

Form #3

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

An Ingeborg J.

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 12, 2006

TO: **LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

FROM: **West Virginia Consolidated Public Retirement Board
State Capitol Complex
Building 5, Room 1000
1900 Kanawha Boulevard, East
Charleston, WV 25305**

LEGISLATIVE RULE TITLE: Title 162, Series 7; Consolidated Public Retirement Board:
Refund, Reinstatement and Loan Interest Factors

1. Authorizing statute(s) citation: W. Va. Code § 5-10D-1
2.
 - a. Date filed in State Register with Notice of Hearing or Public Comment Period:
May 26, 2006
 - b. What other notice, including advertising, did you give of the hearing?

Written notice, along with a copy of the proposed rule amendments, were forwarded to representatives of the WV Education Association, WV Federation of Teachers, WV Association of Retired School Employees, American Federation of Teachers, the WV School Service Personnel, WV Municipal League, WV Deputy Sheriffs Association, WV Association of Counties, PERSA, County Commissioners Association and AFSCME for review and circulation to their interested members. Copies were also provided to the Chairs and Vice Chairs of the House and Senate Committees on Pension and Retirements

- c. Date of Public Hearing(s) *or* Public Comment Period ended: June 26, 2006
 - 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)

July 12, 2006

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Terasa L. Miller, Acting Executive Director
WV Consolidated Public Retirement Board
State Capitol Complex
Building 5, Room 1000
1900 Kanawha Boulevard, East
Charleston, WV 25305
(304) 558-6244 x 405
(304) 558-6337 (fax)
tmiller@wvretirement.com

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Anne Werum Lambright, General Counsel
WV Consolidated Public Retirement Board
State Capitol Complex
Building 5, Room 1000
1900 Kanawha Boulevard, East
Charleston, WV 25305
(304) 558-6244 x 414
(304) 558-6337 (fax)
alambright@wvretirement.com

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.**
- b. **Date of hearing or comment period:**
- c. **On what date did you file in the State Register the findings and determinations required together with the reasons therefor?**
- d. **Attach findings and determinations and reasons:**

BRIEF SUMMARY OF PROPOSED AMENDMENT TO TITLE 162, SERIES 7

The West Virginia Consolidated Public Retirement Board ("Board"), as administrator of the State's several pension plans, proposes amendatory revisions and additions to Title 162, Series 7 of the West Virginia Code of State Regulations. Specifically, the Board proposes deleting and modifying language in the current rule that conflicts with recently amended West Virginia statute.

The Board also proposes amendatory revisions to § 4.1.3. to clarify Teachers' Retirement System reinstatement requests, the rates of interest applicable to these reinstatement requests, as well as the payments required for transfers of service from the Public Employees Retirement System into the Teachers' Retirement System.

Further, the Board has added language to clarify retroactive service provisions and applicable interest rates for members of the Public Employees Retirement System.

Other non-substantial technical changes are also proposed.

STATEMENT OF CIRCUMSTANCES REQUIRING
PROPOSAL AND PROMULGATION OF PROPOSED RULES CHANGES TO SERIES 7
OF TITLE 162 OF THE WV CODE OF STATE REGULATIONS

As statutory administrator of the State's various retirement systems, the West Virginia Consolidated Public Retirement Board ("Board") has determined that certain amendatory changes to the provisions of Title 162, Series 7 of the West Virginia Code of State Regulations are necessary. Specifically, the Board has determined that there is language in the current rule that is contrary to West Virginia Code.

Additionally, in an effort to protect the financial integrity of the various systems, the Board proposes replacing the Moody's Average Corporate Bond Yield interest rate with the Actuarial Valuation interest rate for the plan year immediately preceding the first day of the plan year for reinstatement, transfers of service and retroactive service transactions under the various plans. The Actuarial Valuation interest rate is a more accurate reflection of the costs and earnings to the retirement system.

The Board also determined it necessary to propose amendatory additions to clarify Teachers' Retirement System reinstatement requests, the rates of interest applicable to these reinstatement requests, the payments required for transfers of service from the Public Employees Retirement System into the Teachers' Retirement System, and retroactive service provisions and applicable interest rates for members of the Public Employees Retirement System.

