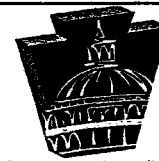


# Regulatory Analysis Form

(Completed by Promulgating Agency)



# IRRC

Independent Regulatory Review Commission

## SECTION I: PROFILE

(1) Agency:

State Employees' Retirement System

(2) Agency Number: 31

Identification Number: 31-11

IRRC Number: 2668

(3) Short Title:

Rights and duties of employees and members

(4) PA Code Cite:

4 Pa. Code § 249.7

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

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

Secondary Contact: Jill S. Vecchio, Esq., 717-783-7317; 30 N.3<sup>rd</sup> Street Suite 150, Harrisburg, PA 17101-1716; Fax# 717-787-5751; jvecchio@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;

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REVIEW COMMISSION

## Regulatory Analysis Form

- ☐ Certification by the Governor  
☐ Certification by the Attorney General

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

This final-form rulemaking will amend 4 Pa. Code §249.7 by adding subsection (h). This additional subsection is being added to clarify that a nomination of beneficiary must be on a form supplied by the State Employees' Retirement Board. This clarification is being made in order to ensure that the State Employees' Retirement System ("SERS") can adequately identify persons named as beneficiaries on SERS members' retirement accounts.

(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             |
| E. The date by which compliance with the final-form regulation will be required:            | Immediately upon final publication |
| F. The date by which required permits, licenses or other approvals must be obtained:        | n/a                                |

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

## Regulatory Analysis Form

None.

### **SECTION II: STATEMENT OF NEED**

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

71 Pa. C.S. § 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 amendment to the regulation will assist members of SERS when completing a nomination of beneficiary form. This additional subsection is being added to clarify that a nomination of beneficiary must be on a form supplied by the State Employees' Retirement Board. This clarification is being made in order to ensure that the SERS can adequately identify persons named as beneficiaries on SERS members' retirement accounts.

## Regulatory Analysis Form

(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.

(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.

All members and their beneficiaries. This amendment will assist members in completing nomination of beneficiary forms. SERS membership currently exceeds 200,000.

## Regulatory Analysis Form

### **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.

The regulation could save significant litigation costs and delays stemming from disputes regarding whether a nomination of beneficiary form is valid when it is received by SERS.

(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.

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. Explain how the dollar estimates were derived.

The regulation could save significant litigation costs to the agency and its over 200,000 members and beneficiaries.

## Regulatory Analysis Form

(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.

	<b>Current FY Year</b>	<b>FY +1 Year</b>	<b>FY +2 Year</b>	<b>FY +3 Year</b>	<b>FY +4 Year</b>	<b>FY +5 Year</b>
<b>SAVINGS:</b>	\$ N/A	\$	\$	\$	\$	\$
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Savings</b>						
<b>COSTS:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Costs</b>						
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Revenue Losses</b>						

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

<b>Program</b>	<b>FY -3</b>	<b>FY -2</b>	<b>FY -1</b>	<b>Current FY</b>
N/A				

## Regulatory Analysis Form


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

N/A

(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 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 regulation. SERS will continue to distribute pamphlets, newsletters and other communications to educate its membership regarding member benefits.

(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.

N/A

## 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 regulations.

N/A

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

N/A

(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.

No such procedures or paperwork are required.



## Regulatory Analysis Form

(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.

Not applicable.

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FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

INDEPENDENT REGULATORY  
COMMISSION

(Pursuant to Commonwealth Documents Law)

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. 31-11

DATE OF APPROVAL

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

DEC 15 2009  
DATE OF APPROVAL

BY: Leonard Knepp  
Leonard Knepp

Executive Director

TITLE: \_\_\_\_\_

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

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

FINAL RULEMAKING  
STATE EMPLOYEES' RETIREMENT SYSTEM

RIGHTS AND DUTIES OF EMPLOYEES AND MEMBERS  
4 PA.CODE, CH. 249, SECTION 249.7

This final-form rulemaking will amend 4 Pa. Code §249.7 by adding subsection (h). This additional subsection is being added to clarify that a nomination of beneficiary must be on a form supplied by the Board. This clarification is being made in order to ensure that the State Employees' Retirement System ("SERS") can adequately identify persons named as beneficiaries on SERS members' retirement accounts.

**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 by adding a subsection to Section 249.7. This additional subsection is being added to clarify that a nomination of beneficiary must be on a form supplied by the Board.

