

State Auditor
Glen B. Gainer, Jr., Chairman

State Treasurer
Larrie Bailey, Member

Worker's Compensation
Commissioner
Gretchen O. Lewis, Member

Executive Secretary
Si Galperin, Jr.



JOHN D. ROCKEFELLER, IV
GOVERNOR

PUBLIC EMPLOYEES INSURANCE BOARD

Embleton Building, Second Floor
922 Quarrier Street
Charleston, West Virginia 25301
Telephone (304) 348-7850

NOTICE OF APPROVAL

The attached Legislative Rules constitute the official rules which were approved by the West Virginia Public Employee Insurance Board at a meeting held on May 11, 1984, and are being filed pursuant to law in the office of the Secretary of State, State of West Virginia, and with the Legislative Rule Making Committee.

A handwritten signature in cursive script that reads "Si Galperin, Jr.".

Si Galperin, Jr.
Executive Secretary



STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
CHARLESTON 25306

JOHN D. ROCKEFELLER IV
Governor

July 19, 1984

WILLIS H. HERTIG, JR.
Director

RONALD R. POTESTA
Deputy Director

MEMORANDUM TO Si Galperin, Jr., Executive Secretary
 WVa Public Employees Insurance Board

SUBJECT Public Hearing - Rules for Implementation
 of Provisions of House Bill 1429

We have reviewed the proposed rules for implementation of the provisions of House Bill 1429, and wish to offer comments to the Board for consideration. The proposed rules governing "Deferred Retirement," noted as Section 12.05 is the section for which we offer changes, and a copy of the suggested wording for this section is attached.

With the wording as recommended on the attached page, the rules governing sick leave restoration would be consistent with the rules as now applied for persons leaving and returning to State employment (i.e., returning within twelve months the employee has all unused sick leave restored - returning after twelve months the employee has up to a maximum of 30 days sick leave restored). This restoration provision is specifically addressed in the Civil Service Rules and Regulations (as revised December 1981) governing Attendance and Leave (Section 16.04, 3., (e), 1. Separation from Employment). As I understand it, these same rules are used throughout State service by both Civil Service and non-Civil Service agencies and offices.

Further, in the case of deferred retirement, we suggest deletion of the reference to annual leave - also consistent with the rules governing annual leave (Civil Services Rules and Regulations, as above). While the option of payment for annual leave, or taking credit toward insurance coverage as a retiree is to be available to a person ceasing active employment to retire, it does not appear that such option is required for persons ceasing employment prior to retirement eligibility who would later be returning for deferred benefits.

Current Attendance and Leave regulations provide for the payment of annual leave, up to the maximum allowable for an employee's leave earning category, upon leaving State employment, but there is no provision to restore any excess annual leave (for which payment was not received) upon re-employment, nor any option to receive payment or defer leave for later credit. To provide such would imply and/or impose a continuing financial obligation upon the State for the dollar value of such leave. For example, it would be possible for an employee to leave active employment with the intention of becoming a retiree under the provisions for deferred retirement at an appropriate future date, which could be some

Memo to Si Galperin, Jr.
July 19, 1984
Page two

15 to 20 years in the future! However, should this individual be deceased prior to such eligibility date, it would appear that his or her Estate would be entitled for payment from the last employing agency for the value of such accrued leave that would have been payable at the time active employment ceased. Thus, considerable financial obligations could accrue against an agency and could exceed budget authorizations, and/or become a claim against the State.

Therefore, reference to annual leave has been suggested for deletion under the provisions for extended coverage for deferred retirement (only). As no such obligation continues with sick leave, we believe the same restoration and credit limits that apply to re-employment should also apply to deferred retirement; thus, this section should provide credit for unused/unpaid sick leave (only) to "Deferred Retirement" provisions.

For these reasons, we respectfully offer recommended changes for your consideration at this time.



Willis H. Hertig, Jr.
Director

WHH/bp

Enclosure

SUGGESTED SUBSTITUTE FOR SECTION 12.05 - DEFERRED RETIREMENT

MODIFY TO READ:

12.05. DEFERRED RETIREMENT

When a participating employee leaves state employment after July 1, 1984, pursuant to 12.01(a), but does not immediately become a member of a state retirement system, he/she can later choose to join the PEIB as a retired employee and apply his/her unpaid accumulated sick leave to earned extended insurance coverage.

If the said employee elects to retire and enroll in the PEIB within twelve (12) months after the last day of active employment and provides evidence of insurability acceptable to the PEIB, all unpaid sick leave shall be restored to earned extended insurance coverage.

If the said employee elects to retire and enroll in the PEIB later than twelve (12) months after the last day of active employment and provides evidence of insurability acceptable to the PEIB, no more than thirty (30) days of unpaid sick leave shall be restored to earned extended insurance coverage.



MARSHALL UNIVERSITY

HUNTINGTON, WEST VIRGINIA 25701

DEPARTMENT OF HEALTH,

PHYSICAL EDUCATION AND RECREATION

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PE17

July 13, 1984

West Virginia Public Employees
Insurance Board
922 Quarrier Street
Charleston, West Virginia

To Whom It May Concern:

As two members of the Marshall University faculty, we would like to be on record as strongly supporting House Bill 1429, which would allow credit for accrued sick and/or annual leave to be applied toward the monthly insurance premium for retirees.

We feel this is a very important Bill which will come up on July 19, 1984 and hopefully other faculty members will also write a support letter such as this.

