

**December 21, 2017**

The nine hundredth and six meeting of the Retirement Board of the School Employees Retirement System was held in the boardroom at 300 E. Broad Street, Columbus, Ohio, on Thursday, December 21, 2017. The meeting convened in open session at 8:34 a.m. and continued with the Pledge of Allegiance. Following the Pledge of Allegiance, the roll call was as follows: Daniel Wilson, Chairperson, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Catherine Moss, Barbra Phillips and James Rossler. Daniel Wilson excused the absence of Beverly Woolridge. Also in attendance was John Danish, representative of the Attorney General, various members of the SERS staff, and members of the public.

**APPROVAL OF MINUTES OF THE RETIREMENT BOARD MEETING HELD ON  
November 16 & 17, 2017**

Catherine Moss moved and Barbra Phillips seconded the motion to approve the minutes of the Retirement Board meeting held on Thursday and Friday, November 16 & 17, 2017. Upon roll call, the vote was as follows: Yea: James Rossler, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Catherine Moss, Barbra Phillips and Daniel Wilson. The motion carried.

**APPROVAL OF OUT-OF-STATE BOARD TRAVEL**

Catherine Moss moved and Barbra Phillips seconded the motion that requests by Board Members to attend and receive reimbursement for the following out-of-state conferences and meetings be approved: Upon roll call, the vote was as follows: Yea: James Rossler, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Catherine Moss, Barbra Phillips and Daniel Wilson. The motion carried.

<b>Conference</b>	<b>Attendee</b>	<b>Conference Dates</b>	<b>Conference Location</b>	<b>Estimate of Expenses</b>
IFEBP Health Care Management Conference	Christine Holland	April 30- May 2, 2018	Denver, CO	\$ 3,383.47

**EXTERNAL AUDIT REPORT**

Executive Director Richard Stensrud introduced David Andrews and Joseph Leonard of RSM US LLP to present their findings of SERS external audit.

David Andrews, engagement partner, and Joe Leonard, assurance senior manager, with SERS' independent external auditor, RSM US LLP, presented the FY2017 Independent Auditor's Report to the Board. The results of the RSM audit produced an unmodified opinion, which means that SERS' financial statements are presented, in all material respects, in accordance with applicable financial reporting framework.

The auditors, as part of the audit plan, examined the integration of the new member benefits computer system (SMART) into SERS' workflow, and confirmed that information transferred from the old computer system to the new system was thorough. The audit included, but wasn't limited to, an examination of internal controls such as security access in the Information Technology department, the validation of the accuracy of contribution collection and benefit payments in the Finance Department, and tests of the

reasonableness of the actuarial assumptions used by SERS' independent actuary. There were no material findings in any of the audited areas.

As the audit progressed, staff worked to assemble the information contained in the *Comprehensive Annual Financial Report* (CAFR), which summarizes SERS' financial health, investment performance, and accomplishments of the last fiscal year (July 1-June 30). The CAFR also provides detailed financial statements, statistical information, and in-depth explanations of the numbers. As part of the engagement, RSM also reviewed the CAFR. RSM provided all the communication required under the auditing standards to the Audit Committee and the Board.

The Board thanked Mr. Andrews and Mr. Leonard for their presentation.

### **FEDERAL REPORT UPDATE – CAROL NOLAN DRAKE**

Next, Mr. Stensrud asked Carol Nolan Drake, SERS' federal government relations liaison, to present the year-end federal update. Mr. Stensrud acknowledged the work of Ms. Drake and Laurel Johnson, Sr. Government Relations Officer, on the Unrelated Business Income Tax (UBIT) issue. In Ohio, SERS was fortunate in that both U.S. Senators served on the Senate Finance Committee, greatly facilitating our efforts to oppose this new tax. Mr. Stensrud also acknowledged the work of our colleagues at STRS and OPERS.

Ms. Drake thanked Mr. Stensrud and stated that it has been a privilege to represent SERS, its members, and retirees this year. Ms. Drake noted that SERS continues to have a reputation as a highly trustworthy, transparent source of information on Capitol Hill. Following, Ms. Drake provided a recap of "themes" from this year, and discussed our focus for 2018, which includes opposing mandatory Social Security coverage; protecting Medicare and Medicaid; extending the sunset period for SERS' Marketplace Wraparound Plan; opposing the Cadillac Tax; engaging on any legislation that could impact defined benefit plans; providing regulatory advocacy before the SEC; and offering ongoing education and outreach to the delegation.

The Board thanked Ms. Drake for the presentation and her work on the federal level.

## MEMORANDUM

To: Laurel Johnson, Senior Government Relations Officer

From: Carol Nolan Drake, Federal Liaison

Date: December 6, 2017

Re: Federal Legislative and Regulatory Report for November and early December

### OVERVIEW

**Highlights for November and early December include:** a major tax reform bill passed in the House of Representatives and Senate; SERS' advocacy against the House tax bill's UBIT provision in the House and Senate; SERS' advocacy to preserve pre-tax retirement contributions, catch-up provisions, and ten percent penalty exclusions in the House and Senate tax bills; the resignation on November 24 of Richard Cordray as executive director of the federal Consumer Financial Protection Bureau; and continued discussion on funding the federal government past December 8.

**The Congress was in session during most of November.** As of today, the House has six remaining scheduled days left in December for session. The Senate will be in recess from December 18-29 for a "state work period." Both the House and Senate will be in recess during the holidays for Christmas and New Year's. The calendars for 2018 are not finalized for either Chamber.

### TAX REFORM- HOUSE OF REPRESENTATIVES

In early November, **Chairman Kevin Brady (R-TX) of the House Ways and Means Committee advanced H.R. 1, the Tax Cuts and Jobs Act, through the Ways and Means Committee and on November 16, the full House voted to approve it by a vote of 227-205.** Ohio's Republican House members, including Chabot, Tiberi, Stivers, Latta, Jordan, Johnson, Gibbs, Renacci, Joyce, Wenstrup, Davidson, and Turner voted in favor of the bill. All of Ohio's Democratic members, including Reps. Beatty, Fudge, Kaptur, and Ryan voted against it.

**The bill contained a number of provisions that SERS has been addressing, including:**

- UBIT- the Unrelated Business Income Tax provision in Section 5001 would subject certain investment income generated by public pension plans to the unrelated business income tax (UBIT).
- Individual mandate under the ACA- the bill leaves the mandate intact.
- "Rothification" proposals relating to lower pre-tax provisions, ten percent penalty for early withdrawal, and catch-up provisions were not included.

**UBIT- A coalition of national organizations and Ohio public pension funds, including NASRA, NCTR, NCPERS, SERS, STRS, and OPERS was formed to advocate against the UBIT provision.** SERS developed a set of talking points and key messages for us to deliver to the House Ways and Means Committee members, staff from the Committee, the Ohio delegation members, and House leadership. Other funds and organizations, including CalPERS, CalSTRS, Houston Firefighters, Wisconsin, AFSCME, the Council of Institutional Investors (CII) and the Institutional Limited Partners Association (ILPA) met with Hill staff to ask that the provision be removed.

The key messages included:

- This would be a newly levied tax on public retirement systems that have not been subject to UBIT.
- Due to the complexity of this issue and the nature of the investments involved, the analysis of the impact of this proposal requires a detailed evaluation on an investment-by-investment level for a broad range of assets. **Nevertheless, we know there are several sizeable and important**

**asset classes that will clearly be impacted by this proposal. Examples of these would be real estate and alternative investments, including private equity and hedge funds.** These assets classes are important components of an overall diversified asset mix selected by many boards to generate the long-term returns necessary to meet funding objectives of retirement systems throughout the country. This proposal will diminish the expected returns and add complexity and cost to these important asset classes.

- Since the Great Recession in 2008, every state has made changes to one or more of its pension plans to strengthen their financial conditions. Public pension plans have not sought assistance from Congress, rather have dealt with pension changes at the state level.
- The Senate and House should remove the UBIT provision in the final version of the bill because of the impact on the funds and the affected investments (including economic development, real estate, and infrastructure).
- Tax reform should not come at the expense of public employees including teachers, custodians, cafeteria workers, bus drivers, sanitation workers and police/firemen, who are constituents.

**After the House bill retained the UBIT provision, the Coalition focused its advocacy on the Senate with success.** In discussions with Ways and Means staff, it was their understanding that the provision simply clarified existing law. Staff also indicated that there was an interest in heightened reporting of pension fund investments in hedge funds, for example, and a lack of specific impact information from state and local plans. The provision was clearly a “pay-for” proposal to help pay for the lowering of the corporate tax rate and other changes, and staff used the 2014 Camp proposal that was drafted by Rep. David Camp (R-MI), former Chairman of the Ways and Means Committee.

**Chairman Brady was quoted saying that this tax bill will not be the last one.** He implied that there could be other tax bills of a smaller nature next year in an effort to fix other provisions that did not make it into this bill.

**Rothification- another Coalition of like-minded organizations and pension funds advocated against the “Rothification” proposals that were initially proposed in the House bill.** The provisions including a cap on pre-tax retirement savings, the movement to after-tax or Roth investment vehicles, the removal of the exemption of the ten percent penalty for early withdrawals, and the removal of catch-up provisions were floated as ways to raise revenue for other tax changes. SERS, STRS, OPERS, OP&F, Ohio Deferred Compensation, NAGDCA, and Nationwide representatives coordinated a strategy to educate Ohio delegation and Ways and Means Committee members about the need for pre-tax retirement savings plans. We also stressed the need to retain the catch-up provisions and ten percent penalty exemptions.

**I reached out to Barbara Shaner, Ohio Association of School Business Officials, at the suggestion of Laurel Johnson, to discuss the proposed changes.** Ms. Shaner was helpful in gathering information on their membership’s usage of these key provisions and agreed to help contact Ohio’s delegation.

**The Coalition’s effort paid off when the House bill did not contain Rothification changes to the provisions we asked to remain intact.**

## **TAX REFORM- SENATE**

The Senate unveiled its tax reform legislation on November 8. The bill moved quickly through the Senate Finance Committee, with the markup occurring after that. **As a frame of reference, the House bill was scored to add up to \$1.5 trillion over ten years to the federal deficit** and some Senators expressed concerns with this increase in the debt. Discussions ensued to scale the increase to a more moderate level by potentially decreasing the corporate tax rate to a slightly higher level from the House version, which set it at 20 percent.

**Both Ohio Senators Portman and Brown serve on the Senate Finance Committee.** The Coalition approached both Senator's offices and spoke several times to staff members handling either the UBIT or the Rothification proposals.

**Rothification- SERS continued its participation with an even larger coalition of businesses, non-profit organizations, and pension funds as the bill was considered in the Senate Budget and Finance Committees.** The "Save Our Savings Coalition" included representatives from Nationwide, Mass Mutual, TIAA, Transamerica, NAGDCA, American Benefits Council, several law firms, Ohio Deferred Comp, STRS, OPERS, among others. Through the Coalition, SERS and I were involved in conversations with Senator Portman's staff and other Senator's offices to explain the concerns that schools, churches, non-profits and governmental entities had with the proposals. Most problematic were the provisions that the Senate added in to its initial version that subjected public workers to the ten percent penalty for early withdrawal, changed the ability to make catch-up provisions, and limited the ability of workers to make pre-tax contributions. The Coalition had previously met with representatives from Senators Brown and Portman in November to discuss the retirement security issues.

**The Coalition began outreach to all Senators who served on these two key Committees.** We also approached leadership by writing to Senate President Mitch McConnell. Emails were sent out to all the Senate Budget and Finance Committee members to explain the concerns which we had for its members who are close to retirement or could already be making catch up payments. We did not want these members to be caught mid-stream. Members of the Coalition who were based in Washington, D.C. attended meetings on the Senate side.

