

Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW COMMISSION

(1) Agency

State Employees' Retirement System (SERS)

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

31-12

IRRC Number:

2711

(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 & Telephone Numbers

Primary Contact: Robert Gentzel, 717-787-9657

Secondary Contact: Salvatore Darigo, 717-783-7317

(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 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) 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 sets priorities among conflicting demands on members' death benefits and could avoid future litigation.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

None, except continued non-regulation could result in significant litigation costs and delays.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

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.

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(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 and potential claimants for a deceased member's death benefits will be required to comply with this regulation. SERS membership currently exceeds 200,000.

(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.

None. The staff of SERS proposes this amendment 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.

(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.

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.

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(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.

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.

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(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
SAVINGS:	\$	\$	\$	\$	\$	\$
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) Explain how the cost estimates listed above were derived.

Not applicable. While the adoption of this amended regulation could save significant costs for the agency and persons claiming a deceased member's death benefits, those savings cannot be calculated.

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

There are none.

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.

No such information exists.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

There are none.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

There are none.

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(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.

Not applicable.

(25) How does the regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Not applicable.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(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 regulatory amendment.

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(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.

(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.

Not applicable.

(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?

The amended regulation is anticipated to be effective upon final publication in the *Pennsylvania Bulletin*.

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

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

[Signature]

BY: _____
(DEPUTY ATTORNEY GENERAL)

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

State Employees' Retirement System

(AGENCY)

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

[Signature]

BY: _____
Andrew C. Clark

JUN 12 2008

DATE OF APPROVAL

DOCUMENT/FISCAL NOTE NO. 31-12

DATE OF ADOPTION: December 5, 2007

APR 2 2008

DATE OF APPROVAL

BY: *[Signature]*
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.

PROPOSED 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 Proposed 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 proposed regulation 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. 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 Sections 5902(h) and 5953 of the State Employees' Retirement Code ("Retirement Code"), 71 Pa.C.S. Sections 5101 *et seq.*

D. Background and Purpose

This amended 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. 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 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 July 25, 2008 the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Finance Committee and the House State Government Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comments period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

H. Public Comments

Written Comments - Interested persons are invited to submit comments regarding the proposed regulation to Robert Gentzel, Director of Communications and Policy, State Employees' Retirement System, 30 North Third Street, Suite 150, Harrisburg, PA 17101-1716. 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 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 247

§ 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.

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

I.D. NUMBER: 31-12
 SUBJECT: PRIORITY OF DEATH PAYMENTS
 AGENCY: STATE EMPLOYEES' RETIREMENT SYSTEM

TYPE OF REGULATION

- X 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
7/25/08	<i>Antoinette L. Hull</i>	Minority Chairman HOUSE COMMITTEE ON STATE GOVERNMENT
7/25/08	<i>[Signature]</i>	MAJORITY CHAIRMAN <u>Babette Josephs</u>
7/25/08	<i>Bonita Jane</i>	SENATE COMMITTEE ON FINANCE - Minority Chairman
7/25/08	<i>Bonita Jane</i>	MAJORITY CHAIRMAN <u>Patrick M. Browne</u>
7/25/08	<i>Kathryn Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
7/25/08	<i>Mayra Garas</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)