

AN ACT

To amend sections 3309.05, 3309.051, 3309.061, 3309.07, 3309.072, 3309.074, 3309.075, 3309.10, 3309.15, 3309.21, 3309.22, 3309.23, 3309.26, 3309.28, 3309.33, 3309.34, 3309.341, 3309.343, 3309.35, 3309.353, 3309.354, 3309.36, 3309.362, 3309.371, 3309.373, 3309.376, 3309.379, 3309.3710, 3309.3711, 3309.39, 3309.401, 3309.41, 3309.44, 3309.45, 3309.46, 3309.47, 3309.50, 3309.51, 3309.69, 3309.81, and 3309.88; to enact new section 3309.571 and sections 3309.392 and 3309.474; and to repeal sections 3309.38 and 3309.571 of the Revised Code to revise the law governing the School Employees Retirement System.

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

SECTION 1. That sections 3309.05, 3309.051, 3309.061, 3309.07, 3309.072, 3309.074, 3309.075, 3309.10, 3309.15, 3309.21, 3309.22, 3309.23, 3309.26, 3309.28, 3309.33, 3309.34, 3309.341, 3309.343, 3309.35, 3309.353, 3309.354, 3309.36, 3309.362, 3309.371, 3309.373, 3309.376, 3309.379, 3309.3710, 3309.3711, 3309.39, 3309.401, 3309.41, 3309.44, 3309.45, 3309.46, 3309.47, 3309.50, 3309.51, 3309.69, 3309.81, and 3309.88 be amended and that new section 3309.571 and sections 3309.392 and 3309.474 be enacted to read as follows:

Sec. 3309.05. (A) The school employees retirement board shall consist of the following members:

~~(A)~~(1) One member, known as the treasurer of state's investment designee, who shall be appointed by the treasurer of state for a term of four years and who shall have the following qualifications:

(a) The member is a resident of this state.

(b) Within the three years immediately preceding the appointment, the member has not been employed by the public employees retirement system, police and fire pension fund, state teachers retirement system, school

employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including the management, analysis, supervision, or investment of assets.

(c) The member has direct experience in the management, analysis, supervision, or investment of assets.

(d) The member is not currently employed by the state or a political subdivision of the state.

~~(B)~~(2) 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;

~~(C)~~(3) Two members, known as the retirant members, who shall be former members of the retirement system who reside in this state and currently receive an age and service retirement benefit, a disability benefit, or benefits under a plan established under section 3309.81 of the Revised Code. The retirant members shall be elected by ballot by former members of the system who are 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.

~~(D)~~(1)(4) Two members, known as the investment expert members, who shall be appointed to four-year terms. One investment expert member shall be appointed by the governor, and one investment expert member shall be jointly appointed by the speaker of the house of representatives and the president of the senate. Each investment expert member shall have the following qualifications:

(a) The member is a resident of this state;

(b) Within the three years immediately preceding the appointment, the member has not been employed by the public employees state retirement system, police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including the management, analysis, supervision, or investment of assets;

(c) The member has direct experience in the management, analysis, supervision, or investment of assets.

~~(2)~~(B) Any ~~investment expert~~ member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed holds under this section shall hold office until the later of the end of such the term. The for which the member continues in office subsequent to the expiration date of the member's term until is

~~appointed or the date the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.~~

Sec. 3309.051. Each ~~newly elected~~ member of the school employees retirement board ~~and each individual appointed to fill a vacancy on the board~~ shall, not later than ninety days after commencing service as a board member, complete the orientation program component of the retirement board member education program established under section 171.50 of the Revised Code.

Each member of the board who has served a year or longer as a board member shall, not less than twice each year, attend one or more programs that are part of the continuing education component of the retirement board member education program established under section 171.50 of the Revised Code.

Sec. 3309.061. (A) The office of ~~an employee member or retirant~~ a member of the school employees retirement board who is convicted of or pleads guilty to a felony, a theft offense as defined in section 2913.01 of the Revised Code, or a violation of section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be deemed vacant. A person who has pleaded guilty to or been convicted of an offense of that nature is ineligible for election or appointment to ~~the office of employee or retirant member~~ of the school employees retirement board.

(B) A member of the school employees retirement board who willfully and flagrantly exercises authority or power not authorized by law, refuses or willfully neglects to enforce the law or to perform any official duty imposed by law, or is guilty of gross neglect of duty, gross immorality, drunkenness, misfeasance, malfeasance, or nonfeasance is guilty of misconduct in office. On complaint and hearing in the manner provided for in this section, the board member shall have judgment of forfeiture of the office with all its emoluments entered against the board member, creating in the office a vacancy to be filled as provided by law.

(C) Proceedings for removal of a board member on any of the grounds enumerated in division (B) of this section shall be commenced by filing with the court of common pleas of the county in which the board member resides a written complaint specifically setting forth the charge. The complaint shall be accepted if signed by the governor or signed as follows:

(1) If the complaint is against an employee member of the board, the complaint must be signed by a number of members of the retirement system that equals at least the following and must include signatures of at least twenty employee members residing in at least five different counties:

(a) If the employee member was most recently elected in accordance with division (B) of section 3309.07 of the Revised Code, ten per cent of the number of members of the system who voted in that election;

(b) If the employee member most recently became a member of the board pursuant to section 3309.06 of the Revised Code to fill a vacancy in the board or took office in accordance with section 3309.061 of the Revised Code, ten per cent of the number of members of the system who voted in the most recent election held in accordance with division (B) of section 3309.07 of the Revised Code for that employee member position on the board.

(2) If the complaint is against a retirant member of the board, the complaint must be signed by a number of system retirants that equals at least the following and must include signatures of at least twenty retirant members residing in at least five different counties:

(a) If the retirant member was most recently elected in accordance with division (C) of section 3309.07 of the Revised Code, ten per cent of the number of former members of the system who voted in that election;

(b) If the retirant member most recently became a member of the board pursuant to section 3309.06 of the Revised Code to fill a vacancy in the board or took office in accordance with section 3309.061 of the Revised Code, ten per cent of the number of former members of the system who voted in the most recent election held in accordance with division (C) of section 3309.07 of the Revised Code for that retirant member position on the board.

(D) The clerk of the court of common pleas in which a complaint against a board member is filed under division (C) of this section shall do both of the following with respect to the complaint:

(1) Submit the signatures obtained pursuant to division (C) of this section to the board for purposes of verifying the validity of the signatures. The board shall verify the validity of the signatures and report its findings to the court.

(2) Cause a copy of the complaint to be served on the board member at least ten days before the hearing on the complaint. The court shall hold a public hearing not later than thirty days after the filing of the complaint. The court may subpoena witnesses and compel their attendance in the same manner as in civil cases. Process shall be served by the sheriff of the county in which the witness resides. Witness fees and other fees in connection with the proceedings shall be the same as in civil cases. The court may suspend the board member pending the hearing.

If the court finds that one or more of the charges in the complaint are true, it shall make a finding for removal of the board member. The court's

finding shall include a full, detailed statement of the reasons for the removal. The finding shall be filed with the clerk of the court and be made a matter of public record.

The board member has the right to appeal to the court of appeals.

(E) No individual who has been removed from the board pursuant to this section shall be eligible to fill an elective or appointed position as a member of the board.

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 in accordance with rules adopted under section 3309.075 of the Revised Code.

(B) Any member of the school employees retirement system, other than a disability benefit recipient, shall be eligible to be nominated for election as an employee member of the board who has been nominated by a petition that is signed by at least five hundred members and certified in accordance with rules adopted under section 3309.075 of the Revised Code. The petition shall contain the signatures of not less than twenty members 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 on certification of the election results in accordance with rules adopted under section 3309.075 of the Revised Code. In any year in which two employee member or two retirant member positions must be filled, the candidates who receive the highest and second highest number of votes shall be elected to the offices on certification of the election results in accordance with rules adopted under section 3309.075 of the Revised Code.

(C) Any former member of the school employees retirement system described in division ~~(D)~~(A)(3) of section 3309.05 of the Revised Code is eligible for election as a retirant 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 that is certified in accordance with rules adopted under section 3309.075 of the Revised Code and signed by at least one hundred fifty former members of the system who are 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. The petition shall contain the signatures of at least ten such recipients from each of at least five counties wherein recipients of benefits from this system reside. The petition shall specify the term of office and position. The name of any 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 on certification of the election results in accordance with rules adopted under section 3309.075 of the Revised Code.

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

Sec. 3309.072. (A) As used in this section:

(1) "Campaign committee" means a candidate or a combination of two or more persons authorized by a candidate to receive contributions and in-kind contributions and make expenditures on behalf of the candidate.

(2) "Candidate" means an individual who has been nominated pursuant to section 3309.07 of the Revised Code for election to the school employees retirement board or who is seeking to be elected to fill a vacancy on the board pursuant to division (D) of section 3309.06 of the Revised Code.

(3) "Contribution" means a loan, gift, deposit, forgiveness of indebtedness, donation, advance, payment, transfer of funds or transfer of anything of value including a transfer of funds from an inter vivos or testamentary trust or decedent's estate, and the payment by any person other than the person to whom the services are rendered for the personal services of another person, which contribution is made, received, or used for the purpose of influencing the results of an election to the school employees retirement board under section 3309.07 of the Revised Code or the results of an election to fill a vacancy on the board pursuant to division (C) of section 3309.06 of the Revised Code. "Contribution" does not include:

(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a person;

(b) Ordinary home hospitality;

(c) The personal expenses of a volunteer paid for by that volunteer campaign worker.

(4) "Election day" means the following, as appropriate to the situation:

(a) The first Monday in March of a year for which section 3309.06 of the Revised Code specifies that an election for a member of the school

employees retirement board be held;

(b) If, pursuant to section 3309.071 of the Revised Code, no election is held, the first Monday in March of a year that the election would have been held if not for section 3309.071 of the Revised Code.

(5) "Expenditure" means the disbursement or use of a contribution for the purpose of influencing the results of an election to the school employees retirement board under section 3309.07 of the Revised Code or the results of an election to fill a vacancy on the board pursuant to division (D) of section 3309.06 of the Revised Code.

(6) "Independent expenditure" means an expenditure by an individual, partnership, or other entity advocating the election or defeat of an identified candidate or candidates, that is not made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of any candidate or candidates or of the campaign committee or agent of the candidate or candidates. An independent expenditure shall not be construed as being a contribution. As used in division (A)(6) of this section:

(a) "Advocating" means any communication containing a message advocating election or defeat.

(b) "Identified candidate" means that the name of the candidate appears, a photograph or drawing of the candidate appears, or the identity of the candidate is otherwise apparent by unambiguous reference.

(c) "Made in coordination, cooperation, or consultation with, or at the request or suggestion of, any candidate or the campaign committee or agent of the candidate" means made pursuant to any arrangement, coordination, or direction by the candidate, the candidate's campaign committee, or the candidate's agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure is presumed to be so made when it is any of the following:

(i) Based on information about the candidate's plans, projects, or needs provided to the person making the expenditure by the candidate, or by the candidate's campaign committee or agent, with a view toward having an expenditure made;

(ii) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of the candidate's campaign committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate or the candidate's campaign committee or agent;

(iii) Made by a political party in support of a candidate, unless the expenditure is made by a political party to conduct voter registration or

voter education efforts.

(d) "Agent" means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position with the candidate's campaign committee or organization such that it would reasonably appear that in the ordinary course of campaign-related activities the person may authorize expenditures.

