

**STATE OF WEST VIRGINIA**

**AUDIT REPORT**

**OF**

**CONSOLIDATED PUBLIC RETIREMENT BOARD**

**WEST VIRGINIA STATE POLICE  
RETIREMENT SYSTEM**

**FOR THE PERIOD**

**JULY 1, 2003 - JUNE 30, 2005**



**OFFICE OF THE LEGISLATIVE AUDITOR**

**CAPITOL BUILDING**

**CHARLESTON, WEST VIRGINIA 25305-0610**

**CONSOLIDATED PUBLIC RETIREMENT BOARD**  
**WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM**  
**FOR THE PERIOD**  
**JULY 1, 2003 - JUNE 30, 2005**

**WEST VIRGINIA LEGISLATURE**  
**Joint Committee on Government and Finance**

Theford L. Shanklin, CPA, Director  
Legislative Post Audit Division  
Building 1, Room W-329  
1900 Kanawha Blvd., E.



Area Code (304)  
Phone: 347-4880  
Fax: 347-4889


CHARLESTON, WEST VIRGINIA 25305-0610

To the Joint Committee on Government and Finance:

In compliance with the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, we have examined the West Virginia State Police Retirement System as administered by the Consolidated Public Retirement Board (CPRB).

Our examination covers the period July 1, 2003 through June 30, 2005. The results of this examination are set forth on the following pages of this report.

Respectfully submitted,

  
Theford L. Shanklin, CPA, Director  
Legislative Post Audit Division

TLS/jda,gkc

**CONSOLIDATED PUBLIC RETIREMENT BOARD**  
**WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM**

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**CONSOLIDATED PUBLIC RETIREMENT BOARD**  
**WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM**  
**EXIT CONFERENCE**

We held an exit conference on December 28, 2005 with the Acting Executive Director and other representatives of the Consolidated Public Retirement Board (CPRB) and all findings and recommendations were reviewed and discussed. The agency's responses are included in bold and italics in the Summary of Findings, Recommendations and Responses and after our findings in the General Remarks section of this report.

**CONSOLIDATED PUBLIC RETIREMENT BOARD**  
**WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM**

**INTRODUCTION**

**Consolidated Public Retirement Board**

Effective July 1, 1991, Chapter 5, Article 10D of the West Virginia Code created the Consolidated Public Retirement Board (CPRB). The Board's duties are to administer all State Retirement Systems. It shall have all the powers, duties, responsibilities and liabilities of the Public Employees Retirement System (PERS); the Teachers Retirement System (TRS); the Teachers' Defined Contribution Retirement System (TDCRS or TDC Plan); the Death, Disability and Retirement Fund (Plan A) of the West Virginia State Police; and the Judges' Retirement System (JRS). Subsequent to July 1, 1991, the Board also began administering (in addition to the aforementioned retirement systems) the West Virginia State Police Retirement System (Plan B) on March 12, 1994 and the Death, Disability and Retirement Fund for Deputy Sheriffs on July 1, 1998. Additionally, the Board is responsible for administering a 457 Deferred Compensation Plan, which members of the other State Retirement Systems can utilize to supplement their regular retirement.

The Board consists of 14 members as follows: the Governor; State Treasurer; State Auditor; Secretary of the Department of Administration; four residents of the State who are not members, retirees or beneficiaries of any of the retirement systems; a member, annuitant or retiree of the Public Employees Retirement System who is or was a State employee; a member, annuitant or retiree of the Public Employees Retirement System who is not or was not a State employee; a member, annuitant or retiree of the Teachers Retirement System; a member, annuitant or retiree of

the State Police Death, Disability and Retirement Fund; a member, annuitant or retiree of the Deputy Sheriff's Death, Disability and Retirement System; and, a member, annuitant or retiree of the Teachers' Defined Contribution Retirement System.

The Board elects from its own number a chairman and vice chairman. The Board is granted the authority under State law to appoint an executive director to be the chief administrative officer of all of the retirement systems. The executive director is responsible for employing, with the Board's approval, such administrative, technical and clerical employees as are required in the proper operation of the retirement systems. Also, the Board is authorized by State law to employ a state retirement actuary or actuarial firm and be represented by an attorney who is licensed to practice law in the state of West Virginia who is not a member of any of the retirement systems administered by the Board.

The Board is required by law to meet at least once every three months, with seven voting members constituting a quorum. All board meetings must be public. Members serve without compensation for their services, provided that each member is reimbursed, upon Board approval, for any necessary expenses incurred by them in carrying out their duties. No public employee member may suffer any loss of salary or wages on account of their service as a trustee.

#### **West Virginia State Police Retirement System (Plan B)**

The West Virginia State Police Retirement System, commonly referred to as Plan B, was established by enactment of West Virginia Code during the 1994 Legislative Session for all state troopers hired on or after March 12, 1994. Non-trooper employees of the West Virginia State Police are members of the Public Employees Retirement System. State troopers hired before March 12, 1994 are not eligible for membership in Plan B. Active members of Plan B contribute 12% of their

base salary into the retirement plan. The employer contributes 12% of base salary into the plan. Members of this retirement system are not covered by Social Security or Workers' Compensation.

In order to qualify for full retirement benefits, a member must be 55 years of age with 20 or more years of credited service (excluding military service). A member who is less than 55 years of age qualifies for a reduced benefit as long as he or she has 20 or more years of credited service (excluding military service). Regular retirement benefits are paid in equal monthly installments in an amount equal to 2.75% multiplied by the years of service multiplied by the member's final average salary. A member's final average salary is the average of the highest annual compensation received for employment with the Department, including compensation paid for overtime service, received by the member during any five calendar years within the member's last ten years of service. This benefit is payable during the lifetime of the retired member.

In addition to providing retirement benefits for regular retirees, Plan B makes provision for members who suffer one the following types of disability: total duty, partial duty, and non-duty. Also, Plan B provides certain survivor benefits to the beneficiaries of deceased active members and retirees.

Additionally, any person qualified as a surviving dependent child of a member who died in the performance of duty or of a member who dies after having been retired with a duty related disability shall be entitled to receive a scholarship to be applied to the career development education of that dependent at a West Virginia institution.

Every member of the Department who is 63 years of age or older and who is retired under normal retirement criteria, every member of the Department who is retired under disability retirement criteria and every surviving spouse receiving a benefit under the provisions of this



retirement system is eligible to receive an annual retirement annuity adjustment of 1% payable on July 1<sup>st</sup> of each year.

Any employee who is rehired as a member of the Department may purchase previously withdrawn service, provided that they redeposit the withdrawn funds plus 7.5% interest per annum from the date of withdrawal to the date of redeposit.

Any member of this retirement system who completes twenty years of service with the Department is entitled to apply for up to five years of military service credit for active duty in the armed forces of the United States prior to employment with the Department. No contributions are required to receive credit for this service. Any member of the retirement system who is called to active duty in the armed forces of the United States during employment with the Department and returns to employment within 90 days following discharge may be eligible to purchase up to five years of additional military service credit for such duty. Military service credited under this plan may not be credited under any other retirement system.

A member who terminates employment may receive a refund of all employee contributions he or she has contributed into the retirement system plus 4% interest after the funds have been on deposit for at least one year. A member who terminates employment after completing ten years of service with the Department, but prior to eligibility for normal retirement, who leaves his or her contributions on deposit with the retirement system is eligible for deferred retirement benefits beginning at age 62. Any member choosing to receive a deferred annuity is not eligible to receive the annual annuity adjustment. There are no regular or deferred retirement benefits for a member with less than ten years of contributory service. If the member withdraws his or her contributions, they have no right to any future retirement or disability benefits under this retirement system.

