

**February 16, 2017**

The eight hundred and ninety-seventh meeting of the Retirement Board of the School Employees Retirement System was held in the boardroom at 300 E. Broad Street, Columbus, Ohio, on Thursday, February 16, 2017. The meeting convened in open session at 8:38 a.m. and continued with the Pledge of Allegiance. Following the Pledge of Allegiance, the roll call was as follows: Barbra Phillips, Chairperson, Jeffrey DeLeone, James Haller, Christine Holland, James Rossler, Daniel Wilson, Beverly Woolridge and Madonna Faragher. Barbra Phillips excused the absence of Catherine Moss. Also in attendance was Henrique Geigel, representative of the Attorney General, various members of the SERS staff, and members of the public.

**APPROVAL OF MINUTES OF THE RETIREMENT BOARD MEETING HELD ON  
December 15, 2016**

Madonna Faragher moved and Christine Holland seconded the motion to approve the minutes of the Retirement Board meeting held on Thursday, December 15, 2016. Upon roll call, the vote was as follows: Yea: Madonna Faragher, Jeffrey DeLeone, James Haller, Christine Holland, James Rossler, Daniel Wilson, Beverly Woolridge and Barbra Phillips. The motion carried.

**APPROVAL OF MINUTES OF THE RETIREMENT BOARD SPECIAL MEETING HELD ON  
January 25, 2017**

Madonna Faragher moved and James Haller seconded the motion to approve the minutes of the Retirement Board Special meeting held on Wednesday, January 25, 2017. Upon roll call, the vote was as follows: Yea: Madonna Faragher, Jeffrey DeLeone, James Haller, Christine Holland, James Rossler, Daniel Wilson, Beverly Woolridge and Barbra Phillips. The motion carried.

Barbra Phillips asked Farouki Majeed to present the investment report.

**INVESTMENT REPORT**

Mr. Majeed asked David Lindberg of Wilshire Associates to present the quarterly performance report. Mr. Lindberg presented the performance report for the quarter ending December 31, 2016 including economic and capital market highlights, asset class analysis and performance, and Total Fund performance. Following the discussion, the Board thanked Mr. Lindberg for his comments.

Next, Mr. Majeed discussed the Investment report for the quarter ending December 31, 2016. Equity markets have trended higher in January and February pushing the Total Fund value to \$13.0 billion. US equity valuations are higher than average and a pullback is not unlikely. A review of the Opportunistic portfolio will be provided to the Board during the March meeting. The Board thanked Mr. Majeed for the presentation and staff for their efforts.

Following the Investment Report, Mr. Majeed introduced Judi Masri and Jason Naber for the annual Multi-Asset Strategies (MAS) portfolio review. Mr. Naber discussed the portfolio guidelines, sector allocation changes, overall portfolio performance, portfolio sector performance, and three-year and five-year risk return characteristics. Ms. Masri discussed management and incentive fees. Management fees have been reduced from 1.7% to 1.4% since 2012 and incentive fees have been reduced from 20% to 17.4%.

Ms. Masri continued to discuss portfolio liquidity and downside portfolio protection of MAS. FY17 objectives include evaluating the role of MAS and implementing changes resulting from the asset allocation study; evaluating liquid alternative hedge fund strategies; discussing management and fee structures with current managers; and conducting an RFP search for a hedge fund consultant. The Board thanked Mr. Naber and Ms. Masri for their presentation.

Mr. Majeed discussed the updated 10-year capital market assumptions that will be used in the asset liability study. Staff will return in March with more detailed analysis and possible asset allocation recommendation.

Concluding, Mr. Majeed updated the Board on changes made to the Investment Committee Policy.

**UPDATE ON INVESTMENT COMMITTEE POLICY AND PROCEDURES**

 <p style="text-align: center;"><b>Investment Committee</b></p> <p>INV1-024</p>					
<b>Effective Date:</b>	01/20/2012	<b>Revision Date:</b>	02/01/17	<b>Audience:</b>	Investments
<b>Owner:</b>	Investments	<b>Certifier:</b>	Farouki Majeed, Helen Ninos	<b>Co-Owner (s):</b>	None
<b>Document Links:</b>	<a href="#">Purpose</a> , <a href="#">Policy</a> , <a href="#">Procedure</a> , <a href="#">Definitions</a> , <a href="#">Related Documents</a> , <a href="#">Policy History</a>				

**Purpose**

The purpose of this policy is to define structure, rules and procedures for the Investment Committee and Opportunistic Team in accordance with the Statement of Investment Policy and Opportunistic Investment Policy.

