

Form #3

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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.

QUESTIONNAIRE

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

DATE: July 29, 2005

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

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

LEGISLATIVE RULE TITLE: Title 162, Series 8; Consolidated Public Retirement Board;
Service Credit for Accrued and Unused Sick and Annual Leave

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:
June 22, 2005

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- b. What other notice, including advertising, did you give of the hearing?

Written notice, along with a copy of the proposed rule amendments, were forwarded to representatives of the WV Association of Counties, County Commissioners Association of WV, WV Municipal League, PERSA, WV Federation of Teachers, American Federation of Teachers, WV Education Association, WV Assoc. of Retired School Employees, WV School Service Personnel, AFSCME, Retired Members (troopers) Association, WV Troopers Association, and to the WVSP for review and circulation to their interested members. Copies were also provided to the Chairs of the House and Senate Committees on Pension and Retirements and to Board Physician, John B. Walden, MD.

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- c. Date of Public Hearing(s) *or* Public Comment Period ended: July 22, 2005
- d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received

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

July 29, 2005

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

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

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

Karen S. Copeland, Contributions Manager
WV Consolidated Public Retirement Board
State Capitol Complex
Building 5, Room 1000
1900 Kanawha Boulevard, East
Charleston, WV 25305
(304) 558-6244 x 414
(304) 558-6337 (fax)
kcopeland@wvretirement.com

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:
- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.
 - b. Date of hearing or comment period:
 - c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?
 - d. Attach findings and determinations and reasons:

BRIEF SUMMARY OF PROPOSED AMENDMENT TO TITLE 162, SERIES 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.

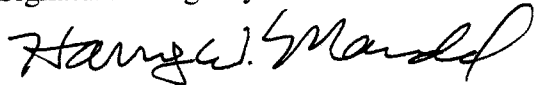
MEMORANDUM

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

RECEIVED

05 JUL 29 AM 9:47

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 8
SERVICE CREDIT FOR ACCRUED AND UNUSED SICK AND ANNUAL LEAVE

§ 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, 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.

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

1.3. Filing Date. –

1.4. Effective Date. –

§ 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, 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

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.

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

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 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 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. Trooper members may carry forward up to 480 hours (60 work days) of accumulated annual leave for use towards service credit at the time of retirement.

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.



West Virginia State Police
725 Jefferson Road
South Charleston, West Virginia 25309-1698
Executive Office

July 01, 2005

Joe Manchin III
Governor

Colonel B. L. Lemmon
Superintendent

Consolidated Public Retirement Board
Capitol Complex, Building 5 Suite 1000
1900 Kanawha Blvd. East
Charleston, WV 25305-6337

**Re: Proposed Amendments to Title 162 Legislative Rules
Public Comment Period**

The purpose of this correspondence is to comment on the proposed changes to: Title 162 Rule, specifically Series 8.7.2.

The West Virginia State Police Annual Leave Policy was revised in 1979 as a result of Executive Order Number 4-79 signed by Governor John D. Rockefeller IV in December of 1979. Executive Order Number 4-79. increased the number of annual leave days which uniform members of the West Virginia State Police could carry over to sixty (60).

The reason for this change was due to the nature of the responsibilities of Trooper's jobs. Responding to labor disputes, floods, penitentiary riots, and natural or man made disasters, which may require prolonged deployment of substantial numbers of Troopers, has regularly prohibited Troopers from being able to utilize their annual leave benefits. Governor Rockefeller determined that members of the State Police should not be penalized by losing annual leave days due to circumstances beyond their control.

The members of the State Police perform a very difficult job, and are extremely dedicated. I believe it can be clearly demonstrated, the State Police as a whole do not abuse leave benefits. The current annual leave carry over policy has been in place since 1979, almost twenty six (26) years. I further believe that in the last year of a person's career, it would be wrong to reduce the number of annual leave days for which a member could receive credit or compensation. For these reasons I believe that for the purposes of Series 8.7.2 the State Police Annual Leave Policy and not the Division of Personnel's policy should apply.

