, whichever is greater. The board may, in its discretion, waive the penalty.

### **III. PAYROLL REPORTING DELINQUENCIES**

#### **A. Procedures for Collecting Delinquent Contributions**

1. If an employer has not timely submitted all required reports and necessary contributions, the Montana Public Employee Retirement Administration (MPERA) will notify the employer of the delinquency. The employer will be required to provide a written explanation for the delay.
2. An interest penalty must be assessed unless it is determined the cost of assessment and collection is greater than the appropriate penalty. The Fiscal Services Bureau Chief will review the information to determine the interest penalty assessment. Enforcement action will be taken against the employer at the discretion of the Fiscal Services Bureau Chief.

#### **B. Procedures for Determining Interest Rates**

1. Pursuant to Section 19-2-506, MCA, interest on a delinquent payment will be assessed at 9% compounded annually, or \$10.00 a day, whichever is greater. If the employer does not make payment, the balance due will be recalculated every 30 days thereafter until paid in full.
2. The employer will be assessed 8% interest per annum on the unpaid balance of delinquent payments. The Executive Director may allow an employer to pay delinquent contributions and interest assessments in installments of up to 10 years.

### **IV. DISCOVERY OF REPORTING ERRORS**

#### **A. Procedures for Collecting Delinquent Contributions**

1. It is the responsibility of the employer to properly report employer and employee contributions to the MPERA.
2. If an employer has inadvertently not submitted the required reports and necessary contributions for an employee, the MPERA will require the employer to make payment in full or initiate an agreed payment schedule within 60 days from the date of notification of amount due.

## B. Procedures for Determining Interest Rates

1. Upon the discovery of inadvertent reporting errors, the Board will assess the employer at the interest rate of 8% compounded annually on the unpaid balance of delinquent payments. This interest assessment maintains the actuarial soundness of the retirement system.
2. If the employer does not make payment in full or initiate an agreed payment schedule within 60 days from the date of the notice of amount due, the amount due will be recalculated with an interest penalty on the unpaid balance at 9% compounded annually.
3. If the employer does not make payment in full or initiate an agreed payment schedule within 30 days from the date of the notice of the revised balance, the balance due will be recalculated with an interest penalty on the unpaid balance at 9% compounded annually or \$10.00 a day, whichever is greater.
4. The employer will be assessed 8% interest per annum on the unpaid balance of delinquent payments. The Executive Director may allow an employer to pay delinquent contributions and interest assessments in installments of up to 10 years.
5. If MPERA becomes aware of a reporting error but does not proceed with a timely corrective action plan, then the Board may, in its discretion, determine the appropriate interest rate to be assessed.

## V. MINIMUM INTEREST PENALTY

Except as provided for in Section IV.B. 5. of this policy, upon the correction of any payroll delinquency or reporting error, the Board will not reduce the interest penalty rate below the actuarial assumed rate of return (currently 8% compounded annually), assessed from the date the contributions were due to the date paid.

## **VI. CROSS REFERENCE GUIDE**

The following laws, rules or policies may contain provisions that might modify a decision relating to refunds of contributions for terminated members. The list should not be considered exhaustive - other policies may apply.

Montana Constitution Article VIII, Section 15

Section 19-2-409, MCA

Section 19-2-506, MCA

Section 19-2-903, MCA

ARM 2.43.404

Board Policy O1-01 Actuarial Assumptions

## **VII. HISTORY**

O7-98 Delinquent Payments and Interest Penalty

Originally Approved July 1998

Amended 9/28/00

Amended 8/26/04

Amended 5/26/05