

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #4

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FILED

JUL 23 2 48 PM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: West Virginia Consolidated Public Retirement Board TITLE NUMBER: §162-6-1

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, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


Authorized Signature

\$2.80

SERIES 6
SERVICE CREDIT

§ 162-6-1. General.

1.1. Scope. -- This rule interprets and determines 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.

§ 162-6-2. Purpose.

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

2.2. Administrative Appeals. -- In all contested cases regarding service credit, the Benefit Determination and Appeal Board's rule 162 C.S.R. shall be followed and the Consolidated Public Retirement Board shall decide the question.

§ 162-6-3. Public Employees Retirement System.

3.1. 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. The Board shall not use 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 subsection 3.2 and 3.3 of this section. 162 C.S.R. § 162-6-4.2 and § 162-6-4.3 immediately below, the Board will use 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.

3.2. 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 accrued unused sick and annual leave as is provided by the State of West Virginia for its direct employees who are covered by any rules of the West Virginia Division of Personnel.

3.3. 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 a member may only accumulate 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 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.

3.4. 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 annual leave at the conclusion of the member's employment in computing a member's final average salary.

§ 162-6-4. Teachers Defined Benefit Plan.

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 members' credit with the member's last employer at the time of retirement. The Board shall not consider 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 to calculate service credit. In interpreting, applying and administering this rule and subject to the limitations found in subsection 4.2 of this section immediately below.

4.2. Calculation of Service Credit for Accrued Unused Sick and Annual 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 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.

4.3. 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.



WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

*State Capitol - Room MB-49
Charleston, West Virginia 25305
(304) 347-4840*

*Senator Mike Ross, Co-Chairman
Delegate Mark Hunt, Co-Chairman
Debra A. Graham, Counsel*

July 14, 1998

*Joseph A. Altizer, Associate Counsel
Rita Pauley, Associate Counsel
Teri Anderson, Administrative Assistant*

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: James L. Sims
Consolidated Public Retirement Board
Capitol Complex
Building 5, Room 1000
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

Proposed Rule: Service Credit, 162CSR6

FILED
JUL 15 10 13 AM '98
OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed
 - (b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.

X

LRMRC Action Notice

July 14, 1998

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If the first page of this form indicates that your agency has agreed to modify the proposed rule in accordance with a motion adopted by the Committee, your agency should consult with the Committee's counsel on the preparation of the modifications. **By Thursday, July 23, 1998**, your agency must file **1 copy** of your modified rule with the Secretary of State's office and **10 copies** with the LRMRC.

Please disregard this notice if you have already filed your final, modified rule. Committee rules state that a copy of this letter must be on file for each agency filing a rule.

Very truly yours,

A handwritten signature in cursive script that reads "Teri Anderson".

Teri Anderson
Administrative Assistant

LRMRC:tla