**Senators Susan Collins (R-ME) and Rob Portman (R-OH) emerged as two champions for our efforts when they agreed to co-sponsor an amendment to remove the problematic retirement provisions.** On the Senate floor, Senator Collins introduced four separate amendments, the second of which supported our concerns on the retirement provisions. The fourth amendment was also helpful in that it provided the vehicle to lower the medical expenses deduction requirement down to 7.5% of gross income from the current 10% level. Senator Sherrod Brown (D-OH) also worked to advocate with his colleagues on our behalf.

**UBIT- SERS and the Ohio pension funds, STRS and OPERS, worked with Senators Brown and Portman to keep the UBIT provision from being added in to the Senate bill. We were pleased to see that the provision was not included in the Senate version.** Our efforts will continue to make sure that the UBIT proposal does not re-emerge during the Conference Committee discussions.

**On December 2, the Senate voted out the Tax Cuts and Jobs Act, with amendments, by a vote of 51-49.** Senator Rob Portman voted in favor of the bill; Senator Sherrod Brown voted against it.

## **TAX REFORM CONFERENCE COMMITTEE**

**The tax reform conferees from the House were named on December 4.** Members include: Kevin Brady (R-TX), Devin Nunes (R-CA), Peter Roskam (R-IL), Diane Black (R-TN), Kristi Noem (R-SD), Rob Bishop (R-UT), Don Young (R-AK), Greg Walden (R-OR) and John Shimkus (R-IL). No members of the Ohio delegation were named for the House. On December 5, Rep. Fred Upton (R-MI) was substituted for Rep. Walden. On behalf of SERS, I have written to each of the Republican conferees and asked that the UBIT provision be removed from the final tax reform bill.

**The Senate conferees have not been named as of the date of this report.** Senator Portman's name has surfaced as a potential conferee.

**The Senate Rules have a number of restrictions setting forth how much flexibility the Senate conferees can exercise during the conference committee process.** The rules restrict new tax policy or tax provisions that are not "sufficiently related" to either the House or Senate tax bills. This means that the additional issues being discussed by Congress, including immigration reform, will need to be dealt with in another way.

**The repeal of the ACA's individual mandate was included in the Senate bill and according to Speaker Ryan, the Conference Committee may discuss adding it into the House provisions.** The repeal of the Cadillac tax, medical device tax, and health insurance tax are not expected to be added in to the final bill either.

## **CONTINUING RESOLUTION TO FUND THE GOVERNMENT**

**On December 8, the current Continuing Resolution (CR) for funding government will expire.** Leadership from the House and Senate are working on a short-term solution that may entail a two-week extension until December 22 or a later extension to December 30. Then, they would need to consider another short-term CR to extend the budget talks until January 2018 when Congress convenes again. The challenge for Republicans is that they need 218 Republican votes for a majority or support from several Democrats to pass the CRs. If they do not reach an agreement, a government shut-down will occur.

**Democrats have been demanding that the talks include a resolution of the Obama Administration's Deferred Action on Childhood Arrivals (DACA) or also called, "Dreamers" program.** Dreamers are the children of undocumented immigrant parents who have been brought into the U.S. and were granted amnesty from deportation under the Obama Administration. Many Democrats want a way to grant them a process toward U.S. citizenship in the CR. When President Trump ended the DACA program by executive order, he gave Congress six months, or until March 2018, to resolve the issue. When asked by reporters about the Democratic demands, Senate President Mitch McConnell (R-KY) responded, "That's a ridiculous idea. There is no crisis. The president has given us until March to address the issue of undocumented children who came into the country ... through no choice of their own and are in a kind of difficult spot."

**The House Rules Committee will meet on December 6 to craft a funding solution for the full House to consider on Thursday.** That leaves them only one working day before the current CR expires. On the Senate side, at least eight Democratic Senators would need to support the CR to meet the 60-vote threshold to avoid a filibuster. Democratic Senators have also indicated they would like to address other concerns in the CR.

## **HEALTH CARE**

**Discussions in the Senate on tax reform have been used as a platform by some Republican Senators, particularly Senator Susan Collins (R-ME), to help stabilize the individual markets.** Senator Collins met with President Trump and Senate leadership in late November to garner support for a proposal to link her support on tax reform to two bills to address the ACA's needs. Senator Collins emerged from the meeting, saying that the ACA fix would occur in separate bills that would pass by the end of the year.

A wrinkle occurred on December 4, **when House Speaker Paul Ryan (R-WI) indicated that he was not brought into those discussions.** Senate Majority Leader Mitch McConnell (R-KY) will need to address the issues with the House to fulfill the commitment to Senator Collins, who did support the Senate's tax reform bill.

**Open enrollment under the ACA will run through December 15.** Coverage will begin on January 1, 2018. Thus far, reports have indicated that more people have taken the time to enroll in the ACA marketplace plans.

## **CHIP FUNDING**

**The Senate has not acted yet to restore CHIP funding to the states.** One possibility for addressing the issue is to provide funding through the Continuing Resolution that needs to be passed in December as a

short-term solution. Then, Congress could return in January 2018 and finalize the details for CHIP. Some states are reporting that their funding levels are dangerously low.

### **SERS WRAPAROUND PROGRAM**

Anne Jewel and I met with Greg Moody, head of the Governor's Office of Health Transformation, on November 13 to discuss the SERS Wraparound Program and to see if the 1332 Waiver Process might be a vehicle to extend the program. Mr. Moody seemed interested in the idea because it might provide the state of Ohio with the ability to use the Waiver process to ensure that low income and recipients of Medicaid would continue to have access to it.

**Ms. Jewel met with staff members who work for Jillian Froment, director of the Ohio Department of Insurance (ODI) on November 27 to educate them on the Wraparound Program.** She also was interested in hearing the timeline for the submission of the state of Ohio's 1332 Waiver to the federal government. I was not able to attend the meeting and will meet with Director Froment on December 12.

**SERS submitted a request to be a presenter at the NCPERS annual conference in New York City in May 2018.** Proposals for speaking engagements were due to NCPERS by December 1. SERS sent in its proposal prior to the deadline and received a confirmation that it was received. NCPERS will be reviewing all the speaking requests in mid-December and will let Ms. Jewel and Ms. Johnson know if SERS was selected.

**Guidance from HHS/CMS on Wraparound reporting requirements to the federal government have not been issued yet in the Federal Register.** In checking with James Mayhew, CMS, he indicated that the agency was still working on the request for comments and it should be issued in the next few weeks.

### **HHS/CMS**

On December 5, CMS released its most recent monthly report on Medicaid and CHIP enrollment data for September 2017. According to the release, **74,161,192** individuals were enrolled in Medicaid and CHIP in the **states reporting** September 2017 data: **68,239,620** individuals were enrolled in Medicaid and **5,921,572** individuals were enrolled in CHIP. **Nearly 16.3 million** additional individuals were enrolled in Medicaid and CHIP in September 2017 as compared to the period prior to the start of the first Marketplace open enrollment period (July - Sept. 2013), in the **49 states** that reported relevant data for both periods, representing nearly a **29 percent increase** over the baseline period. (Connecticut and Maine aren't included because they did not report data for both periods). The report can be viewed here: <https://www.medicaid.gov/medicaid/program-information/medicaid-and-chip-enrollment-data/report-highlights/index.html>

### **CFPB**

**Ohioan Richard Cordray, the head of the Consumer Financial Protection Bureau (CFPB), resigned on Friday, November 24** and named his chief of staff, Leandra English, as the acting executive director. On the same day, President Trump named White House Budget Director Mick Mulvaney as the interim head, setting up a court battle. Ms. English filed suit in the U.S. District Court for the District of Columbia on Sunday, November 26 to block the President's interim appointment and asked the Court to issue a temporary restraining order. Both Ms. English and OMB Director Mulvaney showed up for work on Monday. On Tuesday, the District Court refused to grant the temporary restraining order, thereby clearing the way for Director Mulvaney to remain in charge.

**The "Who's in Charge" situation developed due to the question of which federal law takes precedence over the appointment.** Under the Dodd-Frank Act, the CFPB was created as an independent federal agency to protect consumers from unfair or deceptive practices by companies. The law specified that the executive director was vested with the authority to name his or her successor, to serve in an interim capacity until the U.S. Senate confirmed the President's appointee. Counsel for President Trump, however, claimed that the **Federal Vacancies Reform Act of 1998** provided the

President with the authority to name Director Mulvaney to the interim position. A permanent director will need to be named by the President and confirmed by the Senate.

**On December 5, Mr. Cordray announced that he is running as one of the Democratic nominees for the Ohio governor's race in 2018.**

## **SOCIAL SECURITY**

**H.R. 1205, the "Social Security Fairness Act of 2017," which would repeal GPO and WEP, now has 164 co-sponsors, up from 158 co-sponsors last month.** Representatives from Ohio that are co-sponsors include Representatives Michael Turner (R-OH), David Joyce (R-OH), Tim Ryan (D-OH), Joyce Beatty (D-OH), Marcia Fudge (D-OH) and Marcy Kaptur (D-OH). A new co-sponsor is Rep. Steve Stivers (R-OH), making a total of seven Ohio delegation members supporting the bill. The bill was referred to the House Ways and Means Subcommittee on Social Security in March and has not moved out of the Subcommittee.

Due to the time commitment for tax reform, Rep. Kevin Brady's (R-TX) bill, the **Windfall Elimination Provision (WEP) bill, H.R. 711**, has not moved in the House, however, Rep. Brady is the Chairman of the House Ways and Means Committee. Staff members are still indicating that he intends to try for a solution to WEP and hopefully, GPO, after the tax reform bill is finalized.

## **SECURITIES AND EXCHANGE COMMISSION (SEC)**

**The SEC released the agenda for the December 7 Investor Advisory Committee meeting.** On the agenda are the following topics: Recommendation of the Investor as Purchaser Subcommittee Regarding Electronic Delivery of Information to Retail Investors; Retail Investor Protections and Transparency in Municipal and Corporate Bond Markets; Cybersecurity Risk Disclosures (which may include a Recommendation of the Investor as Owner Subcommittee); Dual-Class Share Structures (which may include a Recommendation of the Investor as Owner Subcommittee); Retail Investor Disclosure: What Works, What Doesn't, and Best Practices; and Subcommittee Reports.

**On December 4, the SEC's Office of Investor Education and Advocacy issued an Investor Bulletin to answer questions that may arise when investing in a 529 plan account for college or other post-high school education.** The SEC also has a companion Bulletin, [An Introduction to 529 Plans](#).

The bulletin can be viewed here:

[https://www.sec.gov/oiea/investor-alerts-and-bulletins/ib\\_529accountquestions](https://www.sec.gov/oiea/investor-alerts-and-bulletins/ib_529accountquestions)

## **DODD-FRANK ACT EASING FOR BANKS**

**On Tuesday, December 5, the Senate Banking Committee passed out a bill that would exempt banks with less than \$250 billion in assets from heightened regulatory review under the Dodd-Frank Act from 2010.** The bipartisan vote in favor of S. 2155 means that the bill should pass in the full Senate with ease. The House passed its bill earlier in the year and that bill contained more significant roll-backs of Dodd-Frank and included a provision to abolish the CFPB. Democratic Senators are not expected to support the additional House provisions. The Senate version raised the threshold in the House bill from \$50 billion to \$250 billion as the asset threshold for banks to be considered "**systemically important financial institutions**," or "SIFI" under Federal Reserve supervision. Banks with assets between \$50 billion and \$100 billion would be exempt once the bill is enacted, while those with assets between \$100 billion and \$250 billion would be exempted 18 months later.

