

COMMENTS OF THE INDEPENDENT REGULATORY REVIEW COMMISSION

ON

PENNSYLVANIA MUNICIPAL RETIREMENT BOARD REGULATION NO. 49-1

REVISIONS TO RULES AND REGULATIONS

MARCH 1, 1999

We have reviewed this proposed regulation from the Pennsylvania Municipal Retirement Board (Board) and submit for your consideration the following objections and recommendations. Subsections 5.1(h) and 5.1(i) of the Regulatory Review Act specify the criteria the Commission must employ to determine whether a regulation is in the public interest. In applying these criteria, our Comments address issues that relate to clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

Section 81.2. Applicability of regulations. - Clarity

This section provides that Chapters 81, 83, 85, 87 and 91 are equally applicable under all articles of the law. However, the Board is deleting Chapters 85 and 87. For this reason, the references to Chapters 85 and 87 should be deleted from the language of this section.

Section 81.9. Management and investment of fund; interest credits. - Clarity

Subsection (b) provides that to facilitate the purchase and sale of securities, the Board may establish a "nominee registration process." It is not clear from the proposed language what a "nominee registration process" is. We understand that the Board, in conjunction with the State Treasurer's Office, registers securities for purchase and sale. We recommend that the Board include a brief explanation or define the term "nominee registration process" in the final-form regulation.

Section 81.10. Withdrawal provisions. - Clarity

The Board is deleting the provisions pertaining to the application process that municipalities must follow in order to withdraw their plans in Section 83.14. However, Section 81.10 refers to the application process without specifying any of the procedures. The Board should clearly specify the procedures that municipalities must follow in order to formally withdraw their plans in the Board's regulations. The Board could satisfy this concern by providing a cross-reference to Section 881.214 (53 P.S. § 881.214) of the Pennsylvania Municipal

Retirement Law in Section 81.10 which provides the withdrawal requirements for the municipalities.

Additionally, Subsection (a) is very lengthy. Because it is difficult to follow the Board's intent, we recommend that the Board clarify this section in the final-form regulation. For example, it could be restated as follows:

(a) Applications for withdrawal pursuant to Section 881.214 (53 P.S. § 881.214) of the Law must be approved by the Board. If the application is approved, the Board may require:

- 1) The withdrawing municipality to enter into a written agreement with the Board which would terminate its contractual relationship with the Board and fix the respective rights of the parties;
- 2) The withdrawing municipality to obtain individual waivers or releases from affected members, who will no longer be eligible for benefits.

Since the language in Subsection (b) indicates the requirements for the withdrawal application, the Board should consider placing Subsection (b) before the language in Subsection (a) which relates to withdrawal applications approved by the Board.