Other non-substantial technical changes are also proposed.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 162 (Series 7) Refund, Reinstatement, Retroactive Service, and Loan
Interest Factors

Type of Rule: ☒ Legislative ☐ Interpretive ☐ Procedural

Agency: West Virginia Consolidated Public Retirement Board

Address: 1900 Kanawha Boulevard East
Capitol Complex, Building 5, Room 1000
Charleston, West Virginia 25305

Phone Number: (304) 558-3570 X 465 Email: HMandel@WVAdmin.gov

Fiscal Note Summary

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

The rule provides that certain interest charges for the payment of contributions necessary for retroactive service credit purchases be the actuarial valuation interest rate for each plan. The prior rate had been the Moody's Bond rate which consistently is expected to be less than the actuarial rate required.

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	2006 Increase/Decrease (use "-")	2007 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	\$0	\$-25,000	\$-25,000
Personal Services			
Current Expenses	\$0	\$-25,000	\$-25,000
Repairs & Alterations			
Assets			
Equipment			
Other	\$0	\$0	\$0
2. Estimated Total Revenues			

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

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

The rule provides for substitution of the actuarial valuation rate of interest in place of the Moody's Bond Rate to determine interest charges for retroactive service purchases in CPRB administered plans. The valuation rate is generally expected to exceed the bond rate and will result in higher interest charges. The higher interest charges are necessary to fairly reflect the true costs to the plan on an average time weighted basis.

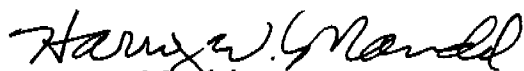
MEMORANDUM

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.

None.

Date: May 25, 2006

Signature of Agency Head or Authorized Representative



Harry W. Mandel

Board Actuary, MAAA, MSPA, EA

TITLE 162
PROCEDURAL RULE
WEST VIRGINIA CONSOLIDATED PUBLIC RETIREMENT BOARD

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SERIES 7

REFUND, REINSTATEMENT, RETROACTIVE SERVICE AND LOAN INTEREST FACTORS

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§ 162-7-1. General.

1.1. Scope. – This Rule addresses and identifies the interest rates which the Consolidated Public Retirement Board shall apply to the referenced member transactions which, from time-to-time, occur in the Board's administration of the State's several retirement systems.

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

1.3. Filing Date. –

1.4. Effective Date. –

§ 162-7-2. Relationship to Prior Interest Rules.

2.1. This Rule is intended to replace any and all Rules which may have been, prior to the effective date of this Rule, previously adopted or promulgated by the Board regarding the attachment of interest on the referenced plan transactions. Any and all prior Rules are hereby repealed to the extent they are inconsistent with the provisions of this Rule.

2.2. This Rule, and the interest rates specified are applicable to plan transactions which occur after June 30, 2000.

2.3. To the extent that the Board determines that any provisions of this Rule are in conflict with the provisions of an analogous state retirement system statute, the statutory law prevails and shall be applied.

§ 162-7-3. Refund Interest.

3.1. Refund interest shall be paid to a member as provided in this section when the

member or beneficiary is eligible for and makes application for a refund of accumulated contributions in accordance with applicable plan provisions.

3.1.1. Deputy Sheriffs Retirement System. In the event a member of the Deputy Sheriffs Retirement System terminates covered employment and thereafter requests and is determined to be eligible to receive a refund of accumulated contributions, the interest rate applicable to the refund is four percent (4%), compounded per annum.

3.1.2. Public Employees Retirement System. In the event a member of the Public Employees Retirement System terminates covered employment and thereafter requests and is determined to be eligible to receive a refund of accumulated contributions, the interest rate applicable to the refund is four percent (4%), compounded per annum. Refund interest as provided for in this rule shall be consistent with and have the same meaning as "regular interest," as defined in W. Va. Code §5-10-2(17)(21).

3.1.3. Teachers' Retirement System. In the event a member of the Teachers' Retirement System terminates covered employment and thereafter requests and is determined to be eligible to receive a refund of accumulated contributions, the interest rate applicable to the refund is four percent (4%), compounded per annum.

3.1.4. West Virginia State Police Death, Disability and Retirement Fund. In the event a member of the West Virginia State Police Death, Disability and Retirement Fund terminates covered employment and thereafter requests and is determined to be eligible to receive a refund of

accumulated contributions, the interest rate applicable to the refund is the rate specified in W. Va. Code §15-2-37(a) at the time of the member's application for refund.

3.1.5. West Virginia State Police Retirement System. In the event a member of the West Virginia State Police Retirement System terminates covered employment and thereafter requests and is determined to be eligible to receive a refund of accumulated contributions, the interest rate applicable to the refund is the rate specified in W. Va. Code § 15-2A-8(a) at the time of the member's application for refund.

