

As Reported by the House Pensions Committee

135th General Assembly

Regular Session

2023-2024

Am. H. B. No. 78

Representatives Seitz, Miller, J.

Cosponsors: Representatives Troy, Upchurch, Carruthers, Bird, Young, T.

A BILL

To amend sections 3307.01, 3307.05, and 3309.01 of 1
the Revised Code regarding State Teachers 2
Retirement System Board member eligibility and 3
system membership for student teachers who are 4
employed as substitute teachers. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3307.01, 3307.05, and 3309.01 of 6
the Revised Code be amended to read as follows: 7

Sec. 3307.01. As used in this chapter: 8

(A) "Employer" means the board of education, school 9
district, governing authority of any community school 10
established under Chapter 3314. of the Revised Code, a science, 11
technology, engineering, and mathematics school established 12
under Chapter 3326. of the Revised Code, college, university, 13
institution, or other agency within the state by which a teacher 14
is employed and paid. 15

(B) (1) "Teacher" means all of the following: 16

(a) Any person paid from public funds and employed in the 17

public schools of the state under any type of contract described 18
in section 3311.77 or 3319.08 of the Revised Code in a position 19
for which the person is required to have a license or 20
registration issued pursuant to sections 3319.22 to 3319.31 of 21
the Revised Code; 22

(b) Except as provided in division (B) (2) (b) or (c) of 23
this section, any person employed as a teacher or faculty member 24
in a community school or a science, technology, engineering, and 25
mathematics school pursuant to Chapter 3314. or 3326. of the 26
Revised Code; 27

(c) Any person having a license or registration issued 28
pursuant to sections 3319.22 to 3319.31 of the Revised Code and 29
employed in a public school in this state in an educational 30
position, as determined by the department of education and 31
workforce, under programs provided for by federal acts or 32
regulations and financed in whole or in part from federal funds, 33
but for which no licensure requirements for the position can be 34
made under the provisions of such federal acts or regulations; 35

(d) Any other teacher or faculty member employed in any 36
school, college, university, institution, or other agency wholly 37
controlled and managed, and supported in whole or in part, by 38
the state or any political subdivision thereof, including 39
Central state university, Cleveland state university, and the 40
university of Toledo; 41

(e) The educational employees of the state board of 42
education, as determined by the state superintendent of public 43
instruction, and the educational employees of the department of 44
education and workforce, as determined by the director of 45
education and workforce; 46

(f) Any person having a registration issued pursuant to 47
section 3301.28 of the Revised Code and employed as a tutor by 48
the coordinating service center as defined in that section; 49

(g) Any person having a license issued pursuant to Chapter 50
4732. of the Revised Code and employed as a school psychologist 51
in a public school; 52

(h) Any person having a pre-service teacher permit issued 53
pursuant to section 3319.0812 of the Revised Code and employed 54
as a substitute teacher by a school district or school. 55

In all cases of doubt, the state teachers retirement board 56
shall determine whether any person is a teacher, and its 57
decision shall be final. 58

(2) "Teacher" does not include any of the following: 59

(a) Any eligible employee of a public institution of 60
higher education, as defined in section 3305.01 of the Revised 61
Code, who elects to participate in an alternative retirement 62
plan established under Chapter 3305. of the Revised Code; 63

(b) Any person employed by a community school operator, as 64
defined in section 3314.02 of the Revised Code, if on or before 65
February 1, 2016, the school's operator was withholding and 66
paying employee and employer taxes pursuant to 26 U.S.C. 3101(a) 67
and 3111(a) for persons employed in the school as teachers, 68
unless the person had contributing service in a community school 69
in the state within one year prior to the later of February 1, 70
2016, or the date on which the operator for the first time 71
withholds and pays employee and employer taxes pursuant to 26 72
U.S.C. 3101(a) and 3111(a) for that person; 73

(c) Any person who would otherwise be a teacher under 74
division (B) (2) (b) of this section who terminates employment 75

with a community school operator and has no contributing service 76
in a community school in the state for a period of at least one 77
year from the date of termination of employment. 78

