

As Reported by the House Health and Aging Committee

129th General Assembly

Regular Session

2011-2012

Sub. S. B. No. 341

Senators Niehaus, Kearney

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

—

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, 3309.81, and 3309.88; to enact new 9
section 3309.571 and sections 3309.392 and 10
3309.474; and to repeal sections 3309.38 and 11
3309.571 of the Revised Code to revise the law 12
governing the 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, 3309.81, and 3309.88 be amended and 20

that new section 3309.571 and sections 3309.392 and 3309.474 be 21
enacted to 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 173
record. 174

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

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

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

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

accordance with rules adopted under section 3309.075 of the Revised Code. 204
205

(C) Any former member of the school employees retirement system described in division ~~(D)~~(A)(3) of section 3309.05 of the Revised Code is eligible for election as a retirant member of the board to represent former members currently receiving an age and service retirement benefit, a disability benefit, or benefits under a plan established under section 3309.81 of the Revised Code, provided that such person has been nominated by a petition that is certified in accordance with rules adopted under section 3309.075 of the Revised Code and signed by at least one hundred fifty former members of the system who are currently receiving an age and service retirement benefit, a disability benefit, or benefits under a plan established under section 3309.81 of the Revised Code. The petition shall contain the signatures of at least ten such recipients from each of at least five counties wherein recipients of benefits from this system reside. The petition shall specify the term of office and position. The name of any person so nominated shall be placed upon the ballot by the board as a regular candidate. Other names of eligible candidates may at any election be substituted for the regular candidates by writing such names upon the ballot. The candidate receiving the highest number of votes for any term as member of the board shall be elected for such term on certification of the election results in accordance with rules adopted under section 3309.075 of the Revised Code. 206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229

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. 230
231
232

Sec. 3309.072. (A) As used in this section: 233

(1) "Campaign committee" means a candidate or a combination 234

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
761
762

(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
764
765
766

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

(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
771
772
773
774
775
776
777
778

(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
780
781
782

(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
784
785
786
787

(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
789
790

5101.181 of the Revised Code, the board shall inform the auditor 791
of state of the name, current or most recent employer address, and 792
social security number of each contributor whose name and social 793
security number are the same as that of a person whose name or 794
social security number was submitted by the director. The board 795
and its employees shall, except for purposes of furnishing the 796
auditor of state with information required by this section, 797
preserve the confidentiality of recipients of public assistance in 798
compliance with section 5101.181 of the Revised Code. 799

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

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

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

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

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

in any court or before any officer of this state. 822

Sec. 3309.23. (A) Except as provided in division (B) of this 823
section, the following shall be contributors to the school 824
employees retirement system: 825

(1) All employees, as defined in division (B) of section 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; 852
853

(2) An emergency employee serving on a temporary basis in case of fire, snow, earthquake, flood, or other similar emergency; 854
855

(3) An individual employed in a program established pursuant 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. 856
857
858
859

(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. 860
861
862
863
864

(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. 865
866
867
868

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. 869
870
871
872
873
874

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. 875
876
877
878

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 879
880
881

public employees retirement system, the state teachers retirement 882
system, the Ohio police and fire pension fund, or the state 883
highway patrol retirement system, subsequent to the withdrawal of 884
contributions and cancellation of service credit in this system 885
may restore such service credit by redepositing in the employees' 886
savings fund the amount withdrawn with interest at a rate to be 887
determined by the board, compounded annually, from the first of 888
the month of withdrawal to and including the month of redeposit. A 889
member may choose to purchase only part of such credit in any one 890
payment, subject to board rules. The total payment to restore 891
cancelled service credit, plus any interest credited thereto, 892
shall be considered as accumulated contributions of the member. If 893
a former member is eligible to buy the service credit as a member 894
of the Ohio police and fire pension fund, the state highway patrol 895
retirement system, or the city of Cincinnati retirement system, 896
the former member is ineligible to restore that service credit 897
under this section. 898

Sec. 3309.28. ~~Each~~ Not later than thirty days after an 899
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) 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 before August 968
1, 2017, if the member ~~has:~~ 969

(i) Has at least five years of total service credit and has 970
attained sixty years of age, ~~or if the member has:~~ 971

(ii) Has at least thirty years of total service credit at any 972

~~age. A member whose membership began before the effective date of this amendment is eligible for commuted service retirement if the member has;~~ 973
974
975

(iii) Has at least twenty-five years of total service credit and has attained fifty-five years of age. 976
977

(b) A member who has at least twenty-five years of total service credit on or before August 1, 2017, is eligible for retirement under division (A)(1)(a)(ii) or (iii) of this section. 978
979
980

(c) A member is eligible for retirement under division (A)(1)(a) of this section if as of August 1, 2017, the member will have less than twenty-five years of total service credit but, not later than that date, pays to the retirement system an amount equal to the additional liability to the system resulting from the member's retirement under this division. 981
982
983
984
985
986

~~(2) A~~ (a) Except as provided in division (A)(1)(c) of this section, a member whose membership began on or after the effective date of this amendment who on August 1, 2017, has less than twenty-five years of total service credit is eligible for service retirement under this division if the member meets one of the following requirements: 987
988
989
990
991
992

~~(a)(i)~~ Has earned at least ten years of total service credit and has attained sixty-two years of age; 993
994

~~(b)(ii)~~ Has earned at least twenty-five years of total service credit and has attained sixty years of age; 995
996

~~(c)(iii)~~ Has earned at least thirty years of total service credit and has attained ~~forty-five~~ fifty-seven years of age. 997
998

(b) The board, by rule adopted under division (D) of this section, may adjust the retirement eligibility requirements of division (A)(2)(a) of this section if the board's actuary, in its evaluation under division (C) of this section, determines that an 999
1000
1001
1002

adjustment is necessary to ensure that the retirement system meets 1003
the thirty-year amortization period requirement of section 1004
3309.211 of the Revised Code. 1005

(B) A member may retire by filing an application for 1006
retirement with the school employees retirement board on a form 1007
provided by the board. The board shall not retire the member 1008
sooner than the first day of the month next following the later 1009
of: 1010

(1) The last day of employment for which compensation was 1011
paid; 1012

(2) The attainment of minimum age and service credit 1013
eligibility for service or commuted service retirement. 1014

(C) ~~At least once every ten years~~ In each five-year period, 1015
the board shall direct its actuary to evaluate the retirement 1016
eligibility requirements of this section. 1017

(D) The board, in consultation with its actuary, shall adopt 1018
rules to implement this section. 1019

Sec. 3309.341. (A) As used in this section and section 1020
3309.344 of the Revised Code: 1021

(1) "SERS retirant" means any person who is receiving a 1022
retirement allowance from the school employees retirement system 1023
under section 3309.36, ~~3309.38~~, or 3309.381 or former section 1024
3309.38 of the Revised Code or any benefit paid under a plan 1025
established under section 3309.81 of the Revised Code. 1026

(2) "Other system retirant" means a member or former member 1027
of the public employees retirement system, Ohio police and fire 1028
pension fund, state teachers retirement system, state highway 1029
patrol retirement system, or Cincinnati retirement system who is 1030
receiving age and service or commuted age and service retirement, 1031
or a disability benefit from a system of which the retirant is a 1032

member or former member. 1033

(B)(1) Subject to this section and section 3309.345 of the 1034
Revised Code, an SERS retirant or other system retirant may be 1035
employed by a public employer. If so employed, the SERS retirant 1036
or other system retirant shall contribute to the school employees 1037
retirement system in accordance with section 3309.47 of the 1038
Revised Code, and the employer shall make contributions in 1039
accordance with section 3309.49 of the Revised Code. 1040

(2) An employer that employs an SERS retirant or other system 1041
retirant shall notify the retirement board of the employment not 1042
later than the end of the month in which the employment commences. 1043
On receipt of notice from an employer that a person who is an 1044
other system retirant has been employed, the school employees 1045
retirement system shall notify the state retirement system of 1046
which the other system retirant was a member of such employment. 1047

(C) An SERS retirant or other system retirant who has 1048
received a retirement allowance or disability benefit for less 1049
than two months when employment subject to this section commences 1050
shall forfeit the retirement allowance or disability benefit for 1051
any month the SERS retirant or other system retirant is employed 1052
prior to the expiration of the two-month period. Service and 1053
contributions for that period shall not be included in the 1054
calculation of any benefits payable to the SERS retirant or other 1055
system retirant, and those contributions shall be refunded on 1056
death or termination of the employment. Contributions made on 1057
compensation earned after the expiration of such period shall be 1058
used in the calculation of the benefit or payment due under 1059
section 3309.344 of the Revised Code. 1060

(D) On receipt of notice from the Ohio police and fire 1061
pension fund, public employees retirement system, or state 1062
teachers retirement system of the re-employment of an SERS 1063
retirant, the school employees retirement system shall not pay, or 1064

if paid shall recover, the amount to be forfeited by the SERS 1065
retirant in accordance with section 145.38, 742.26, or 3307.35 of 1066
the Revised Code. 1067

(E) An SERS retirant or other system retirant subject to this 1068
section is not a member of the school employees retirement system; 1069
does not have any of the rights, privileges, or obligations of 1070
membership, except as specified in this section; and is not 1071
eligible to receive health, medical, hospital, or surgical 1072
benefits under section 3309.69 of the Revised Code for employment 1073
subject to this section. 1074

(F) If the disability benefit of an other system retirant 1075
employed under this section is terminated, the retirant shall 1076
become a member of the school employees retirement system, 1077
effective on the first day of the month next following the 1078
termination, with all the rights, privileges, and obligations of 1079
membership. If the retirant, after the termination of the 1080
disability benefit, earns two years of service credit under this 1081
retirement system or under the public employees retirement system, 1082
Ohio police and fire pension fund, state teachers retirement 1083
system, or state highway patrol retirement system, the retirant's 1084
prior contributions as an other system retirant under this section 1085
shall be included in the retirant's total service credit as a 1086
school employees retirement system member, and the retirant shall 1087
forfeit all rights and benefits of this section. Not more than one 1088
year of credit may be given for any period of twelve months. 1089

(G) This section does not affect the receipt of benefits by 1090
or eligibility for benefits of any person who on August 29, 1976, 1091
was receiving a disability benefit or service retirement pension 1092
or allowance from a state or municipal retirement system in Ohio 1093
and was a member of any other state or municipal retirement system 1094
of this state. 1095

(H) The school employees retirement board may adopt rules to 1096

carry out this section. 1097

Sec. 3309.343. (A) As used in this section: 1098

(1) In addition to the meaning in section 3309.01 of the 1099
Revised Code, when appropriate "compensation" has the same meaning 1100
as in section 3307.01 of the Revised Code. 1101

(2) "Earnable salary" has the same meaning as in section 1102
145.01 of the Revised Code. 1103

(3) "SERS position" means a position for which a member of 1104
the school employees retirement system is making contributions to 1105
the system. 1106

