

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

FILED

AUG 12 3 06 PM '97

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Consolidated Public Retirement Board TITLE NUMBER: § 162

RULE TYPE: Legislative; CITE AUTHORITY § 5-10D-1

AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 6

TITLE OF RULE BEING PROPOSED: Service Credit

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON September 11, 1997 AT 10:00 a.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

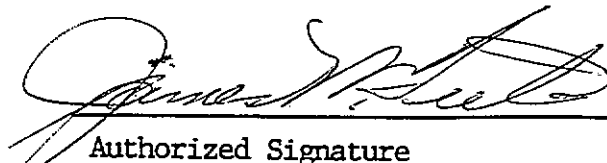
Consolidated Public Retirement Board

Capitol Complex

Building 5, Room 1000

Charleston, WV 25305

THE ISSUES TO BE HEARD SHALL BE
LIMITED TO THIS PROPOSED RULE.


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Service Credit

Type of Rule: X Legislative Interpretive Procedural

Agency Consolidated Public Retirement Board

Address Capitol Complex, Building 5, Room 1000

Charleston, West Virginia 25305

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

N/A

3. Objectives of these rules:

Put into Legislative rules the current practice of the Consolidated Public Retirement Board.

Rule Title: Service Credit

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None.

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

None.

C. Economic Impact on Citizens/Public at Large.

None.

Date: August 12, 1997

Signature of Agency Head or Authorized Representative



James W. Teets
Cabinet Secretary

FILED

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 6

SERVICE CREDIT

§ 162-6-1. General.

1.1. Scope. -- These rules interpret and determine eligibility for service credit under the Public Employees Retirement System and the Teachers Defined Benefit Plan.

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

1.3. Filing Date. --

1.4. Effective Date. --

§ 162-6-2. Purpose.

2.1. General. -- The purpose of these regulations is to clarify the interpretation, application and administration of the statutes and regulations of the Public Employees Retirement System and the Teachers Defined Benefit Plan as those statutes and regulations affect service credit.

2.2. Administrative Appeals. -- In all contested cases regarding service credit, the Benefit Determination and Appeal rules of Title 162 C.S.R. §162-5-1 et seq. shall be followed and the Consolidated Public Retirement Board shall decide the question.

§162-6-3. Definitions. The Definitions of key terms used in the Public Employees Retirement System (W. Va. Code § 5-10-1 et seq.; 162 C.S.R. §162-4-3) and the Teachers Defined Benefit Plan (W. Va. Code §18-7A-1 et seq.; 162 C.S.R. § 162-4-3) shall apply to

these service credit regulations as the context requires.

§ 162-6-4. Public Employees Retirement System.

4.1. Service Credit for Accrued Unused Sick and Annual Leave. -- The Board shall give members service credit for accrued unused sick and annual leave standing to the member's credit with the member's last participating public employer at the time of retirement. Any accrued unused sick and annual leave standing to the member's credit with any participating public employer prior to the member's last participating public employer that is not transferable to or recognized by the member's last participating public employer will not be used to calculate service credit. In interpreting, applying and administering this rule and subject to the limitations found in 162 C.S.R. § 162-6-4.2 and § 162-6-4.3 immediately below, the Board will be deferential to the policy of the member's last participating public employer for accruing unused sick and annual leave. In order for a participating public employer's annual and sick leave policy to be recognized by the Board, such policy must have been formally adopted in writing by such employer.

4.2. Limitation on the Accrual of Unused Sick and Annual Leave. -- W. Va. Code 162 C.S.R. §162-1-1 et seq. notwithstanding, members employed by any participating public employer with a policy for the accrual of unused sick and annual leave more generous than that of the State of West Virginia for its direct employees will receive service credit for such accrued unused sick leave as is provided by the State of West Virginia for its direct employees who are covered by the rules and regulations of the West Virginia Division of Personnel.

4.3. Calculation of Service Credit for Accrued Unused Sick and Annual Leave. -- In all calculations of service credit for accrued unused sick and annual leave form shall not

prevail over substance and unused sick and annual leave shall be accumulated based upon the member's job classification and characteristics at the time the member was accruing the leave. The Consolidated Public Retirement Board may request information from the member and/or the member's current and past participating public employers to determine the proper manner for calculating a member's accrued unused sick and annual leave. In making such calculations, the Consolidated Public Retirement Board shall disregard any change in the member's job classification or characteristics made solely, in the opinion of the Consolidated Public Retirement Board, to artificially and unfairly inflate a member's accrued unused sick and annual leave.

4.4. Service Credit for Use of Sick and Annual Leave. -- Members may receive retirement service credit for any unused sick and annual leave days. However, compensation paid to a member for accrued unused sick and annual leave at the conclusion of such member's employment shall not be considered compensation in computing a member's final average salary.

§ 162-6-5. Teachers Defined Benefit Plan.

5.1. Service credit for Accrued Unused Sick and Annual Leave. -- The Board shall give members service credit for accrued unused sick and annual leave standing to the members' credit with the member's last employer at the time of retirement. Any accrued unused sick and annual leave standing to the member's credit with any employer prior to the member's last participating public employer that is not transferable to or recognized by the member's last employer will not be used to calculate service credit. In interpreting, applying and administering this rule and subject to the limitations found in 162 C.S.R. § 162-6-5.2 immediately below, the Board will be deferential to the policy of the member's last employer for accruing unused sick and annual leave.

5.2. Calculation of Service Credit for Accrued Unused Sick and Annual Leave. -- In all calculations of service credit for accrued unused sick and annual leave form shall not prevail over substance and unused sick and annual leave shall be accumulated based upon the member's job classification and characteristics at the time the member was accruing the leave. The Consolidated Public Retirement Board may request information from the member and/or the member's present or past employers to determine the proper manner for calculating a member's accrued sick and annual leave. In making such calculations, the Consolidated Public Retirement Board shall disregard any change in a member's job classification or characteristics made solely, in the opinion of the Consolidated Public Retirement Board, to artificially and unfairly inflate a member's accrued unused sick and annual leave.

5.3. Use of Accrued Unused Sick and Annual Leave as Credit. -- A member taking a deferred retirement may not use accumulated unused sick and annual leave as credit against PEIA premium costs or for enhanced retirement benefits unless the member continues to be covered by the West Virginia PEIA at the time the retirement annuity commences.