(C) "Member" means any person included in the membership 79
of the state teachers retirement system, which shall consist of 80
all teachers and contributors as defined in divisions (B) and 81
(D) of this section and all disability benefit recipients, as 82
defined in section 3307.50 of the Revised Code. However, for 83
purposes of this chapter, the following persons shall not be 84
considered members: 85

(1) A student, intern, or resident who is not a member 86
while employed part-time by a school, college, or university at 87
which the student, intern, or resident is regularly attending 88
classes; 89

(2) A person denied membership pursuant to section 3307.24 90
of the Revised Code; 91

(3) An other system retirant, as defined in section 92
3307.35 of the Revised Code, or a superannuate; 93

(4) An individual employed in a program established 94
pursuant to the "Job Training Partnership Act," 96 Stat. 1322 95
(1982), 29 U.S.C.A. 1501; 96

(5) The surviving spouse of a member or retirant if the 97
surviving spouse's only connection to the retirement system is 98
an account in an STRS defined contribution plan. 99

(D) "Contributor" means any person who has an account in 100
the teachers' savings fund or defined contribution fund, except 101
that "contributor" does not mean a member or retirant's 102
surviving spouse with an account in an STRS defined contribution 103
plan. 104

(E) "Beneficiary" means any person eligible to receive, or
in receipt of, a retirement allowance or other benefit provided
by this chapter.

(F) "Year" means the year beginning the first day of July
and ending with the thirtieth day of June next following, except
that for the purpose of determining final average salary under
the plan described in sections 3307.50 to 3307.79 of the Revised
Code, "year" may mean the contract year.

(G) "Local district pension system" means any school
teachers pension fund created in any school district of the
state in accordance with the laws of the state prior to
September 1, 1920.

(H) "Employer contribution" means the amount paid by an
employer, as determined by the employer rate, including the
normal and deficiency rates, contributions, and funds wherever
used in this chapter.

(I) "Five years of service credit" means employment
covered under this chapter and employment covered under a former
retirement plan operated, recognized, or endorsed by a college,
institute, university, or political subdivision of this state
prior to coverage under this chapter.

(J) "Actuary" means an actuarial professional contracted
with or employed by the state teachers retirement board, who
shall be either of the following:

(1) A member of the American academy of actuaries;

(2) A firm, partnership, or corporation of which at least
one person is a member of the American academy of actuaries.

(K) "Fiduciary" means a person who does any of the

following:	133
(1) Exercises any discretionary authority or control with respect to the management of the system, or with respect to the management or disposition of its assets;	134 135 136
(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;	137 138
(3) Has any discretionary authority or responsibility in the administration of the system.	139 140
(L) (1) (a) Except as provided in this division, "compensation" means all salary, wages, and other earnings paid to a teacher by reason of the teacher's employment, including compensation paid pursuant to a supplemental contract. The salary, wages, and other earnings shall be determined prior to determination of the amount required to be contributed to the teachers' savings fund or defined contribution fund under section 3307.26 of the Revised Code and without regard to whether any of the salary, wages, or other earnings are treated as deferred income for federal income tax purposes.	141 142 143 144 145 146 147 148 149 150
(b) Except as provided in division (L) (1) (c) of this section, "compensation" includes amounts paid by an employer as a retroactive payment of earnings, damages, or back pay pursuant to a court order, court-adopted settlement agreement, or other settlement agreement if the retirement system receives both of the following:	151 152 153 154 155 156
(i) Teacher and employer contributions under sections 3307.26 and 3307.28 of the Revised Code, plus interest compounded annually at a rate determined by the state teachers retirement board, for each year or portion of a year for which amounts are paid under the order or agreement;	157 158 159 160 161