(4) "Other state retirement system" means the public 1107
employees retirement system or the state teachers retirement 1108
system. 1109

(5) "State retirement system" means the public employees 1110
retirement system, state teachers retirement system, or the school 1111
employees retirement system. 1112

(B)(1) A member of the school employees retirement system who 1113
holds two or more SERS positions may retire under section 3309.35, 1114
3309.36, ~~3309.38~~, or 3309.46 of the Revised Code from the position 1115
for which the annual compensation at the time of retirement is 1116
highest and continue to contribute to the retirement system for 1117
the other SERS position or positions. 1118

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

state retirement systems. 1127

(3) A member of the school employees retirement system who 1128
holds two or more SERS positions and at least one other position 1129
covered by one of the other state retirement systems may retire 1130
under section 3309.35, 3309.36, ~~3309.38~~, or 3309.46 of the Revised 1131
Code from one of the SERS positions and continue contributing to 1132
the school employees retirement system and the other state 1133
retirement system if the annual compensation for the SERS position 1134
from which the member is retiring is, at the time of retirement, 1135
greater than the annual compensation or earnable salary for any of 1136
the positions for which the member is continuing to make 1137
contributions. 1138

(4) A member of the school employees retirement system who 1139
has retired as provided in division (B)(2) or (3) of section 1140
145.383 or division (B)(2) or (3) of section 3307.351 of the 1141
Revised Code may continue to contribute to the school employees 1142
retirement system for an SERS position if the member held the 1143
position at the time of retirement from the other state retirement 1144
system. 1145

(5) A member who contributes to the school employees 1146
retirement system in accordance with division (B)(1), (3), or (4) 1147
of this section shall contribute in accordance with section 1148
3309.47 of the Revised Code. The member's employer shall 1149
contribute as provided in section 3309.49 of the Revised Code. 1150
Neither the member nor the member's survivors are eligible for any 1151
benefits based on those contributions other than those provided 1152
under section 145.384, 3307.352, or 3309.344 of the Revised Code. 1153

(C)(1) In determining retirement eligibility and the annual 1154
retirement allowance of a member who retires as provided in 1155
division (B)(1), (2), or (3) of this section, the following shall 1156
be used to the date of retirement: 1157

(a) The member's earnable salary and compensation for all positions covered by a state retirement system;	1158 1159
(b) Total service credit in any state retirement system, except that the credit shall not exceed one year of credit for any period of twelve months;	1160 1161 1162
(c) The member's accumulated contributions.	1163
(2) A member who retires as provided in division (B)(1), (2), or (3) of this section is a retirant for all purposes of this chapter, except that the member is not subject to section 3309.341 of the Revised Code for a position or positions for which contributions continue under those divisions or division (B)(4) of this section.	1164 1165 1166 1167 1168 1169
(D) A retired member receiving a benefit under section 3309.344 of the Revised Code based on employment subject to this section is not a member of the school employees retirement system and does not have any rights, privileges, or obligations of membership. The retired member is an SERS retirant for purposes of section 3309.341 of the Revised Code.	1170 1171 1172 1173 1174 1175
(E) The school employees retirement board may adopt rules to carry out this section.	1176 1177
Sec. 3309.35. (A) As used in this section:	1178
(1) "State retirement system" means the public employees retirement system, state teachers retirement system, or school employees retirement system.	1179 1180 1181
(2) "Total service credit" means all service credit earned in all state retirement systems, except credit for service subject to section 3309.341 of the Revised Code. Total service credit shall not exceed one year of credit for any twelve-month period.	1182 1183 1184 1185
(3) In addition to the meaning given in division (O) of section 3309.01 of the Revised Code, "disability benefit" means	1186 1187

"disability benefit" as defined in sections 145.01 and 3307.01 of the Revised Code. 1188
1189

(B) To coordinate and integrate membership in the state retirement systems, at the option of a member, total contributions and service credit in all state retirement systems, including amounts paid to restore service credit under sections 145.311, 3307.711, and 3309.261 of the Revised Code, shall be used in determining the eligibility and total retirement or disability benefit payable. When total contributions and service credit are so combined, the following provisions apply: 1190
1191
1192
1193
1194
1195
1196
1197

(1) Service and commuted service retirement or a disability benefit is effective no sooner than the first day of the month next following the last day of employment for which compensation was paid. If the application is filed after that date, the board may retire the member on the first day of the month next following the last day of employment for which compensation was paid. 1198
1199
1200
1201
1202
1203

(2) ~~In determining eligibility~~ Eligibility for a disability benefit, ~~the medical examiner's report to~~ shall be determined by the ~~retirement board of any the~~ state retirement system, ~~showing that will calculate and pay the member's disability incapacitates the member for the performance of duty, may~~ benefit, as provided in division (B)(3) of this section. The state retirement system calculating and paying the disability benefit shall certify the determination to the board of each other state retirement system in which the member has service credit and shall be accepted by ~~the state retirement boards that board~~ as sufficient for granting a disability benefit. 1204
1205
1206
1207
1208
1209
1210
1211
1212
1213
1214

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

contributions of the member shall ~~determine~~ calculate and pay the total benefit.

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

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

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

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

(iii) If applicable, an amount equal to the amount paid on behalf of the member by an employer under section 145.483 of the Revised Code; 1252
1253
1254

(iv) Interest compounded annually on the amounts specified in divisions (B)(5)(a)(i), (ii), and (iii) of this section at the lesser of the actuarial assumption rate for that year of the school employees retirement system or the other retirement system or systems transferring amounts under this section. 1255
1256
1257
1258
1259

~~(a)~~(b) The annuity rates and mortality tables of the state retirement system making the calculation and paying the benefit shall be exclusively applicable. 1260
1261
1262

~~(b)~~(c) Deposits made for the purchase of an additional annuity, and including guaranteed interest, upon the request of the member, shall be transferred to the state retirement system paying the retirement or disability benefit. The return upon such deposits shall be that offered by the state retirement system making the calculation and paying the retirement or disability benefit. 1263
1264
1265
1266
1267
1268
1269

(C) A former member receiving a retirement or disability benefit under this section, who accepts employment amenable to coverage in any state retirement system that participated in the member's combined benefit, shall be subject to the applicable provisions of law governing such re-employment. If a former member should be paid any amount in a retirement allowance, to which the former member is not entitled under the applicable provisions of law governing such re-employment, such amount shall be recovered by the state retirement system paying such allowance by utilizing any recovery procedure available under the code provisions of the state retirement system covering such re-employment. 1270
1271
1272
1273
1274
1275
1276
1277
1278
1279
1280

(D) An SERS retirant or other system retirant, as defined in section 3309.341 of the Revised Code, is not eligible to receive 1281
1282

any benefit under this section for service subject to section 1283
3309.341 of the Revised Code. 1284

Sec. 3309.353. As used in this section, "benefit" means any 1285
allowance, pension, or other benefit to which an individual is 1286
entitled and that ~~he~~ the individual receives pursuant to section 1287
3309.36, ~~3309.38~~, 3309.40, 3309.45, or 3309.46 or former section 1288
3309.38 of the Revised Code. 1289

The annual amount of each benefit for which eligibility was 1290
established prior to February 1, 1983, shall, after the adjustment 1291
required by section 3309.374 of the Revised Code, be increased by 1292
five per cent. 1293

Sec. 3309.354. As used in this section, "benefit" means any 1294
allowance, pension, or other benefit to which an individual is 1295
entitled and that he receives pursuant to section 3309.35, 1296
3309.36, ~~3309.38~~, 3309.40, 3309.45, or 3309.46 or former section 1297
3309.38 of the Revised Code. 1298

Effective the first day of the month following ~~the effective~~ 1299
~~date of this section~~ September 9, 1988, the annual amount of 1300
benefits shall be increased as follows: 1301

(A) The annual amount of each benefit for which eligibility 1302
was established prior to February 1, 1983, shall, after all 1303
adjustments required by this chapter, be increased by two per 1304
cent; 1305

(B) The annual amount of each benefit for which eligibility 1306
was established on or after February 1, 1983, but prior to ~~the~~ 1307
~~effective date of this section~~ September 9, 1988, shall, after all 1308
adjustments required by this chapter, be increased by five per 1309
cent. 1310

Sec. 3309.36. (A)~~(1)~~ A member of the school employees 1311

retirement system ~~whose membership began before the effective date~~ 1312
~~of this amendment~~ who retires on service retirement shall be 1313
granted a retirement allowance consisting of the lesser of the sum 1314
of the following amounts or the limit established by section 415 1315
of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1316
415, as amended: 1317

~~(a)(1)~~ An annuity having a reserve equal to the amount of the 1318
employee's accumulated contributions at that time; 1319

~~(b)(2)~~ A pension of equivalent amount; 1320

~~(c) An additional pension of forty dollars multiplied by the~~ 1321
~~number of years of such prior service credit;~~ 1322

~~(d)(3)~~ For members who have ten or more years of service 1323
credit accumulated prior to October 1, 1956, a basic annual 1324
pension equal to one hundred eighty dollars, except that such 1325
basic annual pension shall not exceed the sum of the total annual 1326
benefits provided by divisions (A)(1), and (2), ~~and (3)~~ of this 1327
section. 1328

~~(2) A member whose membership began on or after the effective~~ 1329
~~date of this amendment who retires on service retirement shall be~~ 1330
~~granted a retirement allowance consisting of the lesser of the sum~~ 1331
~~of the following amounts or the limit established by section 415~~ 1332
~~of the "Internal Revenue Code of 1986";~~ 1333

~~(a) An annuity having a reserve equal to the amount of the~~ 1334
~~employee's accumulated contributions at that time;~~ 1335

~~(b) A pension of equivalent amount.~~ 1336

(B)(1)(a) When a member retires on service retirement under 1337
division (A)(1) of section 3309.34 of the Revised Code, the 1338
member's allowance when computed as an annual single lifetime 1339
allowance as provided in divisions division (A)(1) ~~and (2)~~ of this 1340
section ~~and section 3309.38 of the Revised Code~~, based upon 1341

attained age sixty-five or thirty years of total service credit, 1342
shall be not less than the greater of the amounts determined by 1343
multiplying the member's total service credit by the following: 1344

~~(a)(i)~~ Eighty-six dollars; 1345

~~(b)(ii)~~ Two and two-tenths per cent of the member's final 1346
average salary for each of the first thirty years of service 1347
credit or fraction thereof plus two and one-half per cent of the 1348
member's final average salary for each subsequent year of service 1349
credit or fraction thereof. 1350

(b) When a member retires on service retirement under 1351
division (A)(2) of section 3309.34 of the Revised Code, the 1352
member's allowance when computed as an annual single lifetime 1353
allowance as provided in division (A) of this section, based on 1354
attained age sixty-seven or thirty years of total service credit, 1355
shall be not less than the greater of the amounts determined by 1356
multiplying the member's total service credit by the following: 1357