(7) "In-kind contribution" means anything of value other than money that is used to influence the results of an election to the school employees retirement board under section 3309.07 of the Revised Code or the results of an election to fill a vacancy on the board pursuant to division (C) of section 3309.06 of the Revised Code or is transferred to or used in support of or in opposition to a candidate and that is made with the consent of, in coordination, cooperation, or consultation with, or at the request or suggestion of the benefited candidate. The financing of the dissemination, distribution, or republication, in whole or part, of any broadcast or of any written, graphic, or other form of campaign materials prepared by the candidate, the candidate's campaign committee, or their authorized agents is an in-kind contribution to the candidate and an expenditure by the candidate.

(8) "Personal expenses" includes ordinary expenses for accommodations, clothing, food, personal motor vehicle or airplane, and home telephone.

(B) Except as otherwise provided in division (D) of this section, each candidate who, or whose campaign committee, receives contributions or in-kind contributions totaling one thousand dollars or more or has expenditures totaling one thousand dollars or more in connection with the candidate's efforts to be elected to the school employees retirement board under section 3309.07 of the Revised Code shall file with the secretary of state two complete, accurate, and itemized statements setting forth in detail the contributions, in-kind contributions, and expenditures. The statements shall be filed regardless of whether, pursuant to section 3309.071 of the Revised Code, no election is held. The statements shall be made on a form prescribed under section 111.30 of the Revised Code. Every expenditure in excess of twenty-five dollars shall be vouched for by a receipted bill, stating the purpose of the expenditures, that shall be filed with the statement; a canceled check with a notation of the purpose of the expenditure is a receipted bill for purposes of this division.

The first statement shall be filed not later than four p.m. on the day that is twelve days before election day. The second statement shall be filed not sooner than the day that is eight days after election day and not later than

thirty-eight days after election day. The first statement shall reflect contributions and in-kind contributions received and expenditures made to the close of business on the twentieth day before election day. The second statement shall reflect contributions and in-kind contributions received and expenditures made during the period beginning on the nineteenth day before election day and ending on the close of business on the seventh day after election day.

(C) Each individual, partnership, or other entity who makes an independent expenditure in connection with the candidate's efforts to be elected to the school employees retirement board under section 3309.07 of the Revised Code shall file with the secretary of state two complete, accurate, and itemized statements setting forth in detail the independent expenditures. The statements shall be filed regardless of whether, pursuant to section 3309.071 of the Revised Code, no election is held. The statements shall be made on a form prescribed under section 111.30 of the Revised Code.

The first statement shall be filed not later than four p.m. on the day that is twelve days before election day. The second statement shall be filed not sooner than the day that is eight days after election day and not later than thirty-eight days after election day. The first statement shall reflect independent expenditures made to the close of business on the twentieth day before election day. The second statement shall reflect independent expenditures made during the period beginning on the nineteenth day before election day and ending on the close of business on the seventh day after election day.

(D) Each candidate who, or whose campaign committee, receives a ~~contribution~~ contributions or in-kind ~~contribution~~ contributions totaling one thousand dollars or more or ~~makes an expenditure~~ has expenditures totaling one thousand dollars or more in connection with the candidate's efforts to be elected to fill a vacancy in the ~~state teachers~~ school employees retirement board pursuant to division (C) of section 3309.06 of the Revised Code shall file with the secretary of state a complete, accurate, and itemized statement setting forth in detail the contributions, in-kind contributions, and expenditures. The statement shall be made on a form prescribed under section 111.30 of the Revised Code. Every expenditure in excess of twenty-five dollars shall be vouched for by a receipted bill, stating the purpose of the expenditures, that shall be filed with the statement; a canceled check with a notation of the purpose of the expenditure is a receipted bill for purposes of this division.

The statement shall be filed within thirty-eight days after the day the

candidate takes office. The statement shall reflect contributions and in-kind contributions received and expenditures made to the close of business on the seventh day after the day the candidate takes office.

(E) Each individual, partnership, or other entity that makes an independent expenditure in connection with the candidate's efforts to be elected to fill a vacancy in the school employees retirement board under division (C) of section 3309.06 of the Revised Code shall file with the secretary of state a complete, accurate, and itemized statement setting forth in detail the independent expenditures. The statement shall be made on a form prescribed under section 111.30 of the Revised Code.

The statement shall be filed not later than thirty-eight days after the day the candidate takes office. The statement shall reflect independent expenditures made to the close of business on the seventh day after the day the candidate takes office.

Sec. 3309.074. The secretary of state, or any person acting on personal knowledge and subject to the penalties of perjury, may file a complaint with the Ohio elections commission alleging a violation of section 3309.073 of the Revised Code. The complaint shall be made on a form prescribed and provided by the commission.

A complaint shall be filed not later than two years after the occurrence of the act or failure to act that is the subject of the complaint, except that if the act or failure to act involves fraud, concealment, or misrepresentation and was not discovered during that two-year period, a complaint may be filed not later than one year after discovery of the act or failure to act.

On receipt of a complaint under this section, the commission shall hold a hearing open to the public to determine whether the violation alleged in the complaint has occurred. The commission may administer oaths and issue subpoenas to any person in the state compelling the attendance of witnesses and the production of relevant papers, books, accounts, and reports. On the refusal of any person to obey a subpoena or to be sworn or to answer as a witness, the commission may apply to the court of common pleas of Franklin county under section 2705.03 of the Revised Code. The court shall hold contempt proceedings in accordance with Chapter 2705. of the Revised Code.

The commission shall provide the person accused of the violation at least seven days prior notice of the time, date, and place of the hearing. The accused may be represented by an attorney and shall have an opportunity to present evidence, call witnesses, and cross-examine witnesses.

At the hearing, the commission shall determine whether the violation alleged in the complaint has occurred. If the commission determines that a

violation of division (A) of section 3309.073 of the Revised Code has occurred, the commission shall either impose a fine under section 3309.99 of the Revised Code or enter a finding that good cause has been shown not to impose the fine. If the commission determines that a violation of division (B) of section 3309.073 of the Revised Code has occurred, the commission shall impose the fine described in section 3309.99 of the Revised Code, refer the matter to the appropriate prosecutor, or enter a finding that good cause has been shown to not impose a fine or refer the matter to the appropriate prosecutor.

Sec. 3309.075. (A) The school employees retirement board, after consultation with the secretary of state, shall adopt rules in accordance with ~~Chapter 119. section 111.15~~ of the Revised Code, governing all of the following:

(1) The administration of elections of members of the board under section 3309.07 of the Revised Code and elections held under section 3309.06 of the Revised Code to fill vacancies on the board;

(2) Nominating petitions for the elections;

(3) Certification of the validity of nominating petitions for the elections;

(4) Certification of the results of the elections.

(B) The board may contract with the secretary of state or an independent firm to administer the elections, certify the validity of nominating petitions, and certify the results of the elections. The secretary of state and the independent firm shall perform these services in accordance with the rules adopted under division (A) of this section. Notwithstanding section 3309.22 of the Revised Code, the board shall provide information necessary for the secretary of state or the independent firm to certify the election. If the board contracts with an independent firm to administer an election, the secretary of state may audit the election.

Sec. 3309.10. (A) ~~The members~~ No member of the school employees retirement board shall be subject to disciplinary action by an employer for absence from the member's regular employment for service to the board.

Members of the school employees retirement board shall serve without compensation from the retirement system, but ~~they~~ an employer shall be reimbursed from the expense fund for any compensation paid to an employee member of the board or a retirant member employed by a public employer in accordance with section 3309.341 of the Revised Code for any loss of compensation they may suffer through serving on service to the board, provided, that the regular employee contribution shall be withheld from any such reimbursements to cover loss of compensation and credited to the member's savings account, or the board member or former board

~~member may pay all such amounts direct to the retirement system. The corresponding employer contribution shall be transferred annually from the expense fund and applied in the same manner as the employers' trust fund contribution payment by the district, from which the member's regular contributions are reported.~~

(B) The members of the board shall be reimbursed from the expense fund for all actual necessary expenses incurred while serving on the board.

~~(B)~~(C) The board may secure insurance coverage designed to indemnify board members and employees for their actions or conduct in the performance of official duties, and may pay required premiums for such coverage from the expense fund.

~~(C)~~(D) The board shall adopt rules in accordance with section 111.15 of the Revised Code establishing a policy for reimbursement of travel expenses incurred by board members in the performance of their official duties. As part of any audit performed under Chapter 117. of the Revised Code, an inquiry shall be made into whether board members have complied with these rules.

~~(D)~~(E) No board member shall accept payment or reimbursement for travel expenses, other than for meals and other food and beverages provided to the member, from any source other than the expense fund. Except in the case of an emergency, no out-of-state travel expenses shall be reimbursed unless approved in advance by a majority of the board at a regular board meeting.

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.

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 comply with sections 3309.157 and 3309.159 of the Revised Code and shall also 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, If the board contracts with a person, including an agent or investment manager, for the management or investment of the funds, the board shall require the person to comply with the global investment performance presentation standards established by the association for investment management and research chartered financial analyst institute, or a successor organization, when reporting on the performance of investments.~~

(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. 3309.21. (A) The school employees retirement board shall have prepared annually by or under the supervision of an actuary an actuarial valuation of the pension assets, liabilities, and funding requirements of the school employees retirement system as established pursuant to this chapter. The actuary shall complete the valuation in accordance with actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries and prepare a report of the valuation. The report shall include all of the following:

- (1) A summary of the benefit provisions evaluated;
- (2) A summary of the census data and financial information used in the valuation;
- (3) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation, including a statement of the assumed rate of payroll growth and assumed rate of growth or decline in the number of members contributing to the retirement system;
- (4) A summary of findings that includes a statement of the actuarial accrued pension liabilities and unfunded actuarial accrued pension liabilities;
- (5) A schedule showing the effect of any changes in the benefit provisions, actuarial assumptions, or cost methods since the last annual actuarial valuation;
- (6) A statement of whether contributions to the retirement system are

expected to be sufficient to satisfy the funding objectives established by the board.

The board shall submit the report to the Ohio retirement study council and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of May following the year for which the valuation was made.

(B) At such times as the school employees retirement board determines, and at least once in each quinquennial period, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the mortality, service, and other experience of the members, retirants, and beneficiaries of the retirement system, and SERS retirants and other system retirants as defined in section 3309.341 of the Revised Code to update the actuarial assumptions used in the actuarial valuation required by division (A) of this section. The actuary shall prepare a report of the actuarial investigation. The report shall be prepared and any recommended changes in actuarial assumptions shall be made in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The report shall include all of the following:

- (1) A summary of relevant decrement and economic assumption experience observed over the period of the investigation;
- (2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (A) of this section;
- (3) A measurement of the financial effect of the recommended changes in actuarial assumptions.

The board shall submit the report to the Ohio retirement study council and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of May following the last fiscal year of the period the report covers.

(C) The board may at any time request the actuary to make any studies or actuarial valuations to determine the adequacy of the rates of contribution as provided by section 3309.49 of the Revised Code, and those rates may be adjusted by the board, as recommended by the actuary, effective as of the first of any year thereafter.

(D) The board shall have prepared by or under the supervision of an actuary an actuarial analysis of any introduced legislation expected to have a measurable financial impact on the retirement system. The actuarial analysis shall be completed in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary shall prepare a report of the actuarial analysis, which

shall include all of the following:

- (1) A summary of the statutory changes that are being evaluated;
- (2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;
- (3) A description of the participant group or groups included in the report;
- (4) A statement of the financial impact of the legislation, including the resulting increase, if any, in the employer normal cost percentage; the increase, if any, in actuarial accrued liabilities; and the per cent of payroll that would be required to amortize the increase in actuarial accrued liabilities as a level per cent of covered payroll for all active members over a period not to exceed thirty years;
- (5) A statement of whether the scheduled contributions to the system after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.

Not later than sixty days from the date of introduction of the legislation, the board shall submit a copy of the actuarial analysis to the legislative service commission, the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation, and the Ohio retirement study council.

