

As Passed by the Senate

**129th General Assembly
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Sub. S. B. No. 341

Senators Niehaus, Kearney

Cosponsors: Senators Bacon, Coley, Hite, Jones, Lehner, Seitz, Tavares

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

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

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

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

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

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

~~sixty days has elapsed, whichever occurs first.~~ 81

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 Code, ten per cent of the number of former members of the system who voted in that election;

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

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

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

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

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

filed with the clerk of the court and be made a matter of public record. 173
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The board member has the right to appeal to the court of appeals. 175
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(E) No individual who has been removed from the board pursuant to this section shall be eligible to fill an elective or appointed position as a member of the board. 177
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Sec. 3309.07. (A) All elections for employee or retirant members of the school employees retirement board shall be held under the direction of the board in accordance with rules adopted under section 3309.075 of the Revised Code. 180
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(B) Any member of the school employees retirement system, other than a disability benefit recipient, shall be eligible to be nominated for election as an employee member of the board who has been nominated by a petition that is signed by at least five hundred members and certified in accordance with rules adopted under section 3309.075 of the Revised Code. The petition shall contain the signatures of not less than twenty members each from at least ten counties wherein such members are employed. The petition shall specify the term of office and position. The name of any member so nominated shall be placed upon the ballot by the board as a regular candidate. Other names of eligible candidates may at any election be substituted for the regular candidates by writing such names upon the ballot. The candidate receiving the highest number of votes for any term as member of the board shall be elected for such term on certification of the election results in accordance with rules adopted under section 3309.075 of the Revised Code. In any year in which two employee member or two retirant member positions must be filled, the candidates who receive the highest and second highest number of votes shall be elected to the offices on certification of the election results in 184
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accordance with rules adopted under section 3309.075 of the Revised Code.

(C) Any former member of the school employees retirement system described in division ~~(D)~~(A)(3) of section 3309.05 of the Revised Code is eligible for election as a retirant member of the board to represent former members currently receiving an age and service retirement benefit, a disability benefit, or benefits under a plan established under section 3309.81 of the Revised Code, provided that such person has been nominated by a petition that is certified in accordance with rules adopted under section 3309.075 of the Revised Code and signed by at least one hundred fifty former members of the system who are currently receiving an age and service retirement benefit, a disability benefit, or benefits under a plan established under section 3309.81 of the Revised Code. The petition shall contain the signatures of at least ten such recipients from each of at least five counties wherein recipients of benefits from this system reside. The petition shall specify the term of office and position. The name of any person so nominated shall be placed upon the ballot by the board as a regular candidate. Other names of eligible candidates may at any election be substituted for the regular candidates by writing such names upon the ballot. The candidate receiving the highest number of votes for any term as member of the board shall be elected for such term on certification of the election results in accordance with rules adopted under section 3309.075 of the Revised Code.

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

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

(1) "Campaign committee" means a candidate or a combination

of two or more persons authorized by a candidate to receive 235
contributions and in-kind contributions and make expenditures on 236
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 election is held, the first Monday in March of a year that the election would have been held if not for section 3309.071 of the Revised Code.

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

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

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

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

(c) "Made in coordination, cooperation, or consultation with, or at the request or suggestion of, any candidate or the campaign committee or agent of the candidate" means made pursuant to any arrangement, coordination, or direction by the candidate, the candidate's campaign committee, or the candidate's agent prior to the publication, distribution, display, or broadcast of the

communication. An expenditure is presumed to be so made when it is 296
any of the following: 297

(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 456
Code, governing all of the following: 457

(1) The administration of elections of members of the board 458
under section 3309.07 of the Revised Code and elections held under 459
section 3309.06 of the Revised Code to fill vacancies on the 460
board; 461

(2) Nominating petitions for the elections; 462

(3) Certification of the validity of nominating petitions for 463
the elections; 464

(4) Certification of the results of the elections. 465

(B) The board may contract with the secretary of state or an 466
independent firm to administer the elections, certify the validity 467
of nominating petitions, and certify the results of the elections. 468
The secretary of state and the independent firm shall perform 469
these services in accordance with the rules adopted under division 470
(A) of this section. Notwithstanding section 3309.22 of the 471
Revised Code, the board shall provide information necessary for 472
the secretary of state or the independent firm to certify the 473
election. If the board contracts with an independent firm to 474
administer an election, the secretary of state may audit the 475
election. 476

Sec. 3309.10. (A) ~~The members~~ No member of the school 477
employees retirement board shall be subject to disciplinary action 478
by an employer for absence from the member's regular employment 479
for service to the board. 480

Members of the ~~school employees retirement~~ board shall serve 481
without compensation from the retirement system, but ~~they an~~ 482
employer shall be reimbursed from the expense fund for any 483

~~compensation paid to an employee member of the board or a retirant 484
member employed by a public employer in accordance with section 485
3309.341 of the Revised Code for any loss of compensation they may 486
suffer through serving on service to the board, provided, that the 487
regular employee contribution shall be withheld from any such 488
reimbursements to cover loss of compensation and credited to the 489
member's savings account, or the board member or former board 490
member may pay all such amounts direct to the retirement system. 491
The corresponding employer contribution shall be transferred 492
annually from the expense fund and applied in the same manner as 493
the employers' trust fund contribution payment by the district, 494
from which the member's regular contributions are reported. 495~~

(B) The members of the board shall be reimbursed from the 496
expense fund for all actual necessary expenses incurred while 497
serving on the board. 498

~~(B)~~(C) The board may secure insurance coverage designed to 499
indemnify board members and employees for their actions or conduct 500
in the performance of official duties, and may pay required 501
premiums for such coverage from the expense fund. 502

~~(C)~~(D) The board shall adopt rules in accordance with section 503
111.15 of the Revised Code establishing a policy for reimbursement 504
of travel expenses incurred by board members in the performance of 505
their official duties. As part of any audit performed under 506
Chapter 117. of the Revised Code, an inquiry shall be made into 507
whether board members have complied with these rules. 508

~~(D)~~(E) No board member shall accept payment or reimbursement 509
for travel expenses, other than for meals and other food and 510
beverages provided to the member, from any source other than the 511
expense fund. Except in the case of an emergency, no out-of-state 512
travel expenses shall be reimbursed unless approved in advance by 513
a majority of the board at a regular board meeting. 514

Sec. 3309.15. (A) The members of the school employees 515
retirement board shall be the trustees of the funds created by 516
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 612
used in the valuation; 613

(3) A description of the actuarial assumptions, actuarial 614
cost method, and asset valuation method used in the valuation, 615
including a statement of the assumed rate of payroll growth and 616
assumed rate of growth or decline in the number of members 617
contributing to the retirement system; 618

(4) A summary of findings that includes a statement of the 619
actuarial accrued pension liabilities and unfunded actuarial 620
accrued pension liabilities; 621

(5) A schedule showing the effect of any changes in the 622
benefit provisions, actuarial assumptions, or cost methods since 623
the last annual actuarial valuation; 624

(6) A statement of whether contributions to the retirement 625
system are expected to be sufficient to satisfy the funding 626
objectives established by the board. 627

The board shall submit the report to the Ohio retirement 628
study council and the standing committees of the house of 629
representatives and the senate with primary responsibility for 630
retirement legislation not later than the first day of May 631
following the year for which the valuation was made. 632

(B) At such times as the school employees retirement board 633
determines, and at least once in each quinquennial period, the 634
board shall have prepared by or under the supervision of an 635
actuary an actuarial investigation of the mortality, service, and 636
other experience of the members, retirants, and beneficiaries of 637
the retirement system, and SERS retirants and other system 638

retirants as defined in section 3309.341 of the Revised Code to 639
update the actuarial assumptions used in the actuarial valuation 640
required by division (A) of this section. The actuary shall 641
prepare a report of the actuarial investigation. The report shall 642
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 674
evaluated; 675

(2) A description of or reference to the actuarial 676
assumptions and actuarial cost method used in the report; 677

(3) A description of the participant group or groups included 678
in the report; 679

(4) A statement of the financial impact of the legislation, 680
including the resulting increase, if any, in the employer normal 681
cost percentage; the increase, if any, in actuarial accrued 682
liabilities; and the per cent of payroll that would be required to 683
amortize the increase in actuarial accrued liabilities as a level 684
per cent of covered payroll for all active members over a period 685
not to exceed thirty years; 686

(5) A statement of whether the scheduled contributions to the 687
system after the proposed change is enacted are expected to be 688
sufficient to satisfy the funding objectives established by the 689
board. 690

Not later than sixty days from the date of introduction of 691
the legislation, the board shall submit a copy of the actuarial 692
analysis to the legislative service commission, the standing 693
committees of the house of representatives and the senate with 694
primary responsibility for retirement legislation, and the Ohio 695
retirement study council. 696

(E) The board shall have prepared annually a report giving a 697
full accounting of the revenues and costs relating to the 698
provision of benefits under sections 3309.375 and 3309.69 of the 699
Revised Code. The report shall be made as of June 30, 1997, and 700

the thirtieth day of June of each year thereafter. The report 701
shall include the following: 702

(1) A description of the statutory authority for the benefits 703
provided; 704

(2) A summary of the benefits; 705

(3) A summary of the eligibility requirements for the 706
benefits; 707

(4) A statement of the number of participants eligible for 708
the benefits; 709

(5) A description of the accounting, asset valuation, and 710
funding method used to provide the benefits; 711

(6) A statement of the net assets available for the provision 712
of the benefits as of the last day of the fiscal year; 713

(7) A statement of any changes in the net assets available 714
for the provision of benefits, including participant and employer 715
contributions, net investment income, administrative expenses, and 716
benefits provided to participants, as of the last day of the 717
fiscal year; 718

(8) For the last six consecutive fiscal years, a schedule of 719
the net assets available for the benefits, the annual cost of 720
benefits, administrative expenses incurred, and annual employer 721
contributions allocated for the provision of benefits; 722

(9) A description of any significant changes that affect the 723
comparability of the report required under this division; 724

(10) A statement of the amount paid under division ~~(C)~~(E) of 725
section 3309.69 of the Revised Code. 726

The board shall submit the report to the Ohio retirement 727
study council and the standing committees of the house of 728
representatives and the senate with primary responsibility for 729
retirement legislation not later than the thirty-first day of 730

December following the year for which the report was made. 731

Sec. 3309.22. (A)(1) As used in this division, "personal 732
history record" means information maintained in any format by the 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 Code shall be provided to a court holding a hearing under that section. 760
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(C) Any person who is a contributor of the system shall be furnished, on written request, with a statement of the amount to the credit of the person's account. The board need not answer more than one such request of a person in any one year. 763
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(D) Notwithstanding the exceptions to public inspection in division (A)(2) of this section, the board may furnish the following information: 767
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(1) If a member, former member, contributor, former contributor, or retirant is subject to an order issued under section 2907.15 of the Revised Code or an order issued under division (A) or (B) of section 2929.192 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record. 770
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(2) Pursuant to a court or administrative order issued under section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section. 779
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(3) At the written request of any person, the board shall provide to the person a list of the names and addresses of members, former members, retirants, contributors, former contributors, or beneficiaries. The costs of compiling, copying, and mailing the list shall be paid by such person. 783
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(4) Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 788
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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 826
3309.01 of the Revised Code; 827

(2) The employees of an existing or newly created employer 828
unit as defined in division (A) of section 3309.01 of the Revised 829
Code, supported in whole or in part by the state or any political 830
subdivision thereof and wholly controlled and managed by the state 831
or any subdivision thereof. Such employees shall become 832
contributors on the same terms and conditions as provided by this 833
chapter, provided the board of trustees or other managing body of 834
such school, college, or other institution, if such institution is 835
now in existence or if in existence on such date, shall agree by 836
formal resolution to accept all the requirements and obligations 837
imposed by this chapter upon employers. A certified copy of the 838
resolution shall be filed with the school employees retirement 839
board. When such resolution has been adopted and a copy of it 840
filed with the school employees retirement board, it shall not 841
later be subject to rescission or abrogation. Service in such 842
schools, colleges, or other institutions shall be then considered 843
in every way the same as service in the public schools. 844