(i) Eighty-six dollars; 1358

(ii) Two and two-tenths per cent of the member's final 1359
average salary for each of the first thirty years of service 1360
credit or fraction thereof plus two and one-half per cent of the 1361
member's final average salary for each subsequent year of service 1362
credit or fraction thereof. 1363

(2) For a member ~~whose membership began before the effective 1364
date of this amendment~~ who retires under division (A)(1) of 1365
section 3309.34 of the Revised Code, the annual single lifetime 1366
allowance determined under division (B)(1)(a) of this section 1367
shall be adjusted by the greater percentage shown in the following 1368
schedule opposite the member's attained age or years of Ohio 1369
service credit: 1370

	Years of	Per Cent	
Attained	or	Ohio Service	of

1371
1372

Age	Credit	Base Amount	
58	25	75%	1373
59	26	80	1374
60	27	85	1375
61		88	1376
	28	90	1377
62		91	1378
63		94	1379
	29	95	1380
64		97	1381
65	30 or more	100	1382

For a member ~~whose membership began before the effective date of~~ 1384
~~this amendment~~ who retires under division (A)(1) of section 1385
3309.34 of the Revised Code, the right to a benefit shall vest in 1386
accordance with the following schedule, based on the member's 1387
attained age by September 1, 1976: 1388

Attained Age	Per Cent of Base Amount	
66	102	1389
67	104	1390
68	106	1391
69	108	1392
70 or more	110	1393

(3) For a member ~~whose membership began on or after the~~ 1397
~~effective date of this amendment~~ who retires under division (A)(2) 1398
of section 3309.34 of the Revised Code, the annual single lifetime 1399
allowance determined under division (B)(1)(b) of this section 1400
shall be adjusted to be the actuarial equivalent of the member's 1401
retirement allowance, as determined by the retirement board's 1402
actuary, had the member retired at age ~~sixty-five~~ sixty-seven 1403
with thirty years of service credit, except that the retirement 1404
allowance shall not be less than the following: 1405

Years of Service	Per Cent	
	of	1406
Credit	Base Amount	1407
25	75%	1408
26	80	1409
27	85	1410
28	90	1411
29	95	1412

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

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

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

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

Effective July 1, 1981:

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

less. 1437

(B) The annual amount of each benefit for which eligibility 1438
was established on or after January 1, 1977, but prior to January 1439
1, 1980, shall, after the adjustment required by section 3309.374 1440
of the Revised Code, be increased by four per cent or four hundred 1441
dollars, whichever is less. 1442

Sec. 3309.371. On and after October 1, 1957, all persons in 1443
receipt of, or who are or become eligible to receive, a monthly 1444
allowance, pension, or other benefit effective prior to June 29, 1445
1955, which is payable or becomes payable pursuant to sections 1446
3309.36 to ~~3309.38~~ 3309.3712, 3309.40, and 3309.65 and former 1447
section 3309.38 of the Revised Code, or an allowance payable at 1448
any time under an option elected by a member and effective prior 1449
to that date, shall be paid an increased allowance, pension, or 1450
benefit as follows: 1451

(A) An amount determined by increasing the original 1452
allowance, pension, or benefit by the following percentages as 1453
determined by the calendar year in which the allowance, pension, 1454
or benefit became effective: 1455

Calendar Year	Per Cent	
Effective	of Increase	
1937 - 1939	100	1458
1940	94	1459
1941	89	1460
1942	77	1461
1943	70	1462
1944	68	1463
1945	66	1464
1946	55	1465
1947	35	1466
1948	23	1467

1949	25	1468
1950	23	1469
1951	8	1470
1952	4	1471
1953	3	1472
1954	2	1473
Prior to June 29, 1955	2	1474

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

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

Sec. 3309.373. (A) On and after July 1, 1968, all allowances, pensions, or other benefits, which are payable or become payable and for which eligibility is established prior to July 1, 1968, pursuant to sections 3309.35, 3309.36, ~~3309.38~~, 3309.40, 3309.45, and 3309.46 and former section 3309.38 of the Revised Code shall be increased by the percentages as determined by the effective date of the allowance, pension, or benefit as follows:

Effective Date of Benefit	Percentage of	
Calendar Year	Increase	
1937 through 1955	24.3	1496
1956	22.5	1497
1957	18.4	1498

1958	15.2	1499
1959	14.3	1500
1960	12.5	1501
1961	11.3	1502
1962	10.1	1503
1963	8.7	1504
1964	7.3	1505
1965	5.6	1506
1966	2.6	1507
1967	2.0	1508
January 1, 1968 through June 30, 1968	2.0	1509

(B)(1) All increases as determined by applying the 1510
percentages in the table in division (A) of this section shall be 1511
reduced by the dollar amount of the increases granted in 1965 1512
pursuant to section 3309.372 of the Revised Code, except that no 1513
allowance, pension, or benefit shall be reduced below the amount 1514
due June 30, 1968 and no allowance granted under this section 1515
shall be less than a total annual sum of thirty-six dollars. 1516

(2) The allowances increased by division (A) of this section 1517
shall exclude any monthly amount payable by reason of any 1518
voluntary deposits made under section 3309.47 of the Revised Code. 1519

(3) The increases provided by this section shall be granted 1520
notwithstanding the final average salary limitation in sections 1521
3309.36, 3309.40, and 3309.45 of the Revised Code. 1522

(4) The cost of the increases provided by this section shall 1523
be included in the employer contribution rate provided by section 1524
3309.49 of the Revised Code. Such employer's contribution rate 1525
shall not be increased until July 1, 1969 or later to reflect the 1526
increased costs created by this section. 1527

Sec. 3309.376. On and after December 31, 1971, all persons 1528

who retired and were eligible to receive a pension that was 1529
payable prior to July 1, 1968, pursuant to section 3309.36, 1530
~~3309.38~~, or 3309.40 or former section 3309.38 of the Revised Code, 1531
or in the event of the death of such persons, the person 1532
designated by the deceased to receive payments under section 1533
3309.46 of the Revised Code, shall receive an additional monthly 1534
payment of two dollars for each year between the member's 1535
effective date of retirement or disability and December 31, 1971, 1536
or an additional fifty dollars, whichever is less. 1537

Sec. 3309.379. (A) On and after the first day of the month 1538
following the effective date of this section, each person eligible 1539
to receive an allowance, pension, or benefit, pursuant to sections 1540
3309.35, 3309.36, ~~3309.38~~, 3309.40, division (A) of section 1541
3309.45, and section 3309.46 and former section 3309.38 of the 1542
Revised Code, that was based upon an award made effective before 1543
June 30, 1955, shall have the allowance, pension, or benefit 1544
payable as of September 30, 1974, recalculated by the school 1545
employees retirement board so that each such person shall receive 1546
an annual single lifetime allowance, pension, or benefit or its 1547
actuarial equivalent of not less than one hundred forty dollars 1548
for each year of the member's total service credit, except that 1549
service credit exceeding thirty-two years shall not be used in the 1550
recalculation, and a final average salary limitation shall not be 1551
applied. 1552

If the amount of the allowance, pension, or benefit 1553
recalculated under this division is less than the amount that is 1554
payable on the effective date of this section, then the greater 1555
allowance, pension, or benefit shall be continued. 1556

(B) On and after the first day of the month following the 1557
effective date of this section, each person receiving an 1558
allowance, pension, or benefit, pursuant to sections 3309.35, 1559

3309.36, ~~3309.38~~, 3309.40, division (A) of section 3309.45, and 1560
section 3309.46 and former section 3309.38 of the Revised Code, 1561
that was first effective on and after June 30, 1955, through June 1562
30, 1971, shall be paid an increased allowance, pension, or 1563
benefit as follows: 1564

Effective Date of the Member's		1565
Allowance, Pension, or Benefit:	Per Cent of Increase:	1566
June 30, 1955 through June 29, 1959	33	1567
June 30, 1959, through October 31, 1965	21	1568
November 1, 1965, through June 30, 1968	14	1569
July 1, 1968, through June 30, 1971	5	1570

The increase shall be applied to the allowance, pension, or 1571
benefit payable on the effective date of this section. 1572

(C) On and after the first day of the month following the 1573
effective date of this section, each person receiving or qualified 1574
to receive an allowance, pension, or benefit, pursuant to division 1575
(B) of section 3309.45 of the Revised Code, that was effective on 1576
and after June 14, 1951, through August 26, 1970, shall receive an 1577
increase in such allowance, pension, or benefit in the amount of 1578
twenty per cent. 1579

Sec. 3309.3710. (A) Effective July 1, 1981, each person 1580
eligible to receive an allowance, pension, or benefit pursuant to 1581
sections 3309.35, 3309.36, ~~3309.38~~, 3309.40, division (A) of 1582
section 3309.45, and section 3309.46 and former section 3309.38 of 1583
the Revised Code that was based upon an award made effective 1584
before July 1, 1974, shall have the person's monthly allowance, 1585
pension, or benefit increased by five per cent, except that the 1586
twelve-month sum of such increases shall not exceed five per cent 1587
of the first five thousand dollars of the annual allowance, 1588
pension, or benefit. 1589

(B) Effective July 1, 1981, each person receiving or 1590

qualified to receive a benefit, pursuant to division (B) of 1591
section 3309.45 of the Revised Code, that was effective on and 1592
after June 14, 1951, through August 26, 1970, shall receive an 1593
increase in such benefit of five per cent. 1594

(C) The increases provided in divisions (A) and (B) of this 1595
section shall be applied to the benefit payable on and after July 1596
1, 1981. 1597

(D) The increase in the monthly allowance, pension, or 1598
benefit provided in divisions (A) and (B) of this section shall be 1599
included in the calculation of additional benefits to recipients 1600
under section 3309.374 of the Revised Code. 1601

(E) The benefits provided in divisions (A) and (B) of this 1602
section are a continuation of those first provided in Am. Sub. 1603
H.B. 204 as passed by the 113th general assembly. 1604

Sec. 3309.3711. Whenever the limits established by section 1605
415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 1606
U.S.C.A. 415, as amended, are raised, the school employees 1607
retirement board shall increase the amount of the pension, 1608
benefit, or allowance of any person whose pension, benefit, or 1609
allowance payable under section 3309.36, 3309.374, ~~3309.38,~~ 1610
3309.381, 3309.40, or 3309.401 or former section 3309.38 of the 1611
Revised Code was limited by the application of section 415. The 1612
amount of the increased pension, benefit, or allowance shall not 1613
exceed the lesser of the amount the person would have received if 1614
the limits established by section 415 had not been applied or the 1615
amount the person is eligible to receive subject to the new limits 1616
established by section 415. 1617

Sec. 3309.39. (A) The school employees retirement system 1618
shall provide disability coverage to each member who has at least 1619
five years of total service credit. 1620

Not later than October 16, 1992, the school employees 1621
retirement board shall give each person who is a member on July 1622
29, 1992, the opportunity to elect disability coverage either 1623
under section 3309.40 of the Revised Code or under section 1624
3309.401 of the Revised Code. The board shall mail notice of the 1625
election, accompanied by an explanation of the coverage under each 1626
of the Revised Code sections and a form on which the election is 1627
to be made, to each member at the member's last known address. The 1628
board shall also provide the explanation and form to any member at 1629
the member's request. 1630

