



Ohio Legislative Service Commission

Final Analysis

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Sub. S.B. 341

129th General Assembly
(As Passed by the General Assembly)

Sens. Niehaus and Kearney, Bacon, Coley, Hite, Jones, Lehner, Seitz, Tavares

Reps. R. Adams, Amstutz, Anielski, Antonio, Baker, Barnes, Blair, Blessing, Boose, Boyce, Boyd, Buchy, Budish, Driehaus, Duffey, Fende, Foley, Gardener, Garland, Goyal, Grossman, Hackett, C. Hagan, R. Hagan, Heard, Henne, Hill, Letson, Lynch, Martin, McGregor, Milkovich, Murray, Newbold, Phillips, Pillich, Ramos, Reece, Roegner, Ruhl, Sears, Smith, Stebelton, Stinziano, Thompson, Wachtmann, Winburn, Yuko, Batchelder

Effective date: January 7, 2013; one provision effective June 24, 2013; Sections 3,4, and 6 effective December 26, 2012

This analysis has two parts. The first part describes all of the act's changes to laws governing the School Employees Retirement System (SERS). The second part is a table comparing to prior law significant changes in SERS plan features, including retirement eligibility and benefit formulas, disability benefits, and service credit purchases.

ACT SUMMARY

Retirement eligibility and formulas

- Maintains prior law's age and service eligibility requirements for members of the School Employees Retirement System (SERS) who before August 1, 2017 are eligible to retire under those eligibility requirements or, as of that date, will have at least 25 years of total service credit.
- Permits an SERS member who does not have 25 years of service credit as of August 17, 2017 to retire under prior law's age and service eligibility criteria if, not later than that date, the member pays an amount equal to the additional liability to SERS resulting from the member's retirement under those criteria.
- For all other members:

- Specifies retirement eligibility requirements, including a requirement that the member be at least age 57 with at least 30 years of service, but permits the SERS Board to adjust eligibility requirements if the Board's actuary determines that an adjustment is necessary to ensure that SERS meets amortization period requirements of continuing law.
- Reduces the retirement benefit of a member who retires with less than 30 years of service or under age 67 (instead of under age 65), and requires the SERS Board to direct its actuary to evaluate every five years, rather than every ten years, the actuarial equivalents used to determine the reduction.
- In each five-year period, rather than at least once every ten years, requires the SERS Board to direct its actuary to evaluate retirement eligibility requirements.
- Eliminates the commuted service calculation, which was an alternative to the final average salary method of calculating a retirement allowance.

ORSC report

- Requires the Ohio Retirement Study Council (ORSC) to study and make recommendations on the authority the act gives the SERS Board to adjust retirement eligibility requirements for certain members and submit to the Senate President and House Speaker a report of its findings and recommendations.

Disability

- Permits the SERS Board to consider a disability benefit application only if the disabling condition began before the member's contributing service terminated.
- Changes the effective date of SERS disability benefits to the later of (1) the date the most recent application for a disability benefit was filed (instead of the date the member was first incapacitated by the disabling condition) or (2) the last day for which compensation was paid.
- Provides that an SERS member is ineligible to apply for a disability benefit if (1) the disability was caused by a felony committed by the member or (2) the member is receiving a disability benefit under any other Ohio retirement system.
- Requires an SERS disability benefit recipient to obtain any vocational rehabilitation recommended by the SERS Board and submit reports regarding the rehabilitation. Provides that if the recipient fails to obtain rehabilitation or submit a report, the disability benefit is to be suspended and to be terminated if the failure to obtain rehabilitation or submit the report continues for one year.

- For an SERS member whose disability benefit effective date is after January 7, 2013 (the act's effective date), reduces to three years (from five) the number of years the member is considered to be on a leave of absence, except that the period may be up to five years if the SERS Board has recommended medical treatment or vocational rehabilitation and the member is receiving treatment or rehabilitation acceptable to SERS.
- Changes the standard for determining whether the disability benefit of a recipient whose benefit is granted after January 7, 2013, should be terminated so that once the leave of absence ends the benefit will end if the SERS Board determines that the recipient is capable of performing a job described in statute, instead of the recipient's former job.
- Requires a disability benefit recipient who is eligible for Social Security disability insurance (SSDI) payments to apply for it.
- Limits to two years the free retirement service credit an SERS member who returns to SERS covered employment after receiving a disability benefit may receive and permits the member to purchase credit for the remaining period of the disability benefit.

Service credit

- Requires a state retirement system member who is purchasing service credit for an employer-approved leave of absence that occurred during SERS membership to pay SERS both the employee and employer contributions plus compound interest on both.
- Limits the SERS service credit that may be purchased for an employer-approved leave of absence to two years for each period of leave and provides that not more than a total of five years can be purchased.

