

PROPOSED RULEMAKING

DELAWARE RIVER BASIN COMMISSION

[25 PA. CODE CH. 901]

Proposed Temporary Amendments to the Water Quality Regulations, Water Code and Comprehensive Plan to Extend the Designation of the Lower Delaware River as a Special Protection Water

The Delaware River Basin Commission (Commission) will hold a public hearing to receive comments on a proposed amendment to the Commission's *Water Quality Regulations, Water Code, and Comprehensive Plan* to extend the temporary classification of the Lower Delaware River as Significant Resource Waters. The temporary classification was enacted by Commission Resolution No. 2005-2 on January 19, 2005, following notice and comment rulemaking. Its effect was to make the Lower Delaware subject to all applicable provisions of the Commission's Special Protection Waters regulations, except those that depend for implementation upon the use of numeric values for existing water quality. Absent further amendment to extend the classification, it will expire on September 30, 2005. The Commission proposes to extend that date by up to 12 months. The classification would thus expire on September 30, 2006, unless the Commission should either permanently classify the Lower Delaware River or once again extend the temporary classification by rule amendment prior to that date.

The proposed extension is needed because before deciding whether or not to classify certain sections of the Lower Delaware River as Outstanding Basin Waters as originally proposed, and whether to make the temporary Special Protection Waters designation permanent for some or all of the Lower Delaware River, the Commission wishes to fully evaluate implementation options and establish numeric values for existing water quality based upon analysis of a 5-year (2000-2004) data set, for which the final year of data only became available late in 2004. Extension of the temporary designation will protect the exceptional value of the Lower Delaware from degradation during the period required to complete this evaluation and conduct a notice and comment rulemaking process on the numeric values and permanent classification.

Dates

The public hearing will be held on Monday, September 26, 2005 at the Commission's regular business meeting, which will be held at the Commission's office building, located at 25 State Police Drive, West Trenton, New Jersey, beginning at 1:30 p.m. Driving directions are available on the Commission's website, www.drbc.net. Persons wishing to testify are asked to register in advance with the Commission Secretary, (609) 883-9500, Ext. 203. Written comments will be accepted through the close of the public hearing; however, earlier submittals would be appreciated.

Supplementary Information

On September 22, 2004, the Delaware River Basin Commission published on its website a Notice of Proposed Rulemaking to amend the *Water Quality Regulations,*

Water Code and *Comprehensive Plan* to designate the Lower Delaware River—the reach between River Mile 209.5, which is the downstream boundary of the Delaware Water Gap National Recreation Area, and River Mile 133.4, which is the head of tide at Trenton, NJ—a Special Protection Water. Notice was published in the *Federal Register* on September 23, 2004 (69 FR 57008), the *Delaware Register of Regulations* on October 1, 2004, the *New Jersey Register* on October 4, 2004, the *Pennsylvania Bulletin* on October 9, 2004, and the *New York Register* on October 20, 2004. A public hearing was held on October 27, 2004, and the public was invited to comment, either in person at the hearing or in writing through November 30, 2004. During the comment period, the Commission received approximately 250 letters from business, industry, individuals, municipalities and elected officials, including some opposed to designation. It also received between 1,100 and 1,200 letters and petitions in favor of designation. The Commission modified its proposed rule in favor of temporary classification of the Lower Delaware as Significant Resource Waters in part based upon comments received on the proposed action and in part based upon the need for additional analysis before all provisions of the Special Protection Waters regulations could be put into effect in the Lower Delaware.

Further Information, Contacts

The complete text of Resolution No. 2005-2, temporarily amending the *Water Quality Regulations, Water Code, and Comprehensive Plan* by designating the Lower Delaware River a Special Protection Water, is available on the Commission's website at www.drbc.net or upon request from the Delaware River Basin Commission, P. O. Box 7360, West Trenton, NJ 08628-0360. For further information, contact Pamela M. Bush, Commission Secretary and Assistant General Counsel, Delaware River Basin Commission, at (609) 883, 9500, Ext. 203.

It is proposed to amend Section 3.10.3.A.2.g.6) of the *Water Quality Regulations and Water Code* by replacing the last paragraph of that section with the following:

Sections 3.10.3.A.2.g.2).(b) and 3.10.3.A.2.g.6) shall expire on September 30, 2006, unless extended by amendment to this rule.

PAMELA M. BUSH, ESQ.,
Secretary

Fiscal Note: 68-46. No fiscal impact; (8) recommends adoption.

(*Editor's Note:* For a document relating to this proposal, see 35 Pa.B. 5005 (September 10, 2005).)

[Pa.B. Doc. No. 05-1676. Filed for public inspection September 9, 2005, 9:00 a.m.]

STATE EMPLOYEES' RETIREMENT BOARD

[4 PA. CODE CH. 249]

Administration Duties of the Board

The State Employees' Retirement Board (Board) proposes to amend § 249.2 (relating to administrative duties of the Board) to read as set forth in Annex A.

A. *Effective Date*

This 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 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*

The Board is responsible for implementing the retirement benefit program outlined in 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code) (Retirement Code). Section 249.2(a) provides that the minutes of the Board's meetings will be available for public inspection at the Board's offices during normal working hours. This subsection further provides that the minutes will be the only records made available for public inspection. Section 249.2(a) is being deleted because it directly conflicts with the act of June 21, 1957 (P. L. 390, No. 212), known as the Right-to-Know Law (65 P. S. §§ 66.1—66.4). The purpose of this proposed rulemaking is to remove an outmoded and unenforceable provision that directly conflicts with the Right-to-Know Law.

E. *Benefits, Costs and Compliance*

Benefits

This proposed rulemaking would benefit the State Employees' Retirement System (SERS) and its members. Section 249.2(a) is unnecessary, outmoded and unenforceable. Deleting this subsection will avoid confusion on the part of members of SERS and the agency's personnel.

Costs

There are no additional 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 is not applicable in this instance.

G. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 25, 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: 31-5. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART X. STATE EMPLOYEES' RETIREMENT BOARD

CHAPTER 249. ADMINISTRATION, FUNDS, ACCOUNTS, GENERAL PROVISIONS

Subchapter A. ADMINISTRATION

§ 249.2. Administrative duties of the Board.

[(a) The minutes of all the Board meetings will be available for public inspection at the offices of the Board during normal working hours. No other records of the Board will be available for inspection by the public.]

(b)] * * *

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