**CONSOLIDATED PUBLIC RETIREMENT BOARD**

**WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM**

**CONSOLIDATED PUBLIC RETIREMENT BOARD MEMBERS AND STAFF**

**AS OF JUNE 30, 2005**

Governor Joe Manchin III ..... Ex Officio

Robert W. Ferguson, Jr., Secretary of Department  
of Administration ..... Ex Officio

Glen B. Gainer III, State Auditor ..... Vice Chairman - Ex Officio

John Perdue, Treasurer ..... Ex Officio

William McGinley ..... State Resident

Janet Wilson ..... State Resident

David Wyant ..... Chairman - State Resident

Carl Guthrie ..... State Resident

Paul Hardesty ..... State Employee Member  
Public Employees Retirement System

Drema B. Evans ..... Non-State Employee Member  
Public Employees Retirement System

E. Gene Davis ..... Teachers Retirement System Member

David Anderson ..... Teachers' Defined Contribution  
Retirement System Member

F. Douglas Beasley ..... Division of Public Safety's Death,  
Disability and Retirement Fund Member

Donald T. Murray ..... Deputy Sheriff's Death, Disability  
and Retirement Fund Member

**STAFF**

Joseph J. Jankowski, Jr ..... Executive Director (July 1, 2003 to February 23, 2005)  
Teresa Miller ..... Acting Executive Director (February 23, 2005 to June 30, 2005)  
Karen Copeland ..... Manager of Membership Section  
Lisa Trump ..... Uniformed Services Retirement Advisor  
Ralph Holbrook ..... Uniformed Services Membership Coordinator  
Harry Mandel ..... Board Actuary  
Lori Cottrill ..... Accounting Manager  
Cynthia Boyd ..... Internal Auditor

**CONSOLIDATED PUBLIC RETIREMENT BOARD**  
**WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM**  
**SUMMARY OF FINDINGS, RECOMMENDATIONS AND RESPONSES**

**System of Internal Control**

1. During the course of our audit, it became apparent to us, based on the observed noncompliance with the West Virginia Code, the Consolidated Public Retirement Board did not have an effective system of internal controls in place to ensure compliance with applicable State laws, rules and regulations. Chapter 5A, Article 8, Section 9 of the West Virginia Code requires the agency head to have in place an effective system of internal controls in the form of policies and procedures set up to ensure the agency operates in compliance with the laws, rules and regulations which govern it.

**Auditors' Recommendation**

We recommend the CPRB comply with Chapter 5A, Article 8, Section 9(b) of the West Virginia Code, as amended, and establish a system of internal controls.

**Agency's Response**

*The West Virginia Consolidated Public Retirement Board ("CPRB" or "Board") believes that it has a very effective system of internal controls in place to ensure compliance with applicable state laws, rules and regulations and so I would disagree with your general statement on page two (2) of each of your reports that it does not have such a system. (See pages 14-16)*

**Incorrect Reinstatement of Prior Service**

2. The CPRB is allowing previous members of the State Police Death, Disability & Retirement Fund (Plan A) who have withdrawn their contributions from the system and

have less than ten years of service under that system to reinstate that service to Plan B upon reenlisting with the State Police.

**Auditors' Recommendation**

We recommend the Consolidated Public Retirement Board comply with Chapter 15, Article 2, Section 37(b) of the West Virginia Code, as amended.

**Agency's Response**

*CPRB is in disagreement with the Auditors' findings concerning this issue. The Board is not allowing reinstatement of service in any manner inconsistent with any statute or case law. (See pages 16-19)*

**CPRB Not Ensuring Continued Eligibility of Surviving Spouses**

3. Under State law, certain surviving spouses receiving a retirement annuity due to the death of an active member or retiree become ineligible to continue drawing an annuity once he or she remarries. However, we noted the CPRB has no procedure in place to monitor the marital status of surviving spouses to ensure whether these annuitants continue to be eligible to draw an annuity.

**Auditors' Recommendation**

We recommend the Consolidated Public Retirement Board comply with the provisions of Chapter 15, Article 2A, Sections 13 and 14 of the West Virginia Code, as amended.

**Agency's Response**

*CPRB is in agreement with the Auditors' findings concerning this issue. (See pages 20-22)*

**CPRB Not Ensuring Continued Eligibility of Disability Retirees**

4. The CPRB currently is not requiring disability retirees to submit to regular physical and/or

mental examinations by a Board designated physician or physicians subsequent to retirement as authorized by Chapter 15, Article 2A, Section 11 of the West Virginia Code, as amended, to ensure such retirees remain eligible to draw a pension benefit as a result of their continued disability.

**Auditors' Recommendation**

If found to be practicable, we recommend the Consolidated Public Retirement Board utilize the authority already granted to the Board by Chapter 15, Article 2A, Section 11 of the West Virginia Code, as amended, and develop procedures to require on an annual basis the random selection of disability retirees to undergo medical examinations.

**Agency's Response**

*West Virginia Code §15-2-31 allows CPRB to cause disability retirees to undergo additional medical evaluations; it does not require CPRB to do so. Medical evaluations can be expensive and, in this retirement system, the State Police by statute is required to pay this cost. (See pages 22-25)*

**Incorrect Amounts of Accumulated Contributions Refunded**

5. The CPRB did not properly calculate the refunds of accumulated contributions issued to two Plan B members who withdrew from the system resulting in underpayments to the members totaling \$306.60.

**Auditors' Recommendation**

We recommend the Consolidated Public Retirement Board comply with Chapter 15, Article 2A, Section 8(a) of the West Virginia Code, as amended, by reimbursing these refund recipients for the amount of the underpayment.

**Agency's Response**

***CPRB is in agreement with the Auditors' findings concerning this issue. (See pages 26-28)***

**Incorrect Refund to Plan A Member**

6. The Consolidated Public Retirement Board (CPRB) did not properly calculate the refund of accumulated contributions issued to a member of Plan A upon the member's withdraw from the system. As a result, the member was underpaid \$363.63.

**Auditors' Recommendation**

We recommend the Consolidated Public Retirement Board comply with Chapter 15, Article 2, Section 37(a) of the West Virginia Code, as amended.

**Agency's Response**

***CPRB agrees with the conclusions of the Legislative Auditor on this issue. (See pages 29-30)***

**Monies Deposited to Incorrect Account**

7. Monies received from Plan B members who were reinstating former service which should have been deposited to the State Police Retirement Account were incorrectly deposited into the PERS Member Deposit Account.

**Auditors' Recommendation**

We recommend the CPRB comply with Chapter 15, Article 2A, Section 8(b) of the West Virginia Code, as amended, and Chapter 15, Article 2, Section 37(b) of the West Virginia Code, as amended, by ensuring that monies received from members of the State Police Retirement System who are reinstating prior service credit are properly deposited to the State Police Retirement Account.

**Agency's Response**

***CPRB agrees with the conclusions of the Legislative Auditor on this issue. (See pages 30-32)***

**Enrollment Forms Not Submitted**

8. Of the 113 members who joined the retirement system during the period of July 1, 2003 through June 30, 2005, nine did not sign and complete enrollment forms. Also, incorrect dates of birth for two members were recorded into the members' contributions data records in the CPRB's mainframe database.

**Auditors' Recommendation**

We recommend the Consolidated Public Retirement Board comply with its own policies and procedures by ensuring that enrollment forms are submitted by all new members to the State Police Retirement System.

**Agency's Response**

***CPRB agrees in part and disagrees in part with the conclusions of the Legislative Auditor on this issue. (See pages 33-36)***

**Unfunded Liability of State Police Retirement System (Informational Only)**

9. As of July 1, 2004, the State Police Retirement System had an unfunded accrued liability totaling \$2,220,000.

**Agency's Response**

***CPRB is unable to find a conclusion or recommendation in the section labeled Unfunded Liability of State Police Retirement System beginning on page twenty (20) to which it should respond. (See pages 36 and 37)***



**CONSOLIDATED PUBLIC RETIREMENT BOARD  
WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM**

**GENERAL REMARKS**

**INTRODUCTION**

We have completed a post audit of the State Police Retirement System (Plan B) as administered by the Consolidated Public Retirement Board (CPRB). The audit covered the period July 1, 2003 through June 30, 2005.

