

# Regulatory Analysis Form

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201007-2 P101

REVIEW COMMENTS

(1) Agency

Public School Employees' Retirement System

(2) I.D. Number (Governor's Office Use)

IRRC Number:

2225

(3) Short Title

Allowance of Actuarial Debt for Purchase of Service

(4) PA Code Cite

22 Pa.Code §§ 213.3, 213.23, 213.24 and 213.25

(5) Agency Contacts & Telephone Numbers

Primary Contact: Frank Ryder, 717-720-4733

Secondary Contact: Charles K. Serine, 717-720-4679

(6) Type of Rulemaking (check one)

Proposed Rulemaking  
 Final Order Adopting Regulation  
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

No  
 Yes: By the Attorney General  
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

As a matter of policy, the Public School Employees' Retirement Board allows members to purchase service credit by actuarial debt reduction. The regulations currently restrict such purchases to be made by lump sum payment or a 3 to 6-year payment period. Current proposed legislation would allow all purchases of service, including multiple service purchases, to be made by actuarial debt reduction. The State Employees' Retirement System is proposing similar amendments and partial repeal of its regulations to allow purchases of service to be made by actuarial reduction.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

24 Pa.C.S. §§ 8507(d) and 8502(h).

## Regulatory Analysis Form

(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?

The proposed regulation will bring the regulations into conformance with the current administrative practice. PSERS regulations apply only to members of the system, and not to the general public. The proposed regulation will simplify the purchase of service process, and eliminate unnecessary and inconsistent regulations.

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

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.)

PSERS active members (approximately 220,000) and the retirement system as a whole will benefit from the repeal of the regulations. The repeal will avoid the 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 effects as completely as possible and approximate the number of people who will be adversely affected.)

No member will be adversely affect 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.

PSERS 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.

There are nominal additional costs to the Commonwealth, its citizens or school employees associated with this proposal. There will be additional cost savings for both school employers and PSERS associated with this proposal.

PSERS is not writing new regulations. PSERS regulations and policies apply only to members of the system, and not to the general public. By repealing the regulations, PSERS desires to simplify the purchase of service process, provide for equity, and eliminate unnecessary regulations. Repealing these inconsistent regulations will bring the regulations into conformance with current administrative policy and practices.

PSERS active members (approximately 220,000) and the retirement system as a whole will benefit from the repeal of the regulations. The repeal will avoid the 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.**

Public school employers will save some administrative costs in having to deduct purchase of service contributions from members' salary and forwarding them to PSERS. Having an actuarial debt reduction will eliminate the need for school employers to be involved in administering the payroll deduction(s) for purchases of service. Otherwise, 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 number 17.

## Regulatory Analysis Form

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

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<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 will 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 statements are already an integral part of PSERS operations.

<b>Program</b>	<b>FY -3</b>	<b>FY -2</b>	<b>FY -1</b>	<b>Current FY</b>

(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.

PSERS 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 PSERS is a non-ERISA plan.

(25) How does this 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 PSERS.

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

PSERS 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.



<b>Repeal Analysis Form</b>	
<b>(1) Agency</b> Public School Employees' Retirement System	
<b>(2) I.D. Number (Governor's Office Use)</b> 11-	
<b>(3) Short Title</b> Repeal of Purchase of Service Regulations	
<b>(4) PA Code Cite</b> 22 Pa.Code §§ 213.3, 213.23, 213.24 and 213.25	<b>(5) Agency Contact and Telephone Number:</b> Frank Ryder, 717-720-4733 Charles K. Serine, 717-720-4679
<b>(6) Type (check one)</b> <input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted	<b>(7) Is a 120 Day Emergency Certification Attached?</b> <input type="checkbox"/> Yes: By the Governor <input type="checkbox"/> Yes: By the Attorney General <input checked="" type="checkbox"/> No
<b>(8) Briefly explain in clear and non-technical language the regulation:</b> <p>As a matter of policy, the Public School Employees' Retirement Board allows members to purchase service credit by actuarial debt reduction. The regulations currently restrict such purchases to be made by lump sum payment or a 3 to 6-year payment period. Current proposed legislation would allow all purchases of service, including multiple service purchases, to be made by actuarial debt reduction. The State Employees' Retirement System is proposing similar amendments and partial repeal of its regulations to allow purchases of service to be made by actuarial reduction.</p>	
<b>(9) Briefly explain why this regulation is proposed for repeal:</b> <p>These sections of the PSERS regulations require members who wish to purchase service credit to make a lump-sum payment or payroll deductions. If these sections are deleted, all methods of purchasing multiple service and other credit are permissible as long as the member and the Board agree on the method(s) of payment.</p> <p>Repealing these sections would allow the Board to adopt other forms of payment for these purchases of service credit. Section 8507(d) of the Public School Employees' Retirement Code, 24 Pa.C.S. § 8507(d), grants the Board that discretion, as follows:</p> <p><b>(d) Credit for previous service or change in membership status.</b>--Any active member or multiple service member who is a State employee who desires to receive credit for his previous school service or creditable nonschool service to which he is entitled, or a member of Class T-A or Class T-B who desires to become a member of Class T-C, or a joint coverage member who desires to become a full coverage member shall so notify the board. Upon written agreement by the member and the board as to the manner of payment of the amount due, the member</p>	

## Repeal Analysis Form

shall receive credit for such service as of the date of such agreement subject to the provisions of section 8325 (relating to incomplete payments).