(3) All other individuals who become members. 845

(B) The following individuals may choose to be exempt from 846
compulsory membership by filing a written application for 847
exemption with the employer within the first month after being 848
employed: 849

(1) A student who is not a member at the time of ~~his~~ 850
employment and who is employed by the school, college, or 851

university in which ~~he~~ the student is enrolled and regularly attending classes;

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

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

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

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

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

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

Except as provided in this section, a member or former member of the school employees retirement system with at least one and one-half years of contributing service credit in this system, the

public employees retirement system, the state teachers retirement 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 (a) Except as provided in division (A)(2)(b) of this 985
section, a member whose membership began on or after the effective 986
date of this amendment who, as of August 1, 2017, has less than 987
twenty-five years of total service credit is eligible for service 988
retirement under this division if the member meets one of the 989
following requirements: 990

(a)(i) Has earned at least ten years of total service credit 991
and has attained sixty-two years of age; 992

(b)(ii) Has earned at least twenty-five years of total 993
service credit and has attained sixty years of age; 994

(c)(iii) Has earned at least thirty years of total service 995
credit and has attained ~~fifty five~~ fifty-seven years of age. 996

(b) The board, by rule adopted under division (D) of this 997
section, may adjust the retirement eligibility requirements of 998
division (A)(2)(a) of this section if the board's actuary, in its 999
evaluation under division (C) of this section, determines that an 1000
adjustment is necessary to ensure that the retirement system meets 1001
the thirty-year amortization period requirement of section 1002
3309.211 of the Revised Code. 1003

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

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

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

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

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

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

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

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

(B)(1) Subject to this section and section 3309.345 of the Revised Code, an SERS retirant or other system retirant may be

employed by a public employer. If so employed, the SERS retirant 1034
or other system retirant shall contribute to the school employees 1035
retirement system in accordance with section 3309.47 of the 1036
Revised Code, and the employer shall make contributions in 1037
accordance with section 3309.49 of the Revised Code. 1038

(2) An employer that employs an SERS retirant or other system 1039
retirant shall notify the retirement board of the employment not 1040
later than the end of the month in which the employment commences. 1041
On receipt of notice from an employer that a person who is an 1042
other system retirant has been employed, the school employees 1043
retirement system shall notify the state retirement system of 1044
which the other system retirant was a member of such employment. 1045

(C) An SERS retirant or other system retirant who has 1046
received a retirement allowance or disability benefit for less 1047
than two months when employment subject to this section commences 1048
shall forfeit the retirement allowance or disability benefit for 1049
any month the SERS retirant or other system retirant is employed 1050
prior to the expiration of the two-month period. Service and 1051
contributions for that period shall not be included in the 1052
calculation of any benefits payable to the SERS retirant or other 1053
system retirant, and those contributions shall be refunded on 1054
death or termination of the employment. Contributions made on 1055
compensation earned after the expiration of such period shall be 1056
used in the calculation of the benefit or payment due under 1057
section 3309.344 of the Revised Code. 1058

(D) On receipt of notice from the Ohio police and fire 1059
pension fund, public employees retirement system, or state 1060
teachers retirement system of the re-employment of an SERS 1061
retirant, the school employees retirement system shall not pay, or 1062
if paid shall recover, the amount to be forfeited by the SERS 1063
retirant in accordance with section 145.38, 742.26, or 3307.35 of 1064
the Revised Code. 1065

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

(F) If the disability benefit of an other system retirant employed under this section is terminated, the retirant shall become a member of the school employees retirement system, effective on the first day of the month next following the termination, with all the rights, privileges, and obligations of membership. If the retirant, after the termination of the disability benefit, earns two years of service credit under this retirement system or under the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, or state highway patrol retirement system, the retirant's prior contributions as an other system retirant under this section shall be included in the retirant's total service credit as a school employees retirement system member, and the retirant shall forfeit all rights and benefits of this section. Not more than one year of credit may be given for any period of twelve months.

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

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

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

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

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

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

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

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

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

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

(3) A member of the school employees retirement system who holds two or more SERS positions and at least one other position

covered by one of the other state retirement systems may retire 1128
under section 3309.35, 3309.36, ~~3309.38~~, or 3309.46 of the Revised 1129
Code from one of the SERS positions and continue contributing to 1130
the school employees retirement system and the other state 1131
retirement system if the annual compensation for the SERS position 1132
from which the member is retiring is, at the time of retirement, 1133
greater than the annual compensation or earnable salary for any of 1134
the positions for which the member is continuing to make 1135
contributions. 1136

(4) A member of the school employees retirement system who 1137
has retired as provided in division (B)(2) or (3) of section 1138
145.383 or division (B)(2) or (3) of section 3307.351 of the 1139
Revised Code may continue to contribute to the school employees 1140
retirement system for an SERS position if the member held the 1141
position at the time of retirement from the other state retirement 1142
system. 1143

(5) A member who contributes to the school employees 1144
retirement system in accordance with division (B)(1), (3), or (4) 1145
of this section shall contribute in accordance with section 1146
3309.47 of the Revised Code. The member's employer shall 1147
contribute as provided in section 3309.49 of the Revised Code. 1148
Neither the member nor the member's survivors are eligible for any 1149
benefits based on those contributions other than those provided 1150
under section 145.384, 3307.352, or 3309.344 of the Revised Code. 1151

(C)(1) In determining retirement eligibility and the annual 1152
retirement allowance of a member who retires as provided in 1153
division (B)(1), (2), or (3) of this section, the following shall 1154
be used to the date of retirement: 1155

(a) The member's earnable salary and compensation for all 1156
positions covered by a state retirement system; 1157

(b) Total service credit in any state retirement system, 1158

except that the credit shall not exceed one year of credit for any 1159
period of twelve months; 1160

(c) The member's accumulated contributions. 1161

(2) A member who retires as provided in division (B)(1), (2), 1162
or (3) of this section is a retirant for all purposes of this 1163
chapter, except that the member is not subject to section 3309.341 1164
of the Revised Code for a position or positions for which 1165
contributions continue under those divisions or division (B)(4) of 1166
this section. 1167

(D) A retired member receiving a benefit under section 1168
3309.344 of the Revised Code based on employment subject to this 1169
section is not a member of the school employees retirement system 1170
and does not have any rights, privileges, or obligations of 1171
membership. The retired member is an SERS retirant for purposes of 1172
section 3309.341 of the Revised Code. 1173

(E) The school employees retirement board may adopt rules to 1174
carry out this section. 1175

Sec. 3309.35. (A) As used in this section: 1176

(1) "State retirement system" means the public employees 1177
retirement system, state teachers retirement system, or school 1178
employees retirement system. 1179

(2) "Total service credit" means all service credit earned in 1180
all state retirement systems, except credit for service subject to 1181
section 3309.341 of the Revised Code. Total service credit shall 1182
not exceed one year of credit for any twelve-month period. 1183

(3) In addition to the meaning given in division (O) of 1184
section 3309.01 of the Revised Code, "disability benefit" means 1185
"disability benefit" as defined in sections 145.01 and 3307.01 of 1186
the Revised Code. 1187

(B) To coordinate and integrate membership in the state 1188

retirement systems, at the option of a member, total contributions 1189
and service credit in all state retirement systems, including 1190
amounts paid to restore service credit under sections 145.311, 1191
3307.711, and 3309.261 of the Revised Code, shall be used in 1192
determining the eligibility and total retirement or disability 1193
benefit payable. When total contributions and service credit are 1194
so combined, the following provisions apply: 1195

(1) Service and commuted service retirement or a disability 1196
benefit is effective no sooner than the first day of the month 1197
next following the last day of employment for which compensation 1198
was paid. If the application is filed after that date, the board 1199
may retire the member on the first day of the month next following 1200
the last day of employment for which compensation was paid. 1201

(2) ~~In determining eligibility~~ Eligibility for a disability 1202
benefit, ~~the medical examiner's report to~~ shall be determined by 1203
the ~~retirement board of any the~~ state retirement system, ~~showing~~ 1204
that will calculate and pay the ~~member's disability incapacitates~~ 1205
~~the member for the performance of duty, may~~ benefit, as provided 1206
in division (B)(3) of this section. The state retirement system 1207
calculating and paying the disability benefit shall certify the 1208
determination to the board of each other state retirement system 1209
in which the member has service credit and shall be accepted by 1210
the ~~state retirement boards~~ that board as sufficient for granting 1211
a disability benefit. 1212

(3) The board of the state retirement system in which the 1213
member had the greatest service credit, without adjustment, shall 1214
~~determine~~ calculate and pay the total retirement or disability 1215
benefit. Where the member's credit is equal in two or more state 1216
retirement systems, the system having the largest total 1217
contributions of the member shall ~~determine~~ calculate and pay the 1218
total benefit. 1219

(4) In determining the total credit to be used in calculating 1220

a retirement allowance or disability benefit, credit shall not be 1221
reduced below that certified by the system or systems transferring 1222
credit, except that such total combined service credit shall not 1223
exceed one year of credit for any one "year" as defined in the law 1224
of the system making the calculation. 1225

(5) The state retirement system ~~determining~~ calculating and 1226
paying a retirement or disability benefit shall receive from the 1227
other system or systems the member's refundable account at 1228
retirement or the effective date of a disability benefit plus an 1229
amount from the employers' trust fund equal to the member's 1230
refundable account less the interest credited under section 1231
145.471, 145.472, or 3307.563 of the Revised Code. If applicable, 1232
the retirement system ~~determining~~ calculating and paying the 1233
benefit shall receive from the public employees retirement system 1234
a portion of the amount paid on behalf of the member by an 1235
employer under section 145.483 of the Revised Code. The portion 1236
shall equal the product obtained by multiplying by two the amount 1237
the member would have contributed during the period the employer 1238
failed to deduct contributions, as described in section 145.483 of 1239
the Revised Code. 1240

(a) The annuity rates and mortality tables of the state 1241
retirement system making the calculation and paying the benefit 1242
shall be exclusively applicable. 1243

(b) Deposits made for the purchase of an additional annuity, 1244
and including guaranteed interest, upon the request of the member, 1245
shall be transferred to the state retirement system paying the 1246
retirement or disability benefit. The return upon such deposits 1247
shall be that offered by the state retirement system making the 1248
calculation and paying the retirement or disability benefit. 1249

(C) A former member receiving a retirement or disability 1250
benefit under this section, who accepts employment amenable to 1251
coverage in any state retirement system that participated in the 1252

member's combined benefit, shall be subject to the applicable 1253
provisions of law governing such re-employment. If a former member 1254
should be paid any amount in a retirement allowance, to which the 1255
former member is not entitled under the applicable provisions of 1256
law governing such re-employment, such amount shall be recovered 1257
by the state retirement system paying such allowance by utilizing 1258
any recovery procedure available under the code provisions of the 1259
state retirement system covering such re-employment. 1260

(D) An SERS retirant or other system retirant, as defined in 1261
section 3309.341 of the Revised Code, is not eligible to receive 1262
any benefit under this section for service subject to section 1263
3309.341 of the Revised Code. 1264

Sec. 3309.353. As used in this section, "benefit" means any 1265
allowance, pension, or other benefit to which an individual is 1266
entitled and that ~~he~~ the individual receives pursuant to section 1267
3309.36, ~~3309.38~~, 3309.40, 3309.45, or 3309.46 or former section 1268
3309.38 of the Revised Code. 1269

The annual amount of each benefit for which eligibility was 1270
established prior to February 1, 1983, shall, after the adjustment 1271
required by section 3309.374 of the Revised Code, be increased by 1272
five per cent. 1273

