WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION

Form #7

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Filing Date

2011 MAY 12 PM 4:42

OFFICE W. VIRGINIA
SECRETARY OF STATE

Effective Date

NOTICE OF AN EMERGENCY RULE

AGENCY: Consolidated Public Retirement Board TITLE NUMBER: 162

CITE AUTHORITY: W. Va. Code § 5-10-31

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES X NO __

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 5

TITLE OF RULE BEING AMENDED: Public Employees Retirement System

IF NO, SERIES NUMBER OF RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

Authorized Signature

5-11-11

Use additional sheets if necessary

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EMERGENCY RULE QUESTIONNAIRE

DATE: May 12, 2011

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM:(*Agency Name, Address & Phone No.*) Terasa L. Miller, Acting Executive Director

WV Consolidated Public Retirement Board, 4101 MacCorkle Ave., SE

Charleston, WV 25304, Telephone (304) 558-3570 ext. 52405

EMERGENCY RULE TITLE: Title 162, Series 5; West Virginia State Police

1. Date of filing May 12, 2011

2. Statutory authority for promulgating emergency rule:

   W. Va. Code § 5-10-31(b)

3. Date of filing of proposed legislative rule: May 12, 2011

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule?

   The emergency rule amends a current legislative rule.

5. Has the same or similar emergency rule previously been filed and expired?

   No.

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.

   The July 1, 2010 Actuarial Valuation Report adopted by the Consolidated Public Retirement Board at its January 19, 2011 Board meeting indicated an increase in the employer contribution rate from 12.5% to 14.5% was necessary to adequately fund the West Virginia Public Employees Retirement System (PERS).

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

N/A

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

Without the emergency rule, the WV Public Employees Retirement System (PERS) will not be adequately funded. The public interest will be subject to substantial harm in that the Plan's unfunded actuarial accrued liability will increase if the employer contributions are not increased at the level called for by the emergency rule. In addition, GASB financial reporting would require an adverse footnote on the State of West Virginia's annual financial report (CAFR).

State of West Virginia
Consolidated Public Retirement Board
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BRIEF SUMMARY OF PROPOSED EMERGENCY AMENDMENT TO TITLE 162, SERIES 5

The West Virginia Consolidated Public Retirement Board, as administrator of the West Virginia Public Employees Retirement System, proposed an emergency amendatory revision to Title 162, Series 5, of the West Virginia Code of State Regulations. Specifically, the Board proposes to increase the employer contribution rate from 12.5% to 14.5% effective July 1, 2011 for the West Virginia Public Employees Retirement System (PERS).

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STATEMENT AND CIRCUMSTANCES REQUIRING PROPOSAL AND PROMULGATION OF PROPOSED EMERGENCY RULE CHANGE TO SERIES 5 OF TITLE 162 OF THE WV CODE OF STATE REGULATIONS

The West Virginia Consolidated Public Retirement Board, as administrator of the West Virginia Public Employees Retirement System, adopted the July 1, 2010 Actuarial Valuation Report at its January 19, 2011 Board meeting. Based upon this report, the Board's actuary recommended an increase from 12.5% to 14.5% effective July 1, 2011 in the employer contribution rate for the West Virginia Public Employee Retirement System (PERS). Such an increase is actuarially necessary to properly fund the Plan. Failure to properly fund the Plan would jeopardize future benefits for plan participants and require an adverse footnote on the State of West Virginia's financial statements.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 162 (Series 5) Public Employees Retirement System

Type of Rule: __X_ Legislative _____Interpretive _____Procedural

Agency: West Virginia Consolidated Public Retirement Board

Address: 4101 MacCorkle Ave. S.E.
Charleston, West Virginia 25304

Phone Number: (304) 558-3570 X 52465 Email: Harry.W.Mandel@WV.gov

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Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The "Emergency Rule" provides for an increase in the employer contribution rate from 12.5% to 14.5% of pay. The increased rate is effective July 1, 2011. The increase applies to all state and local governmental employees participating in PERS.

The increase in employer contribution rate for FY 2012 is expected to generate an increase in employer contributions to PERS of about $26,400,000. The increase in contributions is necessary to fund the Actuarially Required Contribution for PERS. Membership in PERS includes both State agencies' employees and local governments' employees. It is estimated that the increase in contributions for State employers will be about $17,600,000 with the remaining $8,800,000 being paid by local governmental employers.