3.1.6. Judges' Retirement System. In the event a member of the Judges' Retirement System terminates covered employment and thereafter requests and is determined to be eligible to receive a refund of accumulated contributions, no interest shall be payable to that member as specified in W. Va. Code §51-9-12.

3.2. Miscellaneous refunds. In any circumstance in which an individual is entitled to a refund of retirement system contributions under the laws of the State of West Virginia under circumstances not otherwise specified in the this section, and for which interest is payable, the rate of interest is four percent (4%), compounded per annum.

§162-7-4. Reinstatement Interest.

4.1. A member who has previously terminated covered employment and withdrawn accumulated contributions, but later returns to employment with a participating public employer, may be eligible to reinstate his or her prior retirement system service credit if reinstatement is permitted under applicable law. The reinstatement of service credit shall in any event be contingent upon the member's repayment of contributions previously withdrawn from a state retirement system at the termination of his or her prior period of covered employment, plus interest thereon as provided for in this section.

4.1.1. Deputy Sheriffs Retirement

System. In the event a member of the Deputy Sheriffs Retirement System requests and is determined to be eligible to restore retirement system service credit for periods of previously terminated employment, the member shall pay into the plan any contributions which the member may have previously withdrawn from the plan at the termination of any prior period of employment, plus reinstatement interest.

4.1.1.a. The rate of interest applicable to requests for reinstatement of service into the Deputy Sheriffs Retirement System is, for all plan years between the date of the member's withdrawal of plan contributions and through June 30, 2000, four percent (4%) per annum. The rate of interest applicable to reinstatement requests for each plan year after June 30, 2000, shall be based upon the Moody's Average Corporate Bond Yield, as of the December 31st the actuarial interest rate assumption as approved by the Board for completing the Actuarial Valuation for the plan year immediately preceding the first day of the plan year in which the reinstatement request is made, compounded per annum. Once a member commences repayment of the reinstatement amount plus, applicable interest, the interest rate shall be based upon the Moody's Average Corporate Bond Yield, as of the December 31st immediately preceding the first day of the plan year in which reinstatement payments commence, and that rate applies throughout the payment period providing the member remits payments on a timely basis, compounded on a basis as set by administrative rules and procedures.

4.1.2. Public Employees Retirement System. In the event a member of the Public Employees Retirement System requests and is determined to be eligible to restore retirement system service credit for periods of previously terminated employment, the member shall pay into the plan any contributions which the member may have previously withdrawn from the plan at the termination of any prior period of employment, plus reinstatement interest.

4.1.2.a. The rate of interest applicable to requests for reinstatement of

service into the Public Employees Retirement System is, for all plan years between the date of the member's withdrawal of plan contributions and through June 30, 2000, four percent (4%) per annum. The rate of interest applicable to reinstatement requests for each plan year after June 30, 2000, shall be based upon the ~~Moody's Average Corporate Bond Yield, as of the December 31st~~ the actuarial interest rate assumption as approved by the Board for completing the Actuarial Valuation for the plan year immediately preceding the first day of the plan year in which the reinstatement request is made, compounded per annum. Once a member commences repayment of the reinstatement amount plus applicable interest, specified in this subsection, the interest rate shall be based upon the Moody's Average Corporate Bond Yield, as of the December 31st actuarial interest rate assumption as approved by the Board for completing the Actuarial Valuation for the plan year immediately preceding the first day of the plan year in which reinstatement payments commence, and that rate applies throughout the payment period providing the member remits payments on a timely basis, compounded on a basis as set by administrative rules and procedures.

4.1.3. Teachers' Retirement System. ~~Persons who have terminated covered employment with the Teachers Retirement System and who have withdrawn their accumulated contributions are, upon subsequent return to employment as a teacher or educational employee, ineligible to return to contributing membership in the Teachers Retirement System, and are limited to membership in the Teachers Defined Contribution Retirement System, except as may be specifically provided for in W. Va. Code § 18-7A-7 or other applicable statutory plan provisions. In the event a member of the Teachers' Retirement System requests and is determined to be eligible to restore retirement system service credit for periods of previously terminated employment, the member shall pay into the plan any contributions which the member may have previously withdrawn from the plan at the termination of any prior period of employment, plus reinstatement interest.~~

4.1.3.a. The rate of interest applicable to requests for reinstatement of service into the Teachers' Retirement System is, for all plan years between the date of the member's withdrawal of plan contributions and through June 30, 2001, six percent (6%) per annum. The rate of interest applicable to reinstatement requests for each plan year after June 30, 2001, shall be the actuarial interest rate assumption as approved by the Board for completing the Actuarial Valuation for the plan year immediately preceding the first day of the plan year in which the reinstatement request is made, compounded per annum.

