



**MONTANA
ADMINISTRATIVE
REGISTER**



PUBLIC EMPLOYEES' RETIREMENT BOARD

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-212.1

Summary

The proposed rulemaking incorporates the Public Employees' Retirement Board's recent revisions of the Public Employees' Retirement System Deferred Compensation plan document and State of Montana 457(b) Deferred Compensation plan document, adopted by reference respectively at ARM 2.43.3501 and 2.43.5101, and generally revises ARM 2.43.2104, 2.43.2301, 2.43.2311, 2.43.2324, 2.43.2610, and 2.43.4617 for clarity and consistency with current administrative practices.

No Hearing Scheduled

If the agency receives requests for a public hearing on the proposed rulemaking from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed rulemaking; 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 the estimated number of persons directly affected has been determined to be 12,852 persons based on approximately 112,483 participants in the Defined Benefit Retirement Plans, 6,288 participants in the Defined Contribution Retirement Plans, and 9,742 participants in the Deferred Compensation Plans.

Comments

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. Comments must be received by Friday, August 8, 2025, at 5:00 p.m.

Accommodations

The agency 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. Requests must be made by Friday, August 1, 2025, at 5:00 p.m.

Contact

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Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

2.43.2104 NEW MEMBERSHIP CARDS

- (1) Each New members must complete a membership/designation of beneficiary form upon employment ~~or change of beneficiary~~, and return the form to their employer. The form must be immediately forwarded by the employer to MPERA. The designation of beneficiary is only effective upon receipt by MPERA.
- (2) ~~If a member accepts a temporary or second job covered by the same retirement system as their other existing job, the member must:~~
 - (a) ~~indicate "temporary" or "dual employment" status on the form; and~~
 - (b) ~~leave the beneficiary nomination section blank unless the member intends to override their beneficiaries currently on file with MPERA.~~

Authorizing statute(s): 19-2-403, MCA

Implementing statute(s): 19-2-801, 19-6-505, 19-9-1102, 19-13-903, MCA

Reasonable Necessity Statement

The Public Employees' Retirement Board (board) proposes to amend this rule to reflect current Montana Public Employees' Retirement Administration (MPERA) practice, in that membership cards were the process by which employers notified MPERA of new members prior to the implementation of electronic systems for conducting this business. New language reflects that the initial membership form now exists primarily to collect a new member's initial beneficiary designation.

2.43.2301 PROCESS FOR PURCHASING SERVICE

- (1) Members of MPERA-administered retirement systems interested in purchasing any service credit permitted in PERS, JRS, HPORS, SRS, GWPORS, MPORS, or FURS must submit a written request to MPERA providing the following member information:
 - (a) full name, including previous surnames, if any;
 - (b) social security number;
 - (c) home address;
 - (d) current retirement system;
 - (e) name of employer for whom service was performed;
 - (f) type of service to be purchased, if known;
 - (g) dates of service to be purchased, if applicable; and
 - (h) number of years of "one-for-five" service to be purchased, if applicable.
- (2) MPERA shall provide written notification to the member of the type and amount of service eligible to be purchased, and the cost of that service. All cost statements are valid for 30 days. Written notification will include:
 - (a) cost statement;
 - (b) service purchase contract;
 - (c) payroll deduction authorization form; and
 - (d) rollover/transfer notification form.
- (3) A member who chooses to purchase service must complete and return the service purchase contract and the applicable payment form to MPERA. The service purchase contract must indicate:
 - (a) the type of service the member wishes to purchase;
 - (b) whether the member intends to purchase all, or a specific portion of the service; and