It is noted that this contribution increase is primarily necessary due to investment losses on PERS assets under the asset smoothing method adopted for the July 1, 2009 Actuarial Valuation for PERS. Benefit provisions under PERS have not been increased for either active or retired members. The increase in employer contributions are necessary to fund current existing PERS benefits and are not due to new benefits.

Rule Title: Title 162 (Series 5) Public Employees Retirement System

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	2011 Increase/Decrease (use "-")	2012 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	$ 0	$ 17,600,000	$17,600,000
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Equipment			
Other	$ 0	$ 17,600,000	$ 17,600,000
2. Estimated Total Revenues			

Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

An Actuarial Valuation for PERS was completed as of July 1, 2010 and approved by the WVCPRB at its meeting on January 19, 2011. Employer funding for PERS is based on a set percent of pay contributed for all actively employed members. The Actuarial Valuation determines the financial soundness of the contribution percentage by comparing the expected contributions at the current employer contribution percentage to the Actuarially Required Contribution (ARC) determined under the current PERS funding policy and GASB guidelines. The Actuarial Valuation showed that the current 12.5% employer contribution rate is not sufficient to fund the ARC. The increased employer contribution rate of 14.5% of pay is projected to be sufficient to fund the ARC for FY2012. The cost shown is for State of West Virginia agencies only and represents increased contributions required to properly fund current PERS benefits. Non-state employers in PERS are subject to the same increased contribution rate.

Rule Title: Title 162 (Series 5) Public Employees Retirement System

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

The Emergency Rule does not modify benefits payable under PERS. The Rule provides increased employer funding to PERS to maintain proper funding of the ARC under current funding policy and GASB guidelines.

The primary cause of the need to increase the employer contribution rate is the experienced actuarial investment losses for FY 2009 with smoothing under the Asset Valuation Smoothing Method.

Date: April 7, 2011

Signature of Authorized Representative

Harry W. Mandel

Harry W. Mandel
Board Actuary
Member American Academy of Actuaries
Member Society of Pension Actuaries
Enrolled Actuary #11-2527

TITLE 162
LEGISLATIVE RULE
CONSOLIDATED PUBLIC RETIREMENT BOARD

SERIES 5
PUBLIC EMPLOYEES RETIREMENT SYSTEM

§ 162-5-1. General.

1.1. Scope. -- This rule establishes the eligibility for membership and the general administrative procedures in the Public Employees Retirement System.

1.2. Authority. -- W. Va. Code § 5-10D-1.

1.3. Filing Date. – ~~April 25, 2011.~~

1.4. Effective Date. – ~~April 25, 2011.~~

§ 162-5-2. Definitions.

2.1. Board. -- The West Virginia Consolidated Public Retirement Board.

2.2. Retirement System. -- The West Virginia Public Employees Retirement System.

2.3. Full time employment -- Employment of an employee by a participating public employer in a position which normally requires twelve (12) months per year service and requires at least one thousand forty (1,040) hours per year service in that position.

2.4. Insurable Interest -- Insurable Interest shall be construed as being an interest that arises from the ties of blood or marriage to the member as will justify a reasonable expectation or advantage or benefit from the continuance of his or her life, or that relationship where a person has a legal claim on the member for service or support from the personal relationship between them, and where he or she has a reasonable right to expect some pecuniary advantage from the continuance of the life of the member.

§ 162-5-3. Interest.

3.1. For the purpose of calculating interest to the members deposit fund, interest is four percent (4%) per annum computed annually.

§ 162-5-4. Service Credit.

4.1. In crediting service to full time employees~~;~~ paid on a salary basis:

4.1.1. A day of service shall mean a day in which an employee works or has worked four (4) or more hours for the state or other participating public employer with pay.

4.1.2. The Board shall credit a member with a calendar month of service for any calendar month in which the employee received one-half or more of the employee's normal monthly salary. For any calendar month in which the employee received less than one-half of his or her normal monthly salary, no service credit shall be credited to the employee in that calendar month.

4.1.3. The Board shall credit ten (10) or more months of service in a calendar year as a calendar year's service.

4.2. The Board shall credit any full time employee hired and paid by a participating public employer on an hourly basis with one month's contributing service for each one hundred twenty (120) hours of work paid by his or her employer in a calendar year.

4.3. Employees of a participating public employer who work regularly twelve (12) days or more in a calendar month, and otherwise meet eligibility for membership, shall be members of the Retirement System.

§ 162-5-5. Final Average Salary.

