WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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JUN 30 2 03 PM '99

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: WV Consolidated Public Retirement Board TITLE NUMBER: 162

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

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 7

TITLE OF RULE BEING PROPOSED: Refund, Reinstatement and Loan Interest Factors

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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 August 2, 1999 AT 5:00 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Betty S. Ireland, Executive Secretary
WVCPRB
Building 5, Room 1000
1900 Kanawha Boulevard, East
Charleston, WV 25305-0720

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

[signature]

Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

$3.40

State of West Virginia
Consolidated Public Retirement Board
Capitol Complex, Building 5, Room 1000, Charleston, West Virginia 25305-0720
Telephone: 304-558-3570 or 800-654-4406 (within WV) Fax: 304-558-6337

BRIEF SUMMARY OF PROPOSED SERIES 7 TO TITLE 162

The West Virginia Consolidated Public Retirement Board ("Board"), as statutory administrator of the various state retirement plans, proposes a new rule series, specifically Series 7, to Title 162 of the Code of State Regulations. This rule would set forth the interest rates to be applied by the Board to various plan transactions, such as refunds, reinstatement of service, and plan loans.

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

Currently, there is no specific administrative rule which sets forth the interest rates to be applied by the Consolidated Public Retirement Board ("Board") to various transactions, such as refunds of contributions and/or reinstatement of previously withdrawn service which, from time-to-time, occur in the administration of the state's various retirement plans. In some cases, the Board has adopted the applicable interest rates in its prior administrative meetings of record, and in some cases, the interest rate applicable to a given transaction may be found in areas of the Code and/or regulations which are not readily or conveniently referenced. In many instances, there is inter-plan inconsistency in the interest rate to be applied to transactions of the same nature.

The Series 7 rules proposed by the Board would specify the interest rates to be applied by the Board to the transactions referenced in the rule, and would, to the extent permitted by plan provisions, bring conformity between plans as to the interest rate to be applied to such transactions.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title:	162–7 (Refund, reinstatements and loan interest factors)
Type of Rule:	Legislative
Agency:	WV Consolidated Public Retirement Board
Address:	Building 5, Room 1000
	1900 Kanawha Boulevard East
	Charleston, West Virginia 25305-0720

1. Effect of Proposed Rule:

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
1.ESTIMATED TOTAL COST	$ Not material	$Not material	$ Not material	$ Not material	$ Not material
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIR & ALTERATIONS					
EQUIPMENT					
OTHER					
2. ESTIMATED TOTAL REVENUES	$ Not material	$ Not material	$ Not material	$ Not material	$ Not material

2. Explanation of above estimates: The economic value of the proposed regulation is not material.

3. Objectives of these rules: The objective of the new regulations is to provide fair and equitable treatment between groups of members in different circumstances, and to make transactions between the funds and participating members as "market neutral" as reasonably possible. In the past, interest paid on reinstated contributions has been independent of actual market conditions during the period the contributions were out of the funds. This created a distinction between those members who left their contributions in the funds and those who withdrew them. In some circumstances the member who had their contributions outside the funds enjoyed an economic advantage, in other circumstances that was a disadvantage.

Rule Title: 162–7 (Refund, reinstatements and loan interest factors)

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:
Impact is not material.

B. Economics Impact on Political Subdivision; Specific Industries; Specific groups of Citizens:
Impact is not material.

C. Economic Impact on Citizens/Public at Large:
Impact is not material.

Date: 6/30/99

Signature of Agency Head or Authorized Representative: Betty L. Ireland

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TITLE 162
PROCEDURAL RULE
WEST VIRGINIA CONSOLIDATED PUBLIC RETIREMENT BOARD

SERIES 7 (Proposed)
REFUND, REINSTATEMENT AND LOAN INTEREST FACTORS

§ 162-6-1. General.

1.1. Scope. – This Rule addresses and identifies the interest rates which the Consolidated Public Retirement Board shall apply to the member transactions referenced herein 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. – _________

§ 162-6-2. 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 various plan transactions referenced herein. Any and all such 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 herein, shall be applicable to plan transactions specified herein which occur after June 30, 2000.

2.3 To the extent that any provision of these Rules is determined by the Board to be in conflict with the provisions of an analogous state retirement system statute, the statutory law shall prevail and shall be applied.

§ 162-6-3. Refund Interest.

Refund interest shall be paid to a member as provided herein when such member or beneficiary is eligible for and makes application for a refund of accumulated contributions in accordance with applicable plan provisions.

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

3.2 Public Employees Retirement System. In the event a member of the Public Employees Retirement System terminates covered employment and thereafter requests and is deemed eligible to receive a refund of accumulated contributions, the interest rate applicable to such refund shall be 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).

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

3.4. 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 deemed eligible to receive a refund of accumulated contributions, the interest rate applicable to such refund shall be the rate specified in W. Va. Code §15-2-37(a) at the time of the member's application for refund.

3.5. 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 deemed eligible to receive a refund of accumulated contributions, the interest rate applicable to such refund shall be the rate specified in W. Va. Code § 15-2A-8(a) at the time of the member's application for refund.

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

3.7. 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 herein, and for which interest is payable, the rate of such interest shall be four percent, compounded per annum.

§162-6-3. Reinstatement Interest.

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 such reinstatement is permitted under applicable law. The reinstatement of such 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 these rules.

