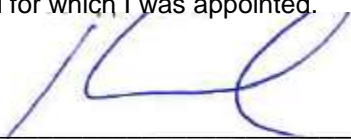


July 18, 2019

OATH OF OFFICE


OATH OF OFFICE OF HUGH GARSIDE, JR.
MEMBER OF THE RETIREMENT BOARD OF THE
SCHOOL EMPLOYEES RETIREMENT SYSTEM OF OHIO

I, HUGH GARSIDE, JR., do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Ohio; that I will not knowingly violate or willfully permit to be violated any of the provisions of law applicable to this Retirement System, and that I will diligently and honestly administer the affairs of the said office and duties as a member of the Retirement Board of the School Employees Retirement System of Ohio during the period for which I was appointed.



HUGH GARSIDE, JR.

SWORN TO and SUBSCRIBED before me this 18th day of July, 2019.



Notary Public
JOSEPH M. MAROTTA
ATTORNEY AT LAW
Notary Public, State of Ohio
My Commission Has No Expiration
Section 147.03 R.C.

ATTESTED BY:



Richard Stensrud, Executive Director



Catherine Moss, Chairperson

The nine hundredth and twenty-two 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, July 18, 2019. 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: Catherine Moss, Chair, Hugh Garside, James Haller, Barbra Phillips, James Rossler and Daniel Wilson. Catherine Moss excused the absence of Jeffrey DeLeone. Also in attendance was Mary Therese Bridge, 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
June 20, 2019**

Barbra Phillips moved and James Rossler seconded the motion to approve the minutes of the Retirement Board meeting held on Thursday, June 20, 2019. Upon roll call, the vote was as follows: Yea: James Haller, Barbra Phillips, James Rossler, Daniel Wilson and Catherine Moss. Abstain: Hugh Garside. The motion carried.

APPROVAL OF OUT-OF-STATE BOARD TRAVEL

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

Conference	Attendee	Conference Dates	Conference Location	Estimate of Expenses
NCPERS Accredited Fiduciary Program	Hugh Garside	October 25-27, 2019	New Orleans, LA	\$ 2,366.83
NCPERS Accredited Fiduciary Program	Catherine Moss	October 25-27, 2019	New Orleans, LA	\$ 2,381.27

APPROVAL OF OUT-OF-STATE BOARD TRAVEL - ADDENDUM

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

Conference	Attendee	Conference Dates	Conference Location	Estimate of Expenses
IFEBP Annual Conference	James Rossler	October 19-23, 2019	San Diego, CA	\$ 5,029.96

INVESTMENT REPORT

Monthly Investment Report

Farouki Majeed discussed the Investment report for the period ending May 31, 2019. The preliminary performance report as of June 30, 2019 was distributed to the Board for their information. As of May 31, 2019, the Fund was at \$14.09 billion with a FYTD return of 2.86%. Following discussion the Board thanked Mr. Majeed for his presentation.

SUMMARY OF INVESTMENT TRANSACTIONS

Barbra Phillips moved and James Haller seconded that the following summary of investment transactions made in compliance with the Ohio Revised Code Section 3309.15 during the period of **May 1, 2019** through **May 31, 2019** hereby be approved. Upon roll call, the vote was as follows: Yea: Hugh Garside, James Haller, Barbra Phillips, James Rossler, Daniel Wilson and Catherine Moss. The motion carried.

A. PURCHASES

Asset Class	Approximate Cost (in millions)
US Equities	\$ 39.1
Non-US Equities	139.2
Fixed Income	432.4
Multi-Asset Strategies	0.8
Private Equity Capital Calls	22.1
Real Asset Capital Calls	0.7
Opportunistic	8.7
Cash Equivalents	175.8

B. SALES

Asset Class	Approximate Net Proceeds (in millions)	Approximate Gain/(Loss) (in millions)
US Equities	\$ 32.6	\$ 2.8
Non-US Equities	131.3	(5.5)
Fixed Income	383.9	1.1
Multi-Asset Strategies	0.8	n/a
Private Equity distributions	35.5	n/a
Real Asset distributions	3.7	n/a
Opportunistic	0.4	n/a
Cash Equivalents	281.8	n/a

ACTUARIAL STANDARDS OF PRACTICE (ASOP) 51

Executive Director Richard Stensrud informed the Board that John Garrett and Todd Green, Principle Consulting Actuaries with Cavanaugh Macdonald, will provide an overview of SERS' Actuarial Standards of Practice (ASOP 51). Mr. Stensrud stated that the ASOP 51 analysis will be very helpful for understanding and assessing considerations directly impacting sustainability. Mr. Stensrud further stated that ASOP 51 becomes effective with the June 30, 2019 actuarial valuation; however, staff has asked Cavanaugh Macdonald to prepare a report based on the June 30, 2018 actuarial valuation.

Mr. Garrett stated that the purpose of the report is to better understand and assess the risks inherent in funding SERS. It is also to identify decisions within the authority of the Investment Board that might have positive impacts in addressing these risks.

Mr. Green discussed the following assessments performed: SERS' active-to-retiree ratio has declined since 2007; SERS' asset volatility ratio is lower than it was in 2007; SERS' cash flow has decreased since 2007; and the retirees' share of SERS' total liability has increased from 50.3% to 62%, which makes financial restoration of the system after investment losses more difficult. These measures are significant in understanding the risks associated with the Plan.

ASOP Number 51 suggests disclosure of qualitative and quantitative risks. Qualitative risks include contribution rate funding policy, amortization policy, payroll growth assumption and changes to active membership levels, and cost-of-living adjustments. Quantitative risks include demographic risks, such as mortality, active population growth or reduction, and changes to retirement patterns, investment return risk, and sensitivity analysis.

Overall, the actuaries believe that using ASOP Number 51 will help the Board to better understand the risks associated with funding SERS and to identify decisions within the Board's authority that might have a positive impact in addressing risks to SERS' financial stability.

The Board thanked Mr. Garrett and Mr. Green for their presentation.

EXECUTIVE DIRECTOR'S UPDATE

Pension Fund Sustainability

Executive Director Richard Stensrud stated that he and staff are looking forward to supporting the Board in the work that lies ahead on the pension fund and health care sustainability initiatives kicked off at the Board Retreat.

Mr. Stensrud stated that he will work with Board Chair Cathie Moss, Vice Chair Hugh Garside and the project facilitators to develop a proposed process and timeline for the Board's analysis and discussion of issues related to sustainability, and for identification of potential sustainability proposals. Mr. Stensrud noted that this would include ongoing engagement with SERS' stakeholders.

Ohio Retirement Study Council

Mr. Stensrud noted that the July ORSC meeting was cancelled. The next meeting is tentatively scheduled for August 8th.

Wrap Advocacy

Mr. Stensrud noted that staff continues to engage in advocacy at the federal level for an extension to the Wrap Program. Mr. Stensrud reported that although general language supportive of extending the Wrap Program was included in the Labor-HHS appropriations bill passed by the House Ways and Means Committee, SERS is urging the Senate Appropriations Committee to add specific language to their version of the bill to extend the program by two years.

Mr. Stensrud also noted that staff sent a legislative alert asking all retirees to e-mail their Senators to encourage them to support an extension, and as of July 15th, 808 retirees have responded (1,675 emails have been sent to 40 Senate offices).

Other Federal Issues

Mr. Stensrud stated that in addition to the Wrap Program advocacy, SERS health care and government relations staff continue to press for relief from a proposed prescription drug rebate rule and other potential Medicare Part D formula reimbursement proposals that could lead to an increase in premiums for SERS retirees. The SERS staff has written letters and met with Health and Human Services department staff and congressional leaders to raise our concerns.

Mr. Stensrud further stated that on July 11th, SERS was pleased to hear that the Trump administration chose to abandon their proposed rebate rule. As proposed, the rule could have cost SERS members an additional \$44 per member/per month. As alternative drug pricing initiatives are developed, staff will continue to press the administration to ensure that any anticipated price reductions would meet or exceed any proposed revenue losses, resulting in cost savings for members.

Staff Outreach – Operation Backpack

Mr. Stensrud stated that once again, staff is participating in Operation Backpack. The goal for 2019 is to donate 70 backpacks, stuffed with schools supplies, for children in need.

