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**INDEPENDENT REGULATORY REVIEW COMMISSION**

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

April 2, 2008

Leonard M. Knepp, C.P.A., Acting Executive Director  
State Employees' Retirement Board  
30 North Third Street  
Harrisburg, PA 17108-1147

Re: Regulation #31-11 (IRRC #2668)  
State Employees' Retirement Board  
Death Benefits

Dear Mr. Knepp:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman  
Executive Director

wbg

Enclosure

cc: Honorable Patrick M. Browne, Chairman, Senate Finance Committee  
Honorable John N. Wozniak, Minority Chairman, Senate Finance Committee  
Honorable Babette Josephs, Majority Chairman, House State Government Committee  
Honorable Matthew E. Baker, Minority Chairman, House State Government Committee

# **Comments of the Independent Regulatory Review Commission**

**on**

## **State Employees' Retirement Board Regulation #31-11 (IRRC #2668)**

### **Death Benefits**

**April 2, 2008**

We submit for your consideration the following comments on the proposed rulemaking published in the February 2, 2008 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Employees' Retirement Board (Board) to respond to all comments received from us or any other source.

#### **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.

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INDEPENDENT REGULATORY  
REVIEW COMMISSION**Facsimile Cover Sheet**

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E-mail: [irrc@irrc.state.pa.us](mailto:irrc@irrc.state.pa.us)Website: [www.irrc.state.pa.us](http://www.irrc.state.pa.us)**INDEPENDENT REGULATORY REVIEW COMMISSION**  
333 MARKET STREET, 14<sup>TH</sup> FLOOR, HARRISBURG, PA 17101

**To:** Bob Gentzel  
**Agency:** State Employees' Retirement Board  
**Phone:** 7-9657  
**Fax:** 3-7300  
**Date:** April 2, 2008  
**Pages:** 3

**Comments:** We are submitting the Independent Regulatory Review Commission's comments on the State Employees' Retirement Board's regulation #31-11 (IRRC #2668). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

**Accepted by:** Michele Shannon **Date:** 4/2/08

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