

December 20, 2018

The nine hundredth and sixteen 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 20, 2018. The meeting convened in open session at 8:31 a.m. and continued with the Pledge of Allegiance. Following the Pledge of Allegiance, the roll call was as follows: James Rossler, Chairperson, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson and Catherine Moss. James Rossler 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 15 & 16, 2018**

Barbra Phillips moved and Christine Holland seconded the motion to approve the minutes of the Retirement Board meeting held on Thursday and Friday, November 15 & 16, 2018. Upon roll call, the vote was as follows: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips and James Rossler. Abstain: Daniel Wilson. The motion carried.

EXTERNAL AUDIT REPORT

Chief Financial Officer Tracy Valentino introduced David Andrews of RSM US LLP to present the findings of SERS external audit.

Mr. Andrews, engagement partner with SERS' independent external auditor, presented the FY2018 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 examined controls governing investment transactions, assessed contributions and benefit payments for compliance with SERS' policies, and confirmed the relevance of actuarial assumptions. There were no material findings in any of the audited areas.

As the audit progresses, staff works 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. The Board thanked Mr. Andrews for his presentation.

Board Chairman James Rossler acknowledged the SERS' staff, and thanked them for their work.

Next, Executive Director Richard Stensrud asked Carol Nolan Drake, SERS' federal government relations consultant, to present the year-end federal update.

FEDERAL REPORT UPDATE

Ms. Drake briefed the Board on health care and pension issues legislators tackled in 2018, and issues to watch for in the coming year.

Significant issues addressed in 2018 include the following:

SERS was able to garner support from Ohio legislators and other public pension retirement systems around the country for extending the SERS Wraparound Plan beyond December 2019. However, the Centers for Medicare and Medicaid Services (CMS) is still deliberating and barred from releasing any information until the rules are promulgated.

At the end of October, CMS issued a proposed rule on excepted benefit Health Reimbursement Accounts (HRAs). The proposed rules also set forth conditions under which certain HRAs would be recognized as limited excepted benefits. Comments are due by December 28. SERS indicated that it will comment on the proposed regulations. While an excepted benefit HRA, under the proposed regulations, would provide reimbursement for premium expenses, the early review of the language shows that it does not go far enough. The regulations creating Limited Wraparound Plans gave SERS much more flexibility to scale its Wraparound Plan and include reimbursement for premiums and several other health care expenses, including prescription drugs and hearing aids. Ms. Drake and SERS staff reached out to the stakeholder organizations that supported the SERS Wraparound Plan earlier in 2018 and asked them to provide comment letters. Thus far, staff was informed that ABC, AFL-CIO, and AFSMCE will be commenting.

Continuing, Ms. Drake discussed what's in store for 2019:

H.R. 1205, the "Social Security Fairness Act of 2017," which would repeal the GPO and WEP, has not advanced as of this date. It may be introduced in the next session, along with Senator Sherrod Brown's (D-OH) bill, S. 915, the Senate version of the "Social Security Fairness Act of 2017." With the switchover of the House to Democratic control, Rep. Richard Neal (D-MA) is expected to become the Chairman of Ways and Means. The current Chairman, Kevin Brady (R-TX) is hopeful that the bipartisan bill, H.R. 6933, the "Equal Treatment of Public Servants Act of 2018," which replaces the WEP with a formula equalizing benefits for certain individuals with non-covered employment, will be passed before the session ends. If the bill is not added to another vehicle, it may be introduced in the next session. The Committee is still accepting feedback on the latest version.

SERS will continue to fight for health care. Ms. Drake stated that she will continue lobbying to extend the wraparound pilot program beyond the December 2019 end date. In addition, Ms. Drake stated that she will continue to rally support for repealing the Cadillac tax, which is scheduled to be implemented in 2022.

Concluding, Ms. Drake stated that SERS will continue its education and outreach to Ohio's federal delegation, especially new members and leadership in 2019.

OVERVIEW

Highlights for November and December include: continued friction on immigration and funding for an enhanced wall between the U.S. and Mexico border; results of the midterm elections that will cause a shift in the House of Representatives from Republican to Democratic rule, while the Senate remains under Republican control; potential leadership and key committee changes that are being discussed; the death of President George Herbert Walker Bush, the 41st President; a two week stop-gap deal to continue action in lame duck for appropriation bills that are needed to keep the government open after December 7; a solid economic report for October that was tempered by recent market volatility and with the announcement by General Motors of its plans for significant layoffs and plant closures; an agreement with the United States, Canada and Mexico on trade; sanctions against Iran and a final effort for a Brexit deal; and advocacy for the SERS Wraparound Program.

The House was in session again after the mid-term elections when members returned on Tuesday, November 13. The Senate returned on Tuesday, November 13. I reported previously that the Senate had initially targeted Friday, December 14, for sine die adjournment, however, on December 6, Congress reached a tentative agreement to extend funding for the federal government for two weeks. The continuing resolution is set to now expire on Friday, December 21. The deadline also includes an extension for funding the National Flood Insurance Program. The remaining bills cover transportation, state and foreign operations, Commerce, Justice, the Department of Homeland Security, and other agencies. The Farm Bill has cleared another hurdle with the House and Senate reaching an agreement in principle. Other work for the Senate includes many executive and judicial nominations that have been held up by the debate on whether a bill to protect Robert Mueller's investigation is necessary. A bipartisan criminal justice reform bill has been discussed with the President's support, however, it has not moved as of this date.

The House's December legislative calendar shows that the House will be in session until Thursday, December 13. The final date could shift up to Friday, December 21, if the House and Senate need all of the tentative two-week deadline to finalize the spending and lame duck bills. Both the House and Senate members are hopeful they can finish their work prior to December 21 unless President Trump does not agree with the final spending packages. The President has expressed a desire to shut down the government if he does not receive funding of at least \$5 billion for the wall that he demanded. A bipartisan compromise was reached in the Senate earlier this year that provided \$1.6 billion for wall funding. If Congress does not pass legislation this month that includes funding for the border wall, it could be the last opportunity before the Democrats take over the House in January.

On November 30, in anticipation of becoming the House majority party next year, Democrats released a tentative schedule for 2019 which includes 130 days in session spread over 33 weeks. Incoming House Majority Leader, Rep. Steny H. Hoyer (D-MD) said, "As we welcome a large class of new members, many with young families, next year's schedule is focused on balancing time in Washington with time for Members to conduct work in their districts and spend time with their families." The schedule provides that the House will be in recess for district work periods for at least a week each month, except for June. The calendar also includes a longer break from July 29 to Sept. 6.

On November 30, President Trump, Prime Minister Justin Trudeau, and President Enrique Peña Nieto of Mexico signed a new trade agreement in Buenos Aires. The agreement is called the United States–Mexico–Canada Agreement (USMCA), which will replace NAFTA upon approval by Congress. **President George Herbert Walker Bush, our nation's 41st president, passed away on November 30.** The family announced the former president's death in a statement released by his son, former President George W. Bush. He was 94 years old. All five living presidents, including President Donald Trump, Barack Obama, Bill Clinton, George W. Bush, and Jimmy Carter attended the memorial service held on Wednesday, December 5 in the National Cathedral. President Trump declared that December 5 would be a national day of mourning. Federal agencies were closed, and both the New York stock exchange and Nasdaq ceased trading for the day. The passing of former President Bush was one of the reasons that a two-week extension for funding the federal government was necessary.

On November 7, Attorney General Jeff Sessions submitted his resignation and was replaced by Matthew Whitaker, who will serve as the acting Attorney General. The President has indicated there may be other changes on the White House team and Cabinet agencies.

According to federal reports, the economy added 250,000 jobs in October. The unemployment rate held steady at 3.7 percent. The good economic news was quickly dampened by roiling markets in early December and the announcement from General Motors (GM) that it would be closing five manufacturing plants in North America and laying off 15% of its salaried workers, including workers in the Lordstown plant in Ohio. On December 5, General Motors CEO Mary Barra met with Senators Brown and Portman and more than a half a dozen of Ohio House of Representatives members as part of an effort to retain jobs at the Lordstown plant, which is slated for closure in March 2019. Rep. Tim Ryan (D-OH) indicated that CEO Barra said that she will decide where new models are built after upcoming negotiations with the United Auto Workers union. CEO Barra was quoted in several news

articles, saying that the company will continue to have a strong automotive presence in Ohio, with more than 4,000 workers remaining employed. She said the Lordstown plant is being idled because of low demand for the Chevy Cruze.

Senator Portman said, "We urged her to consider moving new production to the plant. She said she would keep an open mind. We will continue to fight for #Ohio workers." He discussed the closure with Governor-elect Mike DeWine, Labor Secretary Alexander Acosta, and President Donald Trump, who is "very committed to keeping this assembly plant in Ohio."

Rep. Marcy Kaptur released a statement on November 26, in which she said, in part:

Time and time again both the taxpayer and our workers have been asked to sacrifice for the good of the General Motors brand. This latest move from General Motors is an affront to that sacrifice. For too long a rigged economic system highlighted by bad trade deals such as NAFTA and a tax system that incentivizes offshoring has stacked the deck of corporate power against the American worker. This Administration promised an end to it and has dragged its feet while more jobs hang in the balance. Enough is enough.

Rep. Bill Johnson (R-OH) released the following statement on December 5:

I asked her directly how GM got into this overcapacity issue after the American taxpayers – the same taxpayers who are now losing their jobs - bailed them out. I also specifically asked Barra why GM can't put a new product in Lordstown. I think it's fair to say that over the years they've had to make previous plant and assembly line modifications to bring in other product lines - why can't they do that now. After all, they haven't been producing the Cruze alone in Lordstown since 1966. The bottom line is that this isn't about Mary Barra or a group of politicians. This is about the workers and the families affected by General Motors' decision, and along with my colleagues, I will keep fighting until GM brings a new product to Lordstown or a new company comes in and takes advantage of the existing facility and highly-skilled workforce.

Two pieces of international news have impacted the global markets. On November 5, the United States reimposed sanctions against Iran. The decision by the Trump Administration is the second round of sanctions against the country and includes sanctions and penalties against the oil, shipping, and finance sectors, among others. In Great Britain, Prime Minister Theresa May announced a tentative Brexit deal that provides a provisional set of agreements between Great Britain and the European Union. Prime Minister May faces significant opposition to the deal and several members of Parliament have voiced a no confidence vote against her office.

MIDTERM ELECTIONS

According to Federal Elections Commission filings and data compiled by several news sources, the recent elections were the most expensive midterm elections in the history of our country. Over \$5.2 billion was spent by candidates to win 435 seats in the House of Representatives and 35 seats in the Senate, including the special elections. By simple division that means that the average amount spent per race was over \$11 million. With a federal salary of \$174,000 for Senators and Representatives, they would need to serve for 63.5 years to recoup the campaign expenditures. According to the Center for Responsive Politics, the previous midterms record of \$4.2 billion was set in 2010.

House Republicans elected Rep. Kevin McCarthy (R-CA) as the new minority leader for the 116th Congress. Rep. McCarthy, who served under Speaker Paul Ryan (R-WI) as the majority leader, defeated Rep. Jim Jordan (R-OH). The vote was 159 to 43. House Republicans are in discussions on the Ranking Member positions on Committees and Subcommittees.

On the Democratic side of the House, Rep. Nancy Pelosi (D-CA), current House Minority Leader, has emerged as the top candidate for Speaker of the House, although not without controversy. Several Democratic members campaigned on the premise that they would not support her candidacy for the Speaker's office. On November 19, sixteen Democrats, including Rep. Tim Ryan (D-OH) signed a letter that they would not to support Minority Leader Pelosi. Other Ohio Democratic members, Reps. Kaptur, Fudge and Beatty, did not sign the letter. Rep. Pelosi was overwhelmingly selected on November

28 as the Democratic nominee by a vote of 203-32. She will still need to garner 218 votes in the 116th Congress to be elected Speaker. Decisions on Democratic Chairmanships of Committees and Subcommittees are under discussion.

In other Ohio delegation news, Rep. Joyce Beatty (D-OH) was elected the Vice Chair of the Congressional Black Caucus. Senator Sherrod Brown was interviewed on *Meet the Press*, in November and mentioned that he is thinking about becoming a candidate for president in 2020. He mentioned his long career fighting for workers and the need for retirement security for Americans.

As I reported before, the lawsuit against Ohio's congressional districts was filed with a prospective eye toward the next election. There could be one more election with the current district map unless the federal court makes a decision to throw out the map. As reported in the Cleveland Plain Dealer on November 7, a new map will be drawn in 2021 under new rules approved by Ohio voters in May. The election results in Ohio showed that Republicans won 75 percent of Ohio's congressional seats, which represents 12 of the 16 districts, with just 52 percent of the votes. The Ohio delegation members in the 116th Congress are: Wenstrup, Beatty, Stivers, Jordan, Ryan, Kaptur, Fudge, Latta, Johnson, Gibbs, Chabot, Turner, Davidson, Joyce, Gonzalez and Balderson. Senator Brown (D-OH) won his reelection campaign and will join Senator Portman in the U.S. Senate.

In Washington, both parties are trying to see whether bipartisan solutions can be achieved to move several pieces of legislation in 2019. President Trump and many Democrats are interested in moving a large infrastructure bill. The President has also expressed a desire to lower the cost of prescription drugs. Republicans are interested in maintaining limits on regulations and the passage of more taxes against corporations. Democrats would like to see a healthcare bill move that fixes the federal Marketplace and authorizes subsidies under the ACA, a federal minimum wage hike and student debt relief. As one Bank of America, Merrill Lynch official said, the resulting split in majorities in the House and Senate means, "Nothing done, nothing undone."

According to AARP, once again, older voters made up the majority of the electorate. On November 7, AARP Executive Vice President and Chief Advocacy & Engagement Officer Nancy LeaMond released the following statement about the 2018 midterm elections:

On behalf of our 38 million members, AARP congratulates the newly elected and returning members of Congress, governors, and state and local officials across the country. We look forward to working with them to address the issues that matter most to older Americans and their families. Year after year, Americans age 50 and older make up the majority of voters, and as a result, are a deciding factor in our elections. That was true again last night, with national exit polls showing that 50-plus voters made up 56 percent of the electorate.