**SPECIAL REVENUE ACCOUNT**

During the audit period, the CPRB maintained one special revenue account to contain the retirement contributions received and to account for all expenditures related to the operation of the State Police Retirement System as required by law. Monies collected were deposited with the State Treasurer in the following special revenue account:

| <b><u>Account<br/>Number</u></b> | <b><u>Description</u></b>   |
|----------------------------------|---|
| 2162.....                        | <b>West Virginia State Police Retirement Account</b><br>Retirement contributions of members and employers,<br>interest on investments for annuity benefits,<br>withdrawals and investments. |

**COMPLIANCE MATTERS**

Chapter 15, Article 2A of the West Virginia Code generally governs the administration of the State Police Retirement System. We tested applicable sections of the above plus other applicable chapters, articles, and sections of the West Virginia Code as they pertain to financial matters. Our findings are discussed below.

### **System of Internal Control**

During the course of our audit, it became apparent to us, based on the observed noncompliance with the West Virginia Code, the Consolidated Public Retirement Board did not have an effective system of internal controls in place to ensure compliance with applicable State laws, rules and regulations. Chapter 5A, Article 8, Section 9 of the West Virginia Code, as amended, states in part:

“The head of each agency shall:... (b) Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency’s activities....”

This law requires the agency head to have in place an effective system of internal controls in the form of policies and procedures set up to ensure the agency operates in compliance with the laws, rules and regulations which govern it.

During our audit of the State Police Retirement System as administered by the Consolidated Public Retirement Board, we found the following noncompliance with State laws or other rules and regulations: (1) The CPRB is allowing previous members of the State Police Death, Disability and Retirement Fund (Plan A) who have withdrawn their contributions from the system and have less than ten years of service under that system to reinstate that service to Plan B upon reenlisting with the State Police. (2) Under State law, certain surviving spouses receiving a retirement annuity due to the death of an active member or retiree become ineligible to continue drawing an annuity once he or she remarries. However, we noted the CPRB has no procedure in place to monitor the marital status of surviving spouses to ensure these annuitants continue to be

eligible to draw an annuity. (3) The CPRB currently is not requiring disability retirees to submit to regular physical and/or mental examinations by a Board designated physician or physicians subsequent to retirement as authorized by Chapter 15, Article 2A, Section 11 of the West Virginia Code, as amended, to ensure such retirees remain eligible to draw a pension benefit as a result of their continued disability. (4) The CPRB did not properly calculate the refunds of accumulated contributions issued to two Plan B members who withdrew from the system resulting in underpayments to the members totaling \$306.60. (5) The Consolidated Public Retirement Board did not properly calculate the refund of accumulated contributions issued to a member of Plan A upon the member's withdraw from the system. As a result, the member was underpaid \$363.63. (6) Monies received from Plan B members who were reinstating former service which should have been deposited to the State account for Plan B were incorrectly deposited into the Public Employees Retirement System (PERS) Member Deposit Account. (7) Of the 113 members who joined the retirement system during the period of July 1, 2003 through June 30, 2005, nine did not sign and complete enrollment forms. Also, incorrect dates of birth for two members were recorded into the members' contribution data records in the CPRB's mainframe database. (8) As of July 1, 2004, Plan B had an unfunded liability totaling \$2,220,000.

We recommend the CPRB comply with Chapter 5A, Article 8, Section 9(b) of the West Virginia Code, as amended, and establish a system of internal controls.

**Agency's Response**

***The West Virginia Consolidated Public Retirement Board ("CPRB" or "Board") believes that it has a very effective system of internal controls in place to ensure compliance with applicable state laws, rules and regulations and so I would disagree with your general statement***

*on page two (2) of each of your reports that it does not have such a system. However, all systems can be improved, and I appreciate your recommendations. Your report lists items that you consider CPRB in non-compliance with applicable state laws, rules and regulations, and for clarity, I have addressed each one individually.*

**Incorrect Reinstatement of Prior Service**

The CPRB is allowing previous members of the State Police Death, Disability and Retirement Fund (Plan A) who have withdrawn their contributions from the system and have less than ten years of service under that system to reinstate that service to Plan B upon reenlisting with the West Virginia State Police. During our testing of reinstatements for the period July 1, 2003 through June 30, 2005, we noted the CPRB permitted four members of Plan B to reinstate prior service credit the members had previously earned while members of Plan A. Each member had less than ten years of service at the time they withdrew their contributions from Plan A. We also noted the CPRB allowed two former Plan A members who had previously terminated their employment with the West Virginia State Police and who did not withdraw their contributions to transfer their service under Plan A into Plan B upon reenlistment with the State Police.

The following chart details the six members mentioned above:

| <u>Member</u> | <u>Date Employment Began</u> | <u>Date Employment Ended</u> | <u>Date Member Withdrew Contributions from Plan A</u> | <u>Date Member Reinstated into Plan B</u> | <u>Amount of Service Credit Reinstated</u> |
|---------------|------------------------------|------------------------------|---|---|--|
| Member #1     | 12/05/1976                   | 11/06/1986                   | 12/11/1986  | 08/1994                                   | 9 Years, 11 Months                         |
| Member #2     | 01/15/1979                   | 11/01/1986                   | 01/20/1987  | 03/1995                                   | 7 Years, 10 Months                         |
| Member #3     | 01/31/1994                   | 05/31/1998                   | 06/30/1998  | 11/2004                                   | 4 Years, 4 Months                          |
| Member #4     | 05/18/1970                   | 12/21/1974                   | 12/21/1974  | 12/1998                                   | 4 Years, 7 Months                          |
| Member #5     | 01/08/1985                   | 04/15/1986                   | N/A   | 07/2000                                   | 1 Year, 4 Months                           |
| Member #6     | 12/27/1988                   | 04/04/1989                   | N/A   | 11/2002                                   | 3 Months                                   |

Chapter 15, Article 2, Section 37(b) of the West Virginia Code, as amended, states:

**“Any member who has ten or more years of service with the division and who withdraws his or her contributions may thereafter be reenlisted as a member of the division, but may not receive any prior service credit on account of former service, unless following reenlistment the member shall redeposit in the fund established in article two-a [ §§ 15-2A-1 et seq.] of this chapter the amount of the refund, together with interest thereon at the rate of seven and one-half percent per annum from the date of withdrawal to the date of redeposit, in which case he or she shall receive the same credit on account of his or her former service as if no refund had been made. He or she shall become a member of the retirement system established in article two-a of this chapter.”(Emphasis added)**

According to the CPRB’s Membership Section Manager, the policy adopted by the Board allowing members with less than ten years of Plan A service to reinstate this withdrawn service credit to Plan B is based upon an administrative appeal filed by a Plan B member. This appeal was approved by the Board at the December 9, 1998 board meeting.

Subsequent to reenlisting with the State Police as a member of Plan B, this member requested the CPRB allow him to reinstate his former Plan A service to Plan B. However, this service amounted to less than ten years and the staff of the CPRB denied his request. Under the CPRB Legislative Rules, the member appealed this decision to the CPRB’s hearing examiner.

Upon hearing the member’s appeal, the hearing examiner drafted a recommendation supporting the CPRB’s denial of the member’s request. The “Recommended Decision of Hearing Officer” in relation to the above appeal hearing states,

“The applicant contends that because § 15-2-37(b) does not say that the [*sic*] cannot repay he should be permitted to do so. Had the Legislature so intended, however, no amendment to § 15-2-37(b) would have for this purpose been required. By providing that persons with ten or more years may repay, it is the clear and unmistakable implication that those with less than ten years, such as the applicant, cannot. It is so concluded.”

The hearing examiner presented the member's appeal and his recommendation to deny the member's appeal to the Board at a board meeting held on December 9, 1998. Contrary to the hearing examiner's recommendation and the aforementioned Code section, the Board voted to grant the member's appeal and reject the hearing examiner's recommendation.