**According to reports, the Senate bill will also exempt banks with less than \$10 billion in assets from the Volcker Rule** which was put in place after the Great Recession to stop banks from using their own money and that of investors to speculate in the market. Senator Sherrod Brown was quoted on the bill, saying, "I understand my colleagues' interest in agreeing to this legislation, but disagree on the wisdom of rolling back so many of Dodd-Frank's protections with almost no gains for working families."

## OHIO DELEGATION LEGISLATION

**On November 16, Senator Sherrod Brown (D-OH) and Representative Tim Ryan (D-OH) introduced companion bills to address pension shortfalls for private multiemployer plans.** Senator Brown introduced S. 2147, the "Butch Lewis Act of 2017," to establish a Pension Rehabilitation Administration within the Department of the Treasury to make loans to multiemployer defined benefit plans, and for other purposes. Twelve Senators have signed on as co-sponsors, all Democrats. Senator Portman has not co-sponsored the bill. Rep. Ryan co-sponsored H.R. 4444, called, "The Rehabilitation of Multiemployer Pensions Act." All 60 co-sponsors are Democrats, including Ohio's Democratic Representatives Beatty, Kaptur, and Fudge. SERS discussed the bill with Senator Brown and Rep. Ryan's offices to make sure that the media did not confuse this bill with multiemployer public pension funds.

**Rep. Steve Stivers (R-OH) introduced H.R. 4267 on November 7. The bill would amend the Investment Company Act of 1940** to "change certain requirements relating to the capital structure of business development companies, to direct the Securities and Exchange Commission to revise certain rules relating to business development companies, and for other purposes." Rep. Joyce Beatty (D-OH) is a co-sponsor.

As an update, on October 5, Rep. **Warren Davidson (R-OH) introduced H.R. 3973, a bill to "amend the Securities Exchange Act of 1934 to require certain entities to develop internal risk control mechanisms to safeguard and govern the storage of market data."** The bill passed the House on November 13 and was referred to the Senate Committee on Banking, Housing, and Urban Affairs.

**Rep. Richard Neal (D-MA) introduced two bills on December 1 that relate to workplace retirement savings.** H.R. 4524, the "Automatic Retirement Plan Act of 2017," would "expand retirement coverage, preserve retirement income, and simplify rules related to retirement plans." The second bill, H.R. 4523, the "Retirement Plan Simplification and Enhancement Act of 2017," would make it easier for Americans to save for a financially secure retirement by amending the Internal Revenue Code of 1986 to expand retirement plan coverage, increase retirement security, and for other purposes.

## OTHER MATTERS OF INTEREST

**President Trump appointed Alex Azar as the Health and Human Services (HHS) Secretary on November 13.** Mr. Azar must be confirmed by the U.S. Senate. During testimony before the Senate Health, Education, Labor, and Pensions (HELP) Committee on November 29, Mr. Azar said that drug prices are too high, and the government should help to lower drug costs for consumers. Under the President George W. Bush administration, Mr. Azar served as general counsel at HHS. He left HHS to work for a large pharmaceutical company. According to his testimony, **Mr. Azar will have four priorities, if confirmed as the Secretary of HHS**, including: 1) Lowering drug prices through competition between brand-named drugs and generics; 2) Providing solutions to make health care more affordable and available; 3) Continuing to move the Medicare program toward good health outcomes for recipients rather than through a system that rewards volume; and 4) Working to end "the scourge of the opioid epidemic," as he noted to the Committee members. Mr. Azar also acknowledged he favors a block grant program for Medicaid dollars rather than the current federal and state government arrangement of funding Medicaid.

**President Trump named Jerome "Jay" Powell as his pick for the chair of the Federal Reserve on November 2.** He is a current member of the Federal Reserve Board of Governors and will need Senate confirmation. After confirmation, Mr. Powell will replace Janet Yellen, the current chair, when her term ends in February 2018. Mr. Powell was an undersecretary of Treasury under President George H.W. Bush and a former partner of Carlyle Group, a private equity firm. Mr. Powell has commented that some of the Dodd-Frank Act needs attention, however, he would keep certain provisions in place.

**As an update to last month's Federal Report, Aetna has agreed to be sold to CVS for \$67.5 billion, which represents approximately up to \$207 per share in cash and stock.** Shareholders will need to

approve the acquisition. Federal regulators will continue their scrutiny of the transaction, which, if approved, could be finished by the end of 2018.

#### **ACTIVITIES:**

1. Discussion with Barbara Shaner, OASBO, on the Senate's review of Rothification pre-tax vs. post-tax and catch-up provisions for 457 and 403(b) retirement plans.
2. Participation on several conference calls with representatives of SERS, STRS, OPERS, NASRA, and NCTR to discuss the UBIT strategy in the House and Senate, and involvement of peers.
3. Meeting with Greg Moody, director of the Governor's Office of Health Transformation and Anne Jewel, SERS Director of Health Care, on November 13 to discuss the Wraparound Program and the State's 1332 Waiver process.
4. Phone calls and email discussions with the offices of Senators Portman and Brown on tax reform proposals.
5. Discussion with Ed Jayne, AFSCME's contact in Washington, D.C. on House and Senate tax reform proposals.
6. Assisted setting up meeting with Director Jillian Froment, Director of the Ohio Department of Insurance and Anne Jewel to discuss the ODI application for the 1332 Waiver under the ACA on November 27.
7. Drafted and sent out 37 emails out to the members of the House Ways and Means offices, to educate the members on the inclusion of the UBIT language in the House tax reform bill.
8. Drafted and sent out emails to 26 members of the Senate Finance Committee on the SERS' tax reform concerns.
9. Contacted the Council of Institutional Investors (CII) to discuss their advocacy on the UBIT provision. I spoke with Jeff Mahoney, General Counsel, on their Hill visits and follow up after the tax reform conferees are named by the House and Senate.
10. Set up and called in to a teleconference with staff from the office of Senator Rob Portman (R-OH) to discuss tax reform issues identified for public sector employees with SERS, STRS and OPERS representatives.
11. Set up and called in to a teleconference with Whitney Daffner, tax policy legislative aide for Rep. Pat Tiberi (R-OH) to discuss House and Senate versions of tax reform and the UBIT provision.
12. Contacted James Mayhew, HHS/CMS, to ask when the submission for comments on reporting for wraparound programs will appear in the Federal Register.
13. Submitted the speaking proposal to NCPERS for the May 2018 annual conference in New York City for a Wraparound Program presentation by Anne Jewel, Director of SERS Health Care.
14. Monitored bills relating to health care, the federal budget, tax reform, public pensions, opioids, and Social Security.
15. Review of introduced bills by members of the Ohio delegation or other members on issues that could impact SERS.
16. Made calls, set up meetings and emails with representatives of SERS during November and early December.
17. Monitoring relevant House and Senate Committees, Committee hearings, review of public notices or rules from the SEC, HHS/CMS, and FDA.
18. Monitoring news organizations and websites such as the Social Security Administration, CII, ICGN, AARP and other interested parties for pension, investment, and health-related issues.
19. Review of reports and newsletters from interested party representatives from organizations such as AARP, CII, NASRA, NCTR, NCPERS, the Public Sector Healthcare Roundtable, and similar organizations.
20. Preparation of monthly Federal Update.

## INVESTMENT MONTHLY AGENDA MEMO

Executive Director Richard Stensrud asked Chief Investment Officer Farouki Majeed to present the Investment report.

### ***Monthly Investment Report***

Mr. Majeed presented the Investment report for the month ended October 31, 2017. Mr. Majeed informed the Board that the fund was at \$14.0 billion and the FYTD return was 5.10%. The preliminary performance report as of November 30, 2017 was provided to the Board for their information.

Following questions and answers, the Board thanked Mr. Majeed for the presentation.

### ***Annual Portfolio Review – Global Equities***

Mr. Majeed asked Investment Officers Lisa Michalowski and Alex Durbin to present the Global Equity Annual Portfolio review. Ms. Michalowski began by providing an overview of Global Equities' role in the portfolio, allocation, custom benchmark and performance objective. Portfolio guidelines and performance objectives for the US and Non-US portfolios were discussed. Changes made to improve the portfolio since 2015 were highlighted. Mr. Durbin continued discussing Non-US portfolio exposures, allocation and characteristics. Non-US Equity returns exceeded the benchmark during the fiscal year and longer periods. The manager count of 11 was maintained, active and emerging market exposures were increased during the year. Mr. Durbin concluded his portion of the presentation with the portfolio's objectives for 2018.

Following questions and answers, the Board thanked Ms. Michalowski and Mr. Durbin for their presentation.

### ***Quarterly Barra Risk Report***

Investment Officer Hai Yen Le presented the Risk Report as of September 30, 2017. The risk presentation included the Total Fund risk forecast, individual asset class contributions to risk, and a forecast of total risk for the next year.

Following questions and answers, the Board thanked Ms. Le for the presentation.

## SUMMARY OF INVESTMENT TRANSACTIONS

Barbra Phillips moved and Catherine Moss seconded that the following summary of investment transactions made in compliance with the Ohio Revised Code Section 3309.15 during the period of **October 1, 2017** through **October 31, 2017** hereby be approved. Upon roll call, the vote was as follows: Yea: James Rossler, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Catherine Moss, Barbra Phillips and Daniel Wilson. The motion carried.

### A. PURCHASES

Asset Class	Approximate Cost (in millions)
US Equities	\$142.4
Non-US Equities	164.7
Fixed Income	368.2
Multi-Asset Strategies	n/a
Private Equity Capital Calls	31.9
Real Asset Capital Calls	49.4
Opportunistic	9.3
Cash Equivalents	547.0

B. SALES

Asset Class	Approximate Net Proceeds (in millions)	Approximate Gain/(Loss) (in millions)
US Equities	\$ 179.1	\$ 25.8
Non-US Equities	166.3	15.1
Fixed Income	338.9	0.1
Multi-Asset Strategies	10.2	3.9
Private Equity distributions	38.1	n/a
Real Asset distributions	71.8	n/a
Opportunistic	1.1	(0.1)
Cash Equivalents	391.4	n/a

The Board took a break at 10:54 a.m. and reconvened at 11:11 a.m.

**EXECUTIVE DIRECTOR'S UPDATE**

***COLA Delay Legislation***

Executive Director Richard Stensrud stated that SB 8, which contains the legislative authority to delay the commencement of the COLA for new retirees, is awaiting the Governor's signature with an anticipated effective date sometime in March or April. Mr. Stensrud further noted that an Administrative Rule concerning implementation of that authority is on today's agenda for the Board's consideration.

***Ohio Retirement Study Council***

Mr. Stensrud reported that the ORSC meeting for December was cancelled. However, SERS staff is scheduling a meeting with Council staff in January to review our CAFR, SAFR and actuarial valuations.

***Stakeholder Meetings***

Mr. Stensrud reported that he spoke at the AFSCME Retiree Chapter 1184 Board meeting this month. He assured the AFSCME board that the decision to freeze/delay COLAs was difficult, but necessary. Mr. Stensrud explained that as a result of this action, SERS' pension stability has improved, and money is able to go into the health care program again. Mr. Stensrud reiterated that SERS' Board and staff remain committed to its retirees' retirement security, and to providing a meaningful health care benefit.

Mr. Stensrud stated that staff is planning its next Pension and Health Care Roundtable for our advocacy groups on Friday, January 26, from 10 a.m. to noon. The meeting will be held in the O'Keefe Conference Center. Various presentations will be given by staff to update these key organizational leaders. Mr. Stensrud noted that Board members are always welcome to attend.