5.1. In computing a member's final average salary, the Board shall follow the following procedure:

5.1.1. No compensation shall be considered for any period for which service is not credited;

5.1.2. Increment pay received by an employee at the termination of employment shall be added to the compensation of the last month in which service is credited.

5.1.3. The ten (10) years of credited service immediately preceding the date of the member's employment with a participating public employer last terminated is the one hundred nineteen (119) months of service preceding the last month of service before retirement;

5.1.4. The three (3) consecutive years of service for which the member's compensation was the highest is the highest aggregate of his or her compensation for the thirty-six (36) consecutive months of service contained within the one hundred nineteen (119) months of service, plus the last month of service determined in Subsection 5.1.3. of this Rule;

5.1.5. The member's final average salary shall be one-third (1/3) of the aggregate salary determined in Subsection 5.1.4. of this Rule; and

5.1.6. Only compensation paid by county courts and the State of West Virginia shall be used to determine final average salary for court reporters.

§ 162-5-6. Refund of Erroneous Contributions.

6.1. To the extent permissible under the provisions of section 401(a) et seq. of the Internal Revenue Code and the guidance issued thereunder, the State Auditor and State Treasurer may refund from the funds of the Retirement System any erroneous contributions made to the System upon proper transmittals by the Board's staff. The Board's staff may request the refund if it determines it is appropriate and permissible under the provisions of section 401(a) et seq. of the Internal Revenue Code and guidance issued thereunder, after receiving from the executive officer of the payroll records of a participating public employer an explanation of the reason for making the erroneous contributions and the amount of the erroneous contributions.

§ 162-5-7. Verification of Prior Service.

7.1. The Board shall accept a certificate from the executive office or the payroll records of the employer as evidence of service prior to July 1, 1961, and as evidence of the date the public employer elected to become a member of the Retirement System.

7.2. The certificate and affidavits submitted by the employer shall show the member's full name (no initials), the name of the employer and the exact dates of the prior service.

7.3. Copies of W-2 Forms furnished an employee, bona fide copies of Internal Revenue Tax Returns, or records of Health, Education and Human Services or Internal Revenue Service which show gross earnings and the employee's and the employer's name shall be considered sufficient evidence of prior service.

7.4. In the event a member employee cannot obtain the certificate specified in subsections 7.1. and 7.2. of this Rule, the Board may grant prior service credit to the member employee furnishing two (2) affidavits to the Retirement System from two (2) credible persons who worked with the member employee during the periods stated or who had personal knowledge of the employment.

§ 162-5-8. Employer Contributions.

8.1. Each participating public employer shall contribute nine and five-tenths percent (9.5%) of each compensation payment of all its employees who are members of the Public Employees Retirement System: Provided, That beginning on the first day of July, two thousand three, each participating public employer shall contribute ten and five-tenths percent (10.5%) of each compensation payment of all its employees who are members of the Public Employees Retirement System: Provided, however, That beginning on July 1, 2009, each participating public employer shall contribute eleven percent (11.0%) of each compensation payment of all its employees who are members of the Public Employees Retirement System: Provided further, That beginning on July 1, 2010, each participating public employer shall contribute twelve and five-tenths percent (12.5%) of each compensation payment of all its employees who are members of the Public Employees Retirement System: And provided further, That beginning on July 1, 2011, each participating public employer shall contribute fourteen and five-tenths percent (14.5%) of each compensation payment of all its employees who are members of the Public Employees Retirement System.

8.2. The sums are due the Public Employees Retirement System at the end of each calendar month in arrears and shall be paid not later than fifteen (15) days following the end of the calendar month. Each remittance shall be accompanied by a detailed summary of the sums withheld from the compensation of each member and the credited service each employee was entitled to for that month on forms, either paper or electronic, provided by the Public Employees Retirement System for that purpose.

§ 162-5-9. Employee Contributions.

9.1. All participating public employers shall withhold four and five-tenths percent (4.5%) from the gross compensation of each member.

9.2. The sums withheld each calendar month are due the Retirement System at the end of each calendar month and shall be paid not later than fifteen (15) days following the end of each calendar month. Each remittance shall be made by check separate from the employer remittance and shall be made payable to the West Virginia Public Employees Retirement System. Each remittance shall be accompanied by a detailed summary of the sums withheld from the compensation of each employee and the credited service each employee was entitled to for that month on forms, either paper or electronic, provided by the Public Employees Retirement System for that purpose.

§ 162-5-10. Public Corporations.

