WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION

Form #2

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: WV Consoidated Public Retirement Board TITLE NUMBER: 162

RULE TYPE: Legislative CITE AUTHORITY: W. Va. Code § 5-10D-1

AMENDMENT TO AN EXISTING RULE: YES X NO ___

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 7

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

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: ___

TITLE OF RULE BEING PROPOSED: ___

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 July 15, 2009 AT 5:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Anne Werum Lambright, Executive Director
WV Consolidated Public Retirement Board
4101 MacCorkle Ave., SE
Charleston, WV 25304

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

Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

Robert W Ferguson
Secretary of Administration

State of West Virginia
Consolidated Public Retirement Board
4101 MacCorkle Avenue, SE
Charleston, West Virginia 25304-1636
Telephone: 304-558-3570 or 800-654-4406
Fax: 304-558-6337
email: CPRB@wvretirement.com
www.wvretirement.com

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 certain amendatory changes to the provisions of Title 162, Series 7, of the West Virginia Code of State Regulations. Specifically, the Board proposes an amendment to create a section pertaining to employer error for the Deputy Sheriff Retirement System, the Public Employees Retirement System and the Teachers' Retirement System. The rule clarifies statutory provisions and sets the rate of interest for employer error payments. The proposed rule further clarifies that the Board, as administrator, will determine if prosecuting attorney service may be credited under the Judges' Retirement System.

State of West Virginia
Consolidated Public Retirement Board
4101 MacCorkle Avenue, SE
Charleston, West Virginia 25304-1636
Telephone: 304-558-3570 or 800-654-4406
Fax: 304-558-6337
email: CPRB@wvretirement.com
www.wvretirement.com

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

As statutory administrator of the State's several pension plans, the West Virginia Consolidated Public Retirement Board (Board) proposes amendatory changes to Title 162, Series 7, of the West Virginia Code of State Regulations. The rule is necessary to establish the rate of interest for employer error payments under the Public Employees Retirement System, and to move the employer error section for the Deputy Sheriff Retirement System and the Teachers' Retirement System to the newly proposed section. The rule is also necessary to clarify that the Board, as administrator, will determine if prosecuting attorney service may be credited under the Judges' Retirement System.

FISCAL NOTE FOR PROPOSED RULES

Rule Title:	Title 162 (Series 7) Refund, Reinstatement, Retroactive Service and Loan Interest Factors
Type of Rule:	__X_ Legislative _____Interpretive _____Procedural
Agency:	West Virginia Consolidated Public Retirement Board
Address:	4101 MacCorkle Ave. S.E. Charleston, West Virginia 25304
Phone Number:	(304) 558-3570 X 52465 Email: Harry.W.Mandel@WV.gov

Fiscal Note Summary

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

There are no changes in the costs or revenues of state government due to the changes in the rule.

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	2009 Increase/Decrease (use "-")	2010 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	$ 0	$ 0	$ 0
Personal Services			
Current Expenses	$ 0	$ 0	$ 0
Repairs & Alterations			
Assets			
Equipment			
Other	$ 0	$ 0	$ 0
2. Estimated Total Revenues			

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

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 corrections required due to employer error. Prior language that addressed portions of the issue were stricken from the rules and replaced by new comprehensive provisions under Employer Error.

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.

The rule does not change the total value of any members benefit entitlement and therefore does not increase the costs to state government. Changes are primarily administrative clarifications.

Date: June 10, 2009

Signature of Agency Head or Authorized Representative

Harry W. Mandel

Harry W. Mandel
Board Actuary
Member, American Academy of Actuaries
Member Society of Pension Actuaries
Enrolled Actuary

TITLE 162
LEGISLATIVE RULE
CONSOLIDATED PUBLIC RETIREMENT BOARD

SERIES 7
REFUND, REINSTATEMENT, RETROACTIVE SERVICE ~~AND~~, LOAN AND EMPLOYER ERROR INTEREST FACTORS

§ 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. – ~~June 4, 2009.~~

1.4. Effective Date. – ~~July 1, 2009.~~

§ 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 Sheriff Retirement System. In the event a member of the Deputy Sheriff 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(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.

3.1.7. Emergency Medical Services Retirement System. In the event a member of the Emergency Medical Services 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.