Regardless of whether the member actually receives notice of 1631
the right to make an election, a member who fails to file a valid 1632
election under this section shall be considered to have elected 1633
disability coverage under section 3309.40 of the Revised Code. To 1634
be valid, an election must be made on the form provided by the 1635
~~retirement~~ board, signed by the member, and filed with the board 1636
not later than one hundred eighty days after the date the notice 1637
was mailed, or, in the case of a form provided at the request of a 1638
member, a date specified by rule of the ~~retirement~~ board. Once 1639
made, an election is irrevocable, but if the member ceases to be a 1640
member of the ~~retirement~~ system, the election is void. If a person 1641
who makes an election under this section also makes an election 1642
under section 145.35 or 3307.62 of the Revised Code, the election 1643
made for the system that pays a disability benefit to that person 1644
shall govern the benefit. 1645

Disability coverage shall be provided under section 3309.401 1646
of the Revised Code for persons who become members after July 29, 1647
1992, and for members who elect under this division to be covered 1648
under section 3309.401 of the Revised Code. 1649

The ~~retirement~~ board may adopt rules governing elections made 1650
under this division. 1651

(B)(1) Application for a disability benefit may be made by a 1652

member, by a person acting in the member's behalf, or by the member's employer, ~~provided if~~ the member ~~has~~ meets all of the following conditions:

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

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

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

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

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

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

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

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

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

(C) Medical examination of a member who has applied for a disability benefit shall be conducted by a competent disinterested physician or physicians selected by the ~~retirement~~ board to determine whether the member is mentally or physically incapacitated for the performance of the member's last assigned

primary duty as an employee by a disabling condition either 1683
permanent or presumed to be permanent for twelve continuous months 1684
following the filing of an application. Such disability must have 1685
occurred before termination of the member's contributing service 1686
and since last becoming a member or have increased since last 1687
becoming a member to such extent as to make the disability 1688
permanent or presumed to be permanent for twelve continuous months 1689
following the filing of an application. 1690

(D) Application for a disability benefit must be made within 1691
two years from the date the member's contributing service 1692
terminated, unless the ~~retirement~~ board determines that the 1693
member's medical records demonstrate conclusively that at the time 1694
the two-year period expired, the member was physically or mentally 1695
incapacitated for duty as an employee and unable to make 1696
application. Application may not be made by any person receiving a 1697
service retirement allowance or commuted service retirement 1698
allowance under section 3309.36, ~~3309.38~~, or 3309.381 or former 1699
section 3309.38 of the Revised Code or any person who, pursuant to 1700
section 3309.42 of the Revised Code, has been paid the accumulated 1701
contributions standing to the credit of the person's individual 1702
account in the employees' savings fund. 1703

(E) If the physician or physicians determine that the member 1704
qualifies for a disability benefit, the ~~retirement~~ board concurs 1705
with the determination, and the member agrees to any recommended 1706
medical treatment and vocational rehabilitation as specified in 1707
~~division~~ divisions (F) and (G) of this section, the member shall 1708
receive a disability benefit under section 3309.40 or 3309.401 of 1709
the Revised Code. The action of the board shall be final. ~~At the~~ 1710
~~time the board decides it concurs with the determination of the~~ 1711
~~physician or physicians, the board shall determine the date on~~ 1712
~~which the member was first incapacitated by the disabling~~ 1713
~~condition.~~ 1714

(F) The ~~school employees retirement~~ board shall adopt rules 1715
requiring a disability benefit recipient, as a condition of 1716
continuing to receive a disability benefit, to agree in writing to 1717
obtain any medical treatment recommended by the board's physician 1718
and submit medical reports regarding the treatment. If the board 1719
determines that a disability benefit recipient is not obtaining 1720
the medical treatment or the board does not receive a required 1721
medical report, the disability benefit shall be suspended until 1722
the treatment is obtained, the report is received by the board, or 1723
the board's physician certifies that the treatment is no longer 1724
helpful or advisable. Should the recipient's failure to obtain 1725
treatment or submit a medical report continue for one year, the 1726
recipient's right to the disability benefit shall be terminated as 1727
of the effective date of the original suspension. 1728

(G)(1) A disability benefit recipient shall obtain any 1729
vocational rehabilitation recommended by the board's physician or 1730
other consultant and submit reports regarding the rehabilitation. 1731
If the board determines that a recipient is not obtaining the 1732
rehabilitation or the board does not receive a required report, 1733
the disability benefit shall be suspended until the rehabilitation 1734
is obtained, the report is received by the board, or the board's 1735
physician or consultant certifies that rehabilitation is no longer 1736
helpful or advisable. If the recipient's failure to obtain 1737
rehabilitation or submit a required report continues for one year, 1738
the recipient's right to the disability benefit shall be 1739
terminated as of the effective date of the original suspension. 1740

(2) The board shall adopt rules to implement this division. 1741

(H) In the event an employer files an application for a 1742
disability benefit as a result of a member having been separated 1743
from service because the member is considered to be mentally or 1744
physically incapacitated for the performance of the member's last 1745
assigned primary duty as an employee, and the physician or 1746

physicians selected by the board report to the board that the 1747
member is physically and mentally capable of performing service 1748
similar to that from which the member was separated, and the board 1749
concur in such report, then the board shall so certify to the 1750
employer and the employer shall restore the member to the member's 1751
previous position and salary or to a similar position and salary. 1752

Sec. 3309.392. A recipient of a disability benefit granted 1753
under this chapter on or after the effective date of this section 1754
shall apply for social security disability insurance benefit 1755
payments under 42 U.S.C. 423 if the recipient meets the 1756
requirements of divisions (a)(1)(A), (B), and (C) of that section. 1757
The application shall be made not later than ninety days after the 1758
recipient is granted a disability benefit under this chapter 1759
unless the school employees retirement board determines from the 1760
member's medical records that the member is physically or mentally 1761
unable to make the application. The recipient shall file a copy of 1762
the completed application and a copy of the social security 1763
administration's acknowledgement of receipt of the application 1764
with the school employees retirement system. The system shall 1765
accept the copy and acknowledgement as evidence of the member's 1766
application. 1767

If a recipient fails without just cause to apply for social 1768
security disability insurance benefit payments or to file a copy 1769
of the application and acknowledgement of receipt with the system, 1770
the disability benefit under this chapter shall be suspended until 1771
application is made and a copy of the application and 1772
acknowledgement is filed with the system. 1773

The member shall file with the system a copy of the social 1774
security administration's final action on the member's application 1775
for social security disability insurance benefit payments. 1776

Sec. 3309.401. (A) A member with disability coverage under 1777
this section who is determined by the school employees retirement 1778
board under section 3309.39 of the Revised Code to qualify for a 1779
disability benefit shall receive a disability allowance under this 1780
section. The allowance shall be an annual amount equal to the 1781
greater of the following: 1782

(1) Forty-five per cent of the member's final average salary; 1783

(2) The member's total service credit multiplied by two and 1784
two-tenths per cent of the member's final average salary, not 1785
exceeding sixty per cent of the member's final average salary. 1786

(B) Sufficient reserves for payment of the disability 1787
allowance shall be transferred to the annuity and pension reserve 1788
fund from the employers' accumulation fund. The accumulated 1789
contributions of the member shall remain in the employees' savings 1790
fund. No part of the allowance paid under this section shall be 1791
charged against the member's accumulated contributions. 1792

(C) A disability allowance paid under this section shall 1793
terminate at the earliest of the following: 1794

(1) The effective date of service retirement under section 1795
3309.35, or 3309.36, ~~or 3309.38~~ of the Revised Code; 1796

(2) The date the allowance is terminated under section 1797
3309.41 of the Revised Code; 1798

(3) The later of the last day of the month in which the 1799
recipient attains age sixty-five, or the last day of the month in 1800
which the benefit period ends as follows: 1801

Attained Age at Effective Date			1802
	of Disability Allowance	Benefit Period	1803
	60 or 61	60 months	1804
	62 or 63	48 months	1805
	64 or 65	36 months	1806

66, 67, or 68	24 months	1807
69 or older	12 months	1808

Sec. 3309.41. (A) Notwithstanding any contrary provisions in Chapter 124. or 3319. of the Revised Code: 1809
1810

(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.~~ 1811
1812
1813
1814
1815
1816

(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. 1817
1818
1819
1820
1821
1822
1823
1824
1825
1826
1827
1828

(B) ~~The school employees retirement~~ board shall require a disability benefit recipient to undergo an annual medical examination, except that the board may waive the medical examination if the board's physician or physicians certify that the recipient's disability is ongoing. Should any disability benefit recipient refuse to submit to a medical examination, the recipient's disability benefit shall be suspended until withdrawal of the refusal. Should the refusal continue for one year, all the recipient's rights in and to the disability benefit shall be 1829
1830
1831
1832
1833
1834
1835
1836
1837

terminated as of the effective date of the original suspension. 1838

(C) On completion of the examination by an examining 1839
physician or physicians selected by the board, the physician or 1840
physicians shall report and certify to the board whether the 1841
disability benefit recipient meets the applicable standard for 1842
termination of a disability benefit. If the recipient's benefit 1843
effective date is before the effective date of this amendment or 1844
the benefit effective date is after the effective date of this 1845
amendment and the recipient is considered on a leave of absence 1846
under division (A)(2) of this section, the standard for 1847
termination is that the recipient is no longer physically and 1848
mentally incapable of resuming the service from which the 1849
recipient was found disabled. If the ~~board~~ recipient's benefit 1850
effective date is on or after the effective date of this amendment 1851
and the recipient is not considered on a leave of absence under 1852
division (A)(2) of this section, the standard is that the 1853
recipient is not physically or mentally incapable of performing 1854
the duties of a position that meets all of the following criteria: 1855

(1) Replaces not less than seventy-five per cent of the 1856
member's final average salary, adjusted each year by the actual 1857
average increase in the consumer price index prepared by the 1858
United States bureau of labor statistics (U.S. City Average for 1859
Urban Wage Earners and Clerical Workers: "All Items 1982-84=100"); 1860

(2) Is reasonably to be found in the member's regional job 1861
market; 1862

(3) Is one that the member is qualified for by experience or 1863
education. 1864

If the board concurs in the report that the disability 1865
benefit recipient ~~is no longer incapable~~ meets the applicable 1866
standard for termination of a disability benefit, the payment of 1867
the disability benefit shall be terminated not later than three 1868

months after the date of the board's concurrence or upon 1869
employment as an employee. If the leave of absence has not 1870
expired, the retirement board shall certify to the disability 1871
benefit recipient's last employer before being found disabled that 1872
the recipient is no longer physically and mentally incapable of 1873
resuming service that is the same or similar to that from which 1874
the recipient was found disabled. The employer shall restore the 1875
recipient to the recipient's previous position and salary or to a 1876
position and salary similar thereto not later than the first day 1877
of the first month following termination of the disability 1878
benefit, unless the recipient was dismissed or resigned in lieu of 1879
dismissal for dishonesty, misfeasance, malfeasance, or conviction 1880
of a felony. 1881

