

Sec. 3309.01. As used in Chapter 3309. of the Revised Code[-]:

(A) "Employer" means boards of education, school districts, joint vocational districts, educational institutions, technical [institutions], COLLEGES, state, municipal, and community colleges, community college branches, universities, university branches, other educational institutions, or other agencies within the state by which an employee is employed and paid, including any organization using federal funds, provided such federal funds are disbursed by an employer as determined by the above. In all cases of doubt the school employees retirement board shall determine whether any employer is an employer as defined in Chapter 3309. of the Revised Code and its decision shall be final.

(B) "Employee" means any person employed by an employer as defined in division (A) of this section in a position for which he is not required to have a certificate issued pursuant to sections 3319.22 to 3319.31, inclusive, of the Revised Code; any person who performs a service common to the normal daily operation of an educational unit even though such person is employed and paid by one who has contracted with an employer to perform such services, and the contracting board or educational unit shall be the employer for the purposes of administering the provisions of Chapter 3309. of the Revised Code; and any person, not a faculty member, employed in any school or college or other institution wholly controlled and managed, and wholly or partly supported by the state or any subdivision thereof, the board of trustees or other managing body of which shall accept the requirements and obligations of Chapter 3309. of the Revised Code. In all cases of doubt the school employees retirement board shall determine whether any person is an employee, as defined in this division, and its decision is final.

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

- (1) As an employee as defined in division (B) of this section;
- (2) As an employee in a capacity covered by the public employees retirement system or the state teachers retirement system;
- (3) As an employee of an institution in another state, service credit for which was procured by a member under the provisions of section 3309.31 of the Revised Code.

Prior service, for service as an employee in a capacity covered by the public employees retirement system or the state teachers retirement system, shall be granted a member under qualifications identical to the laws and regulations applicable to service credit in such systems.

Prior service shall not be granted any member for such service rendered in a capacity covered by the public employees retirement system, the state teachers retirement system and this system in the event such service credit has, in the respective systems, been received, waived by exemption, or forfeited by withdrawal of contributions, except as provided in Chapter 3309. of the Revised Code.

If a member, who has been granted prior service should, subsequent to September 16, 1957 and before retirement, establish three years of contributing service in the public employees retirement system, or one year in the state teachers retirement system, then such prior service 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.

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

(D) "Total service" or "total service credit" means all contributing service of a member of the school employees retirement system, and all his prior service, computed as provided in Chapter 3309. of the Revised Code. In addition, "total service" includes any period, not in excess of three years, during which a member was out of service and receiving benefits from the state insurance fund.

(E) "Member" means any employee who has established membership in the school employees retirement system.

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

(G) "Retirant" means any former member who retired and is receiving a service retirement allowance, also referred to as a superannuation or commuted superannuation retirement allowance as provided in Chapter 3309. of the Revised Code, and any member receiving a disability allowance as provided in section 3309.40 of the Revised Code.

(H) "Beneficiary" or "beneficiaries" means the estate of a person or persons who, as the result of the death of a member or retirant, qualifies for or is receiving some right or benefit under the provisions of Chapter 3309. of the Revised Code.

(I) "Interest" as specified in division (E) of section 3309.60 of the Revised Code, means interest at such rates for the respective funds and accounts as the school employees retirement board may determine from time to time except as follows: (1) The rate of interest credited on employee contributions at retirement shall be four per cent per annum, compounded annually, to and including June 30, 1955; three per cent per annum, compounded annually,

from July 1, 1955 to and including June 30, 1963; and, three and one-quarter per cent per annum, compounded annually through June 30, 1966; and thereafter, shall be four per cent per annum compounded annually until a change in such amount is recommended by the system's actuary and approved by the retirement board. Subsequent to June 30, 1959, the retirement board shall discontinue the annual crediting of current interest on a member's accumulated contributions. Such noncrediting of current interest shall not affect the rate of interest at retirement guaranteed under this division. (2) In determining the reserve value for purposes of computing the amount of the member's annuity, the rate of interest used in the annuity values shall be four per cent per annum through September 30, 1956; and, three per cent per annum compounded annually from October 1, 1956 through June 30, 1963; and three and one-quarter per cent per annum compounded annually from July 1, 1963 through June 30, 1966; and, thereafter, shall be four per cent per annum compounded annually until a change in such amount is recommended by the system's actuary and approved by the retirement board. In the purchase of out-of-state service credit as provided in section 3309.31 of the Revised Code, and in the purchase of additional annuity, as provided in section 3309.47 of the Revised Code, interest shall be computed and credited to reserves therefor at such rate as the school employees retirement board shall fix as regular interest thereon.