Thank you for the opportunity for input on such a vital matter.

Sincerely,

Betty Roberts

Dorothy Hicks

Dr. Betty Roberts

Dr. Dorothy Hicks



WEST VIRGINIA EDUCATION ASSOCIATION

1558 QUARRIER STREET CHARLESTON, WEST VIRGINIA 25311 304-346-5315 1-800-642-8261

DR. LOWELL E. JOHNSON, PRESIDENT
JAMES. D. CARUTH, EXECUTIVE SECRETARY

July 27, 1984

Mr. Si Galperin
W. Va. Public Employees Insurance Board
922 Quarrier Street, 2nd Floor
Embleton Building
Charleston WV 25301

Dear Mr. Galperin:

After attending the public hearing concerning House Bills 1429 and 1622 on July 19, 1984, during which you stated that written evidence would still be accepted for the next couple of days, I examined the bills more closely and decided to reiterate some issues that were brought to your attention at the meeting as well as bring other issues of concern to your attention.

The concerns presented at the meeting dealing with the regulations established in order to implement House Bill 1429 were: 1) deferred retirement, and 2) the surviving spouse clause.

According to the proposed regulations, if an employee resigns but does not retire, he/she must retire and enroll in the program within a year in order to have annual leave credited towards the insurance program. (12.05) This regulation does not seem to follow the legislative intent of House Bill 1429 which is to encourage employees to conserve leave days. If an employee happens to know prior to his resignation that he will be unable to immediately enroll in the state's retirement program, he/she will be encouraged, due to this regulation, to use up all unused leave days. This outcome definitely was not intended by the legislature. Furthermore, a regulation which allows all employees, regardless of when they enter the retirement system, to apply any

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Mr. Si Galperin
July 27, 1984
Page 2

unpaid accumulated sick and/or annual leave to earned extended insurance coverage, would encourage employees to remain in the insurance system and thus create a larger contribution group which would help keep premiums low.

Another concern presented at the hearing dealt with regulation 12.04 (c) which states that

"the death of an employee with the family plan terminates any and all remaining earned extended insurance coverage. From the date of the employee's death, the dependents shall be entitled to continue their participation and coverage in the plan upon payment of the total cost for such coverage in accordance with Rule 4.03 of these rules."

You stated at the hearing that this regulation was clearly intended by the legislature, because the phrase "The dependents of any deceased member shall be entitled to continue their participation and coverage upon payment of the total cost of such coverage." was left in § 5-16-18 of the W. Va. Code when the statute was amended to include the new provisions set forth in House Bill 1429.

My interpretation of this phrase is completely different mainly because it follows a portion of the Code which states:

"Such regulations shall provide that any employee of the state who has been compelled or required by law to retire before reaching the age of sixty-five years shall be eligible to participate in the public employees' health insurance program at his own expense for the cost of coverage after any extended coverage to which he, his spouse and dependents may be entitled by virtue of his accrued annual leave or sick leave."

The phrase "The dependents of any deceased member shall be entitled to continue their participation and coverage upon payment of the total cost for such coverage" logically follows,

Mr. Si Galperin
July 27, 1984
Page 3

since the previous phrase explained when the participating member and dependents were expected to pay the total cost which is after the extended coverage runs out. Similarly, dependents of any deceased member are also expected to pay the total cost of the insurance premium when the extended coverage runs out. This language strongly indicates that the legislature intended extended coverage for accrued leave to be given to the dependents of any deceased member. Thus, regulation 12.04 (c) should be amended in order to allow the dependents of a deceased member to benefit from the extended coverage of his/her accrued leave.

Any other interpretation of § 5-16-18 of the W. Va. Code would violate legislative intent as well as further penalize families of deceased members who would more than likely be suffering financial and mental hardship due to the death of their spouse or parent. In addition, it seems unjust to allow dependents to receive this extended coverage when the participating member is alive but not when he is dead. If credit for extended coverage is still available, the family members should be able to reap the benefits of the member's hard work and dedication.

I would also like to bring to your attention two other concerns with House Bill 1429 and its regulations that were not mentioned at the hearing: 1) the fact that no partial accreditation will be given to retired members and, 2) the fact that failure of a retired employee to authorize a retirement check deduction after the free extended coverage runs out causes their insurance plan to terminate.

According to regulation 12.02,

"There shall be no partial accreditation, only fully accumulated months shall be eligible for accreditation, That is any odd day of unpaid sick and/or annual leave remaining after the statutory formulae has been applied, shall not be credited toward a partial or fraction of a month's earned extended insurance coverage."

Again, this regulation appears to violate the legislative intent of House Bill 1429. As discussed above, when the legislature enacted this bill they intended to encourage employees to conserve their sick leave, personal leave, or annual leave. This regulation will encourage the employees to save many of their leave days, however, it will also encourage employees to use up any odd days of unpaid sick and/or annual leave remaining after the statutory formula has been applied. Further, there seems to be little reason for denying partial month's benefits under this statute. If partial accreditation credit is given, the legislative policy of rewarding accumulation of leave would be advanced and it would be simple to compute the discount of 1/2 for the individual coverage or 1/3 or 2/3 for the family coverage for the days left over when the formula is applied. Therefore, this regulation appears to go against legislative intent and should be changed in order to allow employees to be given partial accreditation.