(ii) Teacher and employer contributions under sections	162
3307.26 and 3307.28 of the Revised Code, plus interest	163
compounded annually at a rate determined by the board, for each	164
year or portion of a year not subject to division (L) (1) (b) (i)	165
of this section for which the board determines the teacher was	166
improperly paid, regardless of the teacher's ability to recover	167
on such amounts improperly paid.	168
(c) If any portion of an amount paid by an employer as a	169
retroactive payment of earnings, damages, or back pay is for an	170
amount, benefit, or payment described in division (L) (2) of this	171
section, that portion of the amount is not compensation under	172
this section.	173
(2) Compensation does not include any of the following:	174
(a) Payments for accrued but unused sick leave or personal	175
leave, including payments made under a plan established pursuant	176
to section 124.39 of the Revised Code or any other plan	177
established by the employer;	178
(b) Payments made for accrued but unused vacation leave,	179
including payments made pursuant to section 124.13 of the	180
Revised Code or a plan established by the employer;	181
(c) Payments made for vacation pay covering concurrent	182
periods for which other salary, compensation, or benefits under	183
this chapter or Chapter 145. or 3309. of the Revised Code are	184
paid;	185
(d) Amounts paid by the employer to provide life	186
insurance, sickness, accident, endowment, health, medical,	187
hospital, dental, or surgical coverage, or other insurance for	188
the teacher or the teacher's family, or amounts paid by the	189
employer to the teacher in lieu of providing the insurance;	190

(e) Incidental benefits, including lodging, food, laundry,	191
parking, or services furnished by the employer, use of the	192
employer's property or equipment, and reimbursement for job-	193
related expenses authorized by the employer, including moving	194
and travel expenses and expenses related to professional	195
development;	196
(f) Payments made by the employer in exchange for a	197
member's waiver of a right to receive any payment, amount, or	198
benefit described in division (L) (2) of this section;	199
(g) Payments by the employer for services not actually	200
rendered;	201
(h) Any amount paid by the employer as a retroactive	202
increase in salary, wages, or other earnings, unless the	203
increase is one of the following:	204
(i) A retroactive increase paid to a member employed by a	205
school district board of education in a position that requires a	206
license designated for teaching and not designated for being an	207
administrator issued under section 3319.22 of the Revised Code	208
that is paid in accordance with uniform criteria applicable to	209
all members employed by the board in positions requiring the	210
licenses;	211
(ii) A retroactive increase paid to a member employed by a	212
school district board of education in a position that requires a	213
license designated for being an administrator issued under	214
section 3319.22 of the Revised Code that is paid in accordance	215
with uniform criteria applicable to all members employed by the	216
board in positions requiring the licenses;	217
(iii) A retroactive increase paid to a member employed by	218
a school district board of education as a superintendent that is	219

also paid as described in division (L) (2) (h) (i) of this section;	220
(iv) A retroactive increase paid to a member employed by	221
an employer other than a school district board of education in	222
accordance with uniform criteria applicable to all members	223
employed by the employer.	224
(i) Payments made to or on behalf of a teacher that are in	225
excess of the annual compensation that may be taken into account	226
by the retirement system under division (a) (17) of section 401	227
of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26	228
U.S.C.A. 401(a) (17), as amended. For a teacher who first	229
establishes membership before July 1, 1996, the annual	230
compensation that may be taken into account by the retirement	231
system shall be determined under division (d) (3) of section	232
13212 of the "Omnibus Budget Reconciliation Act of 1993," Pub.	233
L. No. 103-66, 107 Stat. 472.	234
(j) Payments made under division (B), (C), or (E) of	235
section 5923.05 of the Revised Code, Section 4 of Substitute	236
Senate Bill No. 3 of the 119th general assembly, Section 3 of	237
Amended Substitute Senate Bill No. 164 of the 124th general	238
assembly, or Amended Substitute House Bill No. 405 of the 124th	239
general assembly;	240
(k) Anything of value received by the teacher that is	241
based on or attributable to retirement or an agreement to	242
retire.	243
(3) The retirement board shall determine both of the	244
following:	245
(a) Whether particular forms of earnings are included in	246
any of the categories enumerated in this division;	247
(b) Whether any form of earnings not enumerated in this	248

