

PROPOSED RULEMAKING

STATE EMPLOYEES' RETIREMENT BOARD

[4 PA. CODE CH. 243]

Membership, Credited Service and Eligibility for Benefits

The State Employees' Retirement Board (Board) proposes to delete § 243.8 (relating to classes of service).

A. Effective Date

The proposed rulemaking will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information contact Robert Gentzel, Director of Communications and Policy, State Employees' Retirement System, 30 North Third Street, P. O. Box 1147, Harrisburg, PA 17108-1147, (717) 787-9657; or Salvatore A. Darigo, Jr., Counsel, State Employees' Retirement System, 30 North Third Street, Harrisburg, PA 17101, (717) 787-7317. 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 71 Pa.C.S. § 5902(h) (relating to administrative duties of the board).

D. Background and Purpose

Section 243.8 lists the classes of service closed to new members as of March 1, 1974. Before that date, 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code) (Retirement Code) contained various benefit formulas that applied a benefit multiplier factor to a State employee's final average salary and total credited service to determine the amount of the employee's retirement benefit.

By deleting § 243.8, the State Employees' Retirement System (SERS) would delete a section that has been rendered obsolete and irrelevant due to subsequent changes to the Board's enabling legislation. More than 30 years have passed since the classes of membership referenced in the regulation were closed to new members. Therefore, there are few, if any, Commonwealth employees subject to the regulation.

E. Benefits, Costs and Compliance

Benefits

The regulation proposed to be deleted is unnecessary, outmoded and irrelevant to the current provisions of the Retirement Code. Deleting this section will avoid confusion on the part of members of SERS and the Board's personnel, and also potentially reduce the number of administrative hearings for redress of grievances.

Costs

There are no costs to the Commonwealth, its citizens or State employees associated with this proposed rulemaking.

Compliance Costs

The proposed rulemaking is not expected to impose any additional compliance costs on State employees.

F. Sunset Review

Sunset review does not apply in this instance.

G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 18, 2005, 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 House State Government Committee and the Senate Finance 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 comment 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, suggestions or objections regarding the proposed rulemaking to Robert Gentzel, Director of Communications and Policy, State Employees' Retirement System, 30 North Third Street, 5th Floor, Harrisburg, PA 17101. 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 2 working days, the comments should be retransmitted to ensure receipt.

NICHOLAS J. MAIALE,
Chairperson

Fiscal Note: 31-4. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART X. STATE EMPLOYEES' RETIREMENT BOARD

CHAPTER 243. MEMBERSHIP, CREDITED SERVICE, CLASSES OF SERVICE AND ELIGIBILITY FOR BENEFITS

§ 243.8. [Classes of service] (Reserved).

[(a) Classes of service, other than Class A, remaining open to members who were in such classes on March 1, 1974, are as follows:

(1) Class B. Those employees who chose to remain in that class, which was closed to new members as of May 18, 1937. The contribution rates and benefits are at a basic rate of 62.5% of Class A rates and benefits.

(2) Class C. Officers and employes of the Pennsylvania State Police and enforcement officers of the Pennsylvania Liquor Control Board.

(3) Class D, D-1, D-2 and D-3. Members of the General Assembly eligible for benefits for legislative service under these classes.

(4) Class E and E-1. Judges eligible for benefits under Classes E and E-1.

(5) Class E-2. Justices of the Peace paid by the Commonwealth.

(b) Classes set forth in subsection (a) are closed to new members as of March 1, 1974. Members continuing their membership in the classes listed in subsection (a) are eligible to continue therein until retirement or death; however, if a member discontinues service and subsequently returns to State service, the subsequent service shall be credited as Class A service.]

[Pa.B. Doc. No. 05-1634. Filed for public inspection September 2, 2005, 9:00 a.m.]

[4 PA. CODE CH. 241] Preliminary Provisions

The State Employees' Retirement Board (Board) proposes to amend § 241.1 (relating to definitions) by deleting the definition of "class of service multiplier."

A. Effective Date

The proposed rulemaking will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information, contact Robert Gentzel, Director of Communications and Policy, State Employees' Retirement System, 30 North Third Street, Harrisburg, PA 17101, (717) 787-9657; or Salvatore A. Darigo, Jr., Counsel, State Employees' Retirement System, 30 North Third Street, Harrisburg, PA 17101, (717) 787-7317. Information regarding submitting comments on this proposed rulemaking appears in Section H of this preamble.

C. Statutory Authority

This proposed rulemaking is being made under the authority of 71 Pa.C.S. § 5902(h) (relating to administrative duties of the board).

D. Background and Purpose

Prior to March 1, 1974, 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code) (Retirement Code) contained various benefit formulas which applied a benefit multiplier factor to a State employee's final average salary and total credited service to determine the amount of the employee's retirement benefit. The definition proposed to be deleted clarified the Board's determination that persons who entered State service after March 1, 1974, would not be able to have their post-1974 retirement benefits calculated under earlier law. Subsequent amendments to the Retirement Code removed the various class of service multipliers and substituted a Class "A" retirement benefit formula.

The definition proposed to be deleted is unnecessary, outmoded and irrelevant. Deleting this definition will avoid confusion on the part of members of the State

Employees' Retirement System (SERS) and the Board's personnel, reduce paperwork and potentially reduce the number of administrative hearings for redress of grievances.

E. Benefits, Costs and Compliance

Benefits

This proposed deletion of this definition would benefit SERS and its members. This definition is unnecessary, outmoded and irrelevant. Deleting this definition will avoid confusion on the part of members of SERS and the agency's personnel, reduce paperwork and potentially reduce the number of administrative hearings for redress of grievances.

Costs

There are no costs to the Commonwealth, its citizens or State employees associated with this proposed rulemaking.

Compliance Costs

The proposed rulemaking is not expected to impose any additional compliance costs on State employees.

F. Sunset Review

Sunset review does not apply in this instance.

G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 18, 2005, 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 House State Government Committee and the Senate Finance 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 comment 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

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included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

NICHOLAS J. MAIALE,
Chairperson

Fiscal Note: 31-3. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART X. STATE EMPLOYEES' RETIREMENT BOARD

CHAPTER 241. PRELIMINARY PROVISIONS

§ 241.1. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

[*Class of service multiplier*—Relates only to those members who are eligible for and so elected their classes as specified under prior law and who remain in those classes subsequent to March 1, 1974, and thereafter, until termination of State service. All members who enter or reenter after March 1, 1974, shall be in the A class of service and have a multiplier of one for service rendered thereafter. Certain members may be eligible to have previous service credited to another class under section 5303(b) of the code, if they return to service after March 1, 1974. The reference in the code to additional legislative compensation for certain members of Class D-3 applies only to Constitutional officers of the General Assembly and other legislator—officers as elsewhere provided by law.]

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[Pa.B. Doc. No. 05-1635. Filed for public inspection September 2, 2005, 9:00 a.m.]