

| Regulatory Analysis Form  |  | This space for use by IRRC<br>RECEIVED<br>2001 MAR 12 PM 4:05<br>REVIEW COMMISSION |
|---|--|--|
| (1) Agency<br><br>State Employees' Retirement System  |  | IRRC Number: 2177  |
| (2) I.D. Number (Governor's Office Use)<br><br>31-1   |  |  |
| (3) Short Title<br><br>Repeal of Purchase of Service Regulations  |  |  |
| (4) PA Code Cite<br><br>Sections 243.6 (g), 245.4 (b),<br>245.5 (a) (b), 245.6 (c)  | (5) Agency Contacts & Telephone Numbers<br><br>Primary Contact: Sean Sanderson, 717-787-9657<br><br>Secondary Contact: Brian McDonough, 717-787-9657   |  |
| (6) Type of Rulemaking (Check One)<br><br><input checked="" type="checkbox"/> Proposed Rulemaking<br><input type="checkbox"/> Final Order Adopting Regulation<br><input type="checkbox"/> Final Order, Proposed Rulemaking Omitted  | (7) Is a 120-Day Emergency Certification Attached?<br><br><input checked="" type="checkbox"/> No<br><input type="checkbox"/> Yes: By the Attorney General<br><input type="checkbox"/> Yes: By the Governor |  |
| (8) Briefly explain the regulation in clear and nontechnical language.<br><br>Section 243.6 (g) states that members of the State Employees' Retirement System may purchase creditable non-state service by lump sum or payroll deductions.<br><br>Section 245.4 (b) states that member contributions to purchase credit for previous state service or to become a full-service member must be paid in a lump sum or payroll deductions.<br><br>Section 245.5 (a) states that members may purchase non-intervening military service or creditable non-state service in a lump sum or through payroll deductions.<br><br>Section 245.6 (c) states that if a member agrees to purchase service, but dies before any payments are made, then the request to purchase service will be cancelled unless the payment is made in a lump sum within 30 days. |  |  |
| (9) State the statutory authority for the regulation and any relevant state or federal court decisions.<br>71 Pa. Code, sections 5907 (d) and 5902 (h)  |  |  |

Regulatory Analysis Report

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

SERS is not writing new regulations. SERS regulations and policies apply only members of the system, and not to the general public. By repealing the regulations, SERS desires to simplify the Purchase of Service process, and eliminate unnecessary regulations. PSERS is an agency which is successfully performing actuarial debt reduction.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

There are none.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

SERS active members (approximately 110,000 people, 80,000 under the governor's jurisdiction) and the retirement system as a whole will benefit from the repeal of the regulations. The repeal will avoid out-of-pocket member payment, increase agency efficiency, improve production time, reduce paperwork, and potentially reduce the number of administrative hearings for redress of grievances.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effect as completely as possible and approximate the number of people who will be adversely affected.)

Nobody will be adversely affected by the repeal of these regulations.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Regulations are being deleted, not promulgated.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

SERS is not drafting new regulations, and so has not asked for the public's input.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

SERS is not writing new regulations. SERS regulations and policies apply only members of the system, and not to the general public. By repealing the regulations, SERS desires to simplify the purchase of service process, provide for equity, and eliminate unnecessary regulations. PSERS is an agency which is successfully performing actuarial debt reduction.

SERS active members (approximately 110,000 people, 80,000 under the governor's jurisdiction) and the retirement system as a whole will benefit from the repeal of the regulations. The repeal avoid out-of-pocket member payment, increase agency efficiency, improve production time, reduce paperwork, and potentially reduce the number of administrative hearings for redress of grievances.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

There are none. Local governments are not affected.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting or consulting procedures which may be required.

Please see the answer to question 17.