Sec. 3309.354. As used in this section, "benefit" means any 1274
allowance, pension, or other benefit to which an individual is 1275
entitled and that he receives pursuant to section 3309.35, 1276
3309.36, ~~3309.38~~, 3309.40, 3309.45, or 3309.46 or former section 1277
3309.38 of the Revised Code. 1278

Effective the first day of the month following ~~the effective~~ 1279
~~date of this section~~ September 9, 1988, the annual amount of 1280
benefits shall be increased as follows: 1281

(A) The annual amount of each benefit for which eligibility 1282

was established prior to February 1, 1983, shall, after all 1283
adjustments required by this chapter, be increased by two per 1284
cent; 1285

(B) The annual amount of each benefit for which eligibility 1286
was established on or after February 1, 1983, but prior to the 1287
~~effective date of this section~~ September 9, 1988, shall, after all 1288
adjustments required by this chapter, be increased by five per 1289
cent. 1290

Sec. 3309.36. (A)~~(1)~~ A member of the school employees 1291
retirement system ~~whose membership began before the effective date~~ 1292
~~of this amendment~~ who retires on service retirement shall be 1293
granted a retirement allowance consisting of the lesser of the sum 1294
of the following amounts or the limit established by section 415 1295
of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1296
415, as amended: 1297

~~(a)(1)~~ An annuity having a reserve equal to the amount of the 1298
employee's accumulated contributions at that time; 1299

~~(b)(2)~~ A pension of equivalent amount; 1300

~~(c)~~ An additional pension of forty dollars multiplied by the 1301
~~number of years of such prior service credit;~~ 1302

~~(d)(3)~~ For members who have ten or more years of service 1303
credit accumulated prior to October 1, 1956, a basic annual 1304
pension equal to one hundred eighty dollars, except that such 1305
basic annual pension shall not exceed the sum of the total annual 1306
benefits provided by divisions (A)(1), and (2), ~~and (3)~~ of this 1307
section. 1308

~~(2)~~ A member whose membership began on or after the effective 1309
~~date of this amendment who retires on service retirement shall be~~ 1310
~~granted a retirement allowance consisting of the lesser of the sum~~ 1311
~~of the following amounts or the limit established by section 415~~ 1312

of the ~~"Internal Revenue Code of 1986"~~: 1313

~~(a) An annuity having a reserve equal to the amount of the~~ 1314
~~employee's accumulated contributions at that time;~~ 1315

~~(b) A pension of equivalent amount.~~ 1316

(B)(1)(a) When a member retires on service retirement under 1317
division (A)(1) of section 3309.34 of the Revised Code, the 1318
member's allowance when computed as an annual single lifetime 1319
allowance as provided in ~~divisions~~ division (A)(1) and (2) of this 1320
~~section and section 3309.38 of the Revised Code, based upon~~ 1321
attained age sixty-five or thirty years of total service credit, 1322
shall be not less than the greater of the amounts determined by 1323
multiplying the member's total service credit by the following: 1324

~~(a)(i) Eighty-six dollars;~~ 1325

~~(b)(ii) Two and two-tenths per cent of the member's final~~ 1326
average salary for each of the first thirty years of service 1327
credit or fraction thereof plus two and one-half per cent of the 1328
member's final average salary for each subsequent year of service 1329
credit or fraction thereof. 1330

(b) When a member retires on service retirement under 1331
division (A)(2) of section 3309.34 of the Revised Code, the 1332
member's allowance when computed as an annual single lifetime 1333
allowance as provided in division (A) of this section, based on 1334
attained age sixty-seven or thirty years of total service credit, 1335
shall be not less than the greater of the amounts determined by 1336
multiplying the member's total service credit by the following: 1337

(i) Eighty-six dollars; 1338

(ii) Two and two-tenths per cent of the member's final 1339
average salary for each of the first thirty years of service 1340
credit or fraction thereof plus two and one-half per cent of the 1341
member's final average salary for each subsequent year of service 1342

credit or fraction thereof. 1343

(2) For a member ~~whose membership began before the effective~~ 1344
~~date of this amendment~~ who retires under division (A)(1) of 1345
section 3309.34 of the Revised Code, the annual single lifetime 1346
allowance determined under division (B)(1)(a) of this section 1347
shall be adjusted by the greater percentage shown in the following 1348
schedule opposite the member's attained age or years of Ohio 1349
service credit: 1350

	Years of	Per Cent	
Attained	or Ohio Service	of	
Age	Credit	Base Amount	
58	25	75%	1354
59	26	80	1355
60	27	85	1356
61		88	1357
	28	90	1358
62		91	1359
63		94	1360
	29	95	1361
64		97	1362
65	30 or more	100	1363

For a member ~~whose membership began before the effective date of~~ 1364
~~this amendment~~ who retires under division (A)(1) of section 1365
3309.34 of the Revised Code, the right to a benefit shall vest in 1366
accordance with the following schedule, based on the member's 1367
attained age by September 1, 1976: 1368

	Per Cent	
Attained	of	
Age	Base Amount	
66	102	1372
67	104	1373
68	106	1374

69	108	1375
70 or more	110	1376

(3) For a member ~~whose membership began on or after the~~ 1377
~~effective date of this amendment~~ who retires under division (A)(2) 1378
of section 3309.34 of the Revised Code, the annual single lifetime 1379
allowance determined under division (B)(1)(b) of this section 1380
shall be adjusted to be the actuarial equivalent of the member's 1381
retirement allowance, as determined by the retirement board's 1382
actuary, had the member retired at age ~~sixty-five~~ sixty-seven or 1383
with thirty years of service credit, except that the retirement 1384
allowance shall not be less than the following: 1385

Years of Service	Per Cent	
Credit	of	
	Base Amount	
25	75%	1389
26	80	1390
27	85	1391
28	90	1392
29	95	1393

(4) The annual single lifetime allowance which a retirant 1394
shall receive under this division shall not exceed the lesser of 1395
one hundred per cent of the member's final average salary or the 1396
limit established by section 415 of the "Internal Revenue Code of 1397
1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended. 1398

(C) Retirement allowances determined under this section shall 1399
be paid as provided in section 3309.46 of the Revised Code. 1400

(D) At least once every ~~ten~~ five years, the school employees 1401
retirement board shall direct its actuary to evaluate the 1402
actuarial equivalents in division (B)(3) of this section to 1403
determine their appropriateness. The board may adjust the 1404
actuarial equivalents in accordance with the actuary's 1405
recommendations. 1406

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	1438
1940	94	1439
1941	89	1440
1942	77	1441
1943	70	1442
1944	68	1443
1945	66	1444
1946	55	1445
1947	35	1446
1948	23	1447
1949	25	1448
1950	23	1449
1951	8	1450
1952	4	1451
1953	3	1452
1954	2	1453
Prior to June 29, 1955	2	1454

(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, 1469
and 3309.46 and former section 3309.38 of the Revised Code shall 1470
be increased by the percentages as determined by the effective 1471
date of the allowance, pension, or benefit as follows: 1472

Effective Date of Benefit	Percentage of	
Calendar Year	Increase	
1937 through 1955	24.3	1473
1956	22.5	1474
1957	18.4	1475
1958	15.2	1476
1959	14.3	1477
1960	12.5	1478
1961	11.3	1479
1962	10.1	1480
1963	8.7	1481
1964	7.3	1482
1965	5.6	1483
1966	2.6	1484
1967	2.0	1485
January 1, 1968 through	2.0	1486
June 30, 1968		1487

(B)(1) All increases as determined by applying the 1490
percentages in the table in division (A) of this section shall be 1491
reduced by the dollar amount of the increases granted in 1965 1492
pursuant to section 3309.372 of the Revised Code, except that no 1493
allowance, pension, or benefit shall be reduced below the amount 1494
due June 30, 1968 and no allowance granted under this section 1495
shall be less than a total annual sum of thirty-six dollars. 1496

(2) The allowances increased by division (A) of this section 1497
shall exclude any monthly amount payable by reason of any 1498
voluntary deposits made under section 3309.47 of the Revised Code. 1499

(3) The increases provided by this section shall be granted 1500
notwithstanding the final average salary limitation in sections 1501
3309.36, 3309.40, and 3309.45 of the Revised Code. 1502

(4) The cost of the increases provided by this section shall 1503
be included in the employer contribution rate provided by section 1504
3309.49 of the Revised Code. Such employer's contribution rate 1505
shall not be increased until July 1, 1969 or later to reflect the 1506
increased costs created by this section. 1507

Sec. 3309.376. On and after December 31, 1971, all persons 1508
who retired and were eligible to receive a pension that was 1509
payable prior to July 1, 1968, pursuant to section 3309.36~~7~~ 1510
~~3309.38~~, or 3309.40 or former section 3309.38 of the Revised Code, 1511
or in the event of the death of such persons, the person 1512
designated by the deceased to receive payments under section 1513
3309.46 of the Revised Code, shall receive an additional monthly 1514
payment of two dollars for each year between the member's 1515
effective date of retirement or disability and December 31, 1971, 1516
or an additional fifty dollars, whichever is less. 1517

Sec. 3309.379. (A) On and after the first day of the month 1518
following the effective date of this section, each person eligible 1519
to receive an allowance, pension, or benefit, pursuant to sections 1520
3309.35, 3309.36, ~~3309.38~~, 3309.40, division (A) of section 1521
3309.45, and section 3309.46 and former section 3309.38 of the 1522
Revised Code, that was based upon an award made effective before 1523
June 30, 1955, shall have the allowance, pension, or benefit 1524
payable as of September 30, 1974, recalculated by the school 1525
employees retirement board so that each such person shall receive 1526
an annual single lifetime allowance, pension, or benefit or its 1527
actuarial equivalent of not less than one hundred forty dollars 1528
for each year of the member's total service credit, except that 1529
service credit exceeding thirty-two years shall not be used in the 1530

recalculation, and a final average salary limitation shall not be applied. 1531
1532

If the amount of the allowance, pension, or benefit recalculated under this division is less than the amount that is payable on the effective date of this section, then the greater allowance, pension, or benefit shall be continued. 1533
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1535
1536

(B) On and after the first day of the month following the effective date of this section, each person receiving an allowance, pension, or benefit, pursuant to sections 3309.35, 3309.36, ~~3309.38~~, 3309.40, division (A) of section 3309.45, and section 3309.46 and former section 3309.38 of the Revised Code, that was first effective on and after June 30, 1955, through June 30, 1971, shall be paid an increased allowance, pension, or benefit as follows: 1537
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Effective Date of the Member's Allowance, Pension, or Benefit:	Per Cent of Increase:	
June 30, 1955 through June 29, 1959	33	1545 1547
June 30, 1959, through October 31, 1965	21	1548
November 1, 1965, through June 30, 1968	14	1549
July 1, 1968, through June 30, 1971	5	1550

The increase shall be applied to the allowance, pension, or benefit payable on the effective date of this section. 1551
1552

(C) On and after the first day of the month following the effective date of this section, each person receiving or qualified to receive an allowance, pension, or benefit, pursuant to division (B) of section 3309.45 of the Revised Code, that was effective on and after June 14, 1951, through August 26, 1970, shall receive an increase in such allowance, pension, or benefit in the amount of twenty per cent. 1553
1554
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Sec. 3309.3710. (A) Effective July 1, 1981, each person eligible to receive an allowance, pension, or benefit pursuant to 1560
1561

sections 3309.35, 3309.36, ~~3309.38~~, 3309.40, division (A) of 1562
section 3309.45, and section 3309.46 and former section 3309.38 of 1563
the Revised Code that was based upon an award made effective 1564
before July 1, 1974, shall have the person's monthly allowance, 1565
pension, or benefit increased by five per cent, except that the 1566
twelve-month sum of such increases shall not exceed five per cent 1567
of the first five thousand dollars of the annual allowance, 1568
pension, or benefit. 1569

