

As Introduced

**129th General Assembly
Regular Session
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S. B. No. 341

Senators Niehaus, Kearney

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A B I L L

To amend sections 3309.05, 3309.051, 3309.061, 1
3309.07, 3309.072, 3309.074, 3309.075, 3309.10, 2
3309.15, 3309.21, 3309.22, 3309.23, 3309.26, 3
3309.28, 3309.33, 3309.34, 3309.341, 3309.343, 4
3309.35, 3309.353, 3309.354, 3309.36, 3309.362, 5
3309.371, 3309.373, 3309.376, 3309.379, 3309.3710, 6
3309.3711, 3309.39, 3309.401, 3309.41, 3309.44, 7
3309.45, 3309.46, 3309.47, 3309.50, 3309.51, 8
3309.69, and 3309.88; to enact new section 9
3309.571 and sections 3309.392 and 3309.474; and 10
to repeal sections 3309.38 and 3309.571 of the 11
Revised Code to revise the law governing the 12
School Employees Retirement System. 13

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3309.05, 3309.051, 3309.061, 14
3309.07, 3309.072, 3309.074, 3309.075, 3309.10, 3309.15, 3309.21, 15
3309.22, 3309.23, 3309.26, 3309.28, 3309.33, 3309.34, 3309.341, 16
3309.343, 3309.35, 3309.353, 3309.354, 3309.36, 3309.362, 17
3309.371, 3309.373, 3309.376, 3309.379, 3309.3710, 3309.3711, 18
3309.39, 3309.401, 3309.41, 3309.44, 3309.45, 3309.46, 3309.47, 19
3309.50, 3309.51, 3309.69, and 3309.88 be amended and that new 20
section 3309.571 and sections 3309.392 and 3309.474 be enacted to 21

read as follows: 22

Sec. 3309.05. (A) The school employees retirement board shall 23
consist of the following members: 24

~~(A)~~(1) One member, known as the treasurer of state's 25
investment designee, who shall be appointed by the treasurer of 26
state for a term of four years and who shall have the following 27
qualifications: 28

(a) The member is a resident of this state. 29

(b) Within the three years immediately preceding the 30
appointment, the member has not been employed by the public 31
employees retirement system, police and fire pension fund, state 32
teachers retirement system, school employees retirement system, or 33
state highway patrol retirement system or by any person, 34
partnership, or corporation that has provided to one of those 35
retirement systems services of a financial or investment nature, 36
including the management, analysis, supervision, or investment of 37
assets. 38

(c) The member has direct experience in the management, 39
analysis, supervision, or investment of assets. 40

(d) The member is not currently employed by the state or a 41
political subdivision of the state. 42

~~(B)~~(2) Four members, known as employee members, who shall be 43
members of the school employees retirement system, and who shall 44
be elected by ballot by the members of the system; 45

~~(C)~~(3) Two members, known as the retirant members, who shall 46
be former members of the retirement system who reside in this 47
state and currently receive an age and service retirement benefit, 48
a disability benefit, or benefits under a plan established under 49
section 3309.81 of the Revised Code. The retirant members shall be 50

51 elected by ballot by former members of the system who are
52 currently receiving an age and service retirement benefit, a
53 disability benefit, or benefits under a plan established under
54 section 3309.81 of the Revised Code.

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

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

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

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

74 ~~(2)(B)~~ Any ~~investment expert~~ member appointed to fill a
75 ~~vacancy occurring prior to the expiration of the term for which~~
76 ~~the member's predecessor was appointed holds~~ under this section
77 shall hold office until the later of the end of ~~such the~~ term. ~~The~~
78 for which the member continues in office subsequent to the
79 ~~expiration date of the member's term until~~ is appointed or the
80 date the member's successor takes office, or until a period of
81 ~~sixty days has elapsed, whichever occurs first.~~

Sec. 3309.051. Each ~~newly elected~~ member of the school 82
employees retirement board ~~and each individual appointed to fill a~~ 83
~~vacancy on the board~~ shall, not later than ninety days after 84
commencing service as a board member, complete the orientation 85
program component of the retirement board member education program 86
established under section 171.50 of the Revised Code. 87

Each member of the board who has served a year or longer as a 88
board member shall, not less than twice each year, attend one or 89
more programs that are part of the continuing education component 90
of the retirement board member education program established under 91
section 171.50 of the Revised Code. 92

Sec. 3309.061. (A) The office of ~~an employee member or~~ 93
~~retirant~~ a member of the school employees retirement board who is 94
convicted of or pleads guilty to a felony, a theft offense as 95
defined in section 2913.01 of the Revised Code, or a violation of 96
section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 97
2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code 98
shall be deemed vacant. A person who has pleaded guilty to or been 99
convicted of an offense of that nature is ineligible for election 100
or appointment to ~~the office of employee or retirant member of the~~ 101
school employees retirement board. 102

(B) A member of the school employees retirement board who 103
willfully and flagrantly exercises authority or power not 104
authorized by law, refuses or willfully neglects to enforce the 105
law or to perform any official duty imposed by law, or is guilty 106
of gross neglect of duty, gross immorality, drunkenness, 107
misfeasance, malfeasance, or nonfeasance is guilty of misconduct 108
in office. On complaint and hearing in the manner provided for in 109
this section, the board member shall have judgment of forfeiture 110
of the office with all its emoluments entered against the board 111
member, creating in the office a vacancy to be filled as provided 112

by law. 113

(C) Proceedings for removal of a board member on any of the 114
grounds enumerated in division (B) of this section shall be 115
commenced by filing with the court of common pleas of the county 116
in which the board member resides a written complaint specifically 117
setting forth the charge. The complaint shall be accepted if 118
signed by the governor or signed as follows: 119

(1) If the complaint is against an employee member of the 120
board, the complaint must be signed by a number of members of the 121
retirement system that equals at least the following and must 122
include signatures of at least twenty employee members residing in 123
at least five different counties: 124

(a) If the employee member was most recently elected in 125
accordance with division (B) of section 3309.07 of the Revised 126
Code, ten per cent of the number of members of the system who 127
voted in that election; 128

(b) If the employee member most recently became a member of 129
the board pursuant to section 3309.06 of the Revised Code to fill 130
a vacancy in the board or took office in accordance with section 131
3309.061 of the Revised Code, ten per cent of the number of 132
members of the system who voted in the most recent election held 133
in accordance with division (B) of section 3309.07 of the Revised 134
Code for that employee member position on the board. 135

(2) If the complaint is against a retirant member of the 136
board, the complaint must be signed by a number of system 137
retirants that equals at least the following and must include 138
signatures of at least twenty retirant members residing in at 139
least five different counties: 140

(a) If the retirant member was most recently elected in 141
accordance with division (C) of section 3309.07 of the Revised 142
Code, ten per cent of the number of former members of the system 143

who voted in that election; 144

(b) If the retirant member most recently became a member of 145
the board pursuant to section 3309.06 of the Revised Code to fill 146
a vacancy in the board or took office in accordance with section 147
3309.061 of the Revised Code, ten per cent of the number of former 148
members of the system who voted in the most recent election held 149
in accordance with division (C) of section 3309.07 of the Revised 150
Code for that retirant member position on the board. 151

(D) The clerk of the court of common pleas in which a 152
complaint against a board member is filed under division (C) of 153
this section shall do both of the following with respect to the 154
complaint: 155

(1) Submit the signatures obtained pursuant to division (C) 156
of this section to the board for purposes of verifying the 157
validity of the signatures. The board shall verify the validity of 158
the signatures and report its findings to the court. 159

(2) Cause a copy of the complaint to be served on the board 160
member at least ten days before the hearing on the complaint. The 161
court shall hold a public hearing not later than thirty days after 162
the filing of the complaint. The court may subpoena witnesses and 163
compel their attendance in the same manner as in civil cases. 164
Process shall be served by the sheriff of the county in which the 165
witness resides. Witness fees and other fees in connection with 166
the proceedings shall be the same as in civil cases. The court may 167
suspend the board member pending the hearing. 168

If the court finds that one or more of the charges in the 169
complaint are true, it shall make a finding for removal of the 170
board member. The court's finding shall include a full, detailed 171
statement of the reasons for the removal. The finding shall be 172
filed with the clerk of the court and be made a matter of public 173
record. 174

The board member has the right to appeal to the court of 175
appeals. 176

(E) No individual who has been removed from the board 177
pursuant to this section shall be eligible to fill an elective or 178
appointed position as a member of the board. 179

Sec. 3309.07. (A) All elections for employee or retirant 180
members of the school employees retirement board shall be held 181
under the direction of the board in accordance with rules adopted 182
under section 3309.075 of the Revised Code. 183

(B) Any member of the school employees retirement system, 184
other than a disability benefit recipient, shall be eligible to be 185
nominated for election as an employee member of the board who has 186
been nominated by a petition that is signed by at least five 187
hundred members and certified in accordance with rules adopted 188
under section 3309.075 of the Revised Code. The petition shall 189
contain the signatures of not less than twenty members each from 190
at least ten counties wherein such members are employed. The 191
petition shall specify the term of office and position. The name 192
of any member so nominated shall be placed upon the ballot by the 193
board as a regular candidate. Other names of eligible candidates 194
may at any election be substituted for the regular candidates by 195
writing such names upon the ballot. The candidate receiving the 196
highest number of votes for any term as member of the board shall 197
be elected for such term on certification of the election results 198
in accordance with rules adopted under section 3309.075 of the 199
Revised Code. In any year in which two employee member or two 200
retirant member positions must be filled, the candidates who 201
receive the highest and second highest number of votes shall be 202
elected to the offices on certification of the election results in 203
accordance with rules adopted under section 3309.075 of the 204
Revised Code. 205

(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.	237
(2) "Candidate" means an individual who has been nominated	238
pursuant to section 3309.07 of the Revised Code for election to	239
the school employees retirement board or who is seeking to be	240
elected to fill a vacancy on the board pursuant to division (D) of	241
section 3309.06 of the Revised Code.	242
(3) "Contribution" means a loan, gift, deposit, forgiveness	243
of indebtedness, donation, advance, payment, transfer of funds or	244
transfer of anything of value including a transfer of funds from	245
an inter vivos or testamentary trust or decedent's estate, and the	246
payment by any person other than the person to whom the services	247
are rendered for the personal services of another person, which	248
contribution is made, received, or used for the purpose of	249
influencing the results of an election to the school employees	250
retirement board under section 3309.07 of the Revised Code or the	251
results of an election to fill a vacancy on the board pursuant to	252
division (C) of section 3309.06 of the Revised Code.	253
"Contribution" does not include:	254
(a) Services provided without compensation by individuals	255
volunteering a portion or all of their time on behalf of a person;	256
(b) Ordinary home hospitality;	257
(c) The personal expenses of a volunteer paid for by that	258
volunteer campaign worker.	259
(4) "Election day" means the following, as appropriate to the	260
situation:	261
(a) The first Monday in March of a year for which section	262
3309.06 of the Revised Code specifies that an election for a	263
member of the school employees retirement board be held;	264
(b) If, pursuant to section 3309.071 of the Revised Code, no	265
election is held, the first Monday in March of a year that the	266

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, 298
projects, or needs provided to the person making the expenditure 299
by the candidate, or by the candidate's campaign committee or 300
agent, with a view toward having an expenditure made; 301

(ii) Made by or through any person who is, or has been, 302
authorized to raise or expend funds, who is, or has been, an 303
officer of the candidate's campaign committee, or who is, or has 304
been, receiving any form of compensation or reimbursement from the 305
candidate or the candidate's campaign committee or agent; 306

(iii) Made by a political party in support of a candidate, 307
unless the expenditure is made by a political party to conduct 308
voter registration or voter education efforts. 309

(d) "Agent" means any person who has actual oral or written 310
authority, either express or implied, to make or to authorize the 311
making of expenditures on behalf of a candidate, or means any 312
person who has been placed in a position with the candidate's 313
campaign committee or organization such that it would reasonably 314
appear that in the ordinary course of campaign-related activities 315
the person may authorize expenditures. 316

(7) "In-kind contribution" means anything of value other than 317
money that is used to influence the results of an election to the 318
school employees retirement board under section 3309.07 of the 319
Revised Code or the results of an election to fill a vacancy on 320
the board pursuant to division (C) of section 3309.06 of the 321
Revised Code or is transferred to or used in support of or in 322
opposition to a candidate and that is made with the consent of, in 323
coordination, cooperation, or consultation with, or at the request 324
or suggestion of the benefited candidate. The financing of the 325
dissemination, distribution, or republication, in whole or part, 326
of any broadcast or of any written, graphic, or other form of 327
campaign materials prepared by the candidate, the candidate's 328
campaign committee, or their authorized agents is an in-kind 329

contribution to the candidate and an expenditure by the candidate. 330

(8) "Personal expenses" includes ordinary expenses for 331
accommodations, clothing, food, personal motor vehicle or 332
airplane, and home telephone. 333

(B) Except as otherwise provided in division (D) of this 334
section, each candidate who, or whose campaign committee, receives 335
contributions or in-kind contributions totaling one thousand 336
dollars or more or has expenditures totaling one thousand dollars 337
or more in connection with the candidate's efforts to be elected 338
to the school employees retirement board under section 3309.07 of 339
the Revised Code shall file with the secretary of state two 340
complete, accurate, and itemized statements setting forth in 341
detail the contributions, in-kind contributions, and expenditures. 342
The statements shall be filed regardless of whether, pursuant to 343
section 3309.071 of the Revised Code, no election is held. The 344
statements shall be made on a form prescribed under section 111.30 345
of the Revised Code. Every expenditure in excess of twenty-five 346
dollars shall be vouched for by a receipted bill, stating the 347
purpose of the expenditures, that shall be filed with the 348
statement; a canceled check with a notation of the purpose of the 349
expenditure is a receipted bill for purposes of this division. 350

The first statement shall be filed not later than four p.m. 351
on the day that is twelve days before election day. The second 352
statement shall be filed not sooner than the day that is eight 353
days after election day and not later than thirty-eight days after 354
election day. The first statement shall reflect contributions and 355
in-kind contributions received and expenditures made to the close 356
of business on the twentieth day before election day. The second 357
statement shall reflect contributions and in-kind contributions 358
received and expenditures made during the period beginning on the 359
nineteenth day before election day and ending on the close of 360
business on the seventh day after election day. 361