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

(K) ~~Effective June 30, 1963, "final~~ "FINAL average salary" means the SUM OF THE ANNUAL EARNINGS FOR THE FIVE highest ~~[average annual]~~ YEARS OF compensation ~~[of a member during any five years of]~~ FOR WHICH contributions ~~[and shall be determined by dividing the total earnings as an employee during such period by the service credited during such period]~~ WERE MADE BY THE MEMBER, DIVIDED BY FIVE. 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 FIVE FULL YEARS OF ANNUAL EARNINGS, 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 FIVE HIGH YEARS OF ANNUAL EARNINGS BEFORE DIVIDING BY FIVE. ~~[Provided, if]~~ IF a member has at least three years, but less than five years ~~[;]~~ of ~~[total service credit]~~ CONTRIBUTING MEMBERSHIP within the last ten years immediately preceding the termination of contributions, the final average salary shall ~~[not]~~ be ~~[less than]~~ the ~~[average annual]~~ TOTAL compensation during such period ~~[as~~

determined by dividing the total compensation or earnings during such ten-year period by the contributing service credit granted to him] DIVIDED BY THE TOTAL NUMBER OF YEARS, INCLUDING ANY FRACTION OF A YEAR, OF CONTRIBUTING SERVICE during ~~[such]~~ THAT period. Provided, that the "final average salary" may not exceed the actual average earnings of a member during the "final average salary" years.

(L) "Annuity" means payments for life derived from contributions made by a contributor and paid from the annuity and pension reserve fund as provided in Chapter 3309. of the Revised Code. All annuities shall be paid in twelve equal monthly installments.

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

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

(O) "Benefit" means a payment, other than a retirement allowance, payable from the accumulated contributions of the member or the employer or both under the provision of Chapter 3309. of the Revised Code.

(P) "Annuity reserve" means the present value computed upon the basis of such mortality tables as are adopted by the school employees retirement board of all payments to be made on account of any annuity, or benefit in lieu of any annuity, granted to a retirant.

(Q) "Pension reserve" means the present value, computed upon the basis of such mortality tables as are adopted by the school employees retirement board, of all payments to be made on account of any pension, or benefit in lieu of any pension, granted to a retirant or a beneficiary.

(R) "Year" for the purpose of administering the provisions of Chapter 3309. of the Revised Code, means the year beginning the first day of July and ending with the thirtieth day of June next following.

(S) "Local district pension system" means any school employees' pension fund created in any school district of the state prior to September 1, 1937.

(T) "Employer contribution" means the amount paid by an employer as determined by the employer rate, contributions, and funds as provided in Chapter 3309. of the Revised Code, and shall be credited to the employers' trust fund.

SECTION 2. That existing sections 145.01, 145.33, 145.36, 145.45, 3307.01, 3307.38, 3307.43, 3307.49, 3309.01, 3309.36, 3309.40, and 3309.45 of the Revised Code, and section 3309.01 of the Revised Code as amended in Senate Bill 396, approved and filed by the Governor on November 18, 1971, to become effective on February 17, 1972, are hereby repealed.

SECTION 3. Notwithstanding Chapters 145., 3307., and 3309. of the Revised Code, on the effective date of this act, the public employees retirement board, the state teachers retirement board, and the school employees retirement board shall recalculate the amount of all monthly benefits elected between June 29, 1971, and the effective date of this act pursuant to former sections 145.33, 145.34, 145.36, division (A) of section 145.45, sections 3307.38, 3307.43, division (A) of section 3307.49 and sections 3309.36, 3309.38, 3309.40, and division (A) of section 3309.45 of the Revised Code, as if this act had been in effect on June 30, 1971. Any such benefit payments made after the effective date of this act shall be for the amount calculated in accordance with this section, unless such recalculation would provide a decrease in benefits, in which case the boards shall continue to pay the benefit as elected and calculated prior to the effective date of this act.