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Petitions for Declaratory Ruling

Sec. 5-155a-1. Petition for declaratory ruling

(a) **Scope.** This section sets forth the commission's rules for governing the form and content of petitions for declaratory rulings, and commission proceedings on such petitions. Petitions for declaratory rulings may be filed on: (1) the validity of any regulation of the commission, and (2) the applicability to specified circumstances of a provision of the general statutes, a regulation, or a final decision (as defined in Section 4-166 (3) of the General Statutes), on a matter within the jurisdiction of the commission. Any petition for a declaratory ruling not falling in one of these two categories shall be rejected in writing by the retirement division of the comptroller's office as not being the proper subject of such a petition.

(b) **Form and Content of Petitions.**

(1) **General.** All petitions for declaratory rulings shall be addressed to the commission, and either mailed or hand delivered to the Commission at its official address: 55 Elm Street, Hartford, Connecticut 06106. All petitions shall be signed by the person filing the petition, unless represented by an attorney, in which case the attorney may sign the petition. The petition shall include the address of the person filing the petition, and the address of the attorney, if applicable.

(2) **Petitions on validity of regulation.** A petition for declaratory ruling on the validity of a regulation shall contain the following:

(A) the section number and text of the regulation;

(B) the specific basis for the claim of invalidity of the regulation; and

(C) an argument by the petitioner in support of the claim of invalidity, with suggested remedy.

(3) Any petition filed which merely requests a ruling on the validity of a regulation, without a detailed claim of invalidity, shall be rejected by the retirement division of the comptroller's office as incomplete.

(4) **Petitions on applicability of statute, regulation, or final decision.** A petition seeking a declaratory ruling on the applicability of a statute, regulation, or final decision on a matter within the jurisdiction of the commission to specified circumstances shall contain the following:

(A) the specific statute, regulation, or final decision upon which the petition is sought;

(B) a brief explanation of why the petitioner believes that the particular statute, regulation, or final decision is within the jurisdiction of the Commission;

(C) a detailed description of the specified circumstances upon which the petition is based; and

(D) an argument by the petitioner as to why the petitioner believes that the particular statute, regulation, or final decision either is or is not applicable to the specified circumstances.

(5) Any petition failing to identify the statute, regulation, or final decision in question, or failing to adequately describe the specified circumstances shall be rejected in writing by the retirement division of the comptroller's office as incomplete.

(6) **Notice.** The petitioner, or his attorney, shall append to the petition for a declaratory ruling a listing of all persons, with addresses, known to the petitioner who may have an interest in the declaratory ruling sought to be issued, and shall mail a copy of the petition to all such persons. The petitioner or his attorney shall certify that a copy of the petition was mailed to all such persons together with this

statement: “Should you wish to participate in the proceedings of this petition, or receive notice of such proceedings or the declaratory ruling issued as a result of this petition, you should contact the commission within thirty days of the date of this petition.”

(c) **Notice.** In addition to the notice required to be given by the petitioner in subsection (b) (6) above, the commission shall, within thirty days after the receipt of such petition, provide written notice of the filing of the petition (1) to all persons required by any law to receive notice; (2) to all persons who have requested notice of the filing of such petitions on the subject matter of the petition; and (3) to all persons who have requested notice of the filing of any such petitions with the commission. The notice required by this section shall not be required where the retirement division of the comptroller’s office has rejected the filing of a petition as inappropriate or incomplete in accordance with subsections (a), (b) (3), and (b) (4) above.

(d) **Rights of Persons to Proceeding.**

(1) Petitioner as party. The petitioner is automatically a party to any proceeding on the petition by virtue of having filed said petition, and need not seek designation as a party from the commission.

(2) Additional parties. Any person, whether or not he has received notice of the petition, may file a petition to become a party within forty-five days from the date of the petition. If the petition to become a party sets forth facts demonstrating that the petitioner’s legal rights, duties, or privileges will be specifically affected by the declaratory ruling to be issued, the commission shall grant the petition and designate the petitioner as a party.

(3) Intervenors. Any person, whether or not he has received notice of the petition, may file a petition to become an intervenor within forty-five days from the date of the petition. If the petition sets forth facts demonstrating that the petitioner’s participation is in the interest of justice and will not disrupt the orderly conduct of the proceedings, the commission shall grant the petition and designate the petitioner as an intervenor. The commission may define the extent of the intervenor’s participation as appropriate to the proceedings on each particular petition for declaratory ruling.

(e) **Commission Proceedings on Petitions.**

(1) Commission action. Within sixty days after the filing of a complete petition for a declaratory ruling, but, in any case, no sooner than forty-five days after the filing of the petition, the commission shall do one of the following, in writing:

(A) issue a declaratory ruling in accordance with the request in the petition containing the names of all parties to the proceeding, the particular facts upon which it is based, and the reasons for the conclusions contained therein;

(B) order that the matter be the subject of a hearing as a contested case;

(C) notify the parties that a declaratory ruling will be issued by a certain date;

(D) decide not to issue a declaratory ruling and initiate regulation making procedures; or

(E) decide not to issue a declaratory ruling, stating the reasons for its action.

