

Am. Sub. H. B. No. 119

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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.

(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.

Sec. 3307.31. (A) Payments by boards of education and governing authorities of community schools to the state teachers retirement system, as

provided in sections 3307.29 and 3307.291 of the Revised Code, shall be made from the amount allocated under section 3314.08 or Chapter 3317. of the Revised Code prior to its distribution to the individual school districts or community schools. The amount due from each school district or community school shall be certified by the secretary of the system to the superintendent of public instruction monthly, or at such times as may be determined by the state teachers retirement board.

The superintendent shall deduct, from the amount allocated to each district or community school under section 3314.08 or Chapter 3317. of the Revised Code, the entire amounts due to the system from such district or school upon the certification to the superintendent by the secretary thereof.

The superintendent shall certify to the director of budget and management the amounts thus due the system for payment.

(B) Payments to the state teachers retirement system by a science, technology, engineering, and mathematics school shall be deducted from the amount allocated under section 3326.33 of the Revised Code and shall be made in the same manner as payments by boards of education under this section.

Sec. 3309.01. As used in this chapter:

(A) "Employer" or "public employer" means boards of education, school districts, joint vocational districts, governing authorities of community schools established under Chapter 3314. of the Revised Code, a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, educational institutions, technical 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 the 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 this chapter, and its decision shall be final.

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

(1) Any person employed by a public employer in a position for which the person is not required to have a certificate or license issued pursuant to sections 3319.22 to 3319.31 of the Revised Code;

(2) Any person who performs a service common to the normal daily operation of an educational unit even though the person is employed and paid by one who has contracted with an employer to perform the service, and the contracting board or educational unit shall be the employer for the