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

§ 162-7-4. Reinstatement.

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 Sheriff Retirement System. In the event a member of the Deputy Sheriff Retirement System requests and is determined to be eligible to restore retirement system service credit for periods of previously terminated covered 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 covered employment, plus reinstatement interest.

4.1.1.a. The rate of interest applicable to requests for reinstatement of service into the Deputy Sheriff 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 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.

4.1.2. 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 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 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. 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.

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.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.d of this rule.

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 March 7, 2003, six percent (6%) per annum. 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.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.f.~~

~~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 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.~~

4.1.4. Emergency Medical Services Retirement System. In the event a member of the Emergency Medical Services Retirement System requests and is determined to be eligible to restore retirement system service credit for periods of previously terminated covered 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 covered employment, plus reinstatement interest.

4.1.4.a. The rate of interest applicable to requests for reinstatement of service into the Emergency Medical Services Retirement System for all plan years 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.

4.2. 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 as established in W. Va. Code § 15-2A-1 et seq., 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)~~ 51-9-4(f) shall be determined by the ~~state auditor~~ Board.

§ 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.

~~5.2. Deputy Sheriff Retirement System. In the event the Board determines that a member of the Deputy Sheriff Retirement System was eligible to participate in the 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, plus retroactive service interest.~~

~~5.2.1. The rate of interest applicable to requests to purchase retroactive service into the Deputy Sheriff 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.~~

~~5.3.~~ <u>5.2.</u> Emergency Medical Services Retirement System. In the event the Board determines that a member of the Emergency Medical Services Retirement System was eligible to participate in the 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, plus retroactive service interest.

~~5.3.1.~~ <u>5.2.1.</u> The rate of interest applicable to requests to purchase retroactive service into the Emergency Medical Services Retirement System for all plan years 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 and Payments.

6.1. Loans made to members of the Deputy Sheriff 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.

6.2. 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 Sheriff Retirement System, or the rate of six percent (6%), whichever is higher.

6.3. All loan payments remitted by an

employer are due the Teachers' Retirement System or the Deputy Sheriff Retirement System within fifteen (15) days following the end of the calendar month for which the payment is made.

6.4. All loan payments remitted by personal payment, if permitted, are due the Teachers' Retirement System or the Deputy Sheriff Retirement System by the last day of the calendar month for which the payment is due.

§ 162-7-7. Employer Error.

7.1. Deputy Sheriff Retirement System. In the event the Board determines that an employer error has occurred, the member is entitled to receive retirement system service credit for the prior period of employment in which the employer error occurred, with receipt of service credit being contingent upon the Board's receipt of the employee and employer contributions, plus interest at the rate specified in subdivision 7.1.1. of this rule.

7.1.1. The rate of interest applicable to employer error payments in the Deputy Sheriff Retirement System is, for all plan years between the date of the member's period of employer error and through June 30, 2000, four percent (4%) compounded per annum. The rate of interest applicable to employer error payments 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 employer error payment is made, compounded per annum.

7.2. Public Employees Retirement System. In the event the Board determines that an employer error has occurred, the member is entitled to receive retirement system service credit for the prior period of employment in which the employer error occurred, with receipt of service credit being contingent upon the Board's receipt of the employee and employer contributions, plus interest at the rate specified in subdivision 7.2.1. of this rule.

7.2.1. The rate of interest applicable to employer error payments in the Public Employees Retirement System is, for all plan years between the date of the member's period of employer error and through June 30, 2000, four percent (4%) compounded per annum. The rate of interest applicable to employer error payments 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 employer error payment is made, compounded per annum.

7.3. Teachers' Retirement System. In the event the Board determines that an employer error has occurred, the member is entitled to receive retirement system service credit for the prior period of employment in which the employer error occurred, with receipt of service credit being contingent upon the Board's receipt of the employee and employer contributions, plus interest at the rate specified in subdivision 7.3.1. of this rule.

7.3.1. The rate of interest applicable to employer error payments in the Teachers' Retirement System is, for all plan years between the date of the member's period of employer error and through June 30, 2000, six percent (6%) compounded per annum. The rate of interest applicable to employer error payments 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 employer error payment is made, compounded per annum.