The CPRB's Membership Section Manager stated that the Board's policy to allow members with less than ten years of Plan A service to transfer their service credit to Plan B is based upon a similar instance where a Plan A member with less than 10 years of service terminated employment with the West Virginia State Police but did not withdraw their contributions from the Plan A retirement system. Subsequently, when the employee reenlisted with the West Virginia State Police and was enrolled in Plan B, the CPRB allowed the employee to transfer his prior service credit earned while a member of Plan A to Plan B based upon a legal opinion issued on May 15, 2002 by the CPRB's legal counsel which states,

"The 2 plans are silent on this, but if Plan A members withdraw & return later to employment, they can reinstate the withdrawn service & receive credit in Plan B. Equity & logic would, in the absence of statutory authority to the contrary, justify allowing [the member] to receive the 3 mos. of service credit in his current plan."

The amount of retirement annuity a member receives in regular retirement is based, in part, upon the amount of service credit the member has earned during their active employment with the State Police. The CPRB is allowing members to reinstate service credit to which the members are not entitled according to the West Virginia Code. Consequently, the members upon retiring would be paid a retirement annuity in excess of the amount they are entitled to receive.

We recommend the Consolidated Public Retirement Board comply with Chapter 15, Article 2, Section 37(b) of the West Virginia Code, as amended.

Agency's Response

*CPRB is in disagreement with the Auditors' findings concerning this issue. The Board is not allowing reinstatement of service in any manner inconsistent with any statute or case law. The record reflects that the Board rejected the Hearing Examiner's recommended decision to deny the appeal concerning the reinstatement of service. Although the report reflects a legal opinion issued in 2002 by then counsel Susan B. Saxe as the basis on which the reinstatement of prior service is made, the actual basis is the Board's decision referenced in the report.*

*As the Legislative Auditor is no doubt aware, our Supreme Court has determined that "absent clear legislative intent to the contrary, we afford deference to a reasonable and permissible construction of [a] statute by [an administrative agency]" having policy making authority relating to the statute. See, e.g., Sniffen v. Cline, 193 W. Va. 370, 456 S. E. 2d 451 (1995). The Court has also held repeatedly that interpretations of statutes by administrative bodies charged with enforcing such statutes are to be afforded great weight, and such an agency's construction of these statutes must be given substantial deference. Sniffen, citing WV Department of Health v. Blankenship, 189 W. Va. 342, 431 S. E. 2d 681 (1993); WV Non-Intoxicating Beer Commr' v. A&H Tavern, 181 W. Va. 364, 382 S. E. 2d 558 (1989); Dillon v. Board of Educ., 171 W. Va. 631, 301 S. E. 2d 588 (1983); Smith v. State Workmen's Comp. Comm'r., 159 W. Va. 108, 219 S. E. 2d 361 (1975).*

*Nonetheless, staff is expecting to take to the Board a legislative proposal for approval clarifying the reinstatement issue raised by the Legislative Auditor.*

### CPRB Not Ensuring Continued Eligibility of Surviving Spouses

Under State law, certain surviving spouses receiving a retirement annuity due to the death of an active member or retiree become ineligible to continue drawing an annuity once he or she remarries. However, we noted the CPRB has no procedure in place to monitor the marital status of surviving spouses to ensure whether these annuitants continue to be eligible to draw an annuity. The CPRB relies solely on the surviving spouse beneficiary to notify the agency of a change in his or her marital status.

Agency records indicate that one such surviving spouse began drawing a retirement annuity during July 2004 upon the death of an active member. As of June 30, 2005, this annuitant has been paid pension benefits totaling approximately \$18,000.

Chapter 15, Article 2A, Section 13 of the West Virginia Code, as amended, authorizes the payment of an annuity to the surviving spouse of an active member who dies from non-service connected causes. This Code section states in part:

**“In any case where a member while in active service of the division, before having completed twenty years of service as a member of the division, has died or shall die from any cause other than those specified in this article and not due to vicious habits, intemperance or willful misconduct on his or her part, there shall be paid annually in equal monthly installments from the fund to the surviving spouse of the member during his or her lifetime, or until such time as the surviving spouse remarries, a sum equal to one half of the base salary received in the preceding twelve-month employment period by the deceased member....” (Emphasis added)**

Also, Chapter 15, Article 2A, Section 14 of the West Virginia Code, as amended, authorizes the payment of an annuity to the surviving spouse of a deceased retiree. This Code section states in part:



**“When any member of the division has completed twenty years of service or longer as a member of the division and has died or shall die from any cause or causes other than those specified in this article before having been retired by the board, and when a member in retirement status has died or shall die after having been retired by the board under the provisions of this article, there shall be paid annually in equal monthly installments from the fund to the surviving spouse of the member, commencing on the date of the death of the member and continuing during the lifetime or until remarriage of the surviving spouse, an amount equal to two thirds of the retirement benefit which the deceased member was receiving while in status of retirement, or would have been entitled to receive to the same effect as if the member had been retired under the provisions of this article immediately prior to the time of his or her death. In no event shall the annual benefit payable be less than five thousand dollars. In addition thereto, the surviving spouse is entitled to receive and there shall be paid to the surviving spouse from the fund the sum of one hundred dollars monthly for each dependent child or children...” (Emphasis added)**

According to the CPRB’s Membership Section Manager, the issue of monitoring the status of surviving spouse annuitants to determine whether these annuitants remain eligible to draw an annuity has not been addressed by the CPRB in recent years. As a result, the CPRB has not implemented a formal policy regarding this issue. The membership manager acknowledged the lack of a control procedure in this area represented a significant internal control weakness. Furthermore, she stated that her section would begin developing a form to be completed on an annual basis by all applicable surviving spouses certifying their current marital status.

As a result of the CPRB not having a procedure in place to monitor on a continuing basis the marital status of surviving spouse annuitants, the CPRB would not be aware of any surviving spouses who may have remarried subsequent to the death of an active member or retiree and may no longer be eligible to receive a surviving spouse annuity. Therefore, the possibility exists that the CPRB is paying retirement benefits to persons who no longer qualify to receive those benefits.

We recommend the Consolidated Public Retirement Board develop procedures to monitor on a continuing basis the marital status of surviving spouses to ensure these annuitants continue to be eligible to draw an annuity in accordance with the provisions of Chapter 15, Article 2A, Sections 13 and 14 of the West Virginia Code, as amended.

**Agency's Response**

***CPRB is in agreement with the Auditors' findings concerning this issue. Staff has initiated the development of a marital status verification form to be completed on an annual basis by all surviving spouses. This procedure is expected to be implemented January 1, 2006. The Board is looking at hiring additional staff to monitor this and other matters.***

**CPRB Not Ensuring Continued Eligibility of Disability Retirees**

The CPRB currently is not requiring disability retirees to submit to regular physical and/or mental examinations by a Board designated physician or physicians subsequent to retirement as authorized by Chapter 15, Article 2A, Section 11 of the West Virginia Code to ensure such retirees remain eligible to draw a pension benefit as a result of their continued disability.

Under State law, the CPRB has the authority to require disability retirees to submit to regular physical and/or mental examinations by a Board designated physician or physicians subsequent to retirement to ensure such retirees remain eligible to draw a pension benefit as a result of their continued disability. State law also requires the cost of such medical examinations to be paid for out of funds appropriated to defray the current expenses of the Division of Public Safety.

However, we noted that during the time period of July 1, 2003 through June 30, 2005, the CPRB was not requiring disability retirees to submit to medical examinations subsequent to the members being awarded disability retirement benefits even though such medical examinations are

to be paid for by the Division of Public Safety. Therefore, no attempt is being made by the CPRB to reaffirm that a retiree remains eligible to draw a pension benefit as a result of their continued disability.