(E) The board shall have prepared annually a report giving a full accounting of the revenues and costs relating to the provision of benefits under sections 3309.375 and 3309.69 of the Revised Code. The report shall be made as of June 30, 1997, and the thirtieth day of June of each year thereafter. The report shall include the following:

- (1) A description of the statutory authority for the benefits provided;
- (2) A summary of the benefits;
- (3) A summary of the eligibility requirements for the benefits;
- (4) A statement of the number of participants eligible for the benefits;
- (5) A description of the accounting, asset valuation, and funding method used to provide the benefits;
- (6) A statement of the net assets available for the provision of the benefits as of the last day of the fiscal year;
- (7) A statement of any changes in the net assets available for the provision of benefits, including participant and employer contributions, net investment income, administrative expenses, and benefits provided to participants, as of the last day of the fiscal year;
- (8) For the last six consecutive fiscal years, a schedule of the net assets available for the benefits, the annual cost of benefits, administrative expenses incurred, and annual employer contributions allocated for the

provision of benefits;

(9) A description of any significant changes that affect the comparability of the report required under this division;

(10) A statement of the amount paid under division ~~(C)~~(E) of section 3309.69 of the Revised Code.

The board shall submit the report to the Ohio retirement study council and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the thirty-first day of December following the year for which the report was made.

Sec. 3309.22. (A)(1) As used in this division, "personal history record" means information maintained in any format by the board on an individual who is a member, former member, contributor, former contributor, retirant, or beneficiary that includes the address, electronic mail 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 and may be made available in printed or electronic format, 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.

(B) All medical reports and recommendations required by the system are privileged except as follows:

(1) Copies of medical reports or recommendations shall be made available to the following:

(a) The individual concerned, on written request;

(b) The personal physician, attorney, or authorized agent of the individual concerned upon on written release received from the individual or the individual's agent, or when necessary for the proper administration of the fund, to the;

(c) The board assigned physician.

(2) Documentation required by section 2929.193 of the Revised Code shall be provided to a court holding a hearing under that section.

(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.

(D) Notwithstanding the exceptions to public inspection in division (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 an order issued under division (A) or (B) of section 2929.192 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 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 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 section 5101.181 of the Revised Code.

(5) The system shall comply with orders issued under section 3105.87 of the Revised Code.

On the written request of an alternate payee, as defined in section 3105.80 of the Revised Code, the system shall furnish to the alternate payee information on the amount and status of any amounts payable to the alternate payee under an order issued under section 3105.171 or 3105.65 of the Revised Code.

(6) At the request of any person, the board shall make available to the person copies of all documents, including resumes, in the board's possession

regarding filling a vacancy of an employee member or retirant member of the board. The person who made the request shall pay the cost of compiling, copying, and mailing the documents. The information described in this division is a public record.

(7) The system shall provide the notice required by section 3309.673 of the Revised Code to the prosecutor assigned to the case.

(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. 3309.23. (A) Except as provided in division (B) of this section, the following shall be contributors to the school employees retirement system:

(1) All employees, as defined in division (B) of section 3309.01 of the Revised Code;

(2) The employees of an existing or newly created employer unit as defined in division (A) of section 3309.01 of the Revised Code, supported in whole or in part by the state or any political subdivision thereof and wholly controlled and managed by the state or any subdivision thereof. Such employees shall become contributors on the same terms and conditions as provided by this chapter, provided the board of trustees or other managing body of such school, college, or other institution, if such institution is now in existence or if in existence on such date, shall agree by formal resolution to accept all the requirements and obligations imposed by this chapter upon employers. A certified copy of the resolution shall be filed with the school employees retirement board. When such resolution has been adopted and a copy of it filed with the school employees retirement board, it shall not later be subject to rescission or abrogation. Service in such schools, colleges, or other institutions shall be then considered in every way the same as service in the public schools.

(3) All other individuals who become members.

(B) The following individuals may choose to be exempt from compulsory membership by filing a written application for exemption with the employer within the first month after being employed:

(1) A student who is not a member at the time of ~~his~~ employment and who is employed by the school, college, or university in which ~~he~~ the student is enrolled and regularly attending classes;

(2) An emergency employee serving on a temporary basis in case of fire, snow, earthquake, flood, or other similar emergency;

(3) An individual employed in a program established pursuant to the

"~~Job Training Partnership~~ Workforce Investment Act," 96 112 Stat. 1322 936 (1982 1998), 29 U.S.C.A. 1501 2801, or any other federal job training program.

(C) A member may elect to have employment by the school, college, or university at which ~~he~~ the member is enrolled and regularly attending classes exempted from contribution to the retirement system by filing a written application with ~~his~~ the member's employer within the first month after being so employed.

(D) In all cases of doubt pertaining to contributors on an individual or group basis or the status of existing or newly created employer units, the decision shall be made by the retirement board, and such decision shall be final.

Sec. 3309.26. The membership of any person in the school employees retirement system shall terminate if the person withdraws the person's accumulated contributions, retires on a retirement allowance as provided in sections 3309.36, ~~3309.38~~, and 3309.381 of the Revised Code, or dies, unless otherwise provided in Chapter 3309. of the Revised Code.

A former member with an account in the employees' savings fund who formerly lost membership shall be reinstated as a member with all the rights, privileges, and obligations as provided in Chapter 3309. of the Revised Code.

Except as provided in this section, a member or former member of the school employees retirement system with at least one and one-half years of contributing service credit in this system, the public employees retirement system, the state teachers retirement system, the Ohio police and fire pension fund, or the state highway patrol retirement system, subsequent to the withdrawal of contributions and cancellation of service credit in this system may restore such service credit by redepositing in the employees' savings fund the amount withdrawn with interest at a rate to be determined by the board, compounded annually, from the first of the month of withdrawal to and including the month of redeposit. A member may choose to purchase only part of such credit in any one payment, subject to board rules. The total payment to restore cancelled service credit, plus any interest credited thereto, shall be considered as accumulated contributions of the member. If a former member is eligible to buy the service credit as a member of the Ohio police and fire pension fund, the state highway patrol retirement system, or the city of Cincinnati retirement system, the former member is ineligible to restore that service credit under this section.

Sec. 3309.28. ~~Each~~ Not later than thirty days after an employee begins employment, the employer shall file with the school employees retirement

~~system a detailed statement showing sex, title, compensation, duties, date of birth, of the employee's personal information and all his prior of the employee's previous service as an employee or such other service as comes under this chapter or Chapter 145., 742., 3307., or 5505. of the Revised Code, and shall furnish such other facts information as the school employees retirement board requires for the proper operation of the school employees retirement system. If an employee fails to file the required record within thirty days after commencing employment, the secretary shall so advise his employer who shall thereafter withhold all salary payments to such employee until such record is filed with the school employees retirement board.~~

Sec. 3309.33. (A) An employer may establish a retirement incentive plan for its employees who are members of the school employees retirement system. The plan shall provide for purchase by the employer of service credit for eligible employees who choose to participate in the plan and for payment by the employer of the entire cost of such service credit. A plan established under this section shall remain in effect until terminated by the employer, except that, once established, the plan must remain in effect for at least one year.

~~(B) To~~ An employee who is a member of the school employees retirement system shall be eligible to participate in a retirement incentive plan, ~~an employee must meet the following requirements:~~

~~(1) Either of the following:~~

~~(a) If the employee became a member of the retirement system before the effective date of this amendment, the member has attained fifty years of age;~~

~~(b) If the employee became a member of the retirement system on or after the effective date of this amendment, established by the employer if the employee has attained fifty-five fifty-seven years of age;~~

~~(2) The employee and~~ agrees to retire and retires under section 3309.36 of the Revised Code effective within ninety days after receiving notice from the school employees retirement system that service credit has been purchased for the employee under this section.

(C) Participation in the plan shall be available to all eligible employees except that the employer may limit the number of persons for whom it purchases credit in any calendar year to a specified percentage of its employees who are members of the school employees retirement system on the first day of January of that year. The percentage shall not be less than five per cent of such employees. If participation is limited, employees with a greater length of service with the employer have the right to elect to have

credit purchased before employees with a lesser length of service with the employer.

(D) The amount of service credit purchased for any participant shall be uniformly determined but shall not exceed the lesser of the following:

(1) Five years of service credit;

(2) An amount of service credit equal to one-fifth of the total service credited to the participant under Chapter 3309. of the Revised Code.

For each year of service credit purchased under this section, the employer shall pay an amount specified by the school employees retirement board equal to the additional liability resulting from the purchase of that year of service credit as determined by an actuary employed by the board. Payments shall be made in accordance with rules adopted by the board, and the board shall notify each member when the member is credited with service purchased under this section.

No payment made to the school employees retirement system under this section shall affect any payment required by section 3309.49 of the Revised Code.

Sec. 3309.34. (A)(1)(a) A member of the school employees retirement system ~~whose membership began before the effective date of this amendment~~ is eligible for service retirement before August 1, 2017, if the member ~~has~~:

(i) Has at least five years of total service credit and has attained sixty years of age, ~~or if the member has~~;

(ii) Has at least thirty years of total service credit at any age. ~~A member whose membership began before the effective date of this amendment is eligible for commuted service retirement if the member has~~;

(iii) Has at least twenty-five years of total service credit and has attained fifty-five years of age.

(b) A member who has at least twenty-five years of total service credit on or before August 1, 2017, is eligible for retirement under division (A)(1)(a)(ii) or (iii) of this section.

(c) A member is eligible for retirement under division (A)(1)(a) of this section if as of August 1, 2017, the member will have less than twenty-five years of total service credit but, not later than that date, pays to the retirement system an amount equal to the additional liability to the system resulting from the member's retirement under this division.

(2) ~~A (a) Except as provided in division (A)(1)(c) of this section, a member whose membership began on or after the effective date of this amendment who on August 1, 2017, has less than twenty-five years of total service credit is eligible for service retirement under this division if the~~

member ~~meets one of the following requirements:~~

~~(a)(i)~~ Has earned at least ten years of total service credit and has attained sixty-two years of age;

~~(b)(ii)~~ Has earned at least twenty-five years of total service credit and has attained sixty years of age;

~~(c)(iii)~~ Has earned at least thirty years of total service credit and has attained ~~forty-five~~ fifty-seven years of age.

(b) The board, by rule adopted under division (D) of this section, may adjust the retirement eligibility requirements of division (A)(2)(a) of this section if the board's actuary, in its evaluation under division (C) of this section, determines that an adjustment is necessary to ensure that the retirement system meets the thirty-year amortization period requirement of section 3309.211 of the Revised Code.

(B) A member may retire by filing an application for retirement with the school employees retirement board on a form provided by the board. The board shall not retire the member sooner than the first day of the month next following the later of:

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

(2) The attainment of minimum age and service credit eligibility for service or commuted service retirement.

~~(C) At least once every ten years~~ In each five-year period, the board shall direct its actuary to evaluate the retirement eligibility requirements of this section.

(D) The board, in consultation with its actuary, shall adopt rules to implement this section.

Sec. 3309.341. (A) As used in this section and section 3309.344 of the Revised Code:

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

(2) "Other system retiree" 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 retiree is a member or former member.

(B)(1) Subject to this section and section 3309.345 of the Revised Code, an SERS retiree or other system retiree 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 any month the SERS retirant or other system retirant is employed prior to the expiration of the two-month period. 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. Contributions made on compensation earned after the expiration of such period shall be used in the calculation of the benefit or payment due under section 3309.344 of the Revised Code.

(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) 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.

(F) 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.

(G) 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.

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

Sec. 3309.343. (A) As used in this section:

(1) In addition to the meaning in section 3309.01 of the Revised Code, when appropriate "compensation" has the same meaning as in section 3307.01 of the Revised Code.