3.1. Deputy Sheriffs Retirement System. In the event a member of the Deputy Sheriffs Retirement System requests and is deemed eligible to restore retirement system service credit for periods of previously terminated employment, such member shall be required to pay into the plan any contributions which the member may have previously withdrawn from the plan at the termination of any such prior period of employment, plus reinstatement interest. The rate of interest applicable to such requests for reinstatement of service into the Deputy Sheriffs Retirement System shall, for all plan years between the date of the member's withdrawal of plan contributions and through June 30, 2000, be four percent (4%) per annum. The rate of interest applicable to such 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 such plan year, compounded per annum. Once a member commences repayment of such amount, 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 such payments commence, and that rate shall apply throughout the payment period providing the member remits payments on a timely basis, compounded on a basis as set by administrative rules and procedures.

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

3.2.1. The rate of interest applicable to such requests for reinstatement of service into the Public Employees Retirement System shall, for all plan years between the date of the member's withdrawal of plan contributions and through June 30, 2000, be four percent (4%) per annum. The rate of interest applicable to such 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 such plan year, compounded per annum. Once a member commences repayment of such amount specified in 3.2 of this Rule, 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 such payments commence, and that rate shall apply throughout the payment period providing the member remits payments on a timely basis, compounded on a basis as set by administrative rules and procedures.

3.2.2. Retroactive Service. Except as otherwise provided for in West Virginia Code §5-10-14, and in the event the Board determines that a member of the Public Employees 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 such prior employment, the member shall be entitled to receive retirement system service credit for such prior period of employment, with the receipt of such credit being contingent upon the Board's receipt of the employee and employer contributions which should have been paid into the plan for such period, plus interest at the rate specified in 3.2.3 herein.

3.2.3. The rate of interest applicable to retroactive service requests in the Public Employees Retirement System shall, for all plan years prior to July 1, 2000, be four percent (4%) per annum. The rate of interest applicable to such requests for each plan year after June 30, 2000, shall be based upon the Moody's Average Corporate Bond Yield, as of December 31st immediately preceding the first day of such plan year, compounded per annum. Once a member commences repayment of such amount specified in 3.2.2 of this Rule, 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 such payments commence, and that rate shall apply throughout the payment period providing the member remits payments on a timely basis, compounded on a basis as set by administrative rules and procedures.

3.3. 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 hereafter be specifically provided for in W. Va. Code § 18-7A-7 or other applicable statutory plan provision.

3.3.1. Transfers of service. In the event a member of the Teachers Retirement System requests and is deemed 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, such member shall be required to 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 said member would have made had he or she been a member of the Teachers Retirement System for such period of previous service, plus interest at the rate specified in section 3.3.3 herein.

3.3.2. A member of the Teachers' Retirement System is entitled to a transfer of credited service in the Public Employees Retirement System as specified in 3.3.1 of this Rule only to the extent that such member repays into the Teachers Retirement System any amounts which the member may have previously withdrawn from the Public Employees Retirement System, plus interest at the rates specified in section 3.3.3 herein.

3.3.3. 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 shall, for all plan years through June 30, 2000, be six percent (6%) per annum. The rate of interest applicable to such 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 3.3.2 of this Rule, shall be based upon the Moody's Average Corporate Bond Yield, as of the December 31st immediately preceding the first day of such plan year, compounded per annum. Once a member commences payment of the amount specified in sections 3.3.1 and 3.3.2 of this Rule, 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 such payments commence, and that rate shall apply throughout the payment period providing the member remits payments on a timely basis, compounded on a basis as set by administrative rules and procedures.

3.3.4. 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 such prior employment, the member shall be entitled to receive retirement system service credit for such prior period of employment, with the receipt of such credit being contingent upon the Board's receipt of the employee and employer contributions which should have been paid into the plan for such period, plus interest at the rate specified in 3.3.5 herein.

3.3.5. The rate of interest applicable to pick-up service requests in the Teachers Retirement System shall, for all plan years prior to July 1, 2000, be six percent (6%) per annum. The rate of interest applicable to such 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 such plan year, compounded per annum. Once a member commences repayment of such amount specified in 3.3.4 of this Rule, 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 such payments commence, and that rate shall apply throughout the payment period providing the member remits payments on a timely basis, compounded on a basis as set by administrative rules and procedures.

3.4. 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 requests and is deemed eligible to restore retirement system service credit for periods of previously terminated employment, such member shall be required to pay into the plan 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).

3.5. 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 deemed eligible to restore retirement system service credit for periods of previously terminated employment, such member shall be required to 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).

3.6. Judges Retirement System.

3.6.1. 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 such 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.

3.6.2. 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.

§162-6-4. Loan Interest.

6.4.1. 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.

6.4.2. Loans made to members of the Teachers Retirement System pursuant to W. Va. Code 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.

State of West Virginia
Consolidated Public Retirement Board

Capitol Complex, Building 5, Room 1000
1900 Kanawha Boulevard, East
Charleston, WV 25305-0720
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FAX: 304-558-6337

June 30, 1999

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

Attention: Judy Cooper

Re: Proposed New Rule Series; Title 162, Series 7
(WV Consolidated Public Retirement Board)

Dear Ms. Cooper:

I am enclosing herewith three (3) sets of the documents which I understand must be filed with the Secretary of State by the West Virginia Consolidated Public Retirement Board in conjunction with the Board's proposal of a new Rule, specifically Series 7, to the Title 162 legislative rules.

Thank you for your assistance and cooperation. Please let me know if you have any questions, or if there are any corrections which need to be made to the tendered documents.

Sincerely,

Susan B. Saxe
Attorney at Law

cc: Betty S. Ireland