Coordination

- In the case of a Public Employees Retirement System (PERS), State Teachers Retirement System (STRS), or SERS member with service credit in more than one of those retirement systems, provides that eligibility for a disability benefit is to be determined by the system in which the member has the most service credit, which is the system that calculates and pays the benefit.
- Specifies the amounts that must be paid by PERS or STRS if service credit from one or both of those systems is used in the calculation of an SERS disability or retirement benefit.

Health care

- Revises the authority of SERS to offer health care coverage to retirees and dependents and authorizes the SERS Board to establish criteria for determining who is eligible for coverage.
- States explicitly that the law does not require SERS to establish, maintain, offer, or continue any health care program, provide any level of coverage, or provide access to a health care program.
- Authorizes the SERS Board to establish the monthly reimbursement for Medicare Part B premiums as long as it is not less than \$45.50.

Survivors

- Provides that to qualify for a survivor benefit beginning on or after January 7, 2013, a child must be under age 19 (instead of under age 18 or under age 22 if in school) or, regardless of age, have become incompetent prior to the member's death and prior to attaining age 19.
- Provides that if deceased or not located within 180 days the beneficiary of an SERS member ceases to qualify for any SERS survivor or death benefit and the person next in order of precedence qualifies as a beneficiary.

Defined contribution plans

- Permits, rather than requires, SERS to establish defined contribution plans for its members.

SERS Board

- Provides that the office of any SERS Board member, instead of the office of an employee member or a retirant member of the Board, who is convicted of or pleads guilty to specified offenses is deemed vacant. Specifies that a person who is convicted of or pleads guilty to the specified offenses is ineligible for election or appointment, instead of just for election, to the Board.
- Provides for reimbursement to a public employer for compensation paid to an employee member or a re-employed retirant member of the SERS Board for time spent in service to the Board.
- Requires that all members of the SERS Board, instead of only newly elected members and individuals appointed to fill vacancies, complete the orientation program component of the Retirement Board Member Education Program.

- Requires the SERS Board to require a person it contracts with for the investment or management of funds to comply with the global investment performance standards established by the Chartered Financial Analyst Institute, or a successor organization.

Employer penalties

- Revises the SERS employer penalty for failure to transmit to SERS employee or employer contributions to \$100 per day (rather than 6% per annum of the amount due).
- Establishes the following new penalties for SERS employers: (1) \$100 per day (not to exceed \$1,500 total) for failure to timely transmit payroll information and (2) \$50 per record per month (not to exceed \$300 total) for failure to transmit a detailed statement on an employee's prior service and personal information.
- Provides that the new penalties may be collected in the same manner as collection of amounts an employer has failed to pay the Employer's Trust Fund, including deducting penalties from state payments to the employer.

Records

- Specifies that the records the SERS Board may be made available for public inspection in either printed or electronic format.
- Includes the e-mail address of an SERS member in the member's personal history record, which is excluded from public inspection.
- Requires that, on written request, medical reports and recommendations required by SERS be made available to the individual concerned.

Campaign finance

- Makes the SERS Board campaign finance reporting amounts consistent with general election reporting amounts.
- Requires each individual, partnership, or other entity that makes an independent expenditure in connection with a candidate's efforts to be elected to fill a vacancy on the SERS Board to file with the Secretary of State a statement detailing the expenditures.
- Establishes a time limit of two years for filing complaints with the Ohio Elections Commission for SERS campaign finance violations, except that if the alleged violation involves fraud, concealment, or misrepresentation and was not discovered

during that two-year period, a complaint may be filed within one year after discovery of the alleged violation.

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CONTENT AND OPERATION

Retirement eligibility

A member of the School Employees Retirement System (SERS) whose membership began before May 14, 2008, is eligible under law retained in part by the act



to retire at age 60 with at least five years of service credit or at any age with at least 30 years of service credit.¹ The member may retire under an alternative benefit formula (commuted service retirement) at age 55 with at least 25 years of service credit.² The act eliminates commuted service retirement (see "**Commuted service retirement**," below) and instead provides for regular service retirement at age 55 with at least 25 years of service credit. The act retains the eligibility requirements applicable to those whose membership began before May 14, 2008 (1) for members who are eligible to retire before August 1, 2017 under those requirements and (2) for members who as of that date have at least 25 years of service credit. In addition, it permits a member who does not have 25 years of service credit by August 1, 2017, to retire under those criteria if the member pays SERS an amount equal to the additional liability to SERS resulting from the member's retirement under those criteria.

Under law retained in part by the act, an SERS member whose membership began on or after May 14, 2008, is eligible to retire by meeting one of the following sets of criteria:

- (1) Has attained age 62 with at least 10 years of service credit;
- (2) Has attained age 60 with at least 25 years of service credit;
- (3) Has attained age 55 with at least 30 years of service credit.