***SERS Culture***

Mr. Stensrud reported that staff collected new and gently-used coats, gloves, hats, and scarves to benefit students of Cristo Rey High School and other community agencies, and that SERS and other businesses donated more than 1,000 coats this year.

Mr. Stensrud noted that each year staff participates in an annual toy drive, which provides toys to children in need. This year, the Salvation Army sent SERS 75 gift tags, and all were taken by SERS staff members and replaced with toys for girls and boys throughout the central Ohio area.

Mr. Stensrud also reported that the annual IT staff “cookie extravaganza” benefiting Toys for Tots. Staff baked, judged, bought, donated, and ate dozens of cookies in order to raise \$636 for Toys for Tots. Mr. Stensrud thanked staff for their generous giving during the holiday season, noting that it’s another example of what a special place SERS is to work.

### ***Board Retreat***

Mr. Stensrud reminded the Board of the upcoming Board Retreat, scheduled for Friday, February 16. Mr. Stensrud noted that there would be four primary sessions, which are intended to be a springboard for ongoing discussions centering on pension fund sustainability. Mr. Stensrud noted that the four sessions were: Investment Outlook (looking forward); Actuarial Assumptions; Board Governance (discussing the attributes of a successful board); and lastly a discussion on national trends and developments impacting public sector defined benefit plans.

### ***Federal Tax Reform***

Mr. Stensrud reported that all of the Ohio Retirement Systems’ Executive Directors sent a joint letter to Senator Rob Portman and Senator Sherrod Brown thanking them for their strong support in keeping the Unrelated Business Income Tax (UBIT) provision out of the Senate version of the federal tax bill, and ultimately, the final tax bill.

Mr. Stensrud stated that staff proactively partnered with OPERS, STRS, OP&F, and our national trade associations in presenting unified messages and persistent contact with all members of the conference committee on the tax legislation. These efforts also included two joint conference calls initiated by SERS staff with Senator Portman’s key tax aide.

Mr. Stensrud concluded by noting that staff was also instrumental in forming the “Save Our Savings” Coalition to help preserve the special “catch-up” provisions for 403(b) and 457(b) plan participants as those provisions were being considered during tax reform.

### ***Health Care Plan Analysis and Discussion***

Mr. Stensrud outlined for the Board his proposed plan for the Board’s analysis and discussion of the principles and policy decisions in SERS’ health care program. Mr. Stensrud proposed that the discussion first center around the guiding principles currently in place and then focus on the policy decisions and plan design currently established based on the guiding principles. Mr. Stensrud stated that this approach would allow the entire board to engage on this topic, with uniform information, including the most current data on cost and experience, so that the Board could make informed decisions on the issues. Mr. Stensrud recommended this be an ongoing discussion in a series of board meeting sessions, or alternatively, in a one-day health care only set of discussions.

The Board indicated their support for the proposed approach and suggested the possibility of having one or more facilitated sessions with an outside facilitator.

**LEGISLATIVE REPORT**

**STATE LEGISLATION BOARD REPORT  
132<sup>nd</sup> General Assembly  
(Prepared by Laurel Johnson as of December 8, 2017)**

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**HB362** HIGHWAY PATROL RETIREMENT Rick Carfagna (H68-R-Westerville), Dan Ramos (H56-D-Lorain) To revise the law governing the State Highway Patrol Retirement System.

Current Status: 12/5/2017 Passed by House; Vote 95-0

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**HB413** PERS ADJUSTMENT-DEVELOPMENTAL DISABILITIES EMPLOYEES Gary Scherer (H92-R-Circleville) Regarding Public Employees Retirement System (PERS) annual cost-of-living adjustments granted to allowance and benefit recipients and PERS service credit for services as a nonteaching school employee of a county board of developmental disabilities.

Current Status: 12/6/2017 First Hearing, Sponsor Testimony

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**SB8** SCHOOL INFRASTRUCTURE AND TECHNOLOGY Randy Gardner (S2-R-Bowling Green), Louis Terhar (S8-R-Cincinnati) To require the Ohio School Facilities Commission to establish a program assisting school districts in purchasing technology and making physical alterations to improve technology infrastructure and school safety and security.

(Contains SERS' COLA delay amendment)

Current Status: 11/29/2017 To Governor for Signature

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**FEDERAL LEGISLATION BOARD REPORT  
115<sup>th</sup> United States Congress  
(Prepared by Laurel Johnson as of December 8, 2017)**

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**S. 915**

SPONSOR: Sen. Sherrod Brown (D-OH)

LAST ACTIONS: 04/24/2017 - Referred to the Committee on Finance

CAPTION: Amends title II of the Social Security Act to repeal the Government Pension Offset and Windfall Elimination Provisions. Companion bill to H.R. 1205.

COMMENT: The Social Security Fairness Act of 2017. Repeals the GPO and WEP. S.915 has 15 co-sponsors.

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**H.R. 1205**

SPONSOR: Rep. Rodney Davis (R-IL)

LAST ACTIONS: 03/06/2017 - Referred to the Subcommittee on Social Security

CAPTION: To amend title II of the Social Security Act to repeal the Government Pension Offset and Windfall Elimination Provisions. Companion bill to S. 915.

COMMENT: H.R. 1205 has 164 co-sponsors including seven Ohioans: Beatty, Fudge, Joyce, Kaptur, Ryan, Stivers and Turner.

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## **CAFR HIGHLIGHTS**

Chief Financial Officer Tracy Valentino provided an overview of the *draft* FY2017 Comprehensive Annual Financial Report (CAFR), which includes financial, investment, actuarial, and other supplementary information. Ms. Valentino noted that the CAFR is still in draft form because staff is awaiting the final opinion from external auditors; copies of the final CAFR will be forwarded to the Board when available.

Ms. Valentino noted that there will be no substantive changes to the financial results and there is one pending change to a footnote as a result of the final review. Ms. Valentino indicated the funding ratio increased to 70.01% over a 27-year period. Following, Ms. Valentino provided a high-level review of the financial performance and results, which includes contributions and investment returns.

## **SERS' TRAVEL HANDBOOK - UPDATE**

Concluding the CAFR discussion, Ms. Valentino highlighted updates to the SERS travel handbook as a result of recent policy updates and the Funston Fiduciary audit. In presenting updates, Ms. Valentino noted that there were no problems or concerns with Board and/or staff travel expenses or reimbursements. Ms. Valentino did highlight a recent change in the airlines industry that added a new seat category referred to as "basic economy". SERS does not require the Board or staff to purchase this fare; however, all SERS travelers are still required to utilize other economy or coach class services. Ms. Valentino also outlined guidance on meal expenditures and documented where clarification was made in the Handbook.

## **QEBA BUDGET**

Ms. Valentino presented the Qualified Excess Benefit Arrangement (QEBA) budget. Ms. Valentino stated that SERS established a separate plan, effective January 2003, to provide for the payment of a retiree's service retirement benefit that otherwise would have been payable by the System except for the limitations of Internal Revenue Code Section 415(b). This code section limits the amount of annual benefit that a defined benefit plan, such as SERS, can pay to a retiree. However, IRC §415(m) allows governments to set up a qualified excess benefit arrangement (QEBA) to pay the excess amount. SERS' Qualified Excess Benefit Plan is funded on a calendar year basis from contributions from the retiree's last employer. Estimated expenses for administering the plan are included in the annual funding request.

Each year a budget is prepared using the new IRS plan limits, calculating current QEBA recipients' projected benefits, adding new QEBA recipients and projecting the cash balance remaining in the QEBA account at year end. For the plan year 2018, SERS is requesting that \$360,000 of employer contributions be assigned to the QEBA Fund.

## **2018 QUALIFIED EXCESS BENEFIT PLAN BUDGET (QEBA)**

Barbra Phillips moved and Catherine Moss seconded the motion to assign \$360,000 of employer contributions from the last employer of retirees covered by the SERS Qualified Excess Benefit Plan to the QEBA Fund for calendar 2018. The QEBA Fund is authorized to pay benefits of approximately \$357,000 to qualified retirees; with the balance allocated to QEBA Fund operating expenses. Upon roll call, the vote was as follows: Yea: James Rossler, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Catherine Moss and Barbra Phillips. Abstain: Daniel Wilson. The motion carried.

## ADMINISTRATIVE RULES

Following, Mr. Stensrud asked Joe Marotta, General Counsel, to present the administrative rules. Mr. Marotta, and staff attorneys Dawn Viggiano and Todd Nist presented the following Administrative Rules for Board approval.

Four categories of resolutions on Administrative Rules are on the December Board Agenda:

**I. Approval to file with JCARR the following proposed amended rules:**

- **3309-1-32 Cost of living; base allowance change**

This rule incorporates the Board's previously adopted plan to have new benefit recipients wait until their fourth benefit anniversary for COLA eligibility. Recently passed Senate Bill (SB) 8 allows the Board to decide how many anniversaries a benefit recipient must achieve before they are eligible for a COLA. Since SB 8 becomes effective in March, the new standard will apply to benefits commencing on and after April 1, 2018.

The rule also includes the Board's directive that multiple benefits originating from the same member account potentially not miss more than three COLAs in total (for instance, a disability recipient who later receives a retirement benefit). This is achieved by crediting COLA anniversaries achieved on and after January 1, 2018 for prior benefits.

- **3306-1-59 Cincinnati retirement system**

There are no substantive changes to this rule. The amendments update several statutory references to reflect changes that were made to the statutes in recent legislation.

**II. Approval to file with JCARR the following new rule:**

- **3309-1-68 Guardianship**

This new rule documents SERS' requirements for issuing payment in circumstances where the recipient has been legally determined to be unable to manage their own financial affairs. This includes circumstances where payment is due to a minor or when a court has determined the individual to be incompetent.

**III. Approval to file with JCARR the following proposed amended rules under the five year review of rules:**

- **3309-1-03 Staff authority and appeals**

This rule provides the requirements for requesting an appeal to the Retirement Board of a final SERS staff determination. The amendment clarifies that a notice of appeal must be received by SERS within 30 days of the date of the final staff determination.

- **3309-1-09 Federal taxation**

This rule documents SERS' compliance with various Internal Revenue Code requirements. A definition of "benefit" was added for clarification, and references to an obsolete statute were removed.

- **3309-1-21 Estimated retirement allowance**

This rule governs the process for paying out an estimated retirement benefit before SERS has received a certification of all final contributions from the employer. The amendments clarify the process for when a member wishes to change their plan selection, ensuring the process coincides with the process described in Rule 3309-1-33. Additionally, language is amended to reflect SERS' current practices when making a partial lump sum option payment (PLOP).

**IV. Approval to file with JCARR the following rules as no change rules under the five year review of rules:**

- **3309-1-04 Election of retirement board members**
- **3309-1-13 Obtaining optional or compulsory service credit**
- **3309-1-15 Applicable law in determining survivor benefits**
- **3309-1-17 Allowances and benefits payable**
- **3309-1-31 Adjusting retirement eligibility requirements**
- **3309-1-36 Restoration of cancelled SERS service credit**
- **3309-1-38 Interest rate**
- **3309-1-39 Purchase of police and fire and highway patrol service**
- **3309-1-52 Travel and expense reimbursement**
- **3309-1-61 Reemployment covered by section 3309.345 of the Revised Code**
- **3309-1-64 Supplemental health care**

## FILING OF PROPOSED AMENDED ADMINISTRATIVE RULE

Legal Counsel discussed with the Retirement Board filing with JCARR the following proposed amended rule: 3309-1-32 Cost-of-living; base allowance change.

James Rossler moved and Barbra Phillips seconded that proposed amended rule 3309-1-32 be filed as a regular rule with JCARR as discussed. Upon roll call, the vote was as follows: Yea: James Rossler, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Catherine Moss, Barbra Phillips and Daniel Wilson. The motion carried.