(2) "Earnable salary" has the same meaning as in section 145.01 of the Revised Code.

(3) "SERS position" means a position for which a member of the school employees retirement system is making contributions to the system.

(4) "Other state retirement system" means the public employees retirement system or the state teachers retirement system.

(5) "State retirement system" means the public employees retirement system, state teachers retirement system, or the school employees retirement system.

(B)(1) A member of the school employees retirement system who holds two or more SERS positions may retire under section 3309.35, 3309.36, ~~3309.38~~, or 3309.46 of the Revised Code from the position for which the annual compensation at the time of retirement is highest and continue to contribute to the retirement system for the other SERS position or positions.

(2) A member of the school employees retirement system who also holds one or more other positions covered by the other state retirement systems may retire under section 3309.35, 3309.36, ~~3309.38~~, or 3309.46 of the Revised Code from the SERS position and continue contributing to the other state retirement systems if the annual compensation for the SERS position at the time of retirement is greater than annual compensation or earnable salary for the position, or any of the positions, covered by the other state retirement systems.

(3) A member of the school employees retirement system who holds two or more SERS positions and at least one other position covered by one of the other state retirement systems may retire under section 3309.35, 3309.36, ~~3309.38~~, or 3309.46 of the Revised Code from one of the SERS positions and continue contributing to the school employees retirement system and the other state retirement system if the annual compensation for the SERS position from which the member is retiring is, at the time of retirement, greater than the annual compensation or earnable salary for any of the positions for which the member is continuing to make contributions.

(4) A member of the school employees retirement system who has retired as provided in division (B)(2) or (3) of section 145.383 or division (B)(2) or (3) of section 3307.351 of the Revised Code may continue to contribute to the school employees retirement system for an SERS position if the member held the position at the time of retirement from the other state retirement system.

(5) A member who contributes to the school employees retirement system in accordance with division (B)(1), (3), or (4) of this section shall contribute in accordance with section 3309.47 of the Revised Code. The member's employer shall contribute as provided in section 3309.49 of the Revised Code. Neither the member nor the member's survivors are eligible for any benefits based on those contributions other than those provided under section 145.384, 3307.352, or 3309.344 of the Revised Code.

(C)(1) In determining retirement eligibility and the annual retirement allowance of a member who retires as provided in division (B)(1), (2), or (3) of this section, the following shall be used to the date of retirement:

(a) The member's earnable salary and compensation for all positions covered by a state retirement system;

(b) Total service credit in any state retirement system, except that the credit shall not exceed one year of credit for any period of twelve months;

(c) The member's accumulated contributions.

(2) A member who retires as provided in division (B)(1), (2), or (3) of this section is a retirant for all purposes of this chapter, except that the member is not subject to section 3309.341 of the Revised Code for a position or positions for which contributions continue under those divisions or division (B)(4) of this section.

(D) A retired member receiving a benefit under section 3309.344 of the Revised Code based on employment subject to this section is not a member of the school employees retirement system and does not have any rights, privileges, or obligations of membership. The retired member is an SERS retirant for purposes of section 3309.341 of the Revised Code.

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

Sec. 3309.35. (A) As used in this section:

(1) "State retirement system" means the public employees retirement system, state teachers retirement system, or school employees retirement system.

(2) "Total service credit" means all service credit earned in all state retirement systems, except credit for service subject to section 3309.341 of the Revised Code. Total service credit shall not exceed one year of credit for any twelve-month period.

(3) In addition to the meaning given in division (O) of section 3309.01 of the Revised Code, "disability benefit" means "disability benefit" as defined in sections 145.01 and 3307.01 of the Revised Code.

(B) To coordinate and integrate membership in the state retirement systems, at the option of a member, total contributions and service credit in all state retirement systems, including amounts paid to restore service credit under sections 145.311, 3307.711, and 3309.261 of the Revised Code, shall be used in determining the eligibility and total retirement or disability benefit payable. When total contributions and service credit are so combined, the following provisions apply:

(1) Service and commuted service retirement or a disability benefit is effective no sooner than the first day of the month next following the last day of employment for which compensation was paid. If the application is filed after that date, the board may retire the member on the first day of the month next following the last day of employment for which compensation was paid.

(2) ~~In determining eligibility~~ Eligibility for a disability benefit, ~~the medical examiner's report to~~ shall be determined by the retirement board of any the state retirement system, showing that will calculate and pay the member's disability incapitates the member for the performance of duty, may benefit, as provided in division (B)(3) of this section. The state retirement system calculating and paying the disability benefit shall certify the determination to the board of each other state retirement system in which the member has service credit and shall be accepted by the state retirement boards that board as sufficient for granting a disability benefit.

(3) The board of the state retirement system in which the member had the greatest service credit, without adjustment, shall ~~determine~~ calculate and pay the total retirement or disability benefit. Where the member's credit is equal in two or more state retirement systems, the system having the largest total contributions of the member shall ~~determine~~ calculate and pay the total

benefit.

(4) In determining the total credit to be used in calculating a retirement allowance or disability benefit, credit shall not be reduced below that certified by the system or systems transferring credit, except that such total combined service credit shall not exceed one year of credit for any one "year" as defined in the law of the system making the calculation.

~~(5)(a) The state retirement system determining calculating and paying a retirement or disability benefit shall receive from the other system or systems the member's refundable account at retirement or the effective date of a disability benefit plus an amount from the employers' trust fund equal to the member's refundable account less the interest credited under section 145.471, 145.472, or 3307.563 of the Revised Code. If applicable, the retirement system determining and paying the benefit shall receive from the public employees retirement system a portion of the amount paid on behalf of the member by an employer under section 145.483 of the Revised Code. The portion shall equal the product obtained by multiplying by two the amount the member would have contributed during the period the employer failed to deduct contributions, as described in section 145.483 of the Revised Code all of the following for each year of service:~~

~~(i) The amount contributed by the member, or, in the case of service credit purchased by the member, paid by the member, that is attributable to the year of service;~~

~~(ii) An amount equal to the lesser of the employer's contributions made on behalf of the member to the retirement system for that year of service or the amount that would have been contributed by the employer for the service had the member been a member of the school employees retirement system at the time the credit was earned;~~

~~(iii) If applicable, an amount equal to the amount paid on behalf of the member by an employer under section 145.483 of the Revised Code;~~

~~(iv) Interest compounded annually on the amounts specified in divisions (B)(5)(a)(i), (ii), and (iii) of this section at the lesser of the actuarial assumption rate for that year of the school employees retirement system or the other retirement system or systems transferring amounts under this section.~~

~~(a)(b) The annuity rates and mortality tables of the state retirement system making the calculation and paying the benefit shall be exclusively applicable.~~

~~(b)(c) Deposits made for the purchase of an additional annuity, and including guaranteed interest, upon the request of the member, shall be transferred to the state retirement system paying the retirement or disability~~

benefit. The return upon such deposits shall be that offered by the state retirement system making the calculation and paying the retirement or disability benefit.

(C) A former member receiving a retirement or disability benefit under this section, who accepts employment amenable to coverage in any state retirement system that participated in the member's combined benefit, shall be subject to the applicable provisions of law governing such re-employment. If a former member should be paid any amount in a retirement allowance, to which the former member is not entitled under the applicable provisions of law governing such re-employment, such amount shall be recovered by the state retirement system paying such allowance by utilizing any recovery procedure available under the code provisions of the state retirement system covering such re-employment.

(D) An SERS retirant or other system retirant, as defined in section 3309.341 of the Revised Code, is not eligible to receive any benefit under this section for service subject to section 3309.341 of the Revised Code.

Sec. 3309.353. As used in this section, "benefit" means any allowance, pension, or other benefit to which an individual is entitled and that ~~he~~ the individual receives pursuant to section 3309.36, ~~3309.38~~, 3309.40, 3309.45, or 3309.46 or former section 3309.38 of the Revised Code.

The annual amount of each benefit for which eligibility was established prior to February 1, 1983, shall, after the adjustment required by section 3309.374 of the Revised Code, be increased by five per cent.

Sec. 3309.354. As used in this section, "benefit" means any allowance, pension, or other benefit to which an individual is entitled and that he receives pursuant to section 3309.35, 3309.36, ~~3309.38~~, 3309.40, 3309.45, or 3309.46 or former section 3309.38 of the Revised Code.

Effective the first day of the month following ~~the effective date of this section~~ September 9, 1988, the annual amount of benefits shall be increased as follows:

(A) The annual amount of each benefit for which eligibility was established prior to February 1, 1983, shall, after all adjustments required by this chapter, be increased by two per cent;

(B) The annual amount of each benefit for which eligibility was established on or after February 1, 1983, but prior to ~~the effective date of this section~~ September 9, 1988, shall, after all adjustments required by this chapter, be increased by five per cent.

Sec. 3309.36. (A)(1) ~~A member of the school employees retirement system whose membership began before the effective date of this amendment~~ who retires 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. 415, as amended:

~~(a)(1)~~ An annuity having a reserve equal to the amount of the employee's accumulated contributions at that time;

~~(b)(2)~~ A pension of equivalent amount;

~~(c)~~ An additional pension of forty dollars multiplied by the number of years of such prior service credit;

~~(d)(3)~~ 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); and (2); and (3) of this section.

~~(2)~~ A member whose membership began on or after the effective date of this amendment who retires 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":

~~(a)~~ An annuity having a reserve equal to the amount of the employee's accumulated contributions at that time;

~~(b)~~ A pension of equivalent amount.

(B)(1)(a) When a member retires on service retirement under division (A)(1) of section 3309.34 of the Revised Code, the member's allowance when computed as an annual single lifetime allowance as provided in divisions division (A)(1) and (2) 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)(i)~~ Eighty-six dollars;

~~(b)(ii)~~ Two and 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.

(b) When a member retires on service retirement under division (A)(2) of section 3309.34 of the Revised Code, the member's allowance when computed as an annual single lifetime allowance as provided in division (A) of this section, based on attained age sixty-seven 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:

(i) Eighty-six dollars;

(ii) Two and 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) For a member ~~whose membership began before the effective date of this amendment~~ who retires under division (A)(1) of section 3309.34 of the Revised Code, the annual single lifetime allowance determined under division (B)(1)(a) 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:

Age	Attained	or	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

For a member ~~whose membership began before the effective date of this amendment~~ who retires under division (A)(1) of section 3309.34 of the Revised Code, the right to a benefit shall vest 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) For a member ~~whose membership began on or after the effective date of this amendment~~ who retires under division (A)(2) of section 3309.34 of the Revised Code, the annual single lifetime allowance determined under division (B)(1)(b) of this section shall be adjusted to be the actuarial

equivalent of the member's retirement allowance, as determined by the retirement board's actuary, had the member retired at age ~~sixty-five~~ sixty-seven or with thirty years of service credit, except that the retirement allowance shall not be less than the following:

Years of Service Credit	Per Cent of Base Amount
25	75%
26	80
27	85
28	90
29	95

(4) The annual single lifetime allowance which a retirant shall receive under this division shall not exceed the lesser of 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.

(D) At least once every ~~ten~~ five years, the school employees retirement board shall direct its actuary to evaluate the actuarial equivalents in division (B)(3) of this section to determine their appropriateness. The board may adjust the actuarial equivalents in accordance with the actuary's recommendations.

Sec. 3309.362. As used in this section, "benefit" means any allowance, pension, or other benefit to which an individual is entitled and that ~~he~~ the individual receives under section 3309.35, 3309.36, ~~3309.38~~, 3309.40, 3309.45, or 3309.46 or former section 3309.38 of the Revised Code.

Effective July 1, 1981:

(A) The annual amount of each benefit for which eligibility was established prior to January 1, 1977, shall, after the adjustment required by section 3309.374 of the Revised Code, be increased by six per cent or six hundred dollars, whichever is less.

