



TOPICS

OFFICIAL BULLETIN FOR PERA-AFFILIATED PAYROLL/PERSONNEL STAFF

No. 01-2

State, School, Judicial Employer Contribution Rates Cut to 9.9%, 11.82%

For State and School Division and Judicial Division employers, this is your official notice to reduce the employer contribution rate from 10.4 percent to 9.9 percent and from 14.0 percent to 11.82 percent respectively, effective for pay periods that end in July 2001. Also, the employer contribution rate for State Troopers decreases to 12.6 percent from 13.1 percent.

For most employers, the reduction will take place on the report sent to PERA in August. An employer who pays employees in early July for pay periods that end in June would not be eligible to take the contribution reduction on that pay. However, an employer whose pay period ends on or after July 1 and who pays those employees in July may use the new contribution rate for the entire payroll period.

This is a temporary one-year reduction authorized under HB 1458 last year. The contribution rates may increase up to 10.15 percent for the State and School Division and 12.82 percent for the Judicial Division on July 1, 2002. The rates are based on actuarial results and will be set before Sept. 1, 2001.

Contact your PERA Employer Representative if you have any questions.

Rule/Law Changes on Work During Effective Month of Retirement

Colorado state law prohibits a PERA retiree from working in any capacity for a PERA-affiliated employer during the month of his or her effective date of retirement and receiving a full month's benefit. The law change raises two issues: termination of employment and benefit reduction for working for a PERA employer in the month of the PERA effective date of retirement.

Termination of Employment

Under the law a PERA member must terminate all employment with PERA-affiliated employers to be eligible to receive PERA retirement benefits. Any return to work may cause PERA to question whether the employment relationship was truly terminated and PERA may ask the employer for documentation about the retiree's employment status. **To assure that a termination of employment has occurred, a retiree may not return to work for any PERA-affiliated employer on the first business day of the month in which the retirement is effective.** That means the employee may not be compensated for that day in any manner, nor can the employee volunteer his or her time on that day. Other termination actions generally include canceling any contracts with employees, paying out any unused leave unless projected pay is anticipated, and so forth.

Benefit Reductions for Working During the Month of the Effective Date of Retirement

In a rule passed by the Board of Trustees earlier this year and legislation enacted with House Bill 01-1186, sponsored by Rep. Abel Tapia (Pueblo) and Sen. John Evans (Parker), a retiree who returns to work for any PERA employer during the first month of retirement will have a 5 percent reduction in his or her benefit for each day worked.

Example: If a retiree has an effective date of retirement of July 1, and returns to work for four days in July (none of which can be the first business day of July), the retiree's benefit must be reduced by 20 percent (5% x 4) in August.

This penalty applies immediately, and regardless of whether or not the retiree exceeds any other working-after-retirement limitations. Retirees must report to PERA during the second month of retirement any work performed during the first month for any PERA-affiliated employer. Retirees should use the reporting form provided by PERA in the retirement information packet sent to them by PERA in the month in which they retire. Or, they may download the form from the PERA Web site.

**PERA's Web site is usually updated every Friday. Come visit us for the latest news.
www.copera.org**

PERA GRAPHS

▲ MatchMaker Means Millions More for Members: More than 76,000 PERA members are receiving employer matching contributions to their voluntary DC plans through the new PERA MatchMaker Program (aided by the tremendous effort of payroll offices at PERA-affiliated employers). Here are some initial statistics about the Program:

- ◆ Nearly \$7 million was “matched” to investments in January.
- ◆ In February, more than \$7.5 million was matched.
- ◆ PERA members contributed more than \$27.3 million to voluntary DC plans in the first two months of 2001.
- ◆ The average participant is receiving \$98 per month in the program.
- ◆ About 49 percent of active PERA members are receiving MatchMaker dollars.
- ◆ That means some 80,000 members are not participating.
- ◆ About 65 percent of the members contributed to PERA’s 401(k) Plan and 35 percent to other employer plans.

While there were some difficulties in the first month or two of the program, the MatchMaker is running much more smoothly now, according to PERA’s Employer Representatives, who add their thanks and appreciation for the hard work done by everyone. PERA administrators expect the number of participants to increase during the year, with up to 75 percent of the members finally involved in the program. Employers wanting to set up meetings for PERA to explain the MatchMaker and the 401(k) Plan may call 1-800-221-2627, ext. 6188, 6189, 6185, or 6415, or they may e-mail a request through meetings@copera.org.

Here is some other information for you:

- ◆ The employer contribution reduction occurring in July will not impact the MatchMaker amount.
- ◆ All PERA members should be able to receive the MatchMaker dollars, according to state law. Consequently, employers should provide for enrollment at any time during the year, at least for the 401(k) Plan.
- ◆ PERA’s Accounting staff encourages employers to begin looking at those participants who are contributing more than 20% of their salary and whose PERA-includable salary is \$54,000 or less. They are the likely candidates for exceeding the IRS limits. Encourage members to go to the PERA Web site and use the calculator in the “401(k)” section or the “Calculator” section to test for the IRS limits.
- ◆ For payroll periods where there was no DC contribution taken, MatchMaker is not available. The MatchMaker has no makeup provision. If there were no contributions, there is no match.

