

AN ACT

To amend sections 3307.58, 3309.01, 3309.03, 3309.04, 3309.05, 3309.07, 3309.12, 3309.15, 3309.17, 3309.22, 3309.32, 3309.341, 3309.36, 3309.374, 3309.381, 3309.40, 3309.401, 3309.45, 3309.47, 3309.49, 3309.491, 3309.53, 3309.54, 3309.55, 3309.57, 3309.59, 3309.60, 3309.61, 3309.66, and 3309.69; to enact sections 3309.031, 3309.25, 3309.251, 3309.252, 3309.253, 3309.80, 3309.81, 3309.811, 3309.812, 3309.813, 3309.82, 3309.85, 3309.86, 3309.87, 3309.88, 3309.91, 3309.92, 3309.95, 3309.97, and 3309.98; and to repeal section 3309.58 of the Revised Code to increase certain benefits paid by the School Employees Retirement System (SERS), to increase the SERS reimbursement for insurance coverage under Medicare Part B, to require SERS to establish a defined contribution retirement plan, and to make other changes to the law governing SERS.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3307.58, 3309.01, 3309.03, 3309.04, 3309.05, 3309.07, 3309.12, 3309.15, 3309.17, 3309.22, 3309.32, 3309.341, 3309.36, 3309.374, 3309.381, 3309.40, 3309.401, 3309.45, 3309.47, 3309.49, 3309.491, 3309.53, 3309.54, 3309.55, 3309.57, 3309.59, 3309.60, 3309.61, 3309.66, and 3309.69 be amended and sections 3309.031, 3309.25, 3309.251, 3309.252, 3309.253, 3309.80, 3309.81, 3309.811, 3309.812, 3309.813, 3309.82, 3309.85, 3309.86, 3309.87, 3309.88, 3309.91, 3309.92, 3309.95, 3309.97, and 3309.98 of the Revised Code be enacted to read as follows:

Sec. 3307.58. Any member participating in the plan described in sections 3307.50 to 3307.79 of the Revised Code who has five years of service credit and has attained age sixty, or who has twenty-five years of

service credit and has attained age fifty-five, or who has thirty years of service credit shall be granted service retirement after filing with the state teachers retirement board a completed application on a form approved by the board.

(A) Service retirement shall be effective on the first day of the month next following the later of:

(1) The last day for which compensation was paid; or

(2) The attainment of minimum age or service credit eligibility for benefits provided under this section.

Except as provided in division (E) of this section, the service retirement benefit shall be the greater of the benefits provided in divisions (B) and (D) of this section.

(B) Subject to any adjustment made under division (C) of this section, the annual single lifetime benefit of a member shall be the greater of the amounts determined by the member's Ohio service credit multiplied by one of the following:

(1) Eighty-six dollars;

(2)(a) The sum of the following amounts:

(i) For each of the first thirty years of Ohio service credit, two and two-tenths per cent of the member's final average salary or, subject to the limitation described in division (B)(2)(b) of this section, two and five-tenths per cent of the member's final average salary if the member has thirty-five or more years of service credit under section 3307.53, 3307.57, 3307.75, 3307.751, 3307.752, 3307.761, 3307.77, or 3307.771 of the Revised Code, division (A)(2) or (B) of former section 3307.513 of the Revised Code, former section 3307.514 of the Revised Code, section 3307.72 of the Revised Code earned after July 1, 1978, or any combination of service credit under those sections;

(ii) For each year or fraction of a year of Ohio service credit in excess of thirty years, two and two-tenths per cent of the member's final average salary or, subject to the limitation described in division (B)(2)(b) of this section, if the member has more than thirty years service credit under section 3307.53, 3307.57, 3307.75, 3307.751, 3307.752, 3307.761, 3307.77, or 3307.771 of the Revised Code, division (A)(2) or (B) of former section 3307.513 of the Revised Code, former section 3307.514 of the Revised Code, section 3307.72 of the Revised Code earned after July 1, 1978, or any combination of service credit under those sections, the per cent of final average salary shown in the following schedule for each corresponding year or fraction of a year of service credit under those sections that is in excess of thirty years:

Year of Service Credit	Per Cent for that Year	Year of Service Credit	Per Cent for that Year
30.01- 31.00	2.5%	37.01- 38.00	3.2%
31.01- 32.00	2.6	38.01- 39.00	3.3
32.01-33.00	2.7		
33.01-34.00	2.8		
34.01-35.00	2.9		
35.01-36.00	3.0		
36.01-37.00	3.1		

For purposes of this schedule, years of service credit shall be rounded to the nearest one-hundredth of a year.

(b) For purposes of division (B)(2)(a) of this section, a percentage of final average salary in excess of two and two-tenths per cent shall be applied to service credit under section 3307.57 or 3307.761 of the Revised Code only if the service credit was established by contributions made under section 145.47, 742.31, 3309.47, ~~3309.58~~, or 5505.15 of the Revised Code or restored under section 145.31, 742.371, 3309.26, or 5505.20 of the Revised Code.

(C) The annual single lifetime benefit of a member determined under division (B) of this section shall be adjusted by the greater per cent shown in the following schedule opposite the member's attained age or Ohio service credit.

Attained or Age	Years of Ohio Service Credit	Per Cent of Base Amount
58	25	75%
59	26	80
60	27	85
61		88
	28	90
62		91
63		94
	29	95
64		97
65	30 or more	100

Members shall vest the right to a benefit in accordance with the following schedule, based on the member's attained age by September 1, 1976:

Attained Age	Per Cent of Base Amount
66	102%
67	104
68	106
69	108
70 or more	110

The annual single lifetime benefit determined under division (B) of this section shall not exceed the lesser of one hundred per cent of the final average salary or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(D) The annual single lifetime benefit of a member shall not exceed the lesser of the sum of the following amounts or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended:

(1) An annuity with a reserve equal to the member's accumulated contributions;

(2) A pension equal to the amount in division (D)(1) of this section;

(3) An additional pension of forty dollars annually multiplied by the number of years of prior and military service credit, except years of credit purchased under section 3307.751 or 3307.752 of the Revised Code;

(4) An additional basic annual pension of one hundred eighty dollars, provided the member had ten or more years of Ohio service credit as of October 1, 1956, except that the additional basic annual pension shall not exceed the sum of the annual benefits provided by divisions (D)(1), (2), and (3) of this section.

(E) Benefits determined under this section shall be paid as provided in section 3307.60 of the Revised Code.

Sec. 3309.01. As used in this chapter:

(A) "Employer" or "public employer" means boards of education, school districts, joint vocational districts, governing authorities of community schools established under Chapter 3314. of the Revised Code, educational institutions, technical colleges, state, municipal, and community colleges, community college branches, universities, university branches, other educational institutions, or other agencies within the state by which an employee is employed and paid, including any organization using federal funds, provided the federal funds are disbursed by an employer as determined by the above. In all cases of doubt, the school employees retirement board shall determine whether any employer is an employer as

defined in this chapter, and its decision shall be final.

(B) "Employee" means all of the following:

(1) Any person employed by a public employer in a position for which the person is not required to have a certificate or license issued pursuant to sections 3319.22 to 3319.31 of the Revised Code;

(2) Any person who performs a service common to the normal daily operation of an educational unit even though the person is employed and paid by one who has contracted with an employer to perform the service, and the contracting board or educational unit shall be the employer for the purposes of administering the provisions of this chapter;

(3) Any person, not a faculty member, employed in any school or college or other institution wholly controlled and managed, and wholly or partly supported by the state or any political subdivision thereof, the board of trustees, or other managing body of which shall accept the requirements and obligations of this chapter.

In all cases of doubt, the school employees retirement board shall determine whether any person is an employee, as defined in this division, and its decision is final.

(C) "Prior service" means all service rendered prior to September 1, 1937:

(1) As an employee as defined in division (B) of this section;

(2) As an employee in a capacity covered by the public employees retirement system or the state teachers retirement system;

(3) As an employee of an institution in another state, service credit for which was procured by a member under the provisions of section 3309.31 of the Revised Code.

Prior service, for service as an employee in a capacity covered by the public employees retirement system or the state teachers retirement system, shall be granted a member under qualifications identical to the laws and rules applicable to service credit in those systems.

Prior service shall not be granted any member for service rendered in a capacity covered by the public employees retirement system, the state teachers retirement system, and this system in the event the service credit has, in the respective systems, been received, waived by exemption, or forfeited by withdrawal of contributions, except as provided in this chapter.

If a member who has been granted prior service should, subsequent to September 16, 1957, and before retirement, establish three years of contributing service in the public employees retirement system, or one year in the state teachers retirement system, then the prior service granted shall become, at retirement, the liability of the other system, if the prior service or

employment was in a capacity that is covered by that system.

The provisions of this division shall not cancel any prior service granted a member by the school employees retirement board prior to August 1, 1959.

(D) "Total service," "total service credit," or "Ohio service credit" means all contributing service of a member of the school employees retirement system, and all prior service, computed as provided in this chapter, and all service established pursuant to sections 3309.31, 3309.311, and 3309.33 of the Revised Code. In addition, "total service" includes any period, not in excess of three years, during which a member was out of service and receiving benefits from the state insurance fund, provided the injury or incapacitation was the direct result of school employment.

(E) "Member" means any employee, except an SERS retirant or other system retirant as defined in section 3309.341 of the Revised Code, who has established membership in the school employees retirement system. "Member" includes a disability benefit recipient.

(F) "Contributor" means any person who has an account in the employees' savings fund. When used in the sections listed in division (B) of section 3309.82 of the Revised Code, "contributor" includes any person participating in a plan established under section 3309.81 of the Revised Code.

(G) "Retirant" means any former member who retired and is receiving a service retirement allowance or commuted service retirement allowance as provided in this chapter.

(H) "Beneficiary" or "beneficiaries" means the estate or a person or persons who, as the result of the death of a contributor or retirant, qualifies for or is receiving some right or benefit under this chapter.