### **3309-1-32 Cost-of-living; base allowance change.**

(A) For purposes of this rule:

- (1) "Base allowance" means the benefit amount due a benefit recipient on the later of July 1, 1979 or the effective date of such benefit, as adjusted pursuant to this rule. A base allowance excludes subsequent allowances for cost-of-living pursuant to section 3309.374 of the Revised Code, reimbursements for medicare part "B" pursuant to section 3309.69 of the Revised Code, or additional annuity payments pursuant to section 3309.47 of the Revised Code.
- (2) "Benefit" means a periodic payment under an allowance, pension, or benefit granted under Chapter 3309. of the Revised Code, other than an annuity paid under section 3309.341 of the Revised Code.
- (3) "Benefit amount" means the amount due a benefit recipient on the effective date of such benefit.
- (4) "Benefit recipient" means an age and service retirant, disability benefit recipient, or a beneficiary as defined in section 3309.01 of the Revised Code, who is receiving monthly benefits due to the death of a member, age and service retirant or disability benefit recipient.

(B) A base allowance upon which a cost-of-living is calculated shall be adjusted when any of the following occur:

- (1) The enactment of any statutory ad hoc allowance increase but only if such statutory authority provides that such increase become part of the base allowance.
- (2) Recalculation of a retirant's benefit due to a change in a plan of payment as permitted in section 3309.46 of the Revised Code.
- (3) Recalculation of a benefit recipient's benefit amount after an audit.
- (4) If a benefit recipient waives any portion of a benefit amount pursuant to section 3309.662 of the Revised Code, the base allowance shall be the portion being paid. If a waiver is revoked, the base allowance shall be the amount allowed under this rule.

(C)(1) The recipient of any allowance, pension, or benefit that was effective before April 1, 2018 shall be eligible to receive an increase under section 3309.374 of the Revised Code upon receiving an allowance, pension, or benefit for twelve months.

(2) (a) The recipient of any allowance, pension, or benefit that becomes effective on or after April 1, 2018 shall be eligible to receive an increase under section 3309.374 of the Revised Code upon attainment of the fourth anniversary of the allowance, pension, or benefit.

(b) For purposes of paragraph (C)(2)(a) of this rule, a recipient shall be credited with anniversaries for any previous allowance, pension, or benefit attributable to the same member account in the retirement system that occurred on or after January 1, 2018.

### **FILING OF PROPOSED AMENDED ADMINISTRATIVE RULE**

Legal Counsel discussed with the Retirement Board filing with JCARR the following proposed amended rule: 3309-1-59, Cincinnati retirement system.

Hugh Garside moved and Catherine Moss seconded that proposed amended rule 3309-1-59 be filed as a regular rule with JCARR as discussed. Upon roll call, the vote was as follows: Yea: James Rossler, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Catherine Moss, Barbra Phillips and Daniel Wilson. The motion carried.

#### **3309-1-59 Cincinnati retirement system.**

- (A) This rule amplifies sections 3309.74, 3309.75, and 3309.76 of the Revised Code.
- (B) As used in this rule:
- (1) "Eligible service credit" means service credit earned under this system or the Cincinnati retirement system or military service credit purchased or obtained in this system or the Cincinnati retirement system.
  - (2) "Eligible SERS member" means a member of this system who is eligible to obtain service credit in this system for service in the Cincinnati retirement system pursuant to section 3309.75 of the Revised Code.
  - (3) "Eligible CRS member" means a member or former member of this system who is eligible to obtain service credit in the Cincinnati retirement system pursuant to section 3309.76 of the Revised Code.
- (C) To obtain service credit in this system for eligible service credit with the Cincinnati retirement system, an eligible SERS member shall file a written request on a form provided by this system. Upon receipt of the properly completed form, this system shall notify the Cincinnati retirement system.
- (D) This system shall grant .083 per cent of a year of service credit in this system per month of eligible service credit with the Cincinnati retirement system upon payment of the following amounts:
- (1) Payment by the Cincinnati retirement system of the amounts required under division (B)(~~4~~) or division (C)(~~24~~)(~~b~~) of section 3309.75 of the Revised Code.
  - (2) Payment by the eligible SERS member of the amounts required under division (C)(~~44~~)(~~a~~) of section 3309.75 of the Revised Code with interest as provided by rule 3309-1-38 of the Administrative Code.
- (E) If the Cincinnati retirement system fails to pay any amounts required under division (B)(~~4~~) or division (C)(~~24~~)(~~b~~) of section 3309.75 of the Revised Code, this system shall not grant any service credit for which payment was not received and shall:
- (1) Provide notice to the eligible SERS member; and
  - (2) Refund any amounts paid by the eligible SERS member under division (C)(~~44~~)(~~a~~) of section 3309.75 and paragraph (D)(2) of this rule for which service credit is not granted.

- (F) An eligible SERS member may obtain service credit pursuant to section 3309.75 of the Revised Code in increments of one month. Service credit obtained in this system shall be deemed to be based first on the eligible SERS member's most recently acquired eligible service credit in the Cincinnati retirement system.
- (G) No service credit shall be granted in this system that would result in the eligible SERS member accruing more than one year of service credit for any twelve-month period.
- (H)
  - (1) This system shall pay to the Cincinnati retirement system the amounts required under section 3309.76 of the Revised Code upon receiving written notice from the Cincinnati retirement system that the eligible CRS member has filed a request to obtain service credit in the Cincinnati retirement system and paid any amounts required.
  - (2) If less than the eligible CRS member's total eligible service credit in this system is obtained in the Cincinnati retirement system pursuant to division (B)(4)(a) of section 3309.76 of the Revised Code, any benefits or payments to which the eligible CRS member or beneficiaries may be entitled shall be based on the remaining service credit with this system.

### **FILING OF PROPOSED NEW ADMINISTRATIVE RULE**

Legal Counsel discussed with the Retirement Board filing with JCARR the following proposed new rule: 3309-1-68 Guardianship.

Christine Holland moved and James Rossler seconded that proposed new rule 3309-1-68 be filed with JCARR as discussed. Upon roll call, the vote was as follows: Yea: James Rossler, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Catherine Moss, Barbra Phillips and Daniel Wilson. The motion carried.

#### **3309-1-68 Guardianship.**

- (A) (1) For purposes of this rule, "benefit" means a payment from the accumulated contributions of the member or employer, or both, under Chapter 3309. of the Revised Code and includes an account refund, pension, annuity, disability benefit, or survivor benefit.
- (2) For purposes of this rule, "benefit recipient" means any person who is eligible to receive a payment or benefit under Chapter 3309. of the Revised Code.
- (B) Except as otherwise provided in this rule, guardianship of the estate shall be required to do any of the following on behalf of a member or benefit recipient who has a legal disability as defined in section 2131.02 of the Revised Code:
  - (1) The guardian may designate a beneficiary, but if the designation is anyone other than the estate or the statutory order of succession identified in section 3309.44 or 3309.50 of the Revised Code, the beneficiary designation must be approved by court order.
  - (2) Direct payment of, benefits on behalf of the member or benefit recipient. Payment shall be issued to the guardian of the estate or as otherwise specified by court order.
- (C) Guardianship of the estate shall not be required in the following situations:
  - (1) A court of competent jurisdiction issued a limited order pursuant to section 2111.02, 2111.021, 2111.05, or 2111.131 of the Revised Code or comparable law of another state that directs SERS to issue a member or benefit recipient's payment to a specific person or entity, and identifies a specific account at a financial institution.

- (2) [If the benefit recipient is a minor, payment may be issued to the benefit recipient's biological or adoptive parent so long as the minor is in the care and custody of the parent, or to the benefit recipient's legal custodian.](#)
- (D) [A guardian of the person may receive a benefit recipient's account information, but cannot make any changes to the account.](#)

### **FIVE-YEAR REVIEW AND FILING OF PROPOSED AMENDED ADMINISTRATIVE RULES**

Legal Counsel discussed with the Retirement Board filing with JCARR the following proposed amended rule: 3309-1-03 Staff authority and appeals.

Christine Holland moved and Catherine Moss seconded that proposed amended rule 3309-1-03 be filed with JCARR as discussed. Upon roll call, the vote was as follows: Yea: James Rossler, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Catherine Moss, Barbra Phillips and Daniel Wilson. The motion carried.

#### **3309-1-03 Staff authority and appeals.**

- (A) The school employees retirement board authorizes its administrative staff to make determinations on member and benefit matters in accordance with Chapter 3309. of the Revised Code, this chapter, and policies of the retirement board. This authority includes, but is not limited to, membership, compensation, benefits, and employer reporting matters. Final determinations by the staff may be appealed to the retirement board pursuant to this rule.
- (B) Except as provided in rules 3309-1-40 and 3309-1-41 of the Administrative Code, any affected person may appeal a final determination of the staff of the school employees retirement system as provided in this rule.
- (C)
  - (1) A notice of appeal shall be submitted to the executive director in writing, [and must be received by the retirement system](#) no more than thirty days after the date of the final staff determination is issued. It shall state the determination to be reviewed, the basis for the review, and whether a personal appearance before the retirement board is requested.
  - (2) The retirement system shall notify the person of the time and place of the personal appearance, if one was requested, and the deadline for submitting any documentation the person wants the retirement board to consider on appeal.
- (D)
  - (1) The retirement board shall review each appeal and determine whether to uphold the staff determination based upon information in the files of the retirement system.
  - (2) The affected persons and their representatives shall be notified of the retirement board's determination which shall be final.
- (E) Any notice required or permitted to be given by the retirement system under this rule shall be sent by regular U.S. mail by the administrative staff of the retirement system addressed to the last address on file in the records of the retirement system.

## **FIVE YEAR REVIEW AND FILING OF PROPOSED AMENDED ADMINISTRATIVE RULE**

Legal Counsel discussed with the Retirement Board filing with JCARR the following proposed amended rule: 3309-1-09 Federal taxation.

James Haller moved and Christine Holland seconded that proposed amended rule 3309-1-09 be filed with JCARR as discussed. Upon roll call, the vote was as follows: Yea: James Rossler, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Catherine Moss, Barbra Phillips and Daniel Wilson. The motion carried.

### **3309-1-09 Federal taxation.**

- (A) [For purposes of this rule, "benefit" refers to a payment from the accumulated contributions of the member or the employer, or both, under Chapter 3309. of the Revised Code and includes an account refund, pension, annuity, disability benefit, or survivor benefit.](#)
- (B) Notwithstanding any provision in rules of school employees retirement system ("SERS") or Chapter 3309. of the Revised Code to the contrary, distributions to members and beneficiaries shall be made in accordance with section 401(a)(9) of the Internal Revenue Code of 1986, 26 U.S.C. 401(a)(9), and the following:
- (1) The entire interest of a member shall be distributed to the member:
    - (a) Not later than the required beginning date; or
    - (b) Beginning not later than the required beginning date over the life of the member and a designated beneficiary within the meaning of section 401(a)(9) of the Internal Revenue Code.
  - (2) The required beginning date means April first of the calendar year following the later of:
    - (a) The calendar year in which the member attains age seventy and one half years of age; or
    - (b) The calendar year in which the member retires.
  - (3) If distribution of a member's benefit has begun in accordance with section 401(a)(9) of the Internal Revenue Code, and the member dies, any survivor benefits will be distributed at least as rapidly as under the plan of payment selected and effective as of the date of the member's death.
  - (4) If a member dies before the distribution of the member's interest has begun in accordance with section 401(a)(9) of the Internal Revenue Code, the entire interest of the member will be distributed within five years after the death of such member. However, if a benefit is payable to or for the benefit of a designated beneficiary within the meaning of section 401(a)(9) of the Internal Revenue Code, the benefit may be distributed, in accordance with applicable regulations, over the life of such beneficiary, or over a period not extending beyond the life expectancy of the beneficiary, provided that such distributions begin not later than one year after the date of the member's death. If the beneficiary is the surviving spouse of the member, distributions shall not be required to begin, pursuant to this section, until the end of the calendar year in which the member would have attained age seventy and one-half. When the beneficiary is the surviving spouse and the surviving spouse dies before distributions commence, then the surviving spouse shall be treated as the member for purposes of this rule.