The National Education Association (NEA) released information that nearly 1,800 educators were on the ballot in state legislative races across the country. According to the NEA, the momentum for teacher candidates started in West Virginia, when teachers went on strike to secure pay raises from the state legislature. Other protests followed in Kentucky, Arizona, and Oklahoma.

On election day, news media reported that women were running for House seats in record numbers: 185 were Democrats and 52 were Republicans. Among female Senate candidates, 15 were Democrats and eight were Republicans. In the 116th Congress, the makeup of the House will be slightly changed with over 100 women serving as Representatives.

According to an article in the Wall Street Journal (WSJ) after the mid-term elections, donors who indicated they were "retired" gave 52% of the \$326 million contributed through Oct. 17 to Democrats, compared with 48% to Republicans, with statistics coming from the nonpartisan Center for Responsive Politics. It was reported as a record amount of midterm money from retirees. The Center noted that this is the first midterm since they began keeping donor data in 1990 in which retirees favored Democrats over Republicans. The WSJ article noted that entitlement reform discussions for Social Security and Medicare may have caused retirees to contribute more to Democrats, who may be viewed to address reform more favorably for retirees.

SERS WRAPAROUND PLAN

SERS and I have continued to maintain contact with the staff members at HHS/CMS. CMS is still deliberating and barred from releasing any information until the rules are promulgated. Many delegation offices are continuing to express support for a permanent program or for a multiyear extension that would provide SERS and the enrolled retirees with the opportunity to continue the Plan after December 2019. Rep. Kaptur's office is working with Rep. Stivers' office staff to obtain signatures on a joint letter. I sent a draft letter to the legislative aide for Rep. Kaptur on December 5. We also explored the opportunity to use any health care tax extenders as vehicles in lame duck session to gain authorization language. Once it became clear that the Senate and House leadership would not allow any further changes to the limited scope in the spending bills, we began to discuss activity in early 2019 to authorize the program. This activity is on a separate parallel track with any regulatory extension.

At the end of October, CMS issued a proposed rule on excepted benefit HRAs. The proposed rules also set forth conditions under which certain HRAs would be recognized as limited excepted benefits. Comments are due by December 28. SERS has indicated that it will comment on the proposed regulations. While an excepted benefit HRA, under the proposed regulations, would provide reimbursement for premium expenses, the early review of the language shows that it does not go far enough. The regulations creating Limited Wraparound Plans gave SERS much more flexibility to scale its Wraparound Plan and include reimbursement for premiums and several other health care expenses, including prescription drugs and hearing aids. We have reached out to the stakeholder organizations that supported the SERS Wraparound Plan earlier in 2018 and have asked them to provide comment letters. Thus far, we have heard that ABC, AFL-CIO, and AFSMCE will be commenting.

The proposed regulations may be viewed here:

<https://www.federalregister.gov/documents/2018/10/29/2018-23183/health-reimbursement-arrangements-and-other-account-based-group-health-plans>

WINDFALL ELIMINATION PROVISION

I spoke to a staff member of the House Ways and Means Committee, Subcommittee on Social Security, on December 6. The Committee and Subcommittee will be undergoing several changes in 2019, when Democrats take over. Rep. Richard Neal (D-MA) is expected to become the Chairman of Ways and Means. The minority party staff will become the majority party staff and that could mean some staff reductions on the Republican side. The current Chairman, Kevin Brady (R-TX) is hopeful that the bipartisan bill, H.R. 6933, the "Equal Treatment of Public Servants Act of 2018," which replaces the windfall elimination provision with a formula equalizing benefits for certain individuals with non-covered employment, will be passed before the session ends. The staff member said she will keep us informed. If the bill is not added to another vehicle, it may be introduced in the next session. The Committee is still accepting feedback on the latest version.

SOCIAL SECURITY

On November 19, AARP announced the creation of a new "Social Security Resource Center," which will provide "clear, comprehensive answers to the most asked questions about how benefits are calculated; eligibility; who qualifies for which benefits and when to apply; work and taxes — how earnings, pensions and taxes factor in; and family considerations — including how spouse, children, divorce and your survivors factor into Social Security. The site is here:

<https://www.aarp.org/retirement/social-security/>

H.R. 1205, the "Social Security Fairness Act of 2017," which would repeal the GPO and WEP, has not advanced as of this date. It may be introduced in the next session, along with Senator Sherrod Brown's (D-OH) bill, S. 915, the Senate version of the "Social Security Fairness Act of 2017."

PRIVATE MULTI-EMPLOYER PENSION PLANS

The report by the Joint Select Committee on Solvency of Multiemployer Pension Plans has not been issued by the November deadline. Both Ohio Senators Brown and Portman serve on the Joint Select Committee. *Pensions and Investments* covered the proposals in an article on November 20, in which it highlighted some of the key provisions in a draft proposal. It contains:

- Help to some of the 100-plus multiemployer plans in the most critical shape and a way to shore up the finances of the Pension Benefit Guaranty Corp.
- It could also push currently healthy plans, which now number more than 1,200, into suddenly shakier condition and even prompt many to close their plans entirely. For some observers, it is an approach that protects retirees at the sake of active workers.
- The draft proposal rejected the idea of a federal loan program, which did not gain political traction with the disparate group. Instead, it offers several measures to help struggling plans protect retiree benefits, including increasing the PBGC minimum guarantee level to \$70 per month per year of service, and at least \$3,000 per year.
- It undoes benefit cuts already authorized by the Treasury Department under the Multiemployer Pension Reform Act of 2014 but plans within five years of insolvency would cut to the minimum benefit level and then be terminated.
- The PBGC would gain more authority and resources to take financial responsibility for struggling plans. The draft proposal calls for a 30-year promise of \$3 billion in federal funding per year to allow it to do more partitioning, a new variable rate premium for plan sponsors, a new "stakeholder" premium to be paid by retirees in struggling plans and a new exit premium for employers.
- Healthy plans would also be squeezed by a requirement to use a more conservative discount rate when measuring liabilities. While 7.5% is a typical rate used by plans today, the proposal calls for a cap of the long-term corporate bond rate plus 2%, roughly 100 basis points lower. Those two changes have some multiemployer plan experts warning that many healthy plans could suddenly become classified as endangered and force employers to consider getting out or trustees to think about shifting to defined contribution plans.

Senator Sherrod Brown (D-OH) said that “the hardworking men and women who are counting on this committee deserve a solution, and Chairman Hatch and I continue to negotiate with other members of the committee to reach a bipartisan agreement.” The Committee is scheduled to terminate on December 31, 2018, or 30 days after submission of its final report, whichever comes first.

PEPTA

Thus far, the language in H.R. 6290, the “PEPTA bill,” as reintroduced by Rep. Devin Nunes (R-CA) has not been added to any lame duck legislation. The bill would “amend the Internal Revenue Code of 1986 to provide for reporting and disclosure by State and local public employee retirement pension plans.” Many national organizations and stakeholders are working with SERS and me to ensure that the language is not added to any moving bills at the end of session.

TAX REFORM

House members are still working on a way to pass an additional tax reform package before the end of the year, to address the expiring tax extenders and make some of the temporary tax language from the earlier tax reform package permanent. As of this date, negotiations are continuing in the House and Senate.

HEALTH CARE

Open enrollment for the federal Health Care Marketplace began on Thursday, November 1 and ends on Saturday, December 15. Enrollment numbers were down, however, last minute signups may help add more numbers to the final count.

Advocates are still pushing for passage of H.R. 5963, the “Health Insurance Premium Reduction Act,” to delay the reimposition of the Health Insurance Tax (HIT) annual fee on health insurance providers until after 2020, before the end of the year. The legislation was introduced by Rep. Kristi Noem (R-SD) to suspend the HIT. SERS is one of the providers that is subject to the tax in 2018. If the bill does not pass, it may be introduced in the next session.

PRESCRIPTION DRUGS

On October 29, the Columbus Dispatch featured an article about its own launch of a drug price database in which people will be able to look up name brands and generics, and comparison shop for better prices.

Drug companies have continued to lobby Congress to address the consequences to them from the bipartisan budget bill passed in February. The most likely vehicle for PhRMA and their lobbyists to focus on is the continuing resolution which expires on December 21. Organizations, such as AARP, opposed to the change will be poised to prevent PhRMA from being successful.

MEDICARE

Senator Sherrod Brown (D-OH) has expressed an interest in pursuing legislation to allow an opt in for first responders for early Medicare next year. He introduced a bill in 2017 to allow people between the ages of 55 and 64 to buy into Medicare.

RETIREMENT SECURITY

On November 1, the Internal Revenue Service (IRS) announced the 2019 plan contribution rates for 457, 493(b) and 401(k) plans. The employee contribution limit will be \$19,000 up from \$18,500 in 2018. The catch-up contribution limit for employees aged 50 and over who participate in 401(k), 403(b), most 457 plans, and the federal government's Thrift Savings Plan, remains unchanged at \$6,000. The release may be viewed here:

<https://content.govdelivery.com/accounts/USIRS/bulletins/218924c?reqfrom=share>

SECURITIES AND EXCHANGE COMMISSION (SEC)

On November 13, six Senators introduced a bill, S. 3614, the "Corporate Governance Fairness Act," that would require the SEC to directly regulate proxy advisory firms, including Glass, Lewis & Co and Institutional Shareholder Services (ISS), which provide investors with research on corporate proxy issues for boards of directors, executive pay and shareholder proposals.

Democratic Senators Jack Reed (D-RI), Doug Jones (D-AL) and Heidi Heitkamp (D-ND), and Republican Senators David Perdue (R-GA), Thom Tillis (R-NC) and John Kennedy (R-LA) are co-sponsors. Neither Senators Brown or Portman are co-sponsors as of this report. The bill is a continuation of the legislative process that began with Senate Banking Committee and hearings held over the summer. According to Glass Lewis, "the bill seeks to fold proxy advisors, broadly defined to include firms providing ratings along with actual voting recommendations, into existing regulations and disclosure requirements aimed at investment advisers."

The SEC convened a Staff Roundtable on November 15 to look at the proxy process, including the possible regulation of the proxy advisory industry. I was scheduled to fly in for part of the event and make Hill visits when a winter storm hit Washington and cancelled my flight.

On November 29, the SEC posted a Sunshine Act notice of an open Commission meeting on Wednesday, December 5, to consider a concept release on the nature and content of quarterly reports and earnings releases. The meeting was delayed due to the national day of mourning. According to the release, SEC will be discussing whether quarterly guidance about expected earnings from companies unnecessarily drives expectations for investors, and whether that guidance could be pared back. The SEC could reduce the number of disclosures required in quarterly reports or maintain the current status. According to legal research, federal securities rules have required quarterly reporting since 1970.

On December 12, the SEC and The Ohio State University Max M. Fisher College of Business will host the SEC's annual Government-Business Forum on Small Business Capital Formation. The annual forum will provide a discussion on ways to improve small business capital formation. I have RSVP'd to attend.

The SEC's Investor Advisory Committee will meet on December 13. The agenda includes a discussion on Disclosures on Human Capital, Disclosures on ESG topics, and Unpaid Arbitration Awards.

A copy of the agenda may be viewed here: <https://www.sec.gov/spotlight/investor-advisory-committee-2012/iac121318-agenda.htm>

REPORTS

The Center for State and Local Government Excellence (SLGE) release a new report on November 29, that provides the first comprehensive analysis of the post-retirement employment policies of over 80 of the largest state pension plans in the U.S., including those that cover state and local employees, public safety workers, teachers and university faculty and staff. The report, entitled, “Balancing Objectives in Public Employee Post-Retirement Employment Policies: Reassessing Barriers to Continued Work,” was researched and written by Joshua Franzel, Ph.D., Gerald Young, and Rivka Liss-Levinson, Ph.D. of the Center for State and Local Government Excellence (SLGE) and Alex Brown and Keith Brainard of the National Association of State Retirement Administrators (NASRA). The research is available here: <https://slge.org/resources/balancing-objectives-in-public-employee-post-retirement-employment>

The Center for Retirement Research at Boston College, a non-profit research institute, announced on December 6 that it has received a five-year continuation grant, including a \$2.4-million award for the initial year, from the U.S. Social Security Administration’s Office of Research, Evaluation, and Statistics. “This major award from the Social Security Administration, which will provide critical core support for our center over the next five years, is a testament to our effectiveness at advancing the debate on retirement income security,” said CRR Director Alicia H. Munnell, the Peter F. Drucker Professor of Management Sciences at the Carroll School. “It also reflects the tremendous backing that we have received from the entire Boston College community.”

OTHER MATTERS OF INTEREST

In an interesting article in the *Chief Investment Officer* on November 8, the reporter wrote a piece that more states may turn to lotteries to fund pensions. “Untapped public assets such as state lotteries could be used to add “many billions of dollars” of funding to struggling public pension systems, according to a report from Kroll Bond Rating Agency (KBRA).” State and local governments have accumulated substantial assets over time in the form of land, facilities, and enterprises, and according to KBRA, these resources are generally recognized at values that are “substantially less” than full value on the government’s financial statements.

The report cited New Jersey’s use of its state lottery revenues to help boost its underfunded pension system as an effective way of using untapped state resources to cover shortfalls. According to the article, “in 2017, New Jersey contributed its lottery enterprise to three of its pension funds for a period of 30 years. According to the report, the New Jersey state lottery has annual net revenues of about \$1 billion, which are forecast by the state to grow in the low single digits per year over the next 30 years. It also said the valuation of the lottery enterprise for the full 30-year period at the time of the contribution was \$13.5 billion.”

Congressional members are concerned after Marriott International acknowledged that it suffered from the nation’s second-largest data hack, in which 500,000 customers had their sensitive personal data stolen, which included passport information. The data hack from Marriott’s Starwood Hotels reservation database has led to calls again for legislation to protect customers’ data privacy and impose penalties on companies that are not taking steps needed to limit data exposure.