LEGISLATIVE REPORT

**STATE LEGISLATION BOARD REPORT
133rd General Assembly
(Prepared by Chris Collins as of July 5, 2019)**

SB10 THEFT IN OFFICE PENALTIES Steve Wilson (R-Maineville) To expand the penalties for theft in office based on the amount stolen and to include as restitution audit costs of the entity that suffered the loss.

Current Status: 05/09/2019 Reported Out

**FEDERAL LEGISLATION BOARD REPORT
116th United States Congress
(Prepared by Chris Collins as of July 5, 2019)**

H.R. 141

SPONSOR: Rep. Rodney Davis (R-IL)

LAST ACTIONS: House - 01/31/2019 Referred to the Subcommittee on Social Security

CAPTION: Social Security Fairness Act of 2019

COMMENT: Repeals the GPO and WEP. 190 co-sponsors; eight Ohioans

H.R. 748

SPONSOR: Rep. Joe Courtney (D-CT)

LAST ACTIONS: House - 05/21/2019 Motion to place bill on Consensus Calendar filed by Mr. Courtney

CAPTION: Middle Class Health Benefits Tax Repeal Act of 2019

COMMENT: Repeals the health care "Cadillac Tax." 358 co-sponsors; 13 Ohioans

H.R. 1398

SPONSOR: Rep. Ami Bera (D-CA)

LAST ACTIONS: House - 02/27/2019 Referred to the Committee on Ways and Means, and Committee on Energy and Commerce

CAPTION: To delay the reimposition of the annual fee on health insurance providers until after 2021

COMMENT: Delays the health care HIF tax. 112 co-sponsors; seven Ohioans

S. 521

SPONSOR: Sen. Sherrod Brown (D-OH)

LAST ACTIONS: Senate - 02/14/2019 Referred to Committee on Finance

CAPTION: Social Security Fairness Act of 2019

COMMENT: Repeals the GPO and WEP. 30 co-sponsors.

S. 684

SPONSOR: Sen. Martin Heinrich (D-NM)

LAST ACTIONS: Senate - 03/06/2019 Referred to the Committee on Finance

CAPTION: To amend the Internal Revenue Code of 1986 to repeal the excise tax on high cost employer-sponsored health coverage

COMMENT: Repeals the health care "Cadillac Tax." 42 co-sponsors; two Ohioans

MEMORANDUM

To: Chris Collins, Government Relations Officer

From: Carol Nolan Drake, Federal Liaison

Date: July 2, 2019

Re: Federal Legislative and Regulatory Report

OVERVIEW

Highlights for June and early July include: the passage of bills in the House, covering FY 2020 appropriations; a bipartisan agreement on funding for border facilities; advocacy for the SERS Wraparound Program; advocacy related to rules from Health and Human Services, EGWPs and Medicare Part D plans; health care and prescription drug legislation and hearings; and a decision by the U.S. Supreme Court on gerrymandering that should impact the case in Ohio.

One appropriation bill, H.R. 2740, which provided funding for the Departments of Labor, Health and Human Services, Education and Related Agencies was passed by the House on June 19. The bill also included Defense, State, Foreign Operations, Energy and Water Development appropriations. The bill was the vehicle for language supporting limited wraparound plans, which is discussed in more detail in this report. The vote was 226-203. The vote was along party lines among the Ohio delegation. All Ohio Democrats voted in favor of the bill and all Ohio Republicans voted against it. The bill was received in the Senate on June 24 and has not moved forward yet.

As previously reported, several of the provisions related to funding levels will not remain in the final Senate bill. Negotiations between the White House, House and Senate leadership are continuing. Without final agreement on spending caps, the debt ceiling and extenders, the Senate has not moved as quickly as the House. House Democrats have pledged to pass 12 annual spending bills before the August recess. This action will put additional pressure on the Senate.

The House will return on Tuesday, July 9 and will be in session for twelve days before heading into the August recess. The members are scheduled to work in their districts from July 26 to September 9. Hearings of interest:

- July 10, 10:00 am- [Monetary Policy and the State of the Economy](#)
Committee on Financial Services, Multiple Subcommittees
- July 10, 2:00 pm- [Building a Sustainable and Competitive Economy: An Examination of Proposals to Improve Environmental, Social and Governance Disclosures](#)
Committee on Financial Services, Subcommittee on Investor Protection, Entrepreneurship and Capital Markets
- July 17, 10:00 am- [Examining Facebook's Proposed Cryptocurrency and Its Impact on Consumers, Investors, and the American Financial System](#)
Committee on Financial Services

- July 24, 10:00 am- [The Next Megabank? Examining the Proposed Merger of SunTrust and BB&T](#). Committee on Financial Services

The Senate will return on Monday, July 8 and will be in session until August 2. Senate President Mitch McConnell (R-KY) is beginning to hear some pushback from a few Senate members for continuing with the August recess, given the large number of bills that need action in the Senate. The bills include appropriation bills, bipartisan bills on health care and lowering prescription drug costs. The Senate has two hearings of interest:

- July 11, 10:00 am- Hearing to examine the Semiannual Monetary Policy Report to the Congress. Committee on Banking, Housing and Urban Affairs. <http://www.banking.senate.gov/public>
- July 16, 10:00 am- A hearing has scheduled on Facebook's proposed digital currency and data privacy concerns. Senate Committee on Banking, Housing and Urban Affairs. <https://www.banking.senate.gov/newsroom/majority/banking-committee-schedules-hearing-on-facebooks-cryptocurrency>

Congress was able to reach an agreement on a \$4.6 billion emergency funding bill, primarily to provide funding for migrant families and children being held at the U.S. and Mexico border. The Senate version was approved by the House on June 27, without the previously approved House measures that many Democrats were hoping would remain in the final bill. It passed with a vote of 305-102. President Trump signed the bill on July 1.

SERS WRAPAROUND PLAN

The month of June was full of advocacy activity for the SERS Limited Wraparound Plan. The House voted out H.R. 2740, the Labor, Health and Human Services, Education and Related Agencies appropriation bill, as mentioned above, on June 19. In the report of the bill, Report 116-62, language was included to encourage CMS to extend the pilot program and recommends that the program be made permanent. CMS will have 90 days in which to report on the status of the program. Once the Report passes the full Committee, it cannot be amended on the House floor:

Limited Wraparound Coverage.—The Committee strongly urges CMS to extend the pilot program established by a final regulation published on March 18, 2015, to allow limited wraparound benefits, or supplements, to individual health insurance coverage (or Basic Health Plan coverage). Wraparound coverage is a specialized offering targeted to help part-time workers and retirees whose employers or former employers meet standards of responsibility and have agreed to provide this supplemental coverage as an option. The Committee recommends this pilot program be made permanent. The Committee requests a report within 90 days of enactment of this Act on the status of the program. (p. 135)
<https://www.congress.gov/116/crpt/hrpt62/CRPT-116hrpt62.pdf>

We also were told that the House Committee on Appropriations was supportive of a two-year extension of limited wraparound plans and would be communicating that preference to the Senate Committee on Appropriations. With the passage of the bill in the House, SERS and I began informing the Senate members who serve on the Committee on Appropriations of the request for an extension of limited wraparound plans pursuant to the House's effort.

Several action steps have been taken, including:

- **On June 10, SERS representatives and I reached out to stakeholders, including the Teamsters, AFL-CIO, AFSCME, Teachers' Retirement System of Kentucky (TRS Kentucky), the Public Sector HealthCare Roundtable (Roundtable), and our Ohio pension peers to update them on the latest House action.** We asked for their support during the Senate appropriations process. During conference calls, the Labor associations indicated that they will reach out to Democratic members to request language in the markup. Jane Gilbert, TRS Kentucky, reached out to Senator Mitch McConnell's (R-KY) office since he serves on the Committee. Tom Lussier, Executive Director of the Roundtable, offered assistance. STRS and OPERS indicated they would mention the issue to the Ohio Senators' offices.