(5) Any death benefit amount payable under Chapter 3309. of the Revised Code must comply with the incidental death benefit requirements of section 401(a)(9)(G) of the Internal Revenue Code.

(CB) When the retirement system is required to make a distribution in accordance with section 401(a)(9) of the Internal Revenue Code, and a member or retirant does not respond after notification of such event, the following shall apply notwithstanding any provision in SERS rules or Chapter 3309. of the Revised Code to the contrary.

(1) If the member is not eligible for a retirement allowance pursuant to section 3309.34, or 3309.35, ~~or 3309.38~~ of the Revised Code, the retirement system shall refund the member's account as authorized in section 3309.42 of the Revised Code.

(2) If the member is eligible for a retirement allowance pursuant to section 3309.34 or, 3309.35, ~~or 3309.38~~ of the Revised Code, the retirement system shall calculate and pay a benefit as authorized in section 3309.36, ~~3309.38~~, or 3309.343 of the Revised Code, as a plan B, effective on the required beginning date as provided in paragraph (A)(2) of this rule.

(a) The member cannot purchase or receive any service credit after the effective date of the retirement allowance.

(b) A member who commences receipt of a retirement allowance under this rule, and who is married, may, not later than one year after the payment commenced, elect a plan of payment under division (B)(1), (B)(3)(b), or (B)(3)(c) of section 3309.46 of the Revised Code provided the spouse is named as the beneficiary. The election shall be made on a form provided by the retirement system and shall be effective on the later of the effective date of the retirement allowance or the marriage. Any overpayment may be recovered as provided in section 3309.70 of the Revised Code.

(c) If the member also was eligible for health care coverage pursuant to SERS rules and Chapter 3309. of the Revised Code, the member may, not later than sixty days after the commencement of payment of the retirement allowance, enroll for such health care coverage on a form provided by the retirement system. The effective date shall be no earlier than the first of the month after the retirement system receives the member's enrollment form.

(3) If the retirant is eligible for a benefit pursuant to section 3309.344 of the Revised Code, the retirement system shall calculate and pay a single lump sum benefit as authorized in section 3309.344 of the Revised Code. If such retirant also is eligible for an annuity, the retirant may return the lump sum payment within sixty days of the receipt of the payment and request an annuity on a form provided by the retirement system.

(4) If the benefit payment of a deceased member's spouse is subject to section 401(a)(9) of the Internal Revenue Code, then the retirement system shall treat the spouse as if the spouse was the member for the purposes of this rule.

(DC)

(1) Effective for the limitation year beginning on January 1, 2012, the final regulations promulgated April 5, 2007 with respect to section 415 of the Internal Revenue Code, 26 U.S.C. 415 are incorporated herein by reference. The 5.5 per cent interest rate assumption established by the Pension Funding Equity Act of 2004, which is applicable to any actuarial adjustments required because the member or retirant elects a form of payment to which section 415(b)(2)(E) of the Internal Revenue Code and section 417(e)(3) of the Internal Revenue Code, 26 U.S.C. 417(e)(3) apply based on the form of benefit and not the status of the plan, shall be effective as of that same date.

(2) "Limitation year" is the year used in determining whether the limits set forth in section 415 of the Internal Revenue Code have been exceeded with respect to a member or retirant in the plan describe in sections 3309.18 to 3309.70 of the Revised Code. The limitation year for the plan is the calendar year.

(ED) Effective January 1, 2007, to the extent required by section 401(a)(37) of the Internal Revenue Code, 26 U.S.C. 401(a)(37) and notwithstanding any provision in Chapter 3309. of the Revised Code to the contrary, the survivor of a member on a leave of absence to perform military service with reemployment rights described in section 414(u) of the Internal Revenue Code, 26 U.S.C. 414(u), where the member cannot return to employment on account of his or her death, shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would be provided under Chapter 3309. of the Revised Code had the member resumed employment and then terminated employment on account of death.

(FE) If there is a termination of the plan described in Chapter 3309. of the Revised Code or a complete discontinuance of contributions to the plan, the rights of each affected member, retirant, and beneficiary to the pension, annuity, or benefits accrued at the date of termination or discontinuance of contributions, to the extent then funded, are non-forfeitable.

#### **FIVE YEAR REVIEW AND FILING OF PROPOSED AMENDED ADMINISTRATIVE RULE**

Legal Counsel discussed with the Retirement Board filing with JCARR the following proposed amended rule: 3309-1-21 Estimated retirement allowances.

Barbra Phillips moved and Catherine Moss seconded that proposed amended rule 3309-1-21 be filed with JCARR as discussed. Upon roll call, the vote was as follows: Yea: James Rossler, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Catherine Moss, Barbra Phillips and Daniel Wilson. The motion carried.

#### **3309-1-21 Estimated retirement allowances.**

(A) For purposes of this rule:

(1) "Final ~~Retirement-retirement Allowance~~allowance" means a monthly retirement allowance paid pursuant to section 3309.35, 3309.36 or 3309.46 of the Revised Code that the retirement system calculates after the employer certifies the final contributions and service credit made on behalf of the member.

(2) "Estimated ~~Retirement-retirement Allowance~~allowance" means a monthly retirement allowance paid pursuant to section 3309.35, 3309.36 or 3309.46 of the Revised Code prior to the certification of a member's final contributions and service credit and the calculation of the final retirement allowance.

(B) A member retiring on or after March 1, 2014 under section 3309.35, 3309.36 or 3309.46 of the Revised Code who meets the following requirements shall receive an estimated retirement allowance:

(1) The retirement system has received the member's application for age and service retirement and all required forms and documents necessary to process the retirement application at least thirty days prior to the effective date of retirement.

(2) The member has sufficient service credit in this system to retire under section 3309.34 of the Revised Code, not including the following:

- (a) Any additional service that may be credited following receipt of the certification of final deposits from the employer; and
  - (b) Service credit purchases not completed at least thirty days prior to the benefit effective date.
- (C) Notwithstanding paragraph (B) of this rule, an estimated retirement allowance will not be issued if:
- (1) The member elects to receive health care coverage and the amount of the benefit recipient's health care premium will exceed the amount of the estimated retirement allowance; or
  - (2) The member's retirement allowance is subject to any court order.
- (D) An estimated retirement allowance shall be calculated using the accumulated contributions and service credit available in the account of the member at the time the retirement application is received. The retirement system shall calculate the final retirement allowance following the receipt of the employer's certification of final deposits and all contributions on behalf of the member.
- (1) If no additional contributions are received by the retirement system, the estimated retirement allowance shall be the final retirement allowance.
  - (2) If the final retirement allowance is greater than the estimated retirement allowance the retirement system shall begin paying the greater amount on the first of the month next following receipt of the additional contributions. The retirement system shall issue a retroactive payment for the difference between the total amount paid as estimated retirement allowances and the amount that would have been paid had the member received payments in the amount of the final retirement allowance.
  - (3) If the final retirement allowance is less than the estimated retirement allowance, the retirement system shall begin issuing the final retirement allowance on the first of the month next following receipt of the certification of the member's final contributions and the retirant shall repay any overpayment to the retirement system pursuant to section 3309.70 of the Revised Code.
- (E) ~~Any~~ In order to change ~~to~~ a retirement plan selection, including an election to take or change ~~to~~ a partial lump sum option payment, a member must be made withdraw their retirement application in accordance with rule 3309-1-33 of the Administrative Code and file a new application.
- (F) If the member elects to receive a partial lump sum option payment pursuant to division (B)(4) of section 3309.46 of the Revised Code, the retirement system shall make such payment on the first of the month next following the calculation of the final retirement allowance under paragraph (D) of this rule.

#### **FIVE-YEAR REVIEW AND FILING OF NO CHANGE ADMINISTRATIVE RULES**

Legal Counsel discussed with the Retirement Board filing with JCARR the following rules as no change rules: 3309-1-04 Election of retirement board members; 3309-1-13 Obtaining optional or compulsory service credit; 3309-1-15 Applicable law in determining survivor benefits; 3309-1-17 Allowances and benefits payable; 3309-1-31 Adjusting retirement eligibility requirements; 3309-1-36 Restoration of cancelled SERS service credit; 3309-1-38 Interest rate; 3309-1-39 Purchase of police and fire and highway patrol service; 3309-1-52 Travel and expense reimbursement; 3309-1-61 Reemployment covered by section 3309.345 of the Revised Code; and 3309-1-64 Supplemental health care.

Christine Holland moved and Catherine Moss seconded that rules 3309-1-04; 3309-1-13; 3309-1-15; 3309-1-17; 3309-1-31; 3309-1-36; 3309-1-38; 3309-1-39; 3309-1-52; 3309-1-61; and 3309-1-64 be filed with JCARR as no change rules as discussed. Upon roll call, the vote was as follows: Yea: James Rossler, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Catherine Moss, Barbra Phillips and Daniel Wilson. The motion carried.

**3309-1-04 Election of retirement board members.**

(A) The school employees retirement board shall conduct elections in accordance with Chapter 3309. of the Revised Code and this rule.

(B) Notifications

- (1) At a regular meeting of the retirement board but no later than July in the fiscal year in which an election of members to the board is required, the retirement board shall establish an election time schedule.
- (2) This schedule shall include, a statement of the requirements for nomination by petition, the date after which nominating petitions shall be available, the final date for receipt of completed nominating petitions, the final date for receipt of completed election ballots being the first Monday in March, and the date and place for the election count to be conducted under the supervision of judges as designated in paragraph (D) of this rule.

(C) Nominations

- (1) Candidates for board members shall be nominated by petition on forms provided by the school employees retirement system.
- (2)
  - (a) Not later than the last business day of September in the fiscal year in which an election is held for an employee member, notice of election posters shall be sent to employers and petitions and required forms shall be available to members.
  - (b) Any member, except a member receiving a disability benefit pursuant to section 3309.40 or 3309.401 of the Revised Code, who is not otherwise ineligible under Chapter 3309. of the Revised Code, may be nominated for election as an employee member of the board by petitions that contain at least five hundred valid nominating signatures with not less than twenty signatures of members from each of at least ten different counties in Ohio. The member's place of employment shall determine the county for such member.
- (3)
  - (a) Not later than the last business day of September in the fiscal year in which an election is held for a retirant member, a notice of election shall be sent to retirants at their home addresses of record and petitions and required forms shall be available to retirants.
  - (b) Any retirant, who is not otherwise ineligible under Chapter 3309. of the Revised Code, may be nominated for election as a retirant member by petitions which contain at least one hundred fifty valid nominating signatures, with not less than ten signatures of retirants from each of at least five different counties in Ohio. The retirant's place of residence shall determine the county of such retirant.
- (4)
  - (a) Petitions and completed required forms for a candidate must be received by the system by the petition filing date established by the retirement board pursuant to paragraph (B)

of this rule to be valid.