**Policy**

**INVESTMENT COMMITTEE:**

- Structure:** The Investment Committee (“Committee”) is comprised of the Chief Investment Officer (CIO), who serves as Chairperson (“Chair”), Investment Staff who are licensed Ohio State Retirement System Investment Officers (“SRSIOs”), and one Investment Operations Staff member to serve as Secretary. All members except the Secretary are voting members. The Executive Director is a non-voting member of the Committee. The Executive Director, Enterprise Risk Management Officer, General Counsel, and Chief Financial Officer, or their respective designees, are required to attend all meetings.
- Rules:** The Chair presides over Committee meetings. A majority of voting members of the Committee, one of whom must be the Chair, constitute a quorum. A quorum is required for voting. Voting members who are unable to attend Committee meetings may call-in to participate in the meeting, but are not permitted to vote and do not count toward a quorum. Meetings are convened by

the Chair when a vote or important discussion is to take place. In scheduling meetings the Chair will make every effort to provide notice to Committee members at least one week in advance. An affirmative vote by the Committee requires a majority vote of the voting members present in-person at the Committee meeting and an affirmative vote by the Chair. The Secretary records and maintains minutes of Committee meetings and records all votes.

3. **Sponsors:** Each investment must have at least two Sponsors responsible for leading due diligence efforts and preparing and presenting recommendations. The CIO will not act as a Sponsor unless the situation warrants the CIO's involvement which will be documented in the recommendation to the Committee.

#### **OPPORTUNISTIC INVESTMENTS:**

1. **Structure:** The CIO may form an Opportunistic team comprised of a subset of Investment Staff to assist the CIO in managing the opportunistic portfolio. When Staff identifies a viable investment opportunity, the CIO will determine whether the opportunity fits the profile of an opportunistic investment. Opportunities that do not fit the profile will not be considered as opportunistic investments. Opportunistic investments must be approved by the CIO and the Committee.
  2. Opportunistic investments are subject to the same rules and procedures contained in this document.
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#### **Procedure**      [Investment Approval](#)

##### **Investment Approval**

1. **Investment Thesis:**
    - a. Once a potential investment is identified for possible approval, Sponsor(s) of the investment will prepare a written Investment Thesis ("Thesis") and distribute copies to the Executive Director, the Investment Compliance Department, General Counsel, Chief Financial Officer, and Committee members for initial review and comment. The Executive Director may direct comments in writing to the CIO. Initial comments should be sent to the Sponsor(s) within one week of receipt of the Thesis.
    - b. The Sponsor(s) will keep Committee members informed about any changes to the Thesis, progress with due diligence, and expected timeframes for completion of relevant actions.
  2. **Investment Recommendation and Supporting Documents:**
    - a. When the Sponsor(s) are ready to seek Committee approval for the investment, they will prepare and distribute to Committee members, the Executive Director, Enterprise Risk Management Officer, General Counsel, and Chief Financial Officer a detailed written investment recommendation justifying the investment.
    - b. Supporting documents shall also be distributed to the Committee including:
      - i. An opinion letter from the Investment Consultant;
      - ii. An investment checklist identifying the status of supporting documents;
      - iii. An operational due diligence report on private investments, including Multi-Assets and Opportunistic investments (distributed by Investment Accounting).
      - iv. The Sponsor(s) will make every effort to provide the investment recommendation and supporting documents one week in advance, but in no event will the investment recommendation and supporting documents be distributed less than 24 hours in advance of the scheduled Committee meeting, unless a shorter time period is agreed to by the Chair.
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### 3. **Approvals:**