(B) Effective July 1, 1981, each person receiving or 1570
qualified to receive a benefit, pursuant to division (B) of 1571
section 3309.45 of the Revised Code, that was effective on and 1572
after June 14, 1951, through August 26, 1970, shall receive an 1573
increase in such benefit of five per cent. 1574

(C) The increases provided in divisions (A) and (B) of this 1575
section shall be applied to the benefit payable on and after July 1576
1, 1981. 1577

(D) The increase in the monthly allowance, pension, or 1578
benefit provided in divisions (A) and (B) of this section shall be 1579
included in the calculation of additional benefits to recipients 1580
under section 3309.374 of the Revised Code. 1581

(E) The benefits provided in divisions (A) and (B) of this 1582
section are a continuation of those first provided in Am. Sub. 1583
H.B. 204 as passed by the 113th general assembly. 1584

Sec. 3309.3711. Whenever the limits established by section 1585
415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 1586
U.S.C.A. 415, as amended, are raised, the school employees 1587
retirement board shall increase the amount of the pension, 1588
benefit, or allowance of any person whose pension, benefit, or 1589
allowance payable under section 3309.36, 3309.374, ~~3309.38~~, 1590
3309.381, 3309.40, or 3309.401 or former section 3309.38 of the 1591
Revised Code was limited by the application of section 415. The 1592

amount of the increased pension, benefit, or allowance shall not 1593
exceed the lesser of the amount the person would have received if 1594
the limits established by section 415 had not been applied or the 1595
amount the person is eligible to receive subject to the new limits 1596
established by section 415. 1597

Sec. 3309.39. (A) The school employees retirement system 1598
shall provide disability coverage to each member who has at least 1599
five years of total service credit. 1600

Not later than October 16, 1992, the school employees 1601
retirement board shall give each person who is a member on July 1602
29, 1992, the opportunity to elect disability coverage either 1603
under section 3309.40 of the Revised Code or under section 1604
3309.401 of the Revised Code. The board shall mail notice of the 1605
election, accompanied by an explanation of the coverage under each 1606
of the Revised Code sections and a form on which the election is 1607
to be made, to each member at the member's last known address. The 1608
board shall also provide the explanation and form to any member at 1609
the member's request. 1610

Regardless of whether the member actually receives notice of 1611
the right to make an election, a member who fails to file a valid 1612
election under this section shall be considered to have elected 1613
disability coverage under section 3309.40 of the Revised Code. To 1614
be valid, an election must be made on the form provided by the 1615
~~retirement~~ board, signed by the member, and filed with the board 1616
not later than one hundred eighty days after the date the notice 1617
was mailed, or, in the case of a form provided at the request of a 1618
member, a date specified by rule of the ~~retirement~~ board. Once 1619
made, an election is irrevocable, but if the member ceases to be a 1620
member of the ~~retirement~~ system, the election is void. If a person 1621
who makes an election under this section also makes an election 1622
under section 145.35 or 3307.62 of the Revised Code, the election 1623

made for the system that pays a disability benefit to that person 1624
shall govern the benefit. 1625

Disability coverage shall be provided under section 3309.401 1626
of the Revised Code for persons who become members after July 29, 1627
1992, and for members who elect under this division to be covered 1628
under section 3309.401 of the Revised Code. 1629

The ~~retirement~~ board may adopt rules governing elections made 1630
under this division. 1631

(B)(1) Application for a disability benefit may be made by a 1632
member, by a person acting in the member's behalf, or by the 1633
member's employer, provided if the member has meets all of the 1634
following conditions: 1635

(a) Has at least five years of total service credit and has; 1636

(b) Has disability coverage under section 3309.40 or 3309.401 1637
of the Revised Code. The; 1638

(c) Is not receiving a disability benefit under this chapter 1639
or Chapter 145., 742., 3305., 3307., or 5505. of the Revised Code, 1640
or the Cincinnati retirement system; 1641

(d) Is not applying for the disability benefit based on a 1642
disabling condition that the system determines was caused by 1643
commission of either of the following: 1644

(i) A felony the member was convicted of, pled guilty to, or 1645
was found not guilty of by reason of insanity; 1646

(ii) An act for which the member was adjudicated a delinquent 1647
child, that if committed by an adult, would be a felony. 1648

(2) The application for a disability benefit shall be made on 1649
a form provided by the ~~retirement~~ board. The benefit payable to 1650
any member who is approved for a disability benefit shall become 1651
effective on the first day of the month next following the later 1652
of the following: 1653

~~(1)~~(a) The last day for which compensation was paid; 1654

~~(2)~~(b) The date on which the ~~member~~ member's most recent 1655
application for a disability benefit was ~~first incapacitated by~~ 1656
~~the disabling condition~~ filed. 1657

(C) Medical examination of a member who has applied for a 1658
disability benefit shall be conducted by a competent disinterested 1659
physician or physicians selected by the ~~retirement~~ board to 1660
determine whether the member is mentally or physically 1661
incapacitated for the performance of the member's last assigned 1662
primary duty as an employee by a disabling condition either 1663
permanent or presumed to be permanent for twelve continuous months 1664
following the filing of an application. Such disability must have 1665
occurred ~~since last becoming a member~~ before termination of the 1666
member's contributing service and since last becoming a member or 1667
have increased since last becoming a member to such extent as to 1668
make the disability permanent or presumed to be permanent for 1669
twelve continuous months following the filing of an application. 1670

(D) Application for a disability benefit must be made within 1671
two years from the date the member's contributing service 1672
terminated, unless the ~~retirement~~ board determines that the 1673
member's medical records demonstrate conclusively that at the time 1674
the two-year period expired, the member was physically or mentally 1675
incapacitated for duty as an employee and unable to make 1676
application. Application may not be made by any person receiving a 1677
service retirement allowance or commuted service retirement 1678
allowance under section 3309.36, ~~3309.38~~, or 3309.381 or former 1679
section 3309.38 of the Revised Code or any person who, pursuant to 1680
section 3309.42 of the Revised Code, has been paid the accumulated 1681
contributions standing to the credit of the person's individual 1682
account in the employees' savings fund. 1683

(E) If the physician or physicians determine that the member 1684
qualifies for a disability benefit, the ~~retirement~~ board concurs 1685

with the determination, and the member agrees to any recommended 1686
medical treatment and vocational rehabilitation as specified in 1687
~~division~~ divisions (F) and (G) of this section, the member shall 1688
receive a disability benefit under section 3309.40 or 3309.401 of 1689
the Revised Code. The action of the board shall be final. ~~At the~~ 1690
~~time the board decides it concurs with the determination of the~~ 1691
~~physician or physicians, the board shall determine the date on~~ 1692
~~which the member was first incapacitated by the disabling~~ 1693
~~condition.~~ 1694

(F) The ~~school employees retirement~~ board shall adopt rules 1695
requiring a disability benefit recipient, as a condition of 1696
continuing to receive a disability benefit, to agree in writing to 1697
obtain any medical treatment recommended by the board's physician 1698
and submit medical reports regarding the treatment. If the board 1699
determines that a disability benefit recipient is not obtaining 1700
the medical treatment or the board does not receive a required 1701
medical report, the disability benefit shall be suspended until 1702
the treatment is obtained, the report is received by the board, or 1703
the board's physician certifies that the treatment is no longer 1704
helpful or advisable. Should the recipient's failure to obtain 1705
treatment or submit a medical report continue for one year, the 1706
recipient's right to the disability benefit shall be terminated as 1707
of the effective date of the original suspension. 1708

(G)(1) A disability benefit recipient shall obtain any 1709
vocational rehabilitation recommended by the board's physician or 1710
other consultant and submit reports regarding the rehabilitation. 1711
If the board determines that a recipient is not obtaining the 1712
rehabilitation or the board does not receive a required report, 1713
the disability benefit shall be suspended until the rehabilitation 1714
is obtained, the report is received by the board, or the board's 1715
physician or consultant certifies that rehabilitation is no longer 1716
helpful or advisable. If the recipient's failure to obtain 1717

rehabilitation or submit a required report continues for one year, 1718
the recipient's right to the disability benefit shall be 1719
terminated as of the effective date of the original suspension. 1720

(2) The board shall adopt rules to implement this division. 1721

(H) In the event an employer files an application for a 1722
disability benefit as a result of a member having been separated 1723
from service because the member is considered to be mentally or 1724
physically incapacitated for the performance of the member's last 1725
assigned primary duty as an employee, and the physician or 1726
physicians selected by the board report to the board that the 1727
member is physically and mentally capable of performing service 1728
similar to that from which the member was separated, and the board 1729
concurs in such report, then the board shall so certify to the 1730
employer and the employer shall restore the member to the member's 1731
previous position and salary or to a similar position and salary. 1732

Sec. 3309.392. A recipient of a disability benefit granted 1733
under this chapter on or after the effective date of this section 1734
shall apply for social security disability insurance benefit 1735
payments under 42 U.S.C. 423 if the recipient meets the 1736
requirements of divisions (a)(1)(A), (B), and (C) of that section. 1737
The application shall be made not later than ninety days after the 1738
recipient is granted a disability benefit under this chapter 1739
unless the school employees retirement board determines from the 1740
member's medical records that the member is physically or mentally 1741
unable to make the application. The recipient shall file a copy of 1742
the completed application and a copy of the social security 1743
administration's acknowledgement of receipt of the application 1744
with the school employees retirement system. The system shall 1745
accept the copy and acknowledgement as evidence of the member's 1746
application. 1747

If a recipient fails without just cause to apply for social 1748

security disability insurance benefit payments or to file a copy 1749
of the application and acknowledgement of receipt with the system, 1750
the disability benefit under this chapter shall be suspended until 1751
application is made and a copy of the application and 1752
acknowledgement is filed with the system. 1753

The member shall file with the system a copy of the social 1754
security administration's final action on the member's application 1755
for social security disability insurance benefit payments. 1756

Sec. 3309.401. (A) A member with disability coverage under 1757
this section who is determined by the school employees retirement 1758
board under section 3309.39 of the Revised Code to qualify for a 1759
disability benefit shall receive a disability allowance under this 1760
section. The allowance shall be an annual amount equal to the 1761
greater of the following: 1762

(1) Forty-five per cent of the member's final average salary; 1763

(2) The member's total service credit multiplied by two and 1764
two-tenths per cent of the member's final average salary, not 1765
exceeding sixty per cent of the member's final average salary. 1766

(B) Sufficient reserves for payment of the disability 1767
allowance shall be transferred to the annuity and pension reserve 1768
fund from the employers' accumulation fund. The accumulated 1769
contributions of the member shall remain in the employees' savings 1770
fund. No part of the allowance paid under this section shall be 1771
charged against the member's accumulated contributions. 1772

(C) A disability allowance paid under this section shall 1773
terminate at the earliest of the following: 1774

(1) The effective date of service retirement under section 1775
3309.35, or 3309.36, ~~or 3309.38~~ of the Revised Code; 1776

(2) The date the allowance is terminated under section 1777
3309.41 of the Revised Code; 1778

(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	Benefit Period
60 or 61	60 months
62 or 63	48 months
64 or 65	36 months
66, 67, or 68	24 months
69 or older	12 months

Sec. 3309.41. (A) Notwithstanding any contrary provisions in Chapter 124. or 3319. of the Revised Code:

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

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

(B) The ~~school employees retirement~~ board shall require a

disability benefit recipient to undergo an annual medical 1810
examination, except that the board may waive the medical 1811
examination if the board's physician or physicians certify that 1812
the recipient's disability is ongoing. Should any disability 1813
benefit recipient refuse to submit to a medical examination, the 1814
recipient's disability benefit shall be suspended until withdrawal 1815
of the refusal. Should the refusal continue for one year, all the 1816
recipient's rights in and to the disability benefit shall be 1817
terminated as of the effective date of the original suspension. 1818