A federal privacy bill be introduced next year which could pave the way for a U.S. version of the European Union’s General Data Protection Regulation rules. Democratic Senator Richard Blumenthal (D-CT) is working with Republican Jerry Moran (R-KS) on a bipartisan privacy bill and expressed hope the draft will be ready soon, according to Reuters.

The latest companies to discontinue financial support for ALEC include AT&T, Dow Chemical, and Honeywell, spokespersons for the companies told *The Intercept*.

ACTIVITIES: Preparation for and trip to Washington, D.C. on December 4-5 to meet with legislative staff from Ohio delegation offices to discuss the SERS Wraparound Plan and the Windfall Elimination Provision.

1. Conference calls with SERS representatives on Wraparound statistics and demographics.
2. Review of proposed regulations by Health and Human Services that provide for the establishment of excepted benefit Health Reimbursement Accounts (HRAs).
3. Emails sent out to stakeholders that supported the SERS Wraparound Plan, of the opportunity to comment by December 28 on the proposed HRA regulations.
4. Conference call with staff from Senators Brown and Portman's offices on lame duck activity and early 2019 legislative opportunities for the Wraparound Plan.
5. Conference call with staff from the House Ways and Means Committee, Subcommittee on Social Security regarding the Brady/Neal WEP bill.
6. Discussion with Rep. Kaptur's office staff on a joint letter and activity in early 2019 for Wraparound Plan authorization.
7. Response to attend the SEC's regional event at The Ohio State University Max M. Fisher College of Business, which will host the SEC's annual Government-Business Forum on Small Business Capital Formation on Dec. 12.
8. Monitored bills relating to public pensions, retirement security, health care, prescription drugs, and Social Security.
9. Reviewed bills that were introduced by members of the Ohio delegation or other House/Senate members on issues that could impact SERS, retirement security and/or health care.
10. Monitored relevant House and Senate Committee hearings.
11. Reviewed public notices or proposed rules from the SEC, HHS/CMS, and regulatory agencies.
12. Monitored organizations, such as the Social Security Administration, American Benefits Council, AARP, and other entities that have policies and advocacy on pension, investment, and/or health-care-related issues.
13. Reviewed reports and newsletters from CII, ICGN, NASRA, NCTR, NCPERS, and the Public Sector HealthCare Roundtable.
14. Made calls and sent/responded to emails with representatives from SERS and prepared the monthly Federal Update.

Continuing Board Chairman James Rossler asked Chief Investment Officer Farouki Majeed to present the Investment Report.

INVESTMENT REPORT

Temporary Increase in Asset Allocation Range for Cash Equivalents

Mr. Majeed proposed a temporary increase in the asset allocation range for cash equivalents to the Board. The Investment staff has maintained a cash allocation near 5% by moving money from equities to cash. A temporary increase from a 5% to 10% limit will allow flexibility to manage higher market volatility and drawdown.

TEMPORARY INCREASE OF ASSET ALLOCATION RANGE FOR CASH EQUIVALENTS

Jeffrey DeLeone moved and Catherine Moss seconded to temporarily increase the asset allocation range for cash equivalents as set forth in the SERS Statement of Investment Policy. While the temporary increase is in effect, the asset allocation for cash equivalents may not exceed 10% of the overall SERS portfolio. The temporary increase shall expire upon the earlier of December 31, 2019 or the Board's rescission of the temporary increase. Upon roll call, the vote was as follows: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson and James Rossler. The motion carried.

Staff recommends to increase the Cash Equivalent allocation range from 0% - 5% to 0% - 10% as shown below:

<u>ASSET CLASS</u>	<u>TARGET</u>	<u>RANGE</u>
<u>Equity</u>	55%	45% - 65%
Global Equities	45%	35% - 55%
Global Private Equity	10%	5% - 15%
<u>Income</u>	35%	30% - 40%
Global Bonds	19%	12% - 26%
Global Real Assets	15%	10% - 20%
Cash Equivalents	1%	0% - 10%
<u>STRATEGY</u>		
Multi-Asset Strategies	10%	5% - 15%
Opportunistic Investments	0%	0 - 5%
TOTAL	100%	

Annual Portfolio Review – Global Equities

Senior Investment Officer Lisa Michalowski and Investment Officer Alex Durbin presented the annual Global Equities portfolio review. Ms. Michalowski discussed the US portfolio's role and objectives and its main goal is to harvest the equity risk premium. The US portfolio has underperformed the index this past year and this extended the underperformance to the longer term. Management fees have reduced by 0.05%. The US Allocation in the total fund as of September 30, 2018 is 24.8%. Staff has made changes to the portfolio that are expected to improve performance.

Mr. Durbin discussed the NUSE portfolio guidelines and performance. Three year returns for NUSE generated nearly 100 basis points of excess returns. As of September 30, 2018 the NUSE allocation in the total fund portfolio was 22.30%. The objectives for 2019 are to continue monitoring the risk/return of the portfolios and rebalance as needed. Following the discussion, the Board thanked Ms. Michalowski and Mr. Durbin for their presentation.

Monthly Investment Report

Mr. Majeed discussed the Investment report for the period ending October 31, 2018. The preliminary performance report as November 30, 2018 was handed out to the Board for their information. As of October 31, 2018, the Fund was \$13.9 billion with a FYTD return of (1.25%). Following questions and answers, the Board thanked Mr. Majeed for his presentation.

Amended Investment Department Incentive Plan

Enterprise Risk Management Officer Julie Deisler and Mr. Majeed discussed a proposed amendment to the Investment Department Incentive Plan approved by the Board during the May 2018 meeting. Proposed recommendations include a change to the weights in the performance goals between portfolio performance and the overall fund in order to provide a greater incentive for investment officers to focus on the performance of their individual portfolios and to provide a better alignment of the earned incentive compensation between the individual portfolio performance and the total fund across the investment team. The Board thanked Ms. Deisler and Mr. Majeed.

AMENDMENTS TO THE INVESTMENT DEPARTMENT INCENTIVE PLAN FOR FISCAL YEAR 2019

Catherine Moss moved and Hugh Garside seconded to approve amendments to the Investment Department Incentive Plan (“the Plan”) for Fiscal Year 2019 effective December 20, 2018 replacing the Plan approved by the Board May 24, 2018. Upon roll call, the vote was as follows: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson and James Rossler. The motion carried.

SUMMARY OF INVESTMENT TRANSACTIONS

Catherine Moss moved and Christine Holland 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, 2018** through **October 31, 2018** hereby be approved. Upon roll call, the vote was as follows: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson and James Rossler. The motion carried.

A. PURCHASES

Asset Class	Approximate Cost (in millions)
US Equities	\$214.3
Non-US Equities	153.1
Fixed Income	300.9
Multi-Asset Strategies	60.0
Private Equity Capital Calls	29.6
Real Asset Capital Calls	0.1
Opportunistic	11.0
Cash Equivalents	366.2

B. SALES

Asset Class	Approximate Net Proceeds (in millions)	Approximate Gain/(Loss) (in millions)
US Equities	\$ 109.5	\$23.7
Non-US Equities	245.1	3.7
Fixed Income	273.6	(0.5)
Multi-Asset Strategies	31.0	9.8
Private Equity distributions	26.4	n/a
Real Asset distributions	12.0	n/a
Opportunistic	2.4	n/a
Cash Equivalents	381.4	n/a

The Board took a break at 10:45 a.m. and reconvened at 10:57 a.m.

EXECUTIVE DIRECTOR'S UPDATE

Ohio Retirement Study Council

Executive Director Richard Stensrud informed the Board that he presented SERS' disability experience report to the ORSC during its meeting on December 4. Mr. Stensrud noted that STRS and OP&F also presented their disability reports at the meeting.

As previously noted at the SERS November Board meeting, Mr. Stensrud reminded the Board that every two years the ORSC offers the pension systems an opportunity to participate in technical "clean-up" legislation. Mr. Stensrud reported that the clean-up provisions were amended into HB 572, which passed, and the provisions will become effective on March 22, 2019. Mr. Stensrud thanked ORSC Chairman Schuring and the ORSC staff for the opportunity to participate in the legislation.

Advocacy Groups

Mr. Stensrud noted that RAMA Consulting (consultants for SERS' strategic planning initiative) will be contacting our key advocacy group partners in December regarding a survey which will help inform our strategic plan development. Mr. Stensrud also noted that SERS' annual Advocacy Group Roundtable will take place on Friday, January 18th and the results of the survey will be shared with the group at that time.

Staff Charity Activity

Mr. Stensrud stated that staff contributed generously this month to the annual Cristo Rey coat drive benefitting students and others in the community. SERS Staff brought in 53 gently used coats and two full boxes of hats, scarves, and gloves.

Mr. Stensrud noted that staff also participated in the annual Salvation Army Angel Tree program, to help make the holidays brighter for children and families in need. The Salvation Army provided SERS with 75 gift tags to hang on the SERS tree listing specific toys and gifts requested by children. All were taken, and SERS staff purchased toys for girls and boys throughout the central Ohio area.

Finally, Mr. Stensrud noted that for the last several years, SERS' IT Department has put on a holiday cookie extravaganza and bake-off benefitting Toys for Tots. Mr. Stensrud reported that staff raised \$711 through this year's event..

LEGISLATIVE REPORT

STATE LEGISLATION BOARD REPORT

132nd General Assembly

(Prepared by Laurel Johnson as of December 7, 2018)

HB49 OPERATING BUDGET Ryan Smith (H93-R-Gallipolis) Creates FY 2018-2019 main operating budget.

Current Status: SERS' COLA-authority provisions, effective 09/29/2017

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.

Current Status: SERS' COLA-delay provisions, effective 3/23/2018

HB708 PUBLIC PENSION DOUBLE DIPPING John Becker (H65-R-Cincinnati) To enact "Double Dippers Inappropriately Privileged (DDIP)" legislation to provide that an individual retiring on or after the effective date of this Act from one of the state's public retirement systems who is re-employed as a public employee will not receive the pension portion of the retirement allowance for the period of employment.

Current Status: 11/28/2018 House Aging and Long Term Care Committee, (First Hearing)

HB572 PERS- DEVELOPMENTAL DISABILITIES SCHOOL EMPLOYEE Gary Scherer (H92-R-Circleville), Stephanie Howse (H11-D-Cleveland) Regarding Public Employees Retirement System service credit for services as a nonteaching school employee of a county board of developmental disabilities.

Current Status: 11/27/2018 Senate Insurance and Financial Institutions, (First Hearing)

SB317 POLICE PENSION FUND BOARD Wilson (S7-R-Maineville) - To require the Ohio Police and Fire Pension Fund Board to permit a retiree to serve as board chair.

Current Status: 11/27/2018 Substitute Bill Accepted - Senate Insurance and Financial Institutions, (First Hearing) - Amended to include all five retirement systems.

FEDERAL LEGISLATION BOARD REPORT
115th United States Congress
(Prepared by Laurel Johnson as of December 7, 2018)

S. 915

SPONSOR: Sen. Sherrod Brown (D-OH)

LAST ACTIONS: 04/24/2017 - Referred to the Senate 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. Has 27 co-sponsors, including Ohioan Senator Brown.

H.R. 1205

SPONSOR: Rep. Rodney Davis (R-IL)

LAST ACTIONS: 03/06/2017 - Referred to the House 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: The Social Security Fairness Act of 2017. Repeals the GPO and WEP. Has 194 co-sponsors, including seven Ohioans: Beatty, Fudge, Joyce, Kaptur, Ryan, Stivers and Turner.

H.R. 6290

SPONSOR: Rep. Devin Nunes (R-CA)

LAST ACTIONS: 06/28/2018 - Referred to the House Committee on Ways and Means

CAPTION: To amend the Internal Revenue Code of 1986 to provide for reporting and disclosure by State and local public employee retirement pension plans.

COMMENT: The Public Employee Pension Transparency Act (PEPTA). Requires state and local public pension systems to value their liabilities using a "risk-free" rate of return and report that figure to Treasury for a public database; non-compliant States would lose their ability to issue tax-exempt bonds. Currently has four co-sponsors; none from Ohio.

H.R. 6933

SPONSOR: Rep. Kevin Brady (R-TX)

LAST ACTION: 09/27/2018 - Referred to the House Committee on Ways and Means

CAPTION: To amend title II of the Social Security Act to replace the windfall elimination provision with a formula equalizing benefits for certain individuals with non-covered employment, and for other purposes.

COMMENT: The Equal Treatment of Public Servants Act. Replaces the current arbitrary WEP with a new proportional formula and includes a rebate for current retirees. Has 34 co-sponsors, including two Ohioans: Latta and Turner.

CAFR HIGHLIGHTS

Chief Financial Officer Tracy Valentino provided an overview of the FY2018 Comprehensive Annual Financial Report (CAFR), which includes financial, investment, actuarial, and other supplementary information.

Ms. Valentino noted that the CAFR highlights COLA changes enacted by the Board, the intrusion of fraudulent activity on the online member portal, SERS' website and retirement savings, the Federal Marketplace Wraparound Program and Early Medicare program, SERS' expanded employer education with training opportunities, investment returns, and SERS' funding ratio. Ms. Valentino also discussed state and federal legislative initiatives that will have an impact on SERS.

Concluding the presentation, the Board thanked Ms. Valentino and staff for their work on the CAFR.

2019 QUALIFIED EXCESS BENEFIT PLAN BUDGET (QEBA)

Tracy Valentino and Maria Robinson presented the Qualified Excess Benefit Plan Budget.

Ms. Robinson reported 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 2019, SERS is requesting that \$345,000 of employer contributions be assigned to the QEBA Fund.

2019 QUALIFIED EXCESS BENEFIT PLAN BUDGET (QEBA)

Barbra Phillips moved and Christine Holland seconded the motion to assign \$ 345,000 of employer contributions from the last employer of retirees covered by the SERS Qualified Excess Benefit Plan to the QEBA Fund for calendar 2019. The QEBA Fund is authorized to pay benefits of approximately \$ 337,000 to qualified retirees; with the balance allocated to QEBA Fund operating expenses. Upon roll call, the vote was as follows: Yea: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips and James Rossler. Abstain: Daniel Wilson. The motion carried.