PSERS proposes to repeal the regulations in order to simplify and improve the process to purchase service for PSERS members. This repeal will eliminate a conflict between the PSERS' Code and the regulations. PSERS will allow members to purchase service by actuarial debt, which will simplify bookkeeping requirements and avoid imposition of unnecessary out-of-pocket costs upon the members, while still maintaining the fiscal integrity of the retirement system, thereby improving customer service.

### **(10) Please list the proposed schedule for repeal noting any public comment periods:**

PSERS will follow the standard public comment periods provided for by statute and/or regulations governing regulatory changes.

### **(11) State any costs and/or savings associated with the repeal:**

PSERS is not writing new regulations. PSERS regulations and policies apply only to members of the system, and not to the general public. By repealing the regulations, PSERS desires to simplify the Purchase of Service process and eliminate unnecessary regulations. Moreover, PSERS' current policies and practices currently allow for actuarial debt reduction purchases of service, and the repeal of inconsistent regulations that are not mandated by the Retirement Code will bring the regulations into conformance with the agency's actuarial debt reduction policies and practices.

PSERS' active members (approximately 220,000) and the retirement system as a whole will benefit from the repeal of the regulations. The repeal will avoid the 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.

FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)

RECEIVED  
LEGISLATIVE REFERENCE BUREAU  
SEP 13 2001

#2225

DO NOT WRITE IN THIS SPACE

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

*Christina Caputo*  
DEPUTY ATTORNEY GENERAL

SEP 13 2001

DATE OF APPROVAL

Check if applicable  
Copy not approved. Objections attached.

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

Public School Employees' Retirement Sys.  
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 43-8

DATE OF ADOPTION:

BY: *Debra H. Eichel*

TITLE: Executive Director  
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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

BY: *Charles J. Sullivan*

AUG 23 2001

DATE OF APPROVAL

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

Check if applicable. No Attorney General approval or objection within 30 days after submission.

PROPOSED RULEMAKING  
Public School Employees' Retirement Board  
Title 22. Education  
[22 Pa. Code Chapter 213]  
Contributions and Benefits

**Notice of Proposed Rulemaking  
Public School Employees' Retirement Board  
Public School Employees' Retirement System  
(22 Pa.Code Chapter 213)  
(Retirement Contributions)**

**Preamble**

The Public School Employees' Retirement Board (Board) proposes to amend 22 *Pa. Code*, Chapter 213 (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 is being made to conform the Board's regulations with the policy adopted by the Board at its December 2, 1998 meeting allowing actuarial debt reduction for purchases of service.

**A. Effective Date**

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

**B. Contact Person**

For further information contact Frank Ryder, Director of Government Relations, Public School Employees' Retirement System, 5 North Fifth Street, P.O. Box 125, Harrisburg, PA 17108, (717) 720-4733, or Charles K. Serine, Deputy Chief Counsel, Public School Employees' Retirement System, 5 North Fifth Street, P.O. Box 125, Harrisburg, PA 17108, (717) 720-4679. 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 the Public School Employees' Retirement Code, 24 Pa.C.S. §§ 8507(d) and 8502(h).

**D. Background and Purpose**

The Board is responsible for implementing the purchase of service provisions of the Public School Employees' Retirement Code, and a component of that purchase program is a method of paying for the 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 option 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 purchases authorized by the Retirement Code. As noted above, by policy of the Board, PSERS currently permits the actuarial reduction of school member accounts for service purchases. These regulatory repeals will conform the regulations to the current administrative policy. The State Employees' Retirement System is proposing a similar repeal of its regulations that will allow purchases of service to be paid by actuarial debt of state employees' accounts. This repeal will harmonize the regulations of the Public School and State Employees Retirement Systems, especially with regard to multiple service members.

**E. Benefits, Costs and Compliance**

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

**Benefits**

This proposed rulemaking would benefit school employees eligible for service purchases pursuant to the Public School 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 nominal additional costs to the Commonwealth, its citizens or school employees associated with this proposal. There will be additional cost savings for both school employers and PSERS associated with this proposal.

**Compliance Costs**

The proposed amendment is not expected to impose any additional compliance costs on school employees or employers.

**F. Sunset Review**

Not applicable.

**G. Regulatory Review**

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on October 2, 2001, the Board submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Education 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 PSERS 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 the Public School Employees' Retirement System, 5 North Fifth Street, P.O. Box 125, Harrisburg, PA 17108-0125. Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by \_\_\_\_\_, 2001 (within 30 days of publication in the *Pennsylvania Bulletin*). Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must be received by \_\_\_\_\_, 2001 (within 20 days following publication in the *Pennsylvania Bulletin*). The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

**Electronic Comments.** Comments may also be submitted electronically to the Board at [fryder@state.pa.us](mailto:fryder@state.pa.us) and must also be received by the Board by \_\_\_\_\_, 2001. 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 by mail to ensure receipt.