(C) On completion of the examination by an examining 1819
physician or physicians selected by the board, the physician or 1820
physicians shall report and certify to the board whether the 1821
disability benefit recipient meets the applicable standard for 1822
termination of a disability benefit. If the recipient's benefit 1823
effective date is before the effective date of this amendment or 1824
the benefit effective date is after the effective date of this 1825
amendment and the recipient is considered on a leave of absence 1826
under division (A)(2) of this section, the standard for 1827
termination is that the recipient is no longer physically and 1828
mentally incapable of resuming the service from which the 1829
recipient was found disabled. If the ~~board~~ recipient's benefit 1830
effective date is on or after the effective date of this amendment 1831
and the recipient is not considered on a leave of absence under 1832
division (A)(2) of this section, the standard is that the 1833
recipient is not physically or mentally incapable of performing 1834
the duties of a position that meets all of the following criteria: 1835

(1) Replaces not less than seventy-five per cent of the 1836
member's final average salary, adjusted each year by the actual 1837
average increase in the consumer price index prepared by the 1838
United States bureau of labor statistics (U.S. City Average for 1839
Urban Wage Earners and Clerical Workers: "All Items 1982-84=100"); 1840

(2) Is reasonably to be found in the member's regional job 1841

market; 1842

(3) Is one that the member is qualified for by experience or 1843
education. 1844

If the board concurs in the report that the disability 1845
benefit recipient ~~is no longer incapable~~ meets the applicable 1846
standard for termination of a disability benefit, the payment of 1847
the disability benefit shall be terminated not later than three 1848
months after the date of the board's concurrence or upon 1849
employment as an employee. If the leave of absence has not 1850
expired, the retirement board shall certify to the disability 1851
benefit recipient's last employer before being found disabled that 1852
the recipient is no longer physically and mentally incapable of 1853
resuming service that is the same or similar to that from which 1854
the recipient was found disabled. The employer shall restore the 1855
recipient to the recipient's previous position and salary or to a 1856
position and salary similar thereto not later than the first day 1857
of the first month following termination of the disability 1858
benefit, unless the recipient was dismissed or resigned in lieu of 1859
dismissal for dishonesty, misfeasance, malfeasance, or conviction 1860
of a felony. 1861

(D) Each disability benefit recipient shall file with the 1862
board an annual statement of earnings, current medical information 1863
on the recipient's condition, and any other information required 1864
in rules adopted by the board. The board may waive the requirement 1865
that a disability benefit recipient file an annual statement of 1866
earnings or current medical information on the recipient's 1867
condition if the board's physician or physicians certify that the 1868
recipient's disability is ongoing. 1869

The board shall annually examine the information submitted by 1870
the recipient. If a disability benefit recipient refuses to file 1871
the statement or information, the disability benefit shall be 1872
suspended until the statement and information are filed. If the 1873

refusal continues for one year, the recipient's right to the 1874
disability benefit shall be terminated as of the effective date of 1875
the original suspension. 1876

(E) If a disability benefit recipient is employed by an 1877
employer covered by this chapter, the recipient's disability 1878
benefit shall cease. 1879

(F) If disability retirement under section 3309.40 of the 1880
Revised Code is terminated for any reason, the annuity and pension 1881
reserves at that time in the annuity and pension reserve fund 1882
shall be transferred to the employees' savings fund and the 1883
employers' trust fund, respectively. If the total disability 1884
benefit paid is less than the amount of the accumulated 1885
contributions of the member transferred into the annuity and 1886
pension reserve fund at the time of the member's disability 1887
retirement, the difference shall be transferred from the annuity 1888
and pension reserve fund to another fund as may be required. In 1889
determining the amount of a member's account following the 1890
termination of disability retirement for any reason, the amount 1891
paid shall be charged against the member's refundable account. 1892

If a disability allowance paid under section 3309.401 of the 1893
Revised Code is terminated for any reason, the reserve on the 1894
allowance at that time in the annuity and pension reserve fund 1895
shall be transferred from that fund to the employers' trust fund. 1896

The board may terminate a disability benefit at the request 1897
of the recipient. 1898

(G) If a disability benefit is terminated and a former 1899
disability benefit recipient again becomes a contributor, other 1900
than as an other system retirant as defined in section 3309.341 of 1901
the Revised Code, to this system, the public employees retirement 1902
system, or the state teachers retirement system, and completes an 1903
additional two years of service credit after the termination of 1904

the disability benefit, the former disability benefit recipient 1905
shall be entitled to ~~full~~ receive up to two years of service 1906
credit for the period as a disability benefit recipient and may 1907
purchase service for the remaining period of the disability 1908
benefit. Total service credit received and purchased under this 1909
section shall not exceed the period of the disability benefit. 1910

For each year of credit purchased, the member shall pay to 1911
the system for credit to the member's accumulated account the sum 1912
of the following amounts: 1913

(1) The employee contribution rate in effect at the time the 1914
disability benefit commenced multiplied by the member's annual 1915
disability benefit; 1916

(2) The employer contribution rate in effect at the time the 1917
disability benefit commenced multiplied by the member's annual 1918
disability benefit; 1919

(3) Compound interest at a rate established by the board from 1920
the date the member is eligible to purchase the credit to the date 1921
of payment. 1922

The member may choose to purchase only part of such credit in 1923
any one payment, subject to board rules. 1924

(H) If any employer employs any member who is receiving a 1925
disability benefit, the employer shall file notice of employment 1926
with the retirement board, designating the date of employment. In 1927
case the notice is not filed, the total amount of the benefit paid 1928
during the period of employment prior to notice shall be paid from 1929
amounts allocated under Chapter 3317. of the Revised Code prior to 1930
its distribution to the school district in which the disability 1931
benefit recipient was so employed. 1932

Sec. 3309.44. (A) As used in this section and in section 1933
3309.45 of the Revised Code: 1934

(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.

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

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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.

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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.

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

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(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

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system, the beneficiary last established among the systems shall 1966
be the sole beneficiary in all the systems. 1967

If the accumulated contributions of a deceased member are not 1968
claimed by a beneficiary, or by the estate of the deceased member, 1969
within ten years, they shall be transferred to the guarantee fund 1970
and thereafter paid to such beneficiary or to the member's estate 1971
upon application to the board. The board shall formulate and adopt 1972
rules governing all designations of beneficiaries. 1973

(C) Except as provided in division (C)(1) of section 3309.45 1974
of the Revised Code, if a member dies before service or commuted 1975
service retirement and is not survived by a designated 1976
beneficiary, ~~any beneficiaries~~ the following shall qualify, in the 1977
following order of precedence, with all attendant rights and 1978
privileges, the member's: 1979

(1) Surviving spouse; 1980

(2) Children share and share alike; 1981

(3) A dependent parent who is age sixty-five or older, if 1982
that parent takes survivor benefits under division (B) of section 1983
3309.45 of the Revised Code; 1984

(4) Parents, share and share alike; 1985

(5) Estate. 1986

~~Any payment made to a beneficiary as determined by the school 1987
employees retirement board shall be a full discharge and release 1988
to the board from any future claims. 1989~~

If a person listed in divisions (C)(1) to (4) of this section 1990
is deceased or is not located within one hundred eighty days, the 1991
person ceases to qualify for any benefit and the person next in 1992
order of precedence shall qualify. 1993

(D) Any amount due any person, as an annuitant receiving a 1994
monthly service or commuted service retirement allowance or 1995

benefit, and unpaid to the annuitant at death, shall be paid to 1996
the beneficiary designated in writing on a form provided by the 1997
retirement board, signed by the annuitant and filed with the 1998
board. If no such designation has been filed, ~~or if the designated~~ 1999
~~beneficiary is deceased or is not located within ninety days,~~ 2000
amount shall be paid, except as otherwise provided in section 2001
3309.45 of the Revised Code, in the following order of precedence 2002
to the annuitant's: 2003

- (1) Surviving spouse; 2004
- (2) Children, share and share alike; 2005
- (3) Parents, share and share alike; 2006
- (4) Estate. 2007

If a person listed in divisions (D)(1) to (3) of this section 2008
is deceased or is not located within one hundred eighty days, the 2009
person ceases to qualify for any benefit and the person next in 2010
order of precedence shall qualify. 2011

For the purpose of this division, an "annuitant" is the last 2012
person who received a monthly allowance or benefit pursuant to the 2013
plan of payment selected by the retirant or designated by this 2014
chapter. ~~Such payment shall be a full discharge and release to the~~ 2015
~~board from any future claim for such payment.~~ 2016

(E) Any payment made under this section as determined by the 2017
board shall be a full discharge and release to the board from any 2018
future claim for payment. 2019

(F) If the validity of marriage cannot be established to the 2020
satisfaction of the retirement board for the purpose of disbursing 2021
any amount due under this section or section 3309.45 of the 2022
Revised Code, the retirement board may accept a decision rendered 2023
by a court having jurisdiction in the state in which the member 2024
was domiciled at the time of death that the relationship 2025

constituted a valid marriage at the time of death, or the "spouse" 2026
would have the same status as a widow or widower for purposes of 2027
sharing in the distribution of the member's intestate personal 2028
property. 2029

~~(F)~~(G) As used in this division, "recipient" means an 2030
individual who is receiving or may be eligible to receive an 2031
allowance or benefit under this chapter based on the individual's 2032
service to an employer. 2033

If the death of a member, a recipient, or any individual who 2034
would be eligible to receive an allowance or benefit under this 2035
chapter by virtue of the death of a member or recipient is caused 2036
by one of the following beneficiaries, no amount due under this 2037
chapter to the beneficiary shall be paid to the beneficiary in the 2038
absence of a court order to the contrary filed with the retirement 2039
board: 2040

(1) A beneficiary who is convicted of, pleads guilty to, or 2041
is found not guilty by reason of insanity of a violation of or 2042
complicity in the violation of either of the following: 2043

(a) Section 2903.01, 2903.02, or 2903.03 of the Revised Code; 2044

(b) An existing or former law of any other state, the United 2045
States, or a foreign nation that is substantially equivalent to 2046
section 2903.01, 2903.02, or 2903.03 of the Revised Code; 2047

(2) A beneficiary who is indicted for a violation of or 2048
complicity in the violation of the sections or laws described in 2049
division ~~(F)~~(G)(1)(a) or (b) of this section and is adjudicated 2050
incompetent to stand trial; 2051

(3) A beneficiary who is a juvenile found to be a delinquent 2052
child by reason of committing an act that, if committed by an 2053
adult, would be a violation of or complicity in the violation of 2054
the sections or laws described in division ~~(F)~~(G)(1)(a) or (b) of 2055
this section. 2056

Sec. 3309.45. Except as provided in division (C)(1) of this 2057
section, in lieu of accepting the payment of the accumulated 2058
account of a member who dies before service retirement, the 2059
beneficiary, as determined in section 3309.44 of the Revised Code, 2060
may elect to forfeit the accumulated account and to substitute 2061
certain other benefits either under division (A) or (B) of this 2062
section. 2063

(A)(1) If a deceased member was eligible for a service 2064
retirement allowance as provided in section 3309.36, ~~3309.38~~, or 2065
3309.381 of the Revised Code, a surviving spouse or other sole 2066
dependent beneficiary may elect to receive a monthly benefit 2067
computed as the joint-survivor allowance designated as "plan D" in 2068
section 3309.46 of the Revised Code, which the member would have 2069
received had the member retired on the last day of the month of 2070
death and had the member at that time selected such joint-survivor 2071
plan. Payment shall begin with the month subsequent to the 2072
member's death. 2073

(2) Beginning on a date selected by the school employees 2074
retirement board, which shall be not later than July 1, 2004, a 2075
surviving spouse or other sole dependent beneficiary may elect, in 2076
lieu of a monthly payment under division (A)(1) of this section, a 2077
plan of payment consisting of both of the following: 2078

