

Regulatory Analysis Form

(Completed by Promulgating Agency)



IRRC

Independent Regulatory Review Commission

SECTION I: PROFILE

(1) Agency:

State Employees' Retirement System (SERS)

(2) Agency Number:

Identification Number: 31-12

IRRC Number: 2711

INDEPENDENT REGULATORY
REVIEW COMMISSION

2009 OCT 20 AM 10:29

RECEIVED

(3) Short Title:

Regulation setting forth the priority of death benefit payments in the event such payments cannot be made to a designated beneficiary.

(4) PA Code Cite:

4 Pa. Code Section 247.7(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: Salvatore A. Darigo, Jr., Esq., 717-783-7317; 30 N. 3rd Street Suite 150 Harrisburg, PA 17101-1716; Fax# 717-787-5751; sdarigo@state.pa.us

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

N/A

(All Comments will appear on IRRC'S website)

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

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation

Regulatory Analysis Form

- Emergency Certification Regulation;
 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 amends the terms of an existing regulation to set forth the priority for payment of a member's SERS death benefits in the event a member dies without a valid designation of beneficiaries.

(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.

Regulatory Analysis Form

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 final-form rulemaking sets priorities among conflicting demands on members' death benefits and could avoid future litigation.

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.

The agency and claimants for a deceased member's death benefits will benefit by virtue of avoidance of costs. 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 when there are conflicting claims for a deceased member's death benefits. An actual dollar amount of the savings cannot be calculated.

(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.

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. Explain how the dollar estimates were derived.

The regulation could save significant costs for SERS and claimants for a deceased member's death benefits. An actual dollar amount of the savings cannot be calculated.

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.

	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				

Regulatory Analysis Form

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

No such information exists.

(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.

None. The staff of SERS developed this regulation in the interest of clarifying the priority of death benefit payments in the event a member of SERS dies without a validly designated beneficiary to receive payment of the member's death 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.

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.

Not applicable.

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.

CDL-1

RECEIVED

2009 OCT 20 AM 10:29

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

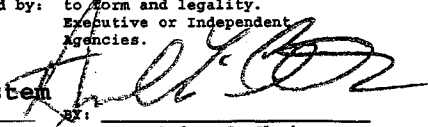
Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Copy below is approved as to form and legality. Executive or Independent Agencies.

BY: _____
(DEPUTY ATTORNEY GENERAL)

State Employees' Retirement System

(AGENCY)

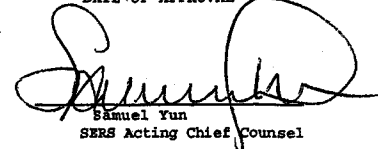
BY: 
Andrew C. Clark
Deputy General Counsel

DOCUMENT/FISCAL NOTE NO. 31-12

MAY 21 2009
DATE OF APPROVAL

DATE OF APPROVAL

DATE OF ADOPTION:


Samuel Yun
SERS Acting Chief Counsel

11-25-08
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 247.7(a)

This amended regulation sets priorities for the payment of death benefits in the event a member dies without a valid designation of beneficiaries.

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

Preamble

The State Employees' Retirement Board ("Board") proposes to amend 4 Pa. Code, Chapter 247 by adding language to Section 247.7(a) pertaining to the priority of death benefit payments in the event such payments cannot be made to a designated beneficiary or the member's estate.

A. Effective Date

The amendment 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, Suite 150, Harrisburg, PA 17101-1716, (717) 787-9657, or Salvatore A. Darigo, Jr., 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 Sections 5902(h) and 5953 of the State Employees' Retirement Code ("Retirement Code"), 71 Pa.C.S. Sections 5101 *et seq.*

D. Summary of the Final-Form Rulemaking

This final-form regulation clarifies the priority for payment of a member's death benefit in the event that payment of such benefits cannot be made to a member's designated beneficiary or estate. The regulation would enable consistent application of the statute and could avoid litigation of priority issues.

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 the proposed regulation.

Benefits

The regulation is intended to alleviate confusion and prevent possible disputes with regard to conflicting demands on members' death benefits.

Costs

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

Compliance Costs

The amendment 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 25, 2008 the Board submitted a copy of the proposed amendment, published at 38 Pa. B. 4396 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 amendment, 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(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 requested. No comments from IRRC, the Committees, or the public were received.

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 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. 4396.
- (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*.

NICHOLAS J. MAIALE
Chairman
State Employees' Retirement Board

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

4 Pa. Code §247.7

(Deletions appear in brackets; new language is underscored)

§ 247.7. Death benefits.

(a) *Manner of payments.* In the event [no living] the member does not designate a beneficiary before death or such designation is not valid for any reason or no validly designated beneficiary survives the member by thirty days pursuant to the provisions of 71 Pa. C.S. § 5709(c) (relating to the payment of benefits) to receive any of the death benefits provided in [section 5707 of] the code [(relating to death benefits)], such benefits shall be payable to the estate of the member, [or to the next of kin under 20 Pa.C.S. § 3101 (relating to payments to family and funeral directors).]

If the estate of the member is entitled to receive the member's death benefits but does not file a claim for such benefits within sixty days of the date SERS mails notice of such benefits to the estate of the member, the entire amount of the death benefit shall be payable in the following sequential priority:

- (1) To the duly appointed executor or administrator of the deceased member;
- (2) To the surviving spouse of the member;
- (3) To any child of the member;

(4) To the father or mother of the member;

(5) To any sister or brother of the member.

Payments made pursuant to subsections (3), (4), or (5) of this section shall be made to only one person and not divided among members of the classes identified in those subsections. Upon payment of a death benefit pursuant to this section, the State Employees' Retirement System shall be discharged from any further liability for the payment of such death benefits to any other person. Any person to whom payment is made pursuant to this paragraph shall be answerable therefor to anyone prejudiced by such payment.

(b) *Single life annuity.* If a single life annuitant dies before receiving in monthly annuity payments the total amount of his accumulated deductions, the balance of the total accumulated deductions shall be paid to his designated beneficiary without regard to the actual proportion the State share represents to the total monthly annuity payments actually received before death.



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



October 20, 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 247.7(a)
I.D. Number: 31-12

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



October 20, 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 247.7(a)
I.D. Number: 31-12

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



October 20, 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 247.7(a)
I.D. Number: 31-12

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



October 20, 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 247.7(a)
I.D. Number: 31-12

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 J. Maiale, Chairman

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

I.D. NUMBER: 31-12
 SUBJECT: PRIORITY OF DEATH BENEFIT PAYMENTS
 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

RECEIVED
 2009 OCT 20 AM 10:29
 INDEPENDENT REGULATORY
 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
10-22-09	<i>[Signature]</i>	House Minority Chair - Hon. Kerry A. Benninghoff HOUSE COMMITTEE ON STATE GOVERNMENT
10-22-09	<i>[Signature]</i>	MAJORITY CHAIRMAN <u>Babette Josephs</u>
10-22-09	<i>[Signature]</i>	Senate Minority Chair - Hon. Jim Ferlo SENATE COMMITTEE ON FINANCE
10-22-09	<i>[Signature]</i>	MAJORITY CHAIRMAN <u>Patrick M. Browne</u>
10/20/09	<i>[Signature]</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)