

Regulatory Analysis Form

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INDEPENDENT REGULATORY
RENEW COMMISSION

IRRC Number:

(1) Agency

State Employees' Retirement System

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

31-4

(3) Short Title

Repeal of Regulation Pertaining to Classes of Service

(4) PA Code Cite

4 Pa. Code Section 243.8

(5) Agency Contacts & Telephone Numbers

Primary Contact: Robert Gentzel, 717-787-9657

Secondary Contact: Salvatore Darigo, 717-787-7317

(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 regulation to be deleted lists the classes of service closed to new members as of March 1, 1974. Before that date, 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. Subsequent amendments to the Retirement Code rendered this regulation irrelevant.

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

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

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(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. This deletion will remove a regulation from the Pennsylvania Code that has been rendered obsolete and irrelevant due to subsequent changes to the agency's enabling legislation. More than thirty years have passed since the classes of membership referenced in the regulation were closed to new members; therefore, there are few, if any, Commonwealth employees subject to the regulation.

(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 deletion of the regulation. 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.

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(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 regulation 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 regulation. 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.

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(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.

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(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 regulation. Such repeal will not add any costs.

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

There are none because the existence of different classes of service is an integral part of SERS' benefit formula.

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.

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 repeal a regulation, 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.

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(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 regulatory repeal will not put Pennsylvania at a disadvantage with other states, because SERS is merely repealing an outmoded regulation.

(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 has not held public hearings or informational meetings, but had a public comment period to comply with the regulatory process. The general public will not be affected by this regulatory repeal.

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(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 regulation 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 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)

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INDEPENDENT REGULATORY
POWER COMMISSION
DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to
form and legality.

Attorney General

By: _____
(Deputy Attorney General)

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)

Document/Fiscal Note No. 31-4

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. Budin
Michael A. Budin
Chief Counsel, State Employees' Retirement System

2/17/06
Date of Approval

APPROVED FOR FORM
AND LEGALITY

FEB 28 2006

David J. DeVries
EXECUTIVE DEPUTY GENERAL COUNSEL
DAVID J. DEVRIES

State Employees' Retirement System

4 Pa. Code, Section 243.8

Eric Henry, Executive Director

**Notice of Final Rulemaking
State Employees' Retirement Board
State Employees' Retirement System
(4 Pa. Code Chapter 243)
(Membership, Credited Service, and Eligibility for Benefits)**

Preamble

The State Employees' Retirement Board ("Board") is submitting this final-form rulemaking under 4 Pa. Code, Chapter 243 (relating to preliminary provisions). The amendment deletes the regulation found at 4 Pa. Code § 243.8. This regulation is no longer needed, as it has been outmoded by changes in the benefit structure of the State Employees' Retirement System.

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, P.O. Box 1147, Harrisburg, PA 17108-1147, (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 of Section 5902(h) of the State Employees' Retirement Code, 71 Pa.C.S. Section 5101, *et seq.*

D. Background and Purpose

The regulation lists the classes of service closed to new members as of March 1, 1974. Before that date, the State Employees' Retirement Code, 71 Pa. C.S. § 5101 *et seq.* ("Retirement Code") contained various benefit formulas that 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.

By repealing the regulation, SERS desires to remove a regulation from the Pennsylvania Code that has been rendered obsolete and irrelevant due to subsequent changes to the agency's enabling legislation. More than thirty years have passed since the classes of membership referenced in the regulation were closed to new members; therefore, there are few, if any, Commonwealth employees subject to the regulation.

E. Benefits, Costs and Compliance

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

Benefits

This final-form rulemaking benefits 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 August 18, 2005 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.

On November 2, 2005, IRRC suggested that the Board retain both subsections of this regulation because there are still active members of SERS who have service credit in Classes C, D-3, and E-2. After thoughtful consideration of IRRC's comment, the Retirement Board respectfully has decided not to adopt the IRRC's suggestion.