(D) Each disability benefit recipient shall file with the 1882
board an annual statement of earnings, current medical information 1883
on the recipient's condition, and any other information required 1884
in rules adopted by the board. The board may waive the requirement 1885
that a disability benefit recipient file an annual statement of 1886
earnings or current medical information on the recipient's 1887
condition if the board's physician or physicians certify that the 1888
recipient's disability is ongoing. 1889

The board shall annually examine the information submitted by 1890
the recipient. If a disability benefit recipient refuses to file 1891
the statement or information, the disability benefit shall be 1892
suspended until the statement and information are filed. If the 1893
refusal continues for one year, the recipient's right to the 1894
disability benefit shall be terminated as of the effective date of 1895
the original suspension. 1896

(E) If a disability benefit recipient is employed by an 1897
employer covered by this chapter, the recipient's disability 1898
benefit shall cease. 1899

(F) If disability retirement under section 3309.40 of the 1900

Revised Code is terminated for any reason, the annuity and pension 1901
reserves at that time in the annuity and pension reserve fund 1902
shall be transferred to the employees' savings fund and the 1903
employers' trust fund, respectively. If the total disability 1904
benefit paid is less than the amount of the accumulated 1905
contributions of the member transferred into the annuity and 1906
pension reserve fund at the time of the member's disability 1907
retirement, the difference shall be transferred from the annuity 1908
and pension reserve fund to another fund as may be required. In 1909
determining the amount of a member's account following the 1910
termination of disability retirement for any reason, the amount 1911
paid shall be charged against the member's refundable account. 1912

If a disability allowance paid under section 3309.401 of the 1913
Revised Code is terminated for any reason, the reserve on the 1914
allowance at that time in the annuity and pension reserve fund 1915
shall be transferred from that fund to the employers' trust fund. 1916

The board may terminate a disability benefit at the request 1917
of the recipient. 1918

(G) If a disability benefit is terminated and a former 1919
disability benefit recipient again becomes a contributor, other 1920
than as an other system retirant as defined in section 3309.341 of 1921
the Revised Code, to this system, the public employees retirement 1922
system, or the state teachers retirement system, and completes an 1923
additional two years of service credit after the termination of 1924
the disability benefit, the former disability benefit recipient 1925
shall be entitled to ~~full~~ receive up to two years of service 1926
credit for the period as a disability benefit recipient and may 1927
purchase service for the remaining period of the disability 1928
benefit. Total service credit received and purchased under this 1929
section shall not exceed the period of the disability benefit. 1930

For each year of credit purchased, the member shall pay to 1931
the system for credit to the member's accumulated account the sum 1932

of the following amounts: 1933

(1) The employee contribution rate in effect at the time the disability benefit commenced multiplied by the member's annual disability benefit; 1934
1935
1936

(2) The employer contribution rate in effect at the time the disability benefit commenced multiplied by the member's annual disability benefit; 1937
1938
1939

(3) Compound interest at a rate established by the board from the date the member is eligible to purchase the credit to the date of payment. 1940
1941
1942

The member may choose to purchase only part of such credit in any one payment, subject to board rules. 1943
1944

(H) If any employer employs any member who is receiving a disability benefit, the employer shall file notice of employment with the retirement board, designating the date of employment. In case the notice is not filed, the total amount of the benefit paid during the period of employment prior to notice shall be paid from amounts allocated under Chapter 3317. of the Revised Code prior to its distribution to the school district in which the disability benefit recipient was so employed. 1945
1946
1947
1948
1949
1950
1951
1952

Sec. 3309.44. (A) As used in this section and in section 3309.45 of the Revised Code: 1953
1954

(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. 1955
1956
1957
1958
1959
1960
1961

(2) "Parent" is a parent or legally adoptive parent of a 1962

deceased member. 1963

(3) "Dependent" means a beneficiary who receives one-half of 1964
the beneficiary's support from a member during the twelve months 1965
prior to the member's death. 1966

(4) "Surviving spouse" means an individual who establishes a 1967
valid marriage to a member at the time of the member's death by 1968
marriage certificate or pursuant to division ~~(E)~~(F) of this 1969
section. 1970

(5) "Survivor" means a surviving spouse, child, or parent. 1971

(B) Except as provided in division (C)(1) of section 3309.45 1972
of the Revised Code, should a member die before service or 1973
commuted service retirement, the member's accumulated 1974
contributions and any amounts owed and unpaid to a disability 1975
benefit recipient shall be paid to such beneficiaries as the 1976
member has designated in writing on a form provided by the school 1977
employees retirement board, signed by the member and filed with 1978
the board prior to death. The last designation of any beneficiary 1979
revokes all previous designations. The member's marriage, divorce, 1980
legal dissolution, legal separation, or withdrawal of account, or 1981
the birth of the member's child, or the member's adoption of a 1982
child, constitutes an automatic revocation of the member's last 1983
designation. If a deceased member was also a member of the public 1984
employees retirement system or the state teachers retirement 1985
system, the beneficiary last established among the systems shall 1986
be the sole beneficiary in all the systems. 1987

If the accumulated contributions of a deceased member are not 1988
claimed by a beneficiary, or by the estate of the deceased member, 1989
within ten years, they shall be transferred to the guarantee fund 1990
and thereafter paid to such beneficiary or to the member's estate 1991
upon application to the board. The board shall formulate and adopt 1992
rules governing all designations of beneficiaries. 1993

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

(1) Surviving spouse; 2000

(2) Children share and share alike; 2001

(3) A dependent parent who is age sixty-five or older, if that parent takes survivor benefits under division (B) of section 3309.45 of the Revised Code; 2002
2003
2004

(4) Parents, share and share alike; 2005

(5) Estate. 2006

~~Any payment made to a beneficiary as determined by the school employees retirement board shall be a full discharge and release to the board from any future claims.~~ 2007
2008
2009

If a person listed in divisions (C)(1) to (4) of this section is deceased or is not located within one hundred eighty days, the person ceases to qualify for any benefit and the person next in order of precedence shall qualify. 2010
2011
2012
2013

(D) Any amount due any person, as an annuitant receiving a monthly service or commuted service retirement allowance or benefit, and unpaid to the annuitant at death, shall be paid to the beneficiary designated in writing on a form provided by the retirement board, signed by the annuitant and filed with the board. If no such designation has been filed, ~~or if the designated beneficiary is deceased or is not located within ninety days,~~ such amount shall be paid, except as otherwise provided in section 3309.45 of the Revised Code, in the following order of precedence to the annuitant's: 2014
2015
2016
2017
2018
2019
2020
2021
2022
2023

- (1) Surviving spouse; 2024
- (2) Children, share and share alike; 2025
- (3) Parents, share and share alike; 2026
- (4) Estate. 2027

If a person listed in divisions (D)(1) to (3) of this section is deceased or is not located within one hundred eighty days, the person ceases to qualify for any benefit and the person next in order of precedence shall qualify. 2028
2029
2030
2031

For the purpose of this division, an "annuitant" is the last person who received a monthly allowance or benefit pursuant to the plan of payment selected by the retirant or designated by this chapter. ~~Such payment shall be a full discharge and release to the board from any future claim for such payment.~~ 2032
2033
2034
2035
2036

(E) Any payment made under this section as determined by the board shall be a full discharge and release to the board from any future claim for payment. 2037
2038
2039

(F) If the validity of marriage cannot be established to the satisfaction of the retirement board for the purpose of disbursing any amount due under this section or section 3309.45 of the Revised Code, the retirement board may accept a decision rendered by a court having jurisdiction in the state in which the member was domiciled at the time of death that the relationship constituted a valid marriage at the time of death, or the "spouse" would have the same status as a widow or widower for purposes of sharing in the distribution of the member's intestate personal property. 2040
2041
2042
2043
2044
2045
2046
2047
2048
2049

~~(F)~~(G) As used in this division, "recipient" means an individual who is receiving or may be eligible to receive an allowance or benefit under this chapter based on the individual's service to an employer. 2050
2051
2052
2053

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

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

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

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

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

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

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

(A)(1) If a deceased member was eligible for a service 2084
retirement allowance as provided in section 3309.36, ~~3309.38~~, or 2085
3309.381 of the Revised Code, a surviving spouse or other sole 2086
dependent beneficiary may elect to receive a monthly benefit 2087
computed as the joint-survivor allowance designated as "plan D" in 2088
section 3309.46 of the Revised Code, which the member would have 2089
received had the member retired on the last day of the month of 2090
death and had the member at that time selected such joint-survivor 2091
plan. Payment shall begin with the month subsequent to the 2092
member's death. 2093

(2) Beginning on a date selected by the school employees 2094
retirement board, which shall be not later than July 1, 2004, a 2095
surviving spouse or other sole dependent beneficiary may elect, in 2096
lieu of a monthly payment under division (A)(1) of this section, a 2097
plan of payment consisting of both of the following: 2098

(a) A lump sum in an amount the surviving spouse or other 2099
sole dependent beneficiary designates that constitutes a portion 2100
of the allowance that would be payable under division (A)(1) of 2101
this section; 2102

(b) The remainder of that allowance in monthly payments. 2103

The total amount paid as a lump sum and a monthly benefit 2104
shall be the actuarial equivalent of the amount that would have 2105
been paid had the lump sum not been selected. 2106

The lump sum amount designated by the surviving spouse or 2107
other sole dependent beneficiary under division (A)(2)(a) of this 2108
section shall be not less than six times and not more than 2109
thirty-six times the monthly amount that would be payable to the 2110
surviving spouse or other sole dependent beneficiary under 2111
division (A)(1) of this section and shall not result in a monthly 2112
benefit that is less than fifty per cent of that monthly amount. 2113

(B) If the deceased member had completed at least one and 2114

one-half years of credit for Ohio service, with at least 2115
 one-quarter year of Ohio contributing service credit within the 2116
 two and one-half years prior to the date of death, or was 2117
 receiving at the time of death a disability benefit as provided in 2118
 section 3309.40 or 3309.401 of the Revised Code, qualified 2119
 survivors who elect to receive monthly benefits shall receive the 2120
 greater of the benefits provided in division (B)(1)(a) or (b) as 2121
 allocated in accordance with division (B)(5) of this section. 2122

(1)(a) Number		Or	2123
of Qualified		Monthly	2124
survivors	Annual Benefit as a Per	Benefit	2125
affecting	Cent of Decedent's Final	shall not be	2126
the benefit	Average Salary	less than	2127
1	25%	\$96	2128
2	40	186	2129
3	50	236	2130
4	55	236	2131
5 or more	60	236	2132

