

# Regulatory Analysis Form

This space for use by IRRC

(1) Agency

State Employees' Retirement System

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

# 31-4

IRRC Number: 2491

(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. 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.

(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 regulation. The repeal 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.

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.)

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 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.

## 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.

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

(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.

**Regulatory Analysis Form**

(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.

## 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 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 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 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)

DO NOT WRITE IN THIS SPACE

# 2491

Copy below is hereby approved as to  
form and legality.

Attorney General

By: *Amy M. Elliott*  
(Deputy Attorney General)

AUG 12 2005

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)

# 31-4

Document/Fiscal Note No.

Date of Adoption: \_\_\_\_\_

By: *Eric Henry*  
Eric Henry

Title: Executive Director

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

By: *[Signature]*  
Michael A. Budin  
Chief Counsel, State Employees' Retirement System

6/21/05  
Date of Approval

**APPROVED FOR FORM  
AND LEGALITY**

**JUL 25 2005**

*[Signature]*  
**EXECUTIVE DEPUTY GENERAL COUNSEL**

State Employees' Retirement System

4 Pa. Code, Section 243.8

Eric Henry, Executive Director

**Notice of Proposed 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") proposes to amend 4 Pa. Code, Chapter 243 by deleting the regulation pertaining to the classes of service that appears at 4 Pa. Code Section 243.8.

**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**

The regulation proposed to be deleted is unnecessary, outmoded, and irrelevant to the current provisions of the Retirement Code. Repealing this regulation will avoid confusion on the part of members of SERS and the agency's personnel, and also 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.

**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, 5<sup>th</sup> 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](mailto: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:

A handwritten signature in black ink, appearing to read "N. Maiale", is written over a light blue horizontal line.

NICHOLAS J. MAIALE  
Chairman  
State Employees' Retirement Board

Annex "A"

4 Pa. Code §243.8

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

~~§ 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.~~

# Repeal Analysis Form

**(1) Agency**

State Employees' Retirement System

This space to use by IRRC

IRRC Number:

Date received:

**(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 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 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. removed the various class of service multipliers and substituted a Class "A" retirement benefit formula.

## 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 types of service credit earned in the State Employees' Retirement System and closed the classes of service referenced in the regulation. The classes of service outlined in the regulation have been closed to new members since March 1, 1974 and as such there are few, if any, persons still employed by the Commonwealth who are subject to the regulation. SERS desires to repeal the regulation in order avoid confusion on the part of SERS' members 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.

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.


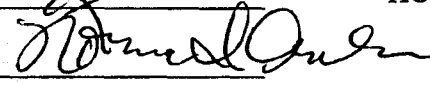
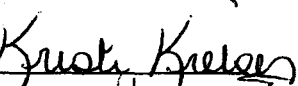
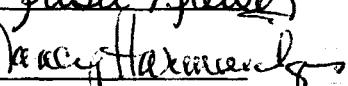


**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

**I.D. NUMBER:** 31-004  
**SUBJECT:** Membership, Credited Service, & Eligibility for Benefits: Repeal of Regulation  
 Pertaining to Classes of Service  
**AGENCY:** STATE EMPLOYEES' RETIREMENT SYSTEM # 2491

**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

**FILING OF REGULATION**

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

August 16, 2005