Finally, policy 12.01 (d) states that

"a retired employee who wishes to continue his/her participation in the PEIB benefit plan after his/her earned extended insurance coverage has been used, must authorize a deduction from their retirement check... a retired employee who fails to authorize the deduction must re-enroll in the PEIB prior to their last month of earned extended insurance coverage or their participation in the plan will be terminated on the last day of the last month of earned extended insurance coverage."

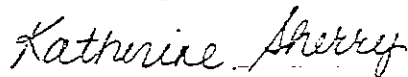
For the most part, I have no objection to this regulation; however, I strongly feel that a duty must be placed on the employer to inform the employee of this regulation when the employee retires. The employer should also be required to send written notice to the employee that his/her insurance coverage will terminate unless the employee authorizes a deduction from his/her retirement check. This notice should be given within a reasonable time period in order to allow the retired employee to take action before his/her insurance coverage terminates.

Mr. Si Galperin
July 27, 1984
Page 5

A retiring employee is confronted with many forms to fill out. He/she is also unaware of much of the "red tape" that needs to be taken care of before retirement. Because the employer has a greater degree of knowledge in this area and since it is foreseeable that an employee may neglect to fill out the proper authorization forms due to the overwhelming amount of paper work needing to be completed, the employer should give his/her employees adequate notice of these regulations. Therefore, I strongly suggest that policy 12.01 (d) be amended to include a notice requirement as discussed above.

I hope that you will find this information useful while you and your committee work to further refine the regulations concerning House Bill 1429.

Sincerely,



Katherine Sherry
Legal Intern
WVEA



William B. McGinley
General Counsel
WVEA

KS/WBM/j

er. the cost-of-living increase that went into effect July 1 has brought new employees closer in pay to those who have several

ture employees.

Ms. Carte said from now on employees will have to complete 60 hours of classroom instructions as

for administration, also acknowledged that the state's pay scale causes morale problems.

Hartley said some of the experienced aides had only an eight

Judge re-dismisses libel suit aga

Kanawha Circuit Judge Herman Canady has issued a new dismissal order on a libel suit filed on behalf of a state trooper against the

Daily Gazette Co., parent firm of The Charleston Gazette.

Canady also turned down a motion by lawyers for the Gazette to

collect court and lawyers' fees, saying his court lacks jurisdiction. There is no precedent for the ruling in West Virginia, Canady said.

Bank files countersuit in appraisal challenge

The National Bank of Commerce in Charleston has moved to dismiss a suit which challenged the appraisal of 320 shares of the bank's stock and has filed a countersuit.

The bank's response to a suit filed by W.E. Chilton III, publisher of The Charleston Gazette, said Chilton has no factual basis for his contention that the appraisal of his stock at \$44.88 a share was not consistent with the actual worth of the stock.

Chilton filed a lawsuit in U.S. District Court in January against the financial institution and U.S. Comptroller of the Currency C. Todd Conover following a merger which Chilton opposed. The fi-

nancial institution then sent Chilton a check for \$14,316 for the stock surrendered following the merger. Chilton later sent the check back saying the price on the stock, as set by the comptroller, was not the fair market value.

Chilton had requested Conover's appraisal after an initial appraisal by NB of C did not meet with his approval.

However, in the countersuit, the financial institution says the 320 shares were sold at a public auction July 10 for \$15,852 — \$1,491 more than the appraised value.

The countersuit also requests attorney fees and \$3,300 for the comptroller's fee from Chilton.

Canady issued the new order saying there was no legal basis to support the claim of the trooper. He also denied a motion by the Daily Gazette Co.'s lawyers, who asked that court and attorney fees incurred in defending the suit be paid by the trooper's lawyer, Joe Cometti.

Trooper G.R. Johnson sued The Charleston Gazette after it published a story quoting his testimony before a grand jury.

Transcripts of Johnson's testimony before the grand jury showed Johnson said that the Ku Klux Klan stands for "God, country and apple pie."

Washington & female underg

LEXINGTON, Va. — Washington & Lee University trustees voted over the weekend to end the school's 235-year-old tradition of admitting only male undergraduates.

The 1,350-student school, which has operated a co-educational law school since 1972, was founded in 1749 as Liberty Hall Academy. George Washington made a substantial financial contribution to the college before the end of the 18th century, and Robert E. Lee was president of the school from 1865 to 1870.

The 24 trustees voted 17-7 in favor of the move to co-education. College officials say the shrinking pool of college applicants, the pre-

Unused leave credited toward insurance

UNITED PRESS INTERNATIONAL

Beginning this month, retiring state employees can use their accrued sick leave or vacation time to offset the cost of staying on the state's insurance plan.

The Public Employees Insurance Board has come up with rules to implement the new law allowing unused leave to be credited toward insurance premiums.

The PEIB holds a public hearing today on the rules, although

the real test of them will come later with legislative review.

In the past, retirees could get paid for unused annual leave, but they lost their unused sick leave. Retirees can stay on the insurance plan but must pay their premiums.

Teachers and public employees had lobbied during the last session to have their unused leave applied toward retirement, but the Legislature decided on the insurance program instead.

Cosmonauts prepare to dock spacecraft

MOSCOW (UPI) — The Soviet Union said three cosmonauts, including a woman, prepared Wednesday to dock their spacecraft with the Salyut-7 orbiting space station but a reliable American space-watcher said there were indications the Soviets failed

cosmonauts Vladimir Svetlana Savit- engineer on her

second mission to the space station, and rookie Igor Volk "were feeling well," the official Soviet news agency Tass said.