The act extends these criteria to members who on August 1, 2017, have less than 25 years of service credit (and do not pay SERS for the additional liability), except that it makes the minimum age for retirement with at least 30 years of service credit age 57. Furthermore, it permits the SERS Board, by rule it adopts, to adjust eligibility requirements for members in this group if an evaluation by the Board's actuary determines that an adjustment is necessary to ensure that SERS meets the 30-year requirement of continuing law for amortization of its unfunded actuarial accrued pension liability.

The act requires the SERS Board to direct its actuary to evaluate retirement eligibility requirements in each five-year period (rather than at least once every ten years). The Board, in consultation with its actuary, is to adopt rules to implement the act's retirement eligibility provisions.³

¹ R.C. 3309.34.

² R.C. 3309.38 (repealed).

³ R.C. 3309.34.

ORSC report

The act requires the Ohio Retirement Study Council (ORSC) to study and make recommendations on the authority the act gives the SERS Board to adjust retirement eligibility requirements for members who on August 1, 2017, have less than 25 years of service credit or do not pay to SERS the additional liability. Not later than April 7, 2013, the Council must prepare and submit to the Senate President and House Speaker a report of its findings and recommendations.⁴

Benefit formulas

Unreduced retirement allowance

A member granted an unreduced retirement benefit (regardless of when SERS membership began) receives an allowance of the greater of the following:

(1) The sum of an annuity having a reserve equal to the amount of the employee's accumulated contributions, a pension of equivalent amount, and an additional pension of \$40 multiplied by the number of years of prior service credit (credit for service prior to 1937).⁵

(2) 2.2% of the member's final average salary (FAS)⁶ for each of the member's first 30 years of service, plus 2.5% of FAS for each year of service beyond 30 years.⁷

For an allowance based on a pension and annuity as described in (1) above, the act eliminates the additional pension of \$40 multiplied by years of prior service credit.⁸

Reduced retirement allowance

Under continuing law, an SERS member may retire early and receive a reduced retirement allowance.

For SERS members whose membership began before May 14, 2008, the retirement allowance is reduced if the member retires before age 65 or with less than 30

⁴ Section 5. Since April 7, 2013 is a Sunday, under R.C. 1.14, the report will be timely if filed not later than April 8, 2013.

⁵ An additional amount is provided for credit earned prior to October 1, 1956.

⁶ Final average salary is the average of the three highest years of contributions (R.C. 3309.01, not in the act).

⁷ R.C. 3309.36(A) and (B)(1).

⁸ According to SERS staff, there are no longer any SERS members who qualify for this service credit.

years of service credit. The act retains this provision for those who have 25 years of service as of August 1, 2017, or make the payment to SERS described above. Under continuing law, the allowance for early retirement is determined by a percentage reduction specified in the Revised Code that is based on years of service credit or attained age.⁹

For all others, the retirement allowance is reduced if the member retires with less than 30 years of service credit or before age 67. Under the act, the retirement allowance is reduced to be the actuarial equivalent of the member's retirement allowance, had the member retired at age 67 (rather than age 65 as under prior law) or with 30 years of service credit. As under continuing law, the reduction cannot be greater than a specified percentage provided for in the Revised Code, which ranges from 5% with 29 years of service to 25% with 25 years of service.¹⁰

The act requires the SERS Board to direct its actuary to evaluate the actuarial equivalents used to determine the reduction at least once every five (rather than ten) years. Continuing law permits the Board to adjust the equivalents in accordance with the actuary's recommendations.¹¹

Commuted service retirement

The act eliminates commuted service retirement, which was an alternative way to calculate a retirement allowance. An SERS member was eligible for commuted service retirement at age 55 with at least 25 years of service credit. Under commuted service retirement, a member received an allowance consisting of:

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

(2) A pension of equivalent amount;

(3) An additional pension for certain prior service; and

(4) For members who had ten or more years of service credit accumulated prior to October 1, 1956, a basic annual pension equal to \$180, except that that annual pension could not exceed the sum of (1), (2), and (3), above.

⁹ The reduction ranges from 3% to 25%. For instance, an SERS member who has 29 years of service credit and retires before age 65 receives a 5% reduction, or 95% of the unreduced benefit.

¹⁰ R.C. 3309.36(B)(2) and (3).

¹¹ R.C. 3309.36(D).

The calculation for a commuted service retirement was not used if the normal retirement benefit was higher.¹²

Disability benefits

Under continuing law, an SERS member who has five years of service credit has coverage for long-term disability.

