

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

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 2.43.5101 pertaining to the	)	AMENDMENT
amendment by reference of the State	)	
of Montana Public Employee	)	NO PUBLIC HEARING
Deferred Compensation (457) Plan	)	CONTEMPLATED
Document and Trust Agreement	)	

TO: All Concerned Persons

1. On April 28, 2023, the Public Employees' Retirement Board proposes to amend the above-stated rule.

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 Montana Public Employee Retirement Administration no later than 5:00 p.m. on March 17, 2023, 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 rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

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 (~~January 2018 edition~~), that was approved by the board on ~~June 11, 2020~~ February 9, 2023, and describes the terms and conditions related to the operation and administration of the plan; and

(b) and (2) remain the same.

AUTH: 19-50-102, MCA

IMP: 19-50,102, MCA

STATEMENT OF REASONABLE NECESSITY: The Public Employees' Retirement Board, as administrator of the Public Employee Retirement System's State of Montana 457(b) Deferred Compensation Plan, is proposing to revise the 457(b) Deferred Compensation Plan Document to incorporate a recent change to federal law directly applicable to the operation of the plan.

As provided for in the Consolidated Appropriations Act signed into law on December 29, 2022, which incorporated the retirement reform provisions contained in the

SECURE 2.0 Act of 2022, the requirement that a 457(b) plan participant must enter into a salary reduction agreement to defer compensation to the plan before the beginning of the month to which the agreement will apply has been repealed. This change aligns the rules for governmental 457(b) plans with those of 401(k) and 403(b) plans, so that contributions can be made effective for any compensation made available to the participant after the salary reduction agreement is filed with the Public Employee Retirement Administration.

This change in federal law applies to the 457(b) Deferred Compensation Plan. As such, Section 2.04 of 457(b) Deferred Compensation Plan Document is amended to remove this limiting language and reflect this change.

The revised plan document was reviewed and approved by the board at its February 9, 2023 board meeting. Because the board determined to adopt the original plan document by reference, 2-4-307(3), MCA, requires that changes to the documents also be adopted by reference. Therefore, it is necessary to amend the rule that adopts the plan document to indicate the version of the plan document being adopted by reference.

The plan document is available on the board's web page at [mpera.mt.gov](http://mpera.mt.gov).

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Montana 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., March 24, 2023.

5. If persons who are directly affected by the proposed action[s] 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 to Kris Vladic at the above address no later than 5:00 p.m., March 24, 2023.

6. If the Public Employees' Retirement Board receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; 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 998 persons based on 9,987 participants in the 457(b) Deferred Compensation Plan as of January 27, 2023.

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 Public Employees' Retirement Board.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sosmt.gov/ARM/Register>.

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 rule will not significantly and directly impact small businesses.

/s/ Nicholas Domitrovich  
Nicholas Domitrovich  
Chief Legal Counsel  
and Rule Reviewer

/s/ Maggie Peterson  
Maggie Peterson  
President  
Public Employees' Retirement Board

Certified to the Secretary of State February 14, 2023.