But James Oberg, a Houston-based space engineer who closely follows the Soviet space program, said it was doubtful the Soviets' 56th manned space flight would succeed in linking with the orbiting space station.

Hospital offers train

St. Francis Hospital will hold a training session from 1 to 4 p.m. July 25 and 26 for volunteers in the new After Care Visiting Program.

The program is designed to provide friendly visitors and reassurance to patients for a short period after they are released from the hospital.

"There are many patients who

1. Please give the citation of the statute which authorizes your promulgation of these rules.

West Virginia Code-Chapter 5, Article 16, Sections 12 and 18

Chapter 5, Article 16, Section 7

2. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation: (29A-3-5)

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

Not applicable

- b. Was the hearing held on the date scheduled and were all interested parties permitted to be heard?

Not applicable

- c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

Not applicable

d. Is the transcript of all evidence received preserved and available for public inspection and copying?

Yes

3. For all rules promulgated:--

a. When did you file the rules in the State Register together with notice of a hearing time, date and location? (29A-3-5)

June 13, 1984

b. Did you give at least 30 days notice and no more than 60 days notice? (29A-3-7)

Yes (36 days)

c. What other notice, including advertising, did you give of the hearing? (29A-3-5)

Notified all participating agencies
Notified Public Employee Unions (AFSCME-CWA-WVEA)
Notified Capitol Press Corps

d. Was the hearing held on the scheduled date? If not, why not?

Yes--July 19, 1984--3:30 PM to 5:00PM

e. Was the opportunity given for all interested parties to submit data, objections, suggested amendments, views, evidence or arguments?

Yes

f. List all persons who appeared at the hearing and what type of comment they made about the proposed rules (for, against, suggested and amendments). Please attach a copy of the minutes of the hearing.

See attached minutes and roster of persons in attendance

g. On what date did you file in the State Register notice of your action on the proposed rules together with the text of such rules?

August 7, 1984

J. J. Galvin, Jr.

Signature of department head, board chairman or executive secretary.

(Please attach additional sheets if necessary)

MINUTES OF PUBLIC HEARING

Minutes of an open meeting of the Public Employees Insurance Board held at the State Capitol Complex, Conference Room E, Charleston, West Virginia on July 19, 1984. The meeting was called to order by Si Galperin, Jr., Executive Secretary of the Public Employees Insurance Board at 3:35 P.M.

PRESENT:

Si Galperin, Jr., Public Employees Insurance Board
Larry Barker, Public Employees Insurance Board
G. Patrick Jacobs, Attorney for Public Employees Insurance Board
Daniel L. Higgins, WV Railroad Authority
Herbert Darnell, WV Soil Conservation Commission
Kathy Sherry, WV Education Association
Ann Lanier, Department of Natural Resources
Helen A. Butler, Department of Human Services
Gerry Cavacini, Department of Human Services
Rose Marie Porta, Department of Human Services
Ruby Blankenship, Department of Human Services
Robert Cline, Department of Human Services
Lillian Dodd, Governor's Office
Robert Morgenstern, AFSCME
Daniel Yonkosky, Water Development Authority
Louise Young, Library Commission

Mr. Galperin explained that the purpose of the meeting was to hear public comments on the rules promulgated to implement House Bill 1622 and 1429.

Mr. Galperin introduced Mr. Larry Barker, PEIB Eligibility Supervisor and Mr. G. Patrick Jacobs, Attorney for the PEIB. He then turned the meeting over to Mr. Barker.

Mr. Barker explained that there would be no time limit on comments, but that they should be limited to comments on the rules being proposed.

The first speaker was Mr. Daniel L. Higgins, representing the WV Railroad Authority. Mr. Higgins asked whether the Board had

considered whether an employee who had lost annual leave because there was a limit on the number of hours they could carry forward could use the leave lost toward paying their insurance premium. Mr. Barker and Mr. Galperin both indicated that leave that was not actually available to the employee to use as leave while they are working could not be used toward their insurance premium when they retire.

The next speaker was Mr. Herbert Darnell, retired from the State Soil Conservation Commission. Mr. Darnell pointed out that he had lost a lot of sick leave because of a cap of 120 days. He asked if there was any way that the days lost because of the cap could be used toward his insurance premium. Mr. Galperin indicated that under the proposed rules this leave would not be available to be used, but that he would bring this question to the attention of the Rule-Making Review Committee.

Mr. Galperin then entered into the record a letter from Mr. Willis Hertig, Commissioner of the Department of Natural Resources. Mr. Darnell requested a copy of Mr. Hertig's letter which Mr. Barker indicated he would mail a copy to him.

Mr. Robert Cline, employees of the Department of Human Services, asked whether this Board had made actuarial studies on spouses continuing their coverage after the insured had deceased. Mr. Galperin and Mr. Barker indicated no such studies had been made, and it is their interpretation of the law that surviving spouses would have to pay for coverage after the insured had deceased.

After brief discussion, the meeting adjourned at 3:55 P.M. Mr. Galperin indicated he would remain at the conference room

until 5 P.M. in case other people should appear to make further
comments.

Respectfully submitted:

A handwritten signature in cursive script that reads "Si Galperin, Jr.".