(B) The annual amount of each benefit for which eligibility was established on or after January 1, 1977, but prior to January 1, 1980, shall, after the adjustment required by section 3309.374 of the Revised Code, be increased by four per cent or four hundred dollars, whichever is less.

Sec. 3309.371. On and after October 1, 1957, all persons in receipt of, or who are or become eligible to receive, a monthly allowance, pension, or other benefit effective prior to June 29, 1955, which is payable or becomes

payable pursuant to sections 3309.36 to ~~3309.38~~ 3309.3712, 3309.40, and 3309.65 and former section 3309.38 of the Revised Code, or an allowance payable at any time under an option elected by a member and effective prior to that date, shall be paid an increased allowance, pension, or benefit as follows:

(A) An amount determined by increasing the original allowance, pension, or benefit by the following percentages as determined by the calendar year in which the allowance, pension, or benefit became effective:

Calendar Year Effective	Per Cent of Increase
1937 - 1939	100
1940	94
1941	89
1942	77
1943	70
1944	68
1945	66
1946	55
1947	35
1948	23
1949	25
1950	23
1951	8
1952	4
1953	3
1954	2
Prior to June 29, 1955	2

(B) If the amount of any such allowance, pension, or other benefit is increased by division (A) of this section to an amount less than one hundred ten per cent of the present amount payable immediately prior to October 1, 1957, such present amount shall be increased by ten per cent.

(C) On and after August 1, 1959, the monthly allowance, pension, or other benefit effective prior to June 29, 1955, (exclusive of any amount receivable monthly by reason of a voluntary deposit made for additional annuity), together with the supplemental allowance payable pursuant to divisions (A) and (B) of this section, shall be increased by twelve per cent.

Sec. 3309.373. (A) On and after July 1, 1968, all allowances, pensions, or other benefits, which are payable or become payable and for which eligibility is established prior to July 1, 1968, pursuant to sections 3309.35, 3309.36, ~~3309.38~~, 3309.40, 3309.45, and 3309.46 and former section

3309.38 of the Revised Code shall be increased by the percentages as determined by the effective date of the allowance, pension, or benefit as follows:

Effective Date of Benefit Calendar Year	Percentage of Increase
1937 through 1955	24.3
1956	22.5
1957	18.4
1958	15.2
1959	14.3
1960	12.5
1961	11.3
1962	10.1
1963	8.7
1964	7.3
1965	5.6
1966	2.6
1967	2.0
January 1, 1968 through June 30, 1968	2.0

(B)(1) All increases as determined by applying the percentages in the table in division (A) of this section shall be reduced by the dollar amount of the increases granted in 1965 pursuant to section 3309.372 of the Revised Code, except that no allowance, pension, or benefit shall be reduced below the amount due June 30, 1968 and no allowance granted under this section shall be less than a total annual sum of thirty-six dollars.

(2) The allowances increased by division (A) of this section shall exclude any monthly amount payable by reason of any voluntary deposits made under section 3309.47 of the Revised Code.

(3) The increases provided by this section shall be granted notwithstanding the final average salary limitation in sections 3309.36, 3309.40, and 3309.45 of the Revised Code.

(4) The cost of the increases provided by this section shall be included in the employer contribution rate provided by section 3309.49 of the Revised Code. Such employer's contribution rate shall not be increased until July 1, 1969 or later to reflect the increased costs created by this section.

Sec. 3309.376. On and after December 31, 1971, all persons who retired and were eligible to receive a pension that was payable prior to July 1, 1968, pursuant to section 3309.36, ~~3309.38~~, or 3309.40 or former section 3309.38 of the Revised Code, or in the event of the death of such persons, the person

designated by the deceased to receive payments under section 3309.46 of the Revised Code, shall receive an additional monthly payment of two dollars for each year between the member's effective date of retirement or disability and December 31, 1971, or an additional fifty dollars, whichever is less.

Sec. 3309.379. (A) On and after the first day of the month following the effective date of this section, each person eligible to receive an allowance, pension, or benefit, pursuant to sections 3309.35, 3309.36, ~~3309.38~~, 3309.40, division (A) of section 3309.45, and section 3309.46 and former section 3309.38 of the Revised Code, that was based upon an award made effective before June 30, 1955, shall have the allowance, pension, or benefit payable as of September 30, 1974, recalculated by the school employees retirement board so that each such person shall receive an annual single lifetime allowance, pension, or benefit or its actuarial equivalent of not less than one hundred forty dollars for each year of the member's total service credit, except that service credit exceeding thirty-two years shall not be used in the recalculation, and a final average salary limitation shall not be applied.

If the amount of the allowance, pension, or benefit recalculated under this division is less than the amount that is payable on the effective date of this section, then the greater allowance, pension, or benefit shall be continued.

(B) On and after the first day of the month following the effective date of this section, each person receiving an allowance, pension, or benefit, pursuant to sections 3309.35, 3309.36, ~~3309.38~~, 3309.40, division (A) of section 3309.45, and section 3309.46 and former section 3309.38 of the Revised Code, that was first effective on and after June 30, 1955, through June 30, 1971, shall be paid an increased allowance, pension, or benefit as follows:

Effective Date of the Member's Allowance, Pension, or Benefit:	Per Cent of Increase:
June 30, 1955 through June 29, 1959	33
June 30, 1959, through October 31, 1965	21
November 1, 1965, through June 30, 1968	14
July 1, 1968, through June 30, 1971	5

The increase shall be applied to the allowance, pension, or benefit payable on the effective date of this section.

(C) On and after the first day of the month following the effective date of this section, each person receiving or qualified to receive an allowance,

pension, or benefit, pursuant to division (B) of section 3309.45 of the Revised Code, that was effective on and after June 14, 1951, through August 26, 1970, shall receive an increase in such allowance, pension, or benefit in the amount of twenty per cent.

Sec. 3309.3710. (A) Effective July 1, 1981, each person eligible to receive an allowance, pension, or benefit pursuant to sections 3309.35, 3309.36, ~~3309.38~~, 3309.40, division (A) of section 3309.45, and section 3309.46 and former section 3309.38 of the Revised Code that was based upon an award made effective before July 1, 1974, shall have the person's monthly allowance, pension, or benefit increased by five per cent, except that the twelve-month sum of such increases shall not exceed five per cent of the first five thousand dollars of the annual allowance, pension, or benefit.

(B) Effective July 1, 1981, each person receiving or qualified to receive a benefit, pursuant to division (B) of section 3309.45 of the Revised Code, that was effective on and after June 14, 1951, through August 26, 1970, shall receive an increase in such benefit of five per cent.

(C) The increases provided in divisions (A) and (B) of this section shall be applied to the benefit payable on and after July 1, 1981.

(D) The increase in the monthly allowance, pension, or benefit provided in divisions (A) and (B) of this section shall be included in the calculation of additional benefits to recipients under section 3309.374 of the Revised Code.

(E) The benefits provided in divisions (A) and (B) of this section are a continuation of those first provided in Am. Sub. H.B. 204 as passed by the 113th general assembly.

Sec. 3309.3711. Whenever the limits established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended, are raised, the school employees retirement board shall increase the amount of the pension, benefit, or allowance of any person whose pension, benefit, or allowance payable under section 3309.36, 3309.374, ~~3309.38~~, 3309.381, 3309.40, or 3309.401 or former section 3309.38 of the Revised Code was limited by the application of section 415. The amount of the increased pension, benefit, or allowance shall not exceed the lesser of the amount the person would have received if the limits established by section 415 had not been applied or the amount the person is eligible to receive subject to the new limits established by section 415.

Sec. 3309.39. (A) The school employees retirement system shall provide disability coverage to each member who has at least five years of total service credit.

Not later than October 16, 1992, the school employees retirement board shall give each person who is a member on July 29, 1992, the opportunity to elect disability coverage either under section 3309.40 of the Revised Code or under section 3309.401 of the Revised Code. The board shall mail notice of the election, accompanied by an explanation of the coverage under each of the Revised Code sections and a form on which the election is to be made, to each member at the member's last known address. The board shall also provide the explanation and form to any member at the member's request.

Regardless of whether the member actually receives notice of the right to make an election, a member who fails to file a valid election under this section shall be considered to have elected disability coverage under section 3309.40 of the Revised Code. To be valid, an election must be made on the form provided by the ~~retirement~~ board, signed by the member, and filed with the board not later than one hundred eighty days after the date the notice was mailed, or, in the case of a form provided at the request of a member, a date specified by rule of the ~~retirement~~ board. Once made, an election is irrevocable, but if the member ceases to be a member of the ~~retirement~~ system, the election is void. If a person who makes an election under this section also makes an election under section 145.35 or 3307.62 of the Revised Code, the election made for the system that pays a disability benefit to that person shall govern the benefit.

Disability coverage shall be provided under section 3309.401 of the Revised Code for persons who become members after July 29, 1992, and for members who elect under this division to be covered under section 3309.401 of the Revised Code.

The ~~retirement~~ board may adopt rules governing elections made under this division.

(B)(1) Application for a disability benefit may be made by a member, by a person acting in the member's behalf, or by the member's employer, ~~provided if~~ the member ~~has~~ meets all of the following conditions:

(a) Has at least five years of total service credit ~~and has~~;

(b) Has disability coverage under section 3309.40 or 3309.401 of the Revised Code. ~~The~~;

(c) Is not receiving a disability benefit under this chapter or Chapter 145., 742., 3305., 3307., or 5505. of the Revised Code, or the Cincinnati retirement system;

(d) Is not applying for the disability benefit based on a disabling condition that the system determines was caused by commission of either of the following:

(i) A felony the member was convicted of, pled guilty to, or was found not guilty of by reason of insanity;

(ii) An act for which the member was adjudicated a delinquent child, that if committed by an adult, would be a felony.

(2) The application for a disability benefit shall be made on a form provided by the ~~retirement~~ board. The benefit payable to any member who is approved for a disability benefit shall become effective on the first day of the month next following the later of the following:

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

~~(2)~~(b) The date on which the ~~member~~ member's most recent application for a disability benefit was ~~first incapacitated by the disabling condition~~ filed.

(C) Medical examination of a member who has applied for a disability benefit shall be conducted by a competent disinterested physician or physicians selected by the ~~retirement~~ board to determine whether the member is mentally or physically incapacitated for the performance of the member's last assigned primary duty as an employee by a disabling condition either permanent or presumed to be permanent for twelve continuous months following the filing of an application. Such disability must have occurred before termination of the member's contributing service and since last becoming a member or have increased since last becoming a member to such extent as to make the disability permanent or presumed to be permanent for twelve continuous months following the filing of an application.

(D) Application for a disability benefit must be made within two years from the date the member's contributing service terminated, unless the ~~retirement~~ board determines that the member's medical records demonstrate conclusively that at the time the two-year period expired, the member was physically or mentally incapacitated for duty as an employee and unable to make application. Application may not be made by any person receiving a service retirement allowance or commuted service retirement allowance under section 3309.36, ~~3309.38~~, or 3309.381 or former section 3309.38 of the Revised Code or any person who, pursuant to section 3309.42 of the Revised Code, has been paid the accumulated contributions standing to the credit of the person's individual account in the employees' savings fund.