(b) Years of Service	Annual Benefit as a Per Cent of	2133
	Member's Final Average Salary	
20	29%	2134
21	33	2135
22	37	2136
23	41	2137
24	45	2138
25	48	2139
26	51	2140
27	54	2141
28	57	2142
29 or more	60	2143

(2) Benefits shall begin as qualified survivors meet 2144
 eligibility requirements as follows: 2145

(a) A qualified spouse is the surviving spouse of the 2146
deceased member who is age sixty-two, or regardless of age if the 2147
deceased member had ten or more years of Ohio service credit, or 2148
regardless of age if caring for a surviving child, or regardless 2149
of age if adjudged physically or mentally incompetent. 2150

(b) A qualified child whose benefit began before the 2151
effective date of this amendment is any child of the deceased 2152
member who has never been married and to whom one of the following 2153
applies: 2154

(i) Is under age eighteen, or under age twenty-two if the 2155
child is attending an institution of learning or training pursuant 2156
to a program designed to complete in each school year the 2157
equivalent of at least two-thirds of the full-time curriculum 2158
requirements of such institution and as further determined by 2159
board policy; 2160

(ii) Regardless of age, is adjudged physically or mentally 2161
incompetent if the incompetence existed prior to the member's 2162
death and prior to the child attaining age eighteen, or age 2163
twenty-two if attending an institution described in division 2164
(B)(2)(b)(i) of this section. 2165

(c) A qualified child whose benefit begins on or after the 2166
effective date of this amendment is any child of the deceased 2167
member who has never been married and to whom one of the following 2168
applies: 2169

(i) Is under age nineteen; 2170

(ii) Regardless of age, is adjudged physically or mentally 2171
incompetent if the incompetence existed prior to the member's 2172
death and prior to the child attaining age nineteen. 2173

(d) A qualified parent is a dependent parent aged sixty-five 2174
or older. 2175

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

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

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

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

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

of Ohio service credit. All other qualifying survivors shall share 2208
equally in the benefit or remaining portion thereof. 2209

(b) All qualifying survivors shall share equally in a benefit 2210
payable under division (B)(1)(b) of this section, except that if 2211
there is a surviving spouse, the surviving spouse shall receive no 2212
less than the greater of the amount determined for the first 2213
qualifying survivor in division (B)(1)(a) of this section or one 2214
hundred six dollars per month. 2215

(6) The beneficiary of a member who is also a member of the 2216
public employees retirement system, or of the state teachers 2217
retirement system, must forfeit the member's accumulated 2218
contributions in those systems, if the beneficiary takes a 2219
survivor benefit. Such benefit shall be exclusively governed by 2220
section 3309.35 of the Revised Code. 2221

(C)(1) Regardless of whether the member is survived by a 2222
spouse or designated beneficiary, if the school employees 2223
retirement system receives notice that a deceased member described 2224
in division (A) or (B) of this section has one or more qualified 2225
children, all persons who are qualified survivors under division 2226
(B) of this section shall receive monthly benefits as provided in 2227
division (B) of this section. 2228

If, after determining the monthly benefits to be paid under 2229
division (B) of this section, the system receives notice that 2230
there is a qualified survivor who was not considered when the 2231
determination was made, the system shall, notwithstanding section 2232
3309.661 of the Revised Code, recalculate the monthly benefits 2233
with that qualified survivor included, even if the benefits to 2234
qualified survivors already receiving benefits are reduced as a 2235
result. The benefits shall be calculated as if the qualified 2236
survivor who is the subject of the notice became eligible on the 2237
date the notice was received and shall be paid to qualified 2238
survivors effective on the first day of the first month following 2239

the system's receipt of the notice. 2240

If the retirement system did not receive notice that a 2241
deceased member has one or more qualified children prior to making 2242
payment under section 3309.44 of the Revised Code to a beneficiary 2243
as determined by the retirement system, the payment is a full 2244
discharge and release of the system from any future claims under 2245
this section or section 3309.44 of the Revised Code. 2246

(2) If benefits under division (C)(1) of this section to all 2247
persons, or to all persons other than a surviving spouse or other 2248
sole beneficiary, terminate, there are no children under the age 2249
of twenty-two years, and the surviving spouse or beneficiary 2250
qualifies for benefits under division (A) of this section, the 2251
surviving spouse or beneficiary may elect to receive benefits 2252
under division (A) of this section. Benefits shall be effective on 2253
the first day of the month following receipt by the board of an 2254
application for benefits under division (A) of this section. 2255

(D) The final average salary used in the calculation of a 2256
benefit payable pursuant to division (A) or (B) of this section to 2257
a survivor or beneficiary of a disability benefit recipient shall 2258
be adjusted for each year between the disability benefit's 2259
effective date and the recipient's date of death by the lesser of 2260
three per cent or the actual average percentage increase in the 2261
consumer price index prepared by the United States bureau of labor 2262
statistics (U.S. City Average for Urban Wage Earners and Clerical 2263
Workers: "All Items 1982-84=100"). 2264

(E) If the survivor benefits due and paid under this section 2265
are in a total amount less than the member's accumulated account 2266
that was transferred from the employees' savings fund, the state 2267
teachers retirement fund, and the public employees retirement fund 2268
to the survivors' benefit fund, then the difference between the 2269
total amount of the benefits paid shall be paid to the beneficiary 2270
under section 3309.44 of the Revised Code. 2271

Sec. 3309.46. (A) The retirement allowance calculated under 2272
section 3309.36, ~~3309.38~~, or 3309.381 of the Revised Code shall be 2273
paid as provided in this section. If the member is eligible to 2274
elect a plan of payment under this section, the election shall be 2275
made on the application for retirement. A plan of payment elected 2276
under this section shall be effective only if it is certified by 2277
the actuary engaged by the school employees retirement board to be 2278
the actuarial equivalent of the member's retirement allowance and 2279
is approved by the retirement board. 2280

(B)(1)(a) Except as provided in divisions (B)(1)(b) and (c) 2281
of this section, a member who retires under section 3309.36~~7~~ 2282
~~3309.38~~, or 3309.381 of the Revised Code shall receive a 2283
retirement allowance under "plan A," which shall consist of the 2284
actuarial equivalent of the member's retirement allowance 2285
determined under section 3309.36~~7~~ ~~3309.38~~, or 3309.381 of the 2286
Revised Code in a lesser amount payable for life and one-half of 2287
such allowance continuing after death to the member's surviving 2288
spouse for the life of the spouse. 2289

(b) A member may receive a retirement allowance under a plan 2290
of payment other than "plan A" if either of the following is the 2291
case: 2292

(i) The member is not married or either the member's spouse 2293
consents in writing to the member's election to a plan of payment 2294
other than "plan A" or the board waives the requirement that the 2295
spouse consent; 2296

(ii) A plan of payment providing for payment in a specified 2297
amount continuing after the member's death to a former spouse is 2298
required by a court order issued prior to the effective date of 2299
the member's retirement under section 3105.171 or 3105.65 of the 2300
Revised Code or the laws of another state regarding division of 2301
marital property. 2302

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

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

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

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

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

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

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

(d) That consent is irrevocable once notice of consent is

filed with the board. 2334

Consent shall be valid only if it is in writing, signed by 2335
the spouse, and witnessed by an employee of the school employees 2336
retirement system or a notary public. The board may waive the 2337
requirement of consent if the spouse is incapacitated or cannot be 2338
located or for any other reason specified by the board. Consent or 2339
waiver is effective only with regard to the spouse who is the 2340
subject of the consent or waiver. 2341

(3)~~(a)~~ A member eligible to elect to receive a retirement 2342
allowance under a plan of payment other than "plan A" shall 2343
receive the retirement allowance under the plan described in 2344
division (B)(4) of this section or one of the following plans: 2345

(a) "Plan B," which shall consist of an allowance determined 2346
under section 3309.36,~~3309.38~~, or 3309.381 of the Revised Code; 2347

(b) "Plan C," which shall consist of the actuarial equivalent 2348
of the member's retirement allowance determined under section 2349
3309.36,~~3309.38~~, or 3309.381 of the Revised Code in a lesser 2350
amount payable for life and one-half or some other portion of the 2351
allowance continuing after death to the member's sole surviving 2352
beneficiary designated at the time of the member's retirement, 2353
provided that the amount payable to the beneficiary does not 2354
exceed the amount payable to the member; 2355

(c) "Plan D," which shall consist of the actuarial equivalent 2356
of the member's retirement allowance determined under section 2357
3309.36,~~3309.38~~, or 3309.381 of the Revised Code in a lesser 2358
amount payable for life and continuing after death to a surviving 2359
designated beneficiary designated at the time of the member's 2360
retirement; 2361

(d) "Plan E," which shall consist of the actuarial equivalent 2362
of the member's retirement allowance determined under section 2363
3309.36,~~3309.38~~, or 3309.381 of the Revised Code in a lesser 2364

amount payable for a certain period from the member's retirement 2365
date as elected by the member and approved by the retirement 2366
board, and on the member's death before the expiration of that 2367
certain period, the member's lesser retirement allowance continued 2368
for the remainder of that period to, and in such order, the 2369
beneficiaries as the member has nominated by written designation 2370
and filed with the retirement board. 2371

Monthly benefits shall not be paid to joint beneficiaries, 2372
but they may receive the present value of any remaining payments 2373
in a lump sum settlement. If all beneficiaries die before the 2374
expiration of the certain period, the present value of all such 2375
payments yet remaining in such period shall be paid to the estate 2376
of the beneficiary last receiving. 2377

(e) "Plan F," which shall consist of the actuarial equivalent 2378
of the member's retirement allowance determined under section 2379
3309.36, ~~3309.38~~, or 3309.381 of the Revised Code in a lesser 2380
amount payable to the member for life and some portion of the 2381
lesser amount continuing after death to two, three, or four 2382
surviving beneficiaries designated at the time of the member's 2383
retirement. The portion of the lesser amount that continues after 2384
the member's death shall be allocated among the beneficiaries at 2385
the time of the member's retirement. If the member elects this 2386
plan as required by a court order issued under section 3105.171 or 2387
3105.65 of the Revised Code or the laws of another state regarding 2388
the division of marital property and compliance with the court 2389
order requires the allocation of a portion less than ten per cent 2390
to any person, the member shall allocate a portion less than ten 2391
per cent to that beneficiary in accordance with that order. In all 2392
other circumstances, no portion allocated under this plan of 2393
payment shall be less than ten per cent. The total of the portions 2394
allocated shall not exceed one hundred per cent of the member's 2395
lesser allowance. 2396

(4)(a) Beginning on a date selected by the board, which shall 2397
be not later than July 1, 2004, a member may elect, in lieu of a 2398
plan of payment under division (B)(1) or (3) of this section, a 2399
plan consisting of both a lump sum in an amount the member 2400
designates that constitutes a portion of the retirement allowance 2401
payable under a plan described in division (B)(1) or (3) of this 2402
section and the remainder of the allowance payable under that plan 2403
in monthly payments. 2404