division is to be included in compensation.	249
Decisions of the board made under this division shall be final.	250 251
(M) "Superannuate" means both of the following:	252
(1) A former teacher receiving from the system a retirement allowance under section 3307.58 or 3307.59 of the Revised Code;	253 254 255
(2) A former teacher receiving a benefit from the system under a plan established under section 3307.81 of the Revised Code, except that "superannuate" does not include a former teacher who is receiving a benefit based on disability under a plan established under section 3307.81 of the Revised Code.	256 257 258 259 260
For purposes of sections 3307.35 and 3307.353 of the Revised Code, "superannuate" also means a former teacher receiving from the system a combined service retirement benefit paid in accordance with section 3307.57 of the Revised Code, regardless of which retirement system is paying the benefit.	261 262 263 264 265
(N) "STRS defined benefit plan" means the plan described in sections 3307.50 to 3307.79 of the Revised Code.	266 267
(O) "STRS defined contribution plan" means the plans established under section 3307.81 of the Revised Code and includes the STRS combined plan under that section.	268 269 270
(P) "Faculty" means the teaching staff of a university, college, or school, including any academic administrators.	271 272
Sec. 3307.05. The state teachers retirement board shall consist of the following members:	273 274
(A) The superintendent of public instruction or a designee	275

of the superintendent who has the following qualifications:	276
(1) The designee is a resident of this state.	277
(2) Within the three years immediately preceding the appointment, the designee has not been employed by the public employees retirement system, police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including the management, analysis, supervision, or investment of assets.	278 279 280 281 282 283 284 285 286
(3) The designee has direct experience in the management, analysis, supervision, or investment of assets.	287 288
(B) One member, known as the treasurer of state's investment designee, who shall be appointed by the treasurer of state for a term of four years and have the following qualifications:	289 290 291 292
(1) The member is a resident of this state.	293
(2) Within the three years immediately preceding the appointment, the member has not been employed by the public employees retirement system, police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including management, analysis, supervision, or investment of assets.	294 295 296 297 298 299 300 301 302
(3) The member has direct experience in the management, analysis, supervision, or investment of assets.	303 304

(4) The member is not currently employed by the state or a political subdivision of the state. 305
306

(C) Two members, known as the investment expert members, 307
who shall be appointed for four-year terms. One investment 308
expert member shall be appointed by the governor, and one 309
investment expert member shall be jointly appointed by the 310
speaker of the house of representatives and the president of the 311
senate. Each investment expert member shall have the following 312
qualifications: 313

(1) Each member shall be a resident of this state. 314

(2) Within the three years immediately preceding the 315
appointment, each member shall not have been employed by the 316
public employees retirement system, police and fire pension 317
fund, state teachers retirement system, school employees 318
retirement system, or state highway patrol retirement system or 319
by any person, partnership, or corporation that has provided to 320
one of those retirement systems services of a financial or 321
investment nature, including the management, analysis, 322
supervision, or investment of assets. 323

(3) Each member shall have direct experience in the 324
management, analysis, supervision, or investment of assets. 325

Any investment expert member appointed to fill a vacancy 326
occurring prior to the expiration of the term for which the 327
member's predecessor was appointed shall hold office until the 328
end of such term. The member shall continue in office subsequent 329
to the expiration date of the member's term until the member's 330
successor takes office, or until a period of sixty days has 331
elapsed, whichever occurs first. 332

(D) Five members, known as contributing members, who shall 333

be members of the state teachers retirement system; 334

(E) Two former members of the system, known as retired 335
teacher members, who shall be superannuates- 336

~~who are not otherwise employed in positions requiring them-~~ 337
~~to make contributions to the system.~~ 338