Eligibility

The act changes when a member's disabling condition must have occurred for the member to be eligible for an SERS disability benefit. Instead of prior law's requirement that the disabling condition have occurred since last becoming a member, the act provides the disability must have occurred before the member's contributing service terminated and since last becoming a member.¹³

The act provides that an SERS member is ineligible for a disability benefit if (1) SERS determines that the disability was caused by (a) a felony the member was convicted of, pled guilty to, or was found not guilty of by reason of insanity or (b) an act for which the member was adjudicated a delinquent child, that if committed by an adult, would be a felony or (2) the member is receiving a disability benefit under any other Ohio retirement system.¹⁴

Effective date of disability benefits

The act changes the effective date of SERS disability benefits to the later of (1) the date the most recent application for a disability benefit was filed (instead of the date the member was first incapacitated by the disabling condition) or (2) the last day for which compensation was paid.¹⁵

Vocational rehabilitation

The act retains the provision under which an SERS disability benefit recipient must obtain any medical treatment recommended by the SERS Board and submit reports regarding the treatment. It adds a provision requiring a recipient to obtain any vocational rehabilitation recommended by the Board and submit reports regarding the rehabilitation. The act provides that if a recipient fails to obtain rehabilitation or submit

¹² R.C. 3309.38 (repealed).

¹³ R.C. 3309.39(C).

¹⁴ R.C. 3309.39(B)(1).

¹⁵ R.C. 3309.39(B)(2).

a report, the disability benefit is to be suspended. It is to be terminated if the failure to obtain rehabilitation or submit the report continues for one year.¹⁶

Leave of absence

Under law retained in part by the act, an SERS disability benefit recipient retains membership status and is considered on leave of absence from employment during the first five years following the effective date of a disability benefit. The act retains this provision for disability benefit recipients whose benefit effective dates are before January 7, 2013.

A disability benefit recipient whose benefit effective date is on or after January 7, 2013, retains membership status and is considered on leave of absence from employment during the first three years following the benefit effective date. However, if the SERS Board has recommended medical treatment or vocational rehabilitation and the recipient is receiving treatment or rehabilitation acceptable to the Board, the Board may permit the recipient to retain membership status and be considered on leave of absence from employment for up to five years following the benefit effective date.¹⁷

Termination of disability benefit

Disability benefit recipients are subject to annual medical examination. On completion of an examination, law retained in part by the act requires the SERS Board's physician or physicians to certify whether the recipient is no longer physically and mentally incapable of resuming the service from which the recipient was found disabled. If the recipient is no longer incapable, the disability benefit is terminated. The act retains this standard for any recipient whose benefit effective date is before January 7, 2013, or, if after that date, the recipient has been receiving the benefit for up to three years or is receiving medical treatment or vocational rehabilitation acceptable to the Board.

The act establishes a new standard for a recipient to whom all of the following apply: (1) the recipient's benefit effective date is on or after January 7, 2013, (2) the recipient's benefit has been paid for more than three years, and (3) the recipient is not receiving medical treatment or vocational rehabilitation acceptable to the Board. Under the new standard, the disability benefit will be terminated if the recipient is not physically or mentally incapable of performing the duties of a position that meets all of the following criteria:

¹⁶ R.C. 3309.39(F) and (G).

¹⁷ R.C. 3309.41(A).

- (1) Replaces not less than 75% of the member's final average salary, adjusted each year by the actual average increase in the Consumer Price Index;
- (2) Is reasonably to be found in the member's regional job market;
- (3) Is one that the member is qualified for by experience or education.¹⁸

Social Security disability insurance offset

SERS members who are also employed in the private sector or have earned Social Security coverage through prior employment may be eligible for disability benefits through Social Security's disability insurance (SSDI) program.

The act requires an SERS disability benefit recipient whose benefit is granted on or after January 7, 2013, to apply for SSDI payments if the recipient is eligible for them. The application must be made not later than 90 days after the recipient is granted an SERS disability benefit unless the SERS Board determines from the member's medical records that the member is physically or mentally unable to make the application.

Under the act, an SERS disability benefit recipient who is required to apply for SSDI must file with SERS a copy of the completed application and a copy of Social Security's acknowledgement of receipt of the application. SERS must accept the copy and acknowledgement as evidence of application. If a recipient fails without just cause to apply for SSDI or to file a copy of the application and acknowledgement, the recipient's disability benefit is to be suspended until application is made and a copy of the application and acknowledgement is filed. The recipient must also file with SERS a copy of the final action taken on the application for SSDI payments.¹⁹

Service credit for period of disability

Under prior law, an SERS disability benefit recipient who returned to employment covered by SERS, the Public Employees Retirement System (PERS), or State Teachers Retirement System (STRS) and completed an additional two years of contributing service received free service credit for the period of the disability benefit. The act limits to two years the free service credit that an SERS member may receive but permits the member to purchase credit for the remaining period of the disability benefit.