Si Galperin, Jr., Executive Secretary

2. Explanation of the estimates.

1. Number of state employees who retired in 1983--Teachers Retirement Bd. 920
Public Employees Retirement Bd. 563
TOTAL 1,483

2. Estimated average amount of leave accumulation:

2,197 State agencies 7 Board of Regents employees (age 55 or older)= 84.77 days
39,153 School Board Employees-----=146.00 days
ESTIMATED OVERALL AVERAGE=142.00 days

3. Assumptions based on 1983 retirees and enrollment:69% under age 65 (1,024)
31% over age 65 (459)

4. 56% enrolled Single Coverage-----44% enrolled Family Coverage

5. Total premium to be received Fiscal Year 85 (1,483 enrollees) at the
present rates-----\$1,315,368.00

STATEMENT OF ECONOMIC IMPACT OF PROPOSED RULES OR REGULATIONS

Agency WV Public Employees Insurance Board

Rule No. PEIB-Leg. 5-16-Series 1

Subject HB 1429

1. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

There is a potential cost to the State of West Virginia as follows:

Fiscal Year 85= \$2.8 million
86= 6.4 million
87= 11.02 million

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

There would be an additional cost to Political Subdivisions if they provide the earned extended coverage to their Retirees.

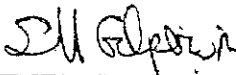
C. Economic Impact on Citizens/Public at Large.

The economic impact on the Citizens and the Public at Large would be the same as the potential cost to the State of West Virginia as stated in "A".

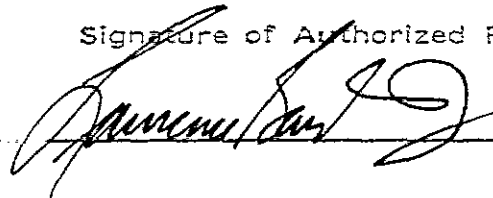
Date August 6, 1984

Agency WV Public Employees Insurance Board

Signature of Agency Head



Signature of Authorized Representative



State Auditor
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State Treasurer
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Worker's Compensation
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Gretchen O. Lewis, Member

Executive Secretary
Si Galperin, Jr.



JOHN D. ROCKEFELLER, IV
GOVERNOR

PUBLIC EMPLOYEES INSURANCE BOARD

Embleton Building, Second Floor
922 Quarrier Street
Charleston, West Virginia 25301
Telephone (304) 348-7850

STATEMENT OF NEED

The attached Legislative Rules were promulgated pursuant to the passage of House Bills 1429 and 1622.

House Bill 1429 allows participating employees who retire on or after July 1, 1984 to apply their accrued sick and/or annual leave as a credit towards their retirement insurance premium.

House Bill 1622 allows participating employees to purchase additional Optional Life and Accidental Death and Dismemberment Insurance to a maximum of \$50,000.00 coverage, and also to purchase life and accidental death and dismemberment insurance for their eligible dependents.

A handwritten signature in cursive script, appearing to read "Si Galperin, Jr.", written over a horizontal line.

Si Galperin, Jr.
Executive Secretary

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C. Economic Impact on Citizens/Public at Large.

The economic impact on the Citizens and the Public at Large would be the same as the potential cost to the State of West Virginia as stated in "A".

Date August 6, 1984

Agency WV Public Employees Insurance Board

Signature of Agency Head

Ell G. [Signature]

Signature of Authorized Representative

[Signature]

G

Auditor
er, Jr., Chairman

Treasurer
ley, Member

Compensation
Commissioner

C

Lewis, Member

Secretary
carr, Jr.

STATE OF WEST VIRGINIA



JOHN D. ROCKEFELLER, IV
GOVERNOR

PUBLIC EMPLOYEES INSURANCE BOARD

Embleton Building, Second Floor
922 Quarrier Street
Charleston, West Virginia 25301
Telephone (304) 348-7850

STATEMENT OF NEED

The attached Legislative Rules were promulgated pursuant to the passage of House Bills 1429 and 1622.

House Bill 1429 allows participating employees who retire on or after July 1, 1984 to apply their accrued sick and/or annual leave as a credit towards their retirement insurance premium.

House Bill 1622 allows participating employees to purchase additional Optional Life and Accidental Death and Dismemberment Insurance to a maximum of \$50,000.00 coverage, and also to purchase life and accidental death and dismemberment insurance for their eligible dependents.

Si Galperin, Jr.
Executive Secretary

State Auditor
Glen B. Gainer, Jr., Chairman

State Treasurer
Larrie Bailey, Member

Worker's Compensation
Commissioner
Gretchen O. Lewis, Member

Executive Secretary
Si Galperin, Jr.



JOHN D. ROCKEFELLER, IV
GOVERNOR

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NOTICE OF APPROVAL

The attached Legislative Rules constitute the official rules which were approved by the West Virginia Public Employee Insurance Board at a meeting held on May 11, 1984, and are being filed pursuant to law in the office of the Secretary of State, State of West Virginia, and with the Legislative Rule Making Committee.

A handwritten signature in cursive script that reads "Si Galperin, Jr.".

Si Galperin, Jr.
Executive Secretary



STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
CHARLESTON 25306

JOHN D. ROCKEFELLER IV
Governor

July 19, 1984

WILLIS H. HERTIG, JR.
Director

RONALD R. POTESTA
Deputy Director

MEMORANDUM TO SI Galperin, Jr., Executive Secretary
WVa Public Employees Insurance Board

SUBJECT Public Hearing - Rules for Implementation
of Provisions of House Bill 1429

We have reviewed the proposed rules for implementation of the provisions of House Bill 1429, and wish to offer comments to the Board for consideration. The proposed rules governing "Deferred Retirement," noted as Section 12.05 is the section for which we offer changes, and a copy of the suggested wording for this section is attached.

