

Regulatory Analysis Form

This space for use by IRRC

RECEIVED

2005 AUG 18 PM 4:51

REVENUE COMMISSION

(1) Agency

State Employees' Retirement System

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

31-3

IRRC Number: 2490

(3) Short Title

Deletion of Definition of "Class of Service Multiplier"

(4) PA Code Cite

4 Pa. Code Section 241.1

(5) Agency Contacts & Telephone Numbers

Primary Contact: Robert Gentzel, 717-787-9657

Secondary Contact: Salvatore Darigo, 717-783-7317

(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.

The definition to be deleted defines the term "class of service multiplier." Prior to March 1, 1974, the State Employees' Retirement Code, 71 Pa. C.S. § 5101 *et seq.* ("Retirement Code") contained various benefit formulas which applied a benefit multiplier factor to a State employee's final average salary and total credited service to determine the amount of the employee's retirement benefit. In 1976, SERS promulgated a regulation defining the term "class of service multiplier" which clarified SERS' determination that persons who entered State service after March 1, 1974 would not be able to have their post-1974 retirement benefits calculated pursuant to earlier law.

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

71 Pa. C.S. Section 5902 (h)

Regulation 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?

SERS is not writing a new regulation. The proposed amendment of the regulation will remove a definition from the Pennsylvania Code that has been rendered inoperable and irrelevant by subsequent changes to the agency's enabling legislation.

(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 deletion of the definition. The deletion will avoid confusion on the part of members of SERS and the agency's personnel, reduce paperwork, and potentially reduce the number of administrative hearings for redress of grievances.

REGULATION 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.)

No one.

(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.)

A definition is 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 a new regulation 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' active members (approximately 110,000 people, 80,000 under the Governor's jurisdiction) and the retirement system as a whole will benefit from the deletion of this definition. The deletion will avoid confusion on the part of members of SERS and the agency's personnel, reduce paperwork, and potentially reduce the number of administrative hearings for redress of grievances. It is not possible to create a specific estimate of potential savings to the regulated community.

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.

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 deletion of the definition. The deletion will avoid confusion on the part of members of SERS and the agency's personnel, reduce paperwork, and potentially reduce the number of administrative hearings for redress of grievances. A specific estimate of the savings to SERS, and in turn to the state government, is not possible.

Regulator's 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.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS: *	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

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

*There is no cost/benefit analysis associated with the elimination of this outmoded definition. Such repeal will not add any costs.

Regulatory Analysis Form

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

Program	FY-3	FY-2	FY-1	Current FY
N/A				

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

N/A

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

SERS is seeking to delete a definition that has been rendered inapplicable by statutory changes, not to promulgate a new regulation.

(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.

No.

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

The deletion of the definition will not put Pennsylvania at a disadvantage with other states, because SERS is merely deleting a definition which has been made inapplicable by statutory changes.

(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 or informational meetings, but does plan 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, the deletion of this definition 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.

N/A

(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?

SERS anticipates the deletion of the definition 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)

Ⓢ

RECEIVED
JUL 19 10 51 AM '05

DO NOT WRITE IN THIS SPACE

2490

Copy below is hereby approved as to
form and legality.

Attorney General

By: Angela Elliott
(Deputy Attorney General)

AUG 12 2005

Date of Approval

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

State Employees' Retirement System
(Agency)

31-3

Document/Fiscal Note No. _____

Date of Adoption: _____

By: Eric Henry
Eric Henry

Title: Executive Director

Check if applicable.
Copy not approved. Objections attached.

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

By: Michael A. Buddin
Michael A. Buddin
Chief Counsel, State Employees' Retirement System

6/21/05
Date of Approval

**APPROVED FOR FORM
AND LEGALITY**

JUL 25 2005

Eric Henry
EXECUTIVE DEPUTY GENERAL COUNSEL

State Employees' Retirement System

4 Pa. Code, Section 241.1

Eric Henry, Executive Director

**Notice of Proposed Rulemaking
State Employees' Retirement System
(4 Pa. Code Chapter 241)
(Preliminary Provisions)**

Preamble

The State Employees' Retirement Board ("Board") proposes to amend 4 Pa. Code, Chapter 241 (relating to preliminary provisions) by deleting the definition of "class of service multiplier" from 4 Pa. Code Section 241.1.

A. Effective Date

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

B. Contact Person

For further information contact Robert Gentzel, Director of Communications and Policy, State Employees' Retirement System, 30 North Third Street, Harrisburg, PA 17101 (717) 787-9657, or Salvatore A. Darigo, Jr., Counsel, State Employees' Retirement System, 30 North Third Street, Harrisburg, PA 17101 (717) 787-7317. 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 Section 5902(h) of the State Employees' Retirement Code, 71 Pa.C.S. §5101 *et seq.* ("Retirement Code").