Respectfully submitted

B. L. Lemmon
Colonel D. L. Lemmon, Superintendent

Equal Opportunity Employer

To: Kaven
FBI
C. J. [unclear]
742

06570001

*copies filed
Pers.
Comptroller (Satterfield)
Finance
Exec. Office*

STATE OF WEST VIRGINIA
EXECUTIVE DEPARTMENT
CHARLESTON

EXECUTIVE ORDER NO. 4-79

By the Governor

WHEREAS, Uniformed members of the Department of Public Safety have been called into unanticipated and extraordinary duty over the past two years, including relief efforts for flood and winter emergencies, as well as the recent assignment to oversee new security measures at the West Virginia Penitentiary; and

WHEREAS, This additional duty, which has required these Department members to work unusually long hours, has resulted in their accumulation of extraordinary amounts of annual leave; and

WHEREAS, Section 3 of the State's Attendance and Leave Regulations provides that a State employee may carry no more than 240 working hours (30 work days) of accumulated annual leave from one calendar year to another; and

WHEREAS, These members of the Department of Public Safety have performed their additional duties admirably, much to the benefit of the citizens of our State.

4. 4. 1 - 4. 4. 2

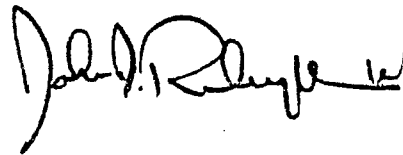
4. 4. 3 - 4. 4. 4

NOW, THEREFORE, I JOHN D. ROCKEFELLER IV, DO HEREBY
ORDER that uniformed members of the Department of Public
Safety are exempt from Section 3 of the State's Attendance
and Leave Regulations, to the extent that they may carry
forward up to 480 hours (60 work days) of accumulated annual
leave from one calendar year to another.

IN WITNESS WHEREOF, I have hereunto set my hand and
caused the Great Seal of the State of West Virginia to be
affixed.

DONE at the Capitol, City of
Charleston, State of West
Virginia, this the _____
day of December, in the
year of Our Lord, One Thousand
Nine Hundred Seventy-nine
and in the One Hundred
Seventeenth year of the State.

GOVERNOR



BY THE GOVERNOR:

SECRETARY OF STATE



Department of Public Safety
(West Virginia State Police)
725 Jefferson Road
South Charleston, West Virginia 25309

John D. Rockefeller IV
Governor

Executive Office

Harley H. Mooney, Jr.
DC, USA (Ret)
Superintendent

December 7, 1979

TO: COMPANY COMMANDERS, A, B, C, D, E
DIVISION COMMANDERS, DEPARTMENT HEADQUARTERS
ACADEMY STAFF

FROM: H. F. MOONEY, JR. *H. F. Mooney*
SUPERINTENDENT

The Honorable John D. Rockefeller, IV, Governor of West Virginia, has directed me to express his sincere appreciation for the professionalism that was displayed by members of the West Virginia State Police in responding to the crisis at the West Virginia State Penitentiary at Moundsville.

The Governor was especially appreciative of the willing attitude that was displayed by our uniformed forces when leaves were necessary to be canceled, holidays off duty were required to be worked and weekends were made a routine part of our day-to-day activities. In recognition of your superb efforts and your willing spirit of cooperation, the Governor has directed me to advise you that he is, by Executive Order, exempting members of the Department of Public Safety from the thirty day leave carry-over rule and is extending that limit to sixty days so that members will not lose leave time as a result of their performance. This extension applies to all uniformed members whether you are one of those who was assigned to duty at Moundsville or one of those who remained at detachment duty where the Governor recognized your requirement to work "double duty" in filling in for those who were at the Penitentiary.

The Governor obviously cannot extend this privilege to every department of state government and would appreciate this message and granting of exemption from attendance and leave regulations being retained in-house.

Please advise the members under your command, through your detachment commanders, both of the Governor's appreciation and of his very real expression of that appreciation by this affirmative action in their behalf.

44-5707-10

A-1-79-1431

File

Department of Public Safety
(West Virginia State Police)
725 Jefferson Road
South Charleston, West Virginia 25309

John D. Rockefeller IV
Governor

Executive Office
December 6, 1979

Harley F. Mooney, Jr.
WV. DSA (Ret)
Superintendent

The Honorable John D. Rockefeller IV
Governor of West Virginia
State Capitol Building
Charleston, West Virginia 25305

Dear Governor Rockefeller:

General Harley F. Mooney, Jr., Superintendent of the Department of Public Safety, has directed me to advise you of a dilemma we are facing in the Department as 1979 draws to an end. That problem is our inability to be fair with our membership who have repeatedly had to have leaves cancelled, days off cancelled and work holidays for which no make up time can be granted while at the same time trying to comply with Attendance and Leave Regulations applicable to all agencies in State Government. We are not asking for relief on the lost days off and the holidays as our members are not unaccustomed to these losses due to our unusual work requirements.