- **On June 11, a joint letter, signed by Senators Rob Portman (R-OH) and Sherrod Brown (D-OH) was sent to the Secretaries of the Departments of Health and Human Services, Treasury and Labor,** to encourage them to “ act as quickly as possible to protect the retirees who currently rely on the excepted benefit and ensure stability for these individuals.” I provided a courtesy copy of the letter to our contact at HHS/CMS.
- **On June 12, I flew to Washington, D.C. to visit the offices of 21 Senators that serve on the Committee on Appropriations,** Subcommittee on Labor, Health and Human Services, Education and Related Agencies to provide information on the House bill and seek support for Senate language.
- **On June 19, Executive Director Richard Stensrud signed letters to the 31 Senators who serve on the Committee on Appropriations.** I sent copies of the letter to the legislative staff members that handle appropriations for the Senators.
- **On June 24, an urgent e-mail blast from SERS was sent, to encourage retirees to contact their Senators.** Thus far, over 1,600 email messages have been sent to Senators from retirees in 20 states.
 - 772 retirees have responded (including 67 from outside of Ohio).
 - 1601 emails have been sent (including 140 to non-Ohio Senators).
 - Retirees have reached out to 40 different Senators. 11 of them are members of Appropriations.
- **During June, we discussed follow up with Senators Brown and Portman. Senator Brown has expressed support for a two-year extension to the Committee, but according to staff, it is not his policy to make the request of other members.** When the Subcommittee on Labor-HHS has a markup, Senator Brown will remind the Committee that this is a priority for his office and ask that they support its inclusion in the mark. **We heard from staff that Senator Portman does not make appropriations requests for any issue.** The Senator believes that it is better for him to serve as a member of authorizing committees, instead of weighing in on the affairs of the Appropriations Committee. We are able to flag the letter that both Senators sent to the regulatory agencies, as a sign for his support for the program, but he is unable to formally weigh in with the appropriators for this type of request.

Two other options for an extension of Wraparound Plans are viable:

- **Rep. Kaptur has prepared authorizing language to be inserted into a moving vehicle or introduced as a stand-alone bill, if necessary.** The language is ready if Rep. Kaptur needs to introduce and sponsor the bill. **In the authorizing language, limited wraparound plans that were already in existence during the three-year pilot program will be able to continue indefinitely under the authority of the Plan Sponsor.**
- **Congress will need to consider how to address the Medicare extenders package that will need to pass before the end of the fiscal year.** Congress has used extenders to establish programs for a short period of time and are funded by Congress every one to two years. Leadership in the House and Senate are still working to resolve whether a one-or two-year extension will occur. SERS could request language which would give SERS a one-or two-year extension for the Wraparound Plan.

HRA EXCEPTED BENEFITS RULE

On June 20, the final rule for Health Reimbursement Arrangements and Other Account-Based Group Health Plans was published in the Federal Register by the [Internal Revenue Service](#), the [Employee Benefits Security Administration](#), and the [Health and Human Services Department](#). According to the release, “The goal of the final rules is to expand the flexibility and use of HRAs and other account-based group health plans to provide more Americans with additional options to obtain quality, affordable healthcare.”

The final rules adopted, without change, the proposed maximum that can be newly made available for a plan year of \$1,800, which will be indexed to inflation to the C-CPI-U for plan years beginning after December 31, 2020. The final rules are effective on August 19 and apply for plan years beginning on or after January 1, 2020. The rule may be reviewed here:

<https://www.federalregister.gov/documents/2019/06/20/2019-12571/health-reimbursement-arrangements-and-other-account-based-group-health-plans>

It is my understanding that SERS is reviewing the final rule to determine whether it could be an alternative to the Limited Wraparound Plan. The rule does provide an annual cap of \$1,800 which is much lower than some of the reimbursement amounts for Wraparound Plan participants.

WINDFALL ELIMINATION PROVISION

On June 20, the Massachusetts Retirees Association published a WEP-update letter from Rep. Richard Neal (D-MA), Chairman of the Committee on Ways and Means, in their newsletter. It notes his opposition to Social Security benefit cuts and his plan to introduce his own WEP legislation.

In his letter, Chairman Neal said he is “developing a revised bill to provide meaningful WEP relief to current retirees and public employees while treating all workers fairly, which I will introduce this summer. . . . I continue to welcome your input as we move ahead in the process, and I look forward to sharing more information as it becomes available.” Here is the link:

<http://massretirees.com/article/issues/social-security/chairman-neal-open-letter-mass-retirees>

As previously reported, S. 521, the “Social Security Fairness Act,” was introduced by Senator Sherrod Brown (D-OH) and still has 30 cosponsors. The bill would amend title II of the Social Security Act to repeal the Government Pension Offset (GPO) and Windfall Elimination Provision (WEP). There has been no action on the bill and Senator Portman is not one of the co-sponsors.

H.R. 141, the companion House bill to repeal GPO and WEP, now has 190 co-sponsors, as of today's date, including eight Ohio delegation members, who are Reps. Tim Ryan (D-OH), David Joyce (R-OH), Steve Stivers (R-OH), Bob Gibbs (R-OH), Marcy Kaptur (D-OH), Michael Turner (R-OH), Marsha Fudge (D-OH) and Joyce Beatty (D-OH). The bill has been referred to the Committee on Ways and Means, Subcommittee on Social Security. There has been no action on the bill.

SOCIAL SECURITY

H.R. 3417, the “Beneficiary Education Tools, Telehealth, and Extenders Reauthorization Act of 2019,” was introduced on June 21, by Rep. Richard Neal (D-MA). Rep. Kevin Brady (R-TX) is a cosponsor. It is known as the “BETTER Act of 2019,” and would amend title XVIII of the Social Security Act to provide a way for participants age 25 and older to receive a copy of their statement in the mail, rather than requiring them to create an online account to view their account information. Earlier in the year, Social Security released a study that showed online viewing dropped to only 43% of participants.

H.R. 2302, the “Protecting and Preserving Social Security Act,” introduced by Rep. Theodore Deutsch (D-FL) still has eight co-sponsors, along with Rep. Marcy Kaptur (D-OH). This bill, like the “Social Security 2100” bill, H.R. 860, seeks to improve the solvency of Social Security.

MEDICARE AND MEDICAID

Discussions continue with Health and Human Services (HHS) to address concerns with proposed changes to Medicare Part D, EGWPs and the safe harbor/rebate rule. I forwarded the June 5 letter to CMS Administrator Seema Verma from Executive Director Richard Stensrud to all 18 Ohio delegation offices in the Senate and House.

H.R. 1346, a bill to “Amend title XVIII of the Social Security Act to provide for an option for individuals who are ages 50 to 64 to buy into Medicare, has 43 cosponsors, however, no members of the Ohio delegation are cosponsors. S. 470 is the companion Senate bill that Senator Sherrod Brown (D-OH) has co-sponsored. Senator Rob Portman (R-OH) is not a cosponsor.

The House Committee on Ways and Means held a hearing on "Medicare for All" on June 12. This was the first hearing before the entire Committee and was well attended by advocates for the proposal.

HEALTH CARE

Senator Lamar Alexander (R-TN), Chairman, and Senator Patty Murray (D-WA), Ranking Member, of the Senate Committee on Health, Education and Labor (HELP) introduced S.1895, the "Lower Health Care Costs Act of 2019," on June 19, a bipartisan piece of legislation to deliver better health care at lower cost. The bill contains language for:

- Ending surprise medical bills by protecting patients against out-of-network deductibles in emergencies;
- Reducing the prices of prescription drugs, including biologic patent transparency, ensuring access to generics, and orphan drug clarification;
- Improving transparency in health care by removing gag clauses on price and quality information, banning anticompetitive terms in facility and insurance contracts, and timely billing.

On June 24, President Trump issued an Executive Order on "Improving Price and Quality Transparency in American Healthcare To Put Patients First." It requires regulations to:

- Require hospitals to publicly post standard charge information, including charges and information based on negotiated rates and for common or shoppable items and services.
- Issue a report describing the manners in which the Federal Government or the private sector are impeding healthcare price and quality transparency for patients and providing recommendations for eliminating these impediments in a way that promotes competition.

A copy of the Executive Order may be viewed here: <https://www.whitehouse.gov/presidential-actions/executive-order-improving-price-quality-transparency-american-healthcare-put-patients-first/>

As reported, Senator Rob Portman (R-OH) is one of the co- sponsors of S. 1125, the "PROTECT Act" which amends the Health Insurance Portability and Accountability Act (HIPAA). The bill contains language to protect people with pre-existing conditions and requires that each health insurance issuer that offers health insurance coverage in the individual or group market in a State must accept every employer and individual in the State that applies for such coverage. The bill has 24 co-sponsors.

H.R. 1884, the "Protecting Pre-Existing Conditions and Making Health Care More Affordable Act of 2019," would lower healthcare premiums and ensure coverage for pre-existing conditions.