- (c) how the member intends to pay for the service.
- (4) Service can be purchased in a lump sum, through monthly payments, or by a combination of both. Service purchases other than by lump sum are subject to interest as determined by MPERA and computed over the entire payment period.
- (5) Lump-sum payment methods include cash, personal check, and direct rollovers or trustee-to-trustee transfers from an eligible retirement plan.
 - (a) Lump-sum payments by cash or personal check require completion of the service purchase contract only.
 - (b) Payment by direct rollover or trustee-to-trustee transfers from an eligible retirement plan require completion of the service purchase contract and the rollover/transfer notification.
- (6) Monthly installment payments can be made after tax through cash or personal check, or pretax through payroll deductions.
 - (a) Monthly installment payments that come directly from the member to MPERA require completion of the service purchase contract only.
 - (b) Monthly installment payments through paycheck deduction require completion of the service purchase contract and the payroll deduction authorization.
- (7) If a monthly installment payment ~~made through cash or personal check~~ is missed, the service purchase contract will terminate and the member will receive prorated service credit based on the amount previously paid.
- (8) The type of service being purchased cannot be changed once the purchase commences.

Authorizing statute(s): 19-2-403, MCA

Implementing statute(s): ~~19-2-303(22)~~, 19-2-704, 19-3-513, 19-6-804, 19-7-804, 19-8-904, 19-9-411, 19-13-405, MCA

Reasonable Necessity Statement

The board proposes to amend this rule to remove overly narrow language and clarify that service purchases will be prorated when *any* monthly installment payment is missed—not just those that are expected to be made via cash or personal check. For example, a member making installment payments by way of payroll deduction may go on a period of unpaid leave; and thus, there would be no earnings from which the employer could pick up service purchase

contributions. Removal of the cash and personal check language allows employers and members to understand the full range of scenarios in which a service purchase may be prorated.

2.43.2311 LIMITATIONS ON PURCHASES OF SERVICE

- (1) A PERS member may not purchase service unless and until the member elects to participate in the PERS Defined Benefit Retirement Plan.
- (2) A retirement system member may not purchase the same period of military, federal volunteer service, or public service employment in more than one retirement system.
- (3) A retirement system member may not receive service credit for any purchase of service related to any calendar month for which full service credit has already been granted.
- (4) Retired members may not purchase service.

Authorizing statute(s): 19-2-403, MCA

Implementing statute(s): 19-2-603, 19-2-715, 19-3-503, 19-3-515, 19-3-522, 19-5-410, 19-6-801, 19-7-803, 19-8-901, 19-9-403, 19-13-403, MCA

Reasonable Necessity Statement

The board proposes to amend this rule to notify retired members of the existing federal law requirements of 26 USC § 415(n)(3)(A), which disallows permissive service credit purchases by members of qualified governmental plans when the member has already received a benefit payment from that plan.

2.43.2324 GUARANTEED ANNUAL BENEFIT ADJUSTMENT COVERAGE

- (1) Defined benefit members who terminate covered employment, accept a refund of their accumulated contributions, and later return to covered employment in the same system, ~~will be~~ are eligible for the GABA provisions in effect at the time the member returns to covered employment.
- (2) Purchase of the refunded time service or allowable retroactive periods of service (for example, periods when excluded from membership, periods for which optional membership was declined, periods of service credit from other public retirement

systems, or periods of federal employment) does not affect the member's new hire date. The member will remain eligible for subject to the GABA provisions then in effect applicable to their hire date, not the GABA associated with in effect during the periods of the refunded or retroactive time service.

Authorizing statute(s): 19-2-403, MCA

Implementing statute(s): 19-2-603, 19-2-715, 19-3-403, 19-3-505, 19-3-510, 19-3-512, 19-3-1605, 19-6-712, 19-7-711, 19-8-1105, MCA

Reasonable Necessity Statement

The board proposes to amend this rule to provide uniform guidance to members of the longstanding general principle that purchases of service for periods of time prior to retirement system membership do not confer the guaranteed annual benefit adjustment coverage of statutory provisions that were in effect during the periods of pre-membership service being purchased. The current language of the rule clearly states this treatment for redeposits or purchases of refunded service but does not reflect other various scenarios in which pre-membership service may be purchased.