- a. The Chair will schedule a Committee meeting when appropriate.
- b. When the Chair convenes the Committee, he/she will direct the Sponsor(s) to present the investment to the Committee and allow sufficient time for discussion among Committee members.
- c. If the Committee is satisfied with the Sponsor(s)' presentation and all questions or issues have been addressed, the Chair will call for a vote.
- d. If a majority of the Committee (as defined under "Rules") votes in favor of the Investment, the Investment is approved and no further Committee action is required. If the investment is not approved by the Committee, the Chair may direct the Sponsor(s) to perform additional due diligence or provide additional information, and reconvene the Committee for another vote at a later date. The Secretary will keep the minutes and record the vote of each Committee member.
- e. The CIO shall have veto authority on any investment presented to the Committee should there be material new information or changes in the investment criteria.
- f. The CIO shall have authority to approve termination of a manager or refer such recommendations to the Committee depending on the circumstances or urgency. A memo, outlining the reason(s) for a proposed termination or redemption, will either be sent to or discussed with the Committee.
- g. Within five business days after the meeting the Secretary will distribute the minutes to the co-sponsors for comment. Once the minutes have been finalized by the Secretary, the Secretary will sign the minutes, submit them to the Chair for signature, and distribute to the Committee.
- h. Any significant change to the specific approval of an investment, such as an increase in size of commitment to a private investment, shall be brought back to the Committee for approval.
- i. Following a Request for Proposal (RFP) search for public market investment managers, more than one manager may be recommended and approved by the Committee. The legal documents for each approved manager shall be executed within twelve months of the RFP due date (Response Date). If a Committee-approved manager is to be funded more than 90 days after the Committee approval date, the Sponsor(s) shall submit an updated investment recommendation memo to the Committee for informational purposes prior to execution of the legal documents. Once the RFP search is completed and final recommendations are submitted to the Committee, the RFP is considered closed.
- j. Investment recommendations for private investments should include an operational due diligence report prepared by the Alternative Investment Analyst in Finance. If such report is not presented at the time of the Committee approval, then it must be submitted to the Committee prior to executing legal documents.

### 4. **Document Execution:**

- a. Once an investment is approved by the Committee, and prior to initial funding, the investment report, a record of the Committee's approval, and all legal documents will be sent in no particular order to:
  - i. SERS' Investment Compliance Department, who will affirm that the investment meets the requirements of the Statement of Investment Policy, and
  - ii. SERS' Legal Department, who must approve all legal documents related to the investment.
- b. Prior to funding an approved investment, a signature cover page must be signed by (1) a

Sponsor representing the investment, (2) the CIO or Assistant Director of Investments (representing him/herself and the Committee), (3) Investment Compliance Department, (4) an attorney in SERS' Legal Department, and (5) the Executive or Deputy Director. If either chooses not to sign the signature cover page, the Executive Director shall convene a dialogue with the CIO concerning opposition to the investment. During the course of conversation, the CIO may provide reasons for the Executive Director to reconsider the decision. Without the signature of the Executive Director there is no authority to execute the investment contract. In such instances the Executive Director shall provide a memo to the Board and CIO outlining the reasons for the veto.

- c. Once the signature cover page has been signed by all parties listed in paragraph (b) above, either the CIO or Executive Director may execute any documents necessary to complete the investment.

#### 5. Board Reporting:

- a. At the earliest opportunity, Staff will report to the Board about investments under consideration, whether in Executive Session or in Public Session, depending on the nature of the opportunity.
- b. The Sponsor(s)' investment recommendation and the Committee meeting minutes will be distributed to the Board on a monthly basis. Ongoing reporting, monitoring, and performance measurement will be consistent with reporting for all other investments of the Total Fund.
- c. Updates on Committee activities and manager hirings / terminations will be provided to the Board on a monthly basis.

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### Definitions

**Investment Thesis:** – An initial investment memo outlining the proposed investment, its merits and risks, and the rationale for including it in a portfolio.

**Re-up** – a new Fund investment with a current manager.

**Sponsor(s)** – State Retirement System Investment Officer - Licensed Investment Staff members who jointly recommend an investment.

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### Related Documents and Information

Statutes:	N/A
Rules:	N/A
Document Links:	<a href="#">Purpose</a> , <a href="#">Policy</a> , <a href="#">Procedure</a> , <a href="#">Definitions</a> , <a href="#">Related Documents</a> , <a href="#">Policy History</a>
Forms:	Request for Review and Signature (Form 75.350)