10.1. In order to be accepted for membership by the Board as a participating public employer, any separate corporation or instrumentality established by one or more counties, cities or towns, or any corporation or instrumentality supported in most part by counties, cities or towns, which by a three-fifths (3/5) majority vote of its governing body elects to join the Retirement System, the public corporation or instrumentality shall pass a resolution whereby it would allow the entity from which it derives its funds to deduct from its appropriations any sums the Board finds are subsequently delinquent, and for the entity to pay the delinquent funds to the Board. In the event the entity fails to pay the delinquent funds, then the Consolidated Public Retirement Board may collect the delinquent funds, as provided in W. Va. Code § 5-10-33.

§ 162-5-11. Annuity Payment Age.

11.1. For the purpose of calculating annuity benefits, the Board shall use the age at the nearest birthday to the effective date of retirement of the member, retirant or beneficiary.

§ 162-5-12. Prior Service on Reemployment.

12.1. The Board shall credit each member of the Retirement System with prior service before July 1, 1961 if that member was in the employ of the State of West Virginia or other participating public employer within a period of thirty (30) years immediately preceding the date the State or other participating public employer became a participating public employer: Provided, however, That the member was reemployed after July 1, 1961 by a participating public employer or the State of West Virginia within fifteen (15) years subsequent to the date that the participating public employer elected to become a participating public employer in order to receive the prior service credit with no contributions required. If the member was reemployed after July 1, 1961, by a participating public employer or the State of West Virginia later than fifteen (15) years subsequent to the date the participating public employer elected to become a participating public employer, the member may purchase the prior service.

§ 162-5-13. Employee Membership in Retirement System.

13.1. Employees of boards of education, colleges or universities. -- Any employee or person whose salary or compensation is paid in whole, or substantially in part, by any college, university, county board of education, State Department of Education, State Board of Education or State Teachers' Retirement System is not entitled to membership in the West Virginia Public Employees Retirement System while so employed in that capacity.

13.2. Employees of cooperative associations under direction of the Department of Agriculture. -- Employees of cooperative associations under the supervision of the Department of Agriculture, whose compensation is payable by the cooperative association are not entitled to membership in the Retirement System for such employment.

13.3. Registrars of Division of Vital Statistics. -- Those employees of counties furnishing statistical information to the Department of Health and Human Services whose job is considered full time, or whose position is considered one which normally requires twelve (12) months of service and at least one thousand forty (1,040) hours per year service in that position, shall become members of the Retirement System.

13.4. Deputy Commissioners of Delinquent and Forfeited Lands. -- The various Deputy Commissioners for Delinquent and Forfeited Lands, by reason of that appointment are not entitled to membership in the Retirement System for that employment.

13.5. Other retirement system membership. -- Any employee of a participating public employer who is eligible for membership in another retirement system of a political body is not eligible for membership in the West Virginia Public Employees Retirement System, except as provided in W.Va. Code § 5-10-17.

§ 162-5-14. Participating After July 1, 1961.

14.1. Members of any participating public employer, including, but not limited to, hourly employees of the State Division of Highways who were eligible to participate July 1, 1961, shall not receive service credit during the period July 1, 1961, until the date on which the member employee actually commenced participation by contribution to the Retirement System; however, during that period they shall be considered to be members of the Retirement System for all other purposes.

§ 162-5-15. Employer Termination of Membership.

15.1. Once an employer, whether a municipality, county or public corporation, elects to participate in the Retirement System, the action of the municipality, county or public corporation is final and it may not, at a later date, elect to terminate its participation in the Retirement System.

§ 162-5-16. Approval of Applications for Voluntary Retirement and Death Annuities by the Board.

16.1. Commencement of annuity. The State Auditor and State Treasurer may pay continuing monthly annuities to retirants, beneficiaries of retirants and beneficiaries of deceased members, after the Board has:

16.1.1 Approved the date of birth of the member, retirant or beneficiary;

16.1.2. Approved the prior and contributing service the member is entitled to;

16.1.3. Approved the date of the death of a member in the event of his or her death;

16.1.4. Complied with the other provisions of this Rule; and

16.1.5. Submitted the proper transmittals to the State Auditor's and the State Treasurer's office.

16.2. Option chosen final. When the choice of an option has been made, that choice is final and cannot after that date be changed, except as provided in W. Va. Code § 5-10-24. A beneficiary cannot affect or change the option chosen by the member.

§ 162-5-17. Reinstatement Interest.