2.43.2610 DESIGNATION OF BENEFICIARY BY RETIREES, ALTERNATE PAYEES, AND CONTINGENT ANNUITANTS

- (1) ~~A retiree, alternate payee, or contingent annuitant shall make the selection of beneficiary in writing and~~ Beneficiaries may only be designated on the a form provided by MPERA, which must be dated and signed by the individual participant, and witnessed by a disinterested third party member or payment recipient.
- (2) Except as provided in (3), the designation of beneficiary shall be effective immediately upon filing with MPERA.
- (3) If a retirement system member who has applied for retirement dies prior to receipt of their initial retirement benefit, the member's beneficiary must revert to the beneficiary or beneficiaries designated on their retirement system membership form.

Authorizing statute(s): 19-2-403, MCA

Implementing statute(s): 19-2-801, 19-2-907, 19-3-1501, 19-5-701, 19-7-1001, 19-8-1105, MCA

Reasonable Necessity Statement

The board proposes to amend this rule to clean up existing language and to remove the anachronistic requirement that these designations include a witness signature. Witness signatures on retirement plan beneficiary designation forms are historically an offshoot of spousal consent requirements for joint and survivor annuities that are governed by the Employee Retirement Income Security Act of 1974, the provisions of which do not apply to government plans such as those administered by MPERA. Moreover, witness signature requirements are incompatible with the modern practice of conducting retirement plan business with electronic forms.

2.43.3501 ADOPTION OF DEFINED CONTRIBUTION PLAN DOCUMENT AND TRUST AGREEMENT

- (1) The board adopts and incorporates by reference the following:
 - (a) State of Montana Public Employee Defined Contribution Plan Document (~~January 2018 edition~~) that was approved by the board on June 11 12, 2020 2025, and describes the terms and conditions related to the operation and administration of the plan;
 - (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) Copies of the Defined Contribution Plan Document, Trust Agreement, and related materials may be obtained from MPERA, 100 North Park Avenue, Suite 200, P.O. Box 200131, Helena, MT 59620-0131, phone 1 (877) 275-7372 , e-mail mpera@mt.gov, and are available on MPERA's web site at www.mpera.mt.gov.

Authorizing statute(s): 19-3-2104, MCA

Implementing statute(s): 19-3-2102, MCA

Reasonable Necessity Statement

The board, as administrator of the Public Employee Retirement System's (PERS) State of Montana 401(a) Defined Contribution Plan (DCRP), is proposing to revise the DCRP Plan Document (plan document) to incorporate recent changes to federal law directly applicable to the operation of the plan, update annual compensation and deferral limits, and make general language clean-up changes for consistency and clarity.

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, plan document amendments are necessary to reflect current federal law regarding required minimum distribution ages and other distribution rules, and provide language covering “5 and 10 year rules” for distribution to beneficiaries and special distribution rules for “eligible designated beneficiaries.” Additional changes throughout the plan document are intended to provide for consistent use of language throughout the document or to provide additional clarity.

The revised plan document was reviewed and approved by the board at its June 12, 2025, board meeting. Because the board determined to adopt the original plan document by reference, 2-4-307(3), MCA, requires that changes to plan 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.

2.43.4617 DISTRIBUTION OF DROP BENEFIT

- (1) The DROP benefit will be distributed upon the participant's termination of employment service. The participant may request to receive the DROP benefit in a lump sum, or in a direct rollover to another eligible plan, as allowed by the Internal Revenue Service (IRS).
- (2) To make a direct rollover of the DROP benefit, the participant must make arrangements with the other plan and provide any necessary information to MPERA.
- (3) A participant must designate a distribution method within 60 days after termination of employment; otherwise MPERA will pay the DROP benefit to the participant in a lump sum. Any required federal or state withholding will reduce the amount of the payment.
- (4) MPERA will distribute the DROP benefit as soon as administratively feasible once all appropriate documents are filed with MPERA.
- (5) Upon a DROP participant's death, the participant's DROP benefit will be paid to the participant's survivors or, if no survivors exist, then to the participant's designated beneficiaries. The DROP benefit will be paid in a lump sum, unless the recipient

chooses to receive the DROP benefit in a direct rollover to another eligible retirement plan, as allowed by the IRS.