(I) "Interest," as specified in division (E) of section 3309.60 of the Revised Code, means interest at the rates for the respective funds and accounts as the school employees retirement board may determine from time to time, except as follows:

(1) The rate of interest credited on employee contributions at retirement shall be four per cent per annum, compounded annually, to and including June 30, 1955; three per cent per annum, compounded annually, from July 1, 1955, to and including June 30, 1963; three and one-quarter per cent per annum, compounded annually, from July 1, 1963, through June 30, 1966; and thereafter, four per cent per annum compounded annually until a change in the amount is recommended by the system's actuary and approved by the retirement board. Subsequent to June 30, 1959, the retirement board shall discontinue the annual crediting of current interest on a contributor's

ulated contributions. Noncrediting of current interest shall not affect the rate of interest at retirement guaranteed under this division.

(2) In determining the reserve value for purposes of computing the amount of the contributor's annuity, the rate of interest used in the annuity values shall be four per cent per annum through September 30, 1956; three per cent per annum compounded annually from October 1, 1956, through June 30, 1963; three and one-quarter per cent per annum compounded annually from July 1, 1963, through June 30, 1966; and, thereafter, four per cent per annum compounded annually until a change in the amount is recommended by the system's actuary and approved by the retirement board. In the purchase of out-of-state service credit as provided in section 3309.31 of the Revised Code, and in the purchase of an additional annuity, as provided in section 3309.47 of the Revised Code, interest shall be computed and credited to reserves therefor at the rate the school employees retirement board shall fix as regular interest thereon.

(J) "Accumulated contributions" means the sum of all amounts credited to a contributor's account in the employees' savings fund together with any regular interest credited thereon at the rates approved by the retirement board prior to retirement.

(K) "Final average salary" means the sum of the annual compensation for the three highest years of compensation for which contributions were made by the member, divided by three. If the member has a partial year of contributing service in the year in which the member terminates employment and the partial year is at a rate of compensation that is higher than the rate of compensation for any one of the highest three years of annual earnings, the board shall substitute the compensation earned for the partial year for the compensation earned for a similar fractional portion in the lowest of the three high years of annual compensation before dividing by three. If a member has less than three years of contributing membership, the final average salary shall be the total compensation divided by the total number of years, including any fraction of a year, of contributing service.

(L) "Annuity" means payments for life derived from contributions made by a contributor and paid from the annuity and pension reserve fund as provided in this chapter. All annuities shall be paid in twelve equal monthly installments.

(M)(1) "Pension" means annual payments for life derived from appropriations made by an employer and paid from the employers' trust fund or the annuity and pension reserve fund. All pensions shall be paid in twelve equal monthly installments.

(2) "Disability retirement" means retirement as provided in section

3309.40 of the Revised Code.

(N) "Retirement allowance" means the pension plus the annuity.

(O)(1) "Benefit" means a payment, other than a retirement allowance or the annuity paid under section 3309.341 of the Revised Code, payable from the accumulated contributions of the member or the employer, or both, under this chapter and includes a disability allowance or disability benefit.

(2) "Disability allowance" means an allowance paid on account of disability under section 3309.401 of the Revised Code.

(3) "Disability benefit" means a benefit paid as disability retirement under section 3309.40 of the Revised Code, as a disability allowance under section 3309.401 of the Revised Code, or as a disability benefit under section 3309.35 of the Revised Code.

(P) "Annuity reserve" means the present value, computed upon the basis of mortality tables adopted by the school employees retirement board, of all payments to be made on account of any annuity, or benefit in lieu of any annuity, granted to a retirant.

(Q) "Pension reserve" means the present value, computed upon the basis of mortality tables adopted by the school employees retirement board, of all payments to be made on account of any pension, or benefit in lieu of any pension, granted to a retirant or a beneficiary.

(R) "Year" means the year beginning the first day of July and ending with the thirtieth day of June next following.

(S) "Local district pension system" means any school employees' pension fund created in any school district of the state prior to September 1, 1937.

(T) "Employer contribution" means the amount paid by an employer as determined ~~by the employer rate, contributions, and funds as provided in this chapter, and shall be credited to the employers' trust fund~~ under section 3309.49 of the Revised Code.

(U) "Fiduciary" means a person who does any of the following:

(1) Exercises any discretionary authority or control with respect to the management of the system, or with respect to the management or disposition of its assets;

(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;

(3) Has any discretionary authority or responsibility in the administration of the system.

(V)(1) Except as otherwise provided in this division, "compensation" means all salary, wages, and other earnings paid to a contributor by reason of employment. The salary, wages, and other earnings shall be determined

prior to determination of the amount required to be contributed to the employees' savings fund under section 3309.47 of the Revised Code and without regard to whether any of the salary, wages, or other earnings are treated as deferred income for federal income tax purposes.

(2) Compensation does not include any of the following:

(a) Payments for accrued but unused sick leave or personal leave, including payments made under a plan established pursuant to section 124.39 of the Revised Code or any other plan established by the employer;

(b) Payments made for accrued but unused vacation leave, including payments made pursuant to section 124.13 of the Revised Code or a plan established by the employer;

(c) Payments made for vacation pay covering concurrent periods for which other salary or compensation is also paid or during which benefits are paid under this chapter;

(d) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the contributor or the contributor's family, or amounts paid by the employer to the contributor in lieu of providing the insurance;

(e) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, use of the employer's property or equipment, and reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development;

(f) Payments made to or on behalf of a contributor that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended. For a contributor who first establishes membership before July 1, 1996, the annual compensation that may be taken into account by the retirement system shall be determined under division (d)(3) of section 13212 of the "Omnibus Budget Reconciliation Act of 1993," Pub. L. 103-66, 107 Stat. 472;

(g) Payments made under division (B) or (D) of section 5923.05 of the Revised Code or Section 4 of Substitute Senate Bill No. 3 of the 119th general assembly;

(h) Anything of value received by the contributor that is based on or attributable to retirement or an agreement to retire, except that payments made on or before January 1, 1989, that are based on or attributable to an agreement to retire shall be included in compensation if both of the following apply:

(i) The payments are made in accordance with contract provisions that

were in effect prior to January 1, 1986.

(ii) The employer pays the retirement system an amount specified by the retirement board equal to the additional liability from the payments.

(3) The retirement board shall determine by rule whether any form of earnings not enumerated in this division is to be included in compensation, and its decision shall be final.

(W) "Disability benefit recipient" means a member who is receiving a disability benefit.

(X) "Actuary" means an individual who satisfies all of the following requirements:

(1) Is a member of the American academy of actuaries;

(2) Is an associate or fellow of the society of actuaries;

(3) Has a minimum of five years' experience in providing actuarial services to public retirement plans.

Sec. 3309.03. A school employees retirement system is hereby established for the employees as defined in section 3309.01 of the Revised Code, which shall include the several funds created and placed under the management of the school employees retirement board for the payment of retirement allowances and other benefits provided in Chapter 3309. of the Revised Code. The board may sue and be sued, plead and be impleaded, contract and be contracted with, and do all things necessary to carry out Chapter 3309. of the Revised Code. All of its business shall be transacted, all of its funds invested, all warrants for money drawn and payments made, and all of its cash, securities, and other property shall be held in the name of the board, or in the name of its nominee, provided that nominees are authorized by retirement board resolution for ~~the purpose of facilitating the ownership and transfer of investments~~ such purposes. The board may take all appropriate action to avoid payment by the system or its members of federal or state income taxes on contributions to the system or amounts earned on those contributions.

Sec. 3309.031. The school employees retirement system shall consist of the plans described in section 3309.18 to 3309.70 of the Revised Code and the plan or plans established under section 3309.81 of the Revised Code.

Sec. 3309.04. The general administration and management of the school employees retirement system and making effective Chapter 3309. of the Revised Code are hereby vested in the school employees retirement board which may adopt rules in accordance with section 111.15 of the Revised Code and may authorize its administrative officers, or committees composed of members of said board, to act for the board in ~~accord~~ accordance with such policies and subject to subsequent approval by the board.

~~The attorney general shall prescribe procedures for the adoption of rules authorized under this chapter, consistent with the provision of section 111.15 of the Revised Code under which all rules shall be filed in order to be effective. Such procedures shall establish methods by which notice~~

Notice of proposed rules is shall be given to interested parties and rules adopted by the board shall be published and otherwise made available. When it files a rule with the joint committee on agency rule review pursuant to section 111.15 of the Revised Code, the board shall submit to the Ohio retirement study council a copy of the full text of the rule, and if applicable, a copy of the rule summary and fiscal analysis required by division (B) of section 127.18 of the Revised Code.

All rules adopted pursuant to this chapter, prior to August 20, 1976, shall be published and made available to interested parties by January 1, 1977.

Sec. 3309.05. The school employees retirement board shall consist of the following seven members:

(A) The auditor of state;

(B) The attorney general;

(C) Four members, known as employee members, who shall be members of the school employees retirement system, and who shall be elected by ballot by the members of the system;

(D) One member, known as the retirant member, who shall be a former member of the retirement system who is a ~~recipient of~~ resident of this state and currently receiving an age and service retirement benefits under this chapter and a resident of this state or a member of the retirement system who is a recipient of benefit, a disability benefit under this chapter and a resident of this state, or benefits under a plan established under section 3309.81 of the Revised Code. The retirant member shall be elected by ballot by former members of the system who are currently receiving an age and service retirement benefits or benefit, a disability benefit under this chapter, or benefits under a plan established under section 3309.81 of the Revised Code.

Sec. 3309.07. (A) All elections for employee or retirant members of the school employees retirement board shall be held under the direction of the board.

(B) Any member of the school employees retirement system, other than a disability benefit recipient, shall be eligible for election as an employee member of the board who has been nominated by a petition signed by at least five hundred members, provided that there shall be not less than twenty signers each from at least ten counties wherein such members are employed.