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### Policy History

**Version 1 – January 20, 2012 – Created – Approved by Robert Cowman and Lisa Morris**

**Version 2 – February 11, 2013 – Edited – Approved by Farouki Majeed and Lisa Morris**

**Version 3 – April 3, 2013 – Edited – Approved by Farouki Majeed and Lisa Morris**

**Version 4 – August 6, 2013 – Edited – Approved by Farouki Majeed and Lisa Morris**

**Version 5 – February 22, 2016 – Edited – Approved by Farouki Majeed and Lisa Morris**

**Version 6 – September 27, 2016 – Edited - Approved by Farouki Majeed and Lisa Morris**

## SUMMARY OF INVESTMENT TRANSACTIONS

Beverly Woolridge moved and Christine Holland seconded that the following summary of investment transactions made in compliance with the Ohio Revised Code Section 3309.15 during the period of **November 1, 2016** through **November 30, 2016** hereby be approved. Upon roll call, the vote was as follows: Yea: Madonna Faragher, Jeffrey DeLeone, James Haller, Christine Holland, James Rossler, Daniel Wilson, Beverly Woolridge and Barbra Phillips. The motion carried.

### A. PURCHASES

Asset Class	Approximate Cost (in millions)
US Equities	\$ 107.1
Non-US Equities	103.2
Fixed Income	300.2
Multi-Asset Strategies	n/a
Private Equity Capital Calls	17.4
Real Asset Capital Calls	9.3
Opportunistic	7.2
Cash Equivalents	417.2

### B. SALES

Asset Class	Approximate Net Proceeds (in millions)	Approximate Gain/(Loss) (in millions)
US Equities	\$ 91.1	\$ 4.6
Non-US Equities	100.7	(3.2)
Fixed Income	313.4	(2.4)
Multi-Asset Strategies	47.0	12.6
Private Equity distributions	34.9	n/a
Real Asset distributions	2.8	n/a
Opportunistic	0.6	0.1
Cash Equivalents	220.8	n/a

## **SUMMARY OF INVESTMENT TRANSACTIONS**

James Haller moved and Beverly Woolridge seconded that the following summary of investment transactions made in compliance with the Ohio Revised Code Section 3309.15 during the period of **December 1, 2016** through **December 31, 2016** hereby be approved. Upon roll call, the vote was as follows: Yea: Madonna Faragher, Jeffrey DeLeone, James Haller, Christine Holland, James Rossler, Daniel Wilson, Beverly Woolridge and Barbra Phillips. The motion carried.

### **B. PURCHASES**

<b>Asset Class</b>	<b>Approximate Cost (in millions)</b>
US Equities	\$ 100.5
Non-US Equities	161.3
Fixed Income	599.7
Multi-Asset Strategies	n/a
Private Equity Capital Calls	53.9
Real Asset Capital Calls	2.7
Opportunistic	21.5
Cash Equivalents	505.6

### **C. SALES**

<b>Asset Class</b>	<b>Approximate Net Proceeds (in millions)</b>	<b>Approximate Gain/(Loss) (in millions)</b>
US Equities	\$ 82.9	\$ 7.8
Non-US Equities	148.7	16.2
Fixed Income	580.4	(1.1)
Multi-Asset Strategies	30.1	(2.9)
Private Equity distributions	41.4	n/a
Real Asset distributions	15.2	n/a
Opportunistic	0.4	0.1
Cash Equivalents	442.2	n/a

The Board took a brief recess at 10:57 a.m. and reconvened at 11:12 a.m.

## **EXECUTIVE DIRECTOR'S UPDATE**

### **Ohio Retirement Study Council**

The January and February ORSC meetings were cancelled due to organization for the new General Assembly. Senate appointees are Jay Hottinger (R-Newark), new Senator Steve Wilson (R-Maineville), and Edna Brown (D-Toledo). We are awaiting the House appointments. The Chairmanship should go to the House this session.

On February 10, we met with ORSC staff to discuss the CAFR, Fiduciary Performance Audit progress, and SERS' COLA legislation. Ms. Ninos also welcomed new staff member from ORSC, Ali Yogmour.

### **ORSC Fiduciary Performance Audit**

The Funston audit team has completed its draft fiduciary audit report. Overall, the report reflects a positive control environment in place at SERS, and has recommendations for continuous improvement. The draft is currently being reviewed by ORSC staff, and will become public upon Funston's presentation at an upcoming ORSC meeting. This could be as early as March if all appointees are named and the new Chairman is ready to go.

SERS will be working with ORSC staff and the fiduciary auditors to provide the Board with final audit materials. After the report's release, Internal Audit will perform follow-up reviews on the audit's recommendations, and provide periodic progress updates to the Board.