The total amount paid as a lump sum and a monthly benefit 2405
shall be the actuarial equivalent of the amount that would have 2406
been paid had the lump sum not been selected. 2407

(b) The lump sum amount designated by the member shall be not 2408
less than six times and not more than thirty-six times the monthly 2409
amount that would be payable to the member under the plan of 2410
payment elected under this section had the lump sum not been 2411
elected and shall not result in a monthly benefit that is less 2412
than fifty per cent of that amount. 2413

(5) An election under division (B)(3) or (4) of this section 2414
shall be made at the time the member makes application for 2415
retirement. 2416

(6) A member eligible to elect to receive a retirement 2417
allowance under a plan of payment other than "plan A" because the 2418
member is unmarried who fails to make an election on retirement 2419
shall receive a retirement allowance under "plan B." 2420

(C) Until the first payment of any retirement allowance is 2421
made, as provided in sections 3309.36, ~~3309.38~~, or 3309.381 of the 2422
Revised Code, a member may change the member's election of a 2423
payment plan if the election is made in accordance with and is 2424
consistent with division (B) of this section. 2425

(D) If the retirement allowances due and paid under the above 2426
provisions of this section are in a total amount less than (1) the 2427

accumulated contributions, (2) the deposits for additional credit 2428
as provided by section 3309.31 of the Revised Code, (3) the 2429
deposits for additional annuities as provided by section 3309.47 2430
of the Revised Code, (4) the deposits for repurchase of service 2431
credit as provided by section 3309.26 of the Revised Code, (5) the 2432
accumulated contributions provided by section 3309.65 of the 2433
Revised Code, (6) the deposits for purchase of military service 2434
credit provided by section 3309.021 or 3309.022 of the Revised 2435
Code, and (7) the deposits for the purchase of service credit 2436
provided by section 3309.73 of the Revised Code, standing to the 2437
credit of the member at the time of retirement, then the 2438
difference between the total amount of the allowances paid and the 2439
accumulated contributions and other deposits shall be paid to the 2440
beneficiary provided under division (D) of section 3309.44 of the 2441
Revised Code. 2442

(E)(1) The death of a spouse or any other designated 2443
beneficiary following the member's retirement shall cancel the 2444
portion of the plan of payment providing continuing lifetime 2445
benefits to the deceased spouse or deceased designated 2446
beneficiary. The retirant shall receive the actuarial equivalent 2447
of the retirant's single lifetime retirement allowance as 2448
determined by the board based on the number of remaining 2449
beneficiaries, with no change in the amount payable to any 2450
remaining beneficiary. 2451

(2) On divorce, annulment, or marriage dissolution, a 2452
retirant receiving a retirement allowance under a plan of payment 2453
that provides for continuation of all or part of the allowance 2454
after death for the lifetime of the retirant's surviving spouse 2455
may elect to cancel the portion of the plan providing continuing 2456
lifetime benefits to that spouse. The retirant shall receive the 2457
actuarial equivalent of the retirant's single lifetime retirement 2458
allowance as determined by the retirement board based on the 2459

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

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

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

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

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

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

Sec. 3309.47. Each school employees retirement system 2491
contributor shall contribute eight per cent of the contributor's 2492
compensation to the employees' savings fund, except that the 2493
school employees retirement board may raise the contribution rate 2494
to a rate not greater than ten per cent of compensation. 2495

The contributions by the direction of the school employees 2496
retirement board shall be deducted by the employer from the 2497
compensation of each contributor on each payroll of such 2498
contributor for each payroll period and shall be an amount equal 2499
to the required per cent of such contributor's compensation. On a 2500
finding by the board that an employer has failed or refused to 2501
deduct contributions for any employee during any year and to 2502
transmit such amounts to the retirement system, the retirement 2503
board may make a determination of the amount of the delinquent 2504
contributions, including interest at a rate set by the retirement 2505
board, from the end of each year, and certify to the employer the 2506
amounts for collection. If the amount is not paid by the employer, 2507
it may be certified for collection in the same manner as payments 2508
due the employers' trust fund. Any amounts so collected shall be 2509
held in trust pending receipt of a report of contributions for the 2510
employee for the period involved as provided by law and, 2511
thereafter, the amount in trust shall be transferred to the 2512
employee's savings fund to the credit of the employee. Any amount 2513
remaining after the transfer to the employees' savings fund shall 2514
be transferred to the employers' trust fund as a credit of the 2515
employer. 2516

~~Any contributor under contract who, because of illness, 2517
accident, or other reason approved by the employer, is prevented 2518
from making the contributor's contribution to the system for any 2519
payroll period, may, upon returning to contributing service, have 2520
such deductions made from other payrolls during the year, or may 2521
pay such amount to the employer and the employer shall transmit 2522~~

~~such deductions to the system. The deductions shall be made 2523
notwithstanding that the minimum compensation for any contributor 2524
shall be reduced thereby. Every contributor shall be deemed to 2525
consent and agree to the contributions made and provided for in 2526
this section and shall receipt in full for the contributor's 2527
salary or compensation, and payment, less the contributions, is a 2528
full and complete discharge and acquittance of all claims and 2529
demands whatsoever for the services rendered by the person during 2530
the period covered by the payment. 2531~~

~~Each contributor shall pay with the first payment to the 2532
employees' savings fund each year a sum to be determined by the 2533
board, as provided by law, which amount shall be credited to the 2534
expense fund. The payments for the expense fund shall be made to 2535
the board in the same way as payments to the employees' savings 2536
fund are made. 2537~~

Additional deposits may be made to a member's account. At 2538
retirement, the amount deposited with interest may be used to 2539
provide additional annuity income. The additional deposits may be 2540
refunded to the member before retirement, and shall be refunded if 2541
the member withdraws the member's refundable amount. The deposits 2542
may be refunded to the beneficiary or estate if the member dies 2543
before retirement, and the board shall determine whether regular 2544
interest shall be credited to deposits thus refunded. 2545

Sec. 3309.474. (A) As used in this section, "state retirement 2546
system" means the public employees retirement system, Ohio police 2547
and fire pension fund, state teachers retirement system, school 2548
employees retirement system, or state highway patrol retirement 2549
system. 2550

(B) A state retirement system member who while a member of 2551
the school employees retirement system was out of service due to a 2552
leave of absence approved by the member's employer may purchase 2553

from the school employees retirement system service credit for any 2554
period during the leave for which contributions were not made 2555
under section 3309.47 of the Revised Code. 2556

For purposes of this section, a period of leave commences on 2557
the first day for which employee and employer contributions were 2558
not made to the system and ends on the earlier of the termination 2559
of the leave or the member's return to contributing service. 2560

(C)(1) For each year of service purchased, the member shall 2561
pay to the school employees retirement system for credit to the 2562
member's accumulated account with that system an amount equal to 2563
the sum of the following: 2564

(a) An amount determined by multiplying the compensation the 2565
member would have received during the leave by the employee 2566
contribution rate in effect at that time; 2567

(b) An amount determined by multiplying the compensation the 2568
member would have received during the leave by the employer 2569
contribution rate in effect at that time; 2570

(c) Compound interest at a rate determined by the school 2571
employees retirement board from the first day of the year 2572
following the date the leave commenced to the date of payment. 2573

(2) If the employee or employer contribution rate changed 2574
during the leave, contributions for each month of the leave shall 2575
be made at the rate in effect for that month. 2576

(D) Service credit purchased under this section for any 2577
period of leave shall not exceed two years. Credit may be 2578
purchased for more than one period of leave, but the total number 2579
of years purchased shall not exceed the lesser of five years or 2580
the member's total accumulated number of years of service as a 2581
contributor to the school employees retirement system. The member 2582
may choose to purchase only part of such credit in any one 2583
payment, subject to board rules. 2584

(E) The board may adopt rules under section 3309.04 of the Revised Code to implement this section. 2585
2586

Sec. 3309.50. (A)(1) Upon the death of a retirant or 2587
disability benefit recipient, who at the time of death is 2588
receiving a service retirement allowance or disability benefit 2589
from the school employees retirement system, a lump-sum payment of 2590
one thousand dollars shall be paid ~~to any designated or qualified~~ 2591
~~beneficiary under division (D) of section 3309.44 of the Revised~~ 2592
~~Code, or, if no such designation has been filed or if the~~ 2593
~~designated beneficiary is deceased or is not located within ninety~~ 2594
~~days, the school employees retirement board may approve payment to~~ 2595
~~either the person responsible for the burial expenses or to the~~ 2596
~~decedent's estate,~~ following the completion of an application on a 2597
form approved by the school employees retirement board, in the 2598
following order of precedence to: 2599

(a) The retirant or recipient's designated beneficiary; 2600

(b) The retirant or recipient's surviving spouse; 2601

(c) The retirant or recipient's children, share and share 2602
alike; 2603

(d) The retirant or recipient's parents, share and share 2604
alike; 2605

(e) The person responsible for the retirant or recipient's 2606
burial expenses; 2607

(f) The retirant or recipient's estate. 2608

(2) If a person listed in division (A)(1) of this section is 2609
deceased or is not located within one hundred eighty days, the 2610
person ceases to qualify for the payment. The payment shall be 2611
made to the person next in order of precedence. 2612

(B) A benefit paid under this section shall be treated as 2613
life insurance for purposes of this chapter and shall be funded 2614

solely from contributions made under section 3309.49 of the Revised Code and any earnings attributable to those contributions.

