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(119th General Assembly)
(Amended Substitute House Bill Number 180)

AN ACT

To amend sections 3307.01, 3307.281, 3307.40, and 3309.27 and to enact sections 3307.013, 3307.741, and 3309.691 of the Revised Code to require the State Teachers Retirement System to exclude certain amounts from final average salary for the purpose of determining retirement benefits and to authorize the State Teachers Retirement System and School Employees Retirement System to establish programs under which members, and employers on behalf of members, are permitted to participate in contracts for long-term health care benefits for members and their families.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3307.01, 3307.281, 3307.40, and 3309.27 be amended and sections 3307.013, 3307.741, and 3309.691 of the Revised Code be enacted to read as follows:

Sec. 3307.01. As used in this chapter:

(A) "Employer" means the board of education, school district, college, university, institution, or other agency within the state by which a teacher is employed and paid.

(B) "Teacher" means any person paid from public funds and employed in the public schools of the state under any type of contract described in section 3319.08 of the Revised Code in a position for which he is required to have a certificate issued pursuant to sections 3319.22 to 3319.31 of the Revised Code; and any other teacher or faculty member employed in any school, college, university, institution, or other agency wholly controlled and managed, and supported in whole or in part, by the state or any subdivision thereof, including Central state university, Cleveland state university, the university of Toledo, and the medical college of Ohio at Toledo. The educational employees of the department of education, as determined by the state superintendent of public instruction, shall be considered teachers for the purpose of membership in this system. In all

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

(C) "Prior service" means all service as a teacher before September 1, 1920, military service credit, all service prior to September 1, 1920, as an employee of any employer who comes within the public employees retirement system, the school employees retirement system, or any other state retirement system established under the laws of Ohio, and similar service in another state, credit for which was procured by a member under section 3307.33 of the Revised Code, prior to June 25, 1945. Prior service credit shall not be granted to any member for service for which credit or benefits have been received in any other state retirement system in Ohio or for credit that was forfeited by withdrawal of contributions, unless such credit has been restored. If the teacher served as an employee in any two or all of the capacities, "prior service" means the total combined service in the capacities prior to September 1, 1920.

If a "teacher," who has been granted prior service credit for service rendered prior to September 1, 1920, as an employee of an employer who comes within the public employees retirement system or the school employees retirement system, establishes, subsequent to September 16, 1957, and before retirement, three years of contributing service in the public employees retirement system, or one year in the school employees retirement system, then the prior service credit granted shall become, at retirement, the liability of such other system, if the prior service or employment was in a capacity which is covered by that system.

(D) "Total service," "total service credit," except as provided in section 3307.41 of the Revised Code, or "Ohio service credit" means all service of a member of the state teachers retirement system since last becoming a member and, in addition thereto, restored service credit under section 3307.28, all prior service credit, all military service credit under sections 3307.02 and 3307.021, and all other service credit established under sections 3307.31, 3307.32, 3307.35, 3307.411, 3307.51, 3307.512, 3307.513, and 3307.73 and former section 3307.52 of the Revised Code and Section 3 of Amended Substitute Senate Bill No. 530 of the 114th general assembly. All service credit purchased under section 3307.33 of the Revised Code shall be used exclusively for the purpose of qualifying for service retirement.

(E) "Member" means any person included in the membership of the state teachers retirement system, which shall consist of all teachers and contributors as defined in divisions (B) and (F) of this section. However, for purposes of this chapter, the following persons shall not be considered members:

(1) Students, interns, and residents who are employed on a part-time basis at state colleges and universities and who are not contributors as defined in division (F) of this section.

(2) Persons exempted from membership pursuant to section 3307.25 of the Revised Code.

(F) "Contributor" means any person who has an account in the teachers' savings fund.

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

(H) "Service retirement" means retirement as provided in section 3307.38 of the Revised Code.

(I) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the teachers' savings fund, together with interest credited thereon at the rates approved by the state teachers retirement board prior to retirement.

(J) "Final average salary" means the sum of the annual compensation for the three highest years of compensation for which contributions were made by the member, divided by three. If the member has a partial year of contributing service in the year in which he terminates his employment and such partial year is at a rate of compensation which is higher than the rate of compensation for any one of the highest three full years of annual compensation, the board shall substitute the compensation earned for such partial year for the compensation earned for a similar fractional portion in the lowest of the three high years of annual compensation before dividing by three. If a member has less than three years of contributing membership, the final average salary shall be the total compensation during such period divided by the total number of years, including any fraction of a year, of contributing membership during that period.