(a) A lump sum in an amount the surviving spouse or other 2079
sole dependent beneficiary designates that constitutes a portion 2080
of the allowance that would be payable under division (A)(1) of 2081
this section; 2082

(b) The remainder of that allowance in monthly payments. 2083

The total amount paid as a lump sum and a monthly benefit 2084
shall be the actuarial equivalent of the amount that would have 2085
been paid had the lump sum not been selected. 2086

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

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

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

(b) Years of Service	Annual Benefit as a Per Cent of	
	Member's Final Average Salary	
20	29%	
21	33	
22	37	
23	41	

24	45	2118
25	48	2119
26	51	2120
27	54	2121
28	57	2122
29 or more	60	2123

(2) Benefits shall begin as qualified survivors meet 2124
eligibility requirements as follows: 2125

(a) A qualified spouse is the surviving spouse of the 2126
deceased member who is age sixty-two, or regardless of age if the 2127
deceased member had ten or more years of Ohio service credit, or 2128
regardless of age if caring for a surviving child, or regardless 2129
of age if adjudged physically or mentally incompetent. 2130

(b) A qualified child whose benefit began before the 2131
effective date of this amendment is any child of the deceased 2132
member who has never been married and to whom one of the following 2133
applies: 2134

(i) Is under age eighteen, or under age twenty-two if the 2135
child is attending an institution of learning or training pursuant 2136
to a program designed to complete in each school year the 2137
equivalent of at least two-thirds of the full-time curriculum 2138
requirements of such institution and as further determined by 2139
board policy; 2140

(ii) Regardless of age, is adjudged physically or mentally 2141
incompetent if the incompetence existed prior to the member's 2142
death and prior to the child attaining age eighteen, or age 2143
twenty-two if attending an institution described in division 2144
(B)(2)(b)(i) of this section. 2145

(c) A qualified child whose benefit begins on or after the 2146
effective date of this amendment is any child of the deceased 2147
member who has never been married and to whom one of the following 2148

<u>applies:</u>	2149
<u>(i) Is under age nineteen;</u>	2150
<u>(ii) Regardless of age, is adjudged physically or mentally incompetent if the incompetence existed prior to the member's death and prior to the child attaining age nineteen.</u>	2151 2152 2153
<u>(d) A qualified parent is a dependent parent aged sixty-five or older.</u>	2154 2155
(3) "Physically or mentally incompetent" as used in this section may be determined by a court of jurisdiction, or by a physician appointed by the retirement board. Incapability of earning a living because of a physically or mentally disabling condition shall meet the qualifications of this division.	2156 2157 2158 2159 2160
(4) Benefits to a qualified survivor shall terminate upon a first marriage, abandonment, adoption, or during active military service. Benefits to a deceased member's surviving spouse that were terminated under a former version of this section that required termination due to remarriage and were not resumed prior to September 16, 1998, shall resume on the first day of the month immediately following receipt by the board of an application on a form provided by the board.	2161 2162 2163 2164 2165 2166 2167 2168
Upon the death of any subsequent spouse who was a member of the public employees retirement system, state teachers retirement system, or school employees retirement system, the surviving spouse of such member may elect to continue receiving benefits under this division, or to receive survivor's benefits, based upon the subsequent spouse's membership in one or more of the systems, for which such surviving spouse is eligible under this section or section 145.45 or 3307.66 of the Revised Code. If the surviving spouse elects to continue receiving benefits under this division, such election shall not preclude the payment of benefits under this division to any other qualified survivor.	2169 2170 2171 2172 2173 2174 2175 2176 2177 2178 2179

Benefits shall begin or resume on the first day of the month 2180
following the attainment of eligibility and shall terminate on the 2181
first day of the month following loss of eligibility. 2182

(5)(a) If a benefit is payable under division (B)(1)(a) of 2183
this section, benefits to a qualified spouse shall be paid in the 2184
amount determined for the first qualifying survivor in division 2185
(B)(1)(a) of this section, but shall not be less than one hundred 2186
six dollars per month if the deceased member had ten or more years 2187
of Ohio service credit. All other qualifying survivors shall share 2188
equally in the benefit or remaining portion thereof. 2189

(b) All qualifying survivors shall share equally in a benefit 2190
payable under division (B)(1)(b) of this section, except that if 2191
there is a surviving spouse, the surviving spouse shall receive no 2192
less than the greater of the amount determined for the first 2193
qualifying survivor in division (B)(1)(a) of this section or one 2194
hundred six dollars per month. 2195

(6) The beneficiary of a member who is also a member of the 2196
public employees retirement system, or of the state teachers 2197
retirement system, must forfeit the member's accumulated 2198
contributions in those systems, if the beneficiary takes a 2199
survivor benefit. Such benefit shall be exclusively governed by 2200
section 3309.35 of the Revised Code. 2201

(C)(1) Regardless of whether the member is survived by a 2202
spouse or designated beneficiary, if the school employees 2203
retirement system receives notice that a deceased member described 2204
in division (A) or (B) of this section has one or more qualified 2205
children, all persons who are qualified survivors under division 2206
(B) of this section shall receive monthly benefits as provided in 2207
division (B) of this section. 2208

If, after determining the monthly benefits to be paid under 2209
division (B) of this section, the system receives notice that 2210

there is a qualified survivor who was not considered when the 2211
determination was made, the system shall, notwithstanding section 2212
3309.661 of the Revised Code, recalculate the monthly benefits 2213
with that qualified survivor included, even if the benefits to 2214
qualified survivors already receiving benefits are reduced as a 2215
result. The benefits shall be calculated as if the qualified 2216
survivor who is the subject of the notice became eligible on the 2217
date the notice was received and shall be paid to qualified 2218
survivors effective on the first day of the first month following 2219
the system's receipt of the notice. 2220

If the retirement system did not receive notice that a 2221
deceased member has one or more qualified children prior to making 2222
payment under section 3309.44 of the Revised Code to a beneficiary 2223
as determined by the retirement system, the payment is a full 2224
discharge and release of the system from any future claims under 2225
this section or section 3309.44 of the Revised Code. 2226

(2) If benefits under division (C)(1) of this section to all 2227
persons, or to all persons other than a surviving spouse or other 2228
sole beneficiary, terminate, there are no children under the age 2229
of twenty-two years, and the surviving spouse or beneficiary 2230
qualifies for benefits under division (A) of this section, the 2231
surviving spouse or beneficiary may elect to receive benefits 2232
under division (A) of this section. Benefits shall be effective on 2233
the first day of the month following receipt by the board of an 2234
application for benefits under division (A) of this section. 2235

(D) The final average salary used in the calculation of a 2236
benefit payable pursuant to division (A) or (B) of this section to 2237
a survivor or beneficiary of a disability benefit recipient shall 2238
be adjusted for each year between the disability benefit's 2239
effective date and the recipient's date of death by the lesser of 2240
three per cent or the actual average percentage increase in the 2241
consumer price index prepared by the United States bureau of labor 2242

statistics (U.S. City Average for Urban Wage Earners and Clerical
Workers: "All Items 1982-84=100").

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

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

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

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

(i) The member is not married or either the member's spouse

consents in writing to the member's election to a plan of payment 2274
other than "plan A" or the board waives the requirement that the 2275
spouse consent; 2276

(ii) A plan of payment providing for payment in a specified 2277
amount continuing after the member's death to a former spouse is 2278
required by a court order issued prior to the effective date of 2279
the member's retirement under section 3105.171 or 3105.65 of the 2280
Revised Code or the laws of another state regarding division of 2281
marital property. 2282

(c) If a member is subject to division (B)(1)(b)(ii) of this 2283
section and the board has received a copy of the order described 2284
in that division, the board shall accept the member's election of 2285
a plan of payment under this section only if the member complies 2286
with both of the following: 2287

(i) The member elects a plan of payment that is in accordance 2288
with the order described in division (B)(1)(b)(ii) of this 2289
section. 2290

(ii) If the member is married, the member elects "plan F" and 2291
designates the member's current spouse as a beneficiary under that 2292
plan unless that spouse consents in writing to not being 2293
designated a beneficiary under any plan of payment or the board 2294
waives the requirement that the current spouse consent. 2295

(2) An application for retirement shall include an 2296
explanation of all of the following: 2297

(a) That, if the member is married, unless the spouse 2298
consents to another plan of payment or there is a court order 2299
dividing marital property issued under section 3105.171 or 3105.65 2300
of the Revised Code or the laws of another state regarding the 2301
division of marital property that provides for payment in a 2302
specified amount, the member's retirement allowance will be paid 2303
under "plan A," which consists of the actuarial equivalent of the 2304

member's retirement allowance in a lesser amount payable for life 2305
and one-half of the allowance continuing after death to the 2306
surviving spouse for the life of the spouse; 2307

(b) A description of the alternative plans of payment, 2308
including all plans described in divisions (B)(3) and (4) of this 2309
section, available with the consent of the spouse; 2310

(c) That the spouse may consent to another plan of payment 2311
and the procedure for giving consent; 2312

(d) That consent is irrevocable once notice of consent is 2313
filed with the board. 2314

Consent shall be valid only if it is in writing, signed by 2315
the spouse, and witnessed by an employee of the school employees 2316
retirement system or a notary public. The board may waive the 2317
requirement of consent if the spouse is incapacitated or cannot be 2318
located or for any other reason specified by the board. Consent or 2319
waiver is effective only with regard to the spouse who is the 2320
subject of the consent or waiver. 2321

(3)~~(a)~~ A member eligible to elect to receive a retirement 2322
allowance under a plan of payment other than "plan A" shall 2323
receive the retirement allowance under the plan described in 2324
division (B)(4) of this section or one of the following plans: 2325

(a) "Plan B," which shall consist of an allowance determined 2326
under section 3309.36, ~~3309.38~~, or 3309.381 of the Revised Code; 2327

(b) "Plan C," 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 one-half or some other portion of the 2331
allowance continuing after death to the member's sole surviving 2332
beneficiary designated at the time of the member's retirement, 2333
provided that the amount payable to the beneficiary does not 2334
exceed the amount payable to the member; 2335

(c) "Plan D," which shall consist of the actuarial equivalent 2336
of the member's retirement allowance determined under section 2337
3309.36, ~~3309.38~~, or 3309.381 of the Revised Code in a lesser 2338
amount payable for life and continuing after death to a surviving 2339
designated beneficiary designated at the time of the member's 2340
retirement; 2341

(d) "Plan E," which shall consist of the actuarial equivalent 2342
of the member's retirement allowance determined under section 2343
3309.36, ~~3309.38~~, or 3309.381 of the Revised Code in a lesser 2344
amount payable for a certain period from the member's retirement 2345
date as elected by the member and approved by the retirement 2346
board, and on the member's death before the expiration of that 2347
certain period, the member's lesser retirement allowance continued 2348
for the remainder of that period to, and in such order, the 2349
beneficiaries as the member has nominated by written designation 2350
and filed with the retirement board. 2351

Monthly benefits shall not be paid to joint beneficiaries, 2352
but they may receive the present value of any remaining payments 2353
in a lump sum settlement. If all beneficiaries die before the 2354
expiration of the certain period, the present value of all such 2355
payments yet remaining in such period shall be paid to the estate 2356
of the beneficiary last receiving. 2357

(e) "Plan F," which shall consist of the actuarial equivalent 2358
of the member's retirement allowance determined under section 2359
3309.36, ~~3309.38~~, or 3309.381 of the Revised Code in a lesser 2360
amount payable to the member for life and some portion of the 2361
lesser amount continuing after death to two, three, or four 2362
surviving beneficiaries designated at the time of the member's 2363
retirement. The portion of the lesser amount that continues after 2364
the member's death shall be allocated among the beneficiaries at 2365
the time of the member's retirement. If the member elects this 2366
plan as required by a court order issued under section 3105.171 or 2367

