

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: 31-10

IRRC Number: 2669

INDEPENDENT REGULATORY
REVIEW COMMISSION

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(3) Short Title:

Deletion of subsection (a) "Return to service and multiple service election."

(4) PA Code Cite:

4 Pa. Code § 247.6(a)

(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: Jill S. Vecchio, Esq., 717-783-7317; 30 N.3rd 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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- Certification by the Governor
 Certification by the Attorney General

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

The deletion of subsection 247.6(a) will eliminate obsolete language and language that is repetitive of language in the Retirement Code. The language contained in this subsection that refers to multiple service is obsolete. The remainder of the language in this subsection is repetitive of language currently contained in Sections 5706(a) and 5906(g) and (h) of the Retirement Code, 71 Pa. C.S. §5706, 71 Pa. C.S. §5906.

(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.

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. § 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.

SERS is not writing a new regulation. The final-form rulemaking will remove language that has been rendered obsolete by subsequent changes to the agency's enabling legislation and language that is repetitive of language in the Retirement Code. The deletion will avoid potential confusion and potential litigation.

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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.

(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.

A subsection of a regulation is being deleted, not promulgated.

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.

SERS members and the retirement system as a whole will benefit from deletion of subsection 247.6(a). The deletion will avoid potential confusion on the part of members of SERS and the agency's personnel and potential litigation. It is not possible to estimate the potential savings to the regulated community.

(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.

SERS members and the retirement system as a whole will benefit from deletion of subsection 247.6(a). The deletion will avoid potential confusion on the part of members of SERS and the agency's personnel and avoid potential litigation. SERS membership currently exceeds 200,000. It is not possible to estimate the potential savings to the regulated community.

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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.

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 deletion. 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

(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

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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?

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.

(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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FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

INDEPENDENT REGULATORY
REVIEW COMMISSION

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

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

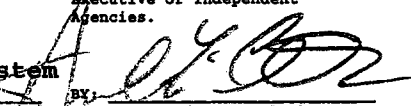
Copy below is hereby certified to be a true and correct
copy of a document issued, prescribed or promulgated by:

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Executive or Independent
Agencies.

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Employees' Retirement System

(AGENCY)

BY: 
Andrew C. Clark
Deputy General Counsel

DOCUMENT/FISCAL NOTE NO. 31-10

MAY 21 2009
DATE OF APPROVAL

DATE OF APPROVAL

DATE OF ADOPTION: _____


Michael A. Budin
SERS Chief Counsel

5/27/08
DATE OF APPROVAL

BY: 
Leonard Knepp

Executive Director
TITLE: _____
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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. 247, SECTION 247.6

The deletion of subsection 247.6(a) will eliminate obsolete language and language that is repetitive of language in the Retirement Code. The language contained in this subsection that refers to multiple service is obsolete. The remainder of the language in this subsection is repetitive of language currently contained in Sections 5706(a) and 5906(g) and (h) of the Retirement Code, 71 Pa. C.S. §5706, 71 Pa. C.S. §5906.

**Notice of Final Rulemaking
State Employees' Retirement Board
State Employees' Retirement System
(4 Pa. Code Chapter 247)
(Benefits)**

Preamble

The State Employees' Retirement Board ("Board") proposes to amend 4 Pa. Code, Chapter 247 to read as set forth in Annex A.

A. Effective Date

The deletion 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

The subsection to be deleted contains obsolete language and language that is repetitive of language in the Retirement Code. Deleting this section will avoid potential confusion on the part of members of SERS and the agency's personnel and potential litigation.

E. Summary of Comments and Responses

No comments were received regarding this rulemaking.

F. Benefits, Costs and Compliance

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

Benefits

The deletion of this subsection would benefit SERS and its members. This subsection regulation is unnecessary, parts of which are repetitive and parts of which are obsolete. Repealing this subsection of the regulation will avoid potential confusion on the part of members of SERS and the agency's personnel and potential litigation.

Costs

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

Compliance Costs

The deletion 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.* 615, 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 IRRC, the Committees, or the public were received.

Under section 5.1(j.2) of the Regulatory Review Act, on _____, 20__, 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 _____, 20__, 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.* 615.
- (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 247, 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:



Leonard Knepp, Secretary
State Employees' Retirement Board

Annex A
TITLE 4. ADMINISTRATION
PART X. STATE EMPLOYEES' RETIREMENT BOARD
CHAPTER 247. BENEFITS

4 Pa. Code §247.7

(Note: There are no additions and deletions appear in strikethrough type. There have been no additions or deletions since the proposed stage.)

§ 247.6. Termination of Annuities.

~~(a) Return to service and multiple service election. An annuity payable under the code shall be automatically discontinued if the annuitant returns to State service except as otherwise provided in section 5706 of the code (relating to termination of annuities). An annuity payable under the code shall also cease if the annuitant enters school service and elects multiple service membership within 30 days thereafter and for all periods of State and school service until there is a subsequent discontinuance thereof. No annuitant entering school service, who has failed to elect multiple service membership within 30 days thereafter, shall be eligible to elect multiple service membership.~~

~~(b) Disability annuitant. The requirement that the subsequent annuity of a member who returns to active service, having once been on retirement, be reduced on the basis of benefits received prior to superannuation age, shall not be applicable to a member who returns to active State service from a disability annuity.~~



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



November 24, 2009

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 247-Benefits, Section 247.6
I.D. Number: 31-10

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
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November 24, 2009

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 247-Benefits, Section 247.6
I.D. Number: 31-10

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



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FAX: 717-783-7300



November 24, 2009

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 247-Benefits, Section 247.6
I.D. Number: 31-10

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, Acting Chief Counsel
Glenda Davidson, Office of General Counsel
Nicholas Maiale, Chairman



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FAX: 717-783-7300



November 24, 2009

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 247-Benefits, Section 247.6
I.D. Number: 31-10

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, Acting Chief Counsel
Glenda Davidson, Office of General Counsel
Nicholas Maiale, Chairman

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

I.D. NUMBER: 31-10

SUBJECT: DELETION OF SUBSECTION (a) "RETURN TO SERVICE AND MULTIPLE SERVICE ELECTION"

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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 INDEPENDENT REGULATORY
 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
11/24/09	<u>Lamy J Noel</u>	HOUSE COMMITTEE ON STATE GOVERNMENT
11/24/09	<u>Joseph Jr Hunt</u>	MAJORITY CHAIRMAN <u>Babette Josephs</u>
11/24/09	<u>Guiana Lund</u>	SENATE COMMITTEE ON FINANCE
11/24/09	<u>Bonita Jone</u>	MAJORITY CHAIRMAN <u>Patrick M. Browne</u>
11/24/09	<u>Kathy Cooper</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL (for Final Omitted only)
_____	_____	LEGISLATIVE REFERENCE BUREAU (for Proposed only)