

Form #2

FILED

2005 JUN 22 P 3: 26

OFFICE WEST VIRGINIA
SECRETARY OF STATE

BRIEF SUMMARY OF PROPOSED AMENDMENT TO TITLE 162, SERIES 8

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 8, of the West Virginia Code of State Regulations. Specifically, the Board proposes adding provisions that govern a member's eligibility to utilize accrued and unused sick and annual leave for additional retirement system service credit in the Deputy Sheriff Retirement System and in the West Virginia State Police Retirement System.

Other technical changes are also proposed to ensure clarity in the conversion of accrued unused sick and annual leave to service credit.

**STATEMENT OF CIRCUMSTANCES REQUIRING
PROPOSAL AND PROMULGATION OF PROPOSED RULE CHANGES TO SERIES 8
OF TITLE 162 OF THE WV 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 8 of the West Virginia Code of State Regulations. Currently, the legislative rule that governs a member's eligibility to utilize accrued and unused sick and annual leave for additional retirement system service credit does not have provisions that govern the Deputy Sheriff Retirement System or the West Virginia State Police Retirement System. These amendatory revisions have been determined necessary in order to set forth guidelines for the conversion of sick and annual leave under the above mentioned retirement systems.

The Board also proposes deleting obsolete language from the calculation of service credit provisions and deleting language that places restrictions on lump sum payments of accrued leave at the conclusion of the member's employment. In order to prevent an inflated computation, lump sum payments of accrued leave at any time during employment are not considered as compensation or salary in computing a member's final average salary.

Other technical changes are also proposed to ensure clarity in the conversion of accrued unused sick and annual leave to service credit.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 162 (Series 8) Service Credit for Accrued and Unused Sick Leave and Annual Leave

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 a technical clarification of the administrative interpretations the CPRB has applied to current statutes in regards to use of sick leave, annual leave, and lump sum cash outs of annual leave. It does not change any existing procedures in the administration of the retirement systems and therefore has no cost impact.

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	2005 Increase/Decrease (use "-")	2006 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			
2. Estimated Total Revenues			

Rule Title: Title 162 (Series 8) Service Credit for Accrued and Unused Sick Leave and Annual Leave

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

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

The rule clarifies the current statutes to correspond to the administrative interpretations of the statutes that has been applied by the CPRB. The rule is in response to court challenges that would change the interpretations and result in multi million dollar increases in the Actuarial Accrued Liabilities for both PERS and TRS if changed.

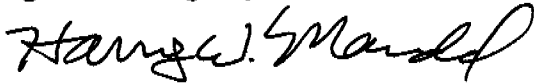
MEMORANDUM

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: June 22, 2005

Signature of Agency Head or Authorized Representative



Harry W. Mandel

Board Actuary, MAAA, MSPA, EA

TITLE 162
PROPOSED LEGISLATIVE RULE
WEST VIRGINIA CONSOLIDATED PUBLIC RETIREMENT BOARD

FILED

2005 JUN 22 P 3 28

SERIES 8

SERVICE CREDIT FOR ACCRUED AND UNUSED SICK AND ANNUAL LEAVE

OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

§ 162-8-1. General.

1.1. Scope. – This rule governs a member's eligibility to utilize accrued and unused sick and annual leave for additional retirement system service credit in the Public Employees Retirement System and the Teachers' ~~Defined Benefit Plan Retirement System~~, the Deputy Sheriff Retirement System, and the West Virginia State Police Retirement System. Employees of the judicial and legislative branches of government are exempt from this rule.

Public Employees Retirement System (W. Va. Code §5-10-1 et seq.; 162 CSR 5) and the Teachers' ~~Defined Benefit Plan Retirement System~~ (W. Va. Code § 18-7A-1 et seq.; 162 CSR 4), the Deputy Sheriff Retirement System (W. Va. Code § 7-14D-1 et seq.; 162 CSR 10), and the West Virginia State Police Retirement System (W. Va. Code § 15-2A-1 et seq.; 162 CSR 9) apply to this service credit rule as the context requires.

§162-8-4. Public Employees Retirement System.