Sec. 3309.01. As used in this chapter: 339

(A) "Employer" or "public employer" means boards of 340
education, school districts, joint vocational districts, 341
governing authorities of community schools established under 342
Chapter 3314. of the Revised Code, a science, technology, 343
engineering, and mathematics school established under Chapter 344
3326. of the Revised Code, educational institutions, technical 345
colleges, state, municipal, and community colleges, community 346
college branches, universities, university branches, other 347
educational institutions, or other agencies within the state by 348
which an employee is employed and paid, including any 349
organization using federal funds, provided the federal funds are 350
disbursed by an employer as determined by the above. In all 351
cases of doubt, the school employees retirement board shall 352
determine whether any employer is an employer as defined in this 353
chapter, and its decision shall be final. 354

(B) "Employee" means all of the following: 355

(1) Any person employed by a public employer in a position 356
for which the person is not required to have a registration, 357
certificate, or license issued pursuant to section 3301.28 or 358
sections 3319.22 to 3319.31 of the Revised Code or a permit 359
issued under section 3319.0812 of the Revised Code; 360

(2) Any person who performs a service common to the normal 361
daily operation of an educational unit even though the person is 362

employed and paid by one who has contracted with an employer to 363
perform the service, and the contracting board or educational 364
unit shall be the employer for the purposes of administering the 365
provisions of this chapter; 366

(3) Any person, not a faculty member, employed in any 367
school or college or other institution wholly controlled and 368
managed, and wholly or partly supported by the state or any 369
political subdivision thereof, the board of trustees, or other 370
managing body of which shall accept the requirements and 371
obligations of this chapter. 372

In all cases of doubt, the school employees retirement 373
board shall determine whether any person is an employee, as 374
defined in this division, and its decision is final. 375

(C) "Prior service" means all service rendered prior to 376
September 1, 1937: 377

(1) As an employee as defined in division (B) of this 378
section; 379

(2) As an employee in a capacity covered by the public 380
employees retirement system or the state teachers retirement 381
system; 382

(3) As an employee of an institution in another state, 383
service credit for which was procured by a member under the 384
provisions of section 3309.31 of the Revised Code. 385

Prior service, for service as an employee in a capacity 386
covered by the public employees retirement system or the state 387
teachers retirement system, shall be granted a member under 388
qualifications identical to the laws and rules applicable to 389
service credit in those systems. 390

Prior service shall not be granted any member for service 391
rendered in a capacity covered by the public employees 392
retirement system, the state teachers retirement system, and 393
this system in the event the service credit has, in the 394
respective systems, been received, waived by exemption, or 395
forfeited by withdrawal of contributions, except as provided in 396
this chapter. 397

If a member who has been granted prior service should, 398
subsequent to September 16, 1957, and before retirement, 399
establish three years of contributing service in the public 400
employees retirement system, or one year in the state teachers 401
retirement system, then the prior service granted shall become, 402
at retirement, the liability of the other system, if the prior 403
service or employment was in a capacity that is covered by that 404
system. 405

The provisions of this division shall not cancel any prior 406
service granted a member by the school employees retirement 407
board prior to August 1, 1959. 408

(D) "Total service," "total service credit," or "Ohio 409
service credit" means all contributing service of a member of 410
the school employees retirement system, and all prior service, 411
computed as provided in this chapter, and all service 412
established pursuant to sections 3309.31, 3309.311, and 3309.33 413
of the Revised Code. In addition, "total service" includes any 414
period, not in excess of three years, during which a member was 415
out of service and receiving benefits from the state insurance 416
fund, provided the injury or incapacitation was the direct 417
result of school employment. 418

(E) "Member" means any employee, except an SERS retirant 419
or other system retirant as defined in section 3309.341 of the 420

Revised Code, who has established membership in the school 421
employees retirement system. "Member" includes a disability 422
benefit recipient. 423

(F) "Contributor" means any person who has an account in 424
the employees' savings fund. When used in the sections listed in 425
division (B) of section 3309.82 of the Revised Code, 426
"contributor" includes any person participating in a plan 427
established under section 3309.81 of the Revised Code. 428