EXECUTIVE SESSION

At 11:26 a.m., Barbra Phillips moved and James Haller seconded the motion that the Board go into Executive Session pursuant to R.C. 121.22 (G)(1) to consider the employment of a public employee. Upon roll call, the vote was as follows: Yea: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson and James Rossler. The motion carried.

The Board returned to open session at 11:55 p.m.

FILING OF PROPOSED AMENDED ADMINISTRATIVE RULES

Associate General Counsel Susan Russell and Sr. Staff Counsel Dawn Viggiano discussed with the Board the filing of proposed amended administrative rules.

Three categories of resolutions on Administrative Rules are on the December Board Agenda.

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

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

This rule outlines the circumstances under which SERS issues an estimated retirement allowance. This amount is payable until SERS receives the employer's certification of final deposits and contributions for the member; then the final retirement allowance is calculated.

Amendments in paragraph (D) are to align with current processing. If an employer certification is received at the end of the month, SERS is not always able to issue the final retirement allowance starting with the following month. However, adjustments for over/underpayments of the estimate retirement allowances will always be made retroactively back to the first estimated payment. Additional amendments in paragraph (E) clarify the circumstances under which a retiree would need to withdraw a retirement application.

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

This rule provides the framework for SERS dental and vision coverage and includes many provisions that correspond with the medical coverage rule. Amendments to this rule are intended to align with amendments to Rule 3309-1-35 in relation to cancellation of coverage for payment default. Coverage may be cancelled for default when an individual's cumulative amount in arrears totals three months of premiums; the individual must repay all amounts in default before re-enrolling in any SERS health care coverage. Additional amendments expand the circumstances under which participants may enroll or cancel coverage.

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

- **3309-1-02 Definition of compensation**

This rule amplifies the definition of compensation set forth in division (V) of section 3309.01 of the Revised Code.

Three alternate versions of the compensation rule are before the board for consideration. The highlighted amendments in each rule are unique to that version of the rule. The changes that are not highlighted are common to all three versions.

The common amendments are as follows: Language has been deleted from paragraph (B)(2) to remove from compensation any lump-sum, or one-time, payment that is based on the employee's standard rate of pay. As a result of this amendment, a lump-sum or one-time payment will not be compensation unless it is identified in paragraph (C) of the rule. Amendments to paragraph (C)(2) clarify that when a person is awarded back pay, contributions must be calculated based on the full amount of compensation that would have been paid during the period of reinstatement. Amendments to paragraph (C)(3) reflect updated guidance from the Internal Revenue Service that differential wage payments are not required to be treated as compensation for purposes of determining contributions and benefits under a plan, but must be treated as compensation under IRC 415. Amendments to paragraph (C)(4) are to clarify that a one-time payment based upon an employee's length of service at the end of an employee's career is not intended to be compensation under this paragraph.

Version 1 unique amendments make clear that no incentive or bonus payment is compensation for purposes of SERS.

Version 2 unique amendments brings in three categories of incentive or bonus payment for all employees (employees with collective bargaining agreements and individual contracts). The three categories are educational incentives, individual performance incentives, and attendance incentives. At the board meeting the board can decide to approve some but not all of these incentive categories.

Version 3 unique amendments broadly brings in one-time or lump-sum payments paid in accordance with a collective bargaining agreement *and* broadly excludes incentive or bonus payments that are not paid pursuant to a collective bargaining agreement.

- **3309-1-05 Policy on investment department incentive plan payouts**

This rule allows for the adoption of the investment department incentive plan, which is a bonus compensation payment available for SERS' investment professionals.

The amendment deletes one factor that is no longer used in establishing target incentives under the plan.

- **3309-1-07 Application for payment upon termination of employment**

This rule sets forth requirements for a member refund application and a re-employed lump sum payment application. It also addresses the circumstances under which an application may be withdrawn.

The amendments reflect that employer certifications are no longer part of the application; certifications are now separately submitted electronically by the employer through SMART. The process and timeframe for cancelling an application have also been updated to reflect the various ways payment may be issued: paper check, direct deposit, or rollover. An additional amendment will no longer permit cancellation if SERS was required by court order to deduct amounts for

payment to a third party; this could include amounts for payment under a support withholding order or division of property order.

- **3309-1-18 Payment of employee and employer contributions**

This rule sets forth deadlines for employers to remit contributions and payments and to file contribution reports.

Amendments to the rule make language in (B) parallel to analogous language in (D); delete the definition of employee, since the term no longer appears in the rule; and add a provision clarifying that penalties only accrue on business days.

- **3309-1-23 Contributing status; compulsory and optional**

This rule sets forth the process for, and consequences of, electing to be exempt from, or opt in to, SERS membership.

The amendments change references in (D) from contributor to member to track language of R.C.3309.012 that school board members elect to be a member.

- **3309-1-33 Retirement and benefit effective dates**

This rule establishes the effective dates for certain benefit payments, and also provides the process and timeframe for withdrawing a benefit application. The process and timeframe for cancelling an application have been updated to reflect the various ways payment may be issued: paper check, direct deposit, or rollover. An additional amendment will no longer permit cancellation if SERS was required by court order to deduct amounts for payment to a third party; this could include amounts for payment under a support withholding order or division of property order.

- **3309-1-34 Combined disability benefits**

This rule identifies SERS' responsibilities when it is the paying system for a combined disability benefit.

Amendments in paragraphs (B) and (D) are language clean ups. Changes to paragraph (C) align the rule with the actual process.

- **3309-1-35 Health care**

This rule addresses many aspects of the SERS health care program, including eligibility, enrollment, premium, cancellation, and Medicare Part B reimbursements.

The amendments in paragraph (F) clarify the circumstances under which an individual is considered to be in default for failure to pay premiums. Coverage may be cancelled for default when an individual's cumulative amount in arrears totals three months of premiums; the individual must repay all amounts in default before re-enrolling in any SERS health care coverage. An amendment in paragraph (D) clarifies that a disability benefit recipient's coverage may also be terminated for failure to provide SERS with proof of application for early Medicare through the Social Security Administration. The amendment to paragraph (H) is to remove language that does not match current Medicare rules.

- **3309-1-42 Options; pop-up and election of new option**

This rule governs the process for a retirant to change their plan based upon the death of a spouse or designated beneficiary, divorce, or marriage.

Clean up amendments add a reference to spouse, which status is distinct from a designated beneficiary under R.C. 3309.46; correct an improper citation in paragraphs (A)(1) and (B)(1), and remove “equivalent” from the term “single lifetime retirement allowance equivalent” to reflect that past legislation, HB 98, removed it from the term in R.C. 3309.46.

Clarifying amendments state that SERS must receive a pop-down election within a year of marriage, and address the calculation of a single lifetime allowance at pop-up when the retirant elected a partial lump sum option plan.

- **3309-1-50 Re-employment restrictions**

Under R.C. 3309.341, a retiree who is employed in a position covered by an Ohio public retirement system within the first two months of retirement is required to forfeit their pension for the month(s) of reemployment during this two month period. The rule specifies who is subject to this penalty and how it is applied. While re-employed, the retiree contributes to a separate re-employed account at the applicable retirement system.

Amendments to paragraph (B) clarify that the penalty does not apply if the re-employment is a position covered under a uniformed system. To avoid forfeiture, the retiree must have been continuously employed in the uniformed position for at least two months prior to the SERS retirement effective date.

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

- **3309-1-06 Ohio-qualified agents and investment managers**
- **3309-1-08 Payment of benefits and allowances**
- **3309-1-11 Membership determinations**
- **3309-1-19 Member enrollment**
- **3309-1-22 Disability retirement – effective date**
- **3309-1-25 Notice of meetings**
- **3309-1-26 Determination of statutory beneficiary**
- **3309-1-27 Intersystem transfers with non-uniform systems**
- **3309-1-28 Purchase of service credit; military**
- **3309-1-29 Purchase of service credit; out-of-state and other**
- **3309-1-32 Cost of living; base allowance change**
- **3309-1-46 Retirement – option selection**

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

3309-1-21 Estimated retirement allowances.

(A) For purposes of this rule:

- (1) "Final retirement 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 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 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 retirant shall repay any overpayment to the retirement system pursuant to section 3309.70 of the Revised Code.
- (E) In order to change a retirement plan of payment selection, including an election to take or change the amount of a partial lump sum option payment, a member must 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 following the calculation of the final retirement allowance under paragraph (D) of this rule.

Effective: 5/1/2018
Five Year Review (FYR) Date: 02/01/2023
Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.35, 3309.45, 3309.46

FILING OF PROPOSED AMENDED ADMINISTRATIVE RULE

Legal Counsel discussed with the Retirement Board filing with JCARR the following proposed amended rule: 3309-1-64 Supplemental health care coverage.

Catherine Moss moved and Barbra Phillips seconded that proposed amended rule 3309-1-64 be filed as a regular rule with JCARR as discussed. Upon roll call, the vote was as follows: Yea: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson and James Rossler. The motion carried.

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;
 - (b) At the time the benefit recipient reinstates previously waived or cancelled health care covered as provided in paragraph (I) of rule 3309-1-35 of the Administrative Code;
 - (c) Within thirty-one days after involuntary termination of another dental or vision plan; or,
 - (d) 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;
 - (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; or
 - (c) Within thirty-one days after involuntary termination of another medical, dental, or vision plan, 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;
- (5) The benefit recipient elects to cancel the supplemental health care coverage for the following calendar year during the open enrollment period; or
- (6) The benefit recipient elects to cancel health care coverage under paragraph (D) of rule 3309-1-35 of the Administrative Code.

(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 retiree'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 retiree'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 the unpaid premiums for coverage under this rule and health care coverage under rule 3309-1-35 of the Administrative Code reach a total cumulative amount of at least three months of billed premiums. The retirement system shall send written notice to 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 for the total amount in default is received prior to the date specified in the notice. 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. The benefit recipient shall be ineligible for reinstatement of coverage until payment for the total amount in default is received.

HISTORY: 1/1/14

Promulgated Under: 111.15

Statutory Authority: 3309.04

Rule Amplifies: 3309.69

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: 3309-1-05 Policy on investment department incentive plan payouts.

Catherine Moss moved and Barbra Phillips seconded that proposed amended rule 3309-1-05 be filed with JCARR as discussed. Upon roll call, the vote was as follows: Yea: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson and James Rossler. The motion carried.

3309-1-05 Policy on investment department incentive plan payouts.

- (A) Pursuant to section 3309.14 of the Revised Code, payment of employee bonuses are subject to the guidelines established by the school employees retirement board as reflected in the investment department incentive plan. The plan shall be reviewed and approved on an annual basis by the board, and may be interpreted, amended, rescinded, and/or terminated at any time in the board's discretion, provided, however, that no such action by the board will be given effect if it is inconsistent with the requirements of section 409A of the Internal Revenue Code of 1986, as amended. The plan shall establish target incentive awards weighted against performance components, focusing on the school employees retirement system's actual relative investment performance compared with external benchmarks. Any and all material modifications to the plan, including, but not limited to, those related to the assignment of target incentive awards, identification of performance measures and standards, and determination of plan payouts and actual payouts, requires the board's prior approval.
- (B) Participation in the plan is limited to certain school employees retirement system full-time investment professionals. Participation in the plan in any one year does not confer the right to participate in the plan in the current or any other year and does not confer the right to continued employment.

HISTORY: 4/2/10, 4/10/05

Promulgated Under: 111.15

Statutory Authority: 3309.04, 3309.041

Rule Amplifies: 3309.041, 3309.14

Review Date: 2/1/19

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: 3309-1-07 Application for payment upon termination of employment.

Barbra Phillips moved and Catherine Moss seconded that proposed amended rule 3309-1-07 be filed with JCARR as discussed. Upon roll call, the vote was as follows: Yea: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson and James Rossler. The motion carried.

3309-1-07 Application for payment upon termination of employment.

- (A) For purposes of this rule, "retirant" means a "SERS retirant" or "other system retirant" as defined in section 3309.341 of the Revised Code, or a member who retired under section 3309.343 of the Revised Code.
- (B) An application for payment of the accumulated contributions in a member's individual account pursuant to section 3309.42 of the Revised Code shall be signed by the member. If the account balance exceeds two hundred dollars, the member's signature must be notarized or witnessed by a SERS counselor.
- (C) An application for a lump sum annuity payment or a return of contributions pursuant to section 3309.344 of the Revised Code shall be signed by the retirant and notarized or witnessed by a SERS counselor.
- (D) If the member or retirant was employed in a SERS-covered position during the six month period preceding the application, the application shall not be approved until the employer certifies to the retirement system the member or retirant's last date of service.
- (E) For purposes of division (A)(2) of section 3309.42 of the Revised Code, "eligible for age and service retirement" means a member is eligible for retirement under section 3309.34, 3309.36, or 3309.381 of the Revised Code on or before the first of the month following the date the application for a refund is received by the retirement system.
- (F) The retirement board waives the requirement of spousal consent in division (A)(2) of section 3309.42 of the Revised Code upon receipt of one of the following:
 - (1) The written statement of the spouse's physician certifying that the spouse is medically incapable of consent;
 - (2) A certified copy of a probate court order appointing a guardian for the spouse due to a finding of incompetence; or
 - (3) The affidavits of the member and at least two other persons, one of whom must be unrelated to the member, attesting that the whereabouts of the spouse is unknown.
- (G) A member or retirant may withdraw an application by delivering to the retirement system a signed written request over the applicant's signature to withdraw the application and as follows:
 - (1) If the payment was made by check, by returning to the retirement system the warrant uncashed no later than thirty days from the date the check was issued.
 - (2) If the payment was transmitted by direct deposit to the member or retirant's financial

institution, by remitting to the retirement system a personal check or money order repaying the amount transmitted no later than thirty days after the institution's receipt of the payment.