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

1.3. Filing Date. –

1.4. Effective Date. –

4.1. Service Credit for Accrued Unused Sick and Annual Leave. – Members of the Public Employees Retirement System may elect to receive additional service credit in exchange for accrued and unused sick and annual leave at the time of retirement. Members who make this election are eligible for any additional service credit to which the member is entitled based upon the number of the member's accrued unused sick and annual leave days which stand to the member's credit with the member's last participating public employer at the time of retirement. In calculating a member's service credit for accrued unused sick and annual leave, the Board shall not include any accrued and unused sick and annual leave days which stand to the member's credit with any participating public employer prior to the member's last participating public employer which are not transferable to or recognized by the member's last participating public employer. In interpreting, applying and administering this rule and subject to the limitations found in subdivision 8.4.2 and 8.4.3 of this rule, the Board shall accept the policy of the member's last participating public employer for the accrual of unused sick and annual leave. In order for a participating public employer's annual and sick leave policy to be recognized by the Board, the policy must be a

§ 162-8-2. Purpose.

2.1. General – The purpose of this rule is to set forth guidelines to govern the conversion of a member's accrued and unused sick and annual leave to additional retirement system service credit in the Public Employees Retirement System and the Teachers' ~~Defined Benefit Plan Retirement System~~, the Deputy Sheriff Retirement System, and the West Virginia State Police Retirement System.

2.2. Administrative Appeals – In all contested cases regarding service credit for accrued sick and annual leave, the Board shall follow its rules, Benefit Determination and Appeal, 162 CSR 2; West Virginia State Police, 162 CSR 9; and Deputy Sheriff Retirement System, 162 CSR 10; in reaching a decision on the appeal.

§ 162-8-3. Definitions.

The definitions of key terms used in the

written standard that is an accepted standard by the employer.

4.2. Limitation on the Accrual of Unused Sick and Annual Leave. – Members employed by any participating public employer with a policy for the accrual of unused sick and annual leave which is more generous than that of the State of West Virginia for its state agency employees shall receive service credit only for accrued unused sick and annual leave as provided for by the State of West Virginia for state employees who are covered by the rules of the West Virginia Division of Personnel.

4.3. Calculation of Service Credit for Accrued Unused Sick and Annual Leave. – ~~In all calculations of service credit for accrued unused sick and annual leave in the Public Employees Retirement System, the leave shall be accumulated based upon the member's job classification and characteristics at the time the member was accruing the leave.~~ The Consolidated Public Retirement Board may request information from the member and/or the member's last or prior participating public employer in order to determine the proper amount of retirement system service credit the member is entitled to receive for his or her accrued and unused sick and annual leave. The conversion of accrued sick and annual leave to additional service shall be based upon the information received by the Board from the member's employers.

4.4. Lump Sum Payment for Accrued Leave. – If the member is paid in a lump sum for accrued unused leave ~~at the conclusion of the member's employment~~, the Board shall not consider the lump sum payment as compensation or salary in computing a member's final average salary.

§162-8-5. Teachers' Defined Benefit Plan Retirement System.

5.1. Service Credit for Accrued Unused Sick and Annual Leave. – The Board shall give members of the Teachers' ~~Defined Benefit Plan~~

Retirement System who elect, under the provisions of W. Va. Code §5-16-13~~(e)~~(f), to convert accrued and unused sick and annual leave to additional retirement system service credit any additional credit to which the member is entitled based upon the number of accrued and unused sick and annual leave days which stand to the member's credit with the member's last employer at the time of retirement. Any unused sick and annual leave days accrued and which stand to the member's credit with any participating public employer prior to the member's last participating public employer, and which are not transferable to or recognized by the member's last participating public employer, are not used to calculate service credit. In interpreting, applying and administering this rule and subject to the limitations found in subdivision 8.5.2. of this rule, the Board shall be deferential to the policy of the member's last participating public employer for the accrual of unused sick and annual leave. In order for a participating public employee's annual and sick leave policy to be recognized by the Board, the policy shall have been formally adopted in writing by the employer.

5.2. Calculation of Service Credit for Accrued Unused Sick and Annual Leave. – ~~In all calculations of service credit for accrued sick and annual leave in the Teachers' Defined Benefit Plan Retirement System, the leave is considered accumulated based upon the member's job classification and characteristics at the time the member's leave was accrued.~~ The conversion of accrued leave to service credit shall be made in a manner consistent with the provisions of Teachers' ~~Defined Benefit Plan Retirement System~~, 162 CSR 4 and W. Va. Code §5-16-13~~(e)~~(f). The Consolidated Public Retirement Board may request information from the member and/or the member's last or prior employers in order to determine the proper amount of retirement system service credit the member is entitled to receive for his or her accrued sick and annual leave. The conversion of accrued sick and annual leave to additional service credit shall be based upon the information received by the Board from the member's employ-

ers.