- (b) Petition signatures and candidate eligibility shall be verified based on records of the retirement system and the requirements of Chapter 3309. of the Revised Code. Signatures that cannot be conclusively verified shall not be counted.
- (c) The names of qualified candidates shall be certified by a director of the retirement system and shall be subject to review and audit by the secretary of state. A qualified candidate is one who meets the requirements of Chapter 3309. of the Revised Code. In the event that there is a discrepancy between the certification by the officer of the retirement system and the results of the review and audit by the secretary of state, the determination of the secretary of state shall control and be final.
- (d) Based on the final certification, the names of qualified candidates shall be placed on the ballot for election.

(D) Voting

- (1) The retirement board may conduct an election by paper ballots or through electronic methods.
- (2)
  - (a) Voting materials for each voting member or retirant of the retirement system shall include a list of candidates, information on each candidate, voting instructions, and any other materials the retirement board deems necessary.
  - (b) Voting materials shall be sent to eligible members or retirants no later than the last business day in January in an election year at the address on file with the retirement system.
- (3)
  - (a) For any election requiring a vote by members, the retirement board shall distribute ballots for such election to all members whose accounts have had contributions posted within the eighteen month period immediately preceding the month in which ballots are distributed; and
  - (b) To members whose accounts have not had contributions posted within the eighteen month period immediately preceding the month in which ballots are scheduled to be distributed, upon the members written request for a ballot.
- (4) The election count shall be monitored by a panel of judges consisting of representatives of the secretary of state and the attorney general. The representative of the secretary of state shall be the chief judge. If a representative from such offices is not available, a representative of the retirement system's independent auditor and/or the auditor of state may be substituted. If a representative of the secretary of state is not available, the chief judge, in order of precedence, shall be the representative of the attorney general, the representative of the auditor of state, or the representative of the retirement system's independent auditor.
- (5) If the ballot count results in a tie vote, the election shall be determined by a coin toss conducted by the judges with "heads" being assigned to the candidate whose last name is first alphabetically and "tails" assigned to the other candidate.
- (6) If a candidate is elected by a margin of less than one percent of the votes cast, a recount will automatically be conducted.
- (7) The chief judge shall provide a certification of the election results signed by all judges. The election results shall be submitted to the retirement board for its approval at the first regular

retirement board meeting that is not less than thirty-one calendar days after certification of the results of the election.

- (8) Within thirty calendar days after the certification of the election count, an unsuccessful candidate may request a recount in writing to the retirement board together with a check payable to the retirement system for the costs of the recount in the amount of one hundred dollars; provided however, if the recount results in the requesting candidate winning the election, the cost shall be refunded.

(E) Vacancies

- (1) When an election is held to fill the vacant term of an elected member of the board, the election shall be held pursuant to paragraph (E) of this rule.
- (2) The retirement board by majority vote of the board shall declare the seat vacant and establish a board-meeting schedule to nominate, interview and select a successor member to fill the position.
- (3) The retirement board shall provide notice of the vacancy and the procedure and forms required to be considered as a qualified candidate to fill the vacancy.
  - (a) Candidates shall qualify under the same eligibility requirements as the predecessor in office.
  - (b) The names of qualified candidates shall be certified by a director of the retirement system and shall be subject to review and audit by the secretary of state. In the event that there is a discrepancy between the certification by the officer of the retirement system and the results of the review and audit by the secretary of state, the determination of the secretary of state shall control and be final.
- (4) At a public board meeting, each board member may nominate one candidate to fill the vacancy.
- (5) The board members shall interview the nominated candidates.
- (6) A successor member shall be elected from the list of candidates by a majority vote of the retirement board in a public meeting as follows:
  - (a) Two successive votes shall occur in order for one candidate to receive a majority. If no candidate receives a majority, successive votes shall continue with the candidate receiving the least number of votes eliminated after each vote until one candidate receives a majority vote of the board or until only two candidates remain.
  - (b) In the event no candidate receives a majority vote and two candidates remain, one final vote shall occur. If neither candidate receives a majority vote, the winner shall be decided by a coin toss conducted by the election judge with "heads" assigned to the candidate whose last name is first in alphabetical order and "tails" to the other candidate.
- (7) The election shall be monitored by a representative of the secretary of state, or if unavailable, by a representative of the attorney general, who shall serve as election judge and certify the results of the election.
- (8) All documents regarding filling the vacancy, including resumes and forms required by the retirement system, shall be made available to any person upon request and payment of the cost of compiling, copying and mailing the documents.

(F) An employee member of the board who retires while a member of the board shall be eligible to

become a retirant member of the board when three years have elapsed from the member's effective date of retirement and the date of the scheduled election for the retirant member seat.

**3309-1-13 Obtaining optional or compulsory service credit.**

(A)

- (1) Except as provided by section 3309.012 of the Revised Code, a member of the school employees retirement system, public employees retirement system or state teachers retirement system shall be eligible to purchase service credit for any period during which contributing service was optional. Contributing service shall be deemed to be optional when contributions were not required by the school employees retirement system and no contributions or member record was received. In order to receive optional service credit payments shall be made as provided in this paragraph.
- (2) For any period of optional service, the member shall pay to the school employees retirement system an amount equal to the employee's and employer's contributions for such period, plus interest at the rate to be set by the school employees retirement board from the end of each year compounded annually. Such amounts paid by the member shall be credited to the employees' savings fund.
- (3) In lieu of the member paying the amounts described in this paragraph, the employer for which the optional service was performed may pay an amount equal to either the employee's and employer's, or only the employer's, contributions for such period, plus interest at the rate set by the retirement board from the end of each year compounded annually. If paid by the employer, such amounts shall be credited as follows:
  - (a) The amount and interest attributable to the employee's back contributions shall be credited to the employees' savings fund; and,
  - (b) The amount attributable to the employer's contributions shall be deposited in the employers' trust fund and the interest collected on such amount shall be credited to the guarantee fund.If the employer pays only the amount equal to the employer's contributions and interest on that amount, the member shall pay the amount equal to the employee's contributions and interest on that amount.

(B)

- (1) Except as provided in paragraph (D) of this rule, to receive service credit for periods of compulsory service prior to June 30, 1991, for which the employer did not deduct and transmit contributions, the member shall pay the employee's share of the back contributions and the employer shall pay the employer's share of the back contributions.
- (2) Payments of the employee's share of back contributions shall include a charge for interest at the rate to be set by the retirement board from the end of each year, compounded annually. The employee's back contributions and interest shall be credited to the employees' savings fund, and in the event of death or withdrawal from service prior to retirement, shall be paid in the same manner as accumulated contributions pursuant to sections 3309.42 and 3309.44 of the Revised Code.
- (3) The employer's share of back contributions shall include a charge for interest at the rate to be set by the retirement board from the end of each year, compounded annually. The employer's share of back contributions shall be deposited in the employers' trust fund and the interest collected thereon shall be credited to the guarantee fund.

(C)

(1) Except as provided in paragraph (D) of this rule, to receive service credit for periods of compulsory service after June 29, 1991, for which the employer did not deduct and transmit contributions, the employer shall pay both the employer's share and the employee's share of the back contributions. Payments for both the employee's and the employer's shares of back contributions shall include a charge for interest at the rate set by the retirement board for the end of each year, compounded annually.

(a) The employee's back contributions and interest shall be credited to the employees' savings fund, and in the event of death or withdrawal from service prior to retirement, shall be paid in the same manner as accumulated contributions pursuant to sections 3309.42 and 3309.44 of the Revised Code.

(b) The employer's share of back contributions shall be deposited in the employers' trust fund and the interest collected thereon shall be credited to the guarantee fund.

(D) When a member has left service with an employer after attaining sixty-five and applies for retirement, the member shall receive service credit in accordance with section 3309.48 of the Revised Code for periods of compulsory service for which the employer did not deduct and transmit contributions.

(E) The salary and service of the member shall be certified by a fiscal officer of the school district who has knowledge of and access to the records of the district. A member cannot certify his own salary or service.

(F) The member's share of back contributions may be paid directly to the retirement system.

(G) The employer's share of back contributions may be paid either by an official warrant or collection from the employer's share of the state school foundation fund.

**3309-1-15 Applicable law in determining survivor benefits.**

The law in effect at the time a deceased member's beneficiary is first eligible for a survivor benefit shall determine the benefits payable to such beneficiary or to any other person who subsequently becomes eligible to receive a survivor benefit by reason of the member's death prior to retirement.

**3309-1-17 Allowances and benefits payable.**

The administrative staff is hereby authorized to pay retirement allowances, disability benefits, and other benefits during the interim period which may occur between the date such allowances and benefits are payable and the date the retirement board can receive and act upon the application, as such authority so granted is considered as necessary to the proper operation of the retirement system.

For purposes of this rule, disability benefits are payable after the submission of a determination and recommendation of disability to the retirement board and after the retirement system has received the employer's certification of final deposits on behalf of the member.

**3309-1-31 Adjusting retirement eligibility requirements.**

(A) This rule applies only to members who retire under division (A)(2)(a) of section 3309.34 of the Revised Code.

- (B) For each quinquennial actuarial review conducted under division (B) of section 3309.21 of the Revised Code, the school employees retirement board shall direct its actuary to evaluate the retirement eligibility requirements in division (A)(2)(a) of section 3309.34 of the Revised Code.
- (1) If the actuary determines that an adjustment to the retirement eligibility criteria is necessary to ensure that the retirement system meets the thirty-year amortization period requirement of section 3309.211 of the Revised Code, the retirement board shall direct its administrative staff to develop recommendations for changes to the retirement eligibility criteria consistent with the actuarial determination.
  - (2) The recommendations developed under paragraph (B)(1) of this rule shall be submitted to the retirement board at a regularly scheduled board meeting. The retirement board shall take no formal action on the recommendations at the meeting the recommendations are first presented.
  - (3) No sooner than thirty days after the recommendations are presented to the retirement board, the retirement board shall schedule at least one special meeting, held in accordance with section 121.22 of the Revised Code, for the purpose of receiving public comments on the recommendations.
  - (4) The retirement board shall modify the retirement eligibility criteria only after considering the recommendations and any public comments.
- (C) Any modifications to the retirement eligibility requirements made pursuant to this rule will go into effect no earlier than two years after the effective date of the administrative rule adopted under division (D) of section 3309.34 of the Revised Code.

**3309-1-36 Restoration of cancelled SERS service credit.**

- (A) For purposes of section 3309.26 of the Revised Code and this rule:
- (1) "Contributing service credit" means contributing service credit in this system, the public employees retirement system, the state teachers retirement system, the Ohio police and fire pension fund, or the state highway patrol retirement system.
  - (2) "Eligible member" means a member of this system who has cancelled service in this system and who has earned at least one and one-half years of contributing service credit subsequent to the withdrawal of contributions and cancellation of service credit in this system.
  - (3) "Eligible former member" means a former member of this system who has cancelled service in this system, who has earned at least one and one-half years of contributing service credit subsequent to the withdrawal of contributions and cancellation of service credit in this system, and who is not eligible to buy the cancelled service as a member of the Ohio police and fire pension fund, the state highway patrol retirement system, or the city of Cincinnati retirement system.
- (B) Eligible members and eligible former members may restore all or a portion of cancelled service credit in this system by paying to the system the amount withdrawn plus interest compounded annually.
- (C) Compound interest shall accrue from the first of the month of withdrawal through the month of repayment.
- (D) Cancelled service credit may be restored in increments of one month.

- (E) Service credit restored under this rule shall receive .125 per cent of a year service credit per month of service rendered prior to July 1, 1955, and .111 per cent of a year service credit per month of service rendered after June 30, 1955 and before July 1, 1977. Service performed after June 30, 1977 shall be determined by dividing the number of days paid by one hundred eighty, if the employee worked less than one hundred twenty days in the partial year to be restored. All other service restored under this rule shall receive .083 per cent of a year service credit per month of service rendered.

