


Authorized Signature

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 8; 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:
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 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.

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 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.

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:

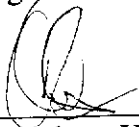
These rule changes are procedural. There is no economic impact.

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

FILED

TITLE 162
PROPOSED LEGISLATIVE RULE
WEST VIRGINIA CONSOLIDATED PUBLIC RETIREMENT BOARD

SEP 1 9 03 AM '00
OFFICE OF THE CLERK OF THE WEST VIRGINIA
LEGISLATURE
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 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.



WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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Delegate Mark Hunt, Co-Chairman
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*Joseph A. Altizer, Associate Counsel
Rita Pauley, Associate Counsel
Teri Anderson, Administrative Assistant*

November 12, 2000

NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Betty S. Ireland
Consolidated Public Retirement Board
Capitol Complex
Building 5, Room 1000

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Service Credit for Accrued and Unused Sick and Annual Leave, 162CSR8**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative rule
 - (a) as originally filed
 - (b) as modified by the agency

✓
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
5. Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: West Virginia Consolidated Public Retirement Board

Subject: Service Credit for Accrued and Unused Sick and Annual Leave, 162CSR8

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 is new. The following is a section-by-section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 states 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.

Section 3 references definitions in the code and other Board rules.

Section 4 relates to the Public Employees Retirement System. It states that additional service credit is based on 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. It provides that the Board will be deferential to the policy of the member's last

OFFICE OF THE
S. J. HARRIS
GOVERNOR OF WEST VIRGINIA

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FILED

participating public employer for the accrual of unused sick and annual leave. The participating public employer must formally adopt a written policy.

This section also provides that members employed by any participating public employer with a policy for accrual of unused sick and annual leave which is more generous of than of the State for its state agency employees may only receive credit for the amount they would be entitled to by the state. All leave is accumulated based upon the member's job classification and characteristics at the time the member was accruing the leave.

Finally, this section provides that if the member is paid in a lump sum for accrued unused leave, the lump sum is not considered as compensation or salary in computing the member's final average salary.

Section 5 relates to the Teachers Defined Benefit Plan. It states that additional service credit is based on 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 employer at the time of retirement. It provides that the Board will be deferential to the policy of the member's last participating employer for the accrual of unused sick and annual leave.

All leave is accumulated based upon the member's job classification and characteristics at the time the member was accruing the leave.

This section provides that a member who ceases employment prior to retirement or who takes a deferred retirement, may not use accumulated unused leave for enhanced retirement benefits unless the member continues to be a covered participant in the PEIA at the time his or her retirement annuity commences either as a covered member or as a covered dependant of a member under that agency.

Finally, this section provides that if the member is paid in a lump sum for accrued unused leave the lump sum is not considered as compensation or salary in computing the member's final average salary.

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?

No.

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.