

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

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rule I and the amendment of ARM) PROPOSED ADOPTION AND
2.43.2114 pertaining to required) AMENDMENT
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)

TO: All Concerned Persons

1. On September 23, 2013 at 9:00 a.m., the Public Employees' Retirement Board will hold a public hearing in Room 201, 100 N Park Avenue, Helena, Montana, to consider the proposed adoption of the above-stated rules.

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 the Public Employee Retirement Administration no later than 5:00 p.m. on September 16, 2013, to advise us of the nature of the accommodation that you need. Please contact Kris Vlastic, Public Employee Retirement Administration, P.O. Box 200131; telephone (406) 444-2578; fax (406) 444-5428; TDD/Montana Relay Service/etc (406) 444-1421; or e-mail kvladic@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I ALLOCATION OF ADDITIONAL EMPLOYER
CONTRIBUTIONS ON BEHALF OF MONTANA UNIVERSITY SYSTEM
EMPLOYEES IN THE OPTIONAL RETIREMENT PROGRAM (1) The additional

employer contributions provided for in 19-3-316(3), MCA that are paid on behalf of MUS employees in the optional retirement program will be allocated as follows:

(a) The 1.00% additional employer contribution will be directed to the PERS defined benefit plan trust fund.

(b) The 0.27% additional employer contribution is already allocated to the PERS defined benefit retirement plan's plan choice rate pursuant to 19-21-214(2)(b), MCA.

(c) The 0.1% additional employer contribution that commences July 1, 2014, will be directed to the PERS defined benefit plan trust fund unless the board determines pursuant to 19-3-2121, MCA that 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's plan unfunded liability. In that event, the 0.1% additional

employer contribution will be directed to the PERS defined contribution retirement plan's plan choice rate.

AUTH: 19-2-403, 19-3-2104, MCA

IMP: 19-3-2104, MCA

STATEMENT OF REASONABLE NECESSITY: Section 6, Chapter 390, Laws of 2013 amends 19-3-2117, MCA to allocate the additional employer contributions paid on behalf of PERS defined contribution retirement plan members. Unfortunately, there is no allocation for MUS employees in PERS-covered positions who elect to participate in the Optional Retirement Program (ORP) rather than either the PERS defined benefit retirement plan or the PERS defined contribution retirement plan. Section 19-21-214, MCA instructs the Board regarding allocation of employer contributions to the ORP. That statute is silent regarding the additional employer contributions provided for in Section 4, Chapter 390, Laws of 2013. However, 19-21-214(3), MCA provides that employer contribution allocations are subject to adjustment by the Board provided the adjustments are consistent with 19-3-2121, MCA.

Section 19-3-2121, MCA allows the Board to use employer contributions to increase the plan choice rate contribution under certain circumstances. If those circumstances are met, the Board has determined it to be appropriate to allocate the 0.1% increase to the plan choice rate. If the circumstances are not met, the 0.1% increase will go to help the defined benefit retirement plan's unfunded liability.

The Board will ask the 2015 legislature to amend 19-21-214, MCA to address the allocation of the additional employer contributions on behalf of MUS employees in PERS-covered positions who elect to participate in the ORP. The Board will propose to the 2015 legislature that the allocation mirror that in 19-3-2117, MCA for PERS Defined Contribution Retirement Plan members

4. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

2.43.2114 REQUIRED EMPLOYER REPORTS (1) through (5) remain the same.

(a) Commencing July 1, 2013, MUS shall transmit to MPERA the 1.0% additional employer contribution provided for in Chapter 390, Laws of 2013.

(b) Commencing July 1, 2014, MUS shall also transmit to MPERA the 0.1% additional employer contribution provided for in Chapter 390, Laws of 2013.

(6) remains the same.

AUTH: 19-2-403, MCA

IMP: Section 4, Chapter 390, Laws of 2013, 19-20-506, 19-3-315, 19-3-316, 19-3-412, 19-3-1106, 19-3-2117, 19-7-1101, MCA

STATEMENT OF REASONABLE NECESSITY: Section 19-21-214, MCA allocates

the current 0.27% additional employer contribution to the PERS defined benefit plan to eliminate the plan choice rate unfunded actuarial liability. However, Chapter 390, Laws of 2013 does not address the allocation of the additional employer contributions paid by MUS on behalf of employees in covered PERS positions who elect to participate in the ORP. Therefore, this amendment is necessary to ensure that MUS transmits the new additional employer contributions to MPERA for proper accounting.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to: Kris Vladoic, Public Employee Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0513; telephone (406) 444-2578; fax (406) 444-5428; or e-mail kvladoic@mt.gov, and must be received no later than 5:00 p.m., September 23, 2013.

6. Kris Vladoic, Public Employee Retirement Administration, has been designated to preside over and conduct this hearing.

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 6. 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://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by mail on May 21, 2013 and July 31, 2013.

10. With regard to the requirements of Chapter 318, Section 1, Laws of 2013, the department has determined that the adoption and amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Melanie Symons
Melanie Symons Legal Counsel
and Rule Reviewer

/s/ Scott Moore
Scott Moore
President
Public Employees' Retirement Board

Certified to the Secretary of State August 12, 2013.