As of June 30, 2005, agency records indicate that four disability retirees were receiving retirement benefits under Plan B. Through June 30, 2005, these annuitants have been paid pension benefits totaling approximately \$279,000. We also noted the average annual pension benefit being paid to these annuitants to be \$16,744.

Chapter 15, Article 2A, Section 11 of the West Virginia Code, as amended, states:

**“The board may require any member who has been or who shall be retired with compensation on account of disability to submit to a physical and/or mental examination by a physician or physicians selected or approved by the retirement board and cause all costs incident to such examination including hospital, laboratory, X-ray, medical and physicians’s fees to be paid out of funds appropriated to defray the current expenses of the division, and a report of the findings of such physician or physicians shall be submitted in writing to the board for its consideration. If from the report or from the report and hearing thereon the board shall be of opinion and find that the disabled member shall have recovered from such disability to the extent that he or she is able to perform adequately the duties of a member of the division, the board shall order the member to reassume active duty as a member of the division and thereupon all payments from the fund shall be terminated. If from the report or the report and hearing thereon, the board shall be of the opinion and find that the disabled member has recovered from the disability to the extent that he or she is able to engage in any gainful employment but unable to adequately perform the duties required as a member of the division, the board shall order in the case of a member retired under the provisions of section nine [§ 15-2A-9] of this article that the disabled member be paid from the fund an amount equal to six tenths of the base salary paid to the member in the last twelve-month employment period. The board shall order in the case of a member retired under the provisions of section ten [§ 15-2A-10] of this article that the disabled member be paid from the fund an amount equal to one fourth**

of the base salary paid to the member in the last twelve-month employment period: Provided, That if the member had not been employed with the division for twelve months prior to the disability, the amount of monthly salary shall be annualized for the purpose of determining the benefit.” (Emphasis added)

According to the CPRB’s Membership Section Manager, the issue of requiring disability retirees to undergo regular medical examinations by a Board physician once awarded disability retirement benefits has not been addressed by the CPRB in recent years. As a result, the CPRB has not implemented a formal policy regarding this issue.

Additionally, the Membership Section Manager stated the CPRB has not addressed proposing legislation for Plan B, similar to that which was enacted for PERS during the 2005 Legislative Session, which would amend the State Code to allow the CPRB to require disability retirees to submit a statement signed by the disability retiree's physician attesting to their continued disability. However, she told us the CPRB has required in some instances disability retirees to submit to medical examinations subsequent to retirement if the Board physician who conducted their examination during the disability retirement application process recommended the retiree be examined again a year later to determine whether the retiree continues to be disabled.

The Membership Section Manager further stated that the Legislature amended the State Code to allow the CPRB to require disability retirees to submit on an annual basis a statement of earnings so the CPRB could more easily identify those disabled retirees who engage in substantial gainful activity. She told us this process was implemented during September 2005.

As a result of not requiring retirees who receive disability retirement benefits to undergo regular medical examinations by a Board physician, the CPRB would not be aware of any retirees who, while initially determined to be disabled, may no longer meet the requirements to

qualify for disability retirement benefits. Therefore, the possibility exists that the CPRB is paying disability retirement benefits to persons who no longer qualify to receive those benefits.

If found to be practicable, we recommend the Consolidated Public Retirement Board utilize the authority already granted to the Board by Chapter 15, Article 2A, Section 11 of the West Virginia Code, as amended, and develop procedures to require on an annual basis the random selection of disability retirees to undergo regular medical examinations by a Board designated physician to determine whether these retirees remain permanently incapacitated as a result of their disability. In conjunction with this procedure, we further recommend the Consolidated Public Retirement Board inform all recipients of disability retirement benefits that they are subject to be randomly selected for a medical examination to be conducted by a Board designated physician.

**Agency's Response**

***West Virginia Code §15-2-31 allows CPRB to cause disability retirants to undergo additional medical evaluations; it does not require CPRB to do so. Medical evaluations can be expensive and, in this retirement system, the State Police by statute is required to pay this cost. Staff is developing and has developed some screening tools that may lessen the cost including requiring an annual statement of earnings ( as noted on page 13 of the report). To permit the Board to institute an annual verification of disability, signed by the disability retirant's own physician, as is currently done in other retirement systems administered by CPRB and noted on page 13 of the report, would require a legislative change of the controlling statutes.***

***The draft report's recommendation on page 13 and 14 for random evaluations will be reported to the Board at its next regularly scheduled meeting on January 25, 2006.***

**Incorrect Amounts of Accumulated Contributions Refunded**

During our review of refund transactions processed between July 1, 2003 and June 30, 2005, we noted two out of 28 refunds tested were improperly calculated. These two members were underpaid by a total of \$306.60. The following is a brief summary of the discrepancies we found.

| <b><u>Member</u></b> | <b><u>Gross Amount of Refund Issued</u></b> | <b><u>Gross Recalculated Refund</u></b> | <b><u>Difference</u></b> |
|----------------------|---|---|--------------------------|
| Member #1            | \$4,762.30                                  | \$5,068.02                              | (\$305.72)               |
| Member #2            | \$10.82                                     | \$11.70                                 | ( 0.88)                  |
|                      |   | <b>Total Underpayment</b>               | <b><u>\$306.60</u></b>   |

Member #1 began employment with the State Police in 2003. His last contribution to the system was in February 2005. When he withdrew from the retirement system and requested a refund of his accumulated contributions, the CPRB underpaid this member by \$305.72. This amount represents the member's monthly contributions made to the system in January 2005.

Member #2 withdrew from the retirement system in 1999. Upon withdrawing from Plan B, the member was refunded all of his accumulated contributions except for \$10.00, which remained in his account. This balance continued to accrue interest from the date of the member's withdraw through calendar year 2002. In 2003, the member reenlisted with the West Virginia State Police and subsequently inquired about reinstating his previously withdrawn service back to the system. It was at that time the CPRB found the error and refunded the member's remaining balance; however, the amount refunded was understated by \$0.88. This amount represents the amount of interest which had accrued for calendar years 2001 and 2002. We also noted that federal taxes withheld were not properly calculated as well due to the gross refund computation error.

Chapter 15, Article 2A, Section 8(a) of the West Virginia Code, as amended, states:

**“Any member who shall be discharged by order of the superintendent or shall otherwise terminate employment with the division shall, at the written request of the member to the retirement board, be entitled to receive from the retirement fund a sum equal to the aggregate of the principal amount of moneys deducted from the salary of the member and paid into the retirement fund plus four percent interest compounded thereon calculated annually as provided and required by this article.” (Emphasis added)**

The CPRB’s Membership Section Manager agreed that the amount refunded to each member was incorrect. She further stated that the issuance of the incorrect refunds was caused by an employee error.

Former members of Plan B who request refunds of their accumulated contributions are being underpaid by the CPRB. As a result, the CPRB may have to pay out additional accrued interest to former members on the amounts of any accumulated contributions which were not previously refunded.

These underpayments of accumulated contributions are not being detected by the CPRB which would indicate that the work of the employee who calculates the refunds is not being adequately reviewed for accuracy. Additionally, we noted this same employee who is responsible for calculating member refunds and requisitioning refund payments through the preparation of a supplemental payroll will also receive the actual refund checks for mailing once the supplemental payroll has been fully processed for payment.

Refund checks are returned to this employee so that before mailing out the checks he can enclose a refund letter with each check explaining to the payee the refund amounts and any tax information. Another reason for the return of the checks is so that this employee can enter the check

date and warrant number from each check into the CPRB's mainframe system, as well as ensuring the amount of each check equaled the amount initially entered into that system. The CPRB also finds it necessary that refund checks be returned to the CPRB in case a member decides not to withdraw in order to pull the check for redeposit.

Since the same employee is responsible for calculating a member's refund, submitting a member's refund for payment, and mailing a member's refund check and the work of this employee is not being properly reviewed, there is an increased likelihood that fictitious payments could be processed and paid on a supplemental payroll and not be detected. Refunds of accumulated contributions processed by the CPRB from July 1, 2003 through June 30, 2005 totaled \$223,334.53.