(C) Each individual, partnership, or other entity who makes 362
an independent expenditure in connection with the candidate's 363
efforts to be elected to the school employees retirement board 364
under section 3309.07 of the Revised Code shall file with the 365
secretary of state two complete, accurate, and itemized statements 366
setting forth in detail the independent expenditures. The 367
statements shall be filed regardless of whether, pursuant to 368
section 3309.071 of the Revised Code, no election is held. The 369
statements shall be made on a form prescribed under section 111.30 370
of the Revised Code. 371

The first statement shall be filed not later than four p.m. 372
on the day that is twelve days before election day. The second 373
statement shall be filed not sooner than the day that is eight 374
days after election day and not later than thirty-eight days after 375
election day. The first statement shall reflect independent 376
expenditures made to the close of business on the twentieth day 377
before election day. The second statement shall reflect 378
independent expenditures made during the period beginning on the 379
nineteenth day before election day and ending on the close of 380
business on the seventh day after election day. 381

(D) Each candidate who, or whose campaign committee, receives 382
~~a contribution~~ contributions or in-kind ~~contribution~~ contributions 383
totaling one thousand dollars or more or ~~makes an expenditure~~ has 384
expenditures totaling one thousand dollars or more in connection 385
with the candidate's efforts to be elected to fill a vacancy in 386
the ~~state teachers~~ school employees retirement board pursuant to 387
division (C) of section 3309.06 of the Revised Code shall file 388
with the secretary of state a complete, accurate, and itemized 389
statement setting forth in detail the contributions, in-kind 390
contributions, and expenditures. The statement shall be made on a 391
form prescribed under section 111.30 of the Revised Code. Every 392
expenditure in excess of twenty-five dollars shall be vouched for 393

by a receipted bill, stating the purpose of the expenditures, that 394
shall be filed with the statement; a canceled check with a 395
notation of the purpose of the expenditure is a receipted bill for 396
purposes of this division. 397

The statement shall be filed within thirty-eight days after 398
the day the candidate takes office. The statement shall reflect 399
contributions and in-kind contributions received and expenditures 400
made to the close of business on the seventh day after the day the 401
candidate takes office. 402

(E) Each individual, partnership, or other entity that makes 403
an independent expenditure in connection with the candidate's 404
efforts to be elected to fill a vacancy in the school employees 405
retirement board under division (C) of section 3309.06 of the 406
Revised Code shall file with the secretary of state a complete, 407
accurate, and itemized statement setting forth in detail the 408
independent expenditures. The statement shall be made on a form 409
prescribed under section 111.30 of the Revised Code. 410

The statement shall be filed not later than thirty-eight days 411
after the day the candidate takes office. The statement shall 412
reflect independent expenditures made to the close of business on 413
the seventh day after the day the candidate takes office. 414

Sec. 3309.074. The secretary of state, or any person acting 415
on personal knowledge and subject to the penalties of perjury, may 416
file a complaint with the Ohio elections commission alleging a 417
violation of section 3309.073 of the Revised Code. The complaint 418
shall be made on a form prescribed and provided by the commission. 419

A complaint shall be filed not later than two years after the 420
occurrence of the act or failure to act that is the subject of the 421
complaint, except that if the act or failure to act involves 422
fraud, concealment, or misrepresentation and was not discovered 423
during that two-year period, a complaint may be filed not later 424

than one year after discovery of the act or failure to act. 425

On receipt of a complaint under this section, the commission 426
shall hold a hearing open to the public to determine whether the 427
violation alleged in the complaint has occurred. The commission 428
may administer oaths and issue subpoenas to any person in the 429
state compelling the attendance of witnesses and the production of 430
relevant papers, books, accounts, and reports. On the refusal of 431
any person to obey a subpoena or to be sworn or to answer as a 432
witness, the commission may apply to the court of common pleas of 433
Franklin county under section 2705.03 of the Revised Code. The 434
court shall hold contempt proceedings in accordance with Chapter 435
2705. of the Revised Code. 436

The commission shall provide the person accused of the 437
violation at least seven days prior notice of the time, date, and 438
place of the hearing. The accused may be represented by an 439
attorney and shall have an opportunity to present evidence, call 440
witnesses, and cross-examine witnesses. 441

At the hearing, the commission shall determine whether the 442
violation alleged in the complaint has occurred. If the commission 443
determines that a violation of division (A) of section 3309.073 of 444
the Revised Code has occurred, the commission shall either impose 445
a fine under section 3309.99 of the Revised Code or enter a 446
finding that good cause has been shown not to impose the fine. If 447
the commission determines that a violation of division (B) of 448
section 3309.073 of the Revised Code has occurred, the commission 449
shall impose the fine described in section 3309.99 of the Revised 450
Code, refer the matter to the appropriate prosecutor, or enter a 451
finding that good cause has been shown to not impose a fine or 452
refer the matter to the appropriate prosecutor. 453

Sec. 3309.075. (A) The school employees retirement board, 454
after consultation with the secretary of state, shall adopt rules 455

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 517
power to invest the funds. The board and other fiduciaries shall 518
discharge their duties with respect to the funds solely in the 519
interest of the participants and beneficiaries; for the exclusive 520
purpose of providing benefits to participants and their 521
beneficiaries and defraying reasonable expenses of administering 522
the school employees retirement system; with care, skill, 523
prudence, and diligence under the circumstances then prevailing 524
that a prudent person acting in a like capacity and familiar with 525
such matters would use in the conduct of an enterprise of a like 526
character and with like aims; and by diversifying the investments 527
of the system so as to minimize the risk of large losses, unless 528
under the circumstances it is clearly prudent not to do so. 529

The board may establish a partnership, trust, limited 530
liability company, corporation, including a corporation exempt 531
from taxation under the Internal Revenue Code, 100 Stat. 2085, 26 532
U.S.C.A. 1, as amended, or any other legal entity authorized to 533
transact business in this state. 534

(B) In exercising its fiduciary responsibility with respect 535
to the investment of the funds, it shall be the intent of the 536
board to give consideration to investments that enhance the 537
general welfare of the state and its citizens where the 538
investments offer quality, return, and safety comparable to other 539
investments currently available to the board. In fulfilling this 540
intent, equal consideration shall also be given to investments 541
otherwise qualifying under this section that involve minority 542
owned and controlled firms and firms owned and controlled by 543
women, either alone or in joint venture with other firms. 544

The board shall adopt, in regular meeting, policies, 545
objectives, or criteria for the operation of the investment 546
program that include asset allocation targets and ranges, risk 547
factors, asset class benchmarks, time horizons, total return 548

objectives, and performance evaluation guidelines. In adopting 549
policies and criteria for the selection of agents with whom the 550
board may contract for the administration of the funds, the board 551
shall comply with sections 3309.157 and 3309.159 of the Revised 552
Code and shall also give equal consideration to minority owned and 553
controlled firms, firms owned and controlled by women, and 554
ventures involving minority owned and controlled firms and firms 555
owned and controlled by women that otherwise meet the policies and 556
criteria established by the board. Amendments and additions to the 557
policies and criteria shall be adopted in regular meeting. The 558
board shall publish its policies, objectives, and criteria under 559
this provision no less often than annually and shall make copies 560
available to interested parties. 561

~~When reporting on the performance of investments, If the 562
board contracts with a person, including an agent or investment 563
manager, for the management or investment of the funds, the board 564
shall require the person to comply with the global investment 565
performance presentation standards established by the ~~association 566
for investment management and research~~ chartered financial analyst 567
institute, or a successor organization, when reporting on the 568
performance of investments. 569~~

(C) All evidences of title of investments purchased by the 570
board under this section shall be delivered to the treasurer of 571
state, who is hereby designated as custodian thereof, or to the 572
treasurer of state's authorized agent, and the treasurer of state 573
or the agent shall collect principal, interest, dividends, and 574
distributions that become due and payable and place the same when 575
so collected into the custodial funds. Evidences of title of the 576
investments may be deposited by the treasurer of state for 577
safekeeping with an authorized agent, selected by the treasurer of 578
state, who is a qualified trustee under section 135.18 of the 579
Revised Code. The treasurer of state shall pay for the investments 580

purchased by the board pending receipt of the evidence of title of 581
the investments by the treasurer of state or to the treasurer of 582
state's authorized agent, and on receipt of written or electronic 583
instructions from the board or the board's designated agent 584
authorizing the purchase. The board may sell any investments held 585
by the board, and the treasurer of state or the treasurer of 586
state's authorized agent shall accept payment from the purchaser 587
and deliver evidence of title of the investment to the purchaser 588
on receipt of written or electronic instructions from the board or 589
the board's designated agent authorizing the sale, and pending 590
receipt of the moneys for the investments. The amount received 591
shall be placed into the custodial funds. The board and the 592
treasurer of state may enter into agreements to establish 593
procedures for the purchase and sale of investments under this 594
division and the custody of the investment. 595

(D) No purchase or sale of any investment shall be made under 596
this section except as authorized by the school employees 597
retirement board. 598

(E) Any statement of financial position distributed by the 599
board shall include the fair value, as of the statement date, of 600
all investments held by the board under this section. 601

Sec. 3309.21. (A) The school employees retirement board shall 602
have prepared annually by or under the supervision of an actuary 603
an actuarial valuation of the pension assets, liabilities, and 604
funding requirements of the school employees retirement system as 605
established pursuant to this chapter. The actuary shall complete 606
the valuation in accordance with actuarial standards of practice 607
promulgated by the actuarial standards board of the American 608
academy of actuaries and prepare a report of the valuation. The 609
report shall include all of the following: 610

(1) A summary of the benefit provisions evaluated; 611

(2) A summary of the census data and financial information used in the valuation; 612
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(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; 614
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(4) A summary of findings that includes a statement of the actuarial accrued pension liabilities and unfunded actuarial accrued pension liabilities; 619
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(5) A schedule showing the effect of any changes in the benefit provisions, actuarial assumptions, or cost methods since the last annual actuarial valuation; 622
623
624

(6) A statement of whether contributions to the retirement system are expected to be sufficient to satisfy the funding objectives established by the board. 625
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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. 628
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(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 633
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be prepared and any recommended changes in actuarial assumptions 643
shall be made in accordance with the actuarial standards of 644
practice promulgated by the actuarial standards board of the 645
American academy of actuaries. The report shall include all of the 646
following: 647

(1) A summary of relevant decrement and economic assumption 648
experience observed over the period of the investigation; 649

(2) Recommended changes in actuarial assumptions to be used 650
in subsequent actuarial valuations required by division (A) of 651
this section; 652

(3) A measurement of the financial effect of the recommended 653
changes in actuarial assumptions. 654

The board shall submit the report to the Ohio retirement 655
study council and the standing committees of the house of 656
representatives and the senate with primary responsibility for 657
retirement legislation not later than the first day of May 658
following the last fiscal year of the period the report covers. 659

(C) The board may at any time request the actuary to make any 660
studies or actuarial valuations to determine the adequacy of the 661
rates of contribution as provided by section 3309.49 of the 662
Revised Code, and those rates may be adjusted by the board, as 663
recommended by the actuary, effective as of the first of any year 664
thereafter. 665

(D) The board shall have prepared by or under the supervision 666
of an actuary an actuarial analysis of any introduced legislation 667
expected to have a measurable financial impact on the retirement 668
system. The actuarial analysis shall be completed in accordance 669
with the actuarial standards of practice promulgated by the 670
actuarial standards board of the American academy of actuaries. 671
The actuary shall prepare a report of the actuarial analysis, 672
which shall include all of the following: 673

(1) A summary of the statutory changes that are being evaluated;	674 675
(2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;	676 677
(3) A description of the participant group or groups included in the report;	678 679
(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;	680 681 682 683 684 685 686
(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.	687 688 689 690
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.	691 692 693 694 695 696
(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:	697 698 699 700 701 702
(1) A description of the statutory authority for the benefits provided;	703 704

(2) A summary of the benefits;	705
(3) A summary of the eligibility requirements for the benefits;	706 707
(4) A statement of the number of participants eligible for the benefits;	708 709
(5) A description of the accounting, asset valuation, and funding method used to provide the benefits;	710 711
(6) A statement of the net assets available for the provision of the benefits as of the last day of the fiscal year;	712 713
(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;	714 715 716 717 718
(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;	719 720 721 722
(9) A description of any significant changes that affect the comparability of the report required under this division;	723 724
(10) A statement of the amount paid under division (C) (E) of section 3309.69 of the Revised Code.	725 726
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.	727 728 729 730 731
Sec. 3309.22. (A)(1) As used in this division, "personal history record" means information maintained <u>in any format</u> by the	732 733

board on an individual who is a member, former member, 734
contributor, former contributor, retirant, or beneficiary that 735
includes the address, electronic mail address, telephone number, 736
social security number, record of contributions, correspondence 737
with the system, and other information the board determines to be 738
confidential. 739

(2) The records of the board shall be open to public 740
inspection and may be made available in printed or electronic 741
format, except for the following, which shall be excluded, except 742
with the written authorization of the individual concerned: 743

(a) The individual's statement of previous service and other 744
information as provided for in section 3309.28 of the Revised 745
Code; 746

(b) Any information identifying by name and address the 747
amount of a monthly allowance or benefit paid to the individual; 748

(c) The individual's personal history record. 749

(B) All medical reports and recommendations required by the 750
system are privileged except as follows: 751

(1) Copies of medical reports or recommendations shall be 752
made available to the following: 753

(a) The individual concerned, on written request; 754

(b) The personal physician, attorney, or authorized agent of 755
the individual concerned ~~upon~~ on written release received from the 756
individual or the individual's agent, ~~or when necessary for the~~ 757
~~proper administration of the fund, to the;~~ 758

(c) The board assigned physician. 759

(2) Documentation required by section 2929.193 of the Revised 760
Code shall be provided to a court holding a hearing under that 761
section. 762

(C) Any person who is a contributor of the system shall be 763

furnished, on written request, with a statement of the amount to 764
the credit of the person's account. The board need not answer more 765
than one such request of a person in any one year. 766

(D) Notwithstanding the exceptions to public inspection in 767
division (A)(2) of this section, the board may furnish the 768
following information: 769