The cost of each year of purchased credit is the sum of: (1) the employee contribution rate in effect when the disability benefit commenced multiplied by the member's annual disability benefit, (2) the employer contribution rate in effect when the

¹⁸ R.C. 3309.41(C).

¹⁹ R.C. 3309.392.

disability benefit commenced multiplied by the member's annual disability benefit, and (3) interest compounded annually at a rate determined by the SERS Board. The member may choose to purchase only part of the credit in any one payment, subject to Board rules.²⁰

Service credit for employer-approved leave of absence

Prior law permitted an SERS member who was out of service due to illness, injury, or other employer-approved reason to purchase service for the period the member was out of service. The act instead permits all state retirement system members to purchase service credit for employer-approved leaves of absence that occur during SERS membership. Under the act, a period of leave commences on the first day for which employee and employer contributions were not made and ends on the earlier of the termination of the leave or the member's return to contributing service.

The act increases the cost of each year of credit to the sum of the following: (1) an amount determined by multiplying the compensation the member would have received during the leave by the employee contribution rate in effect at that time, (2) an amount determined by multiplying the compensation the member would have received during the leave by the employer contribution rate in effect at that time, and (3) interest compounded annually at a rate determined by the SERS Board.²¹ Under prior law, the cost of the credit was the employee contribution that the member would have paid during the period the member was out of service.²²

The act limits the service credit that may be purchased to two years for each period of leave. Credit may be purchased for more than one period of leave, but the total purchase is limited to the lesser of five years or the member's years of service as an SERS contributor.²³ Under prior law, there was no limit on the number of years of service that could be purchased.²⁴

Coordination of benefits

The laws governing SERS, the Public Employees Retirement System (PERS), and the State Teachers Retirement System (STRS) provide for coordination of benefits. The

²⁰ R.C. 3309.41(G).

²¹ R.C. 3309.474.

²² R.C. 3309.47.

²³ R.C. 3309.474(D).

²⁴ R.C. 3309.47.

benefits are considered coordinated because service credit earned in two or all three of these retirement systems can be combined to determine eligibility for a disability or retirement benefit and the amount of the benefit.

Under the act, eligibility for a disability benefit is to be determined by the board of the retirement system in which the member has the most service credit, which is the system that will calculate and pay the benefit. The retirement system calculating and paying the benefit must certify the determination to the board of each other retirement system in which the member has service credit and is to be accepted by that board as sufficient for granting a disability benefit. Prior law provided that in determining eligibility for a disability benefit, the medical examiner's report to the retirement board of SERS, PERS, or STRS was to be accepted by the boards of all of those systems.²⁵

The act specifies the amounts that must be paid by PERS or STRS if service credit from one or both of those systems is used in the calculation of an SERS disability or retirement benefit. For each year of service, the act requires SERS to receive from PERS, STRS, or both of those systems all of the following:

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

(2) An amount equal to the lesser of the employer's contributions made on behalf of the member to PERS or STRS for that year of service or the amount that would have been contributed had the member been an SERS member at the time the credit was earned;

(3) If applicable, an amount equal to the amount paid on behalf of the member by a PERS employer for delinquent contributions;

(4) Compound interest on the amounts specified above.²⁶

Prior law required the retirement system that would be determining and paying the benefit to receive from the other retirement system or systems the member's refundable account at retirement or the effective date of a disability benefit plus an amount from that system's employers' accumulation fund equal to the member's refundable account, less interest.

²⁵ R.C. 3309.35(B).

²⁶ R.C. 3309.35(B)(5)(a).

Health care

Offer of health care

The act makes an explicit statement that the Revised Code section authorizing the SERS Board to provide health care coverage does not require the Board "to establish, maintain, offer, or continue any health care program." It provides that the section does not require the Board "to provide or continue access to any health care program, or any level of coverage or costs provided under the program, if the Board establishes or maintains a program." SERS may, under continuing law, provide health insurance coverage to SERS retirement and disability benefit recipients and their dependents and to survivors of members, but is not required to do so.²⁷

Coverage

The act revises the authority of SERS to offer health care coverage and authorizes the SERS Board to establish criteria and other requirements for participation. It explicitly authorizes the SERS Board to establish a program to provide medical, hospital, surgical, prescription, or other health care coverage, benefits, reimbursement, or any combination of the above, to eligible individuals or dependents. Any health care program is to be designed and administered by the Board.

The act expands what the SERS Board is explicitly authorized to do in providing health care coverage to eligible participants by authorizing it to do the following: (1) provide reimbursements or subsidies to eligible participants, (2) make disbursements, (3) determine levels of coverage and costs for the program, and (4) take any other action it considers necessary to establish and administer the program. It authorizes the Board to enter into agreements with persons or government agencies (rather than insurance companies, health insuring corporations, or government agencies) to provide health care coverage to participants it retains a provision under which the Board may provide for self-insurance of risk and provide specific benefits through self-insurance.