The petition shall specify the term of office and position. The name of any member so nominated shall be placed upon the ballot by the board as a regular candidate. Other names of eligible candidates may at any election be substituted for the regular candidates by writing such names upon the ballot. The candidate receiving the highest number of votes for any term as member of the board shall be elected for such term. In any year in which two employee member positions must be filled, the candidates who receive the highest and second highest number of votes shall be elected to the offices.

(C) Any ~~service retiree or disability benefit recipient~~ former member of the school employees retirement system described in division (D) of section 3309.05 of the Revised Code is eligible for election as the retiree member of the board to represent former members currently receiving an age and service retirement benefit, a disability benefit, or benefits under a plan established under section 3309.81 of the Revised Code, provided that such person has been nominated by a petition signed by at least one hundred fifty former members of the system who are currently receiving an age and service retirement benefits or benefit, a disability benefit, or benefits under this chapter a plan established under section 3309.81 of the Revised Code. The petition shall contain the signatures of at least ten such ~~retirees or disability benefit recipients~~ retirees or disability benefit recipients from each of at least five counties wherein ~~service retirees or disability benefit recipients~~ under of benefits from this system reside. The petition shall specify the term of office and position. The name of any ~~retiree or disability benefit recipient~~ person so nominated shall be placed upon the ballot by the board as a regular candidate. Other names of eligible candidates may at any election be substituted for the regular candidates by writing such names upon the ballot. The candidate receiving the highest number of votes for any term as member of the board shall be elected for such term.

No employee member of the board who retires while a member of the board shall be eligible to become a retiree member of the board for three years after the date of the member's retirement.

Sec. 3309.12. The treasurer of state shall be the custodian of the funds of the school employees retirement system, and all disbursements therefrom shall be paid by ~~him~~ the treasurer of state only upon instruments duly authorized by the school employees retirement board and bearing the signatures of the board; provided, that such instruments may bear the names of the board members printed thereon and the signatures of the president and secretary of the board. The signatures of the president and secretary may be affixed through the use of a mechanical check signing device.

The treasurer of state shall give a separate and additional bond in such amount as is fixed by the governor and with sureties selected by the board and approved by the governor, conditioned for the faithful performance of the duties of the treasurer of state as custodian of the funds of the system. Such bonds shall be deposited with the secretary of state and kept in ~~his~~ the treasurer of state's office. The governor may require the treasurer of state to give other and additional bonds, as the funds of the system increase, in such amounts and at such times as are fixed by the governor, which additional bonds shall be conditioned, filed, and obtained as is provided for the original bond of the treasurer of state covering the funds of the system. The premium on all bonds shall be paid by the board.

The treasurer of state shall deposit any portion of the funds of the system not needed for immediate use in the same manner as state funds are deposited, and subject to all provisions of law with respect to the deposit of state funds, by the treasurer of state, and all interest earned by such portion of the retirement funds as may be deposited by the treasurer of state shall be collected by him and placed to the credit of the board.

The treasurer of the state shall furnish annually to the school employees retirement system a sworn statement of the amount of the funds in the treasurers' custody belonging to the school employees retirement system.

Sec. 3309.15. (A) The members of the school employees retirement board shall be the trustees of the funds created by section 3309.60 of the Revised Code. The board shall have full power to invest the funds. The board and other fiduciaries shall discharge their duties with respect to the funds solely in the interest of the participants and beneficiaries; for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the school employees retirement system; with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and by diversifying the investments of the system so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

~~To facilitate investment of the funds, the~~ The board may establish a partnership, trust, limited liability company, corporation, including a corporation exempt from taxation under the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, or any other legal entity authorized to transact business in this state.

(B) In exercising its fiduciary responsibility with respect to the investment of the funds, it shall be the intent of the board to give

consideration to investments that enhance the general welfare of the state and its citizens where the investments offer quality, return, and safety comparable to other investments currently available to the board. In fulfilling this intent, equal consideration shall also be given to investments otherwise qualifying under this section that involve minority owned and controlled firms and firms owned and controlled by women, either alone or in joint venture with other firms.

The board shall adopt, in regular meeting, policies, objectives, or criteria for the operation of the investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines. In adopting policies and criteria for the selection of agents with whom the board may contract for the administration of the funds, the board shall give equal consideration to minority owned and controlled firms, firms owned and controlled by women, and ventures involving minority owned and controlled firms and firms owned and controlled by women that otherwise meet the policies and criteria established by the board. Amendments and additions to the policies and criteria shall be adopted in regular meeting. The board shall publish its policies, objectives, and criteria under this provision no less often than annually and shall make copies available to interested parties.

When reporting on the performance of investments, the board shall comply with the performance presentation standards established by the association for investment management and research.

(C) All evidences of title of investments purchased by the board under this section shall be delivered to the treasurer of state, who is hereby designated as custodian thereof, or to the treasurer of state's authorized agent, and the treasurer of state or the agent shall collect principal, interest, dividends, and distributions that become due and payable and place the same when so collected into the custodial funds. Evidences of title of the investments may be deposited by the treasurer of state for safekeeping with an authorized agent, selected by the treasurer of state, who is a qualified trustee under section 135.18 of the Revised Code. The treasurer of state shall pay for the investments purchased by the board pending receipt of the evidence of title of the investments by the treasurer of state or to the treasurer of state's authorized agent, and on receipt of written or electronic instructions from the board or the board's designated agent authorizing the purchase. The board may sell any investments held by the board, and the treasurer of state or the treasurer of state's authorized agent shall accept payment from the purchaser and deliver evidence of title of the investment

to the purchaser on receipt of written or electronic instructions from the board or the board's designated agent authorizing the sale, and pending receipt of the moneys for the investments. The amount received shall be placed into the custodial funds. The board and the treasurer of state may enter into agreements to establish procedures for the purchase and sale of investments under this division and the custody of the investment.

(D) No purchase or sale of any investment shall be made under this section except as authorized by the school employees retirement board.

(E) Any statement of financial position distributed by the board shall include the fair value, as of the statement date, of all investments held by the board under this section.

Sec. 3309.17. The proper officers of each taxing district issuing the bonds provided for in section 3309.16 of the Revised Code shall, without additional procedure or legislation on their part, comply with ~~sections 3309.01 to 3309.68, inclusive, of the Revised Code~~ this chapter, except that the proper accounting officer of such taxing district and the secretary of its sinking fund shall make and keep a detailed record of any such changes required by the school employees retirement board. The board shall not change the date of maturity of any part of the principal or interest of any bond issue, nor shall it require a bond of any issue to be of a larger denomination, nor any partial payment of principal to be of greater amount than the aggregate amount of such issue falling due at any date.

Sec. 3309.22. (A) ~~The treasurer of state shall furnish annually to the school employees retirement board a sworn statement of the amount of the funds in the treasurer's custody belonging to the school employees retirement system.~~

~~(B)~~(1) As used in this division, "personal history record" means information maintained by the board on a member, former member, contributor, former contributor, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the system, and other information the board determines to be confidential.

(2) The records of the board shall be open to public inspection, except for the following, which shall be excluded, except with the written authorization of the individual concerned:

(a) The individual's statement of previous service and other information as provided for in section 3309.28 of the Revised Code;

(b) Any information identifying by name and address the amount of a monthly allowance or benefit paid to the individual;

(c) The individual's personal history record.

~~(C)~~(B) All medical reports and recommendations required by the system are privileged except that copies of such medical reports or recommendations shall be made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release received from the individual or the individual's agent, or when necessary for the proper administration of the fund, to the board assigned physician.

~~(D)~~(C) Any person who is a contributor of the system shall be furnished, on written request, with a statement of the amount to the credit of the person's account. The board need not answer more than one such request of a person in any one year.

~~(E)~~(D) Notwithstanding the exceptions to public inspection in division ~~(B)~~(A)(2) of this section, the board may furnish the following information:

(1) If a member, former member, contributor, former contributor, or retirant is subject to an order issued under section 2907.15 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court or administrative order issued under section 3111.23 or 3113.21 of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section.

(3) At the written request of any person, the board shall provide to the person a list of the names and addresses of members, former members, retirants, contributors, former contributors, or beneficiaries. The costs of compiling, copying, and mailing the list shall be paid by such person.

(4) Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the board shall inform the auditor of state of the name, current or most recent employer address, and social security number of each contributor whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The board and its employees shall, except for purposes of furnishing the auditor of state with information required by this section, preserve the confidentiality of recipients of public assistance in compliance with division (A) of section 5101.181 of the Revised Code.

~~(F)~~(E) A statement that contains information obtained from the system's records that is signed by an officer of the retirement system and to which the

system's official seal is affixed, or copies of the system's records to which the signature and seal are attached, shall be received as true copies of the system's records in any court or before any officer of this state.

Sec. 3309.25. On receipt of notice under section 3309.55 of the Revised Code of the employment of a new employee, the school employees retirement system shall inform the employee of the requirements of section 3309.251 of the Revised Code.

Sec. 3309.251. (A) Except as provided in division (D) of this section, an individual who becomes a member of the school employees retirement system on or after the date on which the school employees retirement board establishes a plan under section 3309.81 of the Revised Code shall make an election under this section. Not later than one hundred eighty days after the date on which employment begins, the individual shall elect to participate either in the plan described in sections 3309.18 to 3309.70 of the Revised Code or one of the plans established under section 3309.81 of the Revised Code. If a form evidencing an election under this section is not on file with the employer at the end of the one-hundred-eighty-day period, the individual is deemed to have elected to participate in the plan described in sections 3309.18 to 3309.70 of the Revised Code.

(B) An election under this section shall be made in writing on a form provided by the retirement system and filed with the employer's personnel officer. Not later than ten days after receiving the form evidencing the election, the employer shall transmit to the system a copy that includes a statement certifying that it is a true and accurate copy of the original.

(C) An election under this section shall take effect on the date employment began and is irrevocable on receipt by the employer.

(D) An individual is ineligible to make an election under this section if either of the following applies:

(1) At the time employment begins, the individual is already a member or contributor participating in the plan described in sections 3309.18 to 3309.70 of the Revised Code or an SERS retirant, as defined in section 3309.341 of the Revised Code.