PUBLIC SECTOR HEALTHCARE ROUNDTABLE CONGRESSIONAL FORUM

The Public Sector HealthCare Roundtable held its Second Annual Congressional Forum in Washington, D.C. from June 24-25. I attended the Forum with Chris Collins, Government Relations Officer and Christi Pepe, Director of Health Care. The Forum was entitled, "Drug Pricing Policy Solutions: Public Sector Options to Fix an Unsustainable System." Attendees heard from Matthew Eyles, President and Chief Executive Officer, America's Health Insurance Plans, A. Mark Fendrick, Professor at the University of Michigan, Debra Barrett, Executive Director, Coalition for Affordable Prescription Drugs, and Abigail Duggan, Health Care Legislative Assistant for Senator Sherrod Brown.

Sean Douglass, Willis Towners Watson, provided the update on the Roundtable's 2019 Specialty Pharmacy Survey, which contained data from SERS, 21 plan sponsors and 138 health insurance plans. The Survey results covered 6.4 million lives, \$7.8 billion in total drug spend and \$3.7 billion in specialty drug spend. A copy of the full survey report is available at SERS.

On Monday, June 24 and Tuesday, June 25, I made appointments for us to talk with health care staff members in the Ohio delegation offices. We met with staff from the offices of Kaptur, Chabot, Fudge, Wenstrup, Stivers, Portman, Brown, Johnson, Latta, Ryan, Beatty, Gonzalez, Joyce and Balderson. We also met with staff from the office of Senator Mitch McConnell (R-KY) by way of a request by Jane Gilbert, TRS of Kentucky. We discussed the Specialty Pharmacy Survey, the high cost of prescription drugs, Medicare Part D and EGWP concerns, and Wraparound Plans.

The Roundtable made appointments to meet with Wendall Primus, Health Policy Advisor for Speaker Nancy Pelosi and John O'Brien, Senior Policy Advisor at HHS. Christi Pepe was able to attend these meetings while Chris Collins and I handled the Hill appointments. The focus of these meetings was to discuss legislative and regulatory action relating to drug pricing reforms.

After the event, we participated on a Roundtable call on July 2 to coordinate next steps. Some of the plan sponsors offer EGWPs and are concerned that the final rule does not extend safe harbor protections to EGWPs. While plan sponsors would like HHS and OMB to suspend the rule or include EGWPs, we all agreed that greater reforms are needed. The collective message supports drug pricing reform, however, the costs should not fall on retirees with substantial premium increases without manufacturers bearing their fair share.

PRESCRIPTION DRUGS

On June 17, Senator Sherrod Brown (D-OH) cosponsored S. 1841, a bill to ensure that medications are affordable. In the press release, he said he “joined his colleagues in re-introducing his *Affordable Medications Act*, comprehensive legislation to hold large pharmaceutical companies accountable for high prices and bring down the costs of prescription drugs.”

<https://www.brown.senate.gov/newsroom/press/release/brown-introduces-comprehensive-legislation-to-stop-skyrocketing-prescription-drug-prices>

The Senate Committee on the Judiciary, chaired by Senator Lindsey Graham (R-SC), reviewed several bills in late June related to drug pricing, including S. 1227, [a bill to require the Federal Trade Commission to study the role of intermediaries in the pharmaceutical supply chain and provide Congress with appropriate policy recommendations](#); S. 1416, [a bill to amend the Federal Trade Commission Act to prohibit anticompetitive behaviors by drug product manufacturers](#); and S. 1224, [a bill to enable the Federal Trade Commission to deter filing of sham citizen petitions to cover an attempt to interfere with the approval of a competing generic drug or biosimilar facilitate the efficient review of petitions filed in good faith to raise legitimate public health concerns](#). The Senate Committee on Finance is also moving forward with drug pricing legislation.

Speaker Nancy Pelosi (D-Calif.) and the House Democratic Caucus are revising plans to lower drug prices by requiring Medicare to negotiate prices on at least 250 drugs per year. The pharmaceutical industry is opposed to the effort.

The Hill reported on June 21 that the Department of Health and Human Services (HHS) sent a proposal to the White House that would lower certain drug prices in Medicare by linking them to the lower prices paid in other countries, an idea called the “international pricing index.” Senate Committee on Finance Chairman Chuck Grassley (R-IA) opposes the idea of comparing drug prices in the U.S. to prices overseas.

H.R. 965, the “CREATES Act of 2019,” which aims to increase competition by cracking down on brand-name drug manufacturers using tactics to keep generic manufacturers from entering the market, was advanced out of the Committee on Energy and Commerce and will be considered by the Committee on the Judiciary. The bill is cosponsored by 68 members, including Reps. David Joyce (R-OH), Jim Jordan (R-OH) and Anthony Gonzalez (R-OH). The bill will also enable generic drug companies to sue brand-name drug companies for withholding product samples.

S. 474, the “Stopping the Pharmaceutical Industry from Keeping Drugs Expensive (SPIKE) Act of 2019,” and its companion House bill, requires drug companies to publicly justify any substantial price increases, has ten cosponsors but neither Senators Brown nor Portman as of this date. The bill would require manufacturers to submit justification explaining the causes of the increase or high launch price, as well as information on additional expenses from developing, manufacturing or marketing the drug.

RETIREMENT SECURITY

On June 11, the House Committee on Education and Labor marked up H.R. 397, the “Rehabilitation for Multiemployer Pensions Act,” known as the “Butch Lewis Act.” It amends the Internal Revenue Code of 1986 to create a Pension Rehabilitation Trust Fund and to establish a Pension Rehabilitation Administration within the Department of the Treasury to make loans to multiemployer defined benefit plans. Chairman Bobby Scott (D-VA) said, “While most of the 1,400 multiemployer pension plans in the U.S. are not in any danger of collapse, roughly 130 plans, which cover over a million participants, and involve thousands of employers across the country, are currently projected to collapse within 20 years. Some will be insolvent far sooner...This is not a problem of tomorrow. This is a problem of today.”

The bipartisan legislation had 187 cosponsors and was voted out of Committee in a 26-18 vote. Rep. Marcia Fudge (D-OH) serves on the Committee. A related Senate bill, S. 833, sponsored by Senator Rob Portman (R-OH) and cosponsored by Senator Sherrod Brown (D-OH) has not moved.

Senate Finance Committee Chairman Senator Chuck Grassley (R-IA) and Ranking Member Senator Ron Wyden (D-OR) introduced the “RESA Act,” that compliments the House’s version of the SECURE Act. Their bill does not include the provisions relating to 529 plans.

Senators Rob Portman (R-OH) and Ben Cardin (D-MD) introduced S. 1431, the “Retirement Security and Savings Act,” on May 20. It has not moved out of Committee.

U.S. SUPREME COURT

The U.S. Supreme Court ends its term every year by June 30. The Court temporarily blocked the 2020 census from containing a citizenship question until the Trump administration offers a more detailed explanation why it should be implemented. On July 2, the administration indicated it will drop the question from the census. Other interesting developments:

- **The Court said it will review an ERISA lawsuit** covering defined contribution sponsors' responsibilities for communicating investment lineup features and participants' responsibilities for understanding plan options and whether a breach of fiduciary duty occurred.
- **The Court ruled in a 5-4 decision, in *Rucho v. Common Cause*, a case consolidating challenges to congressional boundaries** in North Carolina and Maryland, that partisan gerrymandering was a political problem, not a legal one.
- **The U.S. Supreme Court declined to hear a case that related to Baltimore County, Maryland.** The issue concerned whether the County should be required to pay back employees who contributed to the pension fund at a higher rate than younger coworkers.

OHIO’S GERRYMANDERING CASE

The Supreme Court ruling will most likely end the federal lawsuit and allow the state to move forward on the implementation of the constitutional amendment that Ohio voters adopted in 2018, which will take effect for new districts before the 2022 election.

SECURITIES AND EXCHANGE COMMISSION (SEC)

The SEC hosted the Fifth Annual Global Summit on June 11 for World Elder Abuse Awareness Day. Two White Papers on elder financial exploitation and how the SEC protects senior investors were released. They may be viewed below:

<https://www.sec.gov/files/elder-financial-exploitation.pdf>

<https://www.sec.gov/about/offices/investorad/how-the-sec-works-to-protect-senior-investors.pdf>

The Securities and Exchange Commission announced that its Division of Corporation Finance will host a roundtable on July 18, 2019 to hear from investors, issuers, and other market participants about the impact of short-termism on our capital markets and whether our reporting system, or other aspects of our regulations, should be modified to address these concerns. A press release with the panelists may be viewed here: <https://www.sec.gov/news/press-release/2019-117>

Former SEC enforcement official Allison H. Lee was confirmed by the Senate as a commissioner of the Securities and Exchange Commission on June 20 as expected. All five seats on the Commission are now filled.

