

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

FILED

OCT 9 2 31 PM '97

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: West Virginia Consolidated Public Retirement Board TITLE NUMBER: S162-6-1

CITE AUTHORITY _____

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

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

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


Authorized Signature

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

OCT 9 2 32 PM '97

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 and annual 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 in a lump sum 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.

DATE: October 9, 1997

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE.

FROM: West Virginia Consolidated Public Retirement Board

LEGISLATIVE RULE TITLE: Service Credit - Series 6

1. Authorizing statute(s) citation § 162-6-1

2. a. Date filed in State Register with Notice of Hearing

August 12, 1997

b. What other notice, including advertising, did you give of the hearing?

With the Secretary of State's Office

c. Date of Hearing(s) Comment period ended on September

11, 1997

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received x

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

August 12, 1997

f. Name and phone number(s) of agency person(s) to contact for additional information:

James L. Sims

Capitol Complex, Building 5, Room 1000

Charleston, West Virginia 25305

Phone: 304-558-3570

Fax: 304-558-6337

3. 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:

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.

N/A

b. Date of hearing: N/A

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

N/A

d. Attach findings and determinations and reasons:

Attached N/A



**State of West Virginia
Consolidated Public Retirement Board**

Capitol Complex, Building 5, Room 1000
1900 Kanawha Boulevard, East
Charleston, WV 25305-0720
Telephone: 304-558-3570 or 800-654-4406
Fax: 304-558-6337

August 11, 1997

Senator Mike Ross, Co-Chairman
Legislative Rule-Making Review Committee
MB-49 State Capitol
Charleston, West Virginia 25305

Dear Senator Ross:

You should know that the Consolidated Public Retirement Board has been working on Series 6 Rules and had hoped to have them in final form by your deadline of August 1, 1997. However we have not been able to meet this time period, and therefore ask that you consider allowing us additional time so that these rules may be considered in the upcoming West Virginia Legislative session.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. Sims", written over the printed name.

James L. Sims

JLS/pmv