**Regulatory Analysis Form**

(20) In the table below, provide an estimate of the fiscal savings and cost associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

|                             | <b>Current FY<br/>Year</b> | <b>FY +1<br/>Year</b> | <b>FY +2<br/>Year</b> | <b>FY +3<br/>Year</b> | <b>FY +4<br/>Year</b> | <b>FY +5<br/>Year</b> |
|-----------------------------|----------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| <b>SAVINGS:</b>             | \$                         | \$                    | \$                    | \$                    | \$                    | \$                    |
| <b>Regulated Community</b>  | *                          |                       |                       |                       |                       |                       |
| <b>Local Government</b>     | *                          |                       |                       |                       |                       |                       |
| <b>State Government</b>     | *                          |                       |                       |                       |                       |                       |
| <b>Total Savings</b>        | *                          |                       |                       |                       |                       |                       |
| <b>COSTS:</b>               |                            |                       |                       |                       |                       |                       |
| <b>Regulated Community</b>  | *                          |                       |                       |                       |                       |                       |
| <b>Local Government</b>     | *                          |                       |                       |                       |                       |                       |
| <b>State Government</b>     | *                          |                       |                       |                       |                       |                       |
| <b>Total Costs</b>          | *                          |                       |                       |                       |                       |                       |
| <b>REVENUE LOSSES:</b>      |                            |                       |                       |                       |                       |                       |
| <b>Regulated Community</b>  | *                          |                       |                       |                       |                       |                       |
| <b>Local Government</b>     | *                          |                       |                       |                       |                       |                       |
| <b>State Government</b>     | *                          |                       |                       |                       |                       |                       |
| <b>Total Revenue Losses</b> | *                          |                       |                       |                       |                       |                       |

(20a) Explain how the cost estimates listed above were derived.

\* There is no historical cost/benefit analysis of the purchase of service process. There may be a reduction in record keeping requirements to the extent payroll deductions are minimized. Current procedures are labor-intensive. Deleting the regulations will be less labor-intensive.

**Regulatory Analysis Form**

(20b) Provide the past three year expenditure history for programs affected by the regulation.

There are none because purchase of service estimates are already an integral part of SERS operations.

| Program | FY-3 | FY-2 | FY-1 | Current FY |
|---------|------|------|------|------------|
|         |      |      |      |            |
|         |      |      |      |            |
|         |      |      |      |            |
|         |      |      |      |            |

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

See 20b answer.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

SERS is asking to repeal regulations, not promulgate new regulations.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

There are none. See 22 above.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

There are no applicable federal pension standards because SERS is a non-ERISA plan.

(25) How does the regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The regulatory repeal will not put Pennsylvania at a disadvantage with other states, because the fiscal integrity of the system is not affected.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The regulatory repeal will only affect SERS.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

SERS does not plan to hold public hearings, only to have a public comment period to comply with the regulatory process. The general public will not be affected by this regulatory repeal.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No, it will not change existing reporting, record keeping, or other paperwork requirements.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

Not applicable.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

We anticipate the repeal of the regulation to take effect immediately upon approval.

(31) Provide the schedule for continual review of the regulation.

There is no schedule because there is no new regulation, only a repeal.

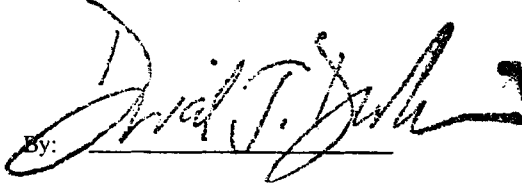


FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)  
2177

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2001 MAR 12 PM 4:05  
DO NOT WRITE IN THIS SPACE  
REVIEW COMMISSION

Copy below is hereby approved as to  
form and legality. Attorney General

By: 

(Deputy Attorney General)

FEB 28 2001  
Date of Approval

Check if applicable.  
Copy not approved. Objections attached.

Copy below is hereby certified to be true and correct copy of a  
document issued, prescribed, or promulgated by:

State Employees' Retirement System  
(Agency)

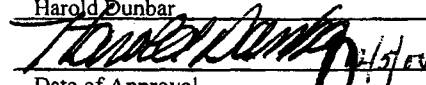
Document/Fiscal Note No. 31-1

Date of Adoption:

By: John Brosius 

Title: Executive Director

Copy below is hereby approved as to form and legality. Executive or Independent Agencies.