Authorizing statute(s): 19-2-403, 19-9-1203, MCA

Implementing statute(s): 19-2-1007, 19-9-1206, 19-9-1208, MCA

Reasonable Necessity Statement

The board proposes to amend this rule to correct a conflict with the Montana Code Annotated, in that 19-9-1208, MCA, provides that a Municipal Police Officers' Retirement System Deferred Retirement Option Plan (DROP) may be distributed "upon termination of service," but the existing language of this rule states that the DROP benefits will be distributed upon "termination of employment." "Termination of service" and "termination of employment" are defined differently within 19-2-303, MCA; and thus, this amendment is necessary to remove this conflict.

Although 2-4-305(2), MCA, provides the requirement that administrative rules "may not unnecessarily repeat statutory language," the board believes that this minimal repetition is necessary in order to properly interpret the remaining provisions of the rule as "termination of service" serves as the temporal starting point of the processes outlined within the rule.

2.43.5101 ADOPTION OF DEFERRED COMPENSATION PLAN DOCUMENT AND TRUST AGREEMENT

- (1) The board adopts and incorporates by reference the following:
 - (a) State of Montana Public Employee Deferred Compensation Plan Document, that was approved by the board on ~~February 9, 2023~~ June 12, 2025, 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) Copies of the Deferred Compensation Plan Document, Trust Agreement, and related materials may be obtained from the MPERA, 100 North Park Avenue, Suite

200, P.O. Box 200131, Helena, MT 59620-0131, phone 1 (877) 275-7372 , e-mail mpera@mt.gov, and are available on MPERA's web site at www.mpera.mt.gov.

Authorizing statute(s): 19-50-102, MCA

Implementing statute(s): 19-50-102, MCA

Reasonable Necessity Statement

The board, as administrator of the State of Montana 457(b) Deferred Compensation Plan, is proposing to revise the 457(b) Deferred Compensation Plan Document to incorporate recent changes to federal law directly applicable to the operation of the plan, remove outdated language no longer applicable to the plan, and make general language clean-up changes for consistency and clarity.

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, plan document amendments are necessary to reflect current federal law regarding updated age 50 “special catch-up” deferrals and special 457 catch-up deferral limits, changes to maximum in-service distribution limits and other distribution and deferral rules, changes regarding self-attestation for unforeseeable emergency distributions, and new “5 and 10 year” rules for distribution to beneficiaries and the special distribution rules for “eligible designated beneficiaries.” Additional changes throughout the plan document are intended to provide for consistent use of language throughout the document or to provide additional clarity.

The revised plan document was reviewed and approved by the board at its June 12, 2025, board meeting. Because the board determined to adopt the original plan document by reference, 2-4-307(3), MCA, requires that changes to plan 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.

Small Business Impact

The board has determined that no class or group of businesses is directly affected by the proposed rulemaking. None of the proposed amendments represents a significant departure from existing practices so as to result in an increase or decrease in existing retirement plan participant benefits. Such benefits were paid to 28,905 in-state recipients in state fiscal year

2024, totaling \$623,619,246.66. Please see the Public Employees' Retirement Board Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2024, at page 202 (available at https://mpera.mt.gov/_docs/CAFR/2024ACFR.pdf).

Bill Sponsor Notification

The bill sponsor contact requirements of do not apply.

Interested Persons

The Montana Public Employee Retirement Administration 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 above or may be made by completing a request form at any rules hearing held by the Montana Public Employee Retirement Administration.

Rule Reviewer

Nicholas Domitrovich, Chief Legal Counsel

Approval

Maggie Peterson
President
Public Employees' Retirement Board