(E) If the physician or physicians determine that the member qualifies for a disability benefit, the ~~retirement~~ board concurs with the determination, and the member agrees to any recommended medical treatment and vocational rehabilitation as specified in ~~division~~ divisions (F) and (G) of this section, the member shall receive a disability benefit under section 3309.40

or 3309.401 of the Revised Code. The action of the board shall be final. ~~At the time the board decides it concurs with the determination of the physician or physicians, the board shall determine the date on which the member was first incapacitated by the disabling condition.~~

(F) ~~The school employees retirement board shall adopt rules requiring a disability benefit recipient, as a condition of continuing to receive a disability benefit, to agree in writing to obtain any medical treatment recommended by the board's physician and submit medical reports regarding the treatment. If the board determines that a disability benefit recipient is not obtaining the medical treatment or the board does not receive a required medical report, the disability benefit shall be suspended until the treatment is obtained, the report is received by the board, or the board's physician certifies that the treatment is no longer helpful or advisable. Should the recipient's failure to obtain treatment or submit a medical report continue for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.~~

(G)(1) A disability benefit recipient shall obtain any vocational rehabilitation recommended by the board's physician or other consultant and submit reports regarding the rehabilitation. If the board determines that a recipient is not obtaining the rehabilitation or the board does not receive a required report, the disability benefit shall be suspended until the rehabilitation is obtained, the report is received by the board, or the board's physician or consultant certifies that rehabilitation is no longer helpful or advisable. If the recipient's failure to obtain rehabilitation or submit a required report continues for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

(2) The board shall adopt rules to implement this division.

(H) In the event an employer files an application for a disability benefit as a result of a member having been separated from service because the member is considered to be mentally or physically incapacitated for the performance of the member's last assigned primary duty as an employee, and the physician or physicians selected by the board report to the board that the member is physically and mentally capable of performing service similar to that from which the member was separated, and the board concurs in such report, then the board shall so certify to the employer and the employer shall restore the member to the member's previous position and salary or to a similar position and salary.

Sec. 3309.392. A recipient of a disability benefit granted under this chapter on or after the effective date of this section shall apply for social security disability insurance benefit payments under 42 U.S.C. 423 if the

recipient meets the requirements of divisions (a)(1)(A), (B), and (C) of that section. The application shall be made not later than ninety days after the recipient is granted a disability benefit under this chapter unless the school employees retirement board determines from the member's medical records that the member is physically or mentally unable to make the application. The recipient shall file a copy of the completed application and a copy of the social security administration's acknowledgement of receipt of the application with the school employees retirement system. The system shall accept the copy and acknowledgement as evidence of the member's application.

If a recipient fails without just cause to apply for social security disability insurance benefit payments or to file a copy of the application and acknowledgement of receipt with the system, the disability benefit under this chapter shall be suspended until application is made and a copy of the application and acknowledgement is filed with the system.

The member shall file with the system a copy of the social security administration's final action on the member's application for social security disability insurance benefit payments.

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 two-tenths per cent of the member's final average salary, not exceeding sixty per cent of 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; or 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. 3309.41. (A) Notwithstanding any contrary provisions in Chapter 124. or 3319. of the Revised Code:

(1) A disability benefit recipient whose benefit effective date was before the effective date of this amendment shall retain membership status and shall be considered on leave of absence from employment during the first five years following the effective date of a disability benefit; notwithstanding any contrary provisions in Chapter 124. or 3319. of the Revised Code.

(2) A disability benefit recipient whose benefit effective date is on or after the effective date of this amendment shall retain membership status and shall be considered on leave of absence from employment during the first three years following the effective date of a disability benefit, except that, if the school employees retirement board has recommended medical treatment or vocational rehabilitation and the member is receiving treatment or rehabilitation acceptable to a physician or consultant selected by the board, the board may permit the recipient to retain membership status and be considered on leave of absence from employment for up to five years following the effective date of a disability benefit.

(B) The ~~school employees retirement~~ board shall require a disability benefit recipient to undergo an annual medical examination, except that the board may waive the medical examination if the board's physician or physicians certify that the recipient's disability is ongoing. Should any disability benefit recipient refuse to submit to a medical examination, the recipient's disability benefit shall be suspended until withdrawal of the refusal. Should the refusal continue for one year, all the recipient's rights in and to the disability benefit shall be terminated as of the effective date of the original suspension.

(C) On completion of the examination by an examining physician or physicians selected by the board, the physician or physicians shall report and certify to the board whether the disability benefit recipient meets the applicable standard for termination of a disability benefit. If the recipient's

benefit effective date is before the effective date of this amendment or the benefit effective date is after the effective date of this amendment and the recipient is considered on a leave of absence under division (A)(2) of this section, the standard for termination is that the recipient is no longer physically and mentally incapable of resuming the service from which the recipient was found disabled. If the ~~board~~ recipient's benefit effective date is on or after the effective date of this amendment and the recipient is not considered on a leave of absence under division (A)(2) of this section, the standard is that the recipient is not physically or mentally incapable of performing the duties of a position that meets all of the following criteria:

(1) Replaces not less than seventy-five per cent of the member's final average salary, adjusted each year by the actual average 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");

(2) Is reasonably to be found in the member's regional job market;

(3) Is one that the member is qualified for by experience or education.

If the board concurs in the report that the disability benefit recipient is no longer incapable meets the applicable standard for termination of a disability benefit, the payment of the disability benefit shall be terminated not later than three months after the date of the board's concurrence or upon employment as an employee. If the leave of absence has not expired, the retirement board shall certify to the disability benefit recipient's last employer before being found disabled that the recipient is no longer physically and mentally incapable of resuming service that is the same or similar to that from which the recipient was found disabled. The employer shall restore the recipient to the recipient's previous position and salary or to a position and salary similar thereto not later than the first day of the first month following termination of the disability benefit, unless the recipient was dismissed or resigned in lieu of dismissal for dishonesty, misfeasance, malfeasance, or conviction of a felony.

(D) Each disability benefit recipient shall file with the board an annual statement of earnings, current medical information on the recipient's condition, and any other information required in rules adopted by the board. The board may waive the requirement that a disability benefit recipient file an annual statement of earnings or current medical information on the recipient's condition if the board's physician or physicians certify that the recipient's disability is ongoing.

The board shall annually examine the information submitted by the recipient. If a disability benefit recipient refuses to file the statement or

information, the disability benefit shall be suspended until the statement and information are filed. If the refusal continues for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

(E) If a disability benefit recipient is employed by an employer covered by this chapter, the recipient's disability benefit shall cease.

(F) If disability retirement under section 3309.40 of the Revised Code is terminated for any reason, the annuity and pension reserves at that time in the annuity and pension reserve fund shall be transferred to the employees' savings fund and the employers' trust fund, respectively. If the total disability benefit paid is less than the amount of the accumulated contributions of the member transferred into the annuity and pension reserve fund at the time of the member's disability retirement, the difference shall be transferred from the annuity and pension reserve fund to another fund as may be required. In determining the amount of a member's account following the termination of disability retirement for any reason, the amount paid shall be charged against the member's refundable account.

If a disability allowance paid under section 3309.401 of the Revised Code is terminated for any reason, the reserve on the allowance at that time in the annuity and pension reserve fund shall be transferred from that fund to the employers' trust fund.

The board may terminate a disability benefit at the request of the recipient.

(G) If a disability benefit is terminated and a former disability benefit recipient again becomes a contributor, other than as an other system retiree as defined in section 3309.341 of the Revised Code, to this system, the public employees retirement system, or the state teachers retirement system, and completes an additional two years of service credit after the termination of the disability benefit, the former disability benefit recipient shall be entitled to ~~full~~ receive up to two years of service credit for the period as a disability benefit recipient and may purchase service for the remaining period of the disability benefit. Total service credit received and purchased under this section shall not exceed the period of the disability benefit.

For each year of credit purchased, the member shall pay to the system for credit to the member's accumulated account the sum of the following amounts:

(1) The employee contribution rate in effect at the time the disability benefit commenced multiplied by the member's annual disability benefit;

(2) The employer contribution rate in effect at the time the disability benefit commenced multiplied by the member's annual disability benefit;

(3) Compound interest at a rate established by the board from the date the member is eligible to purchase the credit to the date of payment.

The member may choose to purchase only part of such credit in any one payment, subject to board rules.

(H) If any employer employs any member who is receiving a disability benefit, the employer shall file notice of employment with the retirement board, designating the date of employment. In case the notice is not filed, the total amount of the benefit paid during the period of employment prior to notice shall be paid from amounts allocated under Chapter 3317. of the Revised Code prior to its distribution to the school district in which the disability benefit recipient was so employed.

Sec. 3309.44. (A) As used in this section and in section 3309.45 of the Revised Code:

(1) "Child" means a biological or legally adopted child of a deceased member. If a court hearing for an interlocutory decree for adoption was held prior to the member's death, "child" includes the child who was the subject of the hearing notwithstanding the fact that the final decree of adoption, adjudging the surviving spouse as the adoptive parent, is made subsequent to the member's death.

(2) "Parent" is a parent or legally adoptive parent of a deceased member.

(3) "Dependent" means a beneficiary who receives one-half of the beneficiary's support from a member during the twelve months prior to the member's death.

(4) "Surviving spouse" means an individual who establishes a valid marriage to a member at the time of the member's death by marriage certificate or pursuant to division ~~(E)~~(F) of this section.

(5) "Survivor" means a surviving spouse, child, or parent.

(B) Except as provided in division (C)(1) of section 3309.45 of the Revised Code, should a member die before service or commuted service retirement, the member's accumulated contributions and any amounts owed and unpaid to a disability benefit recipient shall be paid to such beneficiaries as the member has designated in writing on a form provided by the school employees retirement board, signed by the member and filed with the board prior to death. The last designation of any beneficiary revokes all previous designations. The member's marriage, divorce, legal dissolution, legal separation, or withdrawal of account, or the birth of the member's child, or the member's adoption of a child, constitutes an automatic revocation of the member's last designation. If a deceased member was also a member of the public employees retirement system or the state teachers retirement system, the beneficiary last established among the systems shall be the sole

beneficiary in all the systems.

If the accumulated contributions of a deceased member are not claimed by a beneficiary, or by the estate of the deceased member, within ten years, they shall be transferred to the guarantee fund and thereafter paid to such beneficiary or to the member's estate upon application to the board. The board shall formulate and adopt rules governing all designations of beneficiaries.

(C) Except as provided in division (C)(1) of section 3309.45 of the Revised Code, if a member dies before service or commuted service retirement and is not survived by a designated beneficiary, ~~any beneficiaries~~ the following shall qualify, in the following order of precedence, with all attendant rights and privileges, the member's:

- (1) Surviving spouse;
- (2) Children share and share alike;
- (3) A dependent parent who is age sixty-five or older, if that parent takes survivor benefits under division (B) of section 3309.45 of the Revised Code;
- (4) Parents, share and share alike;
- (5) Estate.

~~Any payment made to a beneficiary as determined by the school employees retirement board shall be a full discharge and release to the board from any future claims.~~

If a person listed in divisions (C)(1) to (4) of this section is deceased or is not located within one hundred eighty days, the person ceases to qualify for any benefit and the person next in order of precedence shall qualify.

(D) Any amount due any person, as an annuitant receiving a monthly service or commuted service retirement allowance or benefit, and unpaid to the annuitant at death, shall be paid to the beneficiary designated in writing on a form provided by the retirement board, signed by the annuitant and filed with the board. If no such designation has been filed, ~~or if the designated beneficiary is deceased or is not located within ninety days~~, such amount shall be paid, except as otherwise provided in section 3309.45 of the Revised Code, in the following order of precedence to the annuitant's:

- (1) Surviving spouse;
- (2) Children, share and share alike;
- (3) Parents, share and share alike;
- (4) Estate.

If a person listed in divisions (D)(1) to (3) of this section is deceased or is not located within one hundred eighty days, the person ceases to qualify for any benefit and the person next in order of precedence shall qualify.

For the purpose of this division, an "annuitant" is the last person who received a monthly allowance or benefit pursuant to the plan of payment selected by the retirant or designated by this chapter. ~~Such payment shall be a full discharge and release to the board from any future claim for such payment.~~

(E) Any payment made under this section as determined by the board shall be a full discharge and release to the board from any future claim for payment.

