

Regulatory Analysis Form

(Completed by Promulgating Agency)



IRRC

Independent Regulatory Review Commission

SECTION I: PROFILE

(1) Agency:

State Employees' Retirement System

(2) Agency Number:

Identification Number: 31-06

IRRC Number: 2622

INDEPENDENT REGULATORY
REVIEW COMMISSION

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(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 (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact: Robert Gentzel, 717-787-9657; 30 N. 3rd Street Suite 150, Harrisburg, PA 17101-1716;
Fax# 717-783-7300; rgentzel@state.pa.us

Secondary Contact: Paul M. Stahlnecker, Esq., 717-783-7317; 30 N. 3rd Street Suite 150, Harrisburg, PA
17101-1716; Fax# 717-787-5751; pstahlnecker@state.pa.us

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation
- Emergency Certification Regulation;
 - Certification by the Governor
 - Certification by the Attorney General

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(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

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) Include a schedule for review of the regulation including:

- | | |
|---|--------------------------------------|
| A. The date by which the agency must receive public comments: | 30 days from initial publication |
| B. The date or dates on which public meetings or hearings will be held: | None |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | Upon approval |
| D. The expected effective date of the final-form regulation: | Upon final publication before 9/4/09 |
| E. The date by which compliance with the final-form regulation will be required: | Upon final publication before 9/4/09 |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u> N/A </u> |

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

None.

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SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

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

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The regulation is needed to codify SERS current practice of granting 30 days to appeal from the decision of the retirement system. The regulation has the potential to affect any member of SERS aggrieved by an administrative decision of SERS, as well as any other party aggrieved by a SERS decision.

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(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

Not applicable.

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

No one would be adversely affected.

(16) 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.

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SECTION III: COST AND IMPACT ANALYSIS

(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. Explain how the dollar estimates were derived.

No cost is anticipated. It is impossible to estimate any savings, but since it is only a procedural regulation, savings would be negligible.

(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. Explain how the dollar estimates were derived.

The regulation would have no effect on local governments.

(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. Explain how the dollar estimates were derived.

No cost is anticipated. It is impossible to estimate any savings, but since it is only a procedural regulation, savings would be negligible.

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(20) In the table below, provide an estimate of the fiscal savings and costs 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:	\$ N/A	\$	\$	\$	\$	\$
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) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
N/A				
*				
*				
*				
*				
*				

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(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

*There is no cost/savings analysis associated with this procedural regulation. The addition of this regulation will not add any costs and any savings would be negligible.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

SERS received no comments on this proposed final regulation. Other than publication in the PA Bulletin, SERS had no communications with outside groups.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

There are none.

(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 regulations.

None.

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(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

This procedural regulation will have no impact on Pennsylvania's ability to compete with other states.

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

No.

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

N/A

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(28) 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

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FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

INDEPENDENT REGULATORY
REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

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: _____
(DEPUTY ATTORNEY GENERAL)

State Employees' Retirement System
(AGENCY)

BY: _____
Andrew C. Clark
Deputy General Counsel

DOCUMENT/FISCAL NOTE NO. 31-006

MAY 21 2009

DATE OF APPROVAL

Sam Yun
Acting Chief Counsel, SERS

DATE OF APPROVAL

DATE OF ADOPTION: _____

11-25-08
DATE OF APPROVAL

BY:
Leonard Knepp

TITLE: Executive Director

[] Check if applicable
Copy not approved.
Objections attached.

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

Notice of Final Rulemaking
COMMONWEALTH OF PENNSYLVANIA

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

This amendment to 4 Pa. Code §§ 250.1 and 250.2 formalizes Board practice of allowing for a 30-day appeal period for parties aggrieved by an administrative decision of the State Employees' Retirement System (SERS).

**Notice of Final 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

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

C. Statutory Authority

This final 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. Summary of the Final-Form Rulemaking

This final rulemaking formalizes current Board practice of allowing for a 30-day appeal period for parties aggrieved by an administrative decision of the State Employees' Retirement System (SERS).

E. Summary of Comments and Responses

No comments were received from the Committees, the public or from IRRC.

F. 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 final rulemaking.

Compliance Costs

The final rulemaking is not expected to impose any additional compliance costs on state employees.

G. Sunset Review

Not applicable.

H. Regulatory Review

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on July 24, 2007 the Board submitted a copy of the proposed rulemaking, published at 38 *Pa.B.* 4209, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House State Government Committee and the Senate Finance Committee for review and comment.

Under Section 5(c) of the Regulatory Review Act, the Board is required to provide IRRC and the Committees with copies of the comments received during the public comment period, as well as other documents requested. SERS received no comments with regard to this final rulemaking.

Under Section 5.1(j.2) of the Regulatory Review Act, on _____, 200_, this final-form regulation was (deemed) approved by the House and Senate Committees. Under Section 5.1(e) of the Regulatory Review Act, IRRC met on _____, 200_, and approved the final-form regulation.

I. Findings

The Board finds that:

- (1) Public notice of the intention to amend this regulation was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240)(45 P.S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required) by publication at 37 *Pa.B.* 4209.
- (2) The final-form rulemaking is necessary and appropriate for the administration of the Retirement Code.

J. Order

The Board, acting under 71 Pa. C.S. §5902(h) of the Commonwealth Documents Law, order that:

- (a) The regulations of the Board, 4 Pa. Code Chapter 250, are amended to read as set forth in Annex A.
- (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 Annex A 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:

LEONARD KNEPP, Secretary
State Employees' Retirement Board

ANNEX A
TITLE 4. ADMINISTRATION
PART X. STATEEMPLOYEES' RETIREMNT BOARD
CHAPTER 250. SPECIAL RULES OF ADMINISTRATIVE
PRACTICE AND PROCEDURE

(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.

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

I.D. NUMBER: 31-6
 SUBJECT: SPECIAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE
 AGENCY: STATE EMPLOYEES' RETIREMENT SYSTEM

TYPE OF REGULATION

- Proposed Regulation
- X 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
6-8-09	<i>[Signature]</i>	HOUSE COMMITTEE ON STATE GOVERNMENT
6/8/09	<i>[Signature]</i>	MAJORITY CHAIRMAN <u>Babette Josephs</u>
6/8/09	<i>[Signature]</i>	SENATE COMMITTEE ON FINANCE
6/8/09	<i>[Signature]</i>	MAJORITY CHAIRMAN <u>Patrick M. Browne</u>
6/8/09	<i>[Signature]</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL (for Final Omitted only)
_____	_____	LEGISLATIVE REFERENCE BUREAU (for Proposed only)