(1) If a member, former member, contributor, former 770
contributor, or retirant is subject to an order issued under 771
section 2907.15 of the Revised Code or an order issued under 772
division (A) or (B) of section 2929.192 of the Revised Code or is 773
convicted of or pleads guilty to a violation of section 2921.41 of 774
the Revised Code, on written request of a prosecutor as defined in 775
section 2935.01 of the Revised Code, the board shall furnish to 776
the prosecutor the information requested from the individual's 777
personal history record. 778

(2) Pursuant to a court or administrative order issued under 779
section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the 780
Revised Code, the board shall furnish to a court or child support 781
enforcement agency the information required under that section. 782

(3) At the written request of any person, the board shall 783
provide to the person a list of the names and addresses of 784
members, former members, retirants, contributors, former 785
contributors, or beneficiaries. The costs of compiling, copying, 786
and mailing the list shall be paid by such person. 787

(4) Within fourteen days after receiving from the director of 788
job and family services a list of the names and social security 789
numbers of recipients of public assistance pursuant to section 790
5101.181 of the Revised Code, the board shall inform the auditor 791
of state of the name, current or most recent employer address, and 792
social security number of each contributor whose name and social 793
security number are the same as that of a person whose name or 794

social security number was submitted by the director. The board 795
and its employees shall, except for purposes of furnishing the 796
auditor of state with information required by this section, 797
preserve the confidentiality of recipients of public assistance in 798
compliance with section 5101.181 of the Revised Code. 799

(5) The system shall comply with orders issued under section 800
3105.87 of the Revised Code. 801

On the written request of an alternate payee, as defined in 802
section 3105.80 of the Revised Code, the system shall furnish to 803
the alternate payee information on the amount and status of any 804
amounts payable to the alternate payee under an order issued under 805
section 3105.171 or 3105.65 of the Revised Code. 806

(6) At the request of any person, the board shall make 807
available to the person copies of all documents, including 808
resumes, in the board's possession regarding filling a vacancy of 809
an employee member or retirant member of the board. The person who 810
made the request shall pay the cost of compiling, copying, and 811
mailing the documents. The information described in this division 812
is a public record. 813

(7) The system shall provide the notice required by section 814
3309.673 of the Revised Code to the prosecutor assigned to the 815
case. 816

(E) A statement that contains information obtained from the 817
system's records that is signed by an officer of the retirement 818
system and to which the system's official seal is affixed, or 819
copies of the system's records to which the signature and seal are 820
attached, shall be received as true copies of the system's records 821
in any court or before any officer of this state. 822

Sec. 3309.23. (A) Except as provided in division (B) of this 823
section, the following shall be contributors to the school 824

employees retirement system:	825
(1) All employees, as defined in division (B) of section 3309.01 of the Revised Code;	826 827
(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.	828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844
(3) All other individuals who become members.	845
(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:	846 847 848 849
(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 <u>the student</u> is enrolled and regularly attending classes;	850 851 852 853
(2) An emergency employee serving on a temporary basis in case of fire, snow, earthquake, flood, or other similar emergency;	854 855

(3) An individual employed in a program established pursuant 856
to the "~~Job Training Partnership~~ Workforce Investment Act," 96 112 857
Stat. ~~1322~~ 936 (~~1982~~ 1998), 29 U.S.C.A. ~~1501~~ 2801, or any other 858
federal job training program. 859

(C) A member may elect to have employment by the school, 860
college, or university at which ~~he~~ the member is enrolled and 861
regularly attending classes exempted from contribution to the 862
retirement system by filing a written application with ~~his~~ the 863
member's employer within the first month after being so employed. 864

(D) In all cases of doubt pertaining to contributors on an 865
individual or group basis or the status of existing or newly 866
created employer units, the decision shall be made by the 867
retirement board, and such decision shall be final. 868

Sec. 3309.26. The membership of any person in the school 869
employees retirement system shall terminate if the person 870
withdraws the person's accumulated contributions, retires on a 871
retirement allowance as provided in sections 3309.36, ~~3309.38~~, and 872
3309.381 of the Revised Code, or dies, unless otherwise provided 873
in Chapter 3309. of the Revised Code. 874

A former member with an account in the employees' savings 875
fund who formerly lost membership shall be reinstated as a member 876
with all the rights, privileges, and obligations as provided in 877
Chapter 3309. of the Revised Code. 878

Except as provided in this section, a member or former member 879
of the school employees retirement system with at least one and 880
one-half years of contributing service credit in this system, the 881
public employees retirement system, the state teachers retirement 882
system, the Ohio police and fire pension fund, or the state 883
highway patrol retirement system, subsequent to the withdrawal of 884
contributions and cancellation of service credit in this system 885
may restore such service credit by redepositing in the employees' 886

savings fund the amount withdrawn with interest at a rate to be 887
determined by the board, compounded annually, from the first of 888
the month of withdrawal to and including the month of redeposit. A 889
member may choose to purchase only part of such credit in any one 890
payment, subject to board rules. The total payment to restore 891
cancelled service credit, plus any interest credited thereto, 892
shall be considered as accumulated contributions of the member. If 893
a former member is eligible to buy the service credit as a member 894
of the Ohio police and fire pension fund, the state highway patrol 895
retirement system, or the city of Cincinnati retirement system, 896
the former member is ineligible to restore that service credit 897
under this section. 898

Sec. 3309.28. ~~Each employee~~ Not later than thirty days after 899
an employee begins employment, the employer shall file with the 900
school employees retirement system a detailed statement ~~showing~~ 901
~~sex, title, compensation, duties, date of birth, of the employee's~~ 902
personal information and all ~~his prior~~ of the employee's previous 903
service as an employee or such other service as comes under this 904
chapter or Chapter 145., 742., 3307., or 5505. of the Revised 905
Code, and ~~shall furnish~~ such other facts information as the school 906
employees retirement board requires for the proper operation of 907
the school employees retirement system. ~~If an employee fails to~~ 908
~~file the required record within thirty days after commencing~~ 909
~~employment, the secretary shall so advise his employer who shall~~ 910
~~thereafter withhold all salary payments to such employee until~~ 911
~~such record is filed with the school employees retirement board.~~ 912

Sec. 3309.33. (A) An employer may establish a retirement 913
incentive plan for its employees who are members of the school 914
employees retirement system. The plan shall provide for purchase 915
by the employer of service credit for eligible employees who 916
choose to participate in the plan and for payment by the employer 917

of the entire cost of such service credit. A plan established 918
under this section shall remain in effect until terminated by the 919
employer, except that, once established, the plan must remain in 920
effect for at least one year. 921

(B) ~~To~~ An employee who is a member of the school employees 922
retirement system shall be eligible to participate in a retirement 923
incentive plan, ~~an employee must meet the following requirements:~~ 924

~~(1) Either of the following:~~ 925

~~(a) If the employee became a member of the retirement system~~ 926
~~before the effective date of this amendment, the member has~~ 927
~~attained fifty years of age;~~ 928

~~(b) If the employee became a member of the retirement system~~ 929
~~on or after the effective date of this amendment, established by~~ 930
the employer if the employee has attained ~~fifty five~~ fifty-seven 931
years of age; 932

~~(2) The employee~~ and agrees to retire and retires under 933
section 3309.36 of the Revised Code effective within ninety days 934
after receiving notice from the school employees retirement system 935
that service credit has been purchased for the employee under this 936
section. 937

(C) Participation in the plan shall be available to all 938
eligible employees except that the employer may limit the number 939
of persons for whom it purchases credit in any calendar year to a 940
specified percentage of its employees who are members of the 941
school employees retirement system on the first day of January of 942
that year. The percentage shall not be less than five per cent of 943
such employees. If participation is limited, employees with a 944
greater length of service with the employer have the right to 945
elect to have credit purchased before employees with a lesser 946
length of service with the employer. 947

(D) The amount of service credit purchased for any 948

participant shall be uniformly determined but shall not exceed the 949
lesser of the following: 950

(1) Five years of service credit; 951

(2) An amount of service credit equal to one-fifth of the 952
total service credited to the participant under Chapter 3309. of 953
the Revised Code. 954

For each year of service credit purchased under this section, 955
the employer shall pay an amount specified by the school employees 956
retirement board equal to the additional liability resulting from 957
the purchase of that year of service credit as determined by an 958
actuary employed by the board. Payments shall be made in 959
accordance with rules adopted by the board, and the board shall 960
notify each member when the member is credited with service 961
purchased under this section. 962

No payment made to the school employees retirement system 963
under this section shall affect any payment required by section 964
3309.49 of the Revised Code. 965

Sec. 3309.34. (A)(1) A member of the school employees 966
retirement system ~~whose membership began before the effective date~~ 967
~~of this amendment~~ is eligible for service retirement ~~if the member~~ 968
~~has~~ under this division if either of the following is the case: 969

(a) On or before August 1, 2017, the member has at least 970
twenty-five years of total service credit and meets either of the 971
following requirements: 972

(i) Has at least five years of total service credit and has 973
attained sixty years of age, ~~or if the member has;~~ 974

(ii) Has at least thirty years of total service credit at any 975
age. ~~A member whose membership began before the effective date of~~ 976
~~this amendment is eligible for commuted service retirement if the~~ 977
~~member has at least twenty five years of total service credit and~~ 978

~~has attained fifty five years of age.~~ 979

(b) As of August 1, 2017, the member will have less than 980
twenty-five years of total service credit but, not later than that 981
date, pays to the retirement system an amount equal to the 982
additional liability to the system resulting from the member's 983
retirement under this division. 984

~~(2) A member whose membership began on or after the effective~~ 985
~~date of this amendment~~ who, as of August 1, 2017, has less than 986
twenty-five years of total service credit is eligible for service 987
retirement under this division if the member meets one of the 988
following requirements: 989

(a) Has earned at least ten years of total service credit and 990
has attained sixty-two years of age; 991

(b) Has earned at least twenty-five years of total service 992
credit and has attained sixty years of age; 993

(c) Has earned at least thirty years of total service credit 994
and has attained ~~fifty-five~~ fifty-seven years of age. 995

(B) A member may retire by filing an application for 996
retirement with the school employees retirement board on a form 997
provided by the board. The board shall not retire the member 998
sooner than the first day of the month next following the later 999
of: 1000

(1) The last day of employment for which compensation was 1001
paid; 1002

(2) The attainment of minimum age and service credit 1003
eligibility for service or commuted service retirement. 1004

(C) ~~At least once every ten years~~ In each five-year period, 1005
the board shall direct its actuary to evaluate the retirement 1006
eligibility requirements of this section. 1007

(D) The board, in consultation with its actuary, shall adopt 1008

rules to implement this section. 1009

Sec. 3309.341. (A) As used in this section and section 1010
3309.344 of the Revised Code: 1011

(1) "SERS retirant" means any person who is receiving a 1012
retirement allowance from the school employees retirement system 1013
under section 3309.36, ~~3309.38~~, or 3309.381 or former section 1014
3309.38 of the Revised Code or any benefit paid under a plan 1015
established under section 3309.81 of the Revised Code. 1016

(2) "Other system retirant" means a member or former member 1017
of the public employees retirement system, Ohio police and fire 1018
pension fund, state teachers retirement system, state highway 1019
patrol retirement system, or Cincinnati retirement system who is 1020
receiving age and service or commuted age and service retirement, 1021
or a disability benefit from a system of which the retirant is a 1022
member or former member. 1023

(B)(1) Subject to this section and section 3309.345 of the 1024
Revised Code, an SERS retirant or other system retirant may be 1025
employed by a public employer. If so employed, the SERS retirant 1026
or other system retirant shall contribute to the school employees 1027
retirement system in accordance with section 3309.47 of the 1028
Revised Code, and the employer shall make contributions in 1029
accordance with section 3309.49 of the Revised Code. 1030

(2) An employer that employs an SERS retirant or other system 1031
retirant shall notify the retirement board of the employment not 1032
later than the end of the month in which the employment commences. 1033
On receipt of notice from an employer that a person who is an 1034
other system retirant has been employed, the school employees 1035
retirement system shall notify the state retirement system of 1036
which the other system retirant was a member of such employment. 1037

(C) An SERS retirant or other system retirant who has 1038

received a retirement allowance or disability benefit for less 1039
than two months when employment subject to this section commences 1040
shall forfeit the retirement allowance or disability benefit for 1041
any month the SERS retirant or other system retirant is employed 1042
prior to the expiration of the two-month period. Service and 1043
contributions for that period shall not be included in the 1044
calculation of any benefits payable to the SERS retirant or other 1045
system retirant, and those contributions shall be refunded on 1046
death or termination of the employment. Contributions made on 1047
compensation earned after the expiration of such period shall be 1048
used in the calculation of the benefit or payment due under 1049
section 3309.344 of the Revised Code. 1050

(D) On receipt of notice from the Ohio police and fire 1051
pension fund, public employees retirement system, or state 1052
teachers retirement system of the re-employment of an SERS 1053
retirant, the school employees retirement system shall not pay, or 1054
if paid shall recover, the amount to be forfeited by the SERS 1055
retirant in accordance with section 145.38, 742.26, or 3307.35 of 1056
the Revised Code. 1057

(E) An SERS retirant or other system retirant subject to this 1058
section is not a member of the school employees retirement system; 1059
does not have any of the rights, privileges, or obligations of 1060
membership, except as specified in this section; and is not 1061
eligible to receive health, medical, hospital, or surgical 1062
benefits under section 3309.69 of the Revised Code for employment 1063
subject to this section. 1064

(F) If the disability benefit of an other system retirant 1065
employed under this section is terminated, the retirant shall 1066
become a member of the school employees retirement system, 1067
effective on the first day of the month next following the 1068
termination, with all the rights, privileges, and obligations of 1069
membership. If the retirant, after the termination of the 1070

disability benefit, earns two years of service credit under this 1071
retirement system or under the public employees retirement system, 1072
Ohio police and fire pension fund, state teachers retirement 1073
system, or state highway patrol retirement system, the retirant's 1074
prior contributions as an other system retirant under this section 1075
shall be included in the retirant's total service credit as a 1076
school employees retirement system member, and the retirant shall 1077
forfeit all rights and benefits of this section. Not more than one 1078
year of credit may be given for any period of twelve months. 1079

