

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

In the matter of the adoption of	)	NOTICE OF ADOPTION OF A
Temporary Emergency Rule I and the	)	TEMPORARY EMERGENCY RULE
temporary emergency amendment of	)	AND TEMPORARY EMERGENCY
ARM 2.43.2114 regarding increased	)	AMENDMENT OF A CURRENT
PERS employer contributions paid on	)	RULE
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. The Montana Public Employees' Retirement Board is adopting the following emergency rule and amending ARM 2.43.2114 because Chapter 390, Laws of 2013, does not indicate where the additional PERS employer contributions provided for in section 4 of Chapter 390, Laws of 2013 and paid to University employees who elect to participate in the University Systems' Optional Retirement Program are to be allocated. The additional employer contributions commence on July 1, 2013, prior to the time in which the necessary rule could be adopted through the regular rule-making process.

2. The Montana 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 Montana Public Employees' Retirement Administration no later than 5:00 p.m. on July 1, 2013, to advise us of the nature of the accommodation that you need. Please contact Kris Vlastic, Montana Public Employees' Retirement Administration, P.O. Box 200131, Helena, Montana, 59620-0131; telephone (406) 444-2578; fax (406) 444-5428; TDD/Montana Relay Service/etc. (406) 444-1421; or e-mail kvlastic@mt.gov.

3. The temporary emergency rules will be effective July 1, 2013.

4. The text of the temporary emergency rule provides as follows:

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 payment 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, section 19-21-214(3), MCA provides that employer contribution allocations are subject to adjustment by the Board provided the adjustments are consistent with section 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 section 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 section 19-3-2117, MCA for PERS Defined Contribution Retirement Plan members.

5. The text of the temporary amendment of an existing rule provides as follows:

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.

6. A standard rulemaking procedure will be undertaken prior to the expiration of this temporary emergency rule.

7. Concerned persons are encouraged to submit their comments during the upcoming standard rulemaking process. If concerned persons wish to be personally notified of that rulemaking process, they should submit their names and addresses to Roxanne Minnehan at the address above.

8. The Montana 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 2 above or may be made by completing a request form at any rules hearing held by the Montana Public Employees' Retirement Board.

9. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

/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 June 10, 2013