For the purpose of calculating benefits payable to a member qualifying for service credit under division (S) of this section, final average salary means total compensation as a teacher covered under this chapter divided by the total number of years, including any fraction of a year, of contributing membership during that period. If contributions were made for less than twelve months, the final average salary means the total amount of compensation paid to the member during all periods of contributions under this chapter.

(K) "Annuity" means payments for life derived from contributions made by a contributor and paid from the annuity and pension reserve fund. All annuities shall be paid in twelve equal monthly installments.

(L)(K) "Pensions" means annual payments for life derived from appropriations made by an employer and paid from the annuity and pension reserve fund. All pensions shall be paid in twelve equal monthly installments.

(M)(L) "Allowance" or "benefit" means the pension plus the annuity, or any other payment under this chapter.

(N)(M) "Annuity reserve" means the present value, computed upon the basis of mortality tables adopted by the state teachers retirement board with interest, of all payments to be made on account of any annuity, or benefit in lieu of any annuity, granted to a member.

(O)(N) "Pension reserve" means the present value, computed upon the basis of mortality tables adopted by the state teachers retirement board with interest, of all payments to be made on account of any pension, or benefit in lieu of any pension, granted to a member or to a beneficiary.

(P)(O) "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, "year" may mean the contract year.

~~(Q)~~(P) "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.

~~(R)~~(Q) "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.

~~(S)~~(R) "Five years of service credit," for the exclusive purpose of satisfying the service credit requirements and determining eligibility for benefits under section 3307.38 of the Revised Code, 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.

~~(T)~~(S) "Actuary" means the actuarial consultant to 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.

~~(U)~~(T) "Fiduciary" means:

- (1) A person who 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; or
- (2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system; or
- (3) Has any discretionary authority or responsibility in the administration of the system.

~~(V)~~(U)(1) Except as otherwise provided in this division, "compensation" means all salary, wages, and other earnings paid to a member by reason of his employment, including compensation paid pursuant to a supplemental contract. Such salary, wages, and other earnings shall be determined prior to determination of the amount required to be contributed to the teachers' savings fund under section 3307.51 of the Revised Code and without regard to whether any of such salary, wages, or other earnings are treated as deferred income for federal income tax purposes.

(2) Compensation does not include any of the following:

(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;

(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;

(c) Payments made for vacation pay covering concurrent periods for which other salary, compensation, or benefits under this chapter are paid;

(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 member or his family or amounts paid by the employer to the member in lieu of providing such insurance;

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

(f) PAYMENTS MADE BY THE EMPLOYER IN EXCHANGE FOR A MEMBER'S WAIVER OF A RIGHT TO RECEIVE ANY PAYMENT, AMOUNT, OR BENEFIT DESCRIBED IN DIVISION (U)(2) OF THIS SECTION;

(g) PAYMENTS BY THE EMPLOYER FOR SERVICES NOT ACTUALLY RENDERED;

(h) ANY AMOUNT PAID BY THE EMPLOYER AS A RETROACTIVE INCREASE IN SALARY, WAGES, OR OTHER EARNINGS, UNLESS THE INCREASE IS ONE OF THE FOLLOWING:

(i) A RETROACTIVE INCREASE PAID TO A MEMBER EMPLOYED BY A SCHOOL DISTRICT BOARD OF EDUCATION IN A POSITION THAT REQUIRES A CERTIFICATE ISSUED UNDER DIVISION (A), (B), (C), (D), (E), (K), (M), (P), OR (Q) OF SECTION 3319.22 OF THE REVISED CODE THAT IS PAID IN ACCORDANCE WITH UNIFORM CRITERIA APPLICABLE TO ALL MEMBERS EMPLOYED BY THE BOARD IN POSITIONS REQUIRING SUCH CERTIFICATES;

(ii) A RETROACTIVE INCREASE PAID TO A MEMBER EMPLOYED BY A SCHOOL DISTRICT BOARD OF EDUCATION IN A POSITION THAT REQUIRES A CERTIFICATE ISSUED UNDER DIVISION (F), (G), (H), (I), (L), OR (O) OF SECTION 3319.22 OF THE REVISED CODE THAT IS PAID IN ACCORDANCE WITH UNIFORM CRITERIA APPLICABLE TO ALL MEMBERS EMPLOYED BY THE BOARD IN POSITIONS REQUIRING SUCH CERTIFICATES;