(G) This section does not affect the receipt of benefits by 1080
or eligibility for benefits of any person who on August 29, 1976, 1081
was receiving a disability benefit or service retirement pension 1082
or allowance from a state or municipal retirement system in Ohio 1083
and was a member of any other state or municipal retirement system 1084
of this state. 1085

(H) The school employees retirement board may adopt rules to 1086
carry out this section. 1087

Sec. 3309.343. (A) As used in this section: 1088

(1) In addition to the meaning in section 3309.01 of the 1089
Revised Code, when appropriate "compensation" has the same meaning 1090
as in section 3307.01 of the Revised Code. 1091

(2) "Earnable salary" has the same meaning as in section 1092
145.01 of the Revised Code. 1093

(3) "SERS position" means a position for which a member of 1094
the school employees retirement system is making contributions to 1095
the system. 1096

(4) "Other state retirement system" means the public 1097
employees retirement system or the state teachers retirement 1098
system. 1099

(5) "State retirement system" means the public employees 1100

retirement system, state teachers retirement system, or the school 1101
employees retirement system. 1102

(B)(1) A member of the school employees retirement system who 1103
holds two or more SERS positions may retire under section 3309.35, 1104
3309.36, ~~3309.38~~, or 3309.46 of the Revised Code from the position 1105
for which the annual compensation at the time of retirement is 1106
highest and continue to contribute to the retirement system for 1107
the other SERS position or positions. 1108

(2) A member of the school employees retirement system who 1109
also holds one or more other positions covered by the other state 1110
retirement systems may retire under section 3309.35, 3309.36, 1111
~~3309.38~~, or 3309.46 of the Revised Code from the SERS position and 1112
continue contributing to the other state retirement systems if the 1113
annual compensation for the SERS position at the time of 1114
retirement is greater than annual compensation or earnable salary 1115
for the position, or any of the positions, covered by the other 1116
state retirement systems. 1117

(3) A member of the school employees retirement system who 1118
holds two or more SERS positions and at least one other position 1119
covered by one of the other state retirement systems may retire 1120
under section 3309.35, 3309.36, ~~3309.38~~, or 3309.46 of the Revised 1121
Code from one of the SERS positions and continue contributing to 1122
the school employees retirement system and the other state 1123
retirement system if the annual compensation for the SERS position 1124
from which the member is retiring is, at the time of retirement, 1125
greater than the annual compensation or earnable salary for any of 1126
the positions for which the member is continuing to make 1127
contributions. 1128

(4) A member of the school employees retirement system who 1129
has retired as provided in division (B)(2) or (3) of section 1130
145.383 or division (B)(2) or (3) of section 3307.351 of the 1131
Revised Code may continue to contribute to the school employees 1132

retirement system for an SERS position if the member held the 1133
position at the time of retirement from the other state retirement 1134
system. 1135

(5) A member who contributes to the school employees 1136
retirement system in accordance with division (B)(1), (3), or (4) 1137
of this section shall contribute in accordance with section 1138
3309.47 of the Revised Code. The member's employer shall 1139
contribute as provided in section 3309.49 of the Revised Code. 1140
Neither the member nor the member's survivors are eligible for any 1141
benefits based on those contributions other than those provided 1142
under section 145.384, 3307.352, or 3309.344 of the Revised Code. 1143

(C)(1) In determining retirement eligibility and the annual 1144
retirement allowance of a member who retires as provided in 1145
division (B)(1), (2), or (3) of this section, the following shall 1146
be used to the date of retirement: 1147

(a) The member's earnable salary and compensation for all 1148
positions covered by a state retirement system; 1149

(b) Total service credit in any state retirement system, 1150
except that the credit shall not exceed one year of credit for any 1151
period of twelve months; 1152

(c) The member's accumulated contributions. 1153

(2) A member who retires as provided in division (B)(1), (2), 1154
or (3) of this section is a retirant for all purposes of this 1155
chapter, except that the member is not subject to section 3309.341 1156
of the Revised Code for a position or positions for which 1157
contributions continue under those divisions or division (B)(4) of 1158
this section. 1159

(D) A retired member receiving a benefit under section 1160
3309.344 of the Revised Code based on employment subject to this 1161
section is not a member of the school employees retirement system 1162
and does not have any rights, privileges, or obligations of 1163

membership. The retired member is an SERS retirant for purposes of 1164
section 3309.341 of the Revised Code. 1165

(E) The school employees retirement board may adopt rules to 1166
carry out this section. 1167

Sec. 3309.35. (A) As used in this section: 1168

(1) "State retirement system" means the public employees 1169
retirement system, state teachers retirement system, or school 1170
employees retirement system. 1171

(2) "Total service credit" means all service credit earned in 1172
all state retirement systems, except credit for service subject to 1173
section 3309.341 of the Revised Code. Total service credit shall 1174
not exceed one year of credit for any twelve-month period. 1175

(3) In addition to the meaning given in division (O) of 1176
section 3309.01 of the Revised Code, "disability benefit" means 1177
"disability benefit" as defined in sections 145.01 and 3307.01 of 1178
the Revised Code. 1179

(B) To coordinate and integrate membership in the state 1180
retirement systems, at the option of a member, total contributions 1181
and service credit in all state retirement systems, including 1182
amounts paid to restore service credit under sections 145.311, 1183
3307.711, and 3309.261 of the Revised Code, shall be used in 1184
determining the eligibility and total retirement or disability 1185
benefit payable. When total contributions and service credit are 1186
so combined, the following provisions apply: 1187

(1) Service and commuted service retirement or a disability 1188
benefit is effective no sooner than the first day of the month 1189
next following the last day of employment for which compensation 1190
was paid. If the application is filed after that date, the board 1191
may retire the member on the first day of the month next following 1192
the last day of employment for which compensation was paid. 1193

(2) ~~In determining eligibility~~ Eligibility for a disability benefit, ~~the medical examiner's report to shall be determined by~~ shall be determined by the ~~retirement~~ board of ~~any~~ the state retirement system, ~~showing~~ showing that will calculate and pay the member's disability incapacitates the member for the performance of duty, ~~may benefit, as provided~~ 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) 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~~ calculating and paying the

benefit shall receive from the public employees retirement system 1226
a portion of the amount paid on behalf of the member by an 1227
employer under section 145.483 of the Revised Code. The portion 1228
shall equal the product obtained by multiplying by two the amount 1229
the member would have contributed during the period the employer 1230
failed to deduct contributions, as described in section 145.483 of 1231
the Revised Code. 1232

(a) The annuity rates and mortality tables of the state 1233
retirement system making the calculation and paying the benefit 1234
shall be exclusively applicable. 1235

(b) Deposits made for the purchase of an additional annuity, 1236
and including guaranteed interest, upon the request of the member, 1237
shall be transferred to the state retirement system paying the 1238
retirement or disability benefit. The return upon such deposits 1239
shall be that offered by the state retirement system making the 1240
calculation and paying the retirement or disability benefit. 1241

(C) A former member receiving a retirement or disability 1242
benefit under this section, who accepts employment amenable to 1243
coverage in any state retirement system that participated in the 1244
member's combined benefit, shall be subject to the applicable 1245
provisions of law governing such re-employment. If a former member 1246
should be paid any amount in a retirement allowance, to which the 1247
former member is not entitled under the applicable provisions of 1248
law governing such re-employment, such amount shall be recovered 1249
by the state retirement system paying such allowance by utilizing 1250
any recovery procedure available under the code provisions of the 1251
state retirement system covering such re-employment. 1252

(D) An SERS retirant or other system retirant, as defined in 1253
section 3309.341 of the Revised Code, is not eligible to receive 1254
any benefit under this section for service subject to section 1255
3309.341 of the Revised Code. 1256

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 1286
of the following amounts or the limit established by section 415 1287
of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1288
415, as amended: 1289

~~(a)(1)~~ An annuity having a reserve equal to the amount of the 1290
employee's accumulated contributions at that time; 1291

~~(b)(2)~~ A pension of equivalent amount; 1292

~~(c)~~ An additional pension of forty dollars multiplied by the 1293
number of years of such prior service credit; 1294

~~(d)(3)~~ For members who have ten or more years of service 1295
credit accumulated prior to October 1, 1956, a basic annual 1296
pension equal to one hundred eighty dollars, except that such 1297
basic annual pension shall not exceed the sum of the total annual 1298
benefits provided by divisions (A)(1), and (2), ~~and (3)~~ of this 1299
section. 1300

~~(2)~~ A member whose membership began on or after the effective 1301
date of this amendment who retires on service retirement shall be 1302
granted a retirement allowance consisting of the lesser of the sum 1303
of the following amounts or the limit established by section 415 1304
of the "Internal Revenue Code of 1986": 1305

~~(a)~~ An annuity having a reserve equal to the amount of the 1306
employee's accumulated contributions at that time; 1307

~~(b)~~ A pension of equivalent amount. 1308

(B)(1)(a) When a member retires on service retirement under 1309
division (A)(1) of section 3309.34 of the Revised Code, the 1310
member's allowance when computed as an annual single lifetime 1311
allowance as provided in division (A)(1) and (2) of this 1312
section ~~and section 3309.38 of the Revised Code~~, based upon 1313
attained age sixty-five or thirty years of total service credit, 1314
shall be not less than the greater of the amounts determined by 1315

multiplying the member's total service credit by the following:	1316
(a)(i) Eighty-six dollars;	1317
(b)(ii) Two and two-tenths per cent of the member's final	1318
average salary for each of the first thirty years of service	1319
credit or fraction thereof plus two and one-half per cent of the	1320
member's final average salary for each subsequent year of service	1321
credit or fraction thereof.	1322
<u>(b) When a member retires on service retirement under</u>	1323
<u>division (A)(2) of section 3309.34 of the Revised Code, the</u>	1324
<u>member's allowance when computed as an annual single lifetime</u>	1325
<u>allowance as provided in division (A) of this section, based on</u>	1326
<u>attained age sixty-seven or thirty years of total service credit,</u>	1327
<u>shall be not less than the greater of the amounts determined by</u>	1328
<u>multiplying the member's total service credit by the following:</u>	1329
<u>(i) Eighty-six dollars;</u>	1330
<u>(ii) Two and two-tenths per cent of the member's final</u>	1331
<u>average salary for each of the first thirty years of service</u>	1332
<u>credit or fraction thereof plus two and one-half per cent of the</u>	1333
<u>member's final average salary for each subsequent year of service</u>	1334
<u>credit or fraction thereof.</u>	1335
(2) For a member whose membership began before the effective	1336
date of this amendment <u>who retires under division (A)(1) of</u>	1337
<u>section 3309.34 of the Revised Code, the annual single lifetime</u>	1338
allowance determined under division (B)(1) <u>(a)</u> of this section	1339
shall be adjusted by the greater percentage shown in the following	1340
schedule opposite the member's attained age or years of Ohio	1341
service credit:	1342
	1343
	1344
	1345
	1346

59	26	80	1347
60	27	85	1348
61		88	1349
	28	90	1350
62		91	1351
63		94	1352
	29	95	1353
64		97	1354
65	30 or more	100	1355

For a member ~~whose membership began before the effective date of~~ 1356
~~this amendment~~ who retires under division (A)(1) of section 1357
3309.34 of the Revised Code, the right to a benefit shall vest in 1358
accordance with the following schedule, based on the member's 1359
attained age by September 1, 1976: 1360

Attained	Per Cent	
Age	of	
	Base Amount	
66	102	1364
67	104	1365
68	106	1366
69	108	1367
70 or more	110	1368

(3) For a member ~~whose membership began on or after the~~ 1369
~~effective date of this amendment~~ who retires under division (A)(2) 1370
of section 3309.34 of the Revised Code, the annual single lifetime 1371
allowance determined under division (B)(1)(b) of this section 1372
shall be adjusted to be the actuarial equivalent of the member's 1373
retirement allowance, as determined by the retirement board's 1374
actuary, had the member retired at age ~~sixty-five~~ sixty-seven or 1375
with thirty years of service credit, except that the retirement 1376
allowance shall not be less than the following: 1377

Per Cent 1378

Years of Service	of	
Credit	Base Amount	1380
25	75%	1381
26	80	1382
27	85	1383
28	90	1384
29	95	1385

(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	Per Cent	
Effective	of Increase	
1937 - 1939	100	1430
1940	94	1431
1941	89	1432
1942	77	1433
1943	70	1434
1944	68	1435
1945	66	1436
1946	55	1437
1947	35	1438
1948	23	1439
1949	25	1440

1950	23	1441
1951	8	1442
1952	4	1443
1953	3	1444
1954	2	1445
Prior to June 29, 1955	2	1446

(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	1468
1956	22.5	1469
1957	18.4	1470
1958	15.2	1471

1959	14.3	1472
1960	12.5	1473
1961	11.3	1474
1962	10.1	1475
1963	8.7	1476
1964	7.3	1477
1965	5.6	1478
1966	2.6	1479
1967	2.0	1480
January 1, 1968 through June 30, 1968	2.0	1481

(B)(1) All increases as determined by applying the 1482
percentages in the table in division (A) of this section shall be 1483
reduced by the dollar amount of the increases granted in 1965 1484
pursuant to section 3309.372 of the Revised Code, except that no 1485
allowance, pension, or benefit shall be reduced below the amount 1486
due June 30, 1968 and no allowance granted under this section 1487
shall be less than a total annual sum of thirty-six dollars. 1488

(2) The allowances increased by division (A) of this section 1489
shall exclude any monthly amount payable by reason of any 1490
voluntary deposits made under section 3309.47 of the Revised Code. 1491

(3) The increases provided by this section shall be granted 1492
notwithstanding the final average salary limitation in sections 1493
3309.36, 3309.40, and 3309.45 of the Revised Code. 1494

(4) The cost of the increases provided by this section shall 1495
be included in the employer contribution rate provided by section 1496
3309.49 of the Revised Code. Such employer's contribution rate 1497
shall not be increased until July 1, 1969 or later to reflect the 1498
increased costs created by this section. 1499