REPORTS

The Center for Retirement Research at Boston College has issued a new brief (June 2019) on how the decline in Public Pensions' assumed returns have affected plan costs. The brief is entitled, "How Has the Decline in Assumed Returns Affected Plan Costs?" According to the CRR website, the brief's key findings are:

- Public pension plans have lowered their investment return assumptions, which generally raises costs by requiring larger contributions to fund promised benefits.
- The net effect of these changes has been to increase costs, but the increase is much smaller than if the decline in the assumed return was due to a lower *real* return.

The report: <https://crr.bc.edu/briefs/how-has-the-decline-in-assumed-returns-affected-plan-costs/>

OTHER MATTERS OF INTEREST

On June 19, Hannah News reported that the budget bill included an amendment which would delay Ohio's presidential primary election date to the third Tuesday after the first Monday in March.

On June 28, Chairwoman Maxine Waters (D-CA), House Committee on Financial Services, announced that the "House of Representatives passed H.R. 3351, the fiscal year 2020 Financial Services and General Government Appropriations bill, which provides \$24.6 billion to assist taxpayers." Several amendments were offered of interest, including:

- Prohibits the SEC from amending or otherwise revising the reliance of certain advisors on the proxy solicitation exemption under 240.14a-2(b) of Title 17, Code of Federal Regulations.
- Prohibits the SEC from amending or otherwise revising the threshold for shareholder proposals or resubmissions under 240.14a-8 of title 17, Code of Federal Regulations.
- Prohibits the SEC from implementing, administering, enforcing, or publicizing the final rules and interpretations of the rule entitled "Regulation Best Interest: The Broker-Dealer Standard of Conduct."

Senator Rob Portman (R-OH), Chairman of the Permanent Subcommittee on Investigations, issued a report, "Federal Cybersecurity: America's Data at Risk," on June 25, that documents the failure of eight federal agencies to address vulnerabilities in their IT infrastructure and cybersecurity protocols. The report includes recommendations to address these failures. The report may be viewed here:

<https://www.portman.senate.gov/sites/default/files/2019-06/2019.06.25-PSI%20Report%20Final%20UPDATE.pdf>

Rep. Troy Balderson (R-OH) has joined the Civility and Respect Caucus, founded by Reps. Steve Stivers (R-OH) and Joyce Beatty (D-OH).

ACTIVITIES:

1. Trip to Washington, D.C. on June 12 to visit 21 offices of Senate Committee on Appropriations members, primarily Senators who serve on the Subcommittee on Labor, HHS, Education and Related Agencies.
2. Trip to Washington, D.C. with SERS representatives to attend the Public Sector HealthCare Roundtable and attend appointments with Ohio delegation staff members to discuss the SERS Wraparound Plan, the safe harbor rebate rule and EGWPs, Medicare Part D reform, prescription drug costs and health care issues.
3. Numerous calls and emails to Ohio delegation offices to set up fifteen appointments on June 24 and June 25.
4. Outreach to stakeholders via calls and emails to discuss House/Senate appropriation efforts on Limited Wraparound Plans and to discuss legislative and/or regulatory solutions.

5. Drafted thank you letters for Reps. Kaptur, Ryan and Joyce for their assistance in obtaining language in H.R. 2740 for limited wraparound plans.
6. Participated on conference calls and in meetings with SERS representatives to update them on advocacy efforts and made calls to several stakeholder representatives and the Public Sector HealthCare Roundtable.
7. Monitored bills from the Committee on Appropriations, and others related to public pensions, retirement security, health care, prescription drugs, Social Security and kept informed of relevant House and Senate Committee hearings and witnesses.
8. 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.
9. Reviewed public notices or proposed rules from the SEC, HHS/CMS and regulatory agencies.
10. Monitored organizations, such as the Social Security Administration, American Benefits Council, AARP and other entities on pension, investment, and/or health-care-related issues.
11. Reviewed reports and newsletters from CII, ICGN, NASRA, NCTR, NCPERS, and the Public Sector HealthCare Roundtable, Social Security, retirement issues and prepared the Federal Update.

ADMINISTRATIVE RULES

Associate General Counsel Susan Russell discussed the following Administrative Rules.

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

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

Prior to July 1, 1991, membership was optional for certain individuals such as student workers. As of July 1, 1991, membership became compulsory for all employees of a SERS employer, unless the individual qualifies for and elects exemption from membership.

This rule provides the service credit payment requirements for periods of service for which SERS did not receive contributions. The amendment clarifies that for both optional and compulsory service, SERS must receive the full payment amount before service credit will be granted.

- **3309-1-40 Application and procedures for receiving disability benefits.**

Rule 3309-1-40 sets forth rules for the administration of SERS disability program including the application process, annual review of a recipient's continued eligibility for disability, and the termination of a disability benefit.

This rule is being amended to require that a disability benefit cannot be certified for termination under the any occupation standard unless a minimum of three positions are identified that the disability recipient is qualified for and capable of performing, expressly provide that the employer must notify SERS when a disability recipient whose benefit is scheduled to terminate returns to work before the scheduled termination date, and clarify that a person cannot receive a SERS disability benefit and be a school board member .

FILING OF PROPOSED AMENDED ADMINISTRATIVE RULE

Legal Counsel discussed with the Retirement Board filing with JCARR the following proposed amended rule: 3309-1-13 Obtaining optional or compulsory service credit.

James Rossler moved and Barbra Phillips seconded that proposed amended rule 3309-1-13 be filed with JCARR as discussed. Upon roll call, the vote was as follows: Yea: Hugh Garside, James Haller, Barbra Phillips, James Rossler, Daniel Wilson and Catherine Moss. The motion carried.

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

(A) [Optional service credit](#)

- (1) Except as provided by section 3309.012 of the Revised Code, a member of the school employees retirement system, public employees retirement system, or state teachers retirement system shall be eligible to purchase service credit for any period during which contributing service was optional. Contributing service shall be deemed to be optional when contributions were not required by the school employees retirement system and no contributions or member record was received. In order to receive optional service credit, payments shall be made as provided in this paragraph.
- (2) For any period of optional service, the member shall pay to the school employees retirement system an amount equal to the employee's and employer's contributions for such period, plus interest at the rate to be set by the school employees retirement board from the end of each year compounded annually. Such amounts paid by the member shall be credited to the employees' savings fund.

(3) In lieu of the member paying the amounts described in this paragraph, the employer for which the optional service was performed may pay an amount equal to either the employee's and employer's, or only the employer's, contributions for such period, plus interest at the rate set by the retirement board from the end of each year compounded annually. If paid by the employer, such amounts shall be credited as follows:

- (a) The amount and interest attributable to the employee's back contributions shall be credited to the employees' savings fund; and,
- (b) The amount attributable to the employer's contributions shall be deposited in the employers' trust fund and the interest collected on such amount shall be credited to the guarantee fund.

If the employer pays only the amount equal to the employer's contributions and interest on that amount, the member shall pay the amount equal to the employee's contributions and interest on that amount.

(B) Compulsory service credit

(1) Except as provided in paragraph ~~(B)(3)(D)~~ of this rule, to receive service credit for periods of compulsory service prior to June 30, 1991, for which the employer did not deduct and transmit contributions, the member shall pay the employee's share of the back contributions and the employer shall pay the employer's share of the back contributions. Payments for both the employee's and the employer's shares of back contributions shall include a charge for interest at the rate set by the retirement board from the end of each year, compounded annually.

~~(a)(2) Payments of the employee's share of back contributions shall include a charge for interest at the rate to be set by the retirement board from the end of each year, compounded annually.~~ The employee's back contributions and interest shall be credited to the employees' savings fund, and in the event of death or withdrawal from service prior to retirement, shall be paid in the same manner as accumulated contributions pursuant to sections 3309.42 and 3309.44 of the Revised Code.