**3309-1-38 Interest rate.**

- (A) Except as otherwise provided in Chapter 3309. of the Revised Code or SERS rules, the rate of compound interest for the purchase or restoration of service credit under Chapter 3309. of the Revised Code or SERS rules shall be the rate guaranteed by the retirement board at time of purchase, as recommended by the actuary, and such rate of compound interest shall be applied to the entire period purchased or restored.

**3309-1-39 Purchase of police and fire and highway patrol service.**

- (A) A member may purchase all or a portion of service credit for Ohio police and fire service and Ohio highway patrol service as provided in section 3309.73 or 3309.731 of the Revised Code.
- (B) A member is not eligible to purchase or obtain credit if being paid, or eligible to be paid, a benefit based on the service in another pension plan.
- (C) Service purchased under section 3309.73 or 3309.731 of the Revised Code shall be properly certified by an official of the Ohio police and fire pension fund, or the state highway patrol retirement system, or the official employer or custodian of records, on a form furnished by the retirement board.
- (D) Service credit may be purchased in increments of one month.
- (E) Interest shall be calculated as provided in section 3309.73 or 3309.731 of the Revised Code.

**3309-1-52 Travel and expense reimbursement.**

- (A)
  - (1) Members of the school employees retirement board and staff members of the school employees retirement system shall be reimbursed by the retirement system for actual, proper and reasonable expenses incurred for attendance at appropriate meetings, sessions, seminars and conferences.
  - (2) "Actual, proper and reasonable expenses" means that the particular service or accommodation was in fact used by, or provided to, the board or staff member, was appropriate under the circumstances and within the bounds of prudent judgment.
  - (3) "Appropriate meetings, sessions, seminars and conferences" include, but are not limited to, the following:
    - (a) Meetings of the retirement board or its committees;
    - (b) Meetings sponsored by the retirement board or the retirement system;
    - (c) Member or retiree related meetings;

(d) Other educational meetings, sessions, seminars and conferences that serve to make the board or staff member more knowledgeable and are related to the general purposes of the retirement system and in the interest of the system's participants.

(e) Other meetings which involve the retirement system's business operations.

(B) Reimbursable expenses include, but are not limited to, the following:

(1) Transportation.

(a) Air fare will be reimbursed at coach or economy class rates when such was available and efforts will be made to use other cost-saving plans offered by carriers. In accordance with Ohio ethics commission advisory opinion No. 91-010, airline frequent flyer miles shall not be used for personal travel or benefit.

(b) In-state travel by personal automobile will be reimbursed at the reimbursable rate established by the system. Out-of-state personal automobile or other surface vehicle travel will be reimbursed at the lesser of "portal-to-portal" or "air travel cost".

(i) "Portal-to-portal" reimbursable expenses include the actual cost of lodging, meals, parking at place of lodging and mileage at the reimbursable rate established by the retirement system or the actual cost of coach or economy class fare or the cost of a rental vehicle.

(ii) "Air travel cost" reimbursable expenses include the actual cost of coach or economy air fare, airport parking, transportation from the airport to destination lodging, and mileage between the board or staff member's home and the local airport at the reimbursable rate established by the retirement system.

(c) The cost of a rental vehicle where it is a reasonable alternative means of transportation under the circumstances.

(d) The cost of parking for a personal or rental vehicle.

(e) The cost of taxi cabs or other public transportation where reasonable under the circumstances.

(2) Lodging at the single occupancy rate.

(3) Meals and beverages, excluding alcohol, in reasonable amounts not to exceed limits as set by the retirement board.

(4) Tips as customary and reasonable.

(5) Telephone calls or other electronic transmissions for retirement system business; or personal telephone calls to home and/or family not to exceed limits set by the retirement board.

(6) Registration fees for appropriate meetings, sessions, seminars and conferences.

(C) Reimbursable expenses do not include the following:

(1) Expenditures of a personal nature except as provided in this rule.

(2) Expenditures for travel other than for retirement system business.

(3) Except in the case of an emergency, expenditures by a board member for out-of-state travel not approved by the retirement board.

- (D) Requests for approval of out-of-state travel by a board member shall be submitted by the board member to the executive director of the retirement system who shall present the request to the board at its next regular meeting.
- (E) Requests for reimbursement for authorized travel shall be submitted on the appropriate form attached as an appendix to this rule and in accordance with the retirement system's reimbursement procedures.

**3309-1-61 Reemployment covered by section 3309.345 of the Revised Code.**

- (A) Where a position is one that is customarily filled by vote of members of a board or commission and an employer proposes to:
  - (1) Continue the employment of a person as a reemployed retirant in the same position that the person held prior to retirement; or
  - (2) Rehire a person as a reemployed retirant in the same position that the person last held prior to retirement

The employer shall comply with the public notice and hearing requirements of section 3309.345 of the Revised Code and so certify to the retirement system on a form provided by the system.
- (B) Where such reemployment is in the same position and continuous from year to year, no certification to the system shall be required for subsequent years.
- (C) The person reemployed shall be subject to any other provisions applicable to reemployment.

**3309-1-64 Supplemental health care coverage.**

(A) Definitions

- (1) "Benefit recipient," "Member," "Age and service retirant," "Disability benefit recipient," and "Dependent" shall have the meanings set forth in paragraph (A) of rule 3309-1-35 of the Administrative Code.
- (2) "Supplemental health care coverage" means any dental or vision plan offered by the school employees retirement system.
- (3) "Premium" means a monthly amount that may be required to be paid by a benefit recipient to continue enrollment for the supplemental health care coverage for the recipient or the recipient's eligible dependents.

(B) Eligibility

- (1) A person is eligible for supplemental health care coverage under this rule so long as the person meets the eligibility requirements in section 3309.69 of the Revised Code and rule 3309-1-35 of the Administrative Code for the retirement system's health care coverage.
- (2) Eligibility for supplemental health care coverage shall terminate when the person ceases to qualify as one of the persons listed in paragraph (B)(1) of rule 3309-1-35 of the Administrative Code.

(C) Enrollment

- (1) An eligible benefit recipient may only enroll in one or more supplemental health care plans as follows:
    - (a) At the time the benefit recipient applies for an age and service retirement, disability benefit, or monthly benefit pursuant to section 3309.45 of the Revised Code; or,
    - (b) During the retirement system's open enrollment period.
  - (2) An eligible dependent of an age and service retiree or disability benefit recipient may only enroll in one or more supplemental health care plans as follows:
    - (a) At the time the age and service retiree or disability benefit recipient enrolls in the supplemental health care plan; or,
    - (b) During the retirement system's open enrollment period so long as the age and service retiree or disability benefit recipient is also enrolled in the supplemental health care plan.
- (D) A person's supplemental health care coverage shall be cancelled when:
- (1) The person's eligibility for health care coverage terminates as provided in paragraph (B)(2) of rule 3309-1-35 of the Administrative Code;
  - (2) The supplemental health care coverage of a dependent is cancelled when the supplemental health care coverage of a benefit recipient is cancelled;
  - (3) The person's supplemental health care coverage is cancelled for default as provided in paragraph (F) of this rule;
  - (4) The person's benefit payments are suspended for failure to submit documentation required to establish continued benefit eligibility under division (B)(2)(b)(i) of section 3309.45 of the Revised Code, division (F) of section 3309.39 of the Revised Code, or division (D) of section 3309.41 of the Revised Code; or
  - (5) The benefit recipient elects to cancel the supplemental health care coverage for the following calendar year during the open enrollment period.
- (E) Effective date of coverage
- (1) When a benefit recipient elects to enroll in supplemental health care coverage during an open enrollment period, the effective date of coverage shall be the first day of the calendar year following the open enrollment period.
  - (2) When a benefit recipient elects to enroll in supplemental health care coverage upon receipt of a benefit, the effective date of coverage shall be as follows:
    - (a) For a disability benefit recipient or dependent of a disability benefit recipient, the supplemental health care coverage shall be effective on the first day of the month following approval of the benefit or the benefit effective date, whichever is later.
    - (b) For an age and service retiree or dependent of an age and service retiree, the supplemental health care coverage shall be effective on the first day of the month following the date that the retirement application is filed with the retirement system or the benefit effective date, whichever is later.
    - (c) For an eligible dependent of a deceased member, deceased disability benefit recipient, or deceased age and service retiree, the supplemental health care coverage shall be effective on the effective date of the benefit if the appropriate application is received

within three months of the date of the member's or retirant's death, or the first day of the month following the date that the appropriate application is received if not received within three months of the date of the member's or retirant's death.

(F) Premiums

- (1) Payment of premiums for supplemental health care coverage shall be by deduction from the benefit recipient's monthly benefit. If the full amount of the monthly premium cannot be deducted from the benefit recipient's monthly benefit, the benefit recipient shall be billed for the portion of the monthly premium due after any deduction from the monthly benefit.
- (2) Premium payments billed to a benefit recipient shall be deemed in default after three consecutive months of nonpayment. A benefit recipient who is in default shall be sent notice by certified U.S. mail informing the benefit recipient that payments are in default and that coverage will be cancelled on the first day of the month after the date of the notice unless payment is received. If coverage is cancelled due to a recipient's failure to pay premium amounts in default, the recipient shall remain liable for such amounts due for the period prior to cancellation of coverage.

**INTERNAL AUDIT UPDATE**

Chief Audit Officer Joe Bell provided highlights from the Audit Committee meeting held on Wednesday, December 20, 2017. He noted that the external audit went very smoothly and is pleased with the report. Continuing, Mr. Bell noted activities during Quarter 2 which included a Death Benefit audit and his involvement with the Information Security Engagement which has been outsourced as a result of the scope of the audit. Mr. Bell stated that the Information Security Engagement is ongoing.

Ms. Phillips stated that she is pleased with the progress of Mr. Bell, and that SERS is receiving recognition of its performance in the audit arena.

The Board thanked Mr. Bell for his presentation and update.

The Board recessed at 12:30 p.m. and reconvened at 1:30 p.m.

**EXECUTIVE SESSION**

At 1:30 p.m., Catherine Moss moved and James Haller seconded the motion that the Board go into Executive Session pursuant to section 121.22 (G)(5) of the Ohio Revised Code to review applications for Disability Retirement Benefits. Upon roll call, the vote was as follows: Yea: James Rossler, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Catherine Moss, Barbra Phillips and Daniel Wilson. The motion carried.

The Board returned to opened session at 1:58 p.m.

The Board continued with the review of calendar dates and future Board meetings.

### **CALENDAR DATES FOR FUTURE BOARD MEETINGS**

Board member Catherine Moss noted that she will not be present during the February Board meeting.

Chairman Daniel Wilson confirmed February 16, 2018 as the date of the Board Retreat.

### **2018**

February 15 (Thurs.)

**February 16 – Board Retreat (Fri.)**

March 15 and 16 (Thurs. and Fri.)

April 19 and 20 (Thurs. and Fri.)

May 17 and 18 (Thurs. and Fri.)

June 21 and 22 (Thurs. and Fri.)

July 19 and 20 (Thurs. and Fri.)

September 20 and 21 (Thurs. and Fri.)

October 18 and 19 (Thurs. and Fri.)

November 15 and 16 (Thurs. and Fri.)

December 20 and 21 (Thurs. and Fri.)

**\*\*NOTE: The above dates are *tentative*.**

### **BOARD INFORMATION REQUESTS AND FOLLOW-UP ITEMS**

Executive Director Richard Stensrud continued by reviewing new, open and closed information items.

### **ADJOURNMENT**

Daniel Wilson moved that the Board adjourn to meet on Thursday, February 15, 2018 for their regularly scheduled meeting. The meeting adjourned at 2:04 p.m.

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Daniel Wilson, Board Chair

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Richard Stensrud, Secretary