Sec. 3309.376. On and after December 31, 1971, all persons 1500
who retired and were eligible to receive a pension that was 1501

payable prior to July 1, 1968, pursuant to section 3309.36~~7~~ 1502
~~3309.38~~, or 3309.40 or former section 3309.38 of the Revised Code, 1503
or in the event of the death of such persons, the person 1504
designated by the deceased to receive payments under section 1505
3309.46 of the Revised Code, shall receive an additional monthly 1506
payment of two dollars for each year between the member's 1507
effective date of retirement or disability and December 31, 1971, 1508
or an additional fifty dollars, whichever is less. 1509

Sec. 3309.379. (A) On and after the first day of the month 1510
following the effective date of this section, each person eligible 1511
to receive an allowance, pension, or benefit, pursuant to sections 1512
3309.35, 3309.36, ~~3309.38~~, 3309.40, division (A) of section 1513
3309.45, and section 3309.46 and former section 3309.38 of the 1514
Revised Code, that was based upon an award made effective before 1515
June 30, 1955, shall have the allowance, pension, or benefit 1516
payable as of September 30, 1974, recalculated by the school 1517
employees retirement board so that each such person shall receive 1518
an annual single lifetime allowance, pension, or benefit or its 1519
actuarial equivalent of not less than one hundred forty dollars 1520
for each year of the member's total service credit, except that 1521
service credit exceeding thirty-two years shall not be used in the 1522
recalculation, and a final average salary limitation shall not be 1523
applied. 1524

If the amount of the allowance, pension, or benefit 1525
recalculated under this division is less than the amount that is 1526
payable on the effective date of this section, then the greater 1527
allowance, pension, or benefit shall be continued. 1528

(B) On and after the first day of the month following the 1529
effective date of this section, each person receiving an 1530
allowance, pension, or benefit, pursuant to sections 3309.35, 1531
3309.36, ~~3309.38~~, 3309.40, division (A) of section 3309.45, and 1532

section 3309.46 and former section 3309.38 of the Revised Code, 1533
that was first effective on and after June 30, 1955, through June 1534
30, 1971, shall be paid an increased allowance, pension, or 1535
benefit as follows: 1536

Effective Date of the Member's		1537
Allowance, Pension, or Benefit:	Per Cent of Increase:	1538
June 30, 1955 through June 29, 1959	33	1539
June 30, 1959, through October 31, 1965	21	1540
November 1, 1965, through June 30, 1968	14	1541
July 1, 1968, through June 30, 1971	5	1542

The increase shall be applied to the allowance, pension, or 1543
benefit payable on the effective date of this section. 1544

(C) On and after the first day of the month following the 1545
effective date of this section, each person receiving or qualified 1546
to receive an allowance, pension, or benefit, pursuant to division 1547
(B) of section 3309.45 of the Revised Code, that was effective on 1548
and after June 14, 1951, through August 26, 1970, shall receive an 1549
increase in such allowance, pension, or benefit in the amount of 1550
twenty per cent. 1551

Sec. 3309.3710. (A) Effective July 1, 1981, each person 1552
eligible to receive an allowance, pension, or benefit pursuant to 1553
sections 3309.35, 3309.36, ~~3309.38~~, 3309.40, division (A) of 1554
section 3309.45, and section 3309.46 and former section 3309.38 of 1555
the Revised Code that was based upon an award made effective 1556
before July 1, 1974, shall have the person's monthly allowance, 1557
pension, or benefit increased by five per cent, except that the 1558
twelve-month sum of such increases shall not exceed five per cent 1559
of the first five thousand dollars of the annual allowance, 1560
pension, or benefit. 1561

(B) Effective July 1, 1981, each person receiving or 1562
qualified to receive a benefit, pursuant to division (B) of 1563

section 3309.45 of the Revised Code, that was effective on and 1564
after June 14, 1951, through August 26, 1970, shall receive an 1565
increase in such benefit of five per cent. 1566

(C) The increases provided in divisions (A) and (B) of this 1567
section shall be applied to the benefit payable on and after July 1568
1, 1981. 1569

(D) The increase in the monthly allowance, pension, or 1570
benefit provided in divisions (A) and (B) of this section shall be 1571
included in the calculation of additional benefits to recipients 1572
under section 3309.374 of the Revised Code. 1573

(E) The benefits provided in divisions (A) and (B) of this 1574
section are a continuation of those first provided in Am. Sub. 1575
H.B. 204 as passed by the 113th general assembly. 1576

Sec. 3309.3711. Whenever the limits established by section 1577
415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 1578
U.S.C.A. 415, as amended, are raised, the school employees 1579
retirement board shall increase the amount of the pension, 1580
benefit, or allowance of any person whose pension, benefit, or 1581
allowance payable under section 3309.36, 3309.374, ~~3309.38,~~ 1582
3309.381, 3309.40, or 3309.401 or former section 3309.38 of the 1583
Revised Code was limited by the application of section 415. The 1584
amount of the increased pension, benefit, or allowance shall not 1585
exceed the lesser of the amount the person would have received if 1586
the limits established by section 415 had not been applied or the 1587
amount the person is eligible to receive subject to the new limits 1588
established by section 415. 1589

Sec. 3309.39. (A) The school employees retirement system 1590
shall provide disability coverage to each member who has at least 1591
five years of total service credit. 1592

Not later than October 16, 1992, the school employees 1593

retirement board shall give each person who is a member on July 1594
29, 1992, the opportunity to elect disability coverage either 1595
under section 3309.40 of the Revised Code or under section 1596
3309.401 of the Revised Code. The board shall mail notice of the 1597
election, accompanied by an explanation of the coverage under each 1598
of the Revised Code sections and a form on which the election is 1599
to be made, to each member at the member's last known address. The 1600
board shall also provide the explanation and form to any member at 1601
the member's request. 1602

Regardless of whether the member actually receives notice of 1603
the right to make an election, a member who fails to file a valid 1604
election under this section shall be considered to have elected 1605
disability coverage under section 3309.40 of the Revised Code. To 1606
be valid, an election must be made on the form provided by the 1607
~~retirement~~ board, signed by the member, and filed with the board 1608
not later than one hundred eighty days after the date the notice 1609
was mailed, or, in the case of a form provided at the request of a 1610
member, a date specified by rule of the ~~retirement~~ board. Once 1611
made, an election is irrevocable, but if the member ceases to be a 1612
member of the ~~retirement~~ system, the election is void. If a person 1613
who makes an election under this section also makes an election 1614
under section 145.35 or 3307.62 of the Revised Code, the election 1615
made for the system that pays a disability benefit to that person 1616
shall govern the benefit. 1617

Disability coverage shall be provided under section 3309.401 1618
of the Revised Code for persons who become members after July 29, 1619
1992, and for members who elect under this division to be covered 1620
under section 3309.401 of the Revised Code. 1621

The ~~retirement~~ board may adopt rules governing elections made 1622
under this division. 1623

(B)(1) Application for a disability benefit may be made by a 1624
member, by a person acting in the member's behalf, or by the 1625

member's employer, ~~provided if~~ the member ~~has~~ meets all of the 1626
following conditions: 1627

(a) Has at least five years of total service credit ~~and has;~~ 1628

(b) Has disability coverage under section 3309.40 or 3309.401 1629
of the Revised Code. ~~The;~~ 1630

(c) Is not receiving a disability benefit under this chapter 1631
or Chapter 145., 742., 3305., 3307., or 5505. of the Revised Code, 1632
or the Cincinnati retirement system; 1633

(d) Is not applying for the disability benefit based on a 1634
disabling condition that the system determines was caused by 1635
commission of either of the following: 1636

(i) A felony the member was convicted of, pled guilty to, or 1637
was found not guilty of by reason of insanity; 1638

(ii) An act for which the member was adjudicated a delinquent 1639
child, that if committed by an adult, would be a felony. 1640

(2) The application for a disability benefit shall be made on 1641
a form provided by the ~~retirement~~ board. The benefit payable to 1642
any member who is approved for a disability benefit shall become 1643
effective on the first day of the month next following the later 1644
of the following: 1645

~~(1)~~(a) The last day for which compensation was paid; 1646

~~(2)~~(b) The date on which the ~~member~~ member's most recent 1647
application for a disability benefit was ~~first incapacitated by~~ 1648
~~the disabling condition~~ filed. 1649

(C) Medical examination of a member who has applied for a 1650
disability benefit shall be conducted by a competent disinterested 1651
physician or physicians selected by the ~~retirement~~ board to 1652
determine whether the member is mentally or physically 1653
incapacitated for the performance of the member's last assigned 1654
primary duty as an employee by a disabling condition either 1655

permanent or presumed to be permanent for twelve continuous months 1656
following the filing of an application. Such disability must have 1657
occurred ~~since last becoming a member~~ before termination of the 1658
member's contributing service and since last becoming a member or 1659
have increased since last becoming a member to such extent as to 1660
make the disability permanent or presumed to be permanent for 1661
twelve continuous months following the filing of an application. 1662

(D) Application for a disability benefit must be made within 1663
two years from the date the member's contributing service 1664
terminated, unless the ~~retirement~~ board determines that the 1665
member's medical records demonstrate conclusively that at the time 1666
the two-year period expired, the member was physically or mentally 1667
incapacitated for duty as an employee and unable to make 1668
application. Application may not be made by any person receiving a 1669
service retirement allowance or commuted service retirement 1670
allowance under section 3309.36, ~~3309.38~~, or 3309.381 or former 1671
section 3309.38 of the Revised Code or any person who, pursuant to 1672
section 3309.42 of the Revised Code, has been paid the accumulated 1673
contributions standing to the credit of the person's individual 1674
account in the employees' savings fund. 1675

(E) If the physician or physicians determine that the member 1676
qualifies for a disability benefit, the ~~retirement~~ board concurs 1677
with the determination, and the member agrees to any recommended 1678
medical treatment and vocational rehabilitation as specified in 1679
~~division~~ divisions (F) and (G) of this section, the member shall 1680
receive a disability benefit under section 3309.40 or 3309.401 of 1681
the Revised Code. The action of the board shall be final. ~~At the~~ 1682
~~time the board decides it concurs with the determination of the~~ 1683
~~physician or physicians, the board shall determine the date on~~ 1684
~~which the member was first incapacitated by the disabling~~ 1685
~~condition.~~ 1686

(F) The ~~school employees retirement~~ board shall adopt rules 1687

requiring a disability benefit recipient, as a condition of 1688
continuing to receive a disability benefit, to agree in writing to 1689
obtain any medical treatment recommended by the board's physician 1690
and submit medical reports regarding the treatment. If the board 1691
determines that a disability benefit recipient is not obtaining 1692
the medical treatment or the board does not receive a required 1693
medical report, the disability benefit shall be suspended until 1694
the treatment is obtained, the report is received by the board, or 1695
the board's physician certifies that the treatment is no longer 1696
helpful or advisable. Should the recipient's failure to obtain 1697
treatment or submit a medical report continue for one year, the 1698
recipient's right to the disability benefit shall be terminated as 1699
of the effective date of the original suspension. 1700

(G)(1) A disability benefit recipient shall obtain any 1701
vocational rehabilitation recommended by the board's physician or 1702
other consultant and submit reports regarding the rehabilitation. 1703
If the board determines that a recipient is not obtaining the 1704
rehabilitation or the board does not receive a required report, 1705
the disability benefit shall be suspended until the rehabilitation 1706
is obtained, the report is received by the board, or the board's 1707
physician or consultant certifies that rehabilitation is no longer 1708
helpful or advisable. If the recipient's failure to obtain 1709
rehabilitation or submit a required report continues for one year, 1710
the recipient's right to the disability benefit shall be 1711
terminated as of the effective date of the original suspension. 1712

(2) The board shall adopt rules to implement this division. 1713

(H) In the event an employer files an application for a 1714
disability benefit as a result of a member having been separated 1715
from service because the member is considered to be mentally or 1716
physically incapacitated for the performance of the member's last 1717
assigned primary duty as an employee, and the physician or 1718
physicians selected by the board report to the board that the 1719

member is physically and mentally capable of performing service 1720
similar to that from which the member was separated, and the board 1721
concur in such report, then the board shall so certify to the 1722
employer and the employer shall restore the member to the member's 1723
previous position and salary or to a similar position and salary. 1724

Sec. 3309.392. A recipient of a disability benefit granted 1725
under this chapter on or after the effective date of this section 1726
shall apply for social security disability insurance benefit 1727
payments under 42 U.S.C. 423 if the recipient meets the 1728
requirements of divisions (a)(1)(A), (B), and (C) of that section. 1729
The application shall be made not later than ninety days after the 1730
recipient is granted a disability benefit under this chapter 1731
unless the school employees retirement board determines from the 1732
member's medical records that the member is physically or mentally 1733
unable to make the application. The recipient shall file a copy of 1734
the completed application and a copy of the social security 1735
administration's acknowledgement of receipt of the application 1736
with the school employees retirement system. The system shall 1737
accept the copy and acknowledgement as evidence of the member's 1738
application. 1739

If a recipient fails without just cause to apply for social 1740
security disability insurance benefit payments or to file a copy 1741
of the application and acknowledgement of receipt with the system, 1742
the disability benefit under this chapter shall be suspended until 1743
application is made and a copy of the application and 1744
acknowledgement is filed with the system. 1745

The member shall file with the system a copy of the social 1746
security administration's final action on the member's application 1747
for social security disability insurance benefit payments. 1748

Sec. 3309.401. (A) A member with disability coverage under 1749

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

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Sec. 3309.41. (A) Notwithstanding any contrary provisions in Chapter 124. or 3319. of the Revised Code: 1781
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(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.~~ 1783
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(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. 1789
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(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. 1801
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(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 1843
benefit recipient's last employer before being found disabled that 1844
the recipient is no longer physically and mentally incapable of 1845
resuming service that is the same or similar to that from which 1846
the recipient was found disabled. The employer shall restore the 1847
recipient to the recipient's previous position and salary or to a 1848
position and salary similar thereto not later than the first day 1849
of the first month following termination of the disability 1850
benefit, unless the recipient was dismissed or resigned in lieu of 1851
dismissal for dishonesty, misfeasance, malfeasance, or conviction 1852
of a felony. 1853

(D) Each disability benefit recipient shall file with the 1854
board an annual statement of earnings, current medical information 1855
on the recipient's condition, and any other information required 1856
in rules adopted by the board. The board may waive the requirement 1857
that a disability benefit recipient file an annual statement of 1858
earnings or current medical information on the recipient's 1859
condition if the board's physician or physicians certify that the 1860
recipient's disability is ongoing. 1861