(2) An election to participate in an alternative retirement plan under section 3305.05 of the Revised Code is in effect for employment covered by the system.

Sec. 3309.252. (A) A member of the school employees retirement system, who, as of the last day of the month immediately preceding the date on which the system establishes a plan under section 3309.81 of the Revised Code, has less than five years of total service credit is eligible to make an election under this section.

Not later than one hundred eighty days after the day the board first establishes one or more plans under section 3309.81 of the Revised Code, an eligible member may elect to participate in a plan established under that section. If an election is not made, a member to whom this section applies is deemed to have elected to continue participating in the plan described in sections 3309.18 to 3309.70 of the Revised Code.

(B) An election under this section shall be made in writing on a form provided by the system and filed with the system.

(C) On receipt of an election under this section, the system shall do both of the following:

(1) Credit to the account of the member in the defined contribution fund the accumulated contributions standing to the member's credit in the employees' savings fund;

(2) Cancel all service credit and eligibility for any payment, benefit, or right under the plan described in sections 3309.18 to 3309.70 of the Revised Code.

(D) An election under this section shall be irrevocable on receipt by the system.

Sec. 3309.253. A member of the school employees retirement system who elects to participate in a plan established under section 3309.81 of the Revised Code shall be ineligible for any benefit or payment under sections 3309.18 to 3309.70 of the Revised Code and shall be forever barred from claiming or purchasing service credit with any state retirement system, as defined in section 145.30 of the Revised Code, for service covered by the election.

Sec. 3309.32. Any employee who becomes a member and establishes one year of contributing service credit shall be granted prior service credit unless ~~he~~ the employee is otherwise required to establish additional contributing service credit under the provisions of ~~sections 3309.01 to 3309.68, inclusive, of the Revised Code~~ this chapter. Provided, however, that any employee who became a contributing member prior to September 1, 1938, shall be granted prior service credit as of the date of establishing contributing membership.

Sec. 3309.341. (A) As used in this section:

(1) "SERS retirant" means any person who is receiving a retirement allowance from the school employees retirement system under section 3309.36, 3309.38, or 3309.381 of the Revised Code or any benefit paid under a plan established under section 3309.81 of the Revised Code.

(2) "Other system retirant" means a member or former member of the public employees retirement system, Ohio police and fire pension fund, state

teachers retirement system, state highway patrol retirement system, or Cincinnati retirement system who is receiving age and service or commuted age and service retirement, or a disability benefit from a system of which the retirant is a member or former member.

(B)(1) An SERS retirant or other system retirant may be employed by a public employer. If so employed, the SERS retirant or other system retirant shall contribute to the school employees retirement system in accordance with section 3309.47 of the Revised Code, and the employer shall make contributions in accordance with section 3309.49 of the Revised Code.

(2) An employer that employs an SERS retirant or other system retirant shall notify the retirement board of the employment not later than the end of the month in which the employment commences. On receipt of notice from an employer that a person who is an other system retirant has been employed, the school employees retirement system shall notify the state retirement system of which the other system retirant was a member of such employment.

(C) An SERS retirant or other system retirant who has received a retirement allowance or disability benefit for less than two months when employment subject to this section commences shall forfeit the retirement allowance or disability benefit for the period that begins on the date the employment commences and ends on the earlier of the date the employment terminates or the date that is two months after the date on which the retirement allowance or disability benefit commenced. Service and contributions for that period shall not be included in the calculation of any benefits payable to the SERS retirant or other system retirant, and those contributions shall be refunded on death or termination of the employment.

(D) On receipt of notice from the Ohio police and fire pension fund, public employees retirement system, or state teachers retirement system of the re-employment of an SERS retirant, the school employees retirement system shall not pay, or if paid shall recover, the amount to be forfeited by the SERS retirant in accordance with section 145.38, 742.26, or 3307.35 of the Revised Code.

(E)(1) On termination of employment under this section, an SERS retirant or other system retirant may file an application with the school employees retirement system for a benefit under this division. The benefit shall consist of a single life annuity having a reserve equal to the amount of the retirant's accumulated contributions for the period of employment, other than the contributions excluded pursuant to division (C) of this section, and an equal amount of the employer's contributions, plus interest credited to the date of retirement at the rate provided in division (I)(2) of section 3309.01

of the Revised Code. The SERS retirant or other system retirant shall elect either to receive the benefit as a monthly annuity for life or a lump-sum payment discounted to the present value using the current actuarial assumption rate of interest, except that if the monthly annuity would be less than twenty-five dollars per month, the retirant shall receive a lump-sum payment.

(2) A benefit payable under this division shall commence on the first day of the month after the latest of the following:

(a) The last day for which compensation for employment subject to this section was paid;

(b) Attainment by the SERS retirant or other system retirant of age sixty-five;

(c) If the SERS retirant or other system retirant was previously employed under this section and is receiving or previously received a benefit under this division, completion of a period of twelve months since the effective date of that benefit.

(3) An SERS retirant or other system retirant subject to this section is not a member of the school employees retirement system; does not have any of the rights, privileges, or obligations of membership, except as specified in this section; and is not eligible to receive health, medical, hospital, or surgical benefits under section 3309.69 of the Revised Code for employment subject to this section. No amount received under this division shall be included in determining an additional benefit under section 3309.374 of the Revised Code or any other post-retirement benefits.

(F)(1) If an SERS retirant or other system retirant dies while employed in employment subject to this section, a lump-sum payment calculated in accordance with division (E)(1) of this section shall be paid to the beneficiary under division (H) of this section.

(2) If at the time of death an SERS retirant or other system retirant receiving a monthly annuity has received less than the retirant would have received as a lump-sum payment, the difference between the amount received and the amount that would have been received as a lump-sum payment shall be paid to the retirant's beneficiary under division (H) of this section.

(G) If the disability benefit of an other system retirant employed under this section is terminated, the retirant shall become a member of the school employees retirement system, effective on the first day of the month next following the termination, with all the rights, privileges, and obligations of membership. If the retirant, after the termination of the disability benefit, earns two years of service credit under this retirement system or under the

public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, or state highway patrol retirement system, the retirant's prior contributions as an other system retirant under this section shall be included in the retirant's total service credit as a school employees retirement system member, and the retirant shall forfeit all rights and benefits of this section. Not more than one year of credit may be given for any period of twelve months.

(H) An SERS retirant or other system retirant employed under this section may designate one or more persons as beneficiary to receive any benefits payable under this section due to death. The designation shall be in writing duly executed on a form provided by the school employees retirement board, signed by the SERS retirant or other system retirant, and filed with the board prior to death. The last designation of a beneficiary revokes all previous designations. The SERS retirant's or other system retirant's marriage, divorce, marriage dissolution, legal separation, withdrawal of account, birth of the retirant's child, or adoption of a child revokes all previous designations. If there is no designated beneficiary, the beneficiary is the beneficiary designated under division (D) of section 3309.44 of the Revised Code. If any benefit payable under this section due to the death of an SERS retirant or other system retirant is not claimed by a beneficiary within five years after the death, the amount payable shall be transferred to the guarantee fund and thereafter paid to the beneficiary or the estate of the SERS retirant or other system retirant on application to the board.

(I) This section does not affect the receipt of benefits by or eligibility for benefits of any person who on August 29, 1976, was receiving a disability benefit or service retirement pension or allowance from a state or municipal retirement system in Ohio and was a member of any other state or municipal retirement system of this state.

(J) The school employees retirement board may adopt rules to carry out this section.

Sec. 3309.36. (A) A member retiring on service retirement shall be granted a retirement allowance consisting of the lesser of the sum of the following amounts or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended:

- (1) An annuity having a reserve equal to the amount of the employee's accumulated contributions at that time;
- (2) A pension of equivalent amount;
- (3) An additional pension of forty dollars multiplied by the number of years of such prior service credit;

(4) For members who have ten or more years of service credit accumulated prior to October 1, 1956, a basic annual pension equal to one hundred eighty dollars, except that such basic annual pension shall not exceed the sum of the total annual benefits provided by divisions (A)(1), (2), and (3) of this section.

(B)(1) When a member retires on service retirement, the member's allowance when computed as an annual single lifetime allowance as provided in divisions (A)(1), (2), (3), and (4) of this section and section 3309.38 of the Revised Code, based upon attained age sixty-five or thirty years of total service credit, shall be not less than the greater of the amounts determined by multiplying the member's total service credit by the following:

(a) Eighty-six dollars;

(b) Two and ~~one-tenth~~ two-tenths per cent of the member's final average salary for each of the first thirty years of service credit or fraction thereof plus two and one-half per cent of the member's final average salary for each subsequent year of service credit or fraction thereof.

(2) The annual single lifetime allowance determined under division (B)(1) of this section shall be adjusted by the greater percentage shown in the following schedule opposite the member's attained age or years of Ohio service credit:

Attained or Age	Years of Ohio Service Credit	Per Cent of Base Amount
58	25	75%
59	26	80
60	27	85
61	28	88
62	28	90
63	28	91
63	28	94
64	29	95
64	29	97
65	30 or more	100

Members shall vest the right to a benefit in accordance with the following schedule, based on the member's attained age by September 1, 1976:

Attained Age	Per Cent of Base Amount
66	102

67	104
68	106
69	108
70 or more	110

(3) The annual single lifetime allowance which a retirant shall receive under this division shall not exceed the lesser of ~~ninety one~~ one hundred per cent of the member's final average salary or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(C) Retirement allowances determined under this section shall be paid as provided in section 3309.46 of the Revised Code.

Sec. 3309.374. (A) Beginning April 1, 1971, and each year thereafter, the board of the school employees retirement system shall determine the average percentage change in the consumer price index prepared by the United States bureau of labor statistics (U.S. City Average for Urban Wage Earners and Clerical Workers: "All Items 1982-84=100") for the twelve-calendar-month period prior to the first day of January over the next preceding twelve-calendar-month period, as reported by the bureau.