By:

Dale H. Everhart, *Secretary*  
Public School Employees' Retirement Board

**Annex A**

**TITLE 22. EDUCATION**

**PART XIII. PUBLIC SCHOOL EMPLOYEES'  
RETIREMENT BOARD**

**CHAPTER 213. CONTRIBUTIONS AND BENEFITS**

**Draft Amendment to Regulations**

(Note: deletions are indicated by brackets)

**A. § 213.3. Eligibility points for retention and reinstatement of service credits.**

\* \* \*

(c) In all instances when creditable school or nonschool service may be purchased, an active member, having elected to purchase the service, is not permitted to cancel the purchase [once payment has been made by lump sum, or once the member has agreed, in writing, to payroll deductions upon the terms and conditions as provided in this part].

**B. § 213.23. Member contributions for creditable school service.**

\* \* \*

(d) [The payment for the purchase of all credit authorized by this chapter, except that for sabbatical leave and activated military service leave, shall be payable in a lump sum within 90 days after certification of the amount due or, in the case of an active member, may be authorized through payroll deductions over a period of years not in excess of 6 years, if statutory interest at 4% annually is charged through the repayment period. The amount certified by the Board for the purchase of this credit shall be in accordance with methods approved by the actuary.]

**C. § 213.24. Contributions for the purchase of credit for creditable school and nonschool service.**

\* \* \*

(b) *Contributions for purchase of nonintervening military service.* The amount due for the purchase of nonintervening military service shall be calculated as follows: The average of the first 3 years' salaries subsequent to the military service, multiplied by the sum of the member's basic contribution rate and the normal contribution rate as determined by section 8328 of the Retirement Code (relating to actuarial cost method), relating to Commonwealth and district shares, and multiplied by the number of years or fractional years of military service. [The amount due for the purchase of the military service, as calculated under this subsection, may be paid in a lump sum within 90 days after certification of the amount due, or in the case of an active member, may be amortized through payroll deductions over a period of years not in excess of 5 years without interest.] All amounts certified by the Board for the purchase of the service shall be in accordance with methods approved by the actuary. Nonintervening military service may not be purchased unless the active member has completed at least 3 years of subsequent credited school service as a Class T-C member.

(c) *Contributions for purchase of intervening military service.* An active member eligible to purchase credit for intervening military service shall pay the amount due in accordance with the following formula: The member's basic contribution rate at the time of entry into the active military service multiplied by the member's then compensation and by years of such military service together with statutory interest during all periods of subsequent school and State service to the date of purchase, if all the amounts due shall be in accordance with methods certified and approved by the actuary. [The amounts due for the purchase of such service may be paid under one of the following methods:

(1) Regular monthly payments submitted through the school district based on the compensation of the member which the member would have received at the time of entry into active military service without statutory interest since the payments are made on a current contributing basis.

(2) A lump sum payment within 90 days of the date of the amount certified to be due and owing.

(3) Through amortized salary deductions over a period not to exceed 5 years.]

(d) *Contributions for purchase of other creditable nonschool service.* An active member shall pay the amount due for creditable nonschool service in accordance with the following formula: The member's basic contribution rate plus the normal contribution rate, applied to the member's first year salary of credited school service subsequent to the creditable nonschool service sought to be purchased, multiplied by the number of years or fractional parts of a year of the service so purchased, together with statutory interest during all subsequent years of school or State service to the date of purchase. [The active member may pay the amount due in a lump sum payment within 90 days after the date of certification by the Board of the amount due or through salary deductions amortized over a 1, 2, but not more than 3-year period, if the statutory interest is charged through the repayment period, and if the amounts due are in accordance with methods certified and approved by the actuary.] This formula for purchase does not apply in the case of purchase of creditable nonschool service rendered to a county board of school directors. In this event, the member shall only pay the amount due based on the member's basic contribution rate exclusive of the normal contribution rate.

**D. § 213.25. Incomplete payments.**

\* \* \*

[(c) *Payments under certain conditions.* In the event a member agrees to make payments for purchase of certain service, as provided in sections 8323 and 8324 of the Retirement Code (relating to member contributions for creditable school service; and contributions for purchase of credit for creditable nonschool service), and dies in school service, or terminates school service before any payments are made, the request for purchase of the service shall be canceled, unless payment is made in a lump sum payment, within 30 days after the event, by the member or anyone acting on his behalf.]



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

I.D. NUMBER: 43-8  
 SUBJECT: Contributions and Benefits  
 AGENCY: PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

**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
10/2/01	<i>Cleora Romano</i>	HOUSE COMMITTEE ON EDUCATION
10/2/01	<i>Virginia J. Jough</i>	
10/2/01	<i>Mary Walmer</i>	SENATE COMMITTEE ON FINANCE
10/2/01	<i>Ju Kesper</i>	
10/2/01	<i>Cleora Romano</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
10/2/01	<i>C. L. Brown</i>	LEGISLATIVE REFERENCE BUREAU