~~(b)(3) The employer's share of back contributions shall include a charge for interest at the rate to be set by the retirement board from the end of each year, compounded annually.~~ The employer's share of back contributions shall be deposited in the employers' trust fund and the interest collected thereon shall be credited to the guarantee fund.

~~(C)~~

~~(2)(4)~~ Except as provided in paragraph ~~(B)(3)(D)~~ of this rule, to receive service credit for periods of compulsory service after June 29, 1991, for which the employer did not deduct and transmit contributions, the employer shall pay both the employer's share and the employee's share of the back contributions. Payments for both the employee's and the employer's shares of back contributions shall include a charge for interest at the rate set by the retirement board ~~from~~ the end of each year, compounded annually.

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

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

~~(D)~~ (3) When a member has left service with an employer after attaining sixty-five and applies for

retirement, the member shall receive service credit in accordance with section 3309.48 of the Revised Code for periods of compulsory service for which the employer did not deduct and transmit contributions.

- (~~CE~~) The salary compensation and service of the member shall be certified by a fiscal officer of the school district who has knowledge of and access to the records of the district. A member cannot certify his own salary or service.
- (~~DF~~) The member's share of back contributions may be paid directly to the retirement system.
- (~~EG~~) The employer's share of back contributions may be paid either by an official warrant or collection from the employer's share of the state school foundation fund.
- (~~F~~) Service credit for any period described in this rule shall be credited to the member's account on the date payment in full has been received by the retirement system for both the employee and employer shares of back contributions.

HISTORY: 4/1/13, 5/9/03, 11/1/01, 7/30/01 (Emer), 2/11/00, 6/12/95, 2/1/92, 12/24/76
Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.23, [3309.34](#), 3309.47, 3309.48, [3309.49](#), [3309.51](#), [3309.56](#), [3309.57](#)
Review Date: 2/1/22

FILING OF PROPOSED AMENDED ADMINISTRATIVE RULE

Legal Counsel discussed with the Retirement Board filing with JCARR the following proposed amended rule: 3309-1-40 Application and procedures for receiving disability benefits.

Barbra Phillips moved and James Haller seconded that proposed amended rule 3309-1-40 be filed as a regular rule with JCARR as discussed. Upon roll call, the vote was as follows: Yea: Hugh Garside, James Haller, Barbra Phillips, James Rossler, Daniel Wilson and Catherine Moss. The motion carried.

3309-1-40 Application and procedures for receiving disability benefits.

- (A) For purposes of sections 3309.39, 3309.40, 3309.401 and 3309.41 of the Revised Code and SERS rules:
 - (1) "Disability" or "disabled" means that the member meets the following applicable standard of disability:
 - (a) At the time of application: A disabling condition, either permanent or presumed to be permanent for twelve continuous months following the filing of an application, which has occurred or increased since the applicant last became a member and which renders the member mentally or physically incapacitated for the performance of the member's last assigned primary duty as an employee.
 - (b) At the time of annual examination:
 - (i) For a disability benefit recipient with a benefit effective date before January 7, 2013 and for a disability benefit recipient with a benefit effective date on or after January 7, 2013 who is on leave of absence, a disabling condition that renders the member mentally or physically incapable of resuming the service from which the member was found disabled.
 - (ii) For a disability benefit recipient with a benefit effective date on or after January 7, 2013 who is not on leave of absence, a disabling condition that renders the

member mentally or physically incapable of performing the duties of any occupation.

- (2) "Ongoing disability" means:
- (a) For a disability benefit recipient with a benefit effective date before January 7, 2013, a disability for which medical treatment presently offers no reasonable expectation of improvement to the extent that a member may be found mentally and physically capable of resuming employment that is the same or similar to that from which the member was found disabled.
 - (b) For a disability benefit recipient with a benefit effective date on or after January 7, 2013, a disability for which medical treatment presently offers no reasonable expectation of improvement to the extent that a member may be found mentally and physically capable of employment in any occupation.
- (3) "Medical treatment" means treatment of common medical acceptance that is readily available, would be covered under the system's health care plan and may include but is not limited to, medicine, physical therapy, psychological or psychiatric services or mechanical devices, but would exclude surgery or other invasive procedures.
- (4) "Board physician" means the chairman of the medical advisory committee.
- (5) "Examining physician(s)" means the disinterested physician(s) assigned by the system or the chairman of the medical advisory committee to conduct medical examinations of a disability applicant or recipient to determine eligibility to obtain or continue to receive disability benefits.
- (6) "Any occupation" means a position that meets all of the following criteria:
- (a) Replaces not less than seventy-five per cent of the member's final average salary, adjusted each year by the actual average increase in the consumer price index prepared by the United States bureau of labor statistics (U.S. City Average for Urban Wage Earners and Clerical Workers: "All items 1982-84=100");
 - (b) Is reasonably to be found in the member's regional job market;
 - (c) Is one that the member is qualified for by experience or education.
- (7) "Vocational rehabilitation" means tests, evaluations, and/or training whose purpose is to enable a disability benefit recipient to find employment in any occupation.
- (8) "Annual disability benefit" means the annuity and pension, or allowance, calculated under section 3309.40 or 3309.401 of the Revised Code at the time the member is determined to qualify for a disability benefit.
- (9) "Employee" includes service as a school board member or governing board member as defined in section 3309.012 of the Revised Code.

(B)

- (1) The school employees retirement board shall appoint a minimum of three members to the medical advisory committee who shall be physicians who demonstrate a wide range of competent medical experience, and a chairman for the medical advisory committee who shall act as medical advisor to the board. The chairman shall have authority and responsibility to assign competent and disinterested physicians to conduct medical examinations of disability applicants and recipients for the purpose of determining the member's eligibility to obtain and continue to receive disability benefits, to recommend and review medical treatment and/or vocational rehabilitation, to certify a disability as ongoing and to submit to the board a recommendation to accompany the report of the medical examiner and/or the medical advisory committee.

- (2) The board may appoint as consultants, professionals in the field of vocational rehabilitation to provide services to the board on matters of vocational rehabilitation, including to conduct evaluations and to advise and make recommendations to the medical advisory committee, the board physician, and the board.
- (C) The board shall be responsible for screening disability benefit applications; serving as a hearing committee for disability applicants; and determining eligibility to obtain or continue to receive disability benefits.
- (D)
 - (1) In order to qualify for a disability benefit, a member shall submit an application and undergo a medical examination by the examining physician(s) as required. The application shall include report(s) from the member's health care provider(s) that identify the medical bases of the application and include supportive medical evidence, a job duty form, and a job description provided by the last employer. Medical examinations will only be assigned for conditions identified by a health care provider.
 - (2) For purposes of division (C) of section 3309.39 of the Revised Code,
 - (a) A disability occurs before termination of contributing service if the underlying medical condition existed while the member was contributing to SERS;
 - (b) A disability occurs after last becoming a member if the underlying condition did not exist or did not render the member incapacitated from working for at least twelve continuous months when the member last became a member of SERS.
- (E) The examining physician(s) shall make a report of the examination on a form provided by the board that sets forth the examining physician's medical opinion as to the nature of any disabilities disclosed; and
 - (1) Any recommended medical treatment, and the period of time in which recovery may reasonably be expected with such treatment, or
 - (2) That the disability is ongoing.
- (F) Upon receipt of a completed application, report of the examining physician(s), and any other available evidence pertaining to the application for disability, the board's medical advisory committee and/or the chairman of the medical advisory committee shall review all such information and prepare a recommendation to the board. The recommendation shall include a description of any disability, the nature and duration of any recommended medical treatment and/or vocational rehabilitation, where applicable, or a certification from the board's physician that the disability is ongoing, and any recommended reexamination requirements.
- (G) The board shall determine whether the applicant is eligible for disability benefits. Notice of denial or termination of disability benefits shall be sent to the applicant by regular U.S. mail or certified mail pursuant to rule 3309-1-41 of the Administrative Code. Notice of eligibility for disability benefits shall be sent by regular U.S. mail or certified mail.
- (H) If the board's physician recommends medical treatment and if the board's physician or consultant recommends vocational rehabilitation, the grant of disability benefits, or continuation of disability, shall be conditioned on the applicant completing and returning a signed agreement to obtain recommended medical treatment on a form included with the notice of the conditional grant of disability benefits. Failure to return this agreement, properly completed, within sixty days of the date mailed by the system constitutes failure to meet conditions for granting the disability benefits and will result in an automatic denial of disability benefits without further action by the board, with all rights of appeal pursuant to rule 3309-1-41 of the Administrative Code. Notice of the denial will be sent to the applicant pursuant to rule 3309-1-41 of the Administrative Code.
 - (1) A copy of the notice of a conditional grant or continuation of disability benefits shall be sent to the health care provider designated on the member's application for disability benefits as authorized to receive the applicant's disability information unless the applicant subsequently

provides a signed release designating another health care provider. The applicant's health care provider shall also receive:

- (a) A description of the disabling condition,
 - (b) The nature and duration of any recommended medical treatment.
- (2) The applicant's notice of the conditional grant or continuation of disability benefits shall inform the applicant that information regarding the nature of the disability and recommended treatment has been forwarded to the applicant's health care provider and that the applicant must contact that health care provider to review this information. The applicant shall be informed that the agreement to obtain recommended medical treatment and/or vocational rehabilitation must be properly completed and returned to the system within sixty days of the date that the system mailed the notice. Proper completion requires the signature of the health care provider indicating that the provider has communicated the disability information and recommended medical treatment to the applicant and the signature of the applicant indicating agreement to obtain the recommended medical treatment and/or vocational rehabilitation.
- (3) Upon the timely return of a properly completed agreement to obtain recommended medical treatment and/or rehabilitation, the system shall forward to the applicant an acknowledgment of receipt of the agreement containing the effective date of the disability benefits and annual reexamination and reporting requirements necessary to continue receiving disability benefits.
- (I)
- (1) Based on a certification of ongoing disability by the board physician, the board may waive annual examinations required by division (B) of section 3309.41 of the Revised Code, the filing of annual earnings statements and current medical information required by division (D) of section 3309.41 of the Revised Code, and the filing any other information required in this rule.
- If not previously waived, the obligation to file annual earnings statements of a disability recipient whose disability has been certified as ongoing shall automatically be waived when the benefit recipient has satisfied one of the following requirements:
- (a) Has received a disability benefit for twenty years, or
 - (b) Has attained age sixty-five.
- (2) The board may review any disability granted including those certified as ongoing and request other information pursuant to division (D) of section 3309.41 of the Revised Code.
- (3) The board or the board's physician may require a disability recipient to submit to a medical examination by an examining physician and a vocational rehabilitation evaluation by a vocational rehabilitation professional or health care professional assigned by the system.
- (J) In the absence of a waiver from the board based on a certified ongoing disability, in order to continue receiving disability benefits, the recipient shall comply with the following conditions as set forth in section 3309.41 of the Revised Code:
- (1) Submit to an annual medical examination,
 - (2) If required, submit to a medical examination,
 - (3) If required, submit to a vocational rehabilitation evaluation,
 - (4) If applicable, obtain any recommended medical treatment and submit medical reports regarding the treatment,
 - (5) If applicable, obtain any recommended vocational rehabilitation and submit required reports regarding the rehabilitation,

- (6) Annually file an earnings statement, current medical information, and any other information required by the board.

(K)

- (1) If a recipient refuses to submit to a required examination or evaluation or to file required information, the disability benefits shall be suspended until the examination or evaluation is obtained or the information is filed.

- (2) If, when applicable, the recipient fails to obtain recommended medical treatment and submit medical reports regarding the treatment, the disability benefits shall be suspended until the treatment is obtained and the report of the treatment submitted, or the board physician certifies that the treatment is no longer helpful or advisable.

Medical treatment is no longer helpful or advisable if, after a period of time in which it would be medically reasonable to see results, the treatment has failed to produce improvement in the disability, or continuation of the treatment presents a medically significant risk of aggravation or complication of an existing disability or creation of an additional disability.

- (3) If, when applicable, the recipient fails to obtain required vocational rehabilitation and submit reports regarding the rehabilitation, the disability benefits shall be suspended until the rehabilitation is obtained and the report submitted, or the board physician or consultant certifies that vocational rehabilitation is no longer helpful or advisable.

Vocational rehabilitation is no longer helpful or advisable if:

- (a) The recipient's disability renders the recipient unable to perform the duties of any position and is not expected to improve sufficiently, or
- (b) After a period of time in which the recipient has complied with recommended vocational rehabilitation, the recipient cannot be reasonably expected to obtain employment in any occupation.

- (L) If the recipient's failure to comply with any of the applicable conditions set forth in paragraph (J) of this rule continues for one year from the date of the suspension of benefits for noncompliance, the recipient's right to the disability benefits shall be terminated as of the date of the original suspension.

- (M) On reexamination the board's medical advisory committee and/or the board physician shall review the medical and vocational reports and certify to the board whether the recipient continues to be disabled.

- (1) If the medical advisory committee and/or the board physician certifies that the recipient continues to be disabled, the medical advisory committee and/or the board physician shall make recommendations regarding reexamination and, where applicable:

- (a) Recommend a continuation of the medical treatment and/or vocational rehabilitation previously recommended,
- (b) Recommend a modification in medical treatment and/or vocational rehabilitation, or
- (c) Certify that the disability is ongoing.

- (2) When the termination standard is whether the recipient can perform any occupation, a recipient shall not be certified for termination unless

(a)(i) A SERS appointed vocational consultant has submitted a report that is based on findings made at the time of the review and that identifies a minimum of three positions that meets the any occupation definition and has submitted a job descriptions that includes a discussion of the physical and mental demands of the position; and

(ii) An examining physician or the medical advisory committee concludes that the recipient is capable of meeting the physical and mental demands of a minimum of three of the positions; or

(b) The recipient's current earnings statement establishes that the recipient is employed in a position whose annual earnings are seventy-five per cent or more of the recipient's final average salary, adjusted each year by the actual average increase in the consumer price index prepared by the United States bureau of labor statistics (U.S. City Average for Urban Wage Earners and Clerical Workers: "All items 1982-84=100").

- (3) If the medical advisory committee and/or the board physician certifies that the recipient meets the applicable standard for termination of disability under division (C) of section 3309.41 of the Revised Code and the board concurs, the board shall:
- (a) Terminate the disability benefits effective as of a date not later than three months after the board's concurrence, or upon notice of employment of the recipient as an employee.
 - (b) (1) If the leave of absence has not expired when the board votes to terminate the disability benefit, the board shall certify to the recipient and the recipient's last employer as applicable that the recipient is no longer incapable of resuming service that is the same or similar to that from which the recipient was found disabled and shall identify the scheduled termination date of the disability benefit.
(2) The employer must notify the system if the member returns to work before the scheduled termination date. If the employer fails to notify the system, the amount of benefits paid to the member after the member's return to work shall be paid from amounts allocated under Chapter 3317. of the Revised Code.

(N)

- (1) Disability benefit recipients with a benefit effective date before January 7, 2013 shall be considered on leave of absence from employment during the first five years following the effective date of their disability benefit.
- (2) Disability benefit recipients with a benefit effective date on or after January 7, 2013 shall be considered on leave of absence from employment during the first three years following the effective date of their disability benefit; thereafter, their leave of absence shall terminate as follows:
 - (a) If medical treatment and/or vocational rehabilitation is not recommended, at the end of the first three years;
 - (b) If medical treatment and/or vocational rehabilitation is recommended, but the recipient is not participating in the recommended treatment or rehabilitation, the earlier of the last month the benefit recipient participated in recommended treatment or rehabilitation or the end of five years following the benefit effective date;
 - (c) If medical treatment and/or vocational rehabilitation was recommended and the recipient is participating in the recommended treatment or rehabilitation, at the end of five years following the benefit effective date.

(O) A disability benefit recipient is employed for purposes of division (E) of section 3309.41 of the Revised Code if they hold office as a school board member or governing board member as defined in section 3309.012 of the Revised Code, regardless of whether the disability recipient elects membership under that section.

- (1) Upon receipt of notice that a disability recipient holds office as a school board member or governing board member, the system shall notify the recipient that the recipient must terminate their service in order to continue to receive a disability benefit.
- (2) The disability recipient shall send written notice to the system within thirty days from the date on the notice sent under division (O)(1) of this rule, indicating whether they will resign their office.
- (3) If the disability recipient affirms a continuation of service or if the recipient fails to provide notice to the system, the disability benefit shall be terminated on the date the recipient first

held office as a school board member or governing board member and any overpayments shall be collected as authorized in Chapter 3309 of the Revised Code.

