



**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:** 2-43-489

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

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

**SUBJECT:** Actuarial Assumptions for Testing Purposes and Process for Determining Actuarial Equivalent Factors.

**NOTICE DESCRIPTION:** (e.g. proposal notice/adoption notice):  
Notice of Repeal and Amendment of Emergency Rules

**SUMMARY OF RULE(S):**

As discussed in the State Administration and Veterans' Affairs Interim Committee meeting on August 20, 2013, the Public Employees' Retirement Board of the State of Montana proposes to repeal Emergency Rule I from MAR Notice No. 2-43-478. To determine the PERS funding level percentage in 19-3-1605(5), the rule instructed the actuary to assume a GABA rate of 1.5% for future years, to assume the actuarial value (rather than market value) of assets, and to set the funding percentage rounded to the nearest whole number. Because of the clarity of existing statutes, the Board no longer believes an emergency rule is required. Furthermore, the Board believes the rule's repeal allows it the flexibility to instruct the actuary to perform any valuation necessary to address changes in law and circumstances resulting from decisions about the funding of the Public Employees' Retirement System.

The Board also proposes to amend Emergency Rule III from MAR Notice No. 2-43-478. Previously, the rule stated that in the event of a court order prohibiting the board from implementing a 1.5% GABA, the actuary would assume a 3% GABA to determine actuarially equivalent factors for optional benefit determinations, early retirement factors, money purchase benefit calculations, and service purchases. The Board proposes to amend this language to assume a "rate consistent with" any court order, rather than specifying the percentages.

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

A hearing on the above-referenced rules is not anticipated; however, the Board is holding a public hearing on the same topic for a proposed identical, permanent rule. *See* MAR Notice No. 2-43-490. The repeal and amendments will be effective on August 23, 2013.

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