Beginning in 1977 with flood relief efforts requiring six weeks of extraordinary detail assignments, we began to build an inordinately high amount of accumulated annual leave for our membership. As you will recall, we then got into emergency snow related efforts and responded to other emergencies throughout the winter which continued to prohibit members from taking leave to which they were entitled.

During the year 1978, we were only able to permit our membership to take the leave which they accumulated during that year but no "burn off" of previously accumulated and carried over annual leave could be accomplished.

In 1979, we find ourselves in a completely untenable position in that many members have had long planned leaves cancelled in November and December in order to respond to the emergency at Moundsville. Both the personnel who were assigned to that detail and those who remained on post, working double duty, have performed admirably and without complaint even though they realize it will be impossible for the Superintendent to grant sufficient amounts of annual leave to reduce their carry over to less than 30 days.

10

Governor John D. Rockefeller IV
December 6, 1979
Page 2

It is, therefore, respectfully requested that the Department of Public Safety be exempted by Executive Order from a requirement to comply with Attendance and Leave Regulations which, in Section 3, states that no more than 30 work days of accumulated annual leave may be carried forward from one calendar year to another. Your early affirmative response to this request, if it meets with your approval, will permit us to advise our membership at the conclusion of the Moundsville Detail that they will not lose leave time and that it can be carried over into the next year by virtue of your Executive Order.

Respectfully,

BY DIRECTION OF GENERAL MOONEY

W. F. DONOHUE, LIEUTENANT COLONEL
CHIEF OF STAFF

WFD:pmc

Enclosure - Applicable portion of
Attendance and Leave Regulations



West Virginia Troopers Association, Inc.

210 Chesapeake Avenue, Charleston, West Virginia 25311

Telephone 345-WVTA (9882) or 1-800-325-9882

Email - wvtaoffice@aol.com Website: www.wvtroopers.org

Fax (304) 345-9884



July 18, 2005

Consolidated Public Retirement Board
Capitol Complex, Building 5 Suite 1000
1900 Kanawha Blvd., East
Charleston, West Virginia, 25305-6337

Re: Proposed Amendments to Title 162 Legislative Rules

As President of the Trooper's Association it has come to my attention that the aforementioned rule change to series 8.7.2 dealing with service credit for accrued and unused sick and annual leave, is in direct conflict with Executive Order Number 4-79. This order was signed by then Governor John D. Rockefeller IV which allowed the West Virginia State Police to carry over 60 days.

Because of this order and the nature of the job within the state police it is requested that the state police policy apply granting the 60 day carry-over and not the Division of Personnel's policy.

Respectfully submitted,

A handwritten signature in cursive script, reading "James H. Merrill".
President James H. Merrill
West Virginia Trooper's Association

CPRB JUL 20 05

From: "marsha beasley" <mbeasley@wvsp.state.wv.us>
To: "Karen Copeland" <KCopeland@wvadmin.gov>
Date: 7/25/2005 11:41:28 AM
Subject: Executive Order - 4-79

Per our telephone conversation this morning, please be advised that Executive Order 4-79, permitting troopers to carryover 60 annual leave days per year, remains in effect today.

Marsha Beasley
Personnel Director
West Virginia State Police
725 Jefferson Rd
So. Charleston, WV 25309-1698
304-746-2118

CC: "Steve Tucker" <stucker@wvsp.state.wv.us>

RESPONSE TO PUBLIC COMMENT RECEIVED ON TITLE 162, SERIES 8

The West Virginia Consolidated Public Retirement Board ("Board") received public comment from Colonel D. L. Lemmon, Superintendent of the West Virginia State Police, and from James H. Merrill, President of the West Virginia Trooper's Association, regarding the proposed limitation on the use of accrued sick and annual leave.

The Board was unaware of Executive Order 4-79, signed by Governor John D. Rockefeller, IV in December 1979, that ordered uniformed members of the Department of Public Safety exempt from Section 3 of the State Division of Personnel's Attendance and Leave Regulations to the extent that they may carry forward up to 480 hours (60 work days) of accumulated annual leave from one calendar year to another. Upon review of Executive Order 4-79, the Board agrees that trooper members should not be penalized due to circumstances beyond their control. The Board has modified the rule to be consistent with Executive Order 4-79.