17.1. If a former member of the Retirement System is reinstated under W. Va. Code § 5-10-18, the Board shall deposit the payment of regular interest on his or her refund to the member's deposit fund and shall credit the member's individual account.

§ 162-5-18. Reduction of Annuities on Request of Retirant.

18.1. A retirant is not entitled to elect a reduced annuity except as provided for in W. Va. Code § 5-10-24.

§ 162-5-19. Effective Date for Commencement of Annuity.

19.1. Deferred or Early Retirement Annuity. Any member who terminates his or her employment and who may become eligible for a deferred or early retirement annuity pursuant to W. Va. Code § 5-10-21 shall commence annuity payments the first day of the calendar month following the month in which his or her retirement application is received by the Board.

19.2. Disability Retirement Annuity. Disability payments will commence for any employee or former employee of a participating public employer who is approved for a disability retirement annuity effective the first day of the month following application or the first day of the month following termination of employment and benefits, whichever occurs last. Upon receipt of properly executed forms submitted by the disability retirant as required pursuant to the Consolidated Public Retirement Board's rule, Benefit Determination and Appeal, 162CSR2, the Board shall process the disability retirement annuity as soon as administratively feasible.

19.3. Regular Retirement Annuity. Any employee, age sixty (60) or older, who was eligible for a regular retirement annuity pursuant to W. Va. Code § 5-10-20 upon terminating his or her employment and who files his or her retirement application within one (1) year of termination of employment shall commence annuity payments the first day of the month following the month in which he or she last appeared on payroll with a participating public employer.

19.4. Survivor Annuity. If a member dies prior to retirement and a survivor annuity is payable pursuant to W. Va. Code § 5-10-27, the survivor annuity payments shall commence effective the first day of the month following the death of the member or the first day of the month following the last date the member is on the participating public employer's payroll, whichever occurs last. Upon receipt of properly executed forms from the survivor, the Board shall process the survivor annuity as soon as administratively feasible.

19.5. Required Minimum Distributions. Notwithstanding anything in this Rule to the contrary, distributions shall be made in accordance with the provisions of W. Va. Code § 5-10-27b.

§ 162-5-20. Military Service Credit.

20.1. Credit for military service shall be made in accordance with the provisions of W. Va. Code §5-10-15. Any member applying for retirement benefits who is claiming service credit pursuant to W. Va. Code § 5-10-15 shall present to the

Retirement System an original or copy of his or her discharge from the service or other appropriate documents required by the Board to comply with the provisions of W. Va. Code § 5-10-15.

§ 162-5-21. Refunds of Contributions Where an Annuity May Be Payable.

21.1 Any member of the Retirement System who terminates employment after attaining age sixty (60) and who has five (5) or more years contributing service, and is otherwise entitled to an annuity payable from the Retirement System, is not eligible for a refund of accumulated contributions made to the Retirement System, but, in lieu therefore, is entitled to a monthly annuity payable pursuant to W. Va. Code § 5-10-20.

21.2 Any member of the Retirement System who terminates employment before attaining age sixty (60) and who is otherwise entitled to a regular annuity payable from the Retirement System at the time of his or her application for a refund, is not eligible for a refund of accumulated contributions made to the Retirement System, but, in lieu thereof, is entitled to a monthly annuity payable pursuant to W. Va. Code § 5-10-20.

21.3 Any member of the Retirement System who terminates employment before attaining age sixty (60) and who is not immediately entitled to a regular annuity payable from the Retirement System, even though he or she may be entitled to deferred benefits, is entitled to a refund of accumulated contributions upon written application filed with the Retirement System.

§ 162-5-22. Early Retirement.

22.1. Any member who was a member of the Retirement System prior to June 30, 1986 who hereafter or heretofore acquires ten (10) years or more of credited service with the Retirement System, three (3) years or more of which are contributing service, and has terminated his or her employment after attaining age fifty-five (55), but before attaining age sixty (60) may be entitled to an annuity pursuant to W. Va. Code § 5-10-21: Provided, That the member makes application for retirement on or before he or she attains age sixty-two (62): Provided further, That the member has not withdrawn his or her contributions made to the System or that the member redeposits what withdrawals he or she may have withdrawn plus interest as provided for in WVCSR § 162-7-4, et seq. All funds must be repaid while a member is an active participant.