3105.65 of the Revised Code or the laws of another state regarding 2368
the division of marital property and compliance with the court 2369
order requires the allocation of a portion less than ten per cent 2370
to any person, the member shall allocate a portion less than ten 2371
per cent to that beneficiary in accordance with that order. In all 2372
other circumstances, no portion allocated under this plan of 2373
payment shall be less than ten per cent. The total of the portions 2374
allocated shall not exceed one hundred per cent of the member's 2375
lesser allowance. 2376

(4)(a) Beginning on a date selected by the board, which shall 2377
be not later than July 1, 2004, a member may elect, in lieu of a 2378
plan of payment under division (B)(1) or (3) of this section, a 2379
plan consisting of both a lump sum in an amount the member 2380
designates that constitutes a portion of the retirement allowance 2381
payable under a plan described in division (B)(1) or (3) of this 2382
section and the remainder of the allowance payable under that plan 2383
in monthly payments. 2384

The total amount paid as a lump sum and a monthly benefit 2385
shall be the actuarial equivalent of the amount that would have 2386
been paid had the lump sum not been selected. 2387

(b) The lump sum amount designated by the member shall be not 2388
less than six times and not more than thirty-six times the monthly 2389
amount that would be payable to the member under the plan of 2390
payment elected under this section had the lump sum not been 2391
elected and shall not result in a monthly benefit that is less 2392
than fifty per cent of that amount. 2393

(5) An election under division (B)(3) or (4) of this section 2394
shall be made at the time the member makes application for 2395
retirement. 2396

(6) A member eligible to elect to receive a retirement 2397
allowance under a plan of payment other than "plan A" because the 2398

member is unmarried who fails to make an election on retirement 2399
shall receive a retirement allowance under "plan B." 2400

(C) Until the first payment of any retirement allowance is 2401
made, as provided in sections 3309.36, ~~3309.38~~, or 3309.381 of the 2402
Revised Code, a member may change the member's election of a 2403
payment plan if the election is made in accordance with and is 2404
consistent with division (B) of this section. 2405

(D) If the retirement allowances due and paid under the above 2406
provisions of this section are in a total amount less than (1) the 2407
accumulated contributions, (2) the deposits for additional credit 2408
as provided by section 3309.31 of the Revised Code, (3) the 2409
deposits for additional annuities as provided by section 3309.47 2410
of the Revised Code, (4) the deposits for repurchase of service 2411
credit as provided by section 3309.26 of the Revised Code, (5) the 2412
accumulated contributions provided by section 3309.65 of the 2413
Revised Code, (6) the deposits for purchase of military service 2414
credit provided by section 3309.021 or 3309.022 of the Revised 2415
Code, and (7) the deposits for the purchase of service credit 2416
provided by section 3309.73 of the Revised Code, standing to the 2417
credit of the member at the time of retirement, then the 2418
difference between the total amount of the allowances paid and the 2419
accumulated contributions and other deposits shall be paid to the 2420
beneficiary provided under division (D) of section 3309.44 of the 2421
Revised Code. 2422

(E)(1) The death of a spouse or any other designated 2423
beneficiary following the member's retirement shall cancel the 2424
portion of the plan of payment providing continuing lifetime 2425
benefits to the deceased spouse or deceased designated 2426
beneficiary. The retirant shall receive the actuarial equivalent 2427
of the retirant's single lifetime retirement allowance as 2428
determined by the board based on the number of remaining 2429
beneficiaries, with no change in the amount payable to any 2430

remaining beneficiary. 2431

(2) On divorce, annulment, or marriage dissolution, a 2432
retirant receiving a retirement allowance under a plan of payment 2433
that provides for continuation of all or part of the allowance 2434
after death for the lifetime of the retirant's surviving spouse 2435
may elect to cancel the portion of the plan providing continuing 2436
lifetime benefits to that spouse. The retirant shall receive the 2437
actuarial equivalent of the retirant's single lifetime retirement 2438
allowance as determined by the retirement board based on the 2439
number of remaining beneficiaries, with no change in the amount 2440
payable to any remaining beneficiary. In the case of a member who 2441
retires on or after July 24, 1990, the election may be made only 2442
with the written consent of the spouse or pursuant to an order of 2443
the court with jurisdiction over the termination of the marriage. 2444
The election shall be made on a form provided by the board and 2445
shall be effective the month following its receipt by the board. 2446

(3)(a) Following marriage or remarriage, both of the 2447
following apply: 2448

(i) A retirant who is receiving a benefit pursuant to "plan 2449
B" may elect a new plan of payment under division (B)(1), (3)(b), 2450
or (3)(c) of this section based on the actuarial equivalent of the 2451
retirant's single lifetime retirement allowance as determined by 2452
the board. 2453

(ii) A retirant who is receiving a benefit pursuant to a plan 2454
of payment providing for payment to a former spouse pursuant to a 2455
court order described in division (B)(1)(b)(ii) of this section 2456
may elect a new plan of payment under division (B)(3)(e) of this 2457
section based on the actuarial equivalent of the retirant's single 2458
lifetime retirement allowance as determined by the board if the 2459
new plan of payment elected does not reduce the payment to the 2460
former spouse. 2461

(b) If the marriage or remarriage occurs on or after ~~the~~ 2462
~~effective date of this amendment~~ June 6, 2005, the election must 2463
be made not later than one year after the date of the marriage or 2464
remarriage. 2465

The plan elected under division (E)(3) of this section shall 2466
become effective on the date of receipt by the board of an 2467
application on a form approved by the board, but any change in the 2468
amount of the retirement allowance shall commence on the first day 2469
of the month following the effective date of the plan. 2470

Sec. 3309.47. Each school employees retirement system 2471
contributor shall contribute eight per cent of the contributor's 2472
compensation to the employees' savings fund, except that the 2473
school employees retirement board may raise the contribution rate 2474
to a rate not greater than ten per cent of compensation. 2475

The contributions by the direction of the school employees 2476
retirement board shall be deducted by the employer from the 2477
compensation of each contributor on each payroll of such 2478
contributor for each payroll period and shall be an amount equal 2479
to the required per cent of such contributor's compensation. On a 2480
finding by the board that an employer has failed or refused to 2481
deduct contributions for any employee during any year and to 2482
transmit such amounts to the retirement system, the retirement 2483
board may make a determination of the amount of the delinquent 2484
contributions, including interest at a rate set by the retirement 2485
board, from the end of each year, and certify to the employer the 2486
amounts for collection. If the amount is not paid by the employer, 2487
it may be certified for collection in the same manner as payments 2488
due the employers' trust fund. Any amounts so collected shall be 2489
held in trust pending receipt of a report of contributions for the 2490
employee for the period involved as provided by law and, 2491
thereafter, the amount in trust shall be transferred to the 2492

employee's savings fund to the credit of the employee. Any amount 2493
remaining after the transfer to the employees' savings fund shall 2494
be transferred to the employers' trust fund as a credit of the 2495
employer. 2496

~~Any contributor under contract who, because of illness, 2497
accident, or other reason approved by the employer, is prevented 2498
from making the contributor's contribution to the system for any 2499
payroll period, may, upon returning to contributing service, have 2500
such deductions made from other payrolls during the year, or may 2501
pay such amount to the employer and the employer shall transmit 2502
such deductions to the system. The deductions shall be made 2503
notwithstanding that the minimum compensation for any contributor 2504
shall be reduced thereby. Every contributor shall be deemed to 2505
consent and agree to the contributions made and provided for in 2506
this section and shall receipt in full for the contributor's 2507
salary or compensation, and payment, less the contributions, is a 2508
full and complete discharge and acquittance of all claims and 2509
demands whatsoever for the services rendered by the person during 2510
the period covered by the payment. 2511~~

~~Each contributor shall pay with the first payment to the 2512
employees' savings fund each year a sum to be determined by the 2513
board, as provided by law, which amount shall be credited to the 2514
expense fund. The payments for the expense fund shall be made to 2515
the board in the same way as payments to the employees' savings 2516
fund are made. 2517~~

Additional deposits may be made to a member's account. At 2518
retirement, the amount deposited with interest may be used to 2519
provide additional annuity income. The additional deposits may be 2520
refunded to the member before retirement, and shall be refunded if 2521
the member withdraws the member's refundable amount. The deposits 2522
may be refunded to the beneficiary or estate if the member dies 2523
before retirement, and the board shall determine whether regular 2524

interest shall be credited to deposits thus refunded. 2525

Sec. 3309.474. (A) As used in this section, "state retirement system" means the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system. 2526
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(B) A state retirement system member who while a member of the school employees retirement system was out of service due to a leave of absence approved by the member's employer may purchase from the school employees retirement system service credit for any period during the leave for which contributions were not made under section 3309.47 of the Revised Code. 2531
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For purposes of this section, a period of leave commences on the first day for which employee and employer contributions were not made to the system and ends on the earlier of the termination of the leave or the member's return to contributing service. 2537
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(C)(1) For each year of service purchased, the member shall pay to the school employees retirement system for credit to the member's accumulated account with that system an amount equal to the sum of the following: 2541
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(a) An amount determined by multiplying the compensation the member would have received during the leave by the employee contribution rate in effect at that time; 2545
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(b) An amount determined by multiplying the compensation the member would have received during the leave by the employer contribution rate in effect at that time; 2548
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(c) Compound interest at a rate determined by the school employees retirement board from the first day of the year following the date the leave commenced to the date of payment. 2551
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(2) If the employee or employer contribution rate changed 2554

during the leave, contributions for each month of the leave shall 2555
be made at the rate in effect for that month. 2556

(D) Service credit purchased under this section for any 2557
period of leave shall not exceed two years. Credit may be 2558
purchased for more than one period of leave, but the total number 2559
of years purchased shall not exceed the lesser of five years or 2560
the member's total accumulated number of years of service as a 2561
contributor to the school employees retirement system. The member 2562
may choose to purchase only part of such credit in any one 2563
payment, subject to board rules. 2564

(E) The board may adopt rules under section 3309.04 of the 2565
Revised Code to implement this section. 2566

Sec. 3309.50. (A)(1) Upon the death of a retirant or 2567
disability benefit recipient, who at the time of death is 2568
receiving a service retirement allowance or disability benefit 2569
from the school employees retirement system, a lump-sum payment of 2570
one thousand dollars shall be paid to any designated or qualified 2571
beneficiary under division (D) of section 3309.44 of the Revised 2572
Code, or, if no such designation has been filed or if the 2573
designated beneficiary is deceased or is not located within ninety 2574
days, the school employees retirement board may approve payment to 2575
either the person responsible for the burial expenses or to the 2576
decedent's estate following the completion of an application on a 2577
form approved by the board, following completion of an application 2578
on a form approved by the school employees retirement board, in 2579
the following order of precedence to: 2580

(a) The retirant or recipient's designated beneficiary; 2581

(b) The retirant or recipient's surviving spouse; 2582

(c) The retirant or recipient's children, share and share 2583
alike; 2584

<u>(d) The retirant or recipient's parents, share and share alike;</u>	2585
	2586
<u>(e) The person responsible for the retirant or recipient's burial expenses;</u>	2587
	2588
<u>(f) The retirant or recipient's estate.</u>	2589
<u>(2) If a person listed in division (A)(1) of this section is deceased or is not located within one hundred eighty days, the person ceases to qualify for the payment. The payment shall be made to the person next in order of precedence.</u>	2590
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<u>(B) A benefit paid under this section shall be treated as life insurance for purposes of this chapter and shall be funded solely from contributions made under section 3309.49 of the Revised Code and any earnings attributable to those contributions.</u>	2594
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Sec. 3309.51. (A) Each employer shall pay annually into the employers' trust fund, in such monthly or less frequent installments as the school employees retirement board requires, an amount certified by the school employees retirement board, which shall be as required by Chapter 3309. of the Revised Code.	2598
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Payments by school district boards of education to the employers' trust fund of the school employees retirement system may be made from the amounts allocated under Chapter 3317. of the Revised Code prior to their distribution to the individual school districts. The amount due from each school district may be certified by the secretary of the system to the superintendent of public instruction monthly, or at such times as is determined by the school employees retirement board.	2603
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Payments by governing authorities of community schools to the employers' trust fund of the school employees retirement system shall be made from the amounts allocated under section 3314.08 of the Revised Code prior to their distribution to the individual	2611
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community schools. The amount due from each community school shall 2615
be certified by the secretary of the system to the superintendent 2616
of public instruction monthly, or at such times as determined by 2617
the school employees retirement board. 2618