▲ Rehired PERA Retirees Allowed to Contribute to PERA’s 401(k) Plan: House Bill 01-1057, sponsored by Rep. Stafford (Aurora) and Sen. Hanna (Lakewood), was passed by the General Assembly and signed by Governor Owens on March 9. This legislation allows PERA retirees to contribute to the PERA 401(k) Plan from any wages paid them by PERA-affiliated employers. The law is effective July 1, 2001. Here are guidelines for employers:

- ◆ Since rehired retirees earning post-retirement pay (for their “new job”) do not contribute to PERA they are not eligible to receive MatchMaker dollars.
- ◆ Employers should report the retiree’s wages and contributions on the 401(k) *Contribution Report*. Enter into the “PERA-Includable Salary” the comparable post-retirement wages.
- ◆ Employers are allowed to make a separate voluntary match on the 401(k) contributions, but those dollars do not come through the MatchMaker program or from regular employer contributions to PERA.
- ◆ If a retired member receives pay after retirement for work already completed before retirement, the pay is eligible to receive the MatchMaker dollars (e.g. a teacher retires July 1, is paid by the school district through the completion of the teaching contract August 31, MatchMaker dollars should be remitted for July and August pay, if the member participated in a tax-deferred plan).

▲ Using the 401(k) Plan for Discretionary Cafeteria Funds: A number of employers allow their employees to direct the use of some or all of their benefit dollars, including allowing them to place the money not used to pay for health care, dental care, or other benefits, into tax-deferred defined contribution plans. PERA’s 401(k) Plan is capable of receiving those “employer discretionary” dollars. Contact your Employer Representative or the Customer Service Center to discuss arranging for these dollars to be added to their 401(k) accounts.

▲ Medicare Tax: Employers and employees must pay the mandatory 1.45 percent Medicare payroll tax if the employee started work after March 31, 1986. **This includes rehired PERA retirees!**

<p style="text-align: center;">Customer Service Call Center Extends Hours: Now Monday – Thursday, 7:00 a.m. – 5:30 p.m., Fridays, 7:00 a.m.- 4:30p.m.</p>
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△ Employees Enrolling in the 401(k) Plan? Employees enrolling in the 401(k) Plan should send their *401(k) Enrollment Form* to PERA prior to the first deduction from their salary. If their first contribution is received and PERA does not have their *Enrollment Form*, the money will be invested in the Money Market Fund. PERA will send them a form to designate their beneficiary. They would need to access their 401(k) account using their PIN on the InfoExpress Web site (through www.copera.org) or the InfoExpress Voice system to distribute their contributions among the 11 PERA 401(k) Plan investment fund(s).

Also, PERA no longer accepts investment changes in paper form. Please help us by advising 401(k) members that they can make changes on InfoExpress Voice or InfoExpress Web or by contacting PERA's Customer Service Center. To change their beneficiary, they may write to PERA or complete and mail a copy of the *401(k) Change of Beneficiary Form*, which may be downloaded from PERA's Web site.

△ PERA Employer Web LogOn Pages: Been to the PERA Web site lately? Go to the "Employer" bar, then click on "Secured Information" and enter your employer number. This section contains general contribution reporting information. At the top of the Web site is a LogOn bar. Click on it and you'll see a PERA employer LogOn icon. If you click on this, you will be asked for your employer number and a Personal Identification Number given to your entity. Currently, only employers participating in PERACare use this part of the Web, however, in the future other secure information for employers may be included there.

△ Employees Need a Replacement Social Security Card? Perhaps your employees ask you how to get a new Social Security card. If your employees need a replacement card or need to change their name on the card, they can find the application online, then download it. Last year alone Social Security issued 11 million replacement cards. Here is the Web site: <http://www.ssa.gov/online/ss-5.html>.

△ Rule Change: We have enclosed a copy of revised Rule 11.40 in the mailing to all payroll and personnel offices. Please review and insert it in your *PERA Rules* book.

△ Medicare Secondary Web site: A subject on which employers often have difficulty finding current information is the government's Medicare Secondary program. This program mandates the coordination of Medicare and employer-provided health care coverage for active employees. www.hcfa.gov/medicare/cob/default.html.

△ When a "Retiree" Is a Member: Federal law allows a PERA retiree who is receiving a PERA retirement benefit to be exempt from member contributions on wages when working for a PERA-affiliated employer after retirement. However, anyone who "retires" from a PERA employer and withdraws his or her PERA account is not a PERA retiree. Consequently, if that person returns to work for a PERA employer, he or she must become a PERA member again and the earnings are subject to PERA contributions. Also, the worker would be subject to the Medicare tax.

