

Regulatory Approval Form		This space for use by IRRC	
(1) Agency State Employees' Retirement System		IRRC Number: 2492	
(2) I.D. Number (Governor's Office Use) #31-5			
(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 Contacts & Telephone Numbers Primary Contact: Robert Gentzel, 717-787-9657 Secondary Contact: Salvatore Darigo, 717-783-7317	
(6) Type of Rulemaking (Check One) <input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted		(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> 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)			

(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.

(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.

(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
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.

(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.

(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 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.

(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: *Angela Elliott*
(Deputy Attorney General)

AUG 18 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)

31-5

Document/Fiscal Note No.

Date of Adoption:

By: *Eric Henry*
Eric Henry

Title: Executive Director

2492

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

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 249.2(a)

Eric Henry, Executive Director

**Notice of Proposed 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 meetings of the Board from Section 249.2.

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 proposed rulemaking would benefit SERS and its members. The regulation proposed to be repealed is unnecessary, outmoded, and unenforceable. Repealing this regulation will avoid confusion on the part of members of SERS and the agency's personnel.

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.

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:

A handwritten signature in black ink, appearing to read 'N. Maiale', is positioned above the printed name.

NICHOLAS J. MAIALE
Chairman
State Employees' Retirement Board

Annex "A"

4 Pa. Code §249.2

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

§ 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.

Repeal Analysis Form

(1) Agency

State Employees' Retirement System

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

31-5

(3) Short Title

Repeal of 4 Pa. Code 249.2(a) pertaining to minutes of meetings of the State Employees' Retirement Board

(4) PA Code Cite

4 Pa. Code Section 249.2(a)

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

The regulation is proposed for repeal because it conflicts with the Pennsylvania Right-To-Know Law, 65 P. S. §§ 66.1 *et seq.*, as amended ("RTKL").

Repeal Analysis Form

(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 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.

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

I.D. NUMBER: 31-005

SUBJECT: Administration, Funds, Accounts, General Provisions - Repeal of Regulation Portion
Pertaining to Minutes of Meetings of the State Employees' Retirement Board

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

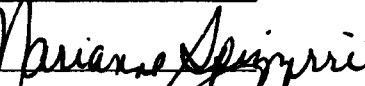
DESIGNATION

8/25/05



HOUSE COMMITTEE ON STATE GOVERNMENT

8/25/05



8/25/05

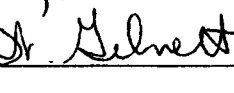


SENATE COMMITTEE ON FINANCE

8-25



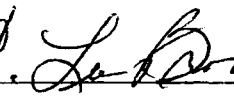
8/25/05



INDEPENDENT REGULATORY REVIEW COMMISSION

ATTORNEY GENERAL (for Final Omitted only)

8/25/05



LEGISLATIVE REFERENCE BUREAU (for Proposed only)

August 23, 2005