We recommend the Consolidated Public Retirement Board comply with Chapter 15, Article 2A, Section 8(a) of the West Virginia Code, as amended, by reimbursing these refund recipients for the amount of the underpayment. We also recommend the CPRB strengthen internal controls to ensure the proper amount of accumulated contributions is refunded to plan members and to monitor refunds issued on supplemental payrolls.

**Agency's Response**

***CPRB is in agreement with the Auditors' findings concerning this issue. Additional contributions came in after CPRB had collected the financial data to process the refunds in question. The additional refunds have now been processed.***

***Staff is currently reviewing the process to strengthen internal controls as recommended by the Legislative Auditor and has changed the job responsibilities of the employee who made the error.***



### Incorrect Refund to Plan A Member

During our testing of reinstatements for the period July 1, 2003 through June 30, 2005, we noted that a member of Plan B who was reinstating prior service credit earned while the person was a member of Plan A had been issued an incorrect refund by the CPRB when the member originally withdrew from Plan A. We noted this member was underpaid by \$363.63 when issued his refund from Plan A. The following table illustrates this underpayment.

| <u>Member</u> | <u>Gross Amount of Refund Issued</u> | <u>Gross Recalculated Refund</u> | <u>Difference</u> |
|---------------|--------------------------------------|----------------------------------|-------------------|
| Member #1     | \$10,366.76                          | \$10,730.39                      | \$363.63          |

This person became a member of Plan A in January 1994. When the member withdrew from the system and requested a refund of his accumulated contributions in 1998, the gross refund amount issued to the member by the CPRB was understated by \$363.63. This difference represents the amount of interest which would have accrued on the member's contributions for calendar year 1997.

Chapter 15, Article 2, Section 37(a), of the West Virginia Code, as amended, states:

**“(a) Any member who shall be discharged by order of the superintendent or shall otherwise terminate employment with the division shall, at the written request of the member to the retirement board, be entitled to receive from the retirement fund a sum equal to the aggregate of the principal amount of moneys deducted from his or her salary and paid into the death, disability and retirement fund plus four percent interest compounded thereon calculated annually as provided and required by this article.”**  
(Emphasis added)

The CPRB's Membership Section Manager agreed that the amount refunded to the member was incorrect. She further stated that the issuance of the incorrect refund was caused by an employee error.

Former members of Plan A who request refunds of their accumulated contributions are being underpaid by the CPRB. As a result, the CPRB may have to pay out additional accrued interest to former members on the amounts of any accumulated contributions which were not previously refunded.

We recommend the Consolidated Public Retirement Board comply with Chapter 15, Article 2, Section 37(a) of the West Virginia Code, as amended.

**Agency's Response**

***CPRB agrees with the conclusions of the Legislative Auditor on this issue. This employee is no longer processing refund requests. The trooper is now re-employed under Plan B and his underpayment is being credited to his Plan B account.***

**Monies Deposited to Incorrect Account**

Under State law, Plan B members can reinstate former withdrawn service upon reenlisting with the West Virginia State Police. Also, State law allows former Plan A members with at least ten years of service previously withdrawn from Plan A to reinstate this service to Plan B upon reenlisting with the West Virginia State Police. During the period July 1, 2003 through June 30, 2005, the CPRB processed four reinstatement transactions. Of these four transactions, we noted two transactions totaling \$26,877.39 where the CPRB erroneously deposited the reinstatement payments received from two Plan B members to an incorrect State account. The monies received from these members who were either reinstating previously withdrawn Plan A or Plan B service should have been deposited into the State Police Retirement Account, however, the CPRB incorrectly deposited these monies into the Public Employees Retirement System (PERS) Member Deposit Account. The following table details these erroneous deposits:

| <u>Reinstating Member</u> | <u>Amount of Reinstatement</u> | <u>Date of Deposit</u> | <u>Incorrect Account to Which Deposit Was Made</u> | <u>Correct Account</u> |
|---------------------------|--------------------------------|------------------------|--|------------------------|
| Member #1                 | \$10,388.91                    | 10/04/2004             | PERS Member Deposit Account                        | SPRS Account           |
| Member #2                 | \$16,488.48                    | 11/30/2004             | PERS Member Deposit Account                        | SPRS Account           |

Agency records indicate the first erroneous deposit dated October 4, 2004 was eventually caught and corrected on August 23, 2005; however, the CPRB's system of internal controls over the processing of deposits did not allow agency personnel to detect and correct this error in a more timely manner.

Chapter 15, Article 2A, Section 8(b) of the West Virginia Code, as amended, states:

**"Any member withdrawing contributions who may thereafter be reenlisted as a member of the division shall not receive any prior service credit on account of the former service, unless following his or her reenlistment the member shall redeposit in the fund the amount of the refund, together with interest thereon at the rate of seven and one-half percent per annum from the date of withdrawal to the date of redeposit, in which case he or she shall receive the same credit on account of his or her former service as if no refund had been made."(Emphasis added)**

Chapter 15, Article 2, Section 37(b) of the West Virginia Code, as amended, states:

**"Any member who has ten or more years of service with the division and who withdraws his or her contributions may thereafter be reenlisted as a member of the division, but may not receive any prior service credit on account of former service, unless following reenlistment the member shall redeposit in the fund established in article two-a [ §§ 15-2A-1 et seq.] of this chapter the amount of the refund, together with interest thereon at the rate of seven and one-half percent per annum from the date of withdrawal to the date of redeposit, in which case he or she shall receive the same credit on account of his or her former service as if no refund had been made. He or she shall become a member of the retirement system established in article two-a of this chapter." (Emphasis added)**

We spoke with the CPRB's Membership Section Manager on October 12, 2005 concerning these two deposits. The CPRB's Membership Section Manager stated that the monies were deposited to an incorrect account as the result of an employee error. She further stated that one deposit error was identified and corrected by the CPRB on August 23, 2005. However, she also stated that the other deposit error was not identified by the CPRB and provided us with documentation to show that this deposit was in the process of being corrected.

The CPRB is incorrectly depositing monies intended for the State Police Retirement System to a Public Employees Retirement System account, resulting in both retirement systems having incorrectly stated account balances. As a result, monies which normally would be used to pay the pension benefits of retired members of the State Police Retirement System are instead being incorrectly used to fund the pension benefits of retired members of the Public Employees Retirement System.

We recommend the CPRB comply with Chapter 15, Article 2A, Section 8(b) of the West Virginia Code, as amended, and Chapter 15, Article 2, Section 37(b) of the West Virginia Code, as amended, by ensuring that monies received from members of the State Police Retirement System who are reinstating prior service credit are properly deposited to the State Police Retirement Account.

**Agency's Response**

***CPRB agrees with the conclusions of the Legislative Auditor on this issue. The employee was depositing for multiple systems at that time. The employee is no longer processing PERS deposits and that responsibility has been assigned to a different staff member. This particular error has been corrected.***

**Enrollment Forms Not Submitted**

Of the 113 members who joined the retirement system during the period of July 1, 2003 through June 30, 2005, nine did not sign and complete enrollment forms upon joining the system. Of the nine, seven had previously completed an enrollment form from a prior period of employment with the West Virginia State Police. However, upon reenlisting with the West Virginia State Police, these members failed to complete and sign a new enrollment form. The remaining two members did not complete and sign an enrollment form upon enlisting with the West Virginia State Police. There was no indication from a review of agency records that these members had any prior stints of service with the West Virginia State Police. Since these members did not complete enrollment forms, we could not determine whether the contribution data in the CPRB's mainframe database was correct for each member and whether they began actively contributing upon joining the retirement system.