(G) "Retirant" means any former member who retired and is 429
receiving a retirement allowance under section 3309.36 or 430
3309.381 or former section 3309.38 of the Revised Code. 431

(H) "Beneficiary" or "beneficiaries" means the estate or a 432
person or persons who, as the result of the death of a 433
contributor or retirant, qualifies for or is receiving some 434
right or benefit under this chapter. 435

(I) "Interest," as specified in division (E) of section 436
3309.60 of the Revised Code, means interest at the rates for the 437
respective funds and accounts as the school employees retirement 438
board may determine from time to time. 439

(J) "Accumulated contributions" means the sum of all 440
amounts credited to a contributor's account in the employees' 441
savings fund together with any regular interest credited thereon 442
at the rates approved by the retirement board prior to 443
retirement. 444

(K) "Final average salary" means the sum of the annual 445
compensation for the three highest years of compensation for 446
which contributions were made by the member, divided by three. 447
If the member has a partial year of contributing service in the 448
year in which the member terminates employment and the partial 449

year is at a rate of compensation that is higher than the rate 450
of compensation for any one of the highest three years of annual 451
earnings, the board shall substitute the compensation earned for 452
the partial year for the compensation earned for a similar 453
fractional portion in the lowest of the three high years of 454
annual compensation before dividing by three. If a member has 455
less than three years of contributing membership, the final 456
average salary shall be the total compensation divided by the 457
total number of years, including any fraction of a year, of 458
contributing service. 459

(L) "Annuity" means payments for life derived from 460
contributions made by a contributor and paid from the annuity 461
and pension reserve fund as provided in this chapter. All 462
annuities shall be paid in twelve equal monthly installments. 463

(M) (1) "Pension" means annual payments for life derived 464
from appropriations made by an employer and paid from the 465
employers' trust fund or the annuity and pension reserve fund. 466
All pensions shall be paid in twelve equal monthly installments. 467

(2) "Disability retirement" means retirement as provided 468
in section 3309.40 of the Revised Code. 469

(N) "Retirement allowance" means the pension plus the 470
annuity. 471

(O) (1) "Benefit" means a payment, other than a retirement 472
allowance or the annuity paid under section 3309.344 of the 473
Revised Code, payable from the accumulated contributions of the 474
member or the employer, or both, under this chapter and includes 475
a disability allowance or disability benefit. 476

(2) "Disability allowance" means an allowance paid on 477
account of disability under section 3309.401 of the Revised 478

Code.	479
(3) "Disability benefit" means a benefit paid as	480
disability retirement under section 3309.40 of the Revised Code,	481
as a disability allowance under section 3309.401 of the Revised	482
Code, or as a disability benefit under section 3309.35 of the	483
Revised Code.	484
(P) "Annuity reserve" means the present value, computed	485
upon the basis of mortality tables adopted by the school	486
employees retirement board, of all payments to be made on	487
account of any annuity, or benefit in lieu of any annuity,	488
granted to a retirant.	489
(Q) "Pension reserve" means the present value, computed	490
upon the basis of mortality tables adopted by the school	491
employees retirement board, of all payments to be made on	492
account of any pension, or benefit in lieu of any pension,	493
granted to a retirant or a beneficiary.	494
(R) "Year" means the year beginning the first day of July	495
and ending with the thirtieth day of June next following.	496
(S) "Local district pension system" means any school	497
employees' pension fund created in any school district of the	498
state prior to September 1, 1937.	499
(T) "Employer contribution" means the amount paid by an	500
employer as determined under section 3309.49 of the Revised	501
Code.	502
(U) "Fiduciary" means a person who does any of the	503
following:	504
(1) Exercises any discretionary authority or control with	505
respect to the management of the system, or with respect to the	506