(2) Notice. A copy of the commission action taken in accordance with subsection (e) (1) above shall be delivered to the petitioner and all other parties either in person, or by United States mail, certified or registered, postage prepaid, return receipt requested.

(3) Effective date, appeal date. Declaratory rulings shall be effective when personally delivered or mailed, or on such later date specified by the commission in the

ruling, except that for the purposes of any appeal from the declaratory ruling, the date of personal delivery or mailing shall control.

(4) Contested case appeals. Declaratory rulings shall have the same status and binding effect as an order in a contested case, and shall be a final decision in a contested case for the purposes of appeals in accordance with section 4-183 of the general statutes.

(5) Failure to act. If the commission does not issue a declaratory ruling on a complete petition within one hundred and eighty days after the filing of the petition, or later if agreed to by the parties, the Commission shall be deemed to have decided not to issue a ruling.

(Effective February 3, 1992)

Sec. 5-155a-2. General rules – time frames for filing claims

(a) No action at law or in equity may be brought to recover under the State Employee Retirement System (SERS) or any of the retirement systems administered, supervised or managed by the State Employees Retirement Commission (“Commission”) any benefit, Tier transfer, service credit or any other related retirement benefit or payment (including but not limited to over or under payments) or claim challenging the alleged failure of the Commission to abide by a statutory dictate after the expiration of six (6) years after the member first knew or should have known with reasonable diligence of his or her entitlement to such a benefit, Tier transfer, service credit or other related retirement benefit or payment (including but not limited to over or under payments) or any claim challenging an alleged failure of the Commission to abide by a statutory dictate. Claims not brought within this time frame shall be denied as untimely.

(b) Before pursuing legal action, a person claiming retirement benefits or seeking redress related to the retirement system(s) shall first exhaust the Commission’s claim, review and appeal procedures.

(c) A member or the member’s designated beneficiary shall file a written claim to the Commission to appeal the final decision by the Retirement Service Division (“Division”) that adversely affects the personal interest of the member or the member’s designated beneficiary within one (1) year of the date of the final decision by the Division regarding his or her claim. Claims not brought within this time frame shall be denied as untimely.

(d) The Division, on behalf of the Medical Examining Board (“Board”), shall accept applications for disability retirement or petitions for service connected disability retirement with appropriate medical documentation. The time period for filing an application for disability retirement benefits or petition for service connected disability retirement shall begin on the day after the applicant’s last day of paid employment by the State of Connecticut and shall end at close of business on the date that is twenty-four months after the applicant’s last day of paid employment.

(e) If the Board requires additional medical or other evidence in order to make a determination on an application for disability retirement benefits or petition for service connected disability retirement, the member shall have one (1) calendar year from the date of the letter requesting such information to provide it to the Board. If the requested information is not provided within this one (1) calendar year limitation, the application shall be denied. The decision of denial shall be brought before the Commission for its approval as administratively denied.

(f) The member shall have one (1) calendar year from the date of the Board’s decision of denial to seek reconsideration of said decision. If the member does not seek reconsideration of the Board’s decision of denial within said one (1) calendar

year, the Board's initial decision of denial shall stand. The decision of denial shall be brought before the Commission for its approval as administratively denied.

(g) The member shall have one year from the date he or she sought reconsideration to: (1) submit the requested records (if any); and (2) submit additional material facts concerning his or her medical condition at the date of termination of employment; and (3) explain in writing why such material facts were not available to the member at the time of his or her original application to the Board. If the member does not provide the above information within one (1) calendar year of the date of seeking reconsideration, the Board's initial decision of denial shall stand. The decision of denial shall be brought before the Commission for its approval as administratively denied.

(h) If the last day of any filing period or period for submission of information as set out above is a Saturday, Sunday, or state or federal holiday, then the application shall be valid if received by the Division by the close of the next business day following the Saturday, Sunday or holiday.

(i) The Commission, in its sole discretion and after hearing held by it, may allow equitable tolling of any of the time periods set out in this regulation and thus extend the time period for filing a claim. In order to equitably toll all or a portion of said time period, a petitioner shall show that extraordinary circumstances prevented him or her from filing his or her petition within the specified time period. The hearing before the Commission shall be held solely on the issue of whether extraordinary circumstances prevented the petitioner from filing a claim during the period of time at issue and shall not concern the merits of any such claim. Upon good cause shown, the Commission may extend the time frame for filing to a final and specific date certain.

(Effective April 27, 2012)