22.2. Recalculation of early retirement factor after reemployment period. -- The Board shall treat any member who retires early pursuant to W. Va. Code § 5-10-21, and is subsequently reemployed by a participating public employer of the System, and who again retires, for purposes of the determination of the newly applicable early retirement factor, as if he or she were retiring at an age calculated by adding to this original early retirement age the number of years and months during which he or she was reemployed. In the event that the artificially determined age exceeds sixty (60), the Board shall not make any reduction for early retirement.

§ 162-5-23. Employer Participation After a Former Employee Has Retired.

23.1. If a retirant was employed by a non-participating agency, which subsequently elects to become a participating agency, the Board's staff may recalculate the member's file and give the member additional benefits effective the date the employer came into the Retirement System: Provided, That the Board can properly verify the previous employment and that the employment was prior to July 1, 1961.

§ 162-5-24. Temporary Employment Retirants.

24.1. Any retirant who accepts employment with a participating public employer for a limited period of time and who is not considered in any way a permanent or regular employee is a temporary employee within the meaning of W. Va. Code § 5-10-2 and the employee shall not be a member of the Retirement System.

24.2. Any retirant drawing an annuity may accept temporary employment with a participating public employer: Provided, That his or her compensation does not exceed the limitation established by W. Va. Code § 5-10-48. The earnings received in the calendar year as limited by that section, regardless of over what period, is the controlling factor for suspension of the annuity for the balance of the calendar year.

§ 162-5-25. Member Receiving Workers' Compensation.

25.1. Any member of the Retirement System who is injured or suffers a disease growing out of the course of his or her employment with a participating public employer and who is receiving Workers' Compensation benefits shall receive credited service toward his or her retirement: Provided, That the member physically returns to employment with a participating public employer upon recovery of his or her injury or disease.

§ 162-5-26. Deputy Assessors - Service Credit.

26.1. Deputy assessors shall receive credited service for actual time for which they are compensated, however, final average salary shall be based upon their annual compensation.

§ 162-5-27. Officers of the Department of Public Safety and Municipal Police or Fire Department.

27.1. Any member of the Retirement System who served as an officer of the Division of Public Safety or a municipal fire or police department and is not receiving an annuity from that system, may be granted prior service credit if he or she is otherwise entitled to the credit.

§ 162-5-28. Repayment of Withdrawals.

28.1. Any former member of the Retirement System who withdrew his or her contributions and who is reemployed by a participating public employer may repay his or her withdrawals in periodic payments, together with interest as provided for in the West Virginia Consolidated Public Retirement Board's rule Refund, Reinstatement and Loan Interest Factors, 162CSR7, et seq. The individual shall be a contributing member for a full year before any repayment of funds are allowed and all funds must be repaid within five (5) years of reemployment.

§ 162-5-29. Refunds of Contributions Upon Accepting Employment With a Different Participating Public Employer.

29.1. Any member who terminates his or her employment with a participating public employer and who shortly hereafter accepts employment with another participating public employer is not entitled to a refund of contributions made to the Retirement System.

§ 162-5-30. Employee and Employer Contributions When an Employee is on Annual Leave or Compensated Sick Leave.

30.1. The employee and employer shall make regular contributions to the Retirement System, notwithstanding the fact that the employee is drawing compensation for annual or sick leave.

§ 162-5-31. Insurance Premiums.

31.1. The Board shall not consider premiums paid by a participating public employer for group life insurance or group health and accident insurance on its employees as compensation for retirement purposes.

§ 162-5-32. Elected Officials of the Legislature.

32.1. Elected clerks, sergeants at arms and doorkeepers of the Legislature shall receive one year's service credit with the Retirement System for each year served.

§ 162-5-33. Refunds of Member Contributions When Made.

33.1. Members of the West Virginia Public Employees Retirement System who terminate their employment with a participating public employer without an annuity payable are entitled to a refund of their contributions made to the Retirement System thirty (30) days after they have last appeared on an official payroll of the State of West Virginia or other participating public employer, following the filing of a report from the employee's payroll office.

§ 162-5-34. Surcharge for Delinquency of Employer and Employee Contributions.

34.1. Any participating public employer who fails to make any payment due the Retirement System by the fifteenth (15th) day following the end of each calendar month in which the contributions are due may be required to pay the actuarial rate of interest lost on the total employee and employer contributions owed for each day the payment is delinquent. Accrual of the loss in earnings owed by the delinquent employer commences after the fifteenth (15th) day following the end of the calendar month in which the contributions are due and continues until receipt of the delinquent employee and employer contributions. Interest compounds daily and the minimum surcharge is fifty (50) dollars.