With the wording as recommended on the attached page, the rules governing sick leave restoration would be consistent with the rules as now applied for persons leaving and returning to State employment (i.e., returning within twelve months the employee has all unused sick leave restored - returning after twelve months the employee has up to a maximum of 30 days sick leave restored). This restoration provision is specifically addressed in the Civil Service Rules and Regulations (as revised December 1981) governing Attendance and Leave (Section 16.04, 3., (e), 1. Separation from Employment). As I understand it, these same rules are used throughout State service by both Civil Service and non-Civil Service agencies and offices.

Further, in the case of deferred retirement, we suggest deletion of the reference to annual leave - also consistent with the rules governing annual leave (Civil Services Rules and Regulations, as above). While the option of payment for annual leave, or taking credit toward insurance coverage as a retiree is to be available to a person ceasing active employment to retire, it does not appear that such option is required for persons ceasing employment prior to retirement eligibility who would later be returning for deferred benefits.

Current Attendance and Leave regulations provide for the payment of annual leave, up to the maximum allowable for an employee's leave earning category, upon leaving State employment, but there is no provision to restore any excess annual leave (for which payment was not received) upon re-employment, nor any option to receive payment or defer leave for later credit. To provide such would imply and/or impose a continuing financial obligation upon the State for the dollar value of such leave. For example, it would be possible for an employee to leave active employment with the intention of becoming a retiree under the provisions for deferred retirement at an appropriate future date, which could be some

Memo to Si Galperin, Jr.
July 19, 1984
Page two

15 to 20 years in the future! However, should this individual be deceased prior to such eligibility date, it would appear that his or her Estate would be entitled for payment from the last employing agency for the value of such accrued leave that would have been payable at the time active employment ceased. Thus, considerable financial obligations could accrue against an agency and could exceed budget authorizations, and/or become a claim against the State.

Therefore, reference to annual leave has been suggested for deletion under the provisions for extended coverage for deferred retirement (only). As no such obligation continues with sick leave, we believe the same restoration and credit limits that apply to re-employment should also apply to deferred retirement; thus, this section should provide credit for unused/unpaid sick leave (only) to "Deferred Retirement" provisions.

For these reasons, we respectfully offer recommended changes for your consideration at this time.



Willis H. Hertig, Jr.
Director

WHH/bp

Enclosure

SUGGESTED SUBSTITUTE FOR SECTION 12.05 - DEFERRED RETIREMENT

MODIFY TO READ:

12.05. DEFERRED RETIREMENT

When a participating employee leaves state employment after July 1, 1984, pursuant to 12.01(a), but does not immediately become a member of a state retirement system, he/she can later choose to join the PEIB as a retired employee and apply his/her unpaid accumulated sick leave to earned extended insurance coverage.

If the said employee elects to retire and enroll in the PEIB within twelve (12) months after the last day of active employment and provides evidence of insurability acceptable to the PEIB, all unpaid sick leave shall be restored to earned extended insurance coverage.

If the said employee elects to retire and enroll in the PEIB later than twelve (12) months after the last day of active employment and provides evidence of insurability acceptable to the PEIB, no more than thirty (30) days of unpaid sick leave shall be restored to earned extended insurance coverage.



MARSHALL UNIVERSITY

HUNTINGTON, WEST VIRGINIA 25701

DEPARTMENT OF HEALTH,

PHYSICAL EDUCATION AND RECREATION

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P510

July 13, 1984

West Virginia Public Employees
Insurance Board
922 Quarrier Street
Charleston, West Virginia

To Whom It May Concern:

As two members of the Marshall University faculty, we would like to go on record as strongly supporting House Bill 1429, which would allow credit for accrued sick and/or annual leave to be applied toward the monthly insurance premium for retirees.

We feel this is a very important bill which will come up on July 19, 1984 and hopefully other faculty members will also write a support letter such as this.

Thank you for the opportunity for input on such a vital matter.

Sincerely,

Betty Roberts

Dorothy Hicks

Dr. Betty Roberts

Dr. Dorothy Hicks



WEST VIRGINIA EDUCATION ASSOCIATION

1558 QUARRIER STREET CHARLESTON, WEST VIRGINIA 25311 304-346-5315 1-800-642-8261

DR. LOWELL E. JOHNSON, PRESIDENT
JAMES D. CARUTH, EXECUTIVE SECRETARY

July 27, 1984

Mr. Si Galperin
W. Va. Public Employees Insurance Board
922 Quarrier Street, 2nd Floor
Embleton Building
Charleston WV 25301

Dear Mr. Galperin:

After attending the public hearing concerning House Bills 1429 and 1622 on July 19, 1984, during which you stated that written evidence would still be accepted for the next couple of days, I examined the bills more closely and decided to reiterate some issues that were brought to your attention at the meeting as well as bring other issues of concern to your attention.

The concerns presented at the meeting dealing with the regulations established in order to implement House Bill 1429 were: 1) deferred retirement, and 2) the surviving spouse clause.