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

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

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

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

determined by the school employees retirement board. 2646

(B) The superintendent shall deduct from the amount allocated 2647
to each community school under section 3314.08 of the Revised 2648
Code, to each school district under Chapter 3317. of the Revised 2649
Code, or to each science, technology, engineering, and mathematics 2650
school under section 3326.33 of the Revised Code the entire 2651
amounts due to the school employees retirement system from such 2652
school or school district upon the certification to the 2653
superintendent by the secretary thereof. 2654

(C) Where an employer fails or has failed or refuses to make 2655
payments to the employers' trust fund, as provided for under 2656
Chapter 3309. of the Revised Code, or fails to pay any penalty 2657
imposed under section 3309.571 of the Revised Code the secretary 2658
of the school employees retirement system may certify to the state 2659
superintendent of public instruction, monthly or at such times as 2660
is determined by the school employees retirement board, the amount 2661
due from such employer, and the superintendent shall deduct from 2662
the amount allocated to the employer under section 3314.08 or 2663
3326.33 or Chapter 3317. of the Revised Code, as applicable, the 2664
entire amounts due to the system from the employer upon the 2665
certification to the superintendent by the secretary of the school 2666
employees retirement system. 2667

(D) The superintendent shall certify to the director of 2668
budget and management the amounts thus due the system for payment. 2669

Sec. 3309.571. The school employees retirement system shall 2670
impose the following penalties, which may be collected in the same 2671
manner as described in division (B) of section 3309.51 of the 2672
Revised Code: 2673

(A) For a failure to transmit contributions withheld from 2674
employees not later than the date specified under rules adopted by 2675
the school employees retirement board, one hundred dollars per day 2676

for each day the employer fails to transmit the contributions; 2677

(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; 2678
2679
2680
2681

(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; 2682
2683
2684
2685
2686
2687
2688
2689

(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. 2690
2691
2692
2693

Sec. 3309.69. ~~(A) As used in this section, "ineligible individual" means all of the following:~~ 2694
2695

~~(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;~~ 2696
2697
2698
2699
2700
2701
2702
2703

~~(2) The spouse of the former member;~~ 2704

~~(3) The beneficiary of the former member receiving benefits pursuant to section 3309.46 of the Revised Code.~~ 2705
2706

~~(B) The school employees retirement board may enter~~ establish 2707
a program to provide medical, hospital, surgical, prescription, or 2708
other health care coverage, benefits, reimbursement, or any 2709
combination thereof, to eligible individuals or dependents. 2710

Any program established under this section shall be designed 2711
and administered by the board. In establishing a program, the 2712
board may do any of the following: 2713

(1) Enter into an agreement with ~~insurance companies, health~~ 2714
~~insuring corporations, persons~~ or government agencies authorized 2715
to do business in the state for issuance of a policy or contract 2716
of health, medical, hospital, ~~or~~ prescription, surgical, or other 2717
health care benefits, or any combination thereof, ~~for those~~ 2718
~~individuals receiving service retirement or a disability or~~ 2719
~~survivor benefit subscribing to the plan and their eligible~~ 2720
~~dependents.~~ 2721

~~If all or any portion of the policy or contract premium is to~~ 2722
~~be paid by any individual receiving service retirement or a~~ 2723
~~disability or survivor benefit, the person shall, by written~~ 2724
~~authorization, instruct the board to deduct the premiums agreed to~~ 2725
~~be paid by the individual to the companies, corporations, or~~ 2726
~~agencies.~~ 2727

~~The board may contract for coverage on the basis of part or~~ 2728
~~all of the cost of the coverage to be paid from appropriate funds~~ 2729
~~of the school employees retirement system. The cost paid from the~~ 2730
~~funds of the system shall be included in the employer's~~ 2731
~~contribution rate provided by sections 3309.49 and 3309.491 of the~~ 2732
~~Revised Code. The board shall not pay or reimburse the cost for~~ 2733
~~health care under this section or section 3309.375 of the Revised~~ 2734
~~Code for any ineligible individual.~~ 2735

~~The board may provide;~~ 2736

(2) Provide for self-insurance of risk or level of risk ~~as~~ 2737

~~set forth in the contract with the companies, corporations, or~~ 2738
~~agencies, and may provide through the self-insurance method~~ 2739
~~specific benefits as authorized by the rules of the board.;~~ 2740

(3) Provide reimbursements or subsidies to eligible 2741
participants; 2742

(4) Make disbursements; 2743

(5) Determine levels of coverage and costs for the program; 2744

(6) Take any other action it considers necessary to establish 2745
and administer the program. 2746

(B) If it establishes a health care program, the board shall 2747
establish eligibility criteria and any other requirements for 2748
participation. To be eligible, an individual must meet the 2749
criteria established by the board and be one or more of the 2750
following: 2751

(1) A former member receiving benefits pursuant to section 2752
3309.34, 3309.35, 3309.36, or 3309.381 or former section 3309.38 2753
of the Revised Code; 2754

(2) A disability benefit recipient receiving a disability 2755
benefit pursuant to section 3309.35, 3309.39, 3309.40, or 3309.401 2756
of the Revised Code; 2757

(3) A beneficiary receiving monthly benefits pursuant to 2758
section 3309.45 of the Revised Code; 2759

(4) The beneficiary of a former member who is receiving 2760
monthly benefits pursuant to section 3309.46 of the Revised Code; 2761

(5) A dependent, as determined under rules adopted by the 2762
board, of an individual described in divisions (B)(1) to (4) of 2763
this section. 2764

(C) The cost paid from the funds of the system for coverage 2765
under this section shall be included in the employer contribution 2766
under sections 3309.49 and 3309.491 of the Revised Code. 2767

(D)(1) The board may require payment of a premium for participation in the health care program. Participation is deemed consent for the deduction of premiums from any pension, benefit, or annuity provided under this chapter to an eligible participant. 2768
2769
2770
2771

(2) An individual who fails to pay any required premium or receives any coverage or payment to which the individual is not entitled shall pay or repay any amount due the system. If an individual fails to pay or repay an amount due, the system may withhold the amount from any pension, benefit, annuity, or payment due the individual or the individual's beneficiary under this chapter or collect the amount in any other manner provided by law. 2772
2773
2774
2775
2776
2777
2778

(E) A health care program participant who is eligible for coverage under medicare part B, "Supplementary Medical Insurance Benefits for the Aged and Disabled," 42 U.S.C. 1395j, as amended, shall enroll for that coverage. The board shall, beginning the month following receipt of satisfactory evidence of the payment for coverage, make a monthly payment to each recipient of service retirement, or a disability or survivor benefit under the school employees retirement system who is eligible for insurance coverage under part B of "The Social Security Amendments of 1965," 79 Stat. 301, 42 U.S.C.A. 1395j, as amended, except that the board shall make no such payment to any ineligible individual. Effective on the first day of the month after April 9, 2001, the amount of the payment shall be the lesser of an amount equal to the basic premium for such coverage, or an amount equal to the basic premium in effect on January 1, 1999 the participant in an amount determined by the board for such coverage that is not less than forty-five dollars and fifty cents, except that the board shall make no payment to a participant who is not eligible for coverage under medicare part B or pay an amount that exceeds the amount paid by the recipient for the coverage. 2779
2780
2781
2782
2783
2784
2785
2786
2787
2788
2789
2790
2791
2792
2793
2794
2795
2796
2797
2798

~~(D)~~(F) The board shall establish by rule requirements for the 2799

coordination of any coverage, payment, or benefit provided under 2800
this section or section 3309.375 of the Revised Code with any 2801
similar coverage, payment, or benefit made available to the same 2802
individual by the public employees retirement system, Ohio police 2803
and fire pension fund, state teachers retirement system, or state 2804
highway patrol retirement system. 2805

~~(E)~~(G) The board shall make all other necessary rules 2806
pursuant to the purpose and intent of this section. 2807

(H) This section does not require the board to establish, 2808
maintain, offer, or continue any health care program. This section 2809
does not require the board to provide or continue access to any 2810
health care program, or any level of coverage or costs provided 2811
under the program, if the board establishes or maintains a program 2812
under this section. 2813

Sec. 3309.81. The school employees retirement board ~~shall~~ may 2814
establish one or more plans consisting of benefit options that 2815
provide for an individual account for each participating member 2816
and under which benefits are based solely on the amounts that have 2817
accumulated in the account. The plans may include options under 2818
which a member participating in a plan may receive definitely 2819
determinable benefits. 2820

Each plan established under this section shall meet the 2821
requirements of sections 3309.81 to 3309.98 of the Revised Code 2822
and any rules adopted in accordance with section 3309.80 of the 2823
Revised Code. It may include life insurance, annuities, variable 2824
annuities, regulated investment trusts, pooled investment funds, 2825
or other forms of investment. 2826

The board may administer the plans, enter into contracts with 2827
other entities to administer the plans, or both. 2828

Sec. 3309.88. For each member participating in a plan 2829

established under section 3309.81 of the Revised Code, the school 2830
employees retirement system shall transfer to the employers' trust 2831
fund a portion of the employer contribution required under section 2832
3309.49 of the Revised Code. The portion shall equal the 2833
percentage of compensation of members for whom the contributions 2834
are being made that is determined by an actuary appointed by the 2835
school employees retirement board to be necessary to mitigate any 2836
negative financial impact on the system of members' participation 2837
in a plan. 2838

The board shall have prepared annually an actuarial study to 2839
determine whether the percentage transferred under this section 2840
should be changed to reflect a change in the level of negative 2841
financial impact resulting from members' participation in a plan. 2842
The percentage transferred shall be increased or decreased to 2843
reflect the amount needed to mitigate the negative financial 2844
impact, if any, on the system, as determined by the study. A 2845
change shall take effect on the first day of the year following 2846
the date the conclusions of the study are reported to the board. 2847

The system shall make the transfer required under this 2848
section until the unfunded actuarial accrued liability for all 2849
benefits, except health care benefits provided under section 2850
3309.375 or 3309.69 of the Revised Code and benefit increases to 2851
members and former members participating in the plan described in 2852
sections 3309.18 to 3309.70 of the Revised Code granted after ~~the~~ 2853
~~effective date of this section~~ April 9, 2001, is fully amortized, 2854
as determined by the annual actuarial valuation prepared under 2855
section 3309.21 of the Revised Code. 2856

Section 2. That existing sections 3309.05, 3309.051, 2857
3309.061, 3309.07, 3309.072, 3309.074, 3309.075, 3309.10, 3309.15, 2858
3309.21, 3309.22, 3309.23, 3309.26, 3309.28, 3309.33, 3309.34, 2859
3309.341, 3309.343, 3309.35, 3309.353, 3309.354, 3309.36, 2860

3309.362, 3309.371, 3309.373, 3309.376, 3309.379, 3309.3710, 2861
3309.3711, 3309.39, 3309.401, 3309.41, 3309.44, 3309.45, 3309.46, 2862
3309.47, 3309.50, 3309.51, 3309.69, 3309.81, and 3309.88 and 2863
sections 3309.38 and 3309.571 of the Revised Code are hereby 2864
repealed. 2865

Section 3. Sections 1, 2, and 5 of this act, except for the 2866
amendment to division (A)(2)(b) of section 3309.34 of the Revised 2867
Code, shall take effect January 7, 2013. 2868

Section 4. The amendment by this act of division (A)(2)(b) of 2869
section 3309.34 of the Revised Code takes effect one hundred 2870
eighty days after the effective date of this act. 2871

Section 5. (A) The Ohio Retirement Study Council shall study 2872
and make recommendations regarding the School Employees Retirement 2873
Board's authority under division (A)(2)(b) of section 3309.34 of 2874
the Revised Code to adjust eligibility requirements for retirement 2875
under division (A)(2)(a) of section 3309.34 of the Revised Code. 2876

(B) Not later than ninety days after the effective date of 2877
this section, the Council shall prepare and submit to the 2878
President of the Senate and the Speaker of the House of 2879
Representatives a report of its findings and recommendations. 2880

Section 6. Section 3309.23 of the Revised Code is presented 2881
in this act as a composite of the section as amended by both Am. 2882
Sub. S.B. 351 and Am. S.B. 346 of the 119th General Assembly. The 2883
General Assembly, applying the principle stated in division (B) of 2884
section 1.52 of the Revised Code that amendments are to be 2885
harmonized if reasonably capable of simultaneous operation, finds 2886
that the composite is the resulting version of the section in 2887
effect prior to the effective date of the section as presented in 2888
this act. 2889