management or disposition of its assets;	507
(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;	508 509
(3) Has any discretionary authority or responsibility in the administration of the system.	510 511
(V) (1) Except as otherwise provided in this division, "compensation" means all salary, wages, and other earnings paid to a contributor by reason of employment. The salary, wages, and other earnings shall be determined prior to determination of the amount required to be contributed to the employees' savings fund under section 3309.47 of the Revised Code and without regard to whether any of the salary, wages, or other earnings are treated as deferred income for federal income tax purposes.	512 513 514 515 516 517 518 519
(2) Compensation does not include any of the following:	520
(a) Payments for accrued but unused sick leave or personal leave, including payments made under a plan established pursuant to section 124.39 of the Revised Code or any other plan established by the employer;	521 522 523 524
(b) Payments made for accrued but unused vacation leave, including payments made pursuant to section 124.13 of the Revised Code or a plan established by the employer;	525 526 527
(c) Payments made for vacation pay covering concurrent periods for which other salary or compensation is also paid or during which benefits are paid under this chapter;	528 529 530
(d) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the contributor or the contributor's family, or amounts paid by	531 532 533 534

the employer to the contributor in lieu of providing the 535
insurance; 536

(e) Incidental benefits, including lodging, food, laundry, 537
parking, or services furnished by the employer, use of the 538
employer's property or equipment, and reimbursement for job- 539
related expenses authorized by the employer, including moving 540
and travel expenses and expenses related to professional 541
development; 542

(f) Payments made to or on behalf of a contributor that 543
are in excess of the annual compensation that may be taken into 544
account by the retirement system under division (a) (17) of 545
section 401 of the "Internal Revenue Code of 1986," 100 Stat. 546
2085, 26 U.S.C.A. 401(a) (17), as amended. For a contributor who 547
first establishes membership before July 1, 1996, the annual 548
compensation that may be taken into account by the retirement 549
system shall be determined under division (d) (3) of section 550
13212 of the "Omnibus Budget Reconciliation Act of 1993," Pub. 551
L. No. 103-66, 107 Stat. 472; 552

(g) Payments made under division (B), (C), or (E) of 553
section 5923.05 of the Revised Code, Section 4 of Substitute 554
Senate Bill No. 3 of the 119th general assembly, Section 3 of 555
Amended Substitute Senate Bill No. 164 of the 124th general 556
assembly, or Amended Substitute House Bill No. 405 of the 124th 557
general assembly; 558

(h) Anything of value received by the contributor that is 559
based on or attributable to retirement or an agreement to 560
retire, except that payments made on or before January 1, 1989, 561
that are based on or attributable to an agreement to retire 562
shall be included in compensation if both of the following 563
apply: 564

(i) The payments are made in accordance with contract provisions that were in effect prior to January 1, 1986.	565 566
(ii) The employer pays the retirement system an amount specified by the retirement board equal to the additional liability from the payments.	567 568 569
(3) The retirement board shall determine by rule whether any form of earnings not enumerated in this division is to be included in compensation, and its decision shall be final.	570 571 572
(W) "Disability benefit recipient" means a member who is receiving a disability benefit.	573 574
(X) "Actuary" means an individual who satisfies all of the following requirements:	575 576
(1) Is a member of the American academy of actuaries;	577
(2) Is an associate or fellow of the society of actuaries;	578
(3) Has a minimum of five years' experience in providing actuarial services to public retirement plans.	579 580
Section 2. That existing sections 3307.01, 3307.05, and 3309.01 of the Revised Code are hereby repealed.	581 582
Section 3. Section 3307.05 of the Revised Code, as amended by this act, does not affect the terms of members of the State Teachers Retirement Board serving on the Board on the effective date of this section.	583 584 585 586
Section 4. The version of section 3307.01 of the Revised Code that is scheduled to take effect December 29, 2023, is presented in this act as a composite of the section as amended by both H.B. 33 of the 135th General Assembly and S.B. 131 of the 134th General Assembly. The General Assembly, applying the	587 588 589 590 591

principle stated in division (B) of section 1.52 of the Revised	592
Code that amendments are to be harmonized if reasonably capable	593
of simultaneous operation, finds that the composite is the	594
resulting version of the section in effect prior to the	595
effective date of the section as presented in this act.	596