- (3) If any portion of the payment was distributed as a direct rollover pursuant to rule 3309-1-53 of the Administrative Code, the retirement plan that received the distribution must return to the retirement system the amount transferred no later than sixty days after the transfer.
- (4) If any portion of the payment was paid to satisfy a court order or was otherwise deducted as required by law, the application may not be withdrawn as provided in this rule.

HISTORY: 5/15/17, 8/13/15, 3/30/15, 4/2/10, 5/14/05, 2/11/00, 1/2/93, 12/24/76

Promulgated Under: 111.15

Statutory Authority: 3309.04

Rule Amplifies: 3309.42, 3309.344

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: 3309-1-18 Payment of ~~employee and employer~~ contributions.

Catherine Moss moved and Christine Holland seconded that proposed amended rule 3309-1-18 be filed with JCARR as discussed. Upon roll call, the vote was as follows: Yea: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson and James Rossler. The motion carried.

3309-1-18 Payment of ~~employee and employer~~ contributions.

(A) For purposes of this rule:

(1) "Employer" has the same meaning as in section 3309.01 of the Revised Code.

2) ("Contribution report" means payroll data for each pay date that has been cleared of any errors or warnings.

((3) "Surcharge" means the employer minimum compensation contribution amount determined pursuant to section 3309.491 of the Revised Code.

(B) Payments due under section 3309.47 of the Revised Code shall be remitted to the school employees retirement system by the fifth business day following the pay date.

(C) Contribution reports shall be submitted to the retirement system by the fifth business day following the pay date.

(D) Payments due under section 3309.51 of the Revised Code and paid by an employer directly to the employers' trust fund shall be remitted by the fifth business day following the pay date.

(E) Payments due to the employers' trust fund pursuant to section 3309.51 of the Revised Code and received from the amounts allocated under Chapter 3317. of the Revised Code, section 3314.08 of the Revised Code, and section 3326.33 of the Revised Code shall be remitted each month and attributed to that month.

(F) Annually, the retirement system shall issue a final school year statement that reconciles the estimated employer payments received with the employer payments owed. Within thirty days of the statement's issuance, the employer shall directly pay to the employers' trust fund any balance owed, or the retirement system shall directly refund to the employer any overpayments made. The retirement system shall not issue a refund to an employer whose reports or payments are delinquent.

(G) Surcharge payments due to the employers' trust fund shall be collected in one of the following ways:

(1) An employer who does not receive amounts allocated under section 3314.08 or 3326.33 of the Revised Code may choose to pay its surcharge directly to the employers' trust fund. An employer who chooses this option must pay its surcharge within thirty days after receipt of the certified amount due from the retirement system.

(2) For those employers who do not choose the direct pay option under paragraph (G)(1) of this rule, as well as employers who receive amounts allocated under section 3314.08 or 3326.33 of the Revised Code, the retirement system shall include surcharge payments in the

estimated payments certified to the superintendent of public instruction pursuant to section 3309.51 of the Revised Code.

- (H) For any payments made pursuant to paragraphs (B), (D), (F) and (G)(1) of this rule, payment remittance information shall be submitted in the manner specified by the retirement system no later than the date the payment is remitted.
- (I) The retirement system may extend a due date for an employer upon a finding that good cause has been shown.
- (J) For purposes of section 3309.571 of the Revised Code, "days" refers to "business days."

HISTORY: 5/15/17, 12/4/14, 1/7/13, 7/1/10

Promulgated Under: 111.15

Statutory Authority: 3309.04

Rule Amplifies: 3309.47, 3309.49, 3309.491, 3309.51, 3309.55, 3309.571

Review Date: 2/1/19

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: 3309-1-23 Contributing status; compulsory and optional.

Catherine Moss moved and Christine Holland seconded that proposed amended rule 3309-1-23 be filed as a regular rule with JCARR as discussed. Upon roll call, the vote was as follows: Yea: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson and James Rossler. The motion carried.

3309-1-23 Contributing status; compulsory and optional.

- (A) The following standards shall apply for the determination of contributing status in the school employees retirement system.
- (B) Contributing status shall be required for any employee of an employer as defined in divisions (A) and (B) of section 3309.01 of the Revised Code beginning with the first date of service, unless contributing status is otherwise made optional under this rule or the provisions of Chapter 3309. of the Revised Code.
- (C)
 - (1) Employees who are eligible pursuant to division (B) or (C) of section 3309.23 of the Revised Code to elect to be exempt from contributing status, shall make such election by filing a written application for exemption with their employer within the first month of being employed.
 - (2) Once an exemption is filed, it is irrevocable during the current period of employment for the same employer provided the employee remains qualified for an exemption pursuant to division (B) or (C) of section 3309.23 of the Revised Code. Should the employee no longer qualify for an exemption, the previously filed exemption shall be invalid and contributing status shall be mandatory.
 - (3) An exemption shall be valid only during the current period of employment for the employer by whom the employee is employed at the time that the exemption is filed. When such

employment terminates, the exemption also terminates. Upon return to employment, either for the former or for another employer, contributing status is mandatory unless the employee qualifies and timely applies for an exemption.

(D)

- (1) Within thirty days of initially taking office, school board members or governing board members who are compensated by the school district for their services as board members may elect to be members by filing a written election with the treasurer of the board of education. If the board member elects to be a member, the treasurer of the board of education shall notify the system of the election on a form provided by the school employees retirement board. Board members who are not compensated for their services, or who receive only reimbursement or payment for their expenses, are not eligible to be members.
- (2) A board member who is an SERS retirant or other system retirant as defined in section 3309.341 of the Revised Code and who has elected to be a member shall contribute under the provisions of section 3309.341 of the Revised Code.
- (3) The election to become a member, once made, is irrevocable during the board member's current term as a board member, and during any successive terms where the board member has not, prior to the commencement of the term, refunded his accumulated contributions or taken a retirement benefit from the school employees 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: 3309-1-33 Retirement and benefit effective dates.

Christine Holland moved and Catherine Moss seconded that proposed amended rule 3309-1-33 be filed with JCARR as discussed. Upon roll call, the vote was as follows: Yea: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson and James Rossler. The motion carried.

3309-1-33 Retirement and benefit effective dates.

- (A) For purposes of this rule, "retirement allowance" refers to a monthly retirement allowance, including an "estimated retirement allowance" as defined in paragraph (A) of rule 3309-1-21 of the Administrative Code, as well as a lump sum payment made under a plan described in division (B)(4) of section 3309.46 of the Revised Code.
- (B)
 - (1)
 - (a) The effective date of a service retirement under sections 3309.34, 3309.35, 3309.36, and 3309.46 of the Revised Code shall be as follows:

The first of the month following the last date of compensated service, the first of the month following the date that age and service credit eligibility is met, the first of the month after all purchases of service credit are completed, or at the date requested by the applicant in writing at retirement, whichever is later.
 - (b) The effective date of a service retirement under section 3309.343 of the Revised Code shall be as follows:

The first of the month following the last date of compensated service for the position from which the member is retiring, the first of the month following the date that age and service credit eligibility is met, the first of the month after all purchases of service credit are completed, or at the date requested by the applicant in writing at retirement, whichever is later.

- (c) Notwithstanding any other provision of this rule to the contrary, the effective date of a service retirement under this rule of a member who is an other system retiree as defined in division (A)(2) of section 3309.341 of the Revised Code shall not be sooner than the effective date of retirement in the other system.
- (2) The effective date of reemployment, conversion retirement, disability, and survivor benefits shall be the date as provided by section 3309.344, 3309.381, 3309.39, 3309.40, 3309.401, or 3309.45 of the Revised Code.
- (C) A member, a beneficiary eligible for benefits pursuant to section 3309.45 of the Revised Code, or a SERS retiree or other system retiree as defined in section 3309.341 of the Revised Code, may withdraw an application for a retirement allowance, survivor benefit or annuity by delivering to the retirement system a signed written request over the applicant's signature and as follows:
 - (1) If the payment was made by check, by returning to the retirement system the warrant uncashed no later than thirty days after issuance of the check.
 - (2) If the payment was transmitted by direct deposit to the member, beneficiary, or retiree's financial institution(s), by remitting to the retirement system a personal check or money order repaying all payments transmitted no later than thirty days after the institution's receipt of the payment.
 - (3) If any portion of a payment was delivered as a direct rollover pursuant to rule 3309-1-53 of the Administrative Code, the retirement plan that received the distribution must return to the retirement system the amount transferred not later than sixty days after the transfer.
 - (4) If any portion of a payment was paid to satisfy a court order or was otherwise deducted as required by law, the application may not be withdrawn as provided in this rule.
- (D) The retirement laws in effect on the benefit effective dates shall determine the amount and eligibility for a retirement allowance, survivor benefit, or annuity.
- (E) The annuity and option tables as adopted by the board and in effect shall be used to determine reserve liability and retirement allowance, survivor benefit payments and annuity.

HISTORY: 3/20/15, 12/14/13, 1/7/13, 4/2/10, 5/11/06, 1/2/04, 1/2/03, 11/1/01, 7/30/01(Emer), 5/2/01, 1/2/93, 2/1/92, 12/24/76

Promulgated Under: 111.15

Statutory Authority: 3309.04

Rule Amplifies: 3309.34, 3309.343, 3309.344, 3309.35, 3309.36, 3309.381, 3309.39, 3309.40, 3309.401, 3309.45, 3309.46

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: 3309-1-34 Combined disability benefits.

Catherine Moss moved and Hugh Garside seconded that proposed amended rule 3309-1-34 be filed with JCARR as discussed. Upon roll call, the vote was as follows: Yea: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson and James Rossler. The motion carried.

3309-1-34 Combined disability benefits.

(A) This rule amplifies section 3309.35 of the Revised Code.

(B) As used in this rule:

"Last date of service" means last day of compensated service, either for a day worked or used paid leave, under the school employees retirement system, public employees retirement system, or state teachers retirement system, whichever is latest.

(C) If this system is the paying system and a member of school employees retirement system files an application for a disability benefit pursuant to section 3309.39 of the Revised Code and also chooses to apply for a combined disability benefit with the public employees retirement system or the state teachers retirement system, the following shall apply:

1) (This system shall request and pay for the examining physician(s) report(s).

((2) Disability shall be determined on the basis of the member's ability to perform the duties for the position held on the member's last date of service. If the member's last date of service is concurrent under two or more systems, disability for performance of duty shall be determined on the basis of the duties for the position with the greater annual compensation or earnable salary at the time of the application.

(3) If a disability benefit is granted, this system shall notify the other retirement system(s) of the decision and the member's intent to combine.

(D) If this system is the paying system of a combined disability, this system's rules and statutes shall govern the disability benefits, and this system will be responsible for subsequent medical examinations.

HISTORY: 3/30/15, 1/7/13, 4/2/10

Promulgated Under: 111.15

Statutory Authority: 3309.04

Rule Amplifies: 3309.34, 3309.343, 3309.344, 3309.35, 3309.36, 3309.381, 3309.39, 3309.40, 3309.401, 3309.45, 3309.46

Review Date: 2/1/19

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: 3309-1-35 Health care.

Barbra Phillips moved and Christine Holland seconded that proposed amended rule 3309-1-35 be filed with JCARR as discussed. Upon roll call, the vote was as follows: Yea: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson and James Rossler. The motion carried.

3309-1-35 Health care.

(A) Definitions

As used in this rule:

- (1) "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.
- (2) "Member" has the same meaning as in section 3309.01 of the Revised Code.
- (3) "Age and service retirant" means a former member who is receiving a retirement allowance pursuant to section 3309.34, 3309.35, 3309.36 or 3309.381 of the Revised Code. A former member with an effective retirement date after June 13, 1986 must have accrued ten years of service credit, exclusive of credit obtained after January 29, 1981 pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code.
- (4) "Disability benefit recipient" means a member who is receiving a benefit or allowance pursuant to section 3309.35, 3309.39, 3309.40 or 3309.401 of the Revised Code.
- (5) "Dependent" means an individual who is either of the following:
 - (a) A spouse of an age and service retirant, disability benefit recipient, or member,
 - (b) A biological, adopted or step-child of an age and service retirant, disability benefit recipient, member, deceased age and service retirant, deceased disability benefit recipient, or deceased member or other child in a parent-child relationship in which the age and service retirant, disability benefit recipient, member, deceased age and service retirant, deceased disability benefit recipient, or deceased member has or had custody of the child, so long as the child:
 - (i) Is under age twenty-six, or
 - (ii) Regardless of age is permanently and totally disabled, provided that the disability existed prior to the age and service retirant's, disability benefit recipient's, or member's death and prior to the child reaching age twenty-six. For purposes of this paragraph "permanently and totally disabled" means the individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than twelve months.
- (6) "Health care coverage" means either of the following group plans offered by the system:
 - (a) A medical and prescription drug plan or

- (b) Limited wraparound coverage, which provides limited benefits that wrap around an individual health insurance plan.
- (7) "Premium" means a monthly amount that may be required to be paid by a benefit recipient to continue enrollment for health care coverage for the recipient or the recipient's eligible dependents.
- (8) "Employer" and "public employer" have the same meaning as in section 3309.01 of the Revised Code.

(B) Eligibility

- (1) A person is eligible for health care coverage under the school employees retirement system's health care plan so long as the person qualifies as one of the following:
 - (a) An age and service retiree or the retiree's dependent,
 - (b) A disability benefit recipient or the recipient's dependent,
 - (c) The dependent of a deceased member, deceased age and service retiree, or deceased disability benefit recipient, if the dependent is receiving a benefit pursuant to section 3309.45 or 3309.46 of the Revised Code,
 - (d) The dependent child of a deceased member, deceased disability benefit recipient, or deceased age and service retiree if the spouse is receiving a benefit pursuant to section 3309.45 or 3309.46 of the Revised Code and the spouse elects to be covered.
- (2) Eligibility for health care coverage shall terminate when the person ceases to qualify as one of the persons listed in paragraph (B)(1) of this rule, except that a dependent described in paragraph (A)(5)(b)(i) of this rule shall cease to qualify on the first day of the calendar year following the dependent's twenty-sixth birthday.
- (3) Except for a dependent described in paragraph (A)(5)(b) of this rule, eligibility for health care coverage shall terminate when the person is not enrolled in Medicare part B and on or after January 1, 2016 commences employment that provides access to a medical plan with prescription coverage through the employer, or if employees of that employer in comparable positions have access to a medical plan available through the employer, provided the medical plan with prescription drug coverage available through the employer is equivalent to the medical plan with prescription coverage at the cost available to fulltime employees as defined by the employer. For purposes of this paragraph, employer means a public or private employer.

