WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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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: 162

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: ___

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.

Betty L. McClane

Authorized Signature

\$4.40

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: August 31, 2000

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

FROM: **WEST VIRGINIA CONSOLIDATED PUBLIC RETIREMENT BOARD**
Building 5, Room 1000, Capitol Complex
Charleston, West Virginia 25303

LEGISLATIVE RULE TITLE: Title 162, Series 7; 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: July 11, 2000

   b. What other notice, including advertising, did you give of the hearing? Written notice, along with a copy of the proposed rule amendments, was forwarded to the President of the WV Federation of Teachers, the Director of the WV Education Association, the President of the WV School Service Personnel Association, the President of the WV Deputy Sheriffs Association, the Director of the WV Municipal League, the Director of the WV Association of Counties and the Secretary of the WV Troopers Association for review and circulation to their potentially interested members. Copies were also provided to the chairs of the House and Senate Committees on Pensions and Retirements.

   c. Date of Public Hearing(s) or Public Comment Period ended: August 14, 2000

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

   Attached ☐ No comments received ☑

   e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact): August 31, 2000

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

Betty S. Ireland, Executive Secretary
WV Consolidated Public Retirement Board
Building 5, Room 1000, Capitol complex
Charleston, West Virginia 25303
304-558-3570 Extension 203
304-558-6337 (FAX)
Bireland@gwmail.state.wv.us

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)

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 finding and determinations required together with the reasons therefore?

d. Attach finding and determinations and reasons:

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 AMENDMENT TO TITLE 162, SERIES 7

The West Virginia Consolidated Public Retirement Board ("Board"), as statutory administrator of the various state retirement plans, proposes an amendatory addition to the Title 162, Series 7 rules to reflect that the 4% rate referenced in § 162-7-3.1.3 shall be deemed consistent with and also applicable to calculations of "regular interest" whenever applicable in the Teachers Retirement System ("TRS").

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

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

As promulgated during the 2000 legislative session, the Title 162, Series 7 rules do not clearly reflect that the 4% rate provided for refund interest in the Teachers Retirement System ("TRS") in WVCSR §162-7-3.1.3 is to also be consistent with and applicable to the calculation of regular interest in the TRS plan. The Consolidated Public Retirement Board proposes an amendatory addition to §162-7-3.1.3 to reflect that the rate referenced therein applies to both refund and regular interest in the TRS plan.

APPENDIX B
FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 162 (Series 7)

Type of Rule: X Legislative ______ Interpretive ______ Procedural

Agency: The State of West Virginia Consolidated Public Retirement Board
Address: 1900 Kanawha Boulevard, East, Building 5, Room 1000, Capitol Complex, Charleston, West Virginia 25305

1. Effect of Proposed rule:

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	Nil		Nil		
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:

This rule will have an immaterial impact on plan income and benefit expenses.

3. Objectives of These Rules:

The rules are clarified to indicate that the increase from 3% to 4% in the interest rate credited to refunds of employee contributions, adopted in the past legislative session, also applies to the calculation of "regular interest" as defined in the plan. In addition, the rules regarding interest charged for the reinstatement of service are revised to clarify that such reinstatement interest also applies to reinstatement of retroactive service. Only TRS provisions need these clarifications.

Rule Title: Title 162 (Series 7)

4. Explanation of Overall Economic Impact of Proposed Rule:

   A. Economic Impact on State Government:

      These rule changes are procedural. There is no economic impact.

   B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

      These rule changes are procedural. There is no economic impact.

   C. Economic Impact on Citizens/Public at Large:

      These rule changes are procedural, and only serve to clarify the application of existing legislative rules.

Date: July 10, 2000

Signature of Agency Head or Authorized Representative:

Dreighton H. Rosier, FSA
Director of Actuarial Services

FILED

SEP 1 9 03 AM '00

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

TITLE 162
PROCEDURAL RULE
WEST VIRGINIA CONSOLIDATED PUBLIC RETIREMENT BOARD

SERIES 7
REFUND, REINSTATEMENT AND LOAN 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. -- April 7, 2000.

1.4. Effective Date. -- July 1, 2000.

§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).

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. The refund interest rate provided for in this rule shall be consistent with and applicable also to calculations of "regular interest" in the Teachers Retirement System.

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 this section, and for which interest is payable, the rate of interest is four percent, 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. <u>This reinstatement interest shall also apply to a member who is reinstating retroactive service.</u>

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. 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 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 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 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 § 18-7B-7 or other applicable statutory plan provisions.

4.1.3.a. 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. 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. 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 interest at the rates specified in subdivision 4.1.3.c.

4.1.3.c. 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, 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.

4.1.3.d. 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.e.

4.1.3.e. 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.

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 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. Loan Interest.

5.1. 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. 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.

DAG

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: West Virginia Consolidated Public Retirement Board

Subject: Refund, Reinstatement and Loan Interest Factors, 162CSR7

PERTINENT DATES

Filed for public comment: July 11, 2000
Public comment period ended: August 14, 2000
Filed following public comment period: September 1, 2000
Filed LRMRC: September 1, 2000
Filed as emergency:

Fiscal Impact: None

ABSTRACT

The proposed rule amends a current legislative rule. The following is a synopsis of the substantive amendments.

Section 3 relates to refund interest. It has been amended to provide that the refund interest provided for in the rule is to be consistent and applicable also to calculations of "regular interest" in the Teachers Retirement System.

Section 4 relates to reinstatement interest. Language has been added stating that the reinstatement interest also applies to a member who is reinstating retroactive service.

AUTHORITY

Statutory authority: W.Va. Code, §5-10D-1, which provides, in part, as follows:

> ...The consolidated public retirement board may propose for promulgation all rules necessary to effectuate its powers, duties and responsibilities pursuant to article three, chapter twenty-nine-a of this code...

ANALYSIS

I. **HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?**

No.

II. **IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?**

Yes.

III. **DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?**

No.

IV. **IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?**

Yes.

V. **IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?**

Yes.

VI. **CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?**

Yes. The new language regarding "regular interest" is not entirely clear and is probably not located in the appropriate section or perhaps rule.

VII. **WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?**

Yes.

VIII. **OTHER**

Counsel has technical modifications to suggest.