**A. Effective Date**

The amendment will be effective 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, Suite 150, Harrisburg, PA 17101-1716, (717) 787-9657, or Jill S. Vecchio, Counsel, State Employees' Retirement System, 30 North Third Street, Suite 150, Harrisburg, PA 17101-1716, (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 ("Retirement Code"), 71 Pa.C.S. Sections 5101 *et seq.*

**D. Summary of the Final-Form Rulemaking**

This additional subsection is being added to clarify that a nomination of beneficiary must be on a form supplied by the Board. This clarification is being made in order to ensure that the State Employees' Retirement System ("SERS") can adequately identify persons named as beneficiaries on SERS members' retirement accounts.

**E. Summary of Comments and Responses**

No comments were received from the Committees or the public for the Board to consider in preparing this final-form regulation. One comment was received from IRRC. After receiving IRRC's comment and completing an internal review of the final-form regulation, the Board made additional changes to the final-form regulation, which are explained below.

*IRRC's Comment – Section 247.7. Death Benefits. – Clarity.*

The Board is adding Subsection (c) to provide additional guidance on what must be contained on the Board's nomination of beneficiary form. The new language does not create a binding requirement because all provisions include the word "should." The term "should" is nonregulatory language which indicates that the provisions are optional. It is inappropriate to include optional provisions in a regulation. If the Board wants the new language to be binding; the word "should" must be changed to "shall." If the new language is intended to be a recommendation and not a requirement, the Board should withdraw the regulation and place the language in a policy statement or guidance document.

*Response:*

After review of IRRC's comment regarding the clarity of subsection (c), it was determined that as originally drafted, the final-form regulation was too constricting on SERS members when filing a nomination of beneficiary form. It was not the intent to so tightly constrain the regulation as to not permit inadvertent errors that would act to invalidate entire beneficiary nomination forms. The new language is in accordance with the Board's original review of the purpose of this regulation, which is to state what needs to be on a SERS beneficiary form in order for it to be approved by SERS. Therefore, all language contained in the regulation has been removed and replaced with language that will not so tightly constrain SERS members in filing nominations of beneficiary forms with the Board. The new language is in accordance with Section 5907(e) of the State Employees' Retirement Code and acts to clarify for SERS members that a nomination of beneficiary must be in writing and on a form to be supplied by and filed with the Board.

*Additional Amendments:*

SERS, after review of the original final-form regulation, determined that a regulation such as this would be better located in Title 4, Chapter 249, Subchapter A, §249.7. 4 Pa. Code §249.7 discusses the rights and duties of employees and members of SERS. As such, a regulation that mandates that a nomination of beneficiary must be in writing and on a form to be supplied by and filed with the Board is better situated in 4 Pa. Code §249.7, rather than as previously suggested to be contained in 4 Pa. Code §247.7, which deals with death benefits.

Therefore, this final-form regulation has been amended so that upon passage, it will be included in 4 Pa. Code §249.7 (relating to the rights and duties of employees and members).

**F. Benefits, Costs and Compliance**

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

**Benefits**

The regulation is intended to alleviate confusion and prevent possible disputes with regard to proper naming of beneficiaries by members.

### **Costs**

There are no costs to the Commonwealth, its citizens or state employees associated with this proposal.

### **Compliance Costs**

The final-form regulation is not expected to impose any additional compliance costs.

### **G. Sunset Review**

Not applicable.

### **H. Regulatory Review**

Under Section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 18, 2008 the Board submitted a copy of the proposed rulemaking, published at 38 *Pa.B.* 613, 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. No comments from the Committees or the public were received. The Board received one comment from IRRC, as illustrated and discussed above.

Under section 5.1(j.2) of the Regulatory Review Act, on \_\_\_\_\_, 2010, 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 \_\_\_\_\_, 2010, and approved the final-form regulation.

### **I. Findings**

The Board finds that:

- (1) Public notice of 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 38 *Pa.B.* 613.
- (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) and the Commonwealth Documents Law, orders that:

- (a) The regulation of the Board, 4 Pa. Code Chapter 249, is 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:

A handwritten signature in cursive script, appearing to read "Leonard Knepp".

Leonard Knepp, 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 §249.7

(Note: New language is underscored. The strikethrough type indicates deletions made after proposed stage and the capitalized and bolded language indicates additions made after the proposed stage.)

~~§247.7. Death Benefits.~~

**§249.7. RIGHTS AND DUTIES OF EMPLOYEES AND MEMBERS**

\*\*\*

~~(e)~~ **(H) Beneficiary Nomination. EVERY MEMBER SHALL NOMINATE A BENEFICIARY AND, IF DESIRED, A CONTINGENT BENEFICIARY, IN WRITING ON A FORM TO BE SUPPLIED BY AND FILED WITH THE BOARD.**

~~(e) To be considered valid, any nomination of beneficiary form filed by a member after the effective date of this regulation should~~ **SHALL** ~~contain the following information, all of which should~~ **SHALL** ~~be current as of the date of the member's execution thereof:~~

~~(1) If a natural person is designated by the member as the member's beneficiary, included with that designation should~~ **SHALL** ~~be the name of the person along with the person's date of birth and address. (A designation solely by relationship is not a valid nomination.)~~

~~(2) If a trust is designated by the member as the member's beneficiary, included with that designation should~~ **SHALL** ~~be the name of the trust along with the name(s), of the trustee(s), the date the trust was established and the address(es) of the trustee(s).~~

(3) If the member's estate is designated by the member as the member's beneficiary, included with that designation should **SHALL** be the name(s) of the executor(s) of the estate and the address(es) of said executor(s).