4.1.3.b. Transfers of service. In the event a member of the Teachers' Retirement System requests and is determined to be eligible for a transfer of his or her credited service from the Public Employees Retirement System into the Teachers' Retirement System as provided for in W. Va. Code §18-7A-17, the member shall pay into the Teachers' Retirement System an amount equal to the difference between the contributions which the member made to the Public Employees Retirement System for the previous service, and the contributions the member would have made had he or she been a member of the Teachers' Retirement System for the period of previous service, ~~plus interest at the rate specified in subdivision 4.1.3.c.~~

~~4.1.3.b.4.1.3.c.~~ 4.1.3.c. A member of the Teachers' Retirement System is entitled to a transfer of credited service in the Public Employees Retirement System as specified in subsection 4.1.3.a. ~~4.1.3.b.~~ only to the extent that the member repays into the Teachers' Retirement System any amounts which the member may have previously withdrawn from the Public Employees Retirement System, plus an amount equal to the difference between the contributions which the member made to the Public Employees Retirement System for the previous service, and the contributions the member would have made had he or she been a member of the Teachers' Retirement System for the period of previous service, plus interest at the rates specified in subdivision 4.1.3.c.4.1.3.d.

~~4.1.3.c.4.1.3.d.~~ The rate of interest applicable to requests for transfer of service from the Public Employees Retirement System to the Teachers' Retirement System as provided for in W. Va. Code §18-7A-17 is, for all plan years through June 30, 2000 March 7, 2003, six percent (6%) per annum. ~~The rate of interest applicable to transfer of service requests for each plan year after June 30, 2000, and until such time as the member commences payment of any prior withdrawals, or payment of the difference in the respective plan contribution rates as required by W. Va. Code §18-7A-17 and subdivision 4.1.3.a., shall be based upon the Moody's Average Corporate Bond Yield, as of the December 31st immediately preceding the first day of that plan year in which the transfer request is made, compounded per annum. Once a member commences payment of the amount specified in subdivision 4.1.3.a. and 4.1.3.b., the interest rate shall be based upon the Moody's Average Corporate Bond Yield, as of the December 31st immediately preceding the first day of the plan year in which the transfer payments commence, and that rate applies throughout the payment period providing the member remits payments on a timely basis, compounded on a basis as set by administrative rules and procedures. The rate of interest applicable to transfer of service requests for each plan year after March 7, 2003, shall be the actuarial interest rate assumption as approved by the Board for completing the Actuarial Valuation for the plan year immediately preceding the first day of the plan year in which the transfer of service request is paid, compounded per annum.~~

~~4.1.3.d.4.1.3.e.~~ Pick up service. In the event the Board determines that a member of the Teachers' Retirement System was eligible to participate in that system for a period of prior employment, but further determines that contributions were not properly withheld from the employee and paid into the system from the period of prior employment, the member is entitled to receive retirement system service credit for the prior period of employment, with the receipt of service credit being contingent upon the Board's receipt of the employee and employer

contributions which should have been paid into the plan for the period of the prior employment, plus interest at the rate specified in subdivision ~~4.1.3.c.4.1.3.f.~~

~~4.1.3.c.4.1.3.f.~~ The rate of interest applicable to pick-up service requests in the Teachers' Retirement System is, for all plan years prior to July 1, 2000, six percent (6%) per annum. The rate of interest applicable to pick up service requests for each plan year after June 30, 2000, shall be based upon the Moody's Average Corporate Bond Yield, as of the December 31st immediately preceding the first day of the plan year in which the pick up service request is made, compounded per annum. Once a member commences repayment of the pick up service amount specified in subdivision 4.1.3.d., the interest rate shall be based upon the Moody's Average Corporate Bond Yield, as of the December 31st immediately preceding the first day of the plan year in which the pick up service payments commence, and that rate applies throughout the payment period providing the member remits payments on a timely basis, compounded on a basis as set by administrative rules and procedures. The rate of interest applicable to pick up service requests for each plan year after July 1, 2000, shall be the actuarial interest rate assumption as approved by the Board for completing the Actuarial Valuation for the plan year immediately preceding the first day of the plan year in which the transfer of service request is paid, compounded per annum.