### **OASBO/SERS Meeting**

On February 7, we had the pleasure of hosting the OASBO Legislative and Education Finance Committees for our annual update meeting. There was a large audience of 31 Treasurers, along with Jim Rowan and Barb Shaner. The Treasurers asked many good questions about the proposed COLA changes, including our Communication Strategy.

We have already been asked to host a follow-up meeting with a smaller group of Treasurers who want to ask more questions about the actuarial and investments aspects of the COLA changes. The Committee has invited Dan Wilson and James Rossler to attend.

### **Meeting of the Executive Directors**

The executive directors of the five systems met at STRS to discuss issues at our systems. Five-year actuarial studies were discussed as driving the need for additional pension reform for four of the systems. It was unclear what PERS' plans might be. SERS made it clear we are ready to move forward with our pension reform and that it would not be beneficial to any system to have the systems' pension reforms bundled. All agreed that would likely slow down the process.

Additional topics included health care and the fact that, currently four systems are not putting any employer contribution dollars into health care. OPERS continues making contributions to the healthcare fund but it was not clear if these were from employer contributions.

Directors indicated Board members had favorable reactions to the meeting of Board members held at Highway Patrol on January 18.

### **Advocacy Groups**

On February 10, Laurel Johnson met with Deidra Reese, the new Retiree Coordinator for AFSCME Retiree Chapter 1184. Additionally, on January 28, Laurel Johnson and Tim Barbour attended the OAPSE Northeast District meeting with Barbra Phillips and Madonna Faragher to discuss the proposed COLA legislation. SERS was able to provide informational materials for COLA changes.

### **Legislation**

No new state legislation affecting the retirement systems has been introduced, and we are working with Senator Beagle's office on drafting SERS COLA language.

The Governor signed HB 520, the pension funds' omnibus clean-up bill; we are anticipating an effective date of April 6. The bill includes our early-Medicare requirement for disability recipients enrolled in SERS' health care, and a new ARP mitigating rate formula for the 200 or so people in an ARP.

## **Additional Information**

**IFEBP Conference** – OPERS will be hosting a two-day IFEBP conference on April 25-26. Agenda topics include: Health Care Reform Outlook; Reducing Fraud; Retirement Plan Fees; Public Sector Challenges; Financial Wellness; and a tour of OPERS.

**Financial Disclosure Statements** – Your 2016 Financial Disclosure Statements are due May 15. Look for more information in the coming week.

**SMART** – Scheduled to go-live February 27. Staff has been in training over the last several weeks in preparation. Conversion plans have been created which includes final data reconciliation, shutting down MARS and cutting over to SMART. Additional Sagitec staff will be on hand to assist with trouble-shooting.

**OHIO CHECKBOOK** – SERS recently uploaded financial information to the Ohio Checkbook; we are current and up-to-date.

## **LEGISLATIVE REPORT**

### **DECEMBER – JANUARY FEDERAL UPDATE (Prepared by Carol Nolan Drake as of January 29, 2017)**

#### **OVERVIEW**

The election for president of the United States was held on Tuesday, November 8<sup>th</sup>. The final election results showed that Hillary Clinton, the Democratic candidate, received more of the popular vote than the Republican candidate, Donald Trump, by slightly more than three million votes. Mr. Trump was able to garner 304 of the states' electoral votes, which put him over the required number of 270 votes needed to win the election. Once again in our nation's history, the decision by our founding fathers to create an Electoral College, defined in the Constitution in Article II as "electors," and the subsequent passage of the 12<sup>th</sup> Amendment, was vigorously debated. Any effort to change the presidential election process going forward would require a Constitutional amendment. After the election, the Electoral College delegates met and Donald Trump was declared the winner. Mr. Trump was sworn in as the 45<sup>th</sup> president of the United States on Friday, January 20<sup>th</sup>.

The 115<sup>th</sup> Congress convened in early January, returning to Washington, D.C. approximately two months after the November 2016 elections. The Republicans held on to the U.S. House of Representatives, with a margin of 240 Republicans and 193 Democrats. The Republicans lost one voting member when Rep. Michael "Mike" Pompeo (R-KS) resigned on January 23<sup>rd</sup> to serve as President Trump's director of the Central Intelligence Agency (CIA). In turn, the Democrats lost one of their own caucus members when Javier Becerra (D-CA) resigned to become the California Attorney General on January 24<sup>th</sup>. After all the votes were counted, the Democrats picked up six seats, however, it was not enough to retake the majority.