If it establishes a health care program, the act requires the Board to establish eligibility criteria and other requirements for participation. To be eligible, an individual must meet criteria established by the Board and be one of the following: (1) a former member receiving age and service retirement or disability benefits, (2) a beneficiary receiving monthly benefits or a beneficiary of a former member receiving monthly benefits, or (3) a dependent as determined under rules adopted by the Board. Under

²⁷ R.C. 3309.69(H).

prior law, to be eligible for health care coverage a former member must have had at least ten years of qualifying service credit.

The act specifies that the Board may require payment of a premium for participation and that participation is deemed consent for the deduction of premiums from any pension, benefit, or annuity paid to a participant. It requires an individual who fails to pay any required premium or receives any coverage or payment to which the individual is not entitled to pay or repay the amount due SERS. If the individual fails to pay or repay the amount due, SERS is authorized to withhold the amount from any pension, benefit, annuity, or payment due the individual or the individual's beneficiary or to collect the amount in any other manner provided by law.²⁸

Medicare Part B

Continuing law requires the SERS Board to reimburse retirement and disability benefit recipients for premiums paid for Medicare Part B. (Medicare Part B typically covers outpatient health care expenses, including physician services.) Under prior law, the amount of the reimbursement was the lesser of the basic premium or the basic premium in effect on January 1, 1999. The act requires that an SERS health care program participant who is eligible for Medicare Part B enroll in Part B coverage. It authorizes the SERS Board to determine the monthly Part B reimbursement as long as it is not less than \$45.50.²⁹ The act also prohibits the Board from reimbursing a participant who is ineligible for Part B or from paying an amount that exceeds the amount the recipient paid for coverage.³⁰

Survivor benefits

If an SERS member dies prior to retirement, qualified survivors are eligible for survivor benefits. Qualified survivors are the member's surviving spouse, children, and dependent parents. To qualify for survivor benefits under law retained in part by the act, a child must never have been married and be (1) under age 18 or under age 22 if attending school or (2) any age if physically or mentally incompetent if the incompetence existed prior to the member's death and prior to the child attaining age 18 or under age 22 if in school. The act retains this provision for those whose SERS survivor benefits begin before January 7, 2013.

²⁸ R.C. 3309.69(A) to (D).

²⁹ The standard 2012 Medicare Part B monthly premium is \$99.90. (Medicare.gov, *Medicare Monthly Premiums*, last visited October 3, 2012, available at <<http://www.medicare.gov/cost/>>.)

³⁰ R.C. 3309.69(E).

The act provides that for those whose survivor benefit begins on or after January 7, 2013, to qualify for survivor benefits, a child must never have been married and be (1) under age 19 or (2) any age if physically or mentally incompetent if the incompetence existed prior to the member's death and prior to the child attaining age 19.³¹

Beneficiaries

The beneficiary of an SERS member is the person designated by the member on a form filed with SERS or, if there is not a valid designation, a statutory beneficiary. The statutory beneficiaries are the member's surviving spouse, children, dependent parents, parents, and estate, in that order of precedence. The act provides that a beneficiary who is deceased or is not located within 180 days ceases to qualify for any SERS survivor or death benefit and the person next in order of precedence qualifies as a beneficiary.³²

Defined contribution plans

Prior law required SERS to establish one or more defined contribution plans for its members. The act permits, rather than requires, SERS to establish defined contribution plans. Under a defined contribution plan, a member directs the investment of member and employer contributions and receives retirement benefits based solely on contributions and investment earnings.³³

SERS Board

Membership

Under continuing law, the SERS Board consists of the following members:

- (1) One investment designee, appointed by the Treasurer of State;
- (2) Four employee members, elected by SERS members;
- (3) Two retirant members, elected by former SERS members receiving SERS retirement or disability benefits;
- (4) Two investment expert members, one appointed by the Governor and one appointed jointly by the Speaker of the House and the President of the Senate.³⁴

³¹ R.C. 3309.45.

³² R.C. 3309.44 and 3309.50.

³³ R.C. 3309.81.

³⁴ R.C. 3309.05.

The act provides that the office of any SERS Board member who is convicted of or pleads guilty to committing a felony or theft offense, or violating certain ethics laws is considered vacant. Under prior law, the automatic vacancy provision applied only to the employee and retirant Board members. The act also specifies that a person who is convicted of or pleads guilty to the above offenses is ineligible for election or appointment (instead of only ineligible for election) to the Board.³⁵

Reimbursement for loss of compensation

The act specifies that an SERS Board member is not to be subject to disciplinary action by an employer for absence from the member's employment for service to the Board.