The Retirement Board acknowledges that each of the categories listed above contains active members of SERS who are still employed and making contributions to the Retirement System. However, a full listing of classes of service together with their respective benefit multipliers is contained in the State Employees' Retirement Code at 71 Pa. C.S. § 5102. Additionally, changes in both statutory and case law since the original promulgation of this regulation have rendered this regulation obsolete. As currently promulgated, the regulation presents an inaccurate description of SERS' benefit structure and therefore should be deleted.

Under section 5.1(d) of the Regulatory Review Act (71 P.S. § 745.5a(d)), this final-form regulation was deemed approved by the House State Government Committee on [DATE] and deemed approved by the Senate Finance Committee on [DATE]. Under section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)), the final-form rulemaking was approved by IRRC effective [DATE].

H. Public Comments

The Board has received no public comments.

I. Findings

The Board finds that:

(1) Public notice of intention to amend the regulations herein was given under 1 Pa. Code § 7.1 (relating to notice of proposed rulemaking required) by publication at 35 Pa. B. 4922.

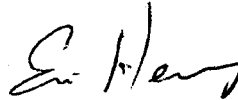
(2) The amendments to the rules and procedures herein are necessary and appropriate for the administration of the code.

J. Order

The Board, acting under the State Employees' Retirement Code and the Commonwealth Documents Law, including particularly those sections specified in the several authority sections herein specified with respect to each provision of the rules and procedures of SERS modified by this order, orders:

- (a) The regulations for the Board, 4 Pa. Code Chapter 243 are amended by deleting Section 243.8.
- (b) The amendments shall be submitted to the Office of Attorney General for approval as to legality as required by law.
- (c) The Secretary of the Board shall certify this order and 35 Pa. B. 4922 and deposit them with the Legislative Reference Bureau as required by law.
- (d) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

BY:



Eric Henry, *Secretary*
State Employees' Retirement Board

Annex A
TITLE 4. ADMINISTRATION
PART X. STATE EMPLOYEES' RETIREMENT BOARD
CHAPTER 243. MEMBERSHIP, CREDITED SERVICE,
AND ELIGIBILITY FOR BENEFITS

4 Pa. Code § 243.8 (2006)

Draft Amendment to Regulation

(Note: Additions to existing language are noted by bold underscoring, and capital letters indicate language added after the proposed stage; deletions are noted by bold brackets, and strikeout type indicates deletions made after the proposed stage.)

[§ 243.8. Classes of service.

(a) Classes of service, other than Class A, remaining open to members who were in such classes on March 1, 1974, are as follows:

(1) *Class B.* Those employes who chose to remain in that class, which was closed to new members as of May 18, 1937. The contribution rates and benefits are at a basic rate of 62.5% of Class A rates and benefits.

(2) *Class C.* Officers and employes of the Pennsylvania State Police and enforcement officers of the Pennsylvania Liquor Control Board.

(3) *Class D, D-1, D-2 and D-3.* Members of the General Assembly eligible for benefits for legislative service under these classes.

(4) *Class E and E-1.* Judges eligible for benefits under Classes E and E-1.

(5) *Class E-2.* Justices of the Peace paid by the Commonwealth.

(b) Classes set forth in subsection (a) are closed to new members as of March 1, 1974. Members continuing their membership in the classes listed in subsection (a) are eligible to continue therein until retirement or death; however, if a member discontinues service and subsequently returns to State service, the subsequent service shall be credited as Class A service.]

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

I.D. NUMBER: 31-004

SUBJECT: Membership, Credited Service & Eligibility for Benefits: Repeal of Regulation Pertaining to Classes of Service

AGENCY: STATE EMPLOYEES' RETIREMENT SYSTEM

TYPE OF REGULATION

- 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

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 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
3/9/06	<i>Marianne Spangore</i>	HOUSE COMMITTEE ON STATE GOVERNMENT
3/9/06	<i>Eileen Guck</i>	
3/6/06	<i>[Signature]</i>	SENATE COMMITTEE ON FINANCE
3.9.06	<i>[Signature]</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
3/9/06	<i>Ray F. Hoff</i>	ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

March 1, 2006