



**Montana Legislative Services Division**  
**Legal Services Office**

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**TO:** State Administration and Veterans' Affairs Interim Committee  
**FROM:** K. Virginia Aldrich  
**DATE:** August 21, 2013  
**RE:** Legislative Administrative Rule Review Report

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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:** 2-43-491

**AGENCY/BOARD:** Public Employees' Retirement Board of the State of Montana

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

**SUBJECT:** Required Employer Reports Regarding Employer Contributions Paid on Behalf of University Employees Who Elect to Participate in the Optional Retirement Program Rather Than in the Public Employees' Retirement System.

**NOTICE DESCRIPTION:** (e.g. proposal notice/adoption notice):  
Notice of proposed amendments

**SUMMARY OF RULE(S):**

MPERA proposes to adopt one rule and one amendment to implement certain provisions of Chapter 390, L. 2013, regarding the Montana University System (MUS). This rule and rule amendment were previously adopted as emergency rules, and they are now proposed as regular rules. *See* MAR Notice No. 2-43-482.

Chapter 390, L. 2013, required new employer contributions but did not allocate those contributions for MUS employees in PERS-covered positions who elect to participate in the University System Retirement Program (Optional Retirement Program) rather than the PERS defined benefit program. The statute that directs University System Retirement Plan contributions does not specify how to provide for the new employer contributions, but section 19-3-2121, MCA, provides that employer contribution allocations are subject to adjustment by the Board if they are consistent with other code sections. The new rule provides that of the 1.27% additional employer contributions provided for in 19-3-316(3), MPERA will allocate 1% of the additional MUS PERS employer contributions to the PERS defined benefit plan trust fund and allocating the remaining 0.27% to the PERS defined benefit retirement plan's plan choice rate. The additional 0.1% starting July 1, 2014, will be directed to the PERS defined benefit plan trust fund unless an increase in the plan choice rate is required to actuarially fund the PERS

defined contribution retirement plan's share of the PERS defined benefit plan unfunded liability, in which case the 0.1% additional employer contribution will be directed to the PERS defined contribution retirement plan's plan choice rate. The Board has stated that it will ask the 2015 Legislature to amend section 19-21-214, MCA, to address the allocation of the additional employer contribution on behalf of MUS employees in PERS-covered positions who elect to participate in the University System Retirement Program. Lastly, the adopted amendment to existing rule 2.43.2114 provides that MUS shall transmit the additional 1% employer contributions to MPERA starting July 1, 2013, and that starting July 1, 2014, MUS shall transmit the additional 0.1% employer contribution to MPERA.

**NOTES:** (e.g. hearing dates)

A public hearing is scheduled on the above-referenced rules on September 23, 2013, at 9:00 a.m., in Room 201, 100 N. Park Avenue, Helena, Montana. The public comment period ends on September 23, 2013.

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