(C) Enrollment

- (1) Except as otherwise provided in this rule, an eligible benefit recipient may enroll in school employees retirement system's health care coverage only at the time the benefit recipient applies for an age and service retirement, disability benefit, or monthly benefits pursuant to section 3309.45 of the Revised Code.
- (2) An eligible spouse of an age and service retiree or disability benefit recipient may only be enrolled in the system's health care coverage at the following times:
 - (a) At the time the retiree or disability benefit recipient enrolls in school employees retirement system's health care coverage.

- (b) Within thirty-one days of the eligible spouse's:
 - (i) Marriage to the retirant or disability benefit recipient;
 - (ii) Voluntary or involuntary termination of health care coverage under medicaid; or
 - (iii) Involuntary termination of health care coverage under another plan, including a medicare advantage plan, or medicare part D plan.
 - (c) Within ninety days of becoming eligible for medicare.
- (3) An eligible dependent child of an age and service retirant, disability benefit recipient, or deceased member may be enrolled in the system's health care coverage at the following times:
- (a) At the time the retirant, disability benefit recipient, or surviving spouse enrolls in school employees retirement system's health care coverage.
 - (b) Within thirty-one days of the eligible dependent child's:
 - (i) Birth, adoption, or custody order; or
 - (ii) Voluntary or involuntary termination of health care coverage under medicaid;
 - (iii) Involuntary termination of health care coverage under another plan, including a medicare advantage plan, or medicare part D plan.
 - (c) Within ninety days of becoming eligible for medicare.
- (D) Cancellation of health care coverage
- (1) Health care coverage of a person shall be cancelled when:
- (a) The person's eligibility terminates as provided in paragraph (B)(2) of this rule;
 - (b) The person's eligibility terminates as provided in paragraph (B)(3) of this rule;
 - (c) The person's health care coverage is cancelled for default as provided in paragraph (F) of this rule;
 - (d) The person's health care coverage is waived as provided in paragraph (G) of this rule;
 - (e) The person's health care coverage is cancelled due to the person's enrollment in a medicare advantage plan or medicare part D plan as provided in paragraph (H) of this rule;
 - (f) The health care coverage of a dependent is cancelled when the health care coverage of a benefit recipient is cancelled; or
 - (g) 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, division (D) of section 3309.41 of the Revised Code, or division (D) of section 3309.392 of the Revised Code.

(E) Effective date of coverage

- (1) The effective date of health care coverage for persons eligible for health care coverage as set forth in paragraph (B) of this rule shall be as follows:
 - (a) For a disability benefit recipient or dependent of a disability benefit recipient, health care coverage shall be effective on the first of the month following the determination and recommendation of disability to the retirement board or on the benefit effective date, whichever is later.
 - (b) For an age and service retiree or dependent of an age and service retiree, health care coverage shall be effective on the first of the month following the date that the retirement application is filed with the retirement system or on 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, 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 retiree's death, or the first 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 retiree's death.

(F) Premiums

- (1) Payment of premiums for 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 the unpaid premiums for coverage under this rule and supplemental health care coverage under rule 3309-1-64 of the Administrative Code reach a total cumulative amount of at least three months of billed premiums. The retirement system shall send written notice to 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 for the total amount in default is received prior to the date specified in the notice. 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.
- (3) After cancellation for default, health care coverage can be reinstated as provided in paragraph (I) of this rule, or upon submission of an application for reinstatement supported by medical evidence acceptable to SERS that demonstrates that the default was caused by the benefit recipient's physical or mental incapacity. "Medical evidence" means documentation provided by a licensed physician of the existence of the mental or physical incapacity causing the default. Health care coverage reinstated after termination for default shall be effective on the first of the month following the date that the application for reinstatement is approved and payment for the total amount in default is received.
- (4) A person enrolled in SERS' health care plan cannot receive a premium subsidy unless that person is:
 - (a) A dependent child.

- (b) An age and service retirant:
 - (i) An age and service retirant with an effective retirement date before August 1, 1989; or
 - (ii) An age and service retirant with an effective retirement date on or after August 1, 1989 and before August 1, 2008 who had earned fifteen years of service credit; or
 - (iii) An age and service retirant with an effective retirement date on or after August 1, 2008 who had earned twenty years of service credit, exclusive of credit obtained after January 29, 1981, pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code, and who:
 - (a) Was eligible to participate in the health care plan of his or her employer at the time of retirement or separation from SERS service; or
 - (b) Was eligible to participate in the health care plan of his or her employer at least three of the last five years of service preceding retirement or separation from SERS service.
- (c) A disability benefit recipient:
 - (i) A disability benefit recipient with an effective benefit date before August 1, 2008; or
 - (ii) A disability benefit recipient with an effective benefit date on or after August 1, 2008 who:
 - (a) Was eligible to participate in the health care plan of his or her employer at the time of separation from SERS service; or
 - (b) Was eligible to participate in the health care plan of his or her employer at least three of the last five years of service preceding separation from SERS service.
- (d) A spouse:
 - (i) A spouse or surviving spouse of an age and service retirant or disability benefit recipient with an effective retirement date or benefit date before August 1, 2008 who had earned twenty-five years of service credit, exclusive of credit obtained after January 29, 1981, pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code;
 - (ii) A spouse or surviving spouse of an age and service retirant or disability benefit recipient with an effective retirement date or benefit date on or after August 1, 2008 who had earned twenty-five years of service credit, exclusive of credit obtained after January 29, 1981, pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code, and who:
 - (a) Was eligible to participate in the health care plan of his or her employer at the time of retirement or separation from SERS service; or
 - (b) Was eligible to participate in the health care plan of his or her employer at least three of the last five years of service preceding retirement or separation from SERS service.

- (iii) A surviving spouse of a deceased member who had earned twenty-five years of service credit, exclusive of credit obtained after January 29, 1981, pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code, with an effective benefit date before August 1, 2008; or
- (iv) A surviving spouse of a deceased member who had earned twenty-five years of service credit, exclusive of credit obtained after January 29, 1981, pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code, with an effective benefit date on or after August 1, 2008, and the member;
 - (a) Was eligible to participate in the health care plan of his or her employer at the time of death or separation from SERS service; or
 - (b) Was eligible to participate in the health care plan of his or her employer at least three of the last five years of service preceding the member's death or separation from SERS service.
- (e) For purposes of determining eligibility for a subsidy under paragraph (F)(4) of this rule, when the last contributing service of an age and service retiree, disability benefit recipient, or member was as an employee as defined by division (B)(2) of section 3309.01 of the Revised Code, the health care plan participation requirement shall be if the individual would have been eligible for the public employer's health care plan if the individual were an employee as defined by division (B)(1) of section 3309.01 of the Revised Code.
- (f) Any other individual covered under a SERS health care plan shall be eligible for a premium subsidy under the standard set forth for spouses.
- (g) In all cases of doubt, the retirement board shall determine whether a person enrolled in a SERS health care plan is eligible for a premium subsidy, and its decision shall be final.

(G) Waiver

- (1) A benefit recipient may waive health care coverage by completing and submitting a SERS waiver form to SERS.
- (2) The health care coverage of a benefit recipient's dependent may be waived as follows:
 - (a) For non-medicare eligible dependents, the benefit recipient may waive their coverage by completing and submitting a signed written request to SERS on their behalf.
 - (b) For medicare eligible dependents, the dependent may waive their coverage by completing and submitting a signed written request to SERS.

(H) Medicare advantage or medicare part D

SERS shall cancel the health care coverage of a benefit recipient or dependent who enrolls in a medicare advantage or medicare part D plan that is not offered by the system.

(I) Reinstatement to SERS health care coverage

- (1) An eligible benefit recipient, or dependent of a benefit recipient with health care coverage, whose coverage has been previously waived or cancelled may be reinstated to SERS health care coverage by filing a health care enrollment application as follows:

- (a) The application is received no later than ninety days after becoming eligible for medicare. Health care coverage shall be effective the later of the first day of the month after becoming medicare eligible or receipt of the enrollment application by the system;
 - (b) The application is received no later than thirty-one days after voluntary or involuntary termination of coverage under medicaid. Health care coverage shall be effective the later of the first day of the month after termination of coverage or receipt of proof of termination and the enrollment application by the system; or
 - (c) The application is received no later than thirty-one days after involuntary termination of coverage under another plan, medicare advantage plan, or medicare part D plan with proof of such termination. Health care coverage shall be effective the later of the first day of the month after termination of the other plan or receipt of proof of termination and the enrollment application by the system.
- (2) An eligible person whose coverage was cancelled pursuant to paragraph (D)(1)(g) of this rule shall be reinstated to SERS health care plan when benefit payments are reinstated.
 - (3) An eligible person whose coverage was cancelled pursuant to paragraph (D)(1)(b) of this rule may be reinstated to SERS health care plan when they no longer have access to the medical plan of an employer by filing a health care enrollment application within thirty-one days of the employment ending.
 - (4) An eligible benefit recipient or dependent of a benefit recipient with health care coverage, whose coverage has been previously cancelled and who is enrolled in medicare parts A and B or medicare part B only on December 31, 2007 may be reinstated to SERS health care coverage by filing a healthcare enrollment application during the period of time beginning October 1, 2007 and ending November 30, 2007. Health care coverage shall be effective January 1, 2008.
 - (5) An eligible benefit recipient or dependent of a benefit recipient with health care coverage, whose coverage has been previously cancelled pursuant to paragraph (H) of this rule and who is enrolled in medicare parts A and B or medicare part B only on June 30, 2009 may be reinstated to SERS health care coverage by filing a health care enrollment application during the period of time beginning May 21, 2009 and ending July 15, 2009.
 - (6) An eligible benefit recipient who had an effective retirement or benefit date on or after August 1, 2008, who qualifies for a premium subsidy under paragraph (F)(4) of this rule, and whose coverage has previously been waived as provided in paragraph (G) of this rule, may be reinstated to school employees retirement system health care coverage by submitting a complete health care enrollment application on or before December 14, 2012. Health care coverage shall be effective January 1, 2013.
 - (7) An eligible benefit recipient for whom SERS is transferring funds to another Ohio retirement system in accordance with paragraph (G) of rule 3309-1-55 of the Administrative Code may be reinstated to SERS health care coverage by submitting a health care enrollment application during open enrollment periods for health care coverage starting January 1, 2015 or January 1, 2016.

(J) Medicare part B

- (1) A person who is enrolled in SERS' health care shall enroll in medicare part B at the person's first eligibility date for medicare part B.

(2)

(a) The board shall determine the monthly amount paid to reimburse an eligible benefit recipient for medicare part B coverage. The amount paid shall be no less than forty-five dollars and fifty cents, except that the board shall make no payment that exceeds the amount paid by the recipient for the coverage.

(b) As used in paragraph (J) of this rule, an "eligible benefit recipient" means:

(i) An eligible person who was a benefit recipient and was eligible for medicare part B coverage before January 7, 2013, or

(ii) An eligible person who is a benefit recipient, is eligible for medicare part B coverage, and is enrolled in SERS' health care.

(3) The effective date of the medicare part B reimbursement to be paid by the board shall be as follows:

(a) For eligible benefit recipients who were a benefit recipient and were eligible for medicare B coverage before January 7, 2013 the later of:

(i) January 1, 1977; or

(ii) The first of the month following the date that the school employees retirement system received satisfactory proof of coverage.

(b) For eligible benefit recipients not covered under paragraph (J)(3)(a) of this rule, the later of:

(i) The first month following the date that the school employees retirement system received satisfactory proof of coverage, or

(ii) The effective date of SERS health care.

(4) The board shall not:

(a) Pay more than one monthly medicare part B reimbursement when a benefit recipient is receiving more than one monthly benefit from this system; nor

(b) Pay a medicare part B reimbursement to a benefit recipient who is eligible for reimbursement from any other source.

HISTORY: 10/13/16, 8/13/15, 12/4/14, 7/12/14, 1/1/14, 3/8/13, 1/7/13 (Emer.), 9/30/12, 8/14/11, 9/26/10, 7/1/10 (Emer.), 6/11/10, 8/10/09, 5/22/09 (Emer.), 1/8/09, 8/8/08, 12/24/07, 9/28/07 (Emer.), 3/1/07, 1/2/04, 6/13/03, 11/9/98, 8/10/98, 1/2/93, 7/20/89, 3/20/80, 1/1/77

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.69

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: 3309-1-42 Options; pop-up and election of new option.

Hugh Garside moved and Christine Holland seconded that proposed amended rule 3309-1-42 be filed with JCARR as discussed. Upon roll call, the vote was as follows: Yea: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson and James Rossler. The motion carried.

3309-1-42 Options; pop-up and election of new option.

(A)

- (1) Upon the death of a spouse or a designated beneficiary, the lesser retirement allowance calculated as plan A, C, or D under division(B)(1)(a), (B)(3)(b), (B)(3)(c) or (B)(4) of section 3309.46 of the Revised Code or as option 1 or 2 under division (A) or (B) of section 3309.46 of the Revised Code as in effect prior to amendment effective July 24, 1990 shall be increased to the single lifetime retirement allowance.
- (2) Upon the death of a designated beneficiary under plan F under division (B)(3)(e) of section 3309.46 of the Revised Code, the retirant shall receive the actuarial equivalent of the retirant's single lifetime retirement allowance based on the number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary.

