

Sec. 3309.40. A member who has elected disability coverage under this section, has not attained age sixty, and is determined by the school employees retirement board under section 3309.39 of the Revised Code to qualify for a disability benefit BENEFIT shall be retired on disability under this section.

Upon disability retirement, a member shall receive an annual amount that shall consist of:

(A) An annuity having a reserve equal to the amount of the member's accumulated contributions;

(B) A pension that shall be the difference between his THE MEMBER'S annuity and an annual amount determined by multiplying the total service credit of such member, and in addition thereto, the number of years and fractions thereof between the effective date of his THE MEMBER'S disability retirement and attained age sixty, assuming continuous service, by eighty-six dollars, or by two and one-tenth TWO-TENTHS per cent of his THE MEMBER'S final average salary, whichever is greater.

Where the member is not receiving a disability benefit under section 3309.35 of the Revised Code and is receiving a disability benefit from either the public employees retirement system or the state teachers retirement system, then such member shall not be eligible for service credit based upon the number of years and fractions thereof between the effective date of disability and attained age sixty as provided for in this division.

Such disability retirement shall not be less than thirty per cent nor more than seventy-five per cent of the member's final average salary, except that it shall not exceed any limit to which the retirement system is subject under section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

The school employees retirement board is the final authority in determining the eligibility of a member for such form of retirement.

SECTION 3. The School Employees Retirement System shall recalculate under section 3309.36, 3309.381, 3309.40, 3309.401, or 3309.45 of the Revised Code, as amended by this act, or under section 3309.38 of the Revised Code, each benefit that is payable under any of those sections or under section 3309.46 of the Revised Code and became effective on or after January 1, 2000, but before the effective date of this act. If the recalculated benefit is greater than the recipient's benefit prior to the recalculation, the system shall do both of the following:

(A) Pay the recalculated benefit beginning on the first day of the month immediately following the date the board recalculates the benefit;

(B) Make a one-time payment to each recipient receiving a benefit on the effective date of this act.

The payment shall be an amount equal to the difference between the benefits paid to the recipient between January 1, 2000, and the date of the payment and the increased benefits that would have been paid to the recipient had the amendments to sections 3309.36, 3309.381, 3309.40, 3309.401, and 3309.45 of the Revised Code gone into effect on January 1, 2000.