(iii) A RETROACTIVE INCREASE PAID TO A MEMBER EMPLOYED BY A SCHOOL DISTRICT BOARD OF EDUCATION AS A SUPERINTENDENT THAT IS ALSO PAID AS DESCRIBED IN DIVISION (U)(2)(h)(i) OF THIS SECTION;

(iv) A RETROACTIVE INCREASE PAID TO A MEMBER EMPLOYED BY AN EMPLOYER OTHER THAN A SCHOOL DISTRICT BOARD OF EDUCATION IN ACCORDANCE WITH UNIFORM CRITERIA APPLICABLE TO ALL MEMBERS EMPLOYED BY THE EMPLOYER.

(i) Payments made to or on behalf of a member that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended;

(g)(j) Payments made under division (B) or (D) of section 5923.05 of the Revised Code or section 4 of Substitute Senate Bill No. 3 of the 119th general assembly;

(h)(k) Anything of value received by the member that is based on or attributable to retirement or an agreement to retire, ~~except that payments made on or before January 1, 1980, that are based on or attributable to~~

retirement or an agreement to retire shall be included in compensation if both of the following apply:

(i) The payments are made in accordance with contract provisions or a policy of the employer in effect prior to March 1, 1986;

(ii) The employer pays the retirement system an amount specified by the retirement board equal to the additional liability resulting from the payments. The retirement board shall adopt rules for determining whether things of value received are based on or attributable to retirement or an agreement to retire.

(3) The retirement board shall determine by rule both of the following:

(a) Whether particular forms of earnings are included in any of the categories enumerated in this division;

(b) Whether any form of earnings not enumerated in this division is to be included in compensation.

Decisions of the board made under this division shall be final.

Sec. 3307.013. (A) AS USED IN THIS SECTION, "PERCENTAGE INCREASE" MEANS THE PERCENTAGE THAT AN INCREASE IN COMPENSATION IS OF THE COMPENSATION PAID PRIOR TO THE INCREASE.

(B) NOTWITHSTANDING DIVISION (U) OF SECTION 3307.01 OF THE REVISED CODE, FOR THE PURPOSE OF DETERMINING FINAL AVERAGE SALARY UNDER THIS SECTION, "COMPENSATION" HAS THE SAME MEANING AS IN THAT DIVISION, EXCEPT THAT IT DOES NOT INCLUDE ANY AMOUNT RESULTING FROM A PERCENTAGE INCREASE PAID TO A MEMBER DURING HIS TWO HIGHEST YEARS OF COMPENSATION THAT EXCEEDS THE GREATER OF THE FOLLOWING, UNLESS THE PERCENTAGE INCREASE RESULTS FROM EMPLOYMENT BY A DIFFERENT EMPLOYER OR PROMOTION TO A POSITION HELD BY ANOTHER EMPLOYEE WITHIN THE TWELVE-MONTH PERIOD PRECEDING THE PROMOTION;

(1) THE HIGHEST PERCENTAGE INCREASE IN COMPENSATION PAID TO THE MEMBER DURING ANY OF THE THREE YEARS IMMEDIATELY PRECEDING THE MEMBER'S TWO HIGHEST YEARS OF COMPENSATION AND ANY SUBSEQUENT PARTIAL YEAR OF COMPENSATION USED IN CALCULATING THE MEMBER'S FINAL AVERAGE SALARY;

(2) A PERCENTAGE INCREASE PAID TO THE MEMBER AS PART OF AN INCREASE GENERALLY APPLICABLE TO MEMBERS EMPLOYED BY THE EMPLOYER. AN INCREASE SHALL BE CONSIDERED GENERALLY APPLICABLE IF IT IS PAID TO MEMBERS EMPLOYED BY A SCHOOL DISTRICT BOARD OF EDUCATION IN POSITIONS REQUIRING A CERTIFICATE ISSUED UNDER SECTION 3319.22 OF THE REVISED CODE IN ACCORDANCE WITH UNIFORM CRITERIA APPLICABLE TO ALL SUCH MEMBERS OR IF PAID TO MEMBERS EMPLOYED BY AN EMPLOYER OTHER THAN A SCHOOL DISTRICT BOARD OF