Payments by a science, technology, engineering, and 2619
mathematics school to the employers' trust fund of the school 2620
employees retirement system shall be made from the amounts 2621
allocated under section 3326.33 of the Revised Code prior to their 2622
distribution to the school. The amount due from a science, 2623
technology, engineering, and mathematics school shall be certified 2624
by the secretary of the school employees retirement system to the 2625
superintendent of public instruction monthly, or at such times as 2626
determined by the school employees retirement board. 2627

(B) The superintendent shall deduct from the amount allocated 2628
to each community school under section 3314.08 of the Revised 2629
Code, to each school district under Chapter 3317. of the Revised 2630
Code, or to each science, technology, engineering, and mathematics 2631
school under section 3326.33 of the Revised Code the entire 2632
amounts due to the school employees retirement system from such 2633
school or school district upon the certification to the 2634
superintendent by the secretary thereof. 2635

(C) Where an employer fails or has failed or refuses to make 2636
payments to the employers' trust fund, as provided for under 2637
Chapter 3309. of the Revised Code, or fails to pay any penalty 2638
imposed under section 3309.571 of the Revised Code the secretary 2639
of the school employees retirement system may certify to the state 2640
superintendent of public instruction, monthly or at such times as 2641
is determined by the school employees retirement board, the amount 2642
due from such employer, and the superintendent shall deduct from 2643
the amount allocated to the employer under section 3314.08 or 2644
3326.33 or Chapter 3317. of the Revised Code, as applicable, the 2645
entire amounts due to the system from the employer upon the 2646

certification to the superintendent by the secretary of the school employees retirement system. 2647
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(D) The superintendent shall certify to the director of budget and management the amounts thus due the system for payment. 2649
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Sec. 3309.571. The school employees retirement system shall impose the following penalties, which may be collected in the same manner as described in division (B) of section 3309.51 of the Revised Code: 2651
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(A) For a failure to transmit contributions withheld from employees not later than the date specified under rules adopted by the school employees retirement board, one hundred dollars per day for each day the employer fails to transmit the contributions; 2655
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(B) For a failure to transmit any amount due the employer's trust fund not later than the date specified under rules adopted by the board, one hundred dollars per day for each day the employer fails to transmit the amounts; 2659
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(C) Except for a statement required by section 3309.28 of the Revised Code, for a failure to submit, complete, or correct any payroll information or other report required under this chapter not later than the date specified under rules adopted by the board, one hundred dollars per day for each day the employer fails to submit, complete, or correct the information or report, except that the penalty shall not exceed one thousand five hundred dollars; 2663
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(D) For a failure to submit a record in the form of a statement required by section 3309.28 of the Revised Code, fifty dollars per record for each month the record is not filed, except that the penalty shall not exceed three hundred dollars. 2671
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Sec. 3309.69. (A) As used in this section, "ineligible individual" means all of the following: 2675
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~~(1) A former member receiving benefits pursuant to section 3309.34, 3309.35, 3309.36, 3309.38, or 3309.381 of the Revised Code for whom eligibility is established more than five years after June 13, 1981, and who, at the time of establishing eligibility, has accrued less than ten years of service credit, exclusive of credit obtained after January 29, 1981, pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code;~~

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

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

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

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

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

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

agencies. 2708

~~The board may contract for coverage on the basis of part or 2709
all of the cost of the coverage to be paid from appropriate funds 2710
of the school employees retirement system. The cost paid from the 2711
funds of the system shall be included in the employer's 2712
contribution rate provided by sections 3309.49 and 3309.491 of the 2713
Revised Code. The board shall not pay or reimburse the cost for 2714
health care under this section or section 3309.375 of the Revised 2715
Code for any ineligible individual. 2716~~

~~The board may provide; 2717~~

~~(2) Provide for self-insurance of risk or level of risk as 2718
set forth in the contract with the companies, corporations, or 2719
agencies, and may provide through the self-insurance method 2720
specific benefits as authorized by the rules of the board.; 2721~~

~~(3) Provide reimbursements or subsidies to eligible 2722
participants; 2723~~

~~(4) Make disbursements; 2724~~

~~(5) Determine levels of coverage and costs for the program; 2725~~

~~(6) Take any other action it considers necessary to establish 2726
and administer the program. 2727~~

~~(B) If it establishes a health care program, the board shall 2728
establish eligibility criteria and any other requirements for 2729
participation. To be eligible, an individual must meet the 2730
criteria established by the board and be one or more of the 2731
following: 2732~~

~~(1) A former member receiving benefits pursuant to section 2733
3309.34, 3309.35, 3309.36, 3309.38, or 3309.381 of the Revised 2734
Code; 2735~~

~~(2) A disability benefit recipient receiving a disability 2736
benefit pursuant to section 3309.35, 3309.39, 3309.40, or 3309.401 2737~~

<u>of the Revised Code;</u>	2738
<u>(3) A beneficiary receiving monthly benefits pursuant to</u>	2739
<u>section 3309.45 of the Revised Code;</u>	2740
<u>(4) The beneficiary of a former member who is receiving</u>	2741
<u>monthly benefits pursuant to section 3309.46 of the Revised Code;</u>	2742
<u>(5) A dependent, as determined under rules adopted by the</u>	2743
<u>board, of an individual described in divisions (B)(1) to (4) of</u>	2744
<u>this section.</u>	2745
<u>(C) The cost paid from the funds of the system for coverage</u>	2746
<u>under this section shall be included in the employer contribution</u>	2747
<u>under sections 3309.49 and 3309.491 of the Revised Code.</u>	2748
<u>(D)(1) The board may require payment of a premium for</u>	2749
<u>participation in the health care program. Participation is deemed</u>	2750
<u>consent for the deduction of premiums from any pension, benefit,</u>	2751
<u>or annuity provided under this chapter to an eligible participant.</u>	2752
<u>(2) An individual who fails to pay any required premium or</u>	2753
<u>receives any coverage or payment to which the individual is not</u>	2754
<u>entitled shall pay or repay any amount due the system. If an</u>	2755
<u>individual fails to pay or repay an amount due, the system may</u>	2756
<u>withhold the amount from any pension, benefit, annuity, or payment</u>	2757
<u>due the individual or the individual's beneficiary under this</u>	2758
<u>chapter or collect the amount in any other manner provided by law.</u>	2759
<u>(E) A health care program participant who is eligible for</u>	2760
<u>coverage under medicare part B, "Supplementary Medical Insurance</u>	2761
<u>Benefits for the Aged and Disabled," 42 U.S.C. 1395j, as amended,</u>	2762
<u>shall enroll for that coverage. The board shall, beginning the</u>	2763
<u>month following receipt of satisfactory evidence of the payment</u>	2764
<u>for coverage, make a monthly payment to each recipient of service</u>	2765
<u>retirement, or a disability or survivor benefit under the school</u>	2766
<u>employees retirement system who is eligible for insurance coverage</u>	2767
<u>under part B of "The Social Security Amendments of 1965," 79 Stat.</u>	2768

~~301, 42 U.S.C.A. 1395j, as amended, except that the board shall~~ 2769
~~make no such payment to any ineligible individual. Effective on~~ 2770
~~the first day of the month after April 9, 2001, the amount of the~~ 2771
~~payment shall be the lesser of an amount equal to the basic~~ 2772
~~premium for such coverage, or an amount equal to the basic premium~~ 2773
~~in effect on January 1, 1999 the participant in an amount~~ 2774
~~determined by the board for such coverage that is not less than~~ 2775
~~forty-five dollars and fifty cents, except that the board shall~~ 2776
~~make no payment to a participant who is not eligible for coverage~~ 2777
~~under medicare part B or pay an amount that exceeds the amount~~ 2778
~~paid by the recipient for the coverage.~~ 2779

~~(D)~~(F) The board shall establish by rule requirements for the 2780
coordination of any coverage, payment, or benefit provided under 2781
this section or section 3309.375 of the Revised Code with any 2782
similar coverage, payment, or benefit made available to the same 2783
individual by the public employees retirement system, Ohio police 2784
and fire pension fund, state teachers retirement system, or state 2785
highway patrol retirement system. 2786

~~(E)~~(G) The board shall make all other necessary rules 2787
pursuant to the purpose and intent of this section. 2788

(H) This section does not require the board to establish, 2789
maintain, offer, or continue any health care program. This section 2790
does not require the board to provide or continue access to any 2791
health care program, or any level of coverage or costs provided 2792
under the program, if the board establishes or maintains a program 2793
under this section. 2794

Sec. 3309.88. For each member participating in a plan 2795
established under section 3309.81 of the Revised Code, the school 2796
employees retirement system shall transfer to the employers' trust 2797
fund a portion of the employer contribution required under section 2798
3309.49 of the Revised Code. The portion shall equal the 2799

percentage of compensation of members for whom the contributions 2800
are being made that is determined by an actuary appointed by the 2801
school employees retirement board to be necessary to mitigate any 2802
negative financial impact on the system of members' participation 2803
in a plan. 2804

The board shall have prepared annually an actuarial study to 2805
determine whether the percentage transferred under this section 2806
should be changed to reflect a change in the level of negative 2807
financial impact resulting from members' participation in a plan. 2808
The percentage transferred shall be increased or decreased to 2809
reflect the amount needed to mitigate the negative financial 2810
impact, if any, on the system, as determined by the study. A 2811
change shall take effect on the first day of the year following 2812
the date the conclusions of the study are reported to the board. 2813

The system shall make the transfer required under this 2814
section until the unfunded actuarial accrued liability for all 2815
benefits, except health care benefits provided under section 2816
3309.375 or 3309.69 of the Revised Code and benefit increases to 2817
members and former members participating in the plan described in 2818
sections 3309.18 to 3309.70 of the Revised Code granted after ~~the~~ 2819
~~effective date of this section~~ April 9, 2001, is fully amortized, 2820
as determined by the annual actuarial valuation prepared under 2821
section 3309.21 of the Revised Code. 2822

Section 2. That existing sections 3309.05, 3309.051, 2823
3309.061, 3309.07, 3309.072, 3309.074, 3309.075, 3309.10, 3309.15, 2824
3309.21, 3309.22, 3309.23, 3309.26, 3309.28, 3309.33, 3309.34, 2825
3309.341, 3309.343, 3309.35, 3309.353, 3309.354, 3309.36, 2826
3309.362, 3309.371, 3309.373, 3309.376, 3309.379, 3309.3710, 2827
3309.3711, 3309.39, 3309.401, 3309.41, 3309.44, 3309.45, 3309.46, 2828
3309.47, 3309.50, 3309.51, 3309.69, and 3309.88 and sections 2829
3309.38 and 3309.571 of the Revised Code are hereby repealed. 2830

Section 3. Section 3309.23 of the Revised Code is presented 2831
in this act as a composite of the section as amended by both Am. 2832
Sub. S.B. 351 and Am. S.B. 346 of the 119th General Assembly. The 2833
General Assembly, applying the principle stated in division (B) of 2834
section 1.52 of the Revised Code that amendments are to be 2835
harmonized if reasonably capable of simultaneous operation, finds 2836
that the composite is the resulting version of the section in 2837
effect prior to the effective date of the section as presented in 2838
this act. 2839