

system that otherwise applies to the electing employee's position a percentage of the electing employee's compensation to mitigate any negative financial impact of the alternative retirement program on the state retirement system. The percentage shall be six per cent, except that the percentage may be adjusted by the Ohio retirement study council to reflect the determinations made by actuarial studies conducted under section 171.07 of the Revised Code. Any adjustment shall become effective on the first day of the second month following submission of the actuarial study to the Ohio board of regents under section 171.07 of the Revised Code.

Contributions on behalf of an electing employee shall continue in accordance with this division until the occurrence of the following:

(1) If the electing employee would be subject to Chapter 145. of the Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, until the unfunded actuarial accrued liability for all benefits, except health care benefits provided under section 145.325 or 145.58 of the Revised Code and benefit increases provided after March 31, 1997, is fully amortized, as determined by the annual actuarial valuation prepared under section 145.22 of the Revised Code;

(2) If the electing employee would be subject to Chapter 3307. of the Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, until the unfunded actuarial accrued liability for all benefits, except health care benefits provided under section 3307.39 ~~or 3307.61~~ of the Revised Code and benefit increases provided after March 31, 1997, is fully amortized, as determined by the annual actuarial valuation prepared under section 3307.51 of the Revised Code;

(3) If the electing employee would be subject to Chapter 3309. of the Revised Code had the employee not made an election pursuant to section 3305.05 or 3305.051 of the Revised Code, until the unfunded actuarial accrued liability for all benefits, except health care benefits provided under section 3309.375 or 3309.69 of the Revised Code and benefit increases provided after March 31, 1997, is fully amortized, as determined by the annual actuarial valuation prepared under section 3309.21 of the Revised Code.

Sec. 3307.01. As used in this chapter:

(A) "Employer" means the board of education, school district, governing authority of any community school established under Chapter 3314. of the Revised Code, a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code,

college, university, institution, or other agency within the state by which a teacher is employed and paid.

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

(1) Any person paid from public funds and employed in the public schools of the state under any type of contract described in section 3311.77 or 3319.08 of the Revised Code in a position for which the person is required to have a license issued pursuant to sections 3319.22 to 3319.31 of the Revised Code;

(2) Any person employed as a teacher by a community school or a science, technology, engineering, and mathematics school pursuant to Chapter 3314. or 3326. of the Revised Code;

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

(4) Any person having a license issued pursuant to sections 3319.22 to 3319.31 of the Revised Code and performing services that are funded under section 3317.06 of the Revised Code and provided to students attending nonpublic schools, without regard to whether the services are performed in a public school and whether the person is employed under a contract with a third party;

(5) 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 political subdivision thereof, including Central state university, Cleveland state university, and the university of Toledo;

~~(5)~~(6) The educational employees of the department of education, as determined by the state superintendent of public instruction.

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

"Teacher" does not include any eligible employee of a public institution of higher education, as defined in section 3305.01 of the Revised Code, who elects to participate in an alternative retirement plan established under Chapter 3305. of the Revised Code.

(C) "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 (D) of this section and all

disability benefit recipients, as defined in section 3307.50 of the Revised Code. However, for purposes of this chapter, the following persons shall not be considered members:

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

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

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

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

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

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

(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 the an actuarial consultant to 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:

(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;

(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;

(3) Has any discretionary authority or responsibility in the administration of the system.

(L)(1) 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.

(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 or Chapter 145. or 3309. of the Revised Code 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 teacher or the teacher's family, or amounts paid by the employer to the teacher in lieu of providing the 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

(L)(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 license designated for teaching and not designated for being an administrator issued under 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 the licenses;

(ii) A retroactive increase paid to a member employed by a school district board of education in a position that requires a license designated for being an administrator issued under 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 the licenses;

(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 (L)(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 teacher 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. For a teacher who first establishes membership before July 1, 1996, the annual compensation that may be taken into account by the retirement system shall be determined under division (d)(3) of section 13212 of the "Omnibus Budget Reconciliation Act of 1993," Pub. L. No. 103-66, 107 Stat. 472.

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

(k) Anything of value received by the teacher that is based on or attributable to retirement or an agreement to retire;

(l) Any amount paid by the employer as a retroactive payment of earnings, damages, or back pay pursuant to a court order, court-adopted settlement agreement, or other settlement agreement, unless the retirement system receives both of the following:

(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 board, for each year or portion of a year for which amounts are paid under the order or agreement;

(ii) 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 board, for each year or portion of a year not subject to division (L)(2)(l)(i) of this section for which the board determines the teacher was improperly paid, regardless of the teacher's ability to recover on such amounts improperly paid.

(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.

(M) "Superannuate" means both of the following:

(1) A former teacher receiving from the system a retirement allowance under section 3307.58 or 3307.59 of the Revised Code;

(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.

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.

(N) "STRS defined benefit plan" means the plan described in sections 3307.50 to 3307.79 of the Revised Code.

(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.

Sec. 3307.031. The state teachers retirement system shall consist of the ~~STRS defined benefit plan described in sections 3307.50 to 3307.79 and the one or more plans established under section 3307.81 of the Revised Code~~ STRS defined contribution plan.

Sec. 3307.04. The general administration and the management of the state teachers retirement system is hereby vested in the state teachers