



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)
(Implements RCW 34.05.310)
Do **NOT** use for expedited rule making

Agency: Department of Retirement Systems

Subject of possible rule making:

Calculating and crediting regular interest in the defined benefit member accounts of the public employees' retirement system, the teachers' retirement system, the school employees' retirement system, the public safety employees' retirement system, the law enforcement officers' and firefighters' retirement system, and the Washington state patrol retirement system. This action may affect both the rate and methodology for calculating and crediting interest.

Statutes authorizing the agency to adopt rules on this subject: RCW 41.50.050; RCW 41.50.033

Reasons why rules on this subject may be needed and what they might accomplish:

See Attachment A

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:

The retirement systems administered by the Department are subject to the provisions for tax-qualified pension plans under Title 26 section 401(a) of the U.S. Code.

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe)

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

Comments and information can be provided on all or any of the issues identified above or other issues perceived by individuals or organizations submitting comments. The Department will consider the comments and information in developing and analyzing alternative interest policies and then selecting from those alternatives a policy to be incorporated into a proposed rule for consideration through the rule-making process.

Written comments and information prior to the development of the draft rules can be provided to the Rules Coordinator at jilenes@drs.wa.gov. Please provide this information by September 30, 2013. The Department will hold a public hearing once the draft rules have been developed. Please contact the Rules Coordinator to be on the distribution list for the draft rules.

DATE
July 22, 2013

NAME (TYPE OR PRINT)
Jilene Siegel

SIGNATURE

TITLE
Rules Coordinator

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OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 22, 2013

TIME: 3:59 PM

WSR 13-15-128

Attachment A

The Legislature delegated to the Department the authority to determine the interest credited to individual members' pension accounts. This policy is currently, and has been since the director adopted it in 1977, to credit interest at the rate of 5.5% per year, compounded quarterly. At the end of each quarter interest is calculated based on the balance in the member's account at the end of the prior quarter.

In *Fowler v. DRS*, the Court of Appeals held that the policy could not be applied to transfers from TRS Plan 2 to TRS Plan 3 because there was no evidence that the Department had considered other policies. The Court remanded to the Department the determination of the interest policy for the accounts containing funds that were transferred from TRS Plan 2 to TRS Plan 3.

Because the individual accounts that were transferred to TRS Plan 3 are the same kind of accounts that exist for all pension system members, any policy adopted must apply to all individual accounts and not just to those that were transferred to TRS 3. The issues to be considered in adopting an interest policy for individual member accounts include, but might not be limited to the following.

- 1) What is an appropriate interest rate and methodology?
- 2) Should the interest policy for current accounts and those for which the interest owing is unresolved due to the Fowler decision be the same or different from the policy for accounts established for future pension system members?
- 3) What is the effect of vested rights on the ability to change interest policies on existing accounts?
- 4) What are the fiscal consequences to the pension systems of various policies for current and future accounts?
- 5) What are the administrative and operational consequences to the pension systems of the various policies for current and future accounts?