Rep. Paul Ryan (R-WI) was formally elected Speaker of the House, with Rep. Kevin McCarthy (R-CA) named as the Majority Leader. Nancy Pelosi (D-CA) was elected by her caucus to serve as the Minority Leader.

The U.S. Senate remained in Republican control, although the Republicans do not have enough seats to fulfill the 60 votes needed for cloture (i.e., to end a filibuster). The makeup of the Senate is 52 Republicans, 46 Democrats, and two Independents. By holding 52 seats, two less than in the previous Congress, the Republicans will need to secure at least eight Democratic votes to reach the 60-vote requirement to end debate and move a bill forward.

Senator Mitch McConnell (R-KY) was re-elected by his caucus as the Senate Leader. The Democratic Leader elected was Senator Charles Schumer (D-NY).

The members of the Ohio Congressional delegation did not change. Senator Rob Portman (R-OH) was re-elected as the junior Senator, serving in the Senate with Senator Sherrod Brown (D-OH). Each of the sixteen Congressional members were re-elected, except for Rep. Warren Davidson (R-OH), who was elected to serve in the 8<sup>th</sup> Congressional district after a special election was held in June 2016, following the resignation of Speaker John Boehner (R-OH). House members include (in order of their districts) Representatives Chabot (R), Wenstrup (R), Beatty (D), Jordan (R), Latta (R), Johnson (R), Gibbs (R), Davidson (R), Kaptur (D), Turner (R), Fudge (D), Tiberi (R), Ryan (D), Joyce (R), Stivers (R), and Renacci (R).

The policy issues in the Trump administration followed his campaign promises. In the first week, President Trump signed several executive orders, including orders dealing with Obamacare, immigration, border security (authorization for building the wall between the U.S. and Mexico), withdrawal from the Trans-Pacific Partnership Trade Agreement, and a hiring freeze for some federal government workers, excluding the military.

The Senate spent a great deal of time vetting the President's nominees for the Cabinet. Of particular interest were the nominations of Betsy DeVos as the Secretary of Education; Rep. Tom Price (R-GA) as Secretary of Health and Human Services; Rep. Mick Mulvaney (R-SC) as Director of the Office of Management and Budget (OMB); and Steven Mnuchin as Secretary of the Treasury. Confirmation hearings are continuing.

President Trump's nomination of Betsy DeVos has been controversial. At the time of the nomination, Ms. DeVos was chair of the American Federation for Children, known as a pro-school choice organization, and in the past served as the chair of the Alliance for School Choice. In several articles, it was reported that Mrs. DeVos was the former chair of the Michigan Republican Party, and a major contributor to advocacy efforts to expand school choice for families and their children.

During the confirmation hearing in January, Democratic Senators questioned her on potential conflicts with the education industry, support for school voucher programs and her understanding of federal laws on education and civil rights. The Senate Committee on Health, Education, Labor and Pensions (HELP) voted on January 31<sup>st</sup> to approve the nomination, which will now go to the full Senate for final approval.

The vacancy on the U.S. Supreme Court is also a topic of conversation among the Trump administration and Congress. If the Senate would confirm the to-be named nominee for the Court, it is possible the individual could be seated in time to vote on several pending cases. This would be significant because the current Court, made up of eight Justices, could vote and end up with a 4-4 tie on a pending case of national importance.

## **HEALTH CARE**

The Patient Protection and Affordable Care Act, passed in the Obama administration and termed, "Obamacare," was easily one of the most discussed pieces of legislation during the 2016 election debates between the candidates. President-elect Trump (prior to being sworn in) emphatically stated that Obamacare would be repealed and replaced shortly after he took office. Republican leaders in the House and Senate agreed that Obamacare would be repealed early on, however, the details as to how they would replace Obamacare were not available before the January 20<sup>th</sup> inaugural.

A few hours after taking office, President Trump signed an executive order that required federal agencies to "ease the burden" of Obamacare. While the order did not list specific actions to be taken, the language gave broad authority to the head of the Department of Health and Human Services and other federal agencies to "minimize the unwarranted economic and regulatory burdens of the Act, and prepare to afford the States more flexibility and control to create a more free and open healthcare market."