~~(E)~~ If the validity of marriage cannot be established to the satisfaction of the retirement board for the purpose of disbursing any amount due under this section or section 3309.45 of the Revised Code, the retirement board may accept a decision rendered by a court having jurisdiction in the state in which the member was domiciled at the time of death that the relationship constituted a valid marriage at the time of death, or the "spouse" would have the same status as a widow or widower for purposes of sharing in the distribution of the member's intestate personal property.

~~(F)(G)~~ As used in this division, "recipient" means an individual who is receiving or may be eligible to receive an allowance or benefit under this chapter based on the individual's service to an employer.

If the death of a member, a recipient, or any individual who would be eligible to receive an allowance or benefit under this chapter by virtue of the death of a member or recipient is caused by one of the following beneficiaries, no amount due under this chapter to the beneficiary shall be paid to the beneficiary in the absence of a court order to the contrary filed with the retirement board:

(1) A beneficiary who is convicted of, pleads guilty to, or is found not guilty by reason of insanity of a violation of or complicity in the violation of either of the following:

(a) Section 2903.01, 2903.02, or 2903.03 of the Revised Code;

(b) An existing or former law of any other state, the United States, or a foreign nation that is substantially equivalent to section 2903.01, 2903.02, or 2903.03 of the Revised Code;

(2) A beneficiary who is indicted for a violation of or complicity in the violation of the sections or laws described in division ~~(F)(G)~~(1)(a) or (b) of this section and is adjudicated incompetent to stand trial;

(3) A beneficiary who is a juvenile found to be a delinquent child by reason of committing an act that, if committed by an adult, would be a violation of or complicity in the violation of the sections or laws described in division ~~(F)(G)~~(1)(a) or (b) of this section.

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)(1) 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.

(2) Beginning on a date selected by the school employees retirement board, which shall be not later than July 1, 2004, a surviving spouse or other sole dependent beneficiary may elect, in lieu of a monthly payment under division (A)(1) of this section, a plan of payment consisting of both of the following:

(a) A lump sum in an amount the surviving spouse or other sole dependent beneficiary designates that constitutes a portion of the allowance that would be payable under division (A)(1) of this section;

(b) The remainder of that allowance in monthly payments.

The total amount paid as a lump sum and a monthly benefit shall be the actuarial equivalent of the amount that would have been paid had the lump sum not been selected.

The lump sum amount designated by the surviving spouse or other sole dependent beneficiary under division (A)(2)(a) of this section shall be not less than six times and not more than thirty-six times the monthly amount that would be payable to the surviving spouse or other sole dependent beneficiary under division (A)(1) of this section and shall not result in a monthly benefit that is less than fifty per cent of that monthly amount.

(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 who elect to receive monthly benefits shall receive the greater of the benefits provided in division (B)(1)(a) or (b) as allocated in accordance with division (B)(5) of this section.

(1)(a) Number

Or

of Qualified survivors affecting the benefit	Annual Benefit as a Per Cent of Decedent's Final Average Salary	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	
20	29%	
21	33	
22	37	
23	41	
24	45	
25	48	
26	51	
27	54	
28	57	
29 or more	60	

(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 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 whose benefit began before the effective date of this amendment is any 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;

(ii) Regardless of age, 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 child whose benefit begins on or after the effective date of this amendment is any child of the deceased member who has never been married and to whom one of the following applies:

(i) Is under age nineteen;

(ii) Regardless of age, is adjudged physically or mentally incompetent if the incompetence existed prior to the member's death and prior to the child attaining age nineteen.

(d) 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 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)(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.

(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. 3309.46. (A) The retirement allowance calculated under section 3309.36, ~~3309.38~~, or 3309.381 of the Revised Code shall be paid as provided in this section. If the member is eligible to elect a plan of payment under this section, the election shall be made on the application for retirement. A plan of payment elected under this section shall be effective only if it is certified by the actuary engaged by the school employees retirement board to be the actuarial equivalent of the member's retirement allowance and is approved by the retirement board.

(B)(1)(a) Except as provided in divisions (B)(1)(b) and (c) of this section, a member who retires under section 3309.36, ~~3309.38~~, or 3309.381 of the Revised Code shall receive a retirement allowance under "plan A," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 3309.36, ~~3309.38~~, or 3309.381 of the Revised Code in a lesser amount payable for life and one-half of such allowance continuing after death to the member's surviving spouse for the life of the spouse.

(b) A member may receive a retirement allowance under a plan of payment other than "plan A" if either of the following is the case:

(i) The member is not married or either the member's spouse consents in writing to the member's election to a plan of payment other than "plan A" or the board waives the requirement that the spouse consent;

(ii) A plan of payment providing for payment in a specified amount continuing after the member's death to a former spouse is required by a court order issued prior to the effective date of the member's retirement under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding division of marital property.

(c) If a member is subject to division (B)(1)(b)(ii) of this section and the board has received a copy of the order described in that division, the board

shall accept the member's election of a plan of payment under this section only if the member complies with both of the following:

(i) The member elects a plan of payment that is in accordance with the order described in division (B)(1)(b)(ii) of this section.

(ii) If the member is married, the member elects "plan F" and designates the member's current spouse as a beneficiary under that plan unless that spouse consents in writing to not being designated a beneficiary under any plan of payment or the board waives the requirement that the current spouse consent.

(2) An application for retirement shall include an explanation of all of the following:

(a) That, if the member is married, unless the spouse consents to another plan of payment or there is a court order dividing marital property issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property that provides for payment in a specified amount, the member's retirement allowance will be paid under "plan A," which consists of the actuarial equivalent of the member's retirement allowance in a lesser amount payable for life and one-half of the allowance continuing after death to the surviving spouse for the life of the spouse;

(b) A description of the alternative plans of payment, including all plans described in divisions (B)(3) and (4) of this section, available with the consent of the spouse;

(c) That the spouse may consent to another plan of payment and the procedure for giving consent;

(d) That consent is irrevocable once notice of consent is filed with the board.

Consent shall be valid only if it is in writing, signed by the spouse, and witnessed by an employee of the school employees retirement system or a notary public. The board may waive the requirement of consent if the spouse is incapacitated or cannot be located or for any other reason specified by the board. Consent or waiver is effective only with regard to the spouse who is the subject of the consent or waiver.

(3)(a) A member eligible to elect to receive a retirement allowance under a plan of payment other than "plan A" shall receive the retirement allowance under the plan described in division (B)(4) of this section or one of the following plans:

(a) "Plan B," which shall consist of an allowance determined under section 3309.36, ~~3309.38~~, or 3309.381 of the Revised Code;

(b) "Plan C," which shall consist of the actuarial equivalent of the

member's retirement allowance determined under section 3309.36, ~~3309.38~~, or 3309.381 of the Revised Code in a lesser amount payable for life and one-half or some other portion of the allowance continuing after death to the member's sole surviving beneficiary designated at the time of the member's retirement, provided that the amount payable to the beneficiary does not exceed the amount payable to the member;

(c) "Plan D," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 3309.36, ~~3309.38~~, or 3309.381 of the Revised Code in a lesser amount payable for life and continuing after death to a surviving designated beneficiary designated at the time of the member's retirement;

(d) "Plan E," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 3309.36, ~~3309.38~~, or 3309.381 of the Revised Code in a lesser amount payable for a certain period from the member's retirement date as elected by the member and approved by the retirement board, and on the member's death before the expiration of that certain period, the member's lesser retirement allowance continued for the remainder of that period to, and in such order, the beneficiaries as the member has nominated by written designation and filed with the retirement board.

Monthly benefits shall not be paid to joint beneficiaries, but they may receive the present value of any remaining payments in a lump sum settlement. If all beneficiaries die before the expiration of the certain period, the present value of all such payments yet remaining in such period shall be paid to the estate of the beneficiary last receiving.

(e) "Plan F," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 3309.36, ~~3309.38~~, or 3309.381 of the Revised Code in a lesser amount payable to the member for life and some portion of the lesser amount continuing after death to two, three, or four surviving beneficiaries designated at the time of the member's retirement. The portion of the lesser amount that continues after the member's death shall be allocated among the beneficiaries at the time of the member's retirement. If the member elects this plan as required by a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property and compliance with the court order requires the allocation of a portion less than ten per cent to any person, the member shall allocate a portion less than ten per cent to that beneficiary in accordance with that order. In all other circumstances, no portion allocated under this plan of payment shall be less than ten per cent. The total of the portions allocated shall not exceed one

hundred per cent of the member's lesser allowance.

(4)(a) Beginning on a date selected by the board, which shall be not later than July 1, 2004, a member may elect, in lieu of a plan of payment under division (B)(1) or (3) of this section, a plan consisting of both a lump sum in an amount the member designates that constitutes a portion of the retirement allowance payable under a plan described in division (B)(1) or (3) of this section and the remainder of the allowance payable under that plan in monthly payments.

The total amount paid as a lump sum and a monthly benefit shall be the actuarial equivalent of the amount that would have been paid had the lump sum not been selected.

(b) The lump sum amount designated by the member shall be not less than six times and not more than thirty-six times the monthly amount that would be payable to the member under the plan of payment elected under this section had the lump sum not been elected and shall not result in a monthly benefit that is less than fifty per cent of that amount.

(5) An election under division (B)(3) or (4) of this section shall be made at the time the member makes application for retirement.

(6) A member eligible to elect to receive a retirement allowance under a plan of payment other than "plan A" because the member is unmarried who fails to make an election on retirement shall receive a retirement allowance under "plan B."

(C) Until the first payment of any retirement allowance is made, as provided in sections 3309.36, ~~3309.38~~, or 3309.381 of the Revised Code, a member may change the member's election of a payment plan if the election is made in accordance with and is consistent with division (B) of this section.

(D) If the retirement allowances due and paid under the above provisions of this section are in a total amount less than (1) the accumulated contributions, (2) the deposits for additional credit as provided by section 3309.31 of the Revised Code, (3) the deposits for additional annuities as provided by section 3309.47 of the Revised Code, (4) the deposits for repurchase of service credit as provided by section 3309.26 of the Revised Code, (5) the accumulated contributions provided by section 3309.65 of the Revised Code, (6) the deposits for purchase of military service credit provided by section 3309.021 or 3309.022 of the Revised Code, and (7) the deposits for the purchase of service credit provided by section 3309.73 of the Revised Code, standing to the credit of the member at the time of retirement, then the difference between the total amount of the allowances paid and the accumulated contributions and other deposits shall be paid to

the beneficiary provided under division (D) of section 3309.44 of the Revised Code.

(E)(1) The death of a spouse or any other designated beneficiary following the member's retirement shall cancel the portion of the plan of payment providing continuing lifetime benefits to the deceased spouse or deceased designated beneficiary. The retirant shall receive the actuarial equivalent of the retirant's single lifetime retirement allowance as determined by the board based on the number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary.

(2) On divorce, annulment, or marriage dissolution, a retirant receiving a retirement allowance under a plan of payment that provides for continuation of all or part of the allowance after death for the lifetime of the retirant's surviving spouse may elect to cancel the portion of the plan providing continuing lifetime benefits to that spouse. The retirant shall receive the actuarial equivalent of the retirant's single lifetime retirement allowance as determined by the retirement board based on the number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary. In the case of a member who retires on or after July 24, 1990, the election may be made only with the written consent of the spouse or pursuant to an order of the court with jurisdiction over the termination of the marriage. The election shall be made on a form provided by the board and shall be effective the month following its receipt by the board.