(4) If a corporation, partnership, limited liability company, business trust, other association, governmental entity (other than the Commonwealth) or foundation is designated by the member as the member's beneficiary, included with that designation should **SHALL** be the full name of the corporation, partnership, limited liability company, business trust, other association, governmental entity or foundation along with the full name and address of the individual at such entity who should be contacted upon the death of the member.





Commonwealth Of Pennsylvania  
**State Employees' Retirement System**  
30 North Third Street, Suite 150  
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



January 14, 2010

The Honorable Babette Josephs  
Majority Chairwoman of the House State Government Committee  
PA House of Representatives  
300 Main Capitol Building  
Harrisburg, PA 17120-2182

Re: Title 4 – Administration  
Part X – State Employees' Retirement Board  
4 Pa. Code Chapter 249-Administration, Funds, Accounts, General  
Provisions, Section 249.7  
I.D. Number: 31-11

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 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,

Leonard Knepp, Secretary  
State Employees' Retirement Board

cc: Samuel Yun, Chief Counsel  
Glenda Davidson, Office of General Counsel  
Nicholas Maiale, Chairman



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TELEPHONE: 717-787-9657  
FAX: 717-783-7300



January 14, 2010

The Honorable Kerry A. Benninghoff  
Minority Chair of the House State Government Committee  
41B East Wing  
Harrisburg, PA 17120-2171

Re: Title 4 – Administration  
Part X – State Employees' Retirement Board  
4 Pa. Code Chapter 249-Administration, Funds, Accounts, General  
Provisions, Section 249.7  
I.D. Number: 31-11

Dear Representative Benninghoff:

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 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,

Leonard Knepp, *Secretary*  
State Employees' Retirement Board

cc: Samuel Yun, Chief Counsel  
Glenda Davidson, Office of General Counsel  
Nicholas Maiale, Chairman



Commonwealth Of Pennsylvania  
**State Employees' Retirement System**  
30 North Third Street, Suite 150  
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



January 14, 2010

The Honorable Patrick M. Browne  
Majority Chair of the Senate Finance Committee  
171 Capitol Building  
Harrisburg, PA 17120-3016

Re: Title 4 – Administration  
Part X – State Employees' Retirement Board  
4 Pa. Code Chapter 249-Administration, Funds, Accounts, General  
Provisions, Section 249.7  
I.D. Number: 31-11

Dear Senator Browne:

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 rulemaking and accompanying material 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,

Leonard Knepp, Secretary  
State Employees' Retirement Board

cc: Samuel Yun, Acting Chief Counsel  
Glenda Davidson, Office of General Counsel  
Nicholas J. Maiale, Chairman



Commonwealth Of Pennsylvania  
**State Employees' Retirement System**  
30 North Third Street, Suite 150  
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



January 14, 2010

The Honorable Jim Ferlo  
Minority Chairman of the Senate Finance Committee  
535 Main Capitol Building  
Harrisburg, PA 17120-3038

Re: Title 4 – Administration  
Part X – State Employees' Retirement Board  
4 Pa. Code Chapter 249-Administration, Funds, Accounts, General  
Provisions, Section 249.7  
I.D. Number: 31-11

Dear Senator Ferlo:

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 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,

Leonard Knepp, Secretary  
State Employees' Retirement Board

cc: Samuel Yun, Chief Counsel  
Glenda Davidson, Office of General Counsel  
Nicholas Maiale, Chairman

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

I.D. NUMBER: 31-11  
SUBJECT: RIGHTS AND DUTIES OF EMPLOYES AND MEMBERS  
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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**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
1/14/10	Amy J. Noel	House Minority Chair - Hon. Kerry Benninghoff HOUSE COMMITTEE ON STATE GOVERNMENT
1/14/10	[Signature]	MAJORITY CHAIRMAN <u>Babette Josephs</u>
1-14-10	Gianna Veno	Senate Minority Chair - Hon. Jim Ferlo SENATE COMMITTEE ON FINANCE
1/14/10	Bonnie J. Jones	MAJORITY CHAIRMAN <u>Patrick M. Browne</u>
1/14/10	Kathy Cooper	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)