(B)

- (1) Upon divorce, annulment, or marriage dissolution, the lesser retirement allowance calculated as plan A, C, or D under division(B)(1)(a), (B)(3)(b), (B)(3)(c) or (B)(4) of section 3309.46 of the Revised Code or as option 1 or 2 under division (A) or (B) of section 3309.46 of the Revised Code as in effect prior to amendment effective July 24, 1990 shall, at the election of the retirant, be increased to the single lifetime retirement allowance; except that no benefit first payable on or after August 1, 1990 shall be increased without the written consent of the ex-spouse or order of the court with jurisdiction over the termination of the marriage.
- (2) Upon the divorce, annulment, or marriage dissolution from a designated beneficiary under plan F, the retirant may elect to receive the actuarial equivalent of the retirant's single lifetime retirement allowance based on the number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary; except the retirant's benefit shall not be increased without the written consent of the ex-spouse or order of the court with jurisdiction over the termination of the marriage.

(C)

- (1) Upon marriage or re-marriage, a retirant receiving a single lifetime allowance may elect to have his allowance recalculated as plan A, C, or D, designating the current spouse as beneficiary.
- (2) Upon remarriage, a retirant receiving a benefit pursuant to a plan of payment providing for payment to a former spouse pursuant to a court order described in division (B)(1)(b)(ii) of section 3309.46 of the Revised Code may elect a new plan of payment adding the new spouse under division (B)(3)(e) of section 3309.46 of the Revised Code if the new plan of

payment does not reduce the payment to the former spouse or to any other beneficiary designated at the time of retirement.

(3) In the case of a retirant who marries or remarries on or after June 6, 2005, an election under paragraph (C) of this rule shall be received by school employees retirement system not later than one year after the marriage or remarriage.

(4) A plan elected under paragraph (C) of this rule shall be calculated according to the actuarial factors in effect when such plan is elected and based on the age of the retirant and spouse at the time of selection.

(D) The effective date for a change in plan and benefit shall be as follows:

(1) Death of spouse - the first of the month following death of spouse or September 1, 1976, whichever is later. The retirant shall furnish proof of date of death, satisfactory to the board.

(2) Death of designated beneficiary other than spouse - the first of the month following the death, or November 1, 1978, whichever is later. The retirant shall furnish proof of date of death, satisfactory to the board.

(3) Divorce, annulment or marriage dissolution - the first of the month following receipt of the application for a change of plan. The application shall be accompanied by proof of divorce, annulment or marriage dissolution, and any written consent of the ex-spouse or court order as required under paragraph (B) of this rule, satisfactory to the board.

(4) Marriage or re-marriage - provided all documents are received prior to the retirant's death, the effective date for the change in the plan shall be the date the system receives the application, the marriage certificate, and any required consent or consent order; the effective date for the change in benefit shall be the first of the following month.

(E) The "single lifetime retirement allowance" determined under this rule shall be the original single lifetime allowance established at retirement plus any subsequent ad hoc pension increases and automatic cost-of-living increases which shall be applied to the original amounts granted. The original single lifetime allowance established at retirement shall be the portion of the allowance payable in monthly payments, if the retirant elected a plan that included a lump sum payment under division (B)(4) of section 3309.46 of the Revised Code.

HISTORY: 3/30/15, 10/27/06, 1/6/06, 1/2/03, 9/20/90, 11/1/78

Promulgated Under: 111.15

Statutory Authority: 3309.04

Rule Amplifies: 3309.46

Review Date: 2/1/19

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: 3309-1-50 Re-employment restrictions.

Barbra Phillips moved and Hugh Garside seconded that proposed amended rule 3309-1-50 be filed with JCARR as discussed. Upon roll call, the vote was as follows: Yea: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson and James Rossler. The motion carried.

3309-1-50 Re-employment restrictions.

This rule implements section 3309.341 of the Revised Code and applies to Ohio public service after retirement in circumstances other than those subject to section 3309.343 of the Revised Code and rule 3309-1-58 of the Administrative Code.

(A) For the purpose of this rule and section 3309.341 of the Revised Code:

- (1) "Effective retirement benefit date" means the date upon which a retirement allowance begins.
- (2) "Ohio retirement system" means the school employees retirement system, state teachers retirement system, public employees retirement system, Ohio police and fire pension fund, and state highway patrol retirement system.
- (3) "Uniformed retirement system" means the Ohio police and fire pension fund and the state highway patrol retirement system.

(B)

- (1) Forfeiture of a retirement allowance under section 3309.341 of the Revised Code for employment in a position covered by another Ohio retirement system shall apply only to a SERS retirant whose effective retirement benefit date is on or after September 1, 1991.
- (2) A SERS retirant who has received a retirement allowance for less than two months and who is employed in a position covered by an Ohio retirement system shall forfeit such allowance for any month in which he is so employed during the two-month period after the effective benefit date.

The forfeited allowance shall be the retirement allowance payable under a plan described in division (B)(1) or (B)(3) of section 3309.46 of the Revised Code before any lump sum amount elected pursuant to division (B)(4) of section 3309.46 of the Revised Code.

- (3) Notwithstanding paragraphs (B)(1) and (B)(2) of this rule, the forfeiture provision shall not apply to a SERS retirant who is employed in a position covered by a uniformed retirement system if the retirant was continuously employed in the position for at least two months prior to the effective retirement benefit date in this system.

(C)

(1)

- (a) Where a member of this system who also has established membership in another Ohio retirement system or systems is terminating all employment covered by all systems, and is electing to take a retirement benefit from one or more of the other systems, as of the effective retirement benefit date, the member shall elect to:
 - (i) Apply for a benefit if eligible pursuant to section 3309.34 or 3309.35 of the Revised Code; or
 - (ii) Apply for a refund of contributions pursuant to section 3309.42 of the Revised Code.
- (b) If as of the effective retirement benefit date from an Ohio retirement system the member has sufficient service credit to qualify for a benefit in this system, the effective retirement benefit date shall be the first of the month following the later of the benefit date in the Ohio retirement system or attainment of eligibility for a benefit in this system.

(2)

- (a) A member of this system who also is a member of an Ohio retirement system and who has applied for a retirement benefit in the that system may continue employment in the position covered by this system, provided that contributions made to this system after the member's effective retirement benefit date in the Ohio retirement system shall accrue only a benefit as described in section 3309.344 of the Revised Code.
- (b) If the member has been continuously employed in such position for at least two months prior to the effective retirement benefit date in the Ohio retirement system, the member may make an irrevocable election on a form provided by this system to have contributions to this system made prior to the effective retirement benefit date in the other system applied toward the same benefit described in section 3309.344 of the Revised Code. In the event this election is made, accrual of allowable interest shall not begin until after the effective retirement benefit date in the other system.

Effective: 8/13/2015

Promulgated Under: 111.15

Statutory Authority: 3309.04

Rule Amplifies: 3309.341, 3309.344, 3309.35

Prior Effective Dates: 1/2/93, 5/2/01, 5/14/05, 3/30/07

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: 3309-1-06 Ohio-qualified agents and investment managers; 3309-1-08 Payment of benefits and allowances; 3309-1-11 Membership determinations; 3309-1-19 Member enrollment; 3309-1-22 Disability retirement – effective date; 3309-1-25 Notice of meetings; 3309-1-26 Determination of statutory beneficiary; 3309-1-27 Intersystem transfers with non-uniform systems; 3309-1-28 Purchase of service credit; military; 3309-1-29 Purchase of service credit; out-of-state and other; 3309-1-32 Cost of living; base allowance change; and 3309-1-46 Retirement – option selection.

Christine Holland moved and Catherine Moss seconded that rules 3309-1-06; 3309-1-08; 3309-1-11; 3309-1-19; 3309-1-22; 3309-1-25; 3309-1-26; 3309-1-27; 3309-1-28; 3309-1-29; 3309-1-32 and 3309-1-46 be filed with JCARR as no change rules as discussed. Upon roll call, the vote was as follows: Yea: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson and James Rossler. The motion carried.

3309-1-06 Ohio-qualified agents and investment managers.

- (A) For purposes of division (A)(4) of section 3309.157 and section 3309.159 of the Revised Code, an investment manager may be designated as an "Ohio-qualified investment manager" if the investment manager and/or any parents, affiliates, or subsidiaries of the investment manager meets the requirements of divisions (A)(1) and (A)(2) of section 3309.159 of the Revised Code.
- (B) For purposes of sections 3309.157 and 3309.159 of the Revised Code, "principal place of business" includes an office in which the agent or investment manager regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.

3309-1-08 Payment of benefits and allowances.

- (A) Effective July 1, 1953 all annuities, retirement allowances, and benefits provided by law and payable in monthly installments shall be due and payable in full on the first day of the month.
- (B) All annuities, retirement allowances, and benefits shall be paid on the first day of the month due.
- (C) The retirement system may suspend any annuity, retirement allowance or benefit under the following circumstances:
 - (1) If the system has good cause to believe either of the following:
 - (a) That a retirant or benefit recipient may be incapacitated, and no other person has authority to act or receive payment on the retirant or benefit recipient's behalf; or
 - (b) That a retirant or benefit recipient is deceased or missing.
 - (2) If correspondence sent to the most recent mailing address provided by a retirant or benefit recipient is returned to the system as undeliverable and the system does not receive an updated mailing address within thirty days of receipt of the undeliverable correspondence.

3309-1-11 Membership determinations.

- (A) A request for a determination as to whether an individual or a group of individuals are required to be members of the school employees retirement system may be initiated by an employer, an affected individual, or the retirement system.
- (1) An employer or individual who has a question as to membership requirements shall request in writing a determination by the retirement system. Such determination shall be made as provided in rule 3309-1-03 of the Administrative Code.
- (2) When a membership determination has been initiated, the employer and any affected individual or individuals shall furnish such documents and information requested by the retirement system.
- (B) If contributions have not been remitted and the retirement system determines the individual is covered by this system, the employer shall be liable for employee and employer compulsory contributions pursuant to rule 3309-1-13 of the Administrative Code. If no membership record and/or contributions are received by the system within thirty days of the determination, a charge, based on an estimated salary for such individual's position, against the employer shall be made for collection through the state school foundation program if available or by direct billing.
- (C) If contributions have been remitted and the retirement system determines the individual is not covered by this system, any contributions received shall be unauthorized and shall be refunded.
- (D) The retirement board has determined that the phrase "service common to the normal daily operation of an educational unit" as used in division (B)(2) of section 3309.01 of the Revised Code means:
- (1) Any service required to be provided by an educational unit or the provision of which is governed by law, statute, or rule; or
- (2) Any service necessary on a regular continuous basis to the efficient operation of an educational unit; or
- (3) Any service which, through custom and usage, has become a service commonly provided or procured by an educational unit on a regular continuous basis.

3309-1-19 Member enrollment.

The statement or notification required under section 3309.28 and division (B)(2) of section 3309.341 of the Revised Code shall be submitted through the retirement system's electronic employer reporting system.

3309-1-22 Disability retirement - effective date.

For purposes of section 3309.40 of the Revised Code, a member who files an application for disability retirement prior to the member's sixtieth birthday and whose last date of contributing service is prior to the member's sixtieth birthday "has not attained age sixty."

3309-1-25 Notice of meetings.

(A) Any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings by:

(1) Writing to the following address -

"School Employees Retirement System
300 East Broad Street, Suite 100
Columbus, Ohio 43215"

(2) Calling the following telephone number during normal business hours -

614/222-5853

(3) Accessing the SERS website -

www.ohsers.org

(B) Any representative of the news media may obtain notice of all special meetings by requesting in writing that such notice be provided. Such notice will only be given, however, to one representative of any particular publication or radio or television station. A request for such notification shall be addressed to:

"Executive Director
School Employees Retirement System
300 East Broad Street, Suite 100
Columbus, Ohio 43215"

(1) The request shall provide the name, United States postal service address and/or electronic mail address, and a maximum of two telephone numbers of the individual media representative to be contacted. The school employees retirement system shall maintain a list of all representatives of the news media who have requested notice of special meetings pursuant to this rule.

(2) In the event of a special meeting not of an emergency nature, the school employees retirement system shall notify all media representatives on the list of such meeting by doing at least one of the following:

- (a) Sending written notice, by electronic mail or United States postal service, which must be sent no later than four calendar days prior to the day of the special meeting;
- (b) Notifying such representatives by telephone no later than twenty-four hours prior to the special meeting; such telephone notice shall be complete if a message has been left for the representative, or, if after reasonable effort, the school employees retirement system has been unable to provide such telephone notice;
- (c) Informing such representative personally no later than twenty-four hours prior to the special meeting.

- (C) In the event of a special meeting of an emergency nature, the school employees retirement system shall notify all media representatives on the list of such meeting by providing either the notice described in paragraph (B)(2)(b) of this rule, or that described in paragraph (B)(2)(c) of this rule or notifying the clerk of the state house press room. In such event, however, the notice need not be given twenty-four hours prior to the meeting, but shall be given as soon as possible.
- (D) In giving notices required by this rule, the school employees retirement board may rely on assistance provided by any member of the staff of the school employees retirement system, and such notice is complete if given by such member in the manner provided in this rule.
- (E) The school employees retirement system shall maintain a list of all persons who have requested, in writing, notice of all meetings of the school employees retirement board.

3309-1-26 Determination of statutory beneficiary.

- (A) This rule amplifies divisions (B), (C) and (D) of section 3309.44 and section 3309.50 of the Revised Code.
- (B) For purposes of division (B) of section 3309.44 of the Revised Code, when a surviving designated beneficiary dies before receiving payment, the payment shall be paid to the estate of the designated beneficiary.
- (C) For purposes of divisions (C) and (D) of section 3309.44 and section 3309.50 of the Revised Code, a person is considered "not located" and ceases to qualify as beneficiary if:
 - (1) No valid mailing address can reasonably be determined for the person; or
 - (2) The person fails to file an application for payment within one hundred eighty days from the date the school employees retirement system first notifies the person of beneficiary status.

3309-1-27 Intersystem transfers with non-uniform systems.

