

Regulatory Analysis Form

This space for use by IRRC

(1) Agency

State Employees' Retirement System

Rec'd
8/11/06

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

31-006

IRRC Number:

2558

(3) Short Title

Addition of Regulation pertaining to Appeal Periods

(4) PA Code Cite

4 Pa. Code Sections 250.1; 250.2

(5) Agency Contacts & Telephone Numbers

Primary Contact: Robert Gentzel, 717-787-9657

Secondary Contact: Paul M. Stahlnecker, Esq., 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 would formalize current State Employees' Retirement Board (Board) practice of allowing for a 30-day appeal period for parties aggrieved by an administrative decision of the State Employees' Retirement System (SERS).

(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 expands the appeal period for parties aggrieved by a SERS administrative decision.

(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 members, annuitants and other interested parties aggrieved by a SERS administrative decision.

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.)

SERS, the Board, SERS members, annuitants and other interested parties aggrieved by a SERS administrative decision.

(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 has not sought the input of the general public because this regulation has no affect on the general public.

(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.

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.

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 addition of this procedural regulation. The addition of this regulation 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 addition of this procedural regulation will only formalize current Board practice in granting appeal rights.

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.

The continuation of current Board practice in granting appeal rights without adding the proposed regulation would result in no additional costs. However, it is considered desirable to amend Section 250.1 and add the proposed regulation to avoid potential claims (e.g., by one of two contesting parties) that a shorter appeal period applies.

(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?

N/A

(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 regulation 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 regulation.

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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 addition 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 that the proposed regulation will go into effect upon publication in the Pennsylvania Bulletin as a final rulemaking.

(31) Provide the schedule for continual review of the regulation.

There is no schedule for continual review of this procedural regulation.

Rec'd 8/11/06

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

2558

Copy below is hereby approved as to form and legality. Attorney General

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

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

BY: Amey M. Elliott
(DEPUTY ATTORNEY GENERAL)

State Employees' Retirement System
(AGENCY)

BY: [Signature]
Michael A. Budin
Chief Counsel, SERS

JUN 16 2006

DOCUMENT/FISCAL NOTE NO. 31-006

DATE OF APPROVAL

DATE OF ADOPTION: _____

5/11/06
DATE OF APPROVAL

BY: [Signature]
Eric Henry

APPROVED FOR FORM AND LEGALITY
[Signature]

TITLE: Executive Director

Andrew C. Clark
Deputy General Counsel

Check if applicable. Copy not approved. Objections attached.

Check if applicable. No Attorney General approval or objection within 30 days after submission.

MAY 31 2006

Proposed Rulemaking
COMMONWEALTH OF PENNSYLVANIA

4 PA. CODE, CH. 250
Special Rules of Administrative Practice and Procedure

**Notice of Proposed Rulemaking
State Employees' Retirement Board
State Employees' Retirement System
(4 Pa. Code Chapter 250)**

Preamble

The State Employees' Retirement Board ("Board") proposes to amend 4 *Pa. Code*, Chapter 250 by amending the regulation pertaining to the applicability of the general rules which appears at Section 250.1 and adding Section 250.2 as a new regulation pertaining to the appeal period from decisions of administrative staff.

A. Effective Date

The proposed amendments 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 Paul M. Stahlnecker, Counsel, State Employees' Retirement System, 30 North Third Street, Harrisburg, PA 17101, (717) 783-7317. 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 proposed regulation will formalize current Board practice of granting a 30-day appeal period from decisions of administrative staff made under authority delegated by the Board. The General Rules of Administrative Practice and Procedure, which have been adopted by the Board pursuant to 4 Pa. Code Section 250.1, only provide for a 10-day appeal period. The regulation is intended to alleviate any confusion and prevent possible disputes with regard to the granting of the additional 20-day period in which an aggrieved party may file an appeal.

E. Benefits, Costs and Compliance

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

Benefits

The regulation is intended to alleviate any confusion and prevent possible disputes with regard to the granting of the additional 20-day period in which an aggrieved party may file an appeal.

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 8/11/06 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.



NICHOLAS J. MAIALE
Chairman
State Employees' Retirement Board

ANNEX "A"

(Deletions appear in brackets; new language is underscored)

4 Pa. Code Chapter 250

§ 250.1. Applicability of general rules

Under 1 Pa. Code §31.1 (relating to scope of part), 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) is applicable to the activities of and proceedings before the Board[.], except as provided in this chapter.

§ 250.2. Appeal period from decisions of administrative staff.

Decisions of administrative staff under authority delegated by the Board may be appealed to the Board by filing a formal appeal within 30 days after service of notice of the administrative decision. Extensions of this appeal period may be requested for good cause and will be granted at the discretion of the Board Secretary.



ERIC HENRY
Executive Director

Commonwealth of Pennsylvania
State Employees' Retirement System

30 North Third Street, Suite 150
Harrisburg, Pennsylvania 17101-1716
www.sers.state.pa.us
Executive Office
Telephone: 717-787-9657
FAX: 717-783-7300



August 11, 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 Chapter 250-Special Rules of Administrative Practice
and Procedure, Sections 250.1 and 250.2
I.D. Number: 31-006

Dear Senator Wozniak:

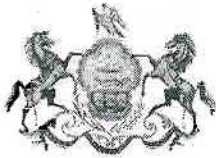
Attached for review by your committee, pursuant to the Regulatory Review Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. sections 745.1-745.15) as amended, is a copy of the above-referenced proposed rulemaking and accompanying documents from the State Employees' Retirement Board.

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
Glenda Davidson, Office of General Counsel
Nicholas Maiale, Chairman



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Executive Director

Commonwealth of Pennsylvania
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August 11, 2006

The Honorable Jane Earll
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 Chapter 250-Special Rules of Administrative Practice
and Procedure, Sections 250.1 and 250.2
I.D. Number: 31-006

Dear Senator Earll:

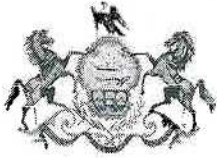
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State Employees' Retirement Board

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



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August 11, 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 Chapter 250-Special Rules of Administrative Practice
and Procedure, Sections 250.1 and 250.2
I.D. Number: 31-006

Dear Representative Clymer:

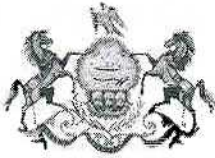
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Respectfully submitted,

Eric Henry, *Secretary*
State Employees' Retirement Board

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



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August 11, 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 Chapter 250-Special Rules of Administrative Practice
and Procedure, Sections 250.1 and 250.2
I.D. Number: 31-006

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 proposed rulemaking and accompanying documents from the State Employees' Retirement Board.

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Respectfully submitted,

Eric Henry, *Secretary*
State Employees' Retirement Board

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

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT

Rec'd 8/11/06

I.D. NUMBER: 31-006
SUBJECT: SPECIAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE
AGENCY: STATE EMPLOYEES' RETIREMENT SYSTEM

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

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
<u>8/11/06</u>	<u>J. Matthew Hullett</u>	HOUSE COMMITTEE ON STATE GOVERNMENT
<u>8/11/06</u>	<u>Eileen Krich</u>	
<u>8/11/06</u>	<u>[Signature]</u>	SENATE COMMITTEE ON FINANCE
<u>8/11/06</u>	<u>[Signature]</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
<u>8/11/06</u>	<u>[Signature]</u>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)