5.3. Deferred Retirement. – A member of the Teachers' ~~Defined Benefit Plan~~ Retirement System who ceases employment prior to retirement or who takes a deferred retirement may not use accumulated unused sick and annual leave for enhanced retirement benefits, unless the member continues to be a covered participant in the West Virginia Public Employees Insurance Agency at the time his or her retirement annuity commences, either as a covered member or as a covered dependent of a member under that Agency, pursuant to W. Va. Code §5-16-13(e)(f).

5.4. Lump Sum Payment for Accrued Leave. – If the member is paid in a lump sum for accrued unused leave ~~at the conclusion of the member's employment~~, the Board shall not consider the lump sum payment as compensation or salary in computing a member's final average salary.

§162-8-6. Deputy Sheriff Retirement System.

6.1. Service Credit for Accrued Unused Sick and Annual Leave. – Members of the Deputy Sheriff Retirement System may elect to receive additional service credit in exchange for accrued and unused sick and annual leave at the time of retirement. Members who make this election are eligible for any additional service credit to which the member is entitled based upon the number of the member's accrued unused sick and annual leave days which stand to the member's credit with the member's last covered employment employer at the time of retirement. In calculating a member's service credit for accrued unused sick and annual leave, the Board shall not include any accrued and unused sick and annual leave days which stand to the member's credit with any participating public employer prior to the member's last covered employment employer which are not transferable to or recognized by the member's last covered employment employer. In interpreting, applying and administering this rule and subject to the limitations found in subdivision 8.6.2

and 8.6.3 of this rule, the Board shall accept the policy of the member's last covered employment employer for the accrual of unused sick and annual leave. In order for a covered employment employer's annual and sick leave policy to be recognized by the Board, the policy must be a written standard that is an accepted standard by the employer.

6.2. Limitation on the Accrual of Unused Sick and Annual Leave. – Members employed by any covered employment employer with a policy for the accrual of unused sick and annual leave which is more generous than that of the State of West Virginia for its state agency employees shall receive service credit only for accrued unused sick and annual leave as provided for by the State of West Virginia for state employees who are covered by the rules of the West Virginia Division of Personnel.

6.3. Calculation of Service Credit for Accrued Unused Sick and Annual Leave. – The Consolidated Public Retirement Board may request information from the member and/or the member's last covered employment or prior participating public employer in order to determine the proper amount of retirement system service credit the member is entitled to receive for his or her accrued and unused sick and annual leave. The conversion of accrued sick and annual leave to additional service shall be based upon the information received by the Board from the member's employers.

6.4. Lump Sum Payment for Accrued Leave. – If the member is paid in a lump sum for accrued unused leave, the Board shall not consider the lump sum payment as compensation or salary in computing a member's final average salary.

§162-8-7. West Virginia State Police Retirement System.

7.1. Service Credit for Accrued Unused Sick and Annual Leave. – Members of the West

Virginia State Police Retirement System may elect to receive additional service credit in exchange for accrued and unused sick and annual leave at the time of retirement. Members who make this election are eligible for any additional service credit to which the member is entitled based upon the number of the member's accrued unused sick and annual leave days which stand to the member's credit at the time of retirement. In calculating a member's service credit for accrued unused sick and annual leave, the Board shall not include any accrued and unused sick and annual leave days which stand to the member's credit with any participating public employer prior to the member's employment at the West Virginia State Police which are not transferable to or recognized by the West Virginia State Police. In interpreting, applying and administering this rule and subject to the limitations found in subdivision 8.7.2 and 8.7.3 of this rule, the Board shall accept the policy of the West Virginia State Police for the accrual of unused sick and annual leave. In order for the West Virginia State Police's annual and sick leave policy to be recognized by the Board, the policy must be a written standard that is an accepted standard by the employer.

7.2. Limitation on the Accrual of Unused Sick and Annual Leave. – Should the West Virginia State Police policy for the accrual of unused sick and annual leave be more generous than that of the State of West Virginia for its state agency employees, trooper members shall receive service credit only for accrued unused sick and annual leave as provided for by the State of West Virginia for state employees who are covered by the rules of the West Virginia Division of Personnel.

7.3. Calculation of Service Credit for Accrued Unused Sick and Annual Leave. – The Consolidated Public Retirement Board may request information from the member and/or the West Virginia State Police or prior participating public employer in order to determine the proper amount of retirement system service credit the member is entitled to receive for his or her accrued and unused sick and annual leave. The conversion of

accrued sick and annual leave to additional service shall be based upon the information received by the Board from the member's employers.

7.4. Lump Sum Payment for Accrued Leave. – If the member is paid in a lump sum for accrued unused leave, the Board shall not consider the lump sum payment as compensation or salary in computing a member's final average salary.