According to the proposed regulations, if an employee regains but does not retire, he/she must retire and enroll in the program within a year in order to have annual leave credited towards the insurance program. (12.05) This regulation does not seem to follow the legislative intent of House Bill 1429 which is to encourage employees to conserve leave days. If an employee happens to know prior to his resignation that he will be unable to immediately enroll in the state's retirement program, he/she will be encouraged, due to this regulation, to use up all unused leave days. This outcome definitely was not intended by the legislature. Furthermore, a regulation which allows all employees, regardless of when they enter the retirement system, to apply any

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Mr. Si Galperin
July 27, 1984
Page 2

unpaid accumulated sick and/or annual leave to earned extended insurance coverage, would encourage employees to remain in the insurance system and thus create a larger contribution group which would help keep premiums low.

Another concern presented at the hearing dealt with regulation 12.04 (c) which states that

"the death of an employee with the family plan terminates any and all remaining earned extended insurance coverage. From the date of the employee's death, the dependents shall be entitled to continue their participation and coverage in the plan upon payment of the total cost for such coverage in accordance with Rule 4.03 of these rules."

You stated at the hearing that this regulation was clearly intended by the legislature, because the phrase "The dependents of any deceased member shall be entitled to continue their participation and coverage upon payment of the total cost of such coverage." was left in § 5-16-18 of the W. Va. Code when the statute was amended to include the new provisions set forth in House Bill 1429.

My interpretation of this phrase is completely different mainly because it follows a portion of the Code which states:

"Such regulations shall provide that any employee of the state who has been compelled or required by law to retire before reaching the age of sixty-five years shall be eligible to participate in the public employees' health insurance program at his own expense for the cost of coverage after any extended coverage to which he, his spouse and dependents may be entitled by virtue of his accrued annual leave or sick leave."

The phrase "The dependents of any deceased member shall be entitled to continue their participation and coverage upon payment of the total cost for such coverage" logically follows,

Mr. Si Galperin
July 27, 1984
Page 3

since the previous phrase explained when the participating member and dependents were expected to pay the total cost which is after the extended coverage runs out. Similarly, dependents of any deceased member are also expected to pay the total cost of the insurance premium when the extended coverage runs out. This language strongly indicates that the legislature intended extended coverage for accrued leave to be given to the dependents of any deceased member. Thus, regulation 12.04 (c) should be amended in order to allow the dependents of a deceased member to benefit from the extended coverage of his/her accrued leave.

Any other interpretation of § 5-16-18 of the W. Va. Code would violate legislative intent as well as further penalize families of deceased members who would more than likely be suffering financial and mental hardship due to the death of their spouse or parent. In addition, it seems unjust to allow dependents to receive this extended coverage when the participating member is alive but not when he is dead. If credit for extended coverage is still available, the family members should be able to reap the benefits of the member's hard work and dedication.

I would also like to bring to your attention two other concerns with House Bill 1429 and its regulations that were not mentioned at the hearing: 1) the fact that no partial accreditation will be given to retired members and, 2) the fact that failure of a retired employee to authorize a retirement check deduction after the free extended coverage runs out causes their insurance plan to terminate.

According to regulation 12.02,

"There shall be no partial accreditation, only fully accumulated months shall be eligible for accreditation, That is any odd day of unpaid sick and/or annual leave remaining after the statutory formulae has been applied, shall not be credited toward a partial or fraction of a month's earned extended insurance coverage."

Again, this regulation appears to violate the legislative intent of House Bill 1429. As discussed above, when the legislature enacted this bill they intended to encourage employees to conserve their sick leave, personal leave, or annual leave. This regulation will encourage the employees to save many of their leave days, however, it will also encourage employees to use up any odd days of unpaid sick and/or annual leave remaining after the statutory formula has been applied. Further, there seems to be little reason for denying partial month's benefits under this statute. If partial accreditation credit is given, the legislative policy of rewarding accumulation of leave would be advanced and it would be simple to compute the discount of 1/2 for the individual coverage or 1/3 or 2/3 for the family coverage for the days left over when the formula is applied. Therefore, this regulation appears to go against legislative intent and should be changed in order to allow employees to be given partial accreditation.

Finally, policy 12.01 (d) states that

"a retired employee who wishes to continue his/her participation in the PEIB benefit plan after his/her earned extended insurance coverage has been used, must authorize a deduction from their retirement check... a retired employee who fails to authorize the deduction must re-enroll in the PEIB prior to their last month of earned extended insurance coverage or their participation in the plan will be terminated on the last day of the last month of earned extended insurance coverage."

For the most part, I have no objection to this regulation; however, I strongly feel that a duty must be placed on the employer to inform the employee of this regulation when the employee retires. The employer should also be required to send written notice to the employee that his/her insurance coverage will terminate unless the employee authorizes a deduction from his/her retirement check. This notice should be given within a reasonable time period in order to allow the retired employee to take action before his/her insurance coverage terminates.

Mr. Si Galperin
July 27, 1984
Page 5

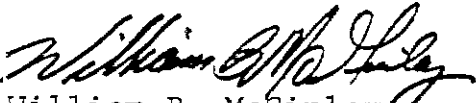
A retiring employee is confronted with many forms to fill out. He/she is also unaware of much of the "red tape" that needs to be taken care of before retirement. Because the employer has a greater degree of knowledge in this area and since it is foreseeable that an employee may neglect to fill out the proper authorization forms due to the overwhelming amount of paper work needing to be completed, the employer should give his/her employees adequate notice of these regulations. Therefore, I strongly suggest that policy 12.01 (d) be amended to include a notice requirement as discussed above.