D. Background and Purpose

Prior to March 1, 1974, the Retirement Code contained various benefit formulas which applied a benefit multiplier factor to a State employee's final average salary and total credited service to determine the amount of the employee's retirement benefit. The definition proposed to be deleted clarified SERS' determination that persons who entered State service after March 1, 1974 would not be able to have their post-1974 retirement benefits calculated pursuant to earlier law. Subsequent amendments to the Retirement Code removed the various class of service multipliers and substituted a Class "A" retirement benefit formula.

The definition proposed to be deleted is unnecessary, outmoded, and irrelevant. Deleting this definition will avoid confusion on the part of members of SERS and the agency's personnel, reduce paperwork, and potentially reduce the number of administrative hearings for redress of grievances.

E. Benefits, Costs and Compliance

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

Benefits

The proposed deletion of this definition would benefit SERS and its members. This regulation is unnecessary, outmoded, and irrelevant. Repealing this regulation will avoid confusion on the part of members of SERS and the agency's personnel, reduce paperwork, and potentially reduce the number of administrative hearings for redress of grievances.

Costs

There are no 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 [DATE] 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 Board 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 that 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 Robert Gentzel, Director of Communications and Policy, State Employees' Retirement System, 30 North Third Street, 5th Floor, Harrisburg, PA 17101. Comments submitted by facsimile will not be accepted. The Board must receive comments, suggestions or objections within 30 days of publication in the *Pennsylvania Bulletin*.

Electronic Comments - Comments may be submitted electronically to the Board at rgentzel@state.pa.us and must 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 retransmitted to ensure receipt.

BY:



NICHOLAS J. MAIALE
Chairman
State Employees' Retirement Board

Annex "A"

4 Pa. Code §241.1

[Proposed additions are bracketed and underlined; proposed deletions are struck through.]

§ 241.1. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

Active member—Employee on intervening military service or studying under a Federal grant as defined in section 5302(b) of the code (relating to credited State service) provided the member, in all cases, makes contributions while in the service.

Actuarially equivalent—Annuities of equal present value determined by multiplying the annual amount of the annuity by the appropriate cost factor for an annuity of \$1 based on mortality tables currently adopted and used by the Board.

Annuitant—A member on or after the effective date of retirement who was formerly a State employe, excluding a beneficiary or survivor annuitant.

Basic contribution rate—The rate shall be 5%, except that in no case may a member be required to contribute, excluding contributions for social security integration credit, at a rate greater than his contribution rate on March 1, 1974. This rate may not be applicable to those who became members of the System prior to June 1, 1948, at age 26 or younger who did not, under prior law, elect additional coverage (SSI). It shall be applicable to those in the joint coverage group except that the appropriate offset factor shall be deducted on earnings covered by Federal Social Security.

Beneficiary—The person last designated in writing to the Board by a member to receive his accumulated deductions or a lump sum benefit upon the death of such member. If one is not designated, the recipient shall be the estate of the member or next of kin under 20 Pa.C.S. § 3101 (relating to payments to family and funeral directors), to the extent applicable.

Board—The State Employees' Retirement Board required by the code to administer the System.

~~*Class of service multiplier*—Relates only to those members who are eligible for and so elected their classes as specified under prior law and who remain in those classes subsequent to March 1, 1974, and thereafter, until termination of State service. All members who enter or reenter after March 1, 1974, shall be in the A class of service and have a multiplier of one for service rendered thereafter. Certain members may be eligible to have previous service credited to another class under section 5303(b) of the code, if they return to service after March 1, 1974. The reference in the code to additional~~

~~legislative compensation for certain members of Class D-3 applies only to Constitutional officers of the General Assembly and other legislator officers as elsewhere provided by law.~~

Code—71 Pa.C.S. §§ 5101—5956 (relating to State Employees' Retirement Code).

Compensation—Limited to salary or wages received for services performed as an employe, but excluding monies received for bonuses, cash awards, or similar emoluments.

Date of termination of service—The last day of service for which an active member makes contributions; or in the case of an inactive member on leave without pay, the date of his resignation or the date his employment is formally discontinued by his employer; or the date a member is placed on furlough.

Effective date of disability retirement—The date following the last day for which compensation was paid or the date on which the member filed an effective application for disability benefits, whichever is later.