Additionally, incorrect dates of birth for two members were recorded into the members' contribution data records in the CPRB's mainframe database. These two occurrences are detailed in the following table:

| <u>Member</u> | <u>Date of Birth<br/>Per Enrollment Form</u> | <u>Date of Birth in Database</u> |
|---------------|--|----------------------------------|
| Member #1     | 01/25/1972                                   | 01/28/1972                       |
| Member #2     | 09/17/1980                                   | 09/19/1980                       |

The CPRB's Procedures and Responsibilities for Troopers A & B & Judges Retirement System Contributions Manual states:

**“TO ADD NEW MEMBER**

- Check enrollment form for complete information.
- Ensure it is on original letterhead with original signatures.
- Check the hire date. . .
- Birth date is entered mmddyy. . .
- Membership date is their date of hire, and should be entered the same way as the birth date (mmddyyyy). . .
- Create a folder for the member and file. . . .”

Also, the West Virginia State Police Retirement System Membership Enrollment

Form states:

“Provide the following information relative to your membership in the West Virginia Department of Public Safety Retirement System.

Name [Name of new employee]

Date of Birth [New employee’s date of birth] . . .

Starting date of active duty [Date new employee began employment].

. . .”

The CPRB’s Membership Section Manager acknowledged to us that all newly hired employees to the West Virginia State Police should submit a retirement enrollment form upon joining the retirement system regardless of whether they were previously employed. The CPRB’s Membership Section Manager stated that when a member leaves employment and does not withdraw his/her contributions the member’s contribution data record remains active in the mainframe database. Should the member return to employment, the member’s contributions would be processed through the mainframe database and posted to the member’s existing contribution data record. CPRB employees would not be alerted that the member had not completed a new enrollment form. Conversely, had the member withdrawn his/her contributions upon leaving employment, when the member returns to employment and the member’s contributions are processed through the mainframe

database the system would recognize that the member's contribution data record has been discontinued. The member's name would then be included on an "error report" which is reviewed periodically by CPRB employees.

Additionally, the CPRB's Membership Section Manager stated that in instances when CPRB employees become aware that a new member has not submitted an enrollment form, agency personnel will attempt to obtain an enrollment form for the employee from the West Virginia State Police.

The CPRB's Membership Section Manager agreed that incorrect dates of birth were entered into the members' contribution data records. She attributed the incorrect dates of birth entered in the members' contribution data records to data entry errors on the part of agency personnel.

The enrollment form is the source document used when creating a new member's contribution data record in the CPRB's mainframe database. Therefore, by not ensuring the submission of enrollment forms by new employees of the West Virginia State Police, there is an increased likelihood that incorrect information may be entered into the members' contribution data records. Additionally, the enrollment form assigns responsibility of the accuracy of the information to the submitting member and the CPRB may not be able to substantiate the existence of plan members.

We recommend the Consolidated Public Retirement Board comply with its own policies and procedures by ensuring that enrollment forms are submitted by all new members to the State Police Retirement System. We further recommend the Consolidated Public Retirement Board strengthen internal controls to ensure the date of birth for members is entered correctly in the member's contribution data record maintained in the CPRB's mainframe database system.

Agency's Response

*CPRB agrees in part and disagrees in part with the conclusions of the Legislative Auditor on this issue. Seven (7) of the nine (9) members identified by the Auditor as missing an enrollment form were actually current members who were on military leave. These individuals are considered current employees, and therefore would not and should not submit a new employee enrollment form upon his or her return from active military duty.*

*One (1) of the nine (9) members worked for one and one-half (1 ½) hours and then terminated employment; and one (1) of the nine (9) members enrollment form has been received by CPRB from the State Police. A monthly report concerning missing enrollment forms is generated by CPRB to ensure prompt receipt of such forms.*

*As to incorrect dates of birth, Plan B members annually receive a statement which lists the birth date on record. If it is incorrect, the member is expected to notify CPRB so that it may be corrected.*

*The statement quoted on page 20 of the report is incorrectly attributed to the State Police. The Membership Manager's statement was referring to other employers in the PERS system. The Membership Manager would like to clarify that, in her opinion, the State Police are always prompt in their submissions and helpful to employees of CPRB.*

Unfunded Liability of State Police Retirement System (Informational Only)

As of July 1, 2004, the State Police Retirement System (Plan B) had an unfunded accrued liability of \$2,220,000. This amount is based on the most recent actuarial valuation report prepared by the outside firm of Mellon Human Resources and Investor Solutions in December 2004. The next available actuarial report on the State Police Retirement System is due to be released in



December 2005. Plan B is funded through employee contributions of twelve percent (12%) of base payroll (overtime excluded) and employer contributions of twelve percent (12%) of base payroll. The valuation indicates that current contribution levels exceed the calculated cost to fund the benefits accruing during the year (normal cost) plus the amount required to amortize the plan's unfunded liability over a 30-year period from July 1, 2000 at a level dollar amount. The following table illustrates the funding progress of the unfunded accrued liability in further detail.

| <u>Actuarial Valuation Date</u> | <u>Actuarial Value of Assets (a)</u> | <u>Actuarial Accrued Liability (AAL) - Entry Age (b)</u> | <u>Unfunded Accrued Liability (UAL) (b-a)</u> | <u>Funded Ratio (a/b)</u> | <u>Covered Payroll (c)</u> | <u>UAL as a Percentage of Covered Payroll (b-a)/(c)</u> |
|---------------------------------|--------------------------------------|--|---|---------------------------|----------------------------|---|
| 06/30/98                        | \$3,364,000                          | \$2,944,000  | \$(420,000)                                   | 114.3%                    | \$5,077,000                | (8.3%)  |
| 06/30/99                        | \$5,081,000                          | \$4,921,000  | \$(160,000)                                   | 103.3%                    | \$6,961,000                | (2.3%)  |
| 06/30/00                        | \$7,514,000                          | \$8,585,000  | \$1,071,000                                   | 87.5%                     | \$9,799,000                | 10.9%   |
| 06/30/01                        | \$9,825,000                          | \$10,819,000   | \$994,000                                     | 90.8%                     | \$10,175,000               | 9.8%  |
| 06/30/02                        | \$11,644,000                         | \$13,708,000   | \$2,064,000                                   | 84.9%                     | \$10,134,000               | 20.4%   |
| 06/30/03                        | \$14,741,000                         | \$16,892,000   | \$2,151,000                                   | 87.3%                     | \$11,449,000               | 18.8%   |
| 06/30/04                        | \$19,882,000                         | \$22,102,000   | \$2,220,000                                   | 90.0%                     | \$13,233,000               | 16.8%   |

*Source: Actuarial Valuation Report as of July 1, 2004 prepared in December 2004 by actuarial firm of Mellon Human Resources and Investor Solutions.*

Based on this schedule, the funded ratio of plan assets to the actuarial accrued liability of the retirement system has decreased by 24.3% over the last seven fiscal years.

**Agency's Response**

***CPRB is unable to find a conclusion or recommendation in the section labeled Unfunded Liability of State Police Retirement System beginning on page twenty (20) to which it should respond.***

## **INDEPENDENT AUDITORS' OPINION**

The Joint Committee on Government and Finance:

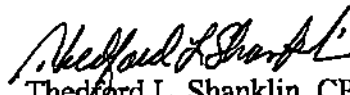
We have audited the statement of cash receipts, disbursements and changes in cash balance of the State Police Retirement System as administered by the West Virginia Consolidated Public Retirement Board (the "Board") for the years ended June 30, 2005 and June 30, 2004. The financial statement is the responsibility of the management of the West Virginia Consolidated Public Retirement Board. Our responsibility is to express an opinion on the financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note A, the financial statement was prepared on the cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues collected and expenses paid of the State Police Retirement System as administered by the Consolidated Public Retirement Board for the years ended June 30, 2005 and June 30, 2004, on the basis of accounting described in Note A.