I hope that you will find this information useful while you and your committee work to further refine the regulations concerning House Bill 1429.

Sincerely,



Katherine Sherry
Legal Intern
WVEA



William B. McGinley
General Counsel
WVEA

KS/WBM/j

er. the cost-of-living increase that went into effect July 1 has brought new employees closer in pay to those who have several

ture employees.

Ms. Carte said from now on employees will have to complete 60 hours of classroom instructions as

for administration, also acknowledged that the state's pay scale causes morale problems.

Hartley said some of the experienced aides had only an eight

Judge re-dismisses libel suit aga

Kanawha Circuit Judge Herman Canady has issued a new dismissal order on a libel suit filed on behalf of a state trooper against the

Daily Gazette Co., parent firm of The Charleston Gazette.

Canady also turned down a motion by lawyers for the Gazette to

collect court and lawyers' fees saying his court lacks jurisdiction. There is no precedent for the ruling in West Virginia, Canady said.

Bank files countersuit in appraisal challenge

The National Bank of Commerce in Charleston has moved to dismiss a suit which challenged the appraisal of 320 shares of the bank's stock and has filed a countersuit.

The bank's response to a suit filed by W.E. Chilton III, publisher of The Charleston Gazette, said Chilton has no factual basis for his contention that the appraisal of his stock at \$44.88 a share was not consistent with the actual worth of the stock.

Chilton filed a lawsuit in U.S. District Court in January against the financial institution and U.S. Comptroller of the Currency C. Todd Conover following a merger which Chilton opposed. The fi-

ancial institution then sent Chilton a check for \$14,316 for the stock surrendered following the merger. Chilton later sent the check back saying the price on the stock, as set by the comptroller, was not the fair market value.

Chilton had requested Conover's appraisal after an initial appraisal by NB of C did not meet with his approval.

However, in the countersuit, the financial institution says the 320 shares were sold at a public auction July 10 for \$15,852 — \$1,491 more than the appraised value.

The countersuit also requests attorney fees and \$3,300 for the comptroller's fee from Chilton.

Canady issued the new order saying there was no legal basis to support the claim of the trooper. He also denied a motion by the Daily Gazette Co.'s lawyers, who asked that court and attorney fees incurred in defending the suit be paid by the trooper's lawyer, Joe Cometti.

Trooper G.R. Johnson sued The Charleston Gazette after it published a story quoting his testimony before a grand jury.

Transcripts of Johnson's testimony before the grand jury showed Johnson said that the Ku Klux Klan stands for "God, country and apple pie."

Washington & female underg

LEXINGTON, Va. — Washington & Lee University trustees voted over the weekend to end the school's 235-year-old tradition of admitting only male undergraduates.

The 1,350-student school, which has operated a co-educational law school since 1972, was founded in 1749 as Liberty Hall Academy. George Washington made a substantial financial contribution to the college before the end of the 18th century, and Robert E. Lee was president of the school from 1865 to 1870.

The 24 trustees voted 17-7 in favor of the move to co-education. College officials say the shrinking pool of college applicants, the pre-

Unused leave credited toward insurance

UNITED PRESS INTERNATIONAL

Beginning this month, retiring state employees can use their accrued sick leave or vacation time to offset the cost of staying on the state's insurance plan.

The Public Employees Insurance Board has come up with rules to implement the new law allowing unused leave to be credited toward insurance premiums.

The PEIB holds a public hearing today on the rules, although

the real test of them will come later with legislative review.

In the past, retirees could get paid for unused annual leave, but they lost their unused sick leave. Retirees can stay on the insurance plan but must pay their premiums.

Teachers and public employees had lobbied during the last session to have their unused leave applied toward retirement, but the Legislature decided on the insurance program instead.

Cosmonauts prepare to dock spacecraft

MOSCOW (UPI) — The Soviet Union said three cosmonauts, including a woman, prepared Wednesday to dock their spacecraft with the Salyut-7 orbiting space station but a reliable American space-watcher said there were indications the Soviets failed

second mission to the space station, and rookie Igor Volk "were feeling well," the official Soviet news agency Tass said.

But James Oberg, a Houston-based space engineer who closely follows the Soviet space program, said it was doubtful the Soviets' 36th manned space flight would succeed in linking with the orbiting space station.

monauts Vladimir Svetlana Savit-engineer on her

Hospital offers train

St. Francis Hospital will hold a training session from 1 to 4 p.m. July 25 and 26 for volunteers in the new After Care Visiting Program.

The program is designed to provide friendly visitors and reassurance to patients for a short period after they are released from the hospital.

"There are many patients who

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Executive Secretary
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JOHN D. ROCKEFELLER, IV.
GOVERNOR

PUBLIC EMPLOYEES INSURANCE BOARD

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Charleston, West Virginia 25301
Telephone (304) 348-7850

August 7, 1984

Honorable A. James Manchin
West Virginia Secretary of State
Capitol Complex
Charleston, West Virginia 35305

Dear Mr. Manchin:

Pursuant to Chapter 29A of the West Virginia Code, the attached
Legislative Rules with findings and determinations is hereby submitted
for filing in the State Register on this date.

Sincerely,

A handwritten signature in cursive script that reads "Si Galperin".

Si Galperin, Jr.
Executive Secretary

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE

THIS DATE AUG. 7, 1984
Administrative Law Division