(4) If the disability recipient affirms a termination of service, the termination shall be effective on the receipt of the notice described in division (O)(1) of this rule. Any employee contributions remitted for the service shall be unauthorized and returned to the employer.

(P)

- (1) Amounts paid by a member to purchase service credit shall be credited to the employees' savings fund.
- (2) Service credit for a period of disability shall be considered the equivalent of Ohio service credit.
- (3) Service credit granted or purchased under section 3309.41 of the Revised Code for a period of disability shall not result in the member receiving more than one year of service credit for any year as defined in division (R) of section 3309.01 of the Revised Code.

HISTORY: 8/13/17, 4/6/17, 10/4/15, 1/7/13, 4/3/08, 1/30/06, 1/6/05, 1/2/04, 5/9/03, 11/9/98, 1/2/93, 2/1/92, 10/26/84, 2/19/82, 1/21/77

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.39, 3309.41
Review Date: 2/1/22

APPOINT COMMITTEE CHAIR AND MEMBERS

As Chairperson for the 2019-2020 fiscal year, Catherine Moss made the appointment of compensation committee members. There being no nominations, Daniel Wilson was appointed to chair the compensation committee with Jeffrey DeLeone, Hugh Garside, James Haller and Barbra Phillips serving as committee members.

DECLARATION OF RETIREE BOARD MEMBER SEAT VACANCY

Barbra Phillips moved and James Haller seconded that a vacancy in the retiree member seat held by Beverly Woolridge be declared effective July 1, 2019. Upon roll call, the vote was as follows: Yea: Hugh Garside, James Haller, Barbra Phillips, James Rossler, Daniel Wilson and Catherine Moss. The motion carried.

SCHEDULE FOR FILLING VACANT EMPLOYEE BOARD MEMBER SEAT

Barbra Phillips moved and James Rossler seconded that the following schedule will be used to fill the vacant employee Board member seat:

SERS members interested in being elected by the Board to fill the vacancy shall submit a statement of interest and qualifications to the Board no later than October 1, 2019;

Nominations for candidates will be held at the Board meeting scheduled for October 17 & 18, 2019;

Interviews of the nominated candidates will be held at the Board meeting scheduled for November 21 & 22, 2019;

Election by the Board will be conducted at the Board meeting scheduled for November 21 & 22, 2019.

Upon roll call, the vote was as follows: Yea: Hugh Garside, James Haller, Barbra Phillips, James Rossler, Daniel Wilson and Catherine Moss. The motion carried.

SCHEDULE FOR FILLING VACANT RETIREE BOARD MEMBER SEAT

Barbra Phillips moved and Hugh Garside seconded that the following schedule will be used to fill the vacant retiree Board member seat:

SERS retirees interested in being elected by the Board to fill the vacancy shall submit a statement of interest and qualifications to the Board no later than November 5, 2019;

Nominations for candidates will be held at the Board meeting scheduled for November 21 & 22, 2019;

Interviews of the nominated candidates will be held at the Board meeting scheduled for December 19 & 20, 2019;

Election by the Board will be conducted at the Board meeting scheduled for December 19 & 20, 2019.

Upon roll call, the vote was as follows: Yea: Hugh Garside, James Haller, Barbra Phillips, James Rossler, Daniel Wilson and Catherine Moss. The motion carried.

ELECTION OF EMPLOYEE MEMBER TO THE RETIREMENT BOARD

Barbra Phillips moved and James Rossler seconded that the following resolution be adopted:

BE IT RESOLVED by the Retirement Board of the School Employees Retirement System that the election of one employee member of the Retirement Board for the term beginning July 1, 2020 and ending June 30, 2024, shall be as provided herewith:

Any member of the Retirement System, other than a disability recipient, shall be eligible for election and the name of any member who is nominated by a petition, meeting the following requirements, shall be placed upon the ballot as a regular candidate. The petitions shall be signed by at least five hundred (500) members of the Retirement System of which there shall be not less than twenty (20) signers each from at least ten (10) counties wherein such members are employed; shall indicate the employer and county of employment of each signing member; shall be signed on or after August 1, 2019; and the original petitions, along with the originals of any other completed required forms, must be received in the office of the Retirement System no later than 4:30 p.m., EST, December 6, 2019.

All ballots, to be considered valid, must be received in the office of the Retirement System no later than 4:30 p.m. EST, March 2, 2020.

All ballots delivered to the office of the Retirement System shall be delivered unopened to judges appointed by the Retirement Board. The judges shall meet, make final determination of the validity of the ballots within the intent of this resolution, count the valid ballots on March 3, 2020, and announce the results of the election.

The election shall be conducted in accordance with the Retirement Board's election laws as well as its election rule, policy, and procedure.

Upon roll call, the vote was as follows: Upon roll call, the vote was as follows: Yea: Hugh Garside, James Haller, Barbra Phillips, James Rossler, Daniel Wilson and Catherine Moss. The motion carried.

ELECTION OF RETIREE MEMBER TO THE RETIREMENT BOARD

Barbra Phillips moved and James Rossler seconded that the following resolution be adopted:

BE IT RESOLVED by the Retirement Board of the School Employees Retirement System that the election of one retired member of the Retirement Board for the term beginning July 1, 2020 and ending June 30, 2024, shall be as provided herewith:

Any service or disability retiree of the Retirement System who is a resident of Ohio shall be eligible for election and the name of any retiree who is nominated by a petition, meeting the following requirements, shall be placed upon the ballot as a regular candidate. The petition shall be signed by at least one hundred fifty (150) former members of the Retirement System who are receiving service or disability retirement benefits, of which there shall be not less than ten (10) signers each from at least five (5) Ohio counties, wherein service or disability retirees under this system reside; shall be signed on or after August 1, 2019; and the original petitions, along with the originals of any other completed required forms, shall be on file in the office of the Retirement System no later than 4:30 p.m. EST, December 6, 2019.

All ballots, to be considered valid, must be received in the office of the Retirement System no later than 4:30 p.m. EST, March 2, 2020.

All ballots delivered to the office of the Retirement System shall be delivered unopened to judges appointed by the Retirement Board. The judges shall meet, make a final determination of the validity of the ballots within the intent of this resolution, count the valid ballots on March 3, 2020, and announce the results of the election.

The election shall be conducted in accordance with the Retirement Board's election laws as well as its election rule, policy and procedure.

Upon roll call, the vote was as follows: Upon roll call, the vote was as follows: Yea: Hugh Garside, James Haller, Barbra Phillips, James Rossler, Daniel Wilson and Catherine Moss. The motion carried.

The Board took a break at 10:28 a.m., and reconvened at 10:52 a.m.

EXECUTIVE SESSION

At 10:52 a.m., James Haller moved and James Rossler seconded the motion that the Board go into Executive Session pursuant to R.C. 121.22 (G)(1) to discuss the employment and compensation of a public employee. Upon roll call, the vote was as follows: Yea: Hugh Garside, James Haller, Barbra Phillips, James Rossler, Daniel Wilson and Catherine Moss. The motion carried.

The Board returned to open session at 11:42 a.m.

CHIEF AUDIT OFFICER POSITION DESCRIPTION

Barbra Phillips moved and James Haller seconded to approve edits for the Chief Audit Officer Position Description as recommended by the Audit Committee at its July 17, 2019 meeting. Upon roll call, the vote was as follows: Yea: Hugh Garside, James Haller, Barbra Phillips, James Rossler, Daniel Wilson and Catherine Moss. The motion carried.

The Board continued with the review of calendar dates and future board meetings. Chairperson Catherine Moss requested that all future audit committee meetings and compensation committee meetings be included with future calendar dates.

CALENDAR DATES FOR FUTURE BOARD MEETINGS

2019

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.*

CONTINUED OR NEW BUSINESS

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

The Board took a break at 11:44 a.m., and reconvened at 12:50 p.m.

The Board continued with the Disability Report.

EXECUTIVE SESSION

At 12:50 p.m., Barbra Phillips moved and James Rossler 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: Hugh Garside, James Haller, Barbra Phillips, James Rossler, Daniel Wilson and Catherine Moss. The motion carried.

The Board returned to open session at 2:19 p.m.

ADJOURNMENT

Catherine Moss moved that the Board adjourn to meet on Thursday, September 19, 2019 for their regularly scheduled meeting. The meeting adjourned at 2:21 p.m.

Catherine Moss, Chair

Richard Stensrud, Secretary