- (A) This rule amplifies section 3309.35 of the Revised Code and applies to members who retire with an effective date of retirement on or after February 1, 2013.
- (B) For the purpose of this rule:
 - (1) "State retirement system" and "retention percentage" have the same meanings as in section 3309.35 of the Revised Code.
 - (2) "Fiscal year" means, for the public employees retirement system, a calendar year and, for the school employees retirement system and state teachers retirement system, the twelve-month period beginning on July first and ending on June thirtieth.
- (C) For purposes of determining the amount transferred under division (B)(5)(a) of section 3309.35 of the Revised Code, all of the following apply:
 - (1) The amount contributed by the member includes any amounts paid to restore service credit under section 3309.26 of the Revised Code.

- (2) The amount of employer contributions shall be determined using the lesser of the employer's contribution rate in effect at the beginning of the fiscal year for each of the state retirement systems involved in the transfer, less the retention percentage.
 - (3) Any amounts paid by the member to purchase service credit shall include, if applicable, any amounts paid by the employer to purchase service credit.
 - (4) Except as provided in this paragraph, interest shall be calculated beginning on the first day of the fiscal year following the year in which the contributions were made and ending on the last day of the month in which the transfer occurs. If the amount to be transferred includes any amounts paid to purchase service credit, other than amounts paid to restore service credit under section 3309.26 of the Revised Code, interest on the amounts paid to purchase service credit shall be calculated beginning on the first day of the fiscal year following the year in which the payment to purchase the credit was made and ending on the last day of the month in which the transfer occurs. For each year of service credit to be transferred, the interest rate shall be determined by using the lesser of the actuarial assumption rate in effect at the beginning of the fiscal year for each of the state retirement systems involved in the transfer.
- (D) If a member of the public employees retirement system has contributions to more than one employer division of the system, the employer contribution rate for the system shall be determined using the last division to which the member contributed. If the period of service and contributions to be transferred includes service that occurred prior to the date the member's most recent division was established, the school employees retirement system shall use the employer contribution rate for its system for that year.

3309-1-28 Purchase of service credit; military.

- (A) Compound interest at a rate to be set by the board shall be applied from the date of the member's first service covered by the school employees retirement system, public employees retirement system or state teachers retirement system following the termination of military duty to date of payment.
- (B) The number of years to be purchased shall not exceed five years or the total number of years of Ohio contributing service credit accumulated at time of purchase, whichever is the lesser.
- (C) The member may purchase any portion of the military service, provided that a member with less than five years of military service who buys all of his service will be credited with the total days of the final month of service.
- (D) The rate of contribution will be that which is in effect at the time the member entered into active military service.
- (E) The maximum salary limitation stipulated in Chapter 3309. of the Revised Code when the member completed his first year of Ohio service, will be observed in the calculation of the cost to purchase.

3309-1-29 Purchase of service credit; out-of-state and other.

- (A) All service in public or private schools, colleges and universities or public service with another state or the United States government which is to be purchased shall be subject to the following requirements, governing eligibility and cost:
- (1) To be eligible to purchase service under this rule, after termination of the service to be purchased, a member must have one year of Ohio service in a year as defined in division (R) of section 3309.01 of the Revised Code.
 - (2) The service credit must be properly certified by the official employer or custodian of records on a form acceptable to the retirement board. The certification should be taken from a legitimate source of documentation such as payroll or retirement records. When records have been destroyed, affidavits may be used, but only in conjunction with other documented evidence as proof of service.
 - (3) Accrued interest shall be calculated from the date of membership in the school employees retirement system of Ohio following service to be purchased to the date of payment.
 - (4) The member will be entitled to purchase any portion of the service credit under this rule not to exceed five years, or the total accumulated number of years of Ohio contributing service credit, whichever is less.
 - (5) Service credit to be purchased shall be granted in accordance with the law and policy of the school employees retirement board current at the time each portion of service to be purchased was performed.
 - (6) School service purchased 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. School 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 purchased. All service other than school service purchased under this rule shall receive .083 per cent of a year service credit per month of service rendered.
 - (7) The Ohio service used for the purpose of establishing the purchase price of service under this rule shall be the first year of continuous full-time Ohio service following termination of the service to be purchased.
 - (8) No more than one year of service credit may be granted for any twelve-month period.
- (B) The following types of service may be purchased under this rule:
- (1) Service in a public or private school, college or university, located in or out of Ohio and service in any school operated by or for the United States government, provided any such school, college or university is recognized by an accrediting association approved by:
 - (a) The U.S. office of education;
 - (b) The appropriate state department of education; or
 - (c) The appropriate state department of higher education, and acceptable to the retirement board.

- (2) Employment with a public governmental entity of a state or of the United States government which would have been covered by the school employees retirement system, state teachers retirement system, Ohio police and fire pension fund, state highway patrol retirement system, or the public employees retirement system, if served in a comparable position in Ohio; and
 - (3) Except as provided in division (C) of section 3309.31 of the Revised Code, service for which contributions were made to a municipal retirement system in Ohio.
- (C) For purposes of section 3309.31 of the Revised Code, "Ohio service" means contributing service in this retirement system.

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.

3309-1-46 Retirement - option selection.

- (A) If an applicant is married at the time of filing an application for retirement, the applicant shall receive a retirement allowance designated as "Plan A" under division (B)(1) of section 3309.46 of the Revised Code, unless:
 - (1) The spouse consents on a form provided by the school employees retirement system to the applicant's election to receive an annuity or payment pursuant to an optional plan under division (B)(3) or (B)(4) of section 3309.46 of the Revised Code; or
 - (2) The school employees retirement board waives the requirement of a spousal consent upon receipt of one of the following:
 - (a) The written statement of the spouse's physician certifying that the spouse is medically incapable of consenting to the plan of payment elected by the applicant; or
 - (b) A certified copy of a probate court order appointing a guardian for the spouse due to a finding of incompetence.
 - (c) The affidavits of the applicant and at least two other persons, one of whom must be unrelated to the applicant, attesting that the whereabouts of the spouse is unknown.
 - (3) The applicant is required to elect a plan of payment providing a specified amount to a former spouse after the applicant's death pursuant to a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property, and
 - (a) The applicant elects a plan of payment designated as "Plan F" under division (B)(3)(e) of section 3309.46 of the Revised Code that is in accordance with the court order and also designates the applicant's current spouse as a beneficiary under the plan; or
 - (b) The total amount required by court order, or orders, is equal to or greater than one hundred per cent of the applicant's lesser allowance.
- (B) An applicant's current spouse must also consent to the election of a plan of payment described in division (B)(3)(e) of section 3309.46 of the Revised Code if the applicant is required to elect a plan of payment providing a specified amount to a former spouse after the applicant's death pursuant to a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property and also designates a beneficiary under the plan other than the former spouse and current spouse.

The Board took a break at 12:52 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 R.C. 121.22 (G)(5) to review applications for Disability Retirement Benefits. Upon roll call, the vote was as follows: Yea: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson and James Rossler. The motion carried.

The Board returned to open session at 1:53 p.m.

Concluding the Disability Report, Legal Counsel discussed with the Board three separate versions of the compensation rule. Following a lengthy discussion, the Board elected to file the rule as a no-change rule, with the recommendation to discuss the compensation rule at a later date for further consideration of changes.

FIVE-YEAR REVIEW AND FILING OF NO-CHANGE ADMINISTRATIVE RULE

Legal Counsel discussed with the Retirement Board filing with JCARR the following rule as a no change rule: 3309-1-02 Definition of Compensation.

Barbra Phillips moved and James Haller seconded that rule 3309-1-02 be filed with JCARR as a no change rule as discussed. Upon roll call, the vote was as follows: Yea: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson and James Rossler. The motion carried.

3309-1-02 Definition of compensation.

- (A) This rule amplifies and is in addition to the provisions of division (V) of section 3309.01 of the Revised Code.
- (B) Except as otherwise provided by division (V) of section 3309.01 of the Revised Code, the following payments made by an employer are not "compensation."
 - (1) Payments made by the employer for accrued but unused compensatory time for overtime worked;
 - (2) One-time and/or lump-sum payments made by the employer to an employee where such payments are not based upon the employee's standard rate of pay or identified in paragraph (C) of this rule;
 - (3) Retroactive payments or pay increases made or granted by the employer in whole or in part in consideration of retirement or an agreement to retire; and
 - (4) Any terminal payments or other additional remuneration paid by the employer in consideration of retirement or an agreement to retire.
- (C) The following payments made by an employer shall be "compensation":

- (1) Payments on behalf of the contributor to an eligible retirement plan as defined in section 402(c)(8) of the Internal Revenue Code of 1986, 26 U.S.C. 402(c)(8).
 - (2) Back wages awarded pursuant to a final order or final settlement award that reinstates the contributor to the contributor's former position, or comparable position, without interruption or loss of time.
 - (3) Effective January 1, 2009, differential wage payments as defined in section 3401(h)(2) of the Internal Revenue Code, 26 U.S.C. 3401(h)(2).
 - (4) Payments based on an employee's length of service.
 - (5) A one-time or lump sum payment by the employer that is paid in lieu of a salary or wage increase, to all persons in a class of employees, in the same dollar amount or same percentage of salary or wages, and in accordance with a written contractual agreement.
 - (6) A one-time or lump sum payment made by the employer for additional services rendered.
- (D)
- (1) Prior to remitting contributions on salary, wages or other earnings where there is a question on whether such payments or earnings are "compensation," the employer shall request in writing a determination by the retirement board.
 - (2) The retirement board shall give the employer written notice of its determination.
 - (3) If the employer fails to request a prior determination and the retirement board determines that the salary, wages or other earnings are not "compensation," then any contributions received on such salary, wages and other earnings shall be deemed unauthorized and shall be refunded.
 - (4) If the employer fails to request a prior determination and the retirement board determines that the salary, wages, or other earnings are "compensation," then the retirement board may certify for collection pursuant to sections 3309.47 and 3309.51 of the Revised Code the amount of contributions not remitted.

MEMBER APPEAL

Assistant Attorney General John Danish discussed with the Board a member appeal of SERS member Mark Bello from a Final Staff Determination on a compensation question. Mr. Bello did not request a personal appearance. Mr. Danish stated that the question to be answered on appeal is whether a payment representing "two and one-half percent of all Federal, State, Local grants/CCIP/awards/private of the district shall be paid to the treasurer each year at the treasurer's discretion" is compensation for purposes of SERS.

MARK BELLO APPEAL - AFFIRM FINAL STAFF DETERMINATION

Barbra Phillips moved and Catherine Moss seconded to affirm the Final Staff Determination that payments representing "two and one-half percent of all Federal, State, Local grants/CCIP/awards/private of the District" are not compensation for purposes of SERS. Upon roll call, the vote was as follows: Yea: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson and James Rossler. The motion carried.

CERTIFICATION OF CANDIDATE – MEMBER SEAT

Barbra Phillips moved and Christine Holland seconded that having received sufficient and proper petitions to meet the requirements of Section 3309.07 of the Ohio Revised Code, Hugh Garside, Jr. is certified as nominated to run for the employee member seat for the term July 1, 2019 to June 30, 2023. In accordance with Section 3309.071 of the Ohio Revised Code, since only one candidate has been nominated by petition for the seat, no election is required. Hugh Garside, Jr. shall take office as if elected for the term July 1, 2019 to June 30, 2023. Hugh Garside, Jr. has been certified as member-elect by the Secretary of State. Upon roll call, the vote was as follows: Yea: Catherine Moss, Jeffery DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson and James Rossler. The motion carried.

INTERNAL AUDIT UPDATE

Chief Auditor Officer Joe Bell provided highlights of audits that were completed during the second quarter which included a SMART Operational Review and Laptop Encryption Inventory audit. Mr. Bell stated that both audits were well controlled with improvements needed. Mr. Bell also informed the Board of their legal requirement to send an annual audit report to the Ohio Retirement Study Council. This document has been completed.

Concluding, Mr. Bell provided a follow-up to the Funston Fiduciary audit. Mr. Bell stated that management has completed more than 60% of the audit's concerns. There are some items that require legislative changes and others were found to not require any action. Additionally, some audits are long-term in nature that management is still looking into and may be incorporated into strategic planning. Mr. Bell stated that in discussing these items with the Audit Committee, the Committee agreed that it was no longer necessary to pursue anything additional.

Mr. Bell shared with the Board that a new audit had been added to the third quarter.

Audit Committee Chairperson Barbra Phillips stated her agreement with Mr. Bell's assessment, and noted that Mr. Bell has been effective in maturing SERS' Internal Audit department.

The Board continued with the review of calendar dates.

CALENDAR DATES FOR FUTURE BOARD MEETINGS

2019

February 21 and 22 (Thurs. and Fri.)
March 21 and 22 (Thurs. and Fri.)
April 18 and 19 (Thurs. and Fri.)
May 16 and 17 (Thurs. and Fri.)
June 20 and 21 (Thurs. and Fri.)
July 18 and 19 (Thurs. and Fri.)
September 19 and 20 (Thurs. and Fri.)
October 17 and 18 (Thurs. and Fri.)
November 21 and 22 (Thurs. and Fri.)
December 19 and 20 (Thurs. and Fri.)

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

EXECUTIVE SESSION

At 2:40 p.m., James Haller moved and Barbra Phillips seconded the motion that the Board convene in Executive Session pursuant to section 121.22 (G)(3) of the Ohio Revised Code to confer with legal counsel regarding pending litigation. Upon roll call, the vote was as follows: Yea: Catherine Moss, Jeffrey DeLeone, Hugh Garside, James Haller, Christine Holland, Barbra Phillips, Daniel Wilson, and James Rossler. The motion carried.

The Board returned to open session at 2:46 p.m.

BOARD INFORMATION REQUESTS AND FOLLOW-UP ITEMS

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

ADJOURNMENT

James Rossler moved that the Board adjourn to meet on Thursday, February 21, 2019 for their regularly scheduled meeting. The meeting adjourned at 2:47 p.m.

James Rossler, Board Chair

Richard Stensrud, Secretary