Upon a determination by the board in any year that the change in the consumer price index is an increase or that the change plus the accumulation described in division (B) of this section is an increase, the board shall increase each allowance, pension, or benefit payable under this chapter by a percentage equal to the percentage increase in the consumer price index or to that increase plus the accumulation, except that the increase shall not exceed three per cent and no allowance, pension, or benefit shall exceed the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

The first increase is payable to all persons becoming eligible after June 30, 1971, upon such persons receiving an allowance, pension, or benefit for twelve months.

The increased amount is payable for the ensuing twelve-month period or until the next increase is granted under this section, whichever is later. Subsequent increases shall be determined from the date of the first increase paid to the former member in the case of an allowance being paid a beneficiary under an option, or from the date of the first increase to the survivor first receiving an allowance or benefit in the case of an allowance or benefit being paid to the subsequent survivors of the former member.

The date of the first increase under this section becomes the anniversary date for any future increases.

The allowance or benefit used in the first calculation of an increase

under this section shall remain as the base for all future increases, unless a new base is established. Any increase resulting from payment of a recalculated benefit under Section 3 of Substitute Senate Bill No. 270 of the 123rd general assembly shall be included in the calculation of future increases under this section.

(B) Any percentage of change in the consumer price index in any year that is in excess of three per cent shall be accumulated and used to determine increases under this section in subsequent years. Any percentage of change in the consumer price index accumulated by an eligible person prior to ~~the effective date of this amendment~~ September 27, 1996, shall be used in determining any future increases under this section.

(C) The board shall make all rules necessary to carry out this section.

Sec. 3309.381. (A) A recipient of a disability allowance under section 3309.401 of the Revised Code who is subject to division (C)(3) of that section may make application for service retirement under this section. Retirement shall be effective on the first day of the first month following the last day for which the disability allowance is paid.

(B) The annual allowance payable under this section shall consist of the sum of the amounts determined under divisions (B)(1) and (2) of this section:

(1) The greater of the following:

(a) An allowance calculated as provided in section 3309.36 of the Revised Code, excluding any period during which the applicant received a disability benefit under section 3309.401 of the Revised Code;

(b) An allowance calculated by multiplying the applicant's total service credit, including service credit for the last continuous period during which ~~he~~ the applicant received a disability benefit under section 3309.401 of the Revised Code, by two and ~~one-tenth~~ two-tenths per cent of ~~his~~ the applicant's final average salary, except that the allowance shall not exceed forty-five per cent of the applicant's final average salary.

(2) An amount equal to the additional allowance the recipient would receive under section 3309.374 of the Revised Code, plus any other additional amount ~~he~~ the recipient would receive under this chapter, had ~~he~~ the recipient retired under section 3309.36 of the Revised Code effective on the effective date of ~~his~~ the recipient's most recent continuous period of receipt of a disability benefit under section 3309.401 of the Revised Code.

(C) The allowance calculated under division (B) of this section, exclusive of any amount added under division (B)(2) of this section based on section 3309.374 of the Revised Code, shall be the base for all future additional allowances under section 3309.374 of the Revised Code.

The anniversary date for future additional allowances under section 3309.374 of the Revised Code shall be the effective date of the recipient's most recent continuous period of receipt of a disability benefit under section 3309.401 of the Revised Code.

(D) The retirement allowance determined under this section shall be paid as provided in section 3309.46 of the Revised Code.

Sec. 3309.40. A member who has elected disability coverage under this section, has not attained age sixty, and is determined by the school employees retirement board under section 3309.39 of the Revised Code to qualify for a disability ~~benefit~~ benefit shall be retired on disability under this section.

Upon disability retirement, a member shall receive an annual amount that shall consist of:

(A) An annuity having a reserve equal to the amount of the member's accumulated contributions;

(B) A pension that shall be the difference between ~~his~~ the member's annuity and an annual amount determined by multiplying the total service credit of such member, and in addition thereto, the number of years and fractions thereof between the effective date of ~~his~~ the member's disability retirement and attained age sixty, assuming continuous service, by eighty-six dollars, or by two and ~~one-tenth~~ two-tenths per cent of ~~his~~ the member's final average salary, whichever is greater.

Where the member is not receiving a disability benefit under section 3309.35 of the Revised Code and is receiving a disability benefit from either the public employees retirement system or the state teachers retirement system, then such member shall not be eligible for service credit based upon the number of years and fractions thereof between the effective date of disability and attained age sixty as provided for in this division.

Such disability retirement shall not be less than thirty per cent nor more than seventy-five per cent of the member's final average salary, except that it shall not exceed any limit to which the retirement system is subject under section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

The school employees retirement board is the final authority in determining the eligibility of a member for such form of retirement.

Sec. 3309.401. (A) A member with disability coverage under this section who is determined by the school employees retirement board under section 3309.39 of the Revised Code to qualify for a disability benefit shall receive a disability allowance under this section. The allowance shall be an annual amount equal to the greater of the following:

(1) Forty-five per cent of the member's final average salary;

(2) The member's total service credit multiplied by two and ~~one-tenth~~ two-tenths per cent of ~~his~~ the member's final average salary, not exceeding sixty per cent of ~~his~~ the member's final average salary.

(B) Sufficient reserves for payment of the disability allowance shall be transferred to the annuity and pension reserve fund from the employers' accumulation fund. The accumulated contributions of the member shall remain in the employees' savings fund. No part of the allowance paid under this section shall be charged against the member's accumulated contributions.

(C) A disability allowance paid under this section shall terminate at the earliest of the following:

(1) The effective date of service retirement under section 3309.35, 3309.36, or 3309.38 of the Revised Code;

(2) The date the allowance is terminated under section 3309.41 of the Revised Code;

(3) The later of the last day of the month in which the recipient attains age sixty-five, or the last day of the month in which the benefit period ends as follows:

Attained Age at Effective Date of Disability Allowance	Benefit Period
60 or 61	60 months
62 or 63	48 months
64 or 65	36 months
66, 67, or 68	24 months
69 or older	12 months

Sec. 3309.45. Except as provided in division (C)(1) of this section, in lieu of accepting the payment of the accumulated account of a member who dies before service retirement, the beneficiary, as determined in section 3309.44 of the Revised Code, may elect to forfeit the accumulated account and to substitute certain other benefits either under division (A) or (B) of this section.

(A) If a deceased member was eligible for a service retirement allowance as provided in section 3309.36, 3309.38, or 3309.381 of the Revised Code, a surviving spouse or other sole dependent beneficiary may elect to receive a monthly benefit computed as the joint-survivor allowance designated as "plan D" in section 3309.46 of the Revised Code, which the member would have received had the member retired on the last day of the month of death and had the member at that time selected such joint-survivor plan. Payment shall begin with the month subsequent to the member's death.

(B) If the deceased member had completed at least one and one-half years of credit for Ohio service, with at least one-quarter year of Ohio contributing service credit within the two and one-half years prior to the date of death, or was receiving at the time of death a disability benefit as provided in section 3309.40 or 3309.401 of the Revised Code, qualified survivors ~~may~~ who elect to receive monthly benefits, shall receive the greater of the benefits provided in ~~divisions~~ division (B)(1) and ~~(5)(a) or (b)~~ as allocated in accordance with division (B)(5) of this section.

(1)(a) Number
of Qualified

survivors affecting the benefit	Annual Benefit as a Per Cent of Decedent's Final Average Salary	Or Monthly Benefit shall not be less than
1	25%	\$ 96
2	40	186
3	50	236
4	55	236
5 or more	60	236

(b) Years of Service

Annual Benefit as a Per Cent of
Member's Final Average Salary

<u>20</u>	<u>29%</u>
<u>21</u>	<u>33</u>
<u>22</u>	<u>37</u>
<u>23</u>	<u>41</u>
<u>24</u>	<u>45</u>
<u>25</u>	<u>48</u>
<u>26</u>	<u>51</u>
<u>27</u>	<u>54</u>
<u>28</u>	<u>57</u>
<u>29 or more</u>	<u>60</u>

(2) Benefits shall begin as qualified survivors meet eligibility requirements as follows:

(a) A qualified spouse is the surviving spouse of the deceased member who is age sixty-two, or regardless of age fifty if the deceased member had ten or more years of Ohio service credit, or regardless of age if caring for a surviving child, or regardless of age if adjudged physically or mentally incompetent.

(b) A qualified child is any ~~unmarried~~ child of the deceased member

who has never been married and to whom one of the following applies:

(i) Is under age eighteen, or under age twenty-two if the child is attending an institution of learning or training pursuant to a program designed to complete in each school year the equivalent of at least two-thirds of the full-time curriculum requirements of such institution and as further determined by board policy, ~~or regardless;~~

(ii) Regardless of age if, is adjudged physically or mentally incompetent
If the incompetence existed prior to the member's death and prior to the child attaining age eighteen, or age twenty-two if attending an institution described in division (B)(2)(b)(i) of this section

(c) A qualified parent is a dependent parent aged sixty-five or older.

(3) "Physically or mentally incompetent" as used in this section may be determined by a court of jurisdiction, or by a physician appointed by the retirement board. Incapability of earning a living because of a physically or mentally disabling condition shall meet the qualifications of this division.

(4) Benefits to a qualified survivor shall terminate upon a first marriage, abandonment, adoption, or during active military service. Benefits to a deceased member's surviving spouse that were terminated under a former version of this section that required termination due to remarriage and were not resumed prior to ~~the effective date of this amendment~~ September 16, 1998, shall resume on the first day of the month immediately following receipt by the board of an application on a form provided by the board.

Upon the death of any subsequent spouse who was a member of the public employees retirement system, state teachers retirement system, or school employees retirement system, the surviving spouse of such member may elect to continue receiving benefits under this division, or to receive survivor's benefits, based upon the subsequent spouse's membership in one or more of the systems, for which such surviving spouse is eligible under this section or section 145.45 or 3307.66 of the Revised Code. If the surviving spouse elects to continue receiving benefits under this division, such election shall not preclude the payment of benefits under this division to any other qualified survivor.