The board shall annually examine the information submitted by 1862
the recipient. If a disability benefit recipient refuses to file 1863
the statement or information, the disability benefit shall be 1864
suspended until the statement and information are filed. If the 1865
refusal continues for one year, the recipient's right to the 1866
disability benefit shall be terminated as of the effective date of 1867
the original suspension. 1868

(E) If a disability benefit recipient is employed by an 1869
employer covered by this chapter, the recipient's disability 1870
benefit shall cease. 1871

(F) If disability retirement under section 3309.40 of the 1872
Revised Code is terminated for any reason, the annuity and pension 1873
reserves at that time in the annuity and pension reserve fund 1874

shall be transferred to the employees' savings fund and the 1875
employers' trust fund, respectively. If the total disability 1876
benefit paid is less than the amount of the accumulated 1877
contributions of the member transferred into the annuity and 1878
pension reserve fund at the time of the member's disability 1879
retirement, the difference shall be transferred from the annuity 1880
and pension reserve fund to another fund as may be required. In 1881
determining the amount of a member's account following the 1882
termination of disability retirement for any reason, the amount 1883
paid shall be charged against the member's refundable account. 1884

If a disability allowance paid under section 3309.401 of the 1885
Revised Code is terminated for any reason, the reserve on the 1886
allowance at that time in the annuity and pension reserve fund 1887
shall be transferred from that fund to the employers' trust fund. 1888

The board may terminate a disability benefit at the request 1889
of the recipient. 1890

(G) If a disability benefit is terminated and a former 1891
disability benefit recipient again becomes a contributor, other 1892
than as an other system retirant as defined in section 3309.341 of 1893
the Revised Code, to this system, the public employees retirement 1894
system, or the state teachers retirement system, and completes an 1895
additional two years of service credit after the termination of 1896
the disability benefit, the former disability benefit recipient 1897
shall be entitled to ~~full~~ receive up to two years of service 1898
credit for the period as a disability benefit recipient and may 1899
purchase service for the remaining period of the disability 1900
benefit. Total service credit received and purchased under this 1901
section shall not exceed the period of the disability benefit. 1902

For each year of credit purchased, the member shall pay to 1903
the system for credit to the member's accumulated account the sum 1904
of the following amounts: 1905

(1) The employee contribution rate in effect at the time the disability benefit commenced multiplied by the member's annual disability benefit; 1906
1907
1908

(2) The employer contribution rate in effect at the time the disability benefit commenced multiplied by the member's annual disability benefit; 1909
1910
1911

(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. 1912
1913
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The member may choose to purchase only part of such credit in any one payment, subject to board rules. 1915
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(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. 1917
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Sec. 3309.44. (A) As used in this section and in section 3309.45 of the Revised Code: 1925
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(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. 1927
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(2) "Parent" is a parent or legally adoptive parent of a deceased member. 1934
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(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. 1936
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(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. 1939
1940
1941
1942

(5) "Survivor" means a surviving spouse, child, or parent. 1943

(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. 1944
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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. 1960
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(C) Except as provided in division (C)(1) of section 3309.45 1966

of the Revised Code, if a member dies before service or commuted 1967
service retirement and is not survived by a designated 1968
beneficiary, ~~any beneficiaries~~ the following shall qualify, in the 1969
following order of precedence, with all attendant rights and 1970
privileges, the member's: 1971

(1) Surviving spouse; 1972

(2) Children share and share alike; 1973

(3) A dependent parent who is age sixty-five or older, if 1974
that parent takes survivor benefits under division (B) of section 1975
3309.45 of the Revised Code; 1976

(4) Parents, share and share alike; 1977

(5) Estate. 1978

~~Any payment made to a beneficiary as determined by the school 1979
employees retirement board shall be a full discharge and release 1980
to the board from any future claims. 1981~~

If a person listed in divisions (C)(1) to (4) of this section 1982
is deceased or is not located within one hundred eighty days, the 1983
person ceases to qualify for any benefit and the person next in 1984
order of precedence shall qualify. 1985

(D) Any amount due any person, as an annuitant receiving a 1986
monthly service or commuted service retirement allowance or 1987
benefit, and unpaid to the annuitant at death, shall be paid to 1988
the beneficiary designated in writing on a form provided by the 1989
retirement board, signed by the annuitant and filed with the 1990
board. If no such designation has been filed, ~~or if the designated 1991
beneficiary is deceased or is not located within ninety days, such 1992
amount shall be paid, except as otherwise provided in section 1993
3309.45 of the Revised Code, in the following order of precedence 1994
to the annuitant's: 1995~~

(1) Surviving spouse; 1996

- (2) Children, share and share alike; 1997
- (3) Parents, share and share alike; 1998
- (4) Estate. 1999

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. 2000
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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.~~ 2004
2005
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2007
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(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. 2009
2010
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(F) 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. 2012
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~~(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. 2022
2023
2024
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If the death of a member, a recipient, or any individual who 2026

would be eligible to receive an allowance or benefit under this 2027
chapter by virtue of the death of a member or recipient is caused 2028
by one of the following beneficiaries, no amount due under this 2029
chapter to the beneficiary shall be paid to the beneficiary in the 2030
absence of a court order to the contrary filed with the retirement 2031
board: 2032

(1) A beneficiary who is convicted of, pleads guilty to, or 2033
is found not guilty by reason of insanity of a violation of or 2034
complicity in the violation of either of the following: 2035

(a) Section 2903.01, 2903.02, or 2903.03 of the Revised Code; 2036

(b) An existing or former law of any other state, the United 2037
States, or a foreign nation that is substantially equivalent to 2038
section 2903.01, 2903.02, or 2903.03 of the Revised Code; 2039

(2) A beneficiary who is indicted for a violation of or 2040
complicity in the violation of the sections or laws described in 2041
division ~~(F)~~(G)(1)(a) or (b) of this section and is adjudicated 2042
incompetent to stand trial; 2043

(3) A beneficiary who is a juvenile found to be a delinquent 2044
child by reason of committing an act that, if committed by an 2045
adult, would be a violation of or complicity in the violation of 2046
the sections or laws described in division ~~(F)~~(G)(1)(a) or (b) of 2047
this section. 2048

Sec. 3309.45. Except as provided in division (C)(1) of this 2049
section, in lieu of accepting the payment of the accumulated 2050
account of a member who dies before service retirement, the 2051
beneficiary, as determined in section 3309.44 of the Revised Code, 2052
may elect to forfeit the accumulated account and to substitute 2053
certain other benefits either under division (A) or (B) of this 2054
section. 2055

(A)(1) If a deceased member was eligible for a service 2056

retirement allowance as provided in section 3309.36, ~~3309.38~~, or 2057
3309.381 of the Revised Code, a surviving spouse or other sole 2058
dependent beneficiary may elect to receive a monthly benefit 2059
computed as the joint-survivor allowance designated as "plan D" in 2060
section 3309.46 of the Revised Code, which the member would have 2061
received had the member retired on the last day of the month of 2062
death and had the member at that time selected such joint-survivor 2063
plan. Payment shall begin with the month subsequent to the 2064
member's death. 2065

(2) Beginning on a date selected by the school employees 2066
retirement board, which shall be not later than July 1, 2004, a 2067
surviving spouse or other sole dependent beneficiary may elect, in 2068
lieu of a monthly payment under division (A)(1) of this section, a 2069
plan of payment consisting of both of the following: 2070

(a) A lump sum in an amount the surviving spouse or other 2071
sole dependent beneficiary designates that constitutes a portion 2072
of the allowance that would be payable under division (A)(1) of 2073
this section; 2074

(b) The remainder of that allowance in monthly payments. 2075

The total amount paid as a lump sum and a monthly benefit 2076
shall be the actuarial equivalent of the amount that would have 2077
been paid had the lump sum not been selected. 2078

The lump sum amount designated by the surviving spouse or 2079
other sole dependent beneficiary under division (A)(2)(a) of this 2080
section shall be not less than six times and not more than 2081
thirty-six times the monthly amount that would be payable to the 2082
surviving spouse or other sole dependent beneficiary under 2083
division (A)(1) of this section and shall not result in a monthly 2084
benefit that is less than fifty per cent of that monthly amount. 2085

(B) If the deceased member had completed at least one and 2086
one-half years of credit for Ohio service, with at least 2087

one-quarter year of Ohio contributing service credit within the 2088
two and one-half years prior to the date of death, or was 2089
receiving at the time of death a disability benefit as provided in 2090
section 3309.40 or 3309.401 of the Revised Code, qualified 2091
survivors who elect to receive monthly benefits shall receive the 2092
greater of the benefits provided in division (B)(1)(a) or (b) as 2093
allocated in accordance with division (B)(5) of this section. 2094

(1)(a) Number		Or	2095
of Qualified		Monthly	2096
survivors	Annual Benefit as a Per	Benefit	2097
affecting	Cent of Decedent's Final	shall not be	2098
the benefit	Average Salary	less than	2099
1	25%	\$96	2100
2	40	186	2101
3	50	236	2102
4	55	236	2103
5 or more	60	236	2104

(b) Years of Service	Annual Benefit as a Per Cent of	2105
	Member's Final Average Salary	
20	29%	2106
21	33	2107
22	37	2108
23	41	2109
24	45	2110
25	48	2111
26	51	2112
27	54	2113
28	57	2114
29 or more	60	2115

(2) Benefits shall begin as qualified survivors meet 2116
eligibility requirements as follows: 2117

(a) A qualified spouse is the surviving spouse of the 2118

deceased member who is age sixty-two, or regardless of age if the 2119
deceased member had ten or more years of Ohio service credit, or 2120
regardless of age if caring for a surviving child, or regardless 2121
of age if adjudged physically or mentally incompetent. 2122

(b) A qualified child whose benefit began before the 2123
effective date of this amendment is any child of the deceased 2124
member who has never been married and to whom one of the following 2125
applies: 2126

(i) Is under age eighteen, or under age twenty-two if the 2127
child is attending an institution of learning or training pursuant 2128
to a program designed to complete in each school year the 2129
equivalent of at least two-thirds of the full-time curriculum 2130
requirements of such institution and as further determined by 2131
board policy; 2132

(ii) Regardless of age, is adjudged physically or mentally 2133
incompetent if the incompetence existed prior to the member's 2134
death and prior to the child attaining age eighteen, or age 2135
twenty-two if attending an institution described in division 2136
(B)(2)(b)(i) of this section. 2137

(c) A qualified child whose benefit begins on or after the 2138
effective date of this amendment is any child of the deceased 2139
member who has never been married and to whom one of the following 2140
applies: 2141

(i) Is under age nineteen; 2142

(ii) Regardless of age, is adjudged physically or mentally 2143
incompetent if the incompetence existed prior to the member's 2144
death and prior to the child attaining age nineteen. 2145

(d) A qualified parent is a dependent parent aged sixty-five 2146
or older. 2147

(3) "Physically or mentally incompetent" as used in this 2148

section may be determined by a court of jurisdiction, or by a 2149
physician appointed by the retirement board. Incapability of 2150
earning a living because of a physically or mentally disabling 2151
condition shall meet the qualifications of this division. 2152

(4) Benefits to a qualified survivor shall terminate upon a 2153
first marriage, abandonment, adoption, or during active military 2154
service. Benefits to a deceased member's surviving spouse that 2155
were terminated under a former version of this section that 2156
required termination due to remarriage and were not resumed prior 2157
to September 16, 1998, shall resume on the first day of the month 2158
immediately following receipt by the board of an application on a 2159
form provided by the board. 2160

Upon the death of any subsequent spouse who was a member of 2161
the public employees retirement system, state teachers retirement 2162
system, or school employees retirement system, the surviving 2163
spouse of such member may elect to continue receiving benefits 2164
under this division, or to receive survivor's benefits, based upon 2165
the subsequent spouse's membership in one or more of the systems, 2166
for which such surviving spouse is eligible under this section or 2167
section 145.45 or 3307.66 of the Revised Code. If the surviving 2168
spouse elects to continue receiving benefits under this division, 2169
such election shall not preclude the payment of benefits under 2170
this division to any other qualified survivor. 2171

Benefits shall begin or resume on the first day of the month 2172
following the attainment of eligibility and shall terminate on the 2173
first day of the month following loss of eligibility. 2174

(5)(a) If a benefit is payable under division (B)(1)(a) of 2175
this section, benefits to a qualified spouse shall be paid in the 2176
amount determined for the first qualifying survivor in division 2177
(B)(1)(a) of this section, but shall not be less than one hundred 2178
six dollars per month if the deceased member had ten or more years 2179
of Ohio service credit. All other qualifying survivors shall share 2180

equally in the benefit or remaining portion thereof. 2181

(b) All qualifying survivors shall share equally in a benefit 2182
payable under division (B)(1)(b) of this section, except that if 2183
there is a surviving spouse, the surviving spouse shall receive no 2184
less than the greater of the amount determined for the first 2185
qualifying survivor in division (B)(1)(a) of this section or one 2186
hundred six dollars per month. 2187

(6) The beneficiary of a member who is also a member of the 2188
public employees retirement system, or of the state teachers 2189
retirement system, must forfeit the member's accumulated 2190
contributions in those systems, if the beneficiary takes a 2191
survivor benefit. Such benefit shall be exclusively governed by 2192
section 3309.35 of the Revised Code. 2193

(C)(1) Regardless of whether the member is survived by a 2194
spouse or designated beneficiary, if the school employees 2195
retirement system receives notice that a deceased member described 2196
in division (A) or (B) of this section has one or more qualified 2197
children, all persons who are qualified survivors under division 2198
(B) of this section shall receive monthly benefits as provided in 2199
division (B) of this section. 2200

If, after determining the monthly benefits to be paid under 2201
division (B) of this section, the system receives notice that 2202
there is a qualified survivor who was not considered when the 2203
determination was made, the system shall, notwithstanding section 2204
3309.661 of the Revised Code, recalculate the monthly benefits 2205
with that qualified survivor included, even if the benefits to 2206
qualified survivors already receiving benefits are reduced as a 2207
result. The benefits shall be calculated as if the qualified 2208
survivor who is the subject of the notice became eligible on the 2209
date the notice was received and shall be paid to qualified 2210
survivors effective on the first day of the first month following 2211
the system's receipt of the notice. 2212

