

**WEST VIRGINIA
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ADMINISTRATIVE LAW DIVISION**

Form #4 ■

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

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

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: 8

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

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


Authorized Signature

FILED
Nov 28 2 37 PM '00
OFFICE OF THE 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 Board shall follow its rule, Benefit Determination and Appeal, 162 CSR 2, 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 Teachers Defined Benefit Plan (W. Va. Code § 18-7A-1 et seq.; 162 CSR 4) 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. 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 are not used to calculate service credit. 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 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, the policy shall have been formally adopted in writing 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.

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 lump sum payment is not 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 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 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, 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 162 CSR 4. 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 employers.

5.3. Deferred Retirement. – A member 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 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).

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 lump sum payment is not considered as compensation or salary in computing a member's final average salary.