

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

Form #2 ☐

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JUL 11 4 03 PM '00

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Consolidated Public Retirement Board TITLE NUMBER: 162

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

AMENDMENT TO AN EXISTING RULE: YES ☐ NO ☒

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: Series 8

TITLE OF RULE BEING PROPOSED: Service Credit for Accrued and Unused Sick and Annual Leave

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 14, 2000 AT 5:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Betty S. Ireland, Executive Secretary

WV Consolidated Public Retirement Bd.

Building 5, Room 1000

1900 Kanawha Boulevard, East

Charleston, WV 25305-0720

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


Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

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 NEW SERIES 8 TO TITLE 162

The West Virginia Consolidated Public Retirement Board ("Board"), as administrator of the West Virginia Teachers Retirement System ("Defined Benefit Plan") and the West Virginia Public Employees Retirement System ("PERS"), proposes a new series to Title 162 of the WV Code of State Regulations. Specifically, the Board proposes to add Series 8 to its existing rules, in order to set forth the rules to be followed by the Board and its staff in the calculation and conferral of additional retirement system service credit to a member for his or her accrued and unused leave at the time of retirement in the Defined Benefit and PERS plans.

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STATEMENT OF CIRCUMSTANCES REQUIRING
PROPOSAL AND PROMULGATION OF A NEW SERIES 8
TO WVCSR TITLE 162

In calculating a member's entitlement to retirement system service credit at the time a member applies for retirement, the Board and its staff must have a readily ascertainable basis upon which to determine whether and how much additional retirement system service credit a retiring member of the Public Employees Retirement System ("PERS") and the Teachers Retirement System (Defined Benefit Plan) is entitled to receive for his or her accrued and unused leave. There are no current legislative rules which address the circumstances under which such accrued and unused leave may be received. This proposed new rule sets forth how the Board and its staff shall make this determination.

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

TITLE 162
PROPOSED LEGISLATIVE RULE
WEST VIRGINIA CONSOLIDATED PUBLIC RETIREMENT BOARD

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 Teachers Defined Benefit Plan.

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 Employee Retirement System and the Teachers Defined Benefit Plan.

2.2. Administrative Appeals – In all contested cases regarding service credit for accrued sick and annual leave, the Benefit Determination and Appeal rules of Title 162 C. S. R. § 162-5-1 et. seq. shall be followed and the Consolidated Public Retirement Board shall decide the question.

§ 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 C.S.R. §162-5-2) and Teachers Defined Benefit Plan (W. Va. Code § 18-7A-1 et seq.; 162 C.S.R. § 162-4-2) shall apply to these service credit regulations 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 making this election will be given such additional service credit to which the member is entitled based upon the number of the member's accrued unused sick and annual leave days standing to the member's credit with the member's last participating public employer at the time of retirement. Any accrued and unused sick and annual leave days standing 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 will not be used to calculate service credit. In interpreting, applying and administering this rule and subject to the limitations found in 162 C.S.R. §162-8-4.2 and § 162-8-4.3 of this rule, the Board will 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 employer's annual and sick leave policy to be recognized by the Board, such policy must have been formally

adopted in writing by such 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 will receive service credit only for such accrued unused sick and annual leave as is provided by the State of West Virginia for state employees who are covered by the rules and regulations 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, such 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.

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

§162-8-5. Teachers Defined Benefit Plan.

5.1. Service Credit for Accrued Unused Sick and Annual Leave. – The Board shall give members of the Teachers Defined Benefit Plan who elect, under the provisions of W. Va. Code

§5-16-13(e), to convert accrued and unused sick and annual leave to additional retirement system service credit such additional credit to which the member is entitled based upon the number of accrued and unused sick and annual leave days standing 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 standing 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 will not be 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 will be deferential to the policy of the member's last participating public employer for the accrual of unused sick and annual leave.

5.2. Calculation of Service 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, such leave shall be deemed accumulated based upon the member's job classification and characteristics at the time the member was accruing the leave. The conversion of accrued leave to service credit shall be made in a manner consistent with the provision of W. Va. Code §162-4-4.13. 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 employer(s).

5.3. Deferred Retirement . – A mem-

ber of the Teachers Defined Benefit Plan 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 Retirement 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).

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 such member's employment, such lump sum payment shall not be considered as compensation or salary in computing a member's final average salary.

APPENDIX B FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 162 (Series 8)

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:

These new rules codify operating rules applied by the Agency (the Consolidated Public Retirement Board) to determine what accrued annual and sick leave amounts are eligible for conversion to additional service credit for calculating benefits in PERS and TRS. The rules provide bases for resolving disputes regarding service credited for accrued leave, including those occasions where a participating employer does not follow the same rules as the state in granting credit for sick or annual leave. The proposed rules also clarify that in the cases where a member has been paid for accrued leave in a lump sum payment, such payment is not to be considered in the calculation of final average earnings for benefits.

Rule Title: Title 162 (Series 8)

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 procedural rules. Any economic impact on an individual member is incidental to those rules and the governing state law.

Date: July 10, 2000

Signature of Agency Head or Authorized Representative:



Dreighton H. Rosier, FSA
Director of Actuarial Services