(3)(a) Following marriage or remarriage, both of the following apply:

(i) A retirant who is receiving a benefit pursuant to "plan B" may elect a new plan of payment under division (B)(1), (3)(b), or (3)(c) of this section based on the actuarial equivalent of the retirant's single lifetime retirement allowance as determined by the board.

(ii) A retirant who is receiving a benefit pursuant to a plan of payment providing for payment to a former spouse pursuant to a court order described in division (B)(1)(b)(ii) of this section may elect a new plan of payment under division (B)(3)(e) of this section based on the actuarial equivalent of the retirant's single lifetime retirement allowance as determined by the board if the new plan of payment elected does not reduce the payment to the former spouse.

(b) If the marriage or remarriage occurs on or after ~~the effective date of this amendment~~ June 6, 2005, the election must be made not later than one year after the date of the marriage or remarriage.

The plan elected under division (E)(3) of this section shall become effective on the date of receipt by the board of an application on a form

approved by the board, but any change in the amount of the retirement allowance shall commence on the first day of the month following the effective date of the plan.

Sec. 3309.47. Each school employees retirement system contributor shall contribute eight per cent of 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 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 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 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. 3309.474. (A) As used in this section, "state retirement system" means the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system.

(B) A state retirement system member who while a member of the school employees retirement system was out of service due to a leave of absence approved by the member's employer may purchase from the school employees retirement system service credit for any period during the leave for which contributions were not made under section 3309.47 of the Revised Code.

For purposes of this section, a period of leave commences on the first day for which employee and employer contributions were not made to the system and ends on the earlier of the termination of the leave or the member's return to contributing service.

(C)(1) For each year of service purchased, the member shall pay to the school employees retirement system for credit to the member's accumulated account with that system an amount equal to the sum of the following:

(a) An amount determined by multiplying the compensation the member would have received during the leave by the employee contribution rate in effect at that time;

(b) An amount determined by multiplying the compensation the member would have received during the leave by the employer contribution rate in effect at that time;

(c) Compound interest at a rate determined by the school employees retirement board from the first day of the year following the date the leave commenced to the date of payment.

(2) If the employee or employer contribution rate changed during the leave, contributions for each month of the leave shall be made at the rate in

effect for that month.

(D) Service credit purchased under this section for any period of leave shall not exceed two years. Credit may be purchased for more than one period of leave, but the total number of years purchased shall not exceed the lesser of five years or the member's total accumulated number of years of service as a contributor to the school employees retirement system. The member may choose to purchase only part of such credit in any one payment, subject to board rules.

(E) The board may adopt rules under section 3309.04 of the Revised Code to implement this section.

Sec. 3309.50. (A)(1) Upon the death of a retirant or disability benefit recipient, who at the time of death is receiving a service retirement allowance or disability benefit from the school employees retirement system, a lump-sum payment of one thousand dollars shall be paid to any designated or qualified beneficiary under division (D) of section 3309.44 of the Revised Code, or, if no such designation has been filed or if the designated beneficiary is deceased or is not located within ninety days, the school employees retirement board may approve payment to either the person responsible for the burial expenses or to the decedent's estate, following the completion of an application on a form approved by the school employees retirement board, in the following order of precedence to:

(a) The retirant or recipient's designated beneficiary;

(b) The retirant or recipient's surviving spouse;

(c) The retirant or recipient's children, share and share alike;

(d) The retirant or recipient's parents, share and share alike;

(e) The person responsible for the retirant or recipient's burial expenses;

(f) The retirant or recipient's estate.

(2) If a person listed in division (A)(1) of this section is deceased or is not located within one hundred eighty days, the person ceases to qualify for the payment. The payment shall be made to the person next in order of precedence.

(B) A benefit paid under this section shall be treated as life insurance for purposes of this chapter and shall be funded solely from contributions made under section 3309.49 of the Revised Code and any earnings attributable to those contributions.

Sec. 3309.51. (A) Each employer shall pay ~~annually~~ into the employers' trust fund, in ~~such~~ monthly or less frequent installments as the school employees retirement board requires, an amount certified by the school employees retirement board, which shall be as required by Chapter 3309. of the Revised Code.

Payments by school district boards of education to the employers' trust fund of the school employees retirement system may be made from the amounts allocated under Chapter 3317. of the Revised Code prior to their distribution to the individual school districts. The amount due from each school district may be certified by the secretary of the system to the superintendent of public instruction monthly, or at such times as is determined by the school employees retirement board.

Payments by governing authorities of community schools to the employers' trust fund of the school employees retirement system shall be made from the amounts allocated under section 3314.08 of the Revised Code prior to their distribution to the individual community schools. The amount due from each community school shall be certified by the secretary of the system to the superintendent of public instruction monthly, or at such times as determined by the school employees retirement board.

Payments by a science, technology, engineering, and mathematics school to the employers' trust fund of the school employees retirement system shall be made from the amounts allocated under section 3326.33 of the Revised Code prior to their distribution to the school. The amount due from a science, technology, engineering, and mathematics school shall be certified by the secretary of the school employees retirement system to the superintendent of public instruction monthly, or at such times as determined by the school employees retirement board.

(B) The superintendent shall deduct from the amount allocated to each community school under section 3314.08 of the Revised Code, to each school district under Chapter 3317. of the Revised Code, or to each science, technology, engineering, and mathematics school under section 3326.33 of the Revised Code the entire amounts due to the school employees retirement system from such school or school district upon the certification to the superintendent by the secretary thereof.

(C) Where an employer fails or has failed or refuses to make payments to the employers' trust fund, as provided for under Chapter 3309. of the Revised Code, or fails to pay any penalty imposed under section 3309.571 of the Revised Code the secretary of the school employees retirement system may certify to the state superintendent of public instruction, monthly or at such times as is determined by the school employees retirement board, the amount due from such employer, and the superintendent shall deduct from the amount allocated to the employer under section 3314.08 or 3326.33 or Chapter 3317. of the Revised Code, as applicable, the entire amounts due to the system from the employer upon the certification to the superintendent by the secretary of the school employees retirement system.

(D) The superintendent shall certify to the director of budget and management the amounts thus due the system for payment.

Sec. 3309.571. The school employees retirement system shall impose the following penalties, which may be collected in the same manner as described in division (B) of section 3309.51 of the Revised Code:

(A) For a failure to transmit contributions withheld from employees not later than the date specified under rules adopted by the school employees retirement board, one hundred dollars per day for each day the employer fails to transmit the contributions;

(B) For a failure to transmit any amount due the employer's trust fund not later than the date specified under rules adopted by the board, one hundred dollars per day for each day the employer fails to transmit the amounts;

(C) Except for a statement required by section 3309.28 of the Revised Code, for a failure to submit, complete, or correct any payroll information or other report required under this chapter not later than the date specified under rules adopted by the board, one hundred dollars per day for each day the employer fails to submit, complete, or correct the information or report, except that the penalty shall not exceed one thousand five hundred dollars;

(D) For a failure to submit a record in the form of a statement required by section 3309.28 of the Revised Code, fifty dollars per record for each month the record is not filed, except that the penalty shall not exceed three hundred dollars.

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 establish a program to provide medical, hospital, surgical, prescription, or other health care coverage, benefits, reimbursement, or any combination thereof, to eligible individuals or dependents.

Any program established under this section shall be designed and administered by the board. In establishing a program, the board may do any

of the following:

~~(1) Enter into an agreement with insurance companies, health insuring corporations, persons or government agencies authorized to do business in the state for issuance of a policy or contract of health, medical, hospital, or prescription, surgical, or other health care 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;~~

~~(2) 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;~~

~~(3) Provide reimbursements or subsidies to eligible participants;~~

~~(4) Make disbursements;~~

~~(5) Determine levels of coverage and costs for the program;~~

~~(6) Take any other action it considers necessary to establish and administer the program.~~

~~(B) If it establishes a health care program, the board shall establish eligibility criteria and any other requirements for participation. To be eligible, an individual must meet the criteria established by the board and be one or more of the following:~~

~~(1) A former member receiving benefits pursuant to section 3309.34, 3309.35, 3309.36, or 3309.381 or former section 3309.38 of the Revised Code;~~

~~(2) A disability benefit recipient receiving a disability benefit pursuant to section 3309.35, 3309.39, 3309.40, or 3309.401 of the Revised Code;~~

~~(3) A beneficiary receiving monthly benefits pursuant to section 3309.45 of the Revised Code;~~

(4) The beneficiary of a former member who is receiving monthly benefits pursuant to section 3309.46 of the Revised Code;

(5) A dependent, as determined under rules adopted by the board, of an individual described in divisions (B)(1) to (4) of this section.

(C) The cost paid from the funds of the system for coverage under this section shall be included in the employer contribution under sections 3309.49 and 3309.491 of the Revised Code.

(D)(1) The board may require payment of a premium for participation in the health care program. Participation is deemed consent for the deduction of premiums from any pension, benefit, or annuity provided under this chapter to an eligible participant.

(2) An individual who fails to pay any required premium or receives any coverage or payment to which the individual is not entitled shall pay or repay any amount due the system. If an individual fails to pay or repay an amount due, the system may withhold the amount from any pension, benefit, annuity, or payment due the individual or the individual's beneficiary under this chapter or collect the amount in any other manner provided by law.

(E) A health care program participant who is eligible for coverage under medicare part B, "Supplementary Medical Insurance Benefits for the Aged and Disabled," 42 U.S.C. 1395j, as amended, shall enroll for that coverage. 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 April 9, 2001, 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, 1999 the participant in an amount determined by the board for such coverage that is not less than forty-five dollars and fifty cents, except that the board shall make no payment to a participant who is not eligible for coverage under medicare part B or pay an amount that exceeds the amount paid by the recipient for the coverage.

(F) 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.

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

(H) This section does not require the board to establish, maintain, offer, or continue any health care program. This section does not require the board to provide or continue access to any health care program, or any level of coverage or costs provided under the program, if the board establishes or maintains a program under this section.

Sec. 3309.81. The school employees retirement board ~~shall~~ may 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. 3309.88. 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~~ April 9, 2001, is fully amortized, as determined by the annual actuarial valuation prepared under section 3309.21 of the Revised Code.

SECTION 2. That existing sections 3309.05, 3309.051, 3309.061, 3309.07, 3309.072, 3309.074, 3309.075, 3309.10, 3309.15, 3309.21, 3309.22, 3309.23, 3309.26, 3309.28, 3309.33, 3309.34, 3309.341, 3309.343, 3309.35, 3309.353, 3309.354, 3309.36, 3309.362, 3309.371, 3309.373, 3309.376, 3309.379, 3309.3710, 3309.3711, 3309.39, 3309.401, 3309.41, 3309.44, 3309.45, 3309.46, 3309.47, 3309.50, 3309.51, 3309.69, 3309.81, and 3309.88 and sections 3309.38 and 3309.571 of the Revised Code are hereby repealed.

SECTION 3. Sections 1, 2, and 5 of this act, except for the amendment to division (A)(2)(b) of section 3309.34 of the Revised Code, shall take effect January 7, 2013.

SECTION 4. The amendment by this act of division (A)(2)(b) of section 3309.34 of the Revised Code takes effect one hundred eighty days after the effective date of this act.

SECTION 5. (A) The Ohio Retirement Study Council shall study and make recommendations regarding the School Employees Retirement Board's authority under division (A)(2)(b) of section 3309.34 of the Revised Code to adjust eligibility requirements for retirement under division (A)(2)(a) of section 3309.34 of the Revised Code.

(B) Not later than ninety days after the effective date of this section, the Council shall prepare and submit to the President of the Senate and the Speaker of the House of Representatives a report of its findings and recommendations.

SECTION 6. Section 3309.23 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 351 and Am. S.B. 346 of the 119th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of

simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. S. B. No. 341

129th G.A.

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 _____