Benefits shall begin or resume on the first day of the month following the attainment of eligibility and shall terminate on the first day of the month following loss of eligibility.

(5) ~~Benefits~~ (a) If a benefit is payable under division (B)(1)(a) of this section, benefits to a qualified spouse shall be paid in the amount determined for the first qualifying survivor in division (B)(1)(a) of this section, but shall not be less than one hundred six dollars per month if the deceased member had ten or more years of Ohio service credit. All other

qualifying survivors shall share equally in the benefit or remaining portion thereof.

~~(6)~~(b) All qualifying survivors shall share equally in a benefit payable under division (B)(1)(b) of this section, except that if there is a surviving spouse, the surviving spouse shall receive no less than the greater of the amount determined for the first qualifying survivor in division (B)(1)(a) of this section or one hundred six dollars per month.

(6) The beneficiary of a member who is also a member of the public employees retirement system, or of the state teachers retirement system, must forfeit the member's accumulated contributions in those systems, if the beneficiary takes a survivor benefit. Such benefit shall be exclusively governed by section 3309.35 of the Revised Code.

(C)(1) Regardless of whether the member is survived by a spouse or designated beneficiary, if the school employees retirement system receives notice that a deceased member described in division (A) or (B) of this section has one or more qualified children, all persons who are qualified survivors under Division (B) of this section shall receive monthly benefits as provided in division (B) of this section.

If, after determining the monthly benefits to be paid under division (B) of this section, the system receives notice that there is a qualified survivor who was not considered when the determination was made, the system shall, notwithstanding section 3309.661 of the Revised Code, recalculate the monthly benefits with that qualified survivor included, even if the benefits to qualified survivors already receiving benefits are reduced as a result. The benefits shall be calculated as if the qualified survivor who is the subject of the notice became eligible on the date the notice was received and shall be paid to qualified survivors effective on the first day of the first month following the system's receipt of the notice.

If the retirement system did not receive notice that a deceased member has one or more qualified children prior to making payment under section 3309.44 of the Revised Code to a beneficiary as determined by the retirement system, the payment is a full discharge and release of the system from any future claims under this section or section 3309.44 of the Revised Code.

(2) If benefits under division (C)(1) of this section to all persons, or to all persons other than a surviving spouse or other sole beneficiary, terminate, there are no children under the age of twenty-two years, and the surviving spouse or beneficiary qualifies for benefits under division (A) of this section, the surviving spouse or beneficiary may elect to receive benefits under division (A) of this section. Benefits shall be effective on the

first day of the month following receipt by the board of an application for benefits under division (A) of this section.

(D) The final average salary used in the calculation of a benefit payable pursuant to division (A) or (B) of this section to a survivor or beneficiary of a disability benefit recipient shall be adjusted for each year between the disability benefit's effective date and the recipient's date of death by the lesser of three per cent or the actual average percentage increase in the consumer price index prepared by the United States bureau of labor statistics (U.S. City Average for Urban Wage Earners and Clerical Workers: "All Items 1982-84=100").

(E) If the survivor benefits due and paid under this section are in a total amount less than the member's accumulated account that was transferred from the employees' savings fund, the state teachers retirement fund, and the public employees retirement fund to the survivors' benefit fund, then the difference between the total amount of the benefits paid shall be paid to the beneficiary under section 3309.44 of the Revised Code.

Sec. 3309.47. Each school employees retirement system contributor shall contribute eight per cent of ~~his~~ the contributor's compensation to the employees' savings fund, except that the school employees retirement board may raise the contribution rate to a rate not greater than ten per cent of compensation.

The contributions by the direction of the school employees retirement board shall be deducted by the employer from the compensation of each contributor on each payroll of such contributor for each payroll period and shall be an amount equal to the required per cent of such contributor's compensation. On a finding by the board that an employer has failed or refused to deduct contributions for any employee during any year and to transmit such amounts to the retirement system, the retirement board may make a determination of the amount of the delinquent contributions, including interest at a rate set by the retirement board, from the end of each year, and certify to the employer the amounts for collection. If the amount is not paid by the employer, it may be certified for collection in the same manner as payments due the employers' trust fund. Any amounts so collected shall be held in trust pending receipt of a report of contributions for the employee for the period involved as provided by law and, thereafter, the amount in trust shall be transferred to the employee's savings fund to the credit of the employee. Any amount remaining after the transfer to the employees' savings fund shall be transferred to the employers' trust fund as a credit of the employer.

Any contributor under contract who, because of illness, accident, or

other reason approved by the employer, is prevented from making ~~his~~ the contributor's contribution to the system for any payroll period, may, upon returning to contributing service, have such deductions made from other payrolls during the year, or may pay such amount to the employer and the employer shall transmit such deductions to the system. The deductions shall be made notwithstanding that the minimum compensation for any contributor shall be reduced thereby. Every contributor shall be deemed to consent and agree to the contributions made and provided for in this section and shall receipt in full for ~~his~~ the contributor's salary or compensation, and payment, less the contributions, is a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the person during the period covered by the payment.

Each contributor shall pay with the first payment to the employees' savings fund each year a sum to be determined by the board, as provided by law, which amount shall be credited to the expense fund. The payments for the expense fund shall be made to the board in the same way as payments to the employees' savings fund are made.

Additional deposits may be made to a member's account. At retirement, the amount deposited with interest may be used to provide additional annuity income. The additional deposits may be refunded to the member before retirement, and shall be refunded if the member withdraws ~~his~~ the member's refundable amount. The deposits may be refunded to the beneficiary or estate if the member dies before retirement, and the board shall determine whether regular interest shall be credited to deposits thus refunded.

Sec. 3309.49. Each employer shall pay annually to the ~~employers' trust fund~~ school employees retirement system an amount certified by the secretary that shall be a certain per cent of the earnable compensation of all employees, and shall be known as the "employer contribution." The rate per cent of such contribution shall be fixed by the actuary on the basis of ~~his~~ the actuary's evaluation of the liabilities of the school employees retirement system, but shall not exceed fourteen per cent, and shall be approved by the school employees retirement board. The school employees retirement board may raise the rate per cent of the contribution to fourteen per cent of the earnable compensation of all employees. In making such evaluation, the actuary shall use, as the actuarial assumptions, regular interest and such mortality and other tables as are adopted by the school employees retirement board. ~~He~~ The actuary shall compute the percentage of such earnable compensation, to be known as the "employer rate," required annually to fund the liability for all allowances, annuities, pensions and other benefits,

and any deficiencies in the various funds, provided for in this chapter, after deducting therefrom the annuity and other benefits provided by the contributor's accumulated contributions and deposits or other applicable moneys.

Sec. 3309.491. (A) An actuary employed by the school employees retirement board shall annually determine the minimum annual compensation amount for each member that will be needed to fund the cost of providing future health care benefits under section 3309.69 of the Revised Code. The amount determined by the actuary under this division shall be approved by the board and shall be known as the "minimum compensation amount."

~~(B) For each member whose compensation for the prior year was less than the minimum compensation amount, the~~ (1) The secretary of the school employees retirement board shall annually determine ~~and certify to the member's~~ for each employer the "employer minimum compensation contribution," ~~which~~

Subject to division (B)(2) of this section, the amount determined shall be the amount lesser of the following:

(a) An amount equal to two per cent of the compensation of all members employed by the employer during the prior year;

(b) The total of the amounts determined as follows for each member whose compensation for the prior year was less than the minimum compensation amount:

~~(1)~~(i) Subtract the member's compensation for the prior year from the minimum compensation amount;

~~(2)~~(ii) Multiply the remainder obtained under division (B)(1)(b)(i) of this section by one, or if the member earned less than a year's service credit for the prior year, by the same fraction as the fraction of a year's service credit credited to the member under section 3309.30 of the Revised Code;

~~(3)~~(iii) Multiply the product obtained under division (B)~~(2)~~(1)(b)(ii) of this section by the employer contribution rate in effect for the year the service credit was earned.

(2) If the total of the employer minimum contribution amounts determined under division (B)(1) of this section exceeds one and one-half per cent of the compensation of all members employed by employers required to pay the employer minimum compensation contribution, the school employees retirement board shall reduce the amount determined for each employer so that the total amount determined does not exceed one and one-half per cent of the compensation of all members employed by employers required to pay the employer minimum compensation

contribution. Any reduction shall be applied to each employer in the same proportion as the employer's minimum compensation contribution bears to the total employer minimum compensation contribution.

(C) The secretary shall annually certify to each employer the employer minimum compensation contribution determined under division (B) of this section. In addition to the employer contribution required by section 3309.49 of the Revised Code, each employer shall pay annually to the ~~employer's~~ employers' trust fund the ~~total of the amounts~~ amount certified to the employer under this division ~~(B) of this section.~~

(D) Annually by the first day of August, the secretary shall submit to the superintendent of public instruction a list of the payments made by each employer under this ~~division~~ section during the preceding fiscal year.

Sec. 3309.53. Each employer, before employing any employee to whom ~~sections 3309.01 to 3309.68, inclusive, of the Revised Code,~~ this chapter may apply, shall give such person a written statement of ~~his~~ the person's duties and obligations under such sections as a condition of ~~his~~ employment, which statement shall be prepared and supplied to each employer by the school employees retirement board.

Any such appointment or reappointment of any employee, or service upon indefinite tenure, shall be conditioned upon the employee's acceptance of such sections as a part of the contract.

Sec. 3309.54. During September of each year, or at such other time as the school employees retirement board approves, each employer shall certify to the board the names of all employees to whom ~~sections 3309.01 to 3309.68, inclusive, of the Revised Code,~~ apply this chapter applies.

Sec. 3309.55. Each employer shall on the first day of each calendar month, or at such less frequent intervals as the school employees retirement board approves, notify the board of the employment of new employees, removals, withdrawals, and changes in compensation of employees that have occurred during the month preceding or the period since the period covered by the last notification. At least once a year each employer shall submit to the board a complete listing of all employees not contributing to the school employees retirement system. Each employer shall keep such records and shall furnish such information and assistance to the school employees retirement board as it requires in the discharge of its duties.