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 2244
section 3309.36, ~~3309.38~~, or 3309.381 of the Revised Code shall be 2245
paid as provided in this section. If the member is eligible to 2246
elect a plan of payment under this section, the election shall be 2247
made on the application for retirement. A plan of payment elected 2248
under this section shall be effective only if it is certified by 2249
the actuary engaged by the school employees retirement board to be 2250
the actuarial equivalent of the member's retirement allowance and 2251
is approved by the retirement board. 2252

(B)(1)(a) Except as provided in divisions (B)(1)(b) and (c) 2253
of this section, a member who retires under section 3309.36~~7~~ 2254
~~3309.38~~, or 3309.381 of the Revised Code shall receive a 2255
retirement allowance under "plan A," which shall consist of the 2256
actuarial equivalent of the member's retirement allowance 2257
determined under section 3309.36~~7~~ ~~3309.38~~, or 3309.381 of the 2258
Revised Code in a lesser amount payable for life and one-half of 2259
such allowance continuing after death to the member's surviving 2260
spouse for the life of the spouse. 2261

(b) A member may receive a retirement allowance under a plan 2262
of payment other than "plan A" if either of the following is the 2263
case: 2264

(i) The member is not married or either the member's spouse 2265
consents in writing to the member's election to a plan of payment 2266
other than "plan A" or the board waives the requirement that the 2267
spouse consent; 2268

(ii) A plan of payment providing for payment in a specified 2269
amount continuing after the member's death to a former spouse is 2270
required by a court order issued prior to the effective date of 2271
the member's retirement under section 3105.171 or 3105.65 of the 2272
Revised Code or the laws of another state regarding division of 2273
marital property. 2274

(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. 2306

Consent shall be valid only if it is in writing, signed by 2307
the spouse, and witnessed by an employee of the school employees 2308
retirement system or a notary public. The board may waive the 2309
requirement of consent if the spouse is incapacitated or cannot be 2310
located or for any other reason specified by the board. Consent or 2311
waiver is effective only with regard to the spouse who is the 2312
subject of the consent or waiver. 2313

(3)(a) A member eligible to elect to receive a retirement 2314
allowance under a plan of payment other than "plan A" shall 2315
receive the retirement allowance under the plan described in 2316
division (B)(4) of this section or one of the following plans: 2317

(a) "Plan B," which shall consist of an allowance determined 2318
under section 3309.36, ~~3309.38~~, or 3309.381 of the Revised Code; 2319

(b) "Plan C," which shall consist of the actuarial equivalent 2320
of the member's retirement allowance determined under section 2321
3309.36, ~~3309.38~~, or 3309.381 of the Revised Code in a lesser 2322
amount payable for life and one-half or some other portion of the 2323
allowance continuing after death to the member's sole surviving 2324
beneficiary designated at the time of the member's retirement, 2325
provided that the amount payable to the beneficiary does not 2326
exceed the amount payable to the member; 2327

(c) "Plan D," which shall consist of the actuarial equivalent 2328
of the member's retirement allowance determined under section 2329
3309.36, ~~3309.38~~, or 3309.381 of the Revised Code in a lesser 2330
amount payable for life and continuing after death to a surviving 2331
designated beneficiary designated at the time of the member's 2332
retirement; 2333

(d) "Plan E," which shall consist of the actuarial equivalent 2334
of the member's retirement allowance determined under section 2335
3309.36, ~~3309.38~~, or 3309.381 of the Revised Code in a lesser 2336

amount payable for a certain period from the member's retirement 2337
date as elected by the member and approved by the retirement 2338
board, and on the member's death before the expiration of that 2339
certain period, the member's lesser retirement allowance continued 2340
for the remainder of that period to, and in such order, the 2341
beneficiaries as the member has nominated by written designation 2342
and filed with the retirement board. 2343

Monthly benefits shall not be paid to joint beneficiaries, 2344
but they may receive the present value of any remaining payments 2345
in a lump sum settlement. If all beneficiaries die before the 2346
expiration of the certain period, the present value of all such 2347
payments yet remaining in such period shall be paid to the estate 2348
of the beneficiary last receiving. 2349

(e) "Plan F," which shall consist of the actuarial equivalent 2350
of the member's retirement allowance determined under section 2351
3309.36, ~~3309.38~~, or 3309.381 of the Revised Code in a lesser 2352
amount payable to the member for life and some portion of the 2353
lesser amount continuing after death to two, three, or four 2354
surviving beneficiaries designated at the time of the member's 2355
retirement. The portion of the lesser amount that continues after 2356
the member's death shall be allocated among the beneficiaries at 2357
the time of the member's retirement. If the member elects this 2358
plan as required by a court order issued under section 3105.171 or 2359
3105.65 of the Revised Code or the laws of another state regarding 2360
the division of marital property and compliance with the court 2361
order requires the allocation of a portion less than ten per cent 2362
to any person, the member shall allocate a portion less than ten 2363
per cent to that beneficiary in accordance with that order. In all 2364
other circumstances, no portion allocated under this plan of 2365
payment shall be less than ten per cent. The total of the portions 2366
allocated shall not exceed one hundred per cent of the member's 2367
lesser allowance. 2368

(4)(a) Beginning on a date selected by the board, which shall 2369
be not later than July 1, 2004, a member may elect, in lieu of a 2370
plan of payment under division (B)(1) or (3) of this section, a 2371
plan consisting of both a lump sum in an amount the member 2372
designates that constitutes a portion of the retirement allowance 2373
payable under a plan described in division (B)(1) or (3) of this 2374
section and the remainder of the allowance payable under that plan 2375
in monthly payments. 2376

The total amount paid as a lump sum and a monthly benefit 2377
shall be the actuarial equivalent of the amount that would have 2378
been paid had the lump sum not been selected. 2379

(b) The lump sum amount designated by the member shall be not 2380
less than six times and not more than thirty-six times the monthly 2381
amount that would be payable to the member under the plan of 2382
payment elected under this section had the lump sum not been 2383
elected and shall not result in a monthly benefit that is less 2384
than fifty per cent of that amount. 2385

(5) An election under division (B)(3) or (4) of this section 2386
shall be made at the time the member makes application for 2387
retirement. 2388

(6) A member eligible to elect to receive a retirement 2389
allowance under a plan of payment other than "plan A" because the 2390
member is unmarried who fails to make an election on retirement 2391
shall receive a retirement allowance under "plan B." 2392

(C) Until the first payment of any retirement allowance is 2393
made, as provided in sections 3309.36, ~~3309.38~~, or 3309.381 of the 2394
Revised Code, a member may change the member's election of a 2395
payment plan if the election is made in accordance with and is 2396
consistent with division (B) of this section. 2397

(D) If the retirement allowances due and paid under the above 2398
provisions of this section are in a total amount less than (1) the 2399

accumulated contributions, (2) the deposits for additional credit 2400
as provided by section 3309.31 of the Revised Code, (3) the 2401
deposits for additional annuities as provided by section 3309.47 2402
of the Revised Code, (4) the deposits for repurchase of service 2403
credit as provided by section 3309.26 of the Revised Code, (5) the 2404
accumulated contributions provided by section 3309.65 of the 2405
Revised Code, (6) the deposits for purchase of military service 2406
credit provided by section 3309.021 or 3309.022 of the Revised 2407
Code, and (7) the deposits for the purchase of service credit 2408
provided by section 3309.73 of the Revised Code, standing to the 2409
credit of the member at the time of retirement, then the 2410
difference between the total amount of the allowances paid and the 2411
accumulated contributions and other deposits shall be paid to the 2412
beneficiary provided under division (D) of section 3309.44 of the 2413
Revised Code. 2414

(E)(1) The death of a spouse or any other designated 2415
beneficiary following the member's retirement shall cancel the 2416
portion of the plan of payment providing continuing lifetime 2417
benefits to the deceased spouse or deceased designated 2418
beneficiary. The retirant shall receive the actuarial equivalent 2419
of the retirant's single lifetime retirement allowance as 2420
determined by the board based on the number of remaining 2421
beneficiaries, with no change in the amount payable to any 2422
remaining beneficiary. 2423

(2) On divorce, annulment, or marriage dissolution, a 2424
retirant receiving a retirement allowance under a plan of payment 2425
that provides for continuation of all or part of the allowance 2426
after death for the lifetime of the retirant's surviving spouse 2427
may elect to cancel the portion of the plan providing continuing 2428
lifetime benefits to that spouse. The retirant shall receive the 2429
actuarial equivalent of the retirant's single lifetime retirement 2430
allowance as determined by the retirement board based on the 2431

number of remaining beneficiaries, with no change in the amount 2432
payable to any remaining beneficiary. In the case of a member who 2433
retires on or after July 24, 1990, the election may be made only 2434
with the written consent of the spouse or pursuant to an order of 2435
the court with jurisdiction over the termination of the marriage. 2436
The election shall be made on a form provided by the board and 2437
shall be effective the month following its receipt by the board. 2438

(3)(a) Following marriage or remarriage, both of the 2439
following apply: 2440

(i) A retirant who is receiving a benefit pursuant to "plan 2441
B" may elect a new plan of payment under division (B)(1), (3)(b), 2442
or (3)(c) of this section based on the actuarial equivalent of the 2443
retirant's single lifetime retirement allowance as determined by 2444
the board. 2445

(ii) A retirant who is receiving a benefit pursuant to a plan 2446
of payment providing for payment to a former spouse pursuant to a 2447
court order described in division (B)(1)(b)(ii) of this section 2448
may elect a new plan of payment under division (B)(3)(e) of this 2449
section based on the actuarial equivalent of the retirant's single 2450
lifetime retirement allowance as determined by the board if the 2451
new plan of payment elected does not reduce the payment to the 2452
former spouse. 2453

(b) If the marriage or remarriage occurs on or after ~~the~~ 2454
~~effective date of this amendment~~ June 6, 2005, the election must 2455
be made not later than one year after the date of the marriage or 2456
remarriage. 2457

The plan elected under division (E)(3) of this section shall 2458
become effective on the date of receipt by the board of an 2459
application on a form approved by the board, but any change in the 2460
amount of the retirement allowance shall commence on the first day 2461
of the month following the effective date of the plan. 2462

Sec. 3309.47. Each school employees retirement system 2463
contributor shall contribute eight per cent of the contributor's 2464
compensation to the employees' savings fund, except that the 2465
school employees retirement board may raise the contribution rate 2466
to a rate not greater than ten per cent of compensation. 2467

The contributions by the direction of the school employees 2468
retirement board shall be deducted by the employer from the 2469
compensation of each contributor on each payroll of such 2470
contributor for each payroll period and shall be an amount equal 2471
to the required per cent of such contributor's compensation. On a 2472
finding by the board that an employer has failed or refused to 2473
deduct contributions for any employee during any year and to 2474
transmit such amounts to the retirement system, the retirement 2475
board may make a determination of the amount of the delinquent 2476
contributions, including interest at a rate set by the retirement 2477
board, from the end of each year, and certify to the employer the 2478
amounts for collection. If the amount is not paid by the employer, 2479
it may be certified for collection in the same manner as payments 2480
due the employers' trust fund. Any amounts so collected shall be 2481
held in trust pending receipt of a report of contributions for the 2482
employee for the period involved as provided by law and, 2483
thereafter, the amount in trust shall be transferred to the 2484
employee's savings fund to the credit of the employee. Any amount 2485
remaining after the transfer to the employees' savings fund shall 2486
be transferred to the employers' trust fund as a credit of the 2487
employer. 2488

~~Any contributor under contract who, because of illness, 2489
accident, or other reason approved by the employer, is prevented 2490
from making the contributor's contribution to the system for any 2491
payroll period, may, upon returning to contributing service, have 2492
such deductions made from other payrolls during the year, or may 2493
pay such amount to the employer and the employer shall transmit 2494~~

~~such deductions to the system. The deductions shall be made 2495
notwithstanding that the minimum compensation for any contributor 2496
shall be reduced thereby. Every contributor shall be deemed to 2497
consent and agree to the contributions made and provided for in 2498
this section and shall receipt in full for the contributor's 2499
salary or compensation, and payment, less the contributions, is a 2500
full and complete discharge and acquittance of all claims and 2501
demands whatsoever for the services rendered by the person during 2502
the period covered by the payment. 2503~~

~~Each contributor shall pay with the first payment to the 2504
employees' savings fund each year a sum to be determined by the 2505
board, as provided by law, which amount shall be credited to the 2506
expense fund. The payments for the expense fund shall be made to 2507
the board in the same way as payments to the employees' savings 2508
fund are made. 2509~~

Additional deposits may be made to a member's account. At 2510
retirement, the amount deposited with interest may be used to 2511
provide additional annuity income. The additional deposits may be 2512
refunded to the member before retirement, and shall be refunded if 2513
the member withdraws the member's refundable amount. The deposits 2514
may be refunded to the beneficiary or estate if the member dies 2515
before retirement, and the board shall determine whether regular 2516
interest shall be credited to deposits thus refunded. 2517

Sec. 3309.474. (A) As used in this section, "state retirement 2518
system" means the public employees retirement system, Ohio police 2519
and fire pension fund, state teachers retirement system, school 2520
employees retirement system, or state highway patrol retirement 2521
system. 2522

(B) A state retirement system member who while a member of 2523
the school employees retirement system was out of service due to a 2524
leave of absence approved by the member's employer may purchase 2525

from the school employees retirement system service credit for any 2526
period during the leave for which contributions were not made 2527
under section 3309.47 of the Revised Code. 2528

For purposes of this section, a period of leave commences on 2529
the first day for which employee and employer contributions were 2530
not made to the system and ends on the earlier of the termination 2531
of the leave or the member's return to contributing service. 2532

(C)(1) For each year of service purchased, the member shall 2533
pay to the school employees retirement system for credit to the 2534
member's accumulated account with that system an amount equal to 2535
the sum of the following: 2536

(a) An amount determined by multiplying the compensation the 2537
member would have received during the leave by the employee 2538
contribution rate in effect at that time; 2539