By Saturday morning, one day after President Trump signed the order, the Republican leadership was asked to describe the steps that Congress would be taking to repeal and replace Obamacare as swiftly as President Trump wanted. The biggest concern, naturally, is how Congress will make these changes while ensuring that the over-20 million people currently covered under Obamacare have continued access to coverage while the debate ensues, or have an opportunity to enroll in a better health care system as created by the Republican administration.

The House voted in early January to utilize a budget resolution process called “reconciliation” to start repealing Obamacare. The budget reconciliation process exempts budget bills from the 60-vote filibuster requirement in the Senate. The Senate passed the bill a short time later. Senator Rand Paul (R-KY), an ophthalmologist by trade, introduced S. 222, the “Obamacare Replacement Act,” on January 25<sup>th</sup>. A GOP bill introduced by Sens. Bill Cassidy (R-LA) and Susan Collins (R-ME) seemed to be an attempt to find middle ground to replace Obamacare. These bills and others will be subject to extensive committee activity in the coming weeks. Congress may move several pieces of legislation rather than one large replacement bill.

The excise tax, also referred to as the “Cadillac tax,” continues to be a concern for plan sponsors. The “Coalition to Fight the 40%,” a group of corporations and institutional investors, was formed to advocate against the tax. While the tax was delayed for another two years, until 2020, plans sponsors are already working on health care plans for 2018-2019. Thus, during the discussions on the replacement of Obamacare, we will need to continue advocating for the repeal of this tax for public pension funds. A similar advocacy effort will continue to help address the cost of prescription drugs for SERS’ retirees. Rep. Steve Stivers (R-OH) attempted to help address the cost with his previous introduction of the “Fair Access for Safe and Timely Generics Act,” in the last Congress. Again, we will ask Congress to consider relief for seniors who are having difficulty affording the prescription drugs that they need.

As mentioned, President Trump nominated Rep. Tom Price (R-GA) to be the Secretary of Health and Human Services. Rep. Price is a physician, who in the past, supported a repeal of Obamacare. In this position, he will be able to play a role in any changes to Medicare and any alternative health care plan. In 2014, Rep. Price offered his own solution to Obamacare and a shift for Medicare to rely more on private insurance. He expressed a desire for the government to provide some level of financial assistance to help people afford private insurance. President Trump indicated that two of the most popular pieces of Obamacare, the protection for people with pre-existing conditions and the ability for parents to continue covering their children until age 26, would be considered.

## **SOCIAL SECURITY**

As a candidate, President Trump indicated that his jobs creation agenda would help bolster Social Security. In his view, a rising number of jobs would create greater payroll contributions into Social Security and provide prosperity for more Americans. He also mentioned tax reform, particularly for corporations, as another vehicle for supporting job growth. President Trump has expressed concern against raising the full retirement age for Social Security recipients currently paying into it. During the debates, he indicated that there was serious waste, fraud, and abuse in the system, and his administration would work quickly to address these issues.

Thus far, given all the other pressing issues, there has been no mention of mandatory Social Security coverage for non-covered states.

Social Security announced the cost-of-living adjustment (COLA) in October last year, with a 0.3% increase for recipients. The COLA increase was small enough to cause retirees in Ohio’s public pension funds to pay more for the Medicare Part B increase than other retirees who were held harmless. We will continue to press for a permanent solution to this inequity.

The amount of earnings subject to Social Security increased in January 2017 to \$127,200 up from \$118,500 in 2016. It is predicted that 12 million people will be impacted by this change and will be paying more into the system. The full retirement age (FRA) formula also increased. For employees born between

1943 and 1954, it will increase to 66 years and 2 months, up from 66 years. The formula will increase each year until it reaches 67 years for FRA for employees born in 1960 or later.

## **FINANCE**

Confirmation hearings have commenced for President Trump's nominees for Treasury and OMB, Steven Mnuchin and Mick Mulvaney respectively. Mr. Mnuchin is a former partner of Goldman Sachs and hedge fund manager. He was also the CEO of OneWest Bank, based in California from 2009 to 2015. During his confirmation hearing, he faced questions on the high number of foreclosures that OneWest Bank instituted against homeowners and any role he might have played in the