Final average salary—In the case of a part-time employe, his salary shall be annualized by multiplying his actual earnings by the reciprocal of the fractional portion of full time compensation or the percentage of service credit earned, whichever is higher, during nonoverlapping periods of 4 consecutive calendar quarters during which the member was a State employe.

Inactive member—A member who is on furlough and has elected to leave his accumulated deductions in the fund at statutory interest during the furlough period. The furlough period may not exceed 1 year.

Member's annuity—Determined by dividing the member's regular accumulated deductions and social security integration accumulated deductions by the cost of a \$1 annuity factor based on the member's nearest age and sex at the effective date of retirement and computed on the basis of statutory interest and the mortality tables adopted and used by the Board.

Optional alternate retirement program—An independent retirement program limited to certain designated employes and officers of the Pennsylvania State University, Indiana University, the State Colleges and the Department of Education, as shall be approved by the governing body of the institution or the Secretary of Education, as the case may be.

Statutory interest—As applied to member's contributions, means interest at 4% per annum compounded annually which shall be calculated as follows: the sum of the balance of the accumulated deductions at the conclusion of the previous year and the mean balance of the current year's contributions multiplied by 4% times the fractional part of a year for which the contributor was a member, including one on leave without pay subsequent to July 1, 1974.

System—The State Employees' Retirement System of Pennsylvania as established by the act of June 27, 1923 (P. L. 858, No. 331), and codified by the act of June 1, 1959 (P. L. 392, No. 78), and this title.

Vestee—A member with ten or more eligibility points who has terminated State service and has elected to leave his total accumulated deductions in the fund and to defer receipt of an annuity, provided the election is made within 90 days after the effective date of termination of service. In absence of such election, a terminated State employe shall not be entitled to vest. He shall, however, be eligible to file for an annuity benefit or return of accumulated contributions as they stood at termination of service, at a later date, but shall not be eligible for death benefits beyond 90 days after termination of service or the accumulation of interest beyond the date of termination of service. In the event he applies for an annuity, it shall take effect upon filing of the application.

Repeal Analysis Form

(1) Agency
State Employees' Retirement System

(2) I.D. Number (Governor's Office Use)
31-3

(3) Short Title
Deletion of Definition of "Class of Service Multiplier"

(4) PA Code Cite
4 Pa. Code Section 241.1

(5) Agency Contact and Telephone Number:
Robert Gentzel, Office of Communications
717-787-9657
Salvatore Darigo, Legal Office
717-783-7317

(6) Type (check one)
 Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?
 Yes: By the Governor
 Yes: By the Attorney General
 No

(8) Briefly explain in clear and non-technical language the regulation:
The definition to be deleted defines the term "class of service multiplier." Prior to March 1, 1974, the State Employees' Retirement Code, 71 Pa. C.S. § 5101 *et seq.* ("Retirement Code") contained various benefit formulas which used three factors to calculate a state employee's retirement benefit. The definition proposed to be deleted clarified SERS' determination that persons who entered State service after March 1, 1974 would not be able to have their post-1974 retirement benefits calculated pursuant to earlier law.

Repeal Analysis Form

(9) Briefly explain why this regulation is proposed for repeal:

Amendments to the State Employees' Retirement Code over the past several years have simplified the descriptions of the types of service credit earned in the State Employees' Retirement System and rendered inoperative the class of service multipliers referenced in the definition. SERS proposes to delete the definition in order to avoid confusion on the part of members of SERS and the agency's personnel, reduce paperwork, and potentially reduce the number of administrative hearings for redress of grievances.

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

SERS 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:

SERS is not writing a new regulation. SERS merely wishes to remove an irrelevant and outmoded definition from the record.

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 deletion of the definition. Deleting the definition will avoid confusion on the part of members of SERS and the agency's personnel, reduce paperwork, and potentially reduce the number of administrative hearings for redress of grievances. It is not possible to estimate the potential savings to SERS and the state government.

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

I.D. NUMBER: 31-003
 SUBJECT: Preliminary Provisions: Deletion of Definition of "Class of Service Multiplier"
 AGENCY: STATE EMPLOYEES' RETIREMENT SYSTEM # 2490

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

AUG 18 19 05 PM 4:51

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
8/18/05	<i>[Signature]</i>	HOUSE COMMITTEE ON STATE GOVERNMENT
8/18/05	<i>[Signature]</i>	
8/18/05	<i>[Signature]</i>	SENATE COMMITTEE ON FINANCE
8/18/05	<i>[Signature]</i>	
8/18/05	<i>[Signature]</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
8/18/05	<i>[Signature]</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

August 16, 2005