The act provides that a public employer is to be reimbursed by SERS for any compensation paid to an employee member or a re-employed retirant member of the Board for time spent in service to the Board. Under prior law, all Board members were entitled to compensation from SERS for any loss of compensation as a result of serving on the Board.³⁶

Term

The act requires appointed members of the SERS Board (the Treasurer's designee and the investment expert members) to hold office until the later of the end of the member's term or the date the member's successor takes office. Prior law required an investment expert member appointed to fill a vacancy prior to the end of a term to hold office until the earlier of the date the member's successor took office or until 60 days had elapsed.³⁷

Board member education

The Retirement Board Member Education Program is comprised of two components: an orientation component for newly elected and appointed board members and a continuing education component for board members who have served for at least one year. The act requires that all members of the SERS Board (instead of newly elected members and individuals appointed to fill a vacancy) complete, not later

³⁵ R.C. 3309.061.

³⁶ R.C. 3309.10.

³⁷ R.C. 3309.05.

than 90 days after commencing service on the Board, the orientation component of the Program.³⁸

Investment performance reports

The act requires the SERS Board to require a person it contracts with for the investment or management of funds to comply with the global investment performance standards established by the Chartered Financial Analyst Institute, or a successor organization (instead of the performance presentation standards established by the Association for Investment Management and Research).³⁹

Employer penalties

The act revises the penalty that applies to SERS employers for failure to transmit to SERS employee or employer contributions. Under the act, the penalty is \$100 per day for failure to transmit employee or employer contributions by the date specified under rules adopted by the SERS Board.⁴⁰ Under prior law, the penalty was an amount equal to 6% annual interest on the total amount due if the amount was received later than 30 days after the end of the month in which it was due.⁴¹

The act also establishes new penalties for SERS employers of (1) \$100 per day (not to exceed \$1,500) for failure to submit, complete, or correct any payroll information or other required report by the date specified under rules adopted by the Board and (2) \$50 per record per month (not to exceed \$300) for failure to transmit to SERS within 30 days of an employee commencing employment a detailed statement of an employee's personal information, prior SERS and other state retirement system service, and other information required by the Board.⁴²

The act provides that the above penalties may be collected in the same manner as amounts an employer has failed to pay to the Employer's Trust Fund are collected, including deducting amounts from state payments to the employing school district.⁴³

³⁸ R.C. 3309.051.

³⁹ R.C. 3309.15.

⁴⁰ R.C. 3309.571(A) and (B).

⁴¹ R.C. 3309.571 (repealed).

⁴² R.C. 3309.571(C) and (D).

⁴³ R.C. 3309.571.

Records

The act specifies that the records of the SERS Board may be made available for public inspection in either printed or electronic format.⁴⁴

It provides that personal history records may be maintained in any format and includes e-mail addresses in personal history records, which are generally exempt from public inspection under the public records law. "Personal history record" under continuing law includes the following information related to a member, former member, contributor, former contributor, retirant, or beneficiary: address, telephone number, Social Security number, record of contributions, correspondence with SERS, and any other information deemed confidential by SERS.⁴⁵

The act requires that, on written request, copies of medical reports and recommendations required by SERS are to be made available to the individual concerned, as well as to others specified in prior law. Under prior law, these medical reports and recommendations could be made available only to the personal physician, attorney, or authorized agent of the individual concerned and to the Board-assigned physician.⁴⁶

Campaign finance

Campaign finance disclosure statements

Continuing law requires a candidate who receives contributions or in-kind contributions totaling \$1,000 or more or has expenditures of \$1,000 or more in connection with the candidate's efforts to be elected to the SERS Board to file with the Secretary of State's Office two campaign finance disclosure statements detailing the contributions and expenditures. However, if a candidate was seeking to fill a vacancy on the Board, prior law required the statements to be filed if the candidate received any contributions or had any expenditures.⁴⁷

The disclosure statements must detail the contributions, in-kind contributions, and expenditures made. The act provides that every expenditure over \$25 (instead of

⁴⁴ R.C. 3309.22(A)(2).

⁴⁵ R.C. 3309.22(A)(1).

⁴⁶ R.C. 3309.22(B).

⁴⁷ R.C. 3309.072.

every expenditure, regardless of the amount) must be vouched for by a receipted bill stating the purpose of the expenditures and filed with the disclosure statements.⁴⁸

The act eliminates the distinction between seeking to be elected to the Board and seeking to be elected to fill a vacancy on the Board. Under the act, a candidate seeking to fill a vacancy is required to file the disclosure statements only if the candidate receives \$1,000 or more in contributions or in-kind contributions or has \$1,000 or more in expenditures (instead of any amount of contributions or expenditures).⁴⁹

Independent expenditure disclosure statements

The act requires that each individual, partnership, or other entity that makes an independent expenditure in connection with a candidate's efforts to be elected to fill a vacancy on the SERS Board file with the Secretary of State an itemized statement detailing the expenditures. Under prior law, a statement regarding independent expenditures had to be filed only in connection with efforts to be elected to the Board.

