

Form #4

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Authorized Signature

#3.20

TITLE 162
PROPOSED LEGISLATIVE RULE
WEST VIRGINIA CONSOLIDATED PUBLIC RETIREMENT BOARD

FILED

2006 JAN -3 P 4: 22

SERIES 8

SERVICE CREDIT FOR ACCRUED AND UNUSED SICK AND ANNUAL LEAVE
WEST VIRGINIA
SECRETARY OF STATE

§ 162-8-1. General.

1.1. Scope. – This rule governs a member's eligibility to ~~utilize~~ use 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(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. – If the West Virginia State Police policy for the accrual of unused sick leave is 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.



Board Members

Governor Joe Manchin III
Auditor Glen B. Gainer III, Vice Chairman
Treasurer John D. Perdue
Cabinet Secretary Robert W. Ferguson, Jr.

**State of West Virginia
Consolidated Public Retirement Board**

Capitol Complex, Building 5, Suite 1000
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0720
Telephone: 304-558-3570 or 800-654-4406
Fax: 304-558-6337
email: CPRB@wvretirement.com
www.wvretirement.com

Board Members

David L. Wyant, Chairman
David Anderson
E. Gene Davis
Drema B. Evans
Carl A. Guthrie
Paul Hardesty
William B. McGinley
D. Todd Murray
LTC Stephen C. Tucker
Janet F. Wilson

January 3, 2006

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

Attention: Judy Cooper

Re: West Virginia Consolidated Public Retirement Board
Modification of Proposed Amendments to Title 162
-Series 2 Benefit Determination and Appeal
-Series 4 Teachers' Defined Benefit Plan
-Series 8 Service Credit for Accrued and Unused Sick and Annual Leave
-Series 9 West Virginia State Police
-Series 10 Deputy Sheriff Retirement System

Dear Ms. Cooper:

Enclosed is an original and eleven (11) copies of the documents that must be filed with the Secretary of State by the West Virginia Consolidated Public Retirement Board in conjunction with the Board's proposal of amendments to the Title 162, Series 2, 4, 8, 9 and 10 legislative rules.

It is my understanding that ten (10) copies of the rule will be stamped and forwarded, by your office, to the Legislative Rule Making Committee. Please date stamp the remaining copy and return it to CPRB.

Thank you for your assistance and cooperation in this matter. Should you have any questions, please let me know.

Sincerely,

Karen S. Copeland
Contributions Manager

Enclosures

c: Terasa Miller
Harry Mandel
Donna Lipscomb