

# Regulatory Analysis Form

This space for use by IRRC

(1) Agency

State Employees' Retirement System

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

# 31-5

IRRC Number:

2492

(3) Short Title

Repeal of Regulation dealing with inspection of State Employees' Retirement Board meeting minutes

(4) PA Code Cite

4 Pa. Code Section 249.2(a)

(5) Agency Contact & 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 regulation states that the minutes of the meetings of the State Employees' Retirement Board will be available for inspection by the public at the Board's office during normal working hours and that no other Board records will be available for public inspection.

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

71 Pa. C.S. Section 5902 (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 regulation provides that the minutes of the Retirement Board's meeting will be the only records made available for public inspection. Repealing this regulation will remove from the books a regulation that directly conflicts with the Commonwealth's Right-To-Know Law, 65 P. S. §§ 66.1 *et seq.*, as amended.

(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 interested public at large will benefit from the repeal of the regulation. The repeal will avoid confusion by removing a regulation contrary to the provisions of the Commonwealth's Right-To-Know Law, 65 P. S. §§ 66.1 *et seq.*, as amended.

### 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 is not writing a new regulation. By proposing this repeal, SERS desires to eliminate an unnecessary and outmoded regulation.

SERS active members (approximately 110,000 people, 80,000 under the Governor's jurisdiction) and the interested public at large 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 by removing a regulation contrary to the provisions of the Commonwealth's Right-To-Know Law, 65 P. S. §§ 66.1 *et seq.*, as amended.

## 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 is not writing a new regulation. By proposing this repeal, SERS desires to eliminate an unnecessary and outmoded regulation. There are no costs associated with the implementation of this repeal.

## 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	*					
Total Savings	*					
<b>COSTS:</b>						
Regulated Community	*					
Local Government	*					
State Government	*					
Total Costs	*					
<b>REVENUE LOSSES:</b>						
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.

### Regulatory Analysis Form

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

There are none.

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.

No such information exists.

(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 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. SERS is seeking to repeal a regulation, not promulgate a new regulation.

### 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 the fiscal integrity of the system is not affected.

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

The regulatory repeal will only affect SERS.

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

SERS has not held public hearings or informational meetings, but did 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?

SERS anticipates that the repeal of the regulation will 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

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. 31-5

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**

**MAR 09 2006**

Eric Henry  
EXECUTIVE DEPUTY GENERAL COUNSEL

State Employees' Retirement System

4 Pa. Code, Section 249.2(a)

Eric Henry, Executive Director

**Notice of Final Rulemaking  
State Employees' Retirement Board  
State Employees' Retirement System  
(4 Pa. Code Chapter 249)  
(Administration, Funds, Accounts, General Provisions)**

**Preamble**

The State Employees' Retirement Board (Board) proposes to amend 4 Pa. Code, Chapter 249 (relating to the administrative duties of the Board) by deleting the regulation dealing with the inspection of minutes of the Board's meetings of the Board from Section 249.2. This regulation has been rendered obsolete.

**A. Effective Date**

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

**B. Contact Person**

For further information contact 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 of Section 5902(h) of the State Employees' Retirement Code, 71 Pa.C.S. Section 5101 *et seq.*

**D. Background and Purpose**

The Board is responsible for implementing the retirement benefit program outlined in the State Employees' Retirement Code. The regulation at 4 Pa. Code Section 249.2 provides that the minutes of the Retirement Board's meetings will be available for public inspection at the Board's offices during normal working hours. The regulation further provides that the minutes will be the only records made available for public inspection. Repealing this regulation will remove from the books a regulation that directly conflicts with the Commonwealth's Right-To-Know Law. The purpose of this proposed repeal is to remove an outmoded and unenforceable regulation that directly conflicts with the Commonwealth's Right-To-Know Law.

**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 additional costs to the Commonwealth, its citizens or state employees associated with this proposal.

**Compliance Costs**

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

**F. Sunset Review**

Not applicable.

**G. Regulatory Review**

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on August 25, 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 Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation". A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed amendment, 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 10, 2005, IRRC advised the Board that it had no objections, comments, or recommendations to offer on the proposed regulation.

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 deemed 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. 5013.

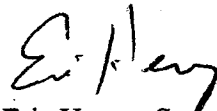
(2) The amendments to the rules and procedures herein are necessary and appropriate for the administration of the code.

**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 amending section 243.3, and the regulations for the Board, 4 Pa. Code Chapter 249 are amended by amending section 249.58.
- (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. 5013 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 249. ADMINISTRATION, FUNDS, ACCOUNTS,**  
**GENERAL PROVISIONS**

**4 Pa. Code § 249.2 (2006)**

**Draft Amendment to Regulation**

(Note: There are no additions, and deletions are noted by bold brackets. There have been no additions or deletions since the proposed stage.)

**§ 249.2. Administrative duties of the Board.**

[(a) The minutes of all the Board meetings will be available for public inspection at the offices of the Board during normal working hours. No other records of the Board will be available for inspection by the public.]

[(b)] The Board will furnish, to the extent required by Federal law, information to members concerning those provisions of the Internal Revenue Code of 1954, which may impose a tax liability to a member or beneficiary. The sole responsibility for such tax liability, including tax computations, is imposed upon the member and not the Board and the member should consult tax counsel for advice in these matters since the Board is not qualified or required to offer same.