△ More Sick Leave Conversion Clarification:

- ◆ The sick leave balance that may be converted for employees that have an option of providing a sick leave conversion plan, as authorized by HB 00-1458, is the balance at the beginning of each fiscal year. When a member converts some sick leave to salary for PERA purposes, the sick leave balance available for future conversion is then "frozen" and no new hours or days can be added.
- ◆ The employee receives 15 percent of the per diem/hourly wage for time being converted; the remaining 85 percent of wages is forfeited. The employer may payout to the employee any amount for sick days not converted to salary, and should not report that pay to PERA.
- ◆ When converting sick leave to PERA salary, contributions for 401(k) or other DC plans are allowed from the salary paid and do qualify for the MatchMaker since it is PERA-includable pay. While the Internal Revenue Code says no contributions can be taken on sick leave payouts, the conversion amount is not sick leave payout; once the conversion occurs, it is salary for PERA purposes according to state law.
- ◆ For the Sick Leave fact sheet, see PERA's Web site in the "Benefits" section.

PERA End-of-Year 2000 Information

166,389 Active Members

82,789 Inactive Members

54,640 Benefit Recipients

Retirements: *Service* = 3,579 *Disability* = 194 *Total* = 3,773

Average Retirement Benefit for Member Retiring in 2000: \$2,440

Number of benefit recipients age 100 or Over = 27 (Oldest is 104)

Longest Benefit Paid: Since March 1955

SB 01-149 – Bill to Study PERA, Other Plan Benefits Expected to Pass

Senate Bill 149, as amended by the State Senate, provides for a comprehensive study to be conducted of employee retirement benefits. If enacted, the bill would require the State Auditor to conduct a study on defined benefit (PERA) and defined contribution retirement plan designs for PERA members and other employees eligible to be members. Some of these designs might include election options for members. The House Civil Justice & Judiciary Committee passed the bill on April 17. Sponsored by Sen. Owen (Greeley) and Rep. Scott (Westminster), the study also would compare current PERA benefits, cost, and portability to other plans around the country.

The original bill would have required that new state employees choose between PERA and a defined contribution plan. Testifying in favor of that provision, which was deleted from the original bill, was a representative of VALIC and the Deputy State Treasurer. PERA opposed that provision, citing the unknown impact and PERA's strong comprehensive benefits.

Independent Contractors: Are you sure?

Recently, PERA teamed up with the IRS to present a session at the Colorado Association of School Business Officials' spring conference on the subject: "Employee or Independent Contractor?" The IRS representative told the 25 attendees that having a contract does not automatically make a worker an independent contractor. She also reported that more auditors have been hired by the IRS with the intention of doing more audits of employers to ensure compliance regarding whether a worker is an employee or independent contractor.

The PERA representative reviewed the IRS Revenue Ruling 87-41 that is included in the PERA Employer Manual (Section 1-6) to help employers make the determination. The guidelines say that an employee-employer relationship usually exists if one or more of these circumstances occur:

- ◆ Worker is required to comply with another person's instructions about when, where, and how he or she is to work.
- ◆ Training is required (an experienced employee works with the worker or worker is required to attend meetings).
- ◆ Worker is required to render services personally.
- ◆ Employer hires, supervises and pays the worker's assistants.
- ◆ A continuing relationship between the worker and employer exists (he or she performs frequently recurring work).
- ◆ Worker must devote substantially all his or her time as full-time to the employer.
- ◆ Work is performed on the premises of the employer (especially if it could be done elsewhere).
- ◆ Worker must follow sequence or routine set by employer.
- ◆ Worker must submit regular or written reports to employer.
- ◆ Pay is by hour, week or month vs. pay by job or straight commission.
- ◆ Employer pays the worker's business or traveling expenses.
- ◆ Employer provides the worker's tools, materials and other equipment.

Also, they say an employee-employer relationship may not exist and the worker is an independent contractor when:

- ◆ Worker invests in facilities that are used by the worker and not maintained by employees of the employer.
- ◆ Worker performs more than "de minimis" services for a multiple of unrelated persons or firms at the same time.
- ◆ Worker makes services available to general public.
- ◆ Worker cannot be discharged as long as contract specifications are met.
- ◆ Worker has the right to end the relationship with the employer at any time without incurring liability.

The IRS agent said that, in addition to these guidelines, the IRS might ask the following to determine the status:

- ◆ Is the worker participating in any benefits package?
- ◆ Would someone who is taking legal action sue the employer or the independent contractor?
- ◆ Would most people realize that the worker is not an employee of yours?
- ◆ Is the payment by "project" or by hourly wages?
- ◆ Does worker pay Social Security taxes? Is it self-employment?

Special Editor's Note—Retirement Ahead: *For the past 15 years, part of my job as Communications Director involved authoring TOPICS, participating in the production of the PERA publications including the Employer Manual, and presenting information at many employer training sessions and member meetings. This summer I will be joining the ranks of the retired (although you may see me from time to time helping on special projects). I have enjoyed working with you and send you my thanks for cooperating with PERA in providing the best retirement benefits program in the country. We truly appreciate all of your work, cooperation and patience. Best Wishes! Don Schaefer (dschaefer@copera.org)*