The act specifies that the statement must be made on a form prescribed by the Secretary of State. The statement must be filed not later than 38 days after the day the candidate takes office and reflect expenditures made to the close of business on the seventh day after the day the candidate takes office.⁵⁰

Complaints

Continuing law permits the Secretary of State or any person with personal knowledge to file a complaint with the Ohio Elections Commission for SERS campaign finance violations. The act establishes a time limit of two years for filing complaints after the alleged violation occurs, except that if the alleged violation involves fraud, concealment, or misrepresentation and was not discovered during that two-year period, a complaint may be filed not later than one year after discovery of the alleged violation. Under prior law, there was no time limit for filing complaints.⁵¹

Technical changes and clarifications

The act makes the following technical corrections and clarifications:

⁴⁸ R.C. 3309.072(B) and (D).

⁴⁹ R.C. 3309.072(D).

⁵⁰ R.C. 3309.072(E).

⁵¹ R.C. 3309.074.

- Provides that the employer (rather than employee) is to file a statement on each employee's previous service and personal information.⁵²
- Removes an obsolete provision regarding an annual fee to be charged to an SERS member's account.⁵³
- Corrects cross-references to Revised Code sections.

Effective dates

While the 90-day effective date of the act is December 26, 2012, most of its substantive provisions take effect January 7, 2013. The exception to the January 7, 2013, effective date is that the provision authorizing the SERS Board to adjust retirement eligibility requirements for certain members, which takes effect June 24, 2013.⁵⁴

School Employees Retirement System (SERS)

	Prior law	The act
Member contributions (R.C. 3309.47)	Member contributes 10% of salary.	No change.
Retirement eligibility (R.C. 3309.34 and 3309.36)	<p>For those whose membership began <u>before</u> May 14, 2008, service retirement with 5 years of service credit at age 60 or a total of 30 years of service credit.</p> <p>For those whose membership began <u>on or after</u> May 14, 2008, service retirement with 10 years of service credit at age 62, 25 years of service credit at age 60, or 30 years of service credit at age 55.</p>	<p>Members who as of August 1, 2017, will have at least 25 years of service credit (or pay an amount equal to the additional liability to SERS) or before that date are eligible to retire under the requirements of prior law – prior law's age and service credit requirements, including reduction of the retirement allowance unless the member is age 65 or has at least 30 years of service credit.</p> <p>All other members – age 62 with at least 10 years of service credit; age 60 with at least 25 years of service credit; or age 57 with at least 30 years of service credit, but the benefit is reduced unless the member is age 67 or has at least</p>

⁵² R.C. 3309.28.

⁵³ R.C. 3309.47.

⁵⁴ Sections 3 and 4.

	Prior law	The act
	Commutated service retirement with 25 years of service credit at age 55.	30 years of service credit. Also authorizes the SERS Board to adjust eligibility requirements to meet amortization period requirements. Commutated service retirement repealed, but provides for normal service retirement at age 55 with 25 years of service credit.
Benefit calculation (R.C. 3309.36)	2.2% final average salary (FAS) for each of the first 30 years of service plus 2.5% for each additional year of service. (The allowance cannot exceed 100% of the member's FAS.)	No change.
Final average salary (FAS) (R.C. 3309.01)	Calculated by averaging the highest three years of contributing service.	No change.
Cost-of-living adjustment (COLA) (R.C. 3309.374)	An annual cost-of-living adjustment (COLA) of 3% is granted to any allowance provided by the system.	No change.
Disability (R.C. 3309.39, 3309.392, and 3309.41)	No provision. A disability recipient is considered to be on a leave of absence for five years. No provision.	Benefit that would be granted on or after January 7, 2013, forfeited if the disability was caused by a felony. For the recipient of a benefit effective on or after January 7, 2013, (1) reduces the leave of absence to three years unless the recipient is receiving recommended medical treatment or vocational rehabilitation and (2) provides that once the leave of absence expires, eligibility for a disability benefit ceases if the recipient is capable of performing a job that meets certain criteria. Requires a disability benefit recipient who is eligible for Social Security disability insurance (SSDI) to apply for it.

HISTORY

ACTION	DATE
Introduced	05-08-12
Reported, S. Insurance, Commerce & Labor	05-16-12
Passed Senate (33-0)	05-16-12
Reported, H. Health & Aging	09-10-12
Passed House (94-0)	09-12-12
Senate concurred in House amendments (32-0)	09-12-12

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