ERIC HENRY  
Executive Director

Commonwealth of Pennsylvania  
**State Employees' Retirement System**  
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Harrisburg, Pennsylvania 17101-1716  
[www.sers.state.pa.us](http://www.sers.state.pa.us)  
Executive Office  
Telephone: 717-787-9657  
FAX: 717-783-7300



March 14, 2006

The Honorable Babette Josephs  
Minority Chairwoman of the House State Government Committee  
300 Main Capitol  
Harrisburg, PA 17120-2020

Re: Title 4 – Administration  
Part X – State Employees' Retirement Board  
4 Pa. Code Section 249-Administration, Funds, Accounts, General  
Provisions, Section 249.2  
I.D. Number: 31-5

Dear Representative Josephs:

Attached for review by your committee, pursuant to the Regulatory Review Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. sections 745.1-745.15) as amended, is a copy of the above-referenced final regulation of the State Employees' Retirement Board.

The State Employees' Retirement System will provide your committee with any assistance you require to facilitate a thorough review of this regulation.

Respectfully submitted,

Eric Henry, *Secretary*  
State Employees' Retirement Board

cc: Michael A. Budin, Chief Legal Counsel  
Pamela Lubold, Office of General Counsel  
Nicholas Maiale, Chairman



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March 14, 2006

The Honorable Paul Clymer  
Majority Chairman of the House State Government Committee  
PA House of Representatives  
216 Ryan Office Building  
Harrisburg, PA 17120-2020

Re: Title 4 – Administration  
Part X – State Employees' Retirement Board  
4 Pa. Code Section 249-Administration, Funds, Accounts, General  
Provisions, Section 249.2  
I.D. Number: 31-5

Dear Representative Clymer:

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Respectfully submitted,

Eric Henry, *Secretary*  
State Employees' Retirement Board

cc: Michael A. Budin, Chief Legal Counsel  
Pamela Lubold, Office of General Counsel  
Nicholas Maiale, Chairman





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March 14, 2006

The Honorable Jane Earl  
Majority Chairwoman of the Senate Finance Committee  
PA Senate  
351 Capitol Building  
Senate Box 203049  
Harrisburg, PA 17120-3049

Re: Title 4 – Administration  
Part X – State Employees' Retirement Board  
4 Pa. Code Section 249-Administration, Funds, Accounts, General  
Provisions, Section 249.2  
I.D. Number: 31-5

Dear Senator Earl:

Attached for review by your committee, pursuant to the Regulatory Review Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. sections 745.1-745.15) as amended, is a copy of the above-referenced final-form regulation of the State Employees' Retirement Board.

The State Employees' Retirement System will provide your committee with any assistance you require to facilitate a thorough review of this regulation.

Respectfully submitted,

Eric Henry, *Secretary*  
State Employees' Retirement Board

cc: Michael A. Budin, Chief Legal Counsel  
Pamela Lubold, Office of General Counsel  
Nicholas Maiale, Chairman



ERIC HENRY  
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March 14, 2006

The Honorable John Wozniak  
Minority Chairman of the Senate Finance Committee  
PA Senate  
184 Capitol Building  
Senate Box 203035  
Harrisburg, PA 17120-3035

Re: Title 4 – Administration  
Part X – State Employees' Retirement Board  
4 Pa. Code Section 249-Administration, Funds, Accounts, General  
Provisions, Section 249.2  
I.D. Number: 31-5

Dear Senator Wozniak:

Attached for review by your committee, pursuant to the Regulatory Review Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. sections 745.1-745.15) as amended, is a copy of the above-referenced final regulation of the State Employees' Retirement Board.

The State Employees' Retirement System will provide your committee with any assistance you require to facilitate a thorough review of this regulation.

Respectfully submitted,

Eric Henry, *Secretary*  
State Employees' Retirement Board

cc: Michael A. Budin, Chief Legal Counsel  
Pamela Lubold, Office of General Counsel  
Nicholas Maiale, Chairman

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

**I.D. NUMBER:** 31-5

**SUBJECT:** Administration, Funds, Accounts, General Provisions: Repeal of Regulation Dealing  
with State Employees' Retirement Board Meeting Minutes

**AGENCY:** STATE EMPLOYEES' RETIREMENT SYSTEM

**TYPE OF REGULATION**

Proposed Regulation

☒ Final Regulation

Final Regulation with Notice of Proposed Rulemaking Omitted

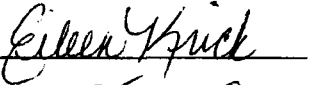
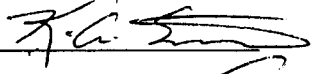
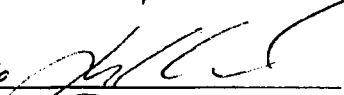

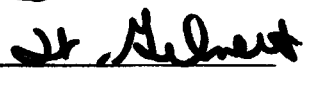
120-day Emergency Certification of the Attorney General

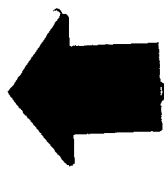
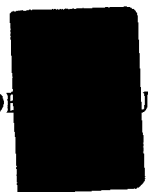
120-day Emergency Certification of the Governor

Delivery of Tolled Regulation

a. With Revisions      b. Without Revisions

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
3/14/06		HOUSE COMMITTEE ON STATE GOVERNMENT
3/14/06		
3/14/06		SENATE COMMITTEE ON FINANCE
3-14-06		
3/14/06		REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

March 9, 2006