

# Regulatory Analysis Form

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

IRRC Number:

2622

(1) Agency

State Employees' Retirement System

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

31-006

(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)

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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?

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.

## 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.

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 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.

## 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 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.



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

INDEPENDENT REGULATORY  
REVIEW COMMISSION

\* 2621

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: Angela M. Elliott  
(DEPUTY ATTORNEY GENERAL)

State Employees' Retirement System  
(AGENCY)

BY: Michael X. Budin  
Chief Counsel, SERS

JUL 13 2007

DATE OF APPROVAL

DOCUMENT/FISCAL NOTE NO. 31-006

DATE OF ADOPTION: \_\_\_\_\_

BY: Eric Henry  
Eric Henry

TITLE: Executive Director

5/16/07

DATE OF APPROVAL

APPROVED FOR FORM AND LEGALITY

JUN 21 2007

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.

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 7/24/07 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.

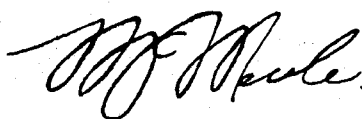
Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed amendments, it will notify the Board within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion 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.



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.

(a) 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.

(b) This section supersedes 1 Pa. Code § 35.20.

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

I.D. NUMBER: 31-006  
 SUBJECT: Special Rules of Administrative Practice and Procedure  
 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

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**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
7/24/07	<i>Mariano Lopez</i>	HOUSE COMMITTEE ON STATE GOVERNMENT
	<i>Patricia L. Hill</i>	7-24-07
7/24	<i>[Signature]</i>	SENATE COMMITTEE ON FINANCE
7/24	<i>[Signature]</i>	
7/24/07	<i>Kathy Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
7/24	<i>Mayra Garas</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)