Sec. 3309.57. The treasurer of each employer on receipt from the employer of the voucher for deductions from the compensation of employees and for the contributions of the employer shall transmit monthly or at such times as the school employees retirement board designates the amounts specified in such voucher to the secretary of the board. The

ary of the board after making a record of all such receipts shall pay them to the treasurer of state for use according to ~~sections 3309.01 to 3309.68 of the Revised Code~~ this chapter.

Sec. 3309.59. Employers who obtain funds directly by taxation shall levy annually such additional taxes as are required to provide the additional funds necessary to meet the financial requirements imposed upon them by ~~sections 3309.01 to 3309.68, inclusive, of the Revised Code, this chapter~~ and said tax shall be placed before and in preference to all other items except for sinking fund or interest purposes.

Sec. 3309.60. The school employees retirement board shall be the trustee of certain funds hereby created as follows:

(A) The "employees' savings fund" is the fund in which shall be accumulated the contributions deducted from the compensation of contributors as provided by section 3309.47 of the Revised Code, together with the interest credited thereon. Such accumulated contributions refunded upon withdrawal or payable to a beneficiary as provided in this chapter, shall be paid from this fund. Any accumulated contributions forfeited by the failure of a contributor or a beneficiary to claim the same shall be transferred from this fund to the guarantee fund. The accumulated contributions of a contributor shall be transferred at ~~his~~ retirement from the employee's savings fund to the annuity and pension reserve fund. The accumulated contributions of a member who dies prior to service retirement and which are forfeited by the qualified beneficiary in exchange for monthly survivor benefits, as provided by section 3309.45 of the Revised Code, shall be transferred to the survivors' benefit fund. The accumulated contributions of an SERS retirant or other system retirant as defined in section 3309.341 of the Revised Code, who dies prior to retirement, shall be transferred to the survivors' benefit fund for payment of a lump sum benefit to a beneficiary as provided in section 3309.341 of the Revised Code.

(B) The "employers' trust fund" is the fund to which the employer contribution shall be credited and in which shall be accumulated the reserves held in trust for the payment of all pensions, disability benefits, or other benefits provided by this chapter, to contributors retiring or receiving disability benefits in the future or to their qualified beneficiaries, and from which the reserves for such pensions, disability benefits, and other benefits shall be transferred to the annuity and pension reserve fund and to the survivors' benefit fund. The balances in the employers' accumulation fund shall be transferred to this fund. As of June 30, 1958, an additional amount shall be transferred from the employers' trust fund to the annuity and pension reserve fund in the amount required to complete the funding of the

prior service and military service pensions then payable.

(C) The "annuity and pension reserve fund" is the fund from which shall be paid all annuities, pensions, and disability benefits for which reserves have been transferred from the employees' savings fund and the employers' trust fund.

(D) The "survivors' benefit fund" is the fund from which shall be paid the survivors' benefits provided by section 3309.45 of the Revised Code, and the lump sum payment to beneficiaries as provided in section 3309.341 of the Revised Code and to which shall be transferred from the employers' trust fund the amount required to fund all liabilities as of the end of each year.

(E) The "guarantee fund" is the fund from which interest is transferred and credited on the amounts in the funds described in divisions (A), (B), (C), and (D) of this section, and is a contingent fund from which the special requirements of said funds may be paid by transfer from this fund. All income derived from the investment of funds by the school employees retirement board as trustees under section 3309.15 of the Revised Code, together with all gifts and bequests, or the income therefrom, shall be paid into this fund.

Any deficit occurring in any other fund that will not be covered by payments to that fund, as otherwise provided in this chapter, shall be paid by transfers of amounts from the guarantee fund to such fund or funds. Should the amount in the guarantee fund be insufficient at any time to meet the amounts payable ~~therefrom~~ to the funds described in divisions (C) and (D) of this section, the amount of such deficiency, with regular interest, shall be paid by an additional employer rate of contribution as determined by the actuary, not to exceed fourteen per cent, and shall be approved by the school employees retirement board, and the amount of such additional employer contribution shall be credited to the guarantee fund.

The school employees retirement ~~board~~ system may accept gifts and bequests. Any gifts, bequests, or funds that may come into possession of the school employees retirement board in this manner or that may be transferred from the employees' savings fund by reason of lack of a claimant, or any surplus in any fund created by this section, or any other funds whose disposition is not otherwise provided for, shall be credited to the guarantee fund.

(F) The "expense fund" is the fund from which shall be paid the expenses for the administration and management of the school employees retirement system as provided by this chapter, and to which shall be credited the fees paid by members as provided by sections 3309.47 and 3309.62 of

the Revised Code.

(G) The defined contribution fund is the fund in which shall be accumulated the contributions deducted from the compensation of members participating in a plan established under section 3309.81 of the Revised Code, as provided in section 3309.85 of the Revised Code, together with any earnings and employer contributions, as provided in section 3309.86 of the Revised Code, credited thereon. The defined contribution fund is the fund from which shall be paid all benefits provided under a plan established under section 3309.81 of the Revised Code.

Sec. 3309.61. Wherever in ~~sections 3309.01 to 3309.68, inclusive, of the Revised Code~~ this chapter, reference is made to the employees' savings fund, the employers' trust fund, the annuity and pension reserve fund, the guarantee fund, the survivors' benefit fund, the defined contribution fund, or the expense fund, such reference shall be construed to have been made to each as a separate legal entity. This section does not prevent the deposit or investment of all such moneys intermingled for such purpose but such funds shall be separate and distinct legal entities for all other purposes.

Sec. 3309.66. The right of a person to a pension, an annuity, or a retirement allowance itself, any optional benefit, any other right accrued or accruing to any persons, under ~~sections 3309.01 to 3309.68 of the Revised Code~~ this chapter, or the various funds created by section 3309.60 of the Revised Code and all moneys and investments and income thereof, are exempt from any state tax, except the tax imposed by section 5747.02 of the Revised Code, and are exempt from any county, municipal, or other local tax, except taxes imposed pursuant to section 5748.02 or 5748.08 of the Revised Code and, except as provided in sections 3111.23, 3113.21, and 3309.67 of the Revised Code, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and shall be unassignable except as specifically provided in this chapter and in sections 3111.23; and 3113.21, ~~and 3309.01 to 3309.68~~ of the Revised Code.

Sec. 3309.69. (A) As used in this section, "ineligible individual" means all of the following:

(1) A former member receiving benefits pursuant to section 3309.34, 3309.35, 3309.36, 3309.38, or 3309.381 of the Revised Code for whom eligibility is established more than five years after June 13, 1981, and who, at the time of establishing eligibility, has accrued less than ten years of service credit, exclusive of credit obtained after January 29, 1981, pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code;

(2) The spouse of the former member;

(3) The beneficiary of the former member receiving benefits pursuant to section 3309.46 of the Revised Code.

(B) The school employees retirement board may enter into an agreement with insurance companies, health insuring corporations, or government agencies authorized to do business in the state for issuance of a policy or contract of health, medical, hospital, or surgical benefits, or any combination thereof, for those individuals receiving service retirement or a disability or survivor benefit subscribing to the plan and their eligible dependents.

If all or any portion of the policy or contract premium is to be paid by any individual receiving service retirement or a disability or survivor benefit, the person shall, by written authorization, instruct the board to deduct the premiums agreed to be paid by the individual to the companies, corporations, or agencies.

The board may contract for coverage on the basis of part or all of the cost of the coverage to be paid from appropriate funds of the school employees retirement system. The cost paid from the funds of the system shall be included in the employer's contribution rate provided by sections 3309.49 and 3309.491 of the Revised Code. The board shall not pay or reimburse the cost for health care under this section or section 3309.375 of the Revised Code for any ineligible individual.

The board may provide for self-insurance of risk or level of risk as set forth in the contract with the companies, corporations, or agencies, and may provide through the self-insurance method specific benefits as authorized by the rules of the board.

(C) If the board provides health, medical, hospital, or surgical benefits through any means other than a health insuring corporation, it shall offer to each individual eligible for the benefits the alternative of receiving benefits through enrollment in a health insuring corporation, if all of the following apply:

(1) The health insuring corporation provides health care services in the geographical area in which the individual lives;

(2) The eligible individual was receiving health care benefits through a health maintenance organization or a health insuring corporation before retirement;

(3) The rate and coverage provided by the health insuring corporation to eligible individuals is comparable to that currently provided by the board under division (B) of this section. If the rate or coverage provided by the health insuring corporation is not comparable to that currently provided by the board under division (B) of this section, the board may deduct the

additional cost from the eligible individual's monthly benefit.

The health insuring corporation shall accept as an enrollee any eligible individual who requests enrollment.

The board shall permit each eligible individual to change from one plan to another at least once a year at a time determined by the board.

(D) The board shall, beginning the month following receipt of satisfactory evidence of the payment for coverage, make a monthly payment to each recipient of service retirement, or a disability or survivor benefit under the school employees retirement system who is eligible for insurance coverage under part B of "The Social Security Amendments of 1965," 79 Stat. 301, 42 U.S.C.A. 1395j, as amended, except that the board shall make no such payment to any ineligible individual. Effective on the first day of the month after ~~December 8, 1998~~ the effective date of this amendment, the amount of the payment shall be the lesser of an amount equal to the basic premium for such coverage, or an amount equal to the basic premium in effect on January 1, ~~1992~~ 1999.

(E) The board shall establish by rule requirements for the coordination of any coverage, payment, or benefit provided under this section or section 3309.375 of the Revised Code with any similar coverage, payment, or benefit made available to the same individual by the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, or state highway patrol retirement system.

(F) The board shall make all other necessary rules pursuant to the purpose and intent of this section.

Sec. 3309.80. The school employees retirement board shall adopt rules to implement each plan established under section 3309.81 of the Revised Code.

