

TITLE 2 PUBLIC FINANCE
CHAPTER 84 MAGISTRATE RETIREMENT
PART 1200 REMITTANCE OF CONTRIBUTIONS

2.84.1200.1 ISSUING AGENCY: Public Employees Retirement Association, P. O. Box 2123, Santa Fe, New Mexico 87504-2123
[10-15-97; 2.84.1200.1 NMAC - Rn, 2 NMAC 84.1200.1, 12-28-00]

2.84.1200.2 SCOPE: This rule affects the members, former members, retirees, beneficiaries, public employers, the retirement board and the association under the Magistrate Retirement Act.
[10-15-97; 2.84.1200.2 NMAC - Rn, 2 NMAC 84.1200.2, 12-28-00; A, 9-30-03]

2.84.1200.3 STATUTORY AUTHORITY: This rule is authorized by NMSA 1978, Section 10-12C-3, as amended.
[10-15-97; 2.84.1200.3 NMAC - Rn, 2 NMAC 84.1200.3, 12-28-00]

2.84.1200.4 DURATION: Permanent.
[10-15-97; 2.84.1200.4 NMAC - Rn, 2 NMAC 84.1200.4, 12-28-00]

2.84.1200.5 EFFECTIVE DATE: November 1, 1994 unless a different date is cited at the end of a section.
[10-15-97; 2.84.1200.5 NMAC - Rn & A, 2 NMAC 84.1200.5, 12-28-00]

2.84.1200.6 OBJECTIVE: The objective of this rule is to establish procedures and requirements for the remittance of contributions.
[10-15-97; 2.84.1200.6 NMAC - Rn, 2 NMAC 84.1200.6, 12-28-00]

2.84.1200.7 DEFINITIONS: [Reserved]
[2.84.1200.7 NMAC - Rn, 2 NMAC 84.1200.7, 12-28-00]

2.84.1200.8 GENERAL PROVISIONS

A. In accordance with the Magistrate Retirement Act each judicial agency, as employer, shall be responsible for deducting the applicable contribution from the salary or wages paid to each member for each payroll period.

B. The employer shall transmit to PERA the member and employer contributions for every member in its employ for each pay period on or before the fifth working day following the payday applicable to the pay period. The contributions shall be accompanied by a transmittal report in a format designated by PERA, which shall clearly set forth the amount of employer and member contributions, and adjustments for prior pay periods if applicable, transmitted.

C. Except as provided in Subsection G below, interest will be assessed on any remittance of employer and employee contributions not made by the due date of the remittance. The rate of interest shall be set annually by the board at a July meeting and shall be effective beginning the next succeeding January 1st. Any interest paid on unremitted contributions shall not be posted to the member's account or refunded to the member or the employer.

D. Except as provided in Subsection G below, a penalty of fifty dollars (\$50) per day shall be assessed for any employee and employer contribution transmittal report that is untimely. For purposes of this subsection, "untimely" is defined as fifteen (15) days after the end of the month in which the transmittal report was due.

E. In the event the judicial agency fails to make the necessary deductions, the judicial agency shall be responsible to remit to PERA the total amount due for both the member and employer contributions plus interest as provided in subsection C above.

F. Current employer contributions may not be made by members except as authorized by law.

G. If a judicial agency, for good cause, is unable to timely transmit employee and employer contributions or transmittal report, the employer shall notify PERA in writing at least twenty-four hours prior to the due date, and may request waiver of the interest or penalty that would otherwise be assessed. The executive director

may waive interest or penalty for up to thirty-one calendar days. Interest shall thereafter be charged at the rate set in subsection C above.

H. Member contributions picked-up by the employer under NMSA 1978, Section 10-12C-10 are not considered compensation for purposes of Internal Revenue Code Section 415(c).

I. Beginning January 1, 2009, to the extent required by Internal Revenue Code Section 414(u)(2), an individual receiving differential wage payments (as defined under Internal Revenue Code Section 3401(h)(2)) from an affiliated public employer shall be treated as employed by that employer and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under Internal Revenue Code Section 415(c). This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

[10-15-97; 11-15-97; 2.84.1200.8 NMAC - Rn & A, 2 NMAC 84.1200.8, 12-28-00; A, 12-28-01; A, 12-15-09; A, 12-30-13]

HISTORY of 2.84.1200 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

MRA Rule 1200, Remittance of Contributions, filed 11-1-94.