By: Harold Dunbar  
  
Date of Approval

(Deputy General Counsel  
(Chief Counsel, Independent Agency)  
(Strike inapplicable title)



State Employees' Retirement System

71 Pa. Code, Sections 243.6 (g), 245.4 (b), 245.5 (a) (b), 245.6 (c)

John Brosius, Executive Director

**Notice of Proposed Rulemaking  
State Employees' Retirement Board  
State Employees' Retirement System  
(4 Pa. Code Chapter 245)  
(Retirement Contributions)**

**Preamble**

The State Employees' Retirement Board (Board) proposes to amend 4 *Pa. Code*, Chapter 245 (relating to retirement contributions). The amendment is being proposed to delete the restrictions for purchasing retirement credit thereby allowing the costs of purchase to be deducted from the actuarial value of the retirement account.

This proposal was adopted by the Board at its meeting of October 25, 2000.

**A. Effective Date**

This amendment will go into effect upon publication in the *Pennsylvania Bulletin* as final rulemaking.

**B. Contact Person**

For further information contact Sean Sanderson, Director of Communications, State Employees' Retirement System, 30 North Third Street, P.O. Box 1147, Harrisburg, PA, (717) 237-0261, or Brian E. McDonough, Deputy Chief Counsel, State Employees' Retirement System, 30 North Third Street, P.O. Box 1147, Harrisburg, PA, 17108-1147, (717) 237-0229. Information regarding submitting comments on this proposal appears in Section H of this preamble.

**C. Statutory Authority**

This proposed rulemaking is being made under the authority of Section 1 of the State Employees' Retirement Code, the act of March 1, 1974 (P.L. (1974) 125, No. 31) (71 Pa.C.S. Sections 5907(d) and 5902(h)), *as amended*.

**D. Background and Purpose**

The Board is responsible for implementing the purchase of service provisions of the State Employees' Retirement Code, and a component of that purchase program is a method of paying for that purchase by eligible members, i.e., their contributions. Although the retirement code authorizes the contributions to be made in any manner agreed upon by the Board and member, the current regulations limit payment methods. Deletion of these regulations will restore the Board's statutory authority to authorize the actuarial debiting of the member's account as an agreed upon way to make these contributions.

The purpose of this proposed repeal of these restrictions is to permit the member and Board to agree upon how member contributions for the purchase of service can be made. Members would still have the options of paying by lump sum or payroll deduction but also would have the option to authorize an actuarial reduction in the value of their account to pay for the requested purchase. This would substantially reduce or eliminate out-of-pocket costs for members to avail themselves of service purchase authorized by the Retirement Code. A sister agency, the Public School Employees' Retirement System, currently permits the actuarial reduction of school member accounts for service purchases. These regulatory repeals would enable the Board to offer similar opportunities to state employees.

**E. Benefits, Costs and Compliance**

Executive Order 1996-1 requires a cost/benefit analysis of the proposed regulation.

**Benefits**

This proposed rulemaking would benefit state employees eligible for service purchases pursuant to the State Employees' Retirement Code. By reducing the potential out of pocket costs to members with an offsetting actuarial reduction in the value of their accounts, easier access to statutorily authorized service purchases would ensue without any loss in the fiscal integrity of the Retirement System. Customer service would be improved together with a corresponding reduction in bookkeeping and record keeping to the extent that payroll deductions would be reduced.

**Costs**

There are no additional costs to the Commonwealth, its citizens or state employees associated with this proposal.

**Compliance Costs**

The proposed amendment is not expected to impose any additional compliance costs on state employees.

**F. Sunset Review**

Not applicable.

**G. Regulatory Review**

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 12, 2001, the Board submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House State Government Committee and the Senate Finance Committee. In addition to submitting the proposed amendments, the

Board has provided IRRC and the Committees with a detailed regulatory analysis form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation". A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed amendments, it will notify the Board within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by the portion of the proposed amendments to which an objection has been made. The Regulatory Review Act specifies detailed procedures for review by the General Assembly and the Governor of objections raised by IRRC prior to final publication of the amendments by the Board.