4.2. West Virginia State Police Death, Disability and Retirement Fund. In the event a member of the West Virginia State Police Death, Disability and Retirement Fund requests and is determined to be eligible to restore retirement system service credit for periods of previously terminated employment, the member shall pay into the plan established in article two-a [§§ 15-2A-1 et seq.] of chapter 15 any contributions which the member may have previously withdrawn from the plan at the termination of any prior periods of employment, plus reinstatement interest at the rate specified in W. Va. Code § 15-2-37(b).

4.3. West Virginia State Police Retirement System. In the event a member of the plan covered by the West Virginia State Police Retirement System requests and is determined to be eligible to restore retirement system service credit for periods of previously terminated employment, the member shall pay into the plan any contributions which the member may have previously withdrawn from the plan at the termination of any prior period of employment, plus reinstatement interest at the rate specified in W. Va. Code § 15-2A-8(b).

4.4. Judges' Retirement System.

4.4.1. The interest rate applicable to the administrative request of any judge seeking to acquire retirement system service credit for prior periods of eligible service during which contributions were not withheld from the judge's salary and paid into the system shall, as provided for in W. Va. Code §51-9-5(a), be determined by the state auditor.

4.4.2. The interest rate applicable to the administrative request of any judge seeking to qualify service as a prosecuting attorney prior to 1987 as credited service in the Judges' Retirement System as provided for in W. Va. Code §51-9-4(a) shall be determined by the state auditor.

§162-7-5. Retroactive Service.

5.1. Public Employees Retirement System. In the event a member of the Public Employees Retirement System requests and is determined to be eligible to purchase retirement system service credit for periods of employment in which contributions were not deducted from the employee's compensation, the member shall pay into the plan contributions as specified in W. Va. Code § 5-10-14(f), plus retroactive service interest.

5.1.1. The rate of interest applicable to requests to purchase retroactive

service into the Public Employees Retirement System is, for all plan years between the date of the member's period of retroactive service and through June 30, 2000, four percent (4%) per annum. The rate of interest applicable to retroactive service purchases for each plan year after June 30, 2000, shall be the actuarial interest rate assumption as approved by the Board for completing the Actuarial Valuation for the plan year immediately preceding the first day of the plan year in which the retroactive service purchase is made, compounded per annum.

§162-7-6. Loan Interest.

5-1-6.1. Loans made to members of the Deputy Sheriffs Retirement System pursuant to W. Va. Code § 7-14D-23 shall carry interest on the unpaid balance, at an annual effective interest rate which is two hundred (200) basis points higher than the most recent rate of interest used by the Consolidated Public Retirement Board for determining actuarial contribution levels.

5-2-6.2. Loans made to members of the Teachers' Retirement System pursuant to W. Va. Code § 18-7A-34 shall carry interest on the unpaid balance, at a rate commensurate with the numeric rate applied by the Consolidated Public Retirement Board to loans made to members of the Deputy Sheriffs Retirement System, or the rate of six percent (6%), whichever is higher.



Board Members

Governor Joe Manchin III
Auditor Glen B. Gainer III, Vice Chairman
Treasurer John D. Perdue
Cabinet Secretary Robert W. Ferguson, Jr.

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

Capitol Complex, Building 5, Suite 1000
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0720
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Board Members

David L. Wyant, Chairman
David Anderson
E. Gene Davis
Drema B. Evans
Carl A. Guthrie
Paul Hardesty
William B. McGinley
D. Todd Murray
LTC Stephen C. Tucker
Janet F. Wilson

July 12, 2006

Administrative Law Division
WV Secretary of State
Building 1, Suite 157K
State Capitol Complex
Charleston, West Virginia 25305-0771

Attention: Judy Cooper

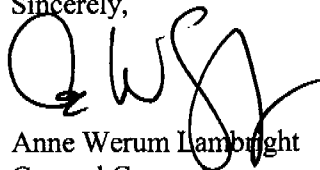
Re: Proposed Rule Amendments
Title 162, Series 7
WV Consolidated Public Retirement Board

Dear Ms. Cooper:

Enclosed is the original set of the documents to be filed with the Secretary of State in conjunction with the Board's proposal of amendments to the Title 162, Series 7 legislative rules. I am also enclosing fifteen (15) copies of the same for the Legislative Rule Making Review Committee and one (1) copy to be stamped and returned to this office.

Thank you for your assistance and cooperation in this matter. Should you have any questions, please let me know.

Sincerely,


Anne Werum Lambright
General Counsel

Enclosures

c: Terasa L. Miller
Donna Lipscomb