Respectfully submitted,

  
Theodora L. Shanklin, CPA, Director  
Legislative Post Audit Division

November 22, 2005

Auditors: Michael A. House, CPA, Audit Manager  
Neil M. McEachron, Jr., CPA, Auditor-in-Charge  
Trenton W. Morton  
Thomas F. Ward, CPA  
Michael P. Scyoc  
John J. Signore

**CONSOLIDATED PUBLIC RETIREMENT BOARD**  
**WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM**  
**STATEMENT OF CASH RECEIPTS, DISBURSEMENTS**  
**AND CHANGES IN CASH BALANCE**

|  | <u>Year Ended June 30,</u> |                       |
|--|----------------------------|-----------------------|
|  | <u>2005</u>                | <u>2004</u>           |
| <b>Cash Receipts:</b>                                      |                            |                       |
| Member Contributions                                       | \$ 1,701,823.59            | \$1,520,189.15        |
| Employer Contributions                                     | 1,701,823.59               | 1,491,805.27          |
| Investment Earnings  | <u>2,273,803.27</u>        | <u>2,102,945.36</u>   |
|  | 5,677,450.45               | 5,114,939.78          |
| <b>Disbursements:</b>                                      |                            |                       |
| Transfer of Administrative Fees to CPRB<br>Expense Account | 14,630.00                  | 12,915.00             |
| Pension Benefits   | 112,107.00                 | 83,943.12             |
| Withdrawal from Retirement Funds                           | <u>133,254.12</u>          | <u>116,012.12</u>     |
|  | <u>259,991.12</u>          | <u>212,870.24</u>     |
| Cash Receipts Over Disbursements                           | 5,417,459.33               | 4,902,069.54          |
| Beginning Balance  | <u>132,395.24</u>          | <u>21.06</u>          |
| Transfers to Investment Management Board                   | <u>(5,549,854.27)</u>      | <u>(4,769,695.36)</u> |
| Ending Balance   | <u>\$ 0.30</u>             | <u>\$ 132,395.24</u>  |

*See Notes to Financial Statement*

**CONSOLIDATED PUBLIC RETIREMENT BOARD**  
**WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM**

**NOTES TO FINANCIAL STATEMENT**

**Note A - Accounting Policy**

Accounting Method: The cash basis of accounting was followed for all accounts. Therefore, certain revenues and the related assets are recognized when received rather than when earned and certain expenses are recognized when paid rather than when the obligation is incurred. Accordingly, the financial statement is not intended to present financial position and results of operations in conformity with generally accepted accounting principles.

**Note B - Unfunded Liability**

As of July 1, 2004, Plan B had an unfunded accrued liability of \$2,220,000. This amount is based on the most recent actuarial valuation report prepared by the outside firm of Mellon Human Resources and Investor Solutions in December 2004. The next available actuarial report on the State Police Retirement System is due to be released in December 2005. Plan B is funded through employee contributions of twelve percent (12%) of base payroll (overtime excluded) and employer contributions of twelve percent (12%) of base payroll. The valuation indicates that current contribution levels exceed the calculated cost to fund the benefits accruing during the year (normal cost) plus the amount required to amortize the plan's unfunded liability over a 30-year period from July 1, 2000 at a level dollar amount. The following table illustrates the funding progress of the unfunded accrued liability in further detail.

| <b>Actuarial<br/>Valuation<br/>Date</b> | <b>Actuarial<br/>Value of<br/>Assets<br/>(a)</b> | <b>Actuarial<br/>Accrued<br/>Liability<br/>(AAL)<br/>- Entry Age<br/>(b)</b> | <b>Unfunded<br/>Accrued<br/>Liability<br/>(UAL)<br/>(b-a)</b> | <b>Funded<br/>Ratio<br/>(a/b)</b> | <b>Covered<br/>Payroll<br/>(c)</b> | <b>UAL as a<br/>Percentage<br/>of Covered<br/>Payroll<br/>(b-a)/(c)</b> |
|---|--|--|---|-----------------------------------|------------------------------------|---|
| 06/30/98                                | \$3,364,000                                      | \$2,944,000  | \$(420,000)   | 114.3%                            | \$5,077,000                        | (8.3%)  |
| 06/30/99                                | \$5,081,000                                      | \$4,921,000  | \$(160,000)   | 103.3%                            | \$6,961,000                        | (2.3%)  |
| 06/30/00                                | \$7,514,000                                      | \$8,585,000  | \$1,071,000   | 87.5%                             | \$9,799,000                        | 10.9%   |
| 06/30/01                                | \$9,825,000                                      | \$10,819,000   | \$994,000   | 90.8%                             | \$10,175,000                       | 9.8%  |
| 06/30/02                                | \$11,644,000                                     | \$13,708,000   | \$2,064,000   | 84.9%                             | \$10,134,000                       | 20.4%   |
| 06/30/03*                               | \$14,741,000                                     | \$16,892,000   | \$2,151,000   | 87.3%                             | \$11,449,000                       | 18.8%   |
| 06/30/04                                | \$19,882,000                                     | \$22,102,000   | \$2,220,000   | 90.0%                             | \$13,233,000                       | 16.8%   |

*Source: Actuarial Valuation Report as of July 1, 2004 prepared in December 2004 by actuarial firm of Mellon Human Resources and Investor Solutions.*

### Note C - Investments

The following table details the investment holdings of the State Police Retirement System held in trust for pension benefits by the West Virginia Investment Management Board as of June 30, 2005 and 2004:

| <u>Investment Pool</u>  | <u>Fair Market Value of Investments as of June 30, 2005</u> | <u>Fair Market Value of Investments as of June 30, 2004</u> |
|-------------------------|---|---|
| Large Cap Equity        | \$ 6,376,702.15   | \$ 4,747,239.51   |
| Non-Large Cap Equity    | 3,756,473.48  | 3,219,120.54  |
| International Equity    | 4,871,686.15  | 3,629,474.20  |
| Fixed Income            | 9,792,935.87  | 7,818,715.25  |
| Short-Term Fixed Income | <u>499,676.59</u>   | <u>335,327.50</u>   |
| Total                   | <u>\$25,297,474.24</u>                                      | <u>\$19,749,877.00</u>                                      |

### Note D - Plan Membership

The following is a summary of plan membership for the State Police Retirement System for fiscal years ending June 30, 2005 and June 30, 2004:

| <u>Membership Type</u>                        | <u>Fiscal Year Ending 6/30/05*</u> | <u>Fiscal Year Ending 6/30/04**</u> |
|---|------------------------------------|-------------------------------------|
| Actives                                       | 401                                | 380                                 |
| Retirees and Beneficiaries                    | 6                                  | 6                                   |
| Terminated Vested                             | 0                                  | 0                                   |
| Withdrawals with Contribution Refunds Pending | <u>19</u>                          | <u>32</u>                           |
| Total   | <u>426</u>                         | <u>418</u>                          |

\*Source: The CPRB's Information Technology personnel. The numbers presented represent unreconciled amounts and, therefore, may differ from the amounts to be presented in the 2005 Actuarial Valuation Report to be released in December 2005.

\*\*Source: Actuarial Valuation Report as of July 1, 2004 prepared in December 2004 by actuarial firm of Mellon Human Resources and Investor Solutions.




**STATE OF WEST VIRGINIA**

**OFFICE OF THE LEGISLATIVE AUDITOR, TO WIT:**

I, Thedford L. Shanklin, CPA, Director of the Legislative Post Audit Division, do hereby certify that the report appended hereto was made under my direction and supervision, under the provisions of the West Virginia Code, Chapter 4, Article 2, as amended, and that the same is a true and correct copy of said report.

Given under my hand this 9<sup>th</sup> day of January, 2006.

  
Thedford L. Shanklin, CPA, Director  
Legislative Post Audit Division

Copy forwarded to the Secretary of the Department of Administration to be filed as a public record. Copies forwarded to the Consolidated Public Retirement Board; Governor; Attorney General; State Auditor; and, Director of Finance Division, Department of Administration.