#### **H. Public Comments**

***Written Comments*** - Interested persons are invited to submit comments, suggestions, or objections regarding the proposed regulation to Sean Sanderson, Director of Communications, State Employees' Retirement System, P.O. Box 1147, Harrisburg, PA 17108-1147 (express mail: 30 North Third Street, 5<sup>th</sup> Floor, Harrisburg, PA 17108-1147). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board within 30 days of publication in the *Pennsylvania Bulletin*.

***Electronic Comments*** - Comments may be submitted electronically to the Board at [ssanderson@state.pa.us](mailto:ssanderson@state.pa.us) and must also be received by the Board within 30 days of publication in the *Pennsylvania Bulletin*. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within two working days, the comments should be transmitted to ensure receipt.

BY:



NICHOLAS J. MAIALE  
Chairman  
State Employees' Retirement Board

## ANNEX A

### 4 Pa. Code § 243.6 (g)

(g) *Creditable State and nonstate service—noncancellable purchase of.* In all instances where creditable State or nonstate service may be purchased, any active member, by application, electing to purchase the service may not be permitted to cancel the purchase thereof once payment has been made by lump sum or the member has agreed, in writing, to payroll deductions upon such terms and conditions as provided in this part.

### 4 Pa. Code § 245.4 (b)

(b) *Method of payment.* The amount payable for the purchase of previous State service or to become a full coverage member shall be paid in a lump sum within 30 days of certification of the amount due or, in the case of an active member, may be paid through payroll deductions over a 1, 2, but not more than 3-year period, provided statutory interest at 4% annually is charged through the repayment period.

### 4 Pa. Code § 245.5 (a) (b)

(a) The payment for the purchase of nonintervening military service (not to exceed 5 years) or of total intervening military service, shall be made in a lump sum within 30 days after billing or, in the case of an active member, may be paid through payroll deductions over a 1, 2, but not more than, 3-year period, provided statutory interest at 4% annually is charged through the repayment period.

(b) The payment for the purchase of creditable nonstate service, other than military and magisterial service, shall be made in a lump sum within 30 days of billing; or in the case of an active member, may be paid through payroll deductions over a 1, 2, but not more than, 3-year period, provided statutory interest at 4% annually is charged through the repayment period.

### 4 Pa. Code § 245.6 (c)

(c) *Incomplete payments under certain conditions.* In the event a member agrees to make payments for purchase of certain service, as provided in sections 5504 and 5505 of the code (relating to member contributions for the purchase of credit for previous State services or to become a full coverage member; and contributions for the purchase of credit for creditable nonstate service), and dies in State service, or terminates State service before any payments are made, then the request for purchase of such service shall be cancelled, unless payment is made in a lump sum within 30 days after such event by the member or anyone acting on his behalf. In the event a member applies for the purchase of service and dies prior to a billing for such service being made, then his legally constituted representative may purchase such service by payment of a lump sum within 30 days after billing.

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

|              |   |   |
|--------------|---|---|
| I.D. NUMBER: | 31-1                                      | <b>RECEIVED</b>                             |
| SUBJECT:     | Repeal of Purchase of Service Regulations | 2001 MAR 12 PM 4:06                         |
| AGENCY:      | STATE EMPLOYEES' RETIREMENT SYSTEM        | INDEPENDENT REGULATORY<br>REVIEW COMMISSION |

**TYPE OF REGULATION**

- X Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
- a. With Revisions                      b. Without Revisions

**FILING OF REGULATION**

| DATE    | SIGNATURE             | DESIGNATION                              |
|---------|-----------------------|--|
| 3/12/01 | <i>Eileen Kruck</i>   | HOUSE COMMITTEE ON STATE GOVERNMENT      |
| 3-12-01 | <i>Andrea Bauer</i>   |  |
| 3/12/01 | <i>J. Hess</i>        | SENATE COMMITTEE ON FINANCE              |
| 3/12/01 | <i>[Signature]</i>    |  |
| 3/12/01 | <i>E. Pagan</i>       | INDEPENDENT REGULATORY REVIEW COMMISSION |
| 3-12-01 | <i>Pamela Dubold</i>  | ATTORNEY GENERAL                         |
| 3/12/01 | <i>C. Lee - Brown</i> | LEGISLATIVE REFERENCE BUREAU             |