Sec. 3309.81. The school employees retirement board shall establish one or more plans consisting of benefit options that provide for an individual account for each participating member and under which benefits are based solely on the amounts that have accumulated in the account. The plans may include options under which a member participating in a plan may receive definitely determinable benefits.

Each plan established under this section shall meet the requirements of sections 3309.81 to 3309.98 of the Revised Code and any rules adopted in accordance with section 3309.80 of the Revised Code. It may include life insurance, annuities, variable annuities, regulated investment trusts, pooled investment funds, or other forms of investment.

The board may administer the plans, enter into contracts with other entities to administer the plans, or both.

Sec. 3309.811. Each plan established under section 3309.81 of the Revised Code shall qualify as a governmental plan under section 414(d) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 414(d), as amended, and meet the requirements of section 401(a) of the "Internal Revenue Code of 1986," 26 U.S.C.A. 401(a), as amended, applicable to governmental plans.

Sec. 3309.812. Each plan established under section 3309.81 of the Revised Code shall meet the requirements necessary to qualify as a retirement system maintained by a state or local government entity under section 3121(b)(7)(F) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 3121(b)(7)(F), as amended. Each participant in a plan shall qualify as a member of that system.

Sec. 3309.813. Each plan established under section 3309.81 of the Revised Code shall require the school employees retirement board, or the entity administering the plan pursuant to a contract with the board, to cause an individual account to be maintained for each member participating in the plan. A plan may include deposits to the defined contribution fund created under section 3309.60 of the Revised Code or additional deposits made under section 3309.47 of the Revised Code to the employees' savings fund.

Sec. 3309.82. (A) Except as provided in division (B) of this section, sections 3309.02, 3309.021, and 3309.022 and sections 3309.18 to 3309.70 of the Revised Code do not apply to a plan established under section 3309.81 of the Revised Code, except that a plan may incorporate provisions of those sections as specified in the plan document.

(B) The following sections of Chapter 3309. of the Revised Code apply to a plan established under section 3309.81 of the Revised Code: sections 3309.19, 3309.21, 3309.22, 3309.23, 3309.24, 3309.25, 3309.251, 3309.252, 3309.253, 3309.28, 3309.29, 3309.341, 3309.3712, 3309.47, 3309.471, 3309.49, 3309.51, 3309.53, 3309.54, 3309.55, 3309.56, 3309.57, 3309.571, 3309.58, 3309.59, 3309.60, 3309.61, 3309.62, 3309.66, 3309.661, 3309.67, 3309.68, and 3309.70 of the Revised Code.

Sec. 3309.85. Each member participating in a plan established under section 3309.81 of the Revised Code shall contribute a per cent of the member's compensation to the school employees retirement system as required in section 3309.47 of the Revised Code. Contributions made under this section shall not exceed the limits established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

Sec. 3309.86. For each member participating in a plan established under section 3309.81 of the Revised Code, the employer shall contribute a per

cent of the member's compensation to the school employees retirement system as required in section 3309.49 of the Revised Code.

Sec. 3309.87. Except as provided in section 3309.88 of the Revised Code, amounts contributed under sections 3309.85 and 3309.86 of the Revised Code, and any earnings on those amounts, shall be deposited and credited in accordance with the plan established under section 3309.81 of the Revised Code that is selected by the member.

Sec. 3309.88. For each member participating in a plan established under section 3309.81 of the Revised Code, the school employees retirement system shall transfer to the employers' trust fund a portion of the employer contribution required under section 3309.49 of the Revised Code. The portion shall equal the percentage of compensation of members for whom the contributions are being made that is determined by an actuary appointed by the school employees retirement board to be necessary to mitigate any negative financial impact on the system of members' participation in a plan.

The board shall have prepared annually an actuarial study to determine whether the percentage transferred under this section should be changed to reflect a change in the level of negative financial impact resulting from members' participation in a plan. The percentage transferred shall be increased or decreased to reflect the amount needed to mitigate the negative financial impact, if any, on the system, as determined by the study. A change shall take effect on the first day of the year following the date the conclusions of the study are reported to the board.

The system shall make the transfer required under this section until the unfunded actuarial accrued liability for all benefits, except health care benefits provided under section 3309.375 or 3309.69 of the Revised Code and benefit increases to members and former members participating in the plan described in sections 3309.18 to 3309.70 of the Revised Code granted after the effective date of this section, is fully amortized, as determined by the annual actuarial valuation prepared under section 3309.21 of the Revised Code.

Sec. 3309.91. The right of each member participating in a plan established under section 3309.81 of the Revised Code to a retirement, disability, survivor, or death benefit, to health or long-term care insurance, or to a withdrawal of any amounts that have accumulated on the member's behalf shall be governed exclusively by the plan selected by the member.

Sec. 3309.92. If a member participating in a plan established under section 3309.81 of the Revised Code is married at the time benefits under the plan are to commence, before making any payment the school employees retirement system, or the entity administering the plan pursuant

to a contract with the school employees retirement board, shall obtain the consent of the member's spouse to the form of payment selected by the member.

A plan established under section 3309.81 of the Revised Code shall include requirements for consent under this section that are the same as the requirements specified in section 417(a)(2) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 417(a)(2), as amended. A plan may waive consent if the spouse cannot be located or for any other reason specified in the regulations adopted under that section.

Consent or waiver is effective only with regard to the spouse who is the subject of the consent or waiver.

Sec. 3309.95. Subject to sections 3309.341, 3309.66, and 3309.67 of the Revised Code, the right of a member participating in a plan established under section 3309.81 of the Revised Code to any payment or benefit accruing from contributions made by or on behalf of the member under sections 3309.85 and 3309.86 of the Revised Code shall vest in accordance with this section.

A member's right to any payment or benefit that is based on the member's contributions is nonforfeitable.

A member's right to any payment or benefit that is based on contributions by the member's employer is nonforfeitable as specified by the plan selected by the member.

Sec. 3309.97. Each plan established under section 3309.81 of the Revised Code shall permit a member participating in the plan to do all of the following:

(A) Maintain on deposit with the school employees retirement system, or the entity administering the plan pursuant to a contract with the school employees retirement board, any amounts that have accumulated on behalf of the member;

(B) If the member has withdrawn the amounts described in division (A) of this section, redeposit with the system or the entity administering the plan the amounts withdrawn;

(C) Make additional deposits as permitted by the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

Sec. 3309.98. Contributions under sections 3309.85 and 3309.86 of the Revised Code shall cease on the member's death or termination of employment or for any other reason specified by the plan selected by the member.

SECTION 2. That existing sections 3307.58, 3309.01, 3309.03, 3309.04,

3309.05, 3309.07, 3309.12, 3309.15, 3309.17, 3309.22, 3309.32, 3309.341, 3309.36, 3309.374, 3309.381, 3309.40, 3309.401, 3309.45, 3309.47, 3309.49, 3309.491, 3309.53, 3309.54, 3309.55, 3309.57, 3309.59, 3309.60, 3309.61, 3309.66, and 3309.69 and section 3309.58 of the Revised Code are hereby repealed.

SECTION 3. The School Employees Retirement System shall recalculate under section 3309.36, 3309.381, 3309.40, 3309.401, or 3309.45 of the Revised Code, as amended by this act, or under section 3309.38 of the Revised Code, each benefit that is payable under any of those sections or under section 3309.46 of the Revised Code and became effective on or after January 1, 2000, but before the effective date of this act. If the recalculated benefit is greater than the recipient's benefit prior to the recalculation, the system shall do both of the following:

(A) Pay the recalculated benefit beginning on the first day of the month immediately following the date the board recalculates the benefit;

(B) Make a one-time payment to each recipient receiving a benefit on the effective date of this act.

The payment shall be an amount equal to the difference between the benefits paid to the recipient between January 1, 2000, and the date of the payment and the increased benefits that would have been paid to the recipient had the amendments to sections 3309.36, 3309.381, 3309.40, 3309.401, and 3309.45 of the Revised Code gone into effect on January 1, 2000.

SECTION 4. (A) The School Employees Retirement System shall make a one-time payment to each person receiving a monthly payment under section 3309.69 of the Revised Code as of the effective date of this act who was eligible to receive a monthly payment during the period commencing January 1, 1993, and ending on the last day of the month in which this act takes effect pursuant to division (D) of section 3309.69 of the Revised Code for insurance coverage under Part B of the "Social Security Amendments of 1965," 79 Stat. 301, 42 U.S.C.A. 1935j, as amended. Except as provided in division (B) of this section, the payment shall be equal to the difference between:

(1) The amount the recipient was eligible to receive under division (D) of section 3309.69 of the Revised Code during the period commencing January 1, 1993, and ending on the last day of the month in which this act takes effect;

(2) The amount the recipient would have received under division (D) of section 3309.69 of the Revised Code during the same period had the amendments to that division made by this act taken effect January 1, 1993.

(B) The School Employees Retirement System shall subtract from any amount payable under this section any amount the recipient was eligible to receive pursuant to Section 3 of Am. Sub. H.B. 673 of the 122nd General Assembly.

SECTION 5. If the surviving spouse of a member who died on or after January 1, 2000, but before the effective date of this act would be eligible for a benefit under division (B)(2)(a) of section 3309.45 of the Revised Code as amended by this act and the surviving spouse has not taken the payment of the member's accumulated account, the system shall calculate the benefit payable to the surviving spouse under section 3309.45 of the Revised Code as of the effective date of this act and do both of the following:

(A) Begin payment to the surviving spouse on the first day of the month immediately following the date the calculation is made;

(B) Make a one-time payment to each surviving spouse eligible to receive payment under division (A) of this section.

The payment under this division shall be an amount equal to the sum of the monthly benefits that would have been paid to the surviving spouse had the amendments to section 3309.45 of the Revised Code gone into effect on January 1, 2000.

SECTION 6. The amendments made by this act to section 3309.05 and 3309.07 of the Revised Code do not affect the term of the retirant member holding office on the effective date of this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____