



Montana Legislative Services Division
Legal Services Office

TO: State Administration and Veterans' Affairs Interim Committee
FROM: K. Virginia Aldrich
DATE: September 11, 2015
RE: Legislative Administrative Rule Review Report

Pursuant to 5-5-228, MCA, the State Administration and Veterans' Affairs Interim Committee is responsible for reviewing administrative rules within its jurisdiction. Staff for the State Administration and Veterans' Affairs Interim Committee has prepared this report for informational purposes only. This report does not represent any action or opinion of the State Administration and Veterans' Affairs Interim Committee and does not preclude additional action that may be taken by the State Administration and Veterans' Affairs Interim Committee pursuant to its authority under the Montana Administrative Procedure Act (Title 2, chapter 4, MCA).

MAR NOTICE NUMBER: 2-43-530

AGENCY/BOARD: Public Employees' Retirement Board

RULE CLASSIFICATION: (e.g. substantive/interpretative/emergency/temporary):
Substantive

SUBJECT: State of Montana Public Employee Defined Contribution Plan Document and State of Montana Deferred Compensation (457) Plan Document

NOTICE DESCRIPTION: (e.g. proposal notice/adoption notice): Notice of Proposed Amendment

SUMMARY OF RULE(S): The Public Employees' Retirement Board of the State of Montana is proposing to amend two rules. The proposed amendments update current rules that adopt by reference the State of Montana Public Employee Defined Contribution Plan Document and the State of Montana Deferred Compensation (457) Plan Document from previous versions to versions approved on August 13, 2015. The Montana Public Employees' Retirement Board revised the documents to incorporate recent changes to federal and state law, including HB 101 (Ch. 248, L. 2015) and HB 124 (Ch. 140, L. 2015).

Revisions to the Defined Contribution Plan Document included updates to citations and terminology concerning periods of uniformed service by employees and related compensation, the redirection of employer contribution allocations for Defined Contribution and University System members who elect to participate in the Montana University System Retirement Program, revisions to eligibility concerning individuals employed in two or more positions covered separately by PERS and the University System, and updates concerning default investment funds (having been changed from the balanced fund to the participant's age-appropriate target date fund

in 2011). *See also* the rule memo concerning MAR No. 2-43-532 and the discussion concerning balanced funds and target date funds.

The plan documents also update the exclusion amount allowed under the definition of "compensation" as defined by federal law, update employer contributions and allocations, update policies concerning participant responses to written reports of the status of each participant's account, and clarify the options available to non-spouse beneficiaries if the participant dies before distributions have commenced.

Revisions to the Deferred Compensation Plan Document included clarifications concerning "normal retirement age", updates concerning default investment funds from the stable value fund to the participant's age-appropriate target date fund (having been changed in 2012), updates to the maximum annual deferral amounts and additional annual deferrals for participants age 50 or older, and updates concerning qualified domestic relations orders honored by the plan.

The Montana Administrative Procedure Act requires that a rule adopted by reference contain "a statement of the general subject matter of the omitted rule" (2-4-307, MCA). Although neither rule currently contains a specific statement, the titles of the plan documents incorporated by reference do allow the public notice of the general subject matter of the omitted material and may fulfill this statutory requirement. Furthermore, the Board will consider a recommendation to include the statement in revisions to the proposed amendments in October.

NOTES: Public hearings are not contemplated. The public comment period ends on September 28, 2015.

FULL TEXT OF NOTICE: The full text of the notice proposal may be found online at <http://www.mtrules.org/gateway/ShowNoticeFile.asp?TID=6576>

FULL TEXT OF DOCUMENTS ADOPTED BY REFERENCE: The full extent of the amendments within the document adopted by reference may be found at:

Defined Contribution Plan Document Revisions:

<http://mpera.mt.gov/docs/boardpacket/20150813/VII.B.3.2015DCRPPLan%20Doc%2007132015MASpjd%20draft.pdf>

457(b) Deferred Compensation Plan Document Revisions:

<http://mpera.mt.gov/docs/boardpacket/20150813/VII.B.4.2015457plandocrevwipMAS.pdf>