(b) An amount determined by multiplying the compensation the 2540
member would have received during the leave by the employer 2541
contribution rate in effect at that time; 2542

(c) Compound interest at a rate determined by the school 2543
employees retirement board from the first day of the year 2544
following the date the leave commenced to the date of payment. 2545

(2) If the employee or employer contribution rate changed 2546
during the leave, contributions for each month of the leave shall 2547
be made at the rate in effect for that month. 2548

(D) Service credit purchased under this section for any 2549
period of leave shall not exceed two years. Credit may be 2550
purchased for more than one period of leave, but the total number 2551
of years purchased shall not exceed the lesser of five years or 2552
the member's total accumulated number of years of service as a 2553
contributor to the school employees retirement system. The member 2554
may choose to purchase only part of such credit in any one 2555
payment, subject to board rules. 2556

(E) The board may adopt rules under section 3309.04 of the Revised Code to implement this section. 2557
2558

Sec. 3309.50. (A)(1) Upon the death of a retirant or 2559
disability benefit recipient, who at the time of death is 2560
receiving a service retirement allowance or disability benefit 2561
from the school employees retirement system, a lump-sum payment of 2562
one thousand dollars shall be paid ~~to any designated or qualified~~ 2563
~~beneficiary under division (D) of section 3309.44 of the Revised~~ 2564
~~Code, or, if no such designation has been filed or if the~~ 2565
~~designated beneficiary is deceased or is not located within ninety~~ 2566
~~days, the school employees retirement board may approve payment to~~ 2567
~~either the person responsible for the burial expenses or to the~~ 2568
~~decedent's estate following the completion of an application on a~~ 2569
~~form approved by the board, following completion of an application~~ 2570
on a form approved by the school employees retirement board, in 2571
the following order of precedence to: 2572

(a) The retirant or recipient's designated beneficiary; 2573

(b) The retirant or recipient's surviving spouse; 2574

(c) The retirant or recipient's children, share and share 2575
alike; 2576

(d) The retirant or recipient's parents, share and share 2577
alike; 2578

(e) The person responsible for the retirant or recipient's 2579
burial expenses; 2580

(f) The retirant or recipient's estate. 2581

(2) If a person listed in division (A)(1) of this section is 2582
deceased or is not located within one hundred eighty days, the 2583
person ceases to qualify for the payment. The payment shall be 2584
made to the person next in order of precedence. 2585

(B) A benefit paid under this section shall be treated as 2586

life insurance for purposes of this chapter and shall be funded 2587
solely from contributions made under section 3309.49 of the 2588
Revised Code and any earnings attributable to those contributions. 2589

Sec. 3309.51. (A) Each employer shall pay ~~annually~~ into the 2590
employers' trust fund, in ~~such~~ monthly or less frequent 2591
installments as the school employees retirement board requires, an 2592
amount certified by the school employees retirement board, which 2593
shall be as required by Chapter 3309. of the Revised Code. 2594

Payments by school district boards of education to the 2595
employers' trust fund of the school employees retirement system 2596
may be made from the amounts allocated under Chapter 3317. of the 2597
Revised Code prior to their distribution to the individual school 2598
districts. The amount due from each school district may be 2599
certified by the secretary of the system to the superintendent of 2600
public instruction monthly, or at such times as is determined by 2601
the school employees retirement board. 2602

Payments by governing authorities of community schools to the 2603
employers' trust fund of the school employees retirement system 2604
shall be made from the amounts allocated under section 3314.08 of 2605
the Revised Code prior to their distribution to the individual 2606
community schools. The amount due from each community school shall 2607
be certified by the secretary of the system to the superintendent 2608
of public instruction monthly, or at such times as determined by 2609
the school employees retirement board. 2610

Payments by a science, technology, engineering, and 2611
mathematics school to the employers' trust fund of the school 2612
employees retirement system shall be made from the amounts 2613
allocated under section 3326.33 of the Revised Code prior to their 2614
distribution to the school. The amount due from a science, 2615
technology, engineering, and mathematics school shall be certified 2616
by the secretary of the school employees retirement system to the 2617

superintendent of public instruction monthly, or at such times as 2618
determined by the school employees retirement board. 2619

(B) The superintendent shall deduct from the amount allocated 2620
to each community school under section 3314.08 of the Revised 2621
Code, to each school district under Chapter 3317. of the Revised 2622
Code, or to each science, technology, engineering, and mathematics 2623
school under section 3326.33 of the Revised Code the entire 2624
amounts due to the school employees retirement system from such 2625
school or school district upon the certification to the 2626
superintendent by the secretary thereof. 2627

(C) Where an employer fails or has failed or refuses to make 2628
payments to the employers' trust fund, as provided for under 2629
Chapter 3309. of the Revised Code, or fails to pay any penalty 2630
imposed under section 3309.571 of the Revised Code the secretary 2631
of the school employees retirement system may certify to the state 2632
superintendent of public instruction, monthly or at such times as 2633
is determined by the school employees retirement board, the amount 2634
due from such employer, and the superintendent shall deduct from 2635
the amount allocated to the employer under section 3314.08 or 2636
3326.33 or Chapter 3317. of the Revised Code, as applicable, the 2637
entire amounts due to the system from the employer upon the 2638
certification to the superintendent by the secretary of the school 2639
employees retirement system. 2640

(D) The superintendent shall certify to the director of 2641
budget and management the amounts thus due the system for payment. 2642

Sec. 3309.571. The school employees retirement system shall 2643
impose the following penalties, which may be collected in the same 2644
manner as described in division (B) of section 3309.51 of the 2645
Revised Code: 2646

(A) For a failure to transmit contributions withheld from 2647
employees not later than the date specified under rules adopted by 2648

the school employees retirement board, one hundred dollars per day 2649
for each day the employer fails to transmit the contributions; 2650

(B) For a failure to transmit any amount due the employer's 2651
trust fund not later than the date specified under rules adopted 2652
by the board, one hundred dollars per day for each day the 2653
employer fails to transmit the amounts; 2654

(C) Except for a statement required by section 3309.28 of the 2655
Revised Code, for a failure to submit, complete, or correct any 2656
payroll information or other report required under this chapter 2657
not later than the date specified under rules adopted by the 2658
board, one hundred dollars per day for each day the employer fails 2659
to submit, complete, or correct the information or report, except 2660
that the penalty shall not exceed one thousand five hundred 2661
dollars; 2662

(D) For a failure to submit a record in the form of a 2663
statement required by section 3309.28 of the Revised Code, fifty 2664
dollars per record for each month the record is not filed, except 2665
that the penalty shall not exceed three hundred dollars. 2666

Sec. 3309.69. (A) ~~As used in this section, "ineligible~~ 2667
~~individual" means all of the following:~~ 2668

~~(1) A former member receiving benefits pursuant to section~~ 2669
~~3309.34, 3309.35, 3309.36, 3309.38, or 3309.381 of the Revised~~ 2670
~~Code for whom eligibility is established more than five years~~ 2671
~~after June 13, 1981, and who, at the time of establishing~~ 2672
~~eligibility, has accrued less than ten years of service credit,~~ 2673
~~exclusive of credit obtained after January 29, 1981, pursuant to~~ 2674
~~sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised~~ 2675
~~Code;~~ 2676

~~(2) The spouse of the former member;~~ 2677

~~(3) The beneficiary of the former member receiving benefits~~ 2678

~~pursuant to section 3309.46 of the Revised Code.~~ 2679

~~(B) The school employees retirement board may enter establish~~ 2680
~~a program to provide medical, hospital, surgical, prescription, or~~ 2681
~~other health care coverage, benefits, reimbursement, or any~~ 2682
~~combination thereof, to eligible individuals or dependents.~~ 2683

~~Any program established under this section shall be designed~~ 2684
~~and administered by the board. In establishing a program, the~~ 2685
~~board may do any of the following:~~ 2686

~~(1) Enter into an agreement with insurance companies, health~~ 2687
~~insuring corporations, persons or government agencies authorized~~ 2688
~~to do business in the state for issuance of a policy or contract~~ 2689
~~of health, medical, hospital, or prescription, surgical, or other~~ 2690
~~health care benefits, or any combination thereof, for those~~ 2691
~~individuals receiving service retirement or a disability or~~ 2692
~~survivor benefit subscribing to the plan and their eligible~~ 2693
~~dependents.~~ 2694

~~If all or any portion of the policy or contract premium is to~~ 2695
~~be paid by any individual receiving service retirement or a~~ 2696
~~disability or survivor benefit, the person shall, by written~~ 2697
~~authorization, instruct the board to deduct the premiums agreed to~~ 2698
~~be paid by the individual to the companies, corporations, or~~ 2699
~~agencies.~~ 2700

~~The board may contract for coverage on the basis of part or~~ 2701
~~all of the cost of the coverage to be paid from appropriate funds~~ 2702
~~of the school employees retirement system. The cost paid from the~~ 2703
~~funds of the system shall be included in the employer's~~ 2704
~~contribution rate provided by sections 3309.49 and 3309.491 of the~~ 2705
~~Revised Code. The board shall not pay or reimburse the cost for~~ 2706
~~health care under this section or section 3309.375 of the Revised~~ 2707
~~Code for any ineligible individual.~~ 2708

~~The board may provide;~~ 2709

(2) Provide for self-insurance of risk or level of risk as 2710
set forth in the contract with the companies, corporations, or 2711
agencies, and may provide through the self-insurance method 2712
specific benefits as authorized by the rules of the board; 2713

(3) Provide reimbursements or subsidies to eligible 2714
participants; 2715

(4) Make disbursements; 2716

(5) Determine levels of coverage and costs for the program; 2717

(6) Take any other action it considers necessary to establish 2718
and administer the program. 2719

(B) If it establishes a health care program, the board shall 2720
establish eligibility criteria and any other requirements for 2721
participation. To be eligible, an individual must meet the 2722
criteria established by the board and be one or more of the 2723
following: 2724

(1) A former member receiving benefits pursuant to section 2725
3309.34, 3309.35, 3309.36, 3309.38, or 3309.381 of the Revised 2726
Code; 2727

(2) A disability benefit recipient receiving a disability 2728
benefit pursuant to section 3309.35, 3309.39, 3309.40, or 3309.401 2729
of the Revised Code; 2730

(3) A beneficiary receiving monthly benefits pursuant to 2731
section 3309.45 of the Revised Code; 2732

(4) The beneficiary of a former member who is receiving 2733
monthly benefits pursuant to section 3309.46 of the Revised Code; 2734

(5) A dependent, as determined under rules adopted by the 2735
board, of an individual described in divisions (B)(1) to (4) of 2736
this section. 2737

(C) The cost paid from the funds of the system for coverage 2738
under this section shall be included in the employer contribution 2739

under sections 3309.49 and 3309.491 of the Revised Code. 2740

(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. 2741
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(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. 2745
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(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. 2752
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~~(D)~~(F) The board shall establish by rule requirements for the 2772
coordination of any coverage, payment, or benefit provided under 2773
this section or section 3309.375 of the Revised Code with any 2774
similar coverage, payment, or benefit made available to the same 2775
individual by the public employees retirement system, Ohio police 2776
and fire pension fund, state teachers retirement system, or state 2777
highway patrol retirement system. 2778

~~(E)~~(G) The board shall make all other necessary rules 2779
pursuant to the purpose and intent of this section. 2780

(H) This section does not require the board to establish, 2781
maintain, offer, or continue any health care program. This section 2782
does not require the board to provide or continue access to any 2783
health care program, or any level of coverage or costs provided 2784
under the program, if the board establishes or maintains a program 2785
under this section. 2786

Sec. 3309.88. For each member participating in a plan 2787
established under section 3309.81 of the Revised Code, the school 2788
employees retirement system shall transfer to the employers' trust 2789
fund a portion of the employer contribution required under section 2790
3309.49 of the Revised Code. The portion shall equal the 2791
percentage of compensation of members for whom the contributions 2792
are being made that is determined by an actuary appointed by the 2793
school employees retirement board to be necessary to mitigate any 2794
negative financial impact on the system of members' participation 2795
in a plan. 2796

The board shall have prepared annually an actuarial study to 2797
determine whether the percentage transferred under this section 2798
should be changed to reflect a change in the level of negative 2799
financial impact resulting from members' participation in a plan. 2800
The percentage transferred shall be increased or decreased to 2801
reflect the amount needed to mitigate the negative financial 2802

impact, if any, on the system, as determined by the study. A 2803
change shall take effect on the first day of the year following 2804
the date the conclusions of the study are reported to the board. 2805

The system shall make the transfer required under this 2806
section until the unfunded actuarial accrued liability for all 2807
benefits, except health care benefits provided under section 2808
3309.375 or 3309.69 of the Revised Code and benefit increases to 2809
members and former members participating in the plan described in 2810
sections 3309.18 to 3309.70 of the Revised Code granted after ~~the~~ 2811
~~effective date of this section~~ April 9, 2001, is fully amortized, 2812
as determined by the annual actuarial valuation prepared under 2813
section 3309.21 of the Revised Code. 2814

Section 2. That existing sections 3309.05, 3309.051, 2815
3309.061, 3309.07, 3309.072, 3309.074, 3309.075, 3309.10, 3309.15, 2816
3309.21, 3309.22, 3309.23, 3309.26, 3309.28, 3309.33, 3309.34, 2817
3309.341, 3309.343, 3309.35, 3309.353, 3309.354, 3309.36, 2818
3309.362, 3309.371, 3309.373, 3309.376, 3309.379, 3309.3710, 2819
3309.3711, 3309.39, 3309.401, 3309.41, 3309.44, 3309.45, 3309.46, 2820
3309.47, 3309.50, 3309.51, 3309.69, and 3309.88 and sections 2821
3309.38 and 3309.571 of the Revised Code are hereby repealed. 2822

Section 3. Section 3309.23 of the Revised Code is presented 2823
in this act as a composite of the section as amended by both Am. 2824
Sub. S.B. 351 and Am. S.B. 346 of the 119th General Assembly. The 2825
General Assembly, applying the principle stated in division (B) of 2826
section 1.52 of the Revised Code that amendments are to be 2827
harmonized if reasonably capable of simultaneous operation, finds 2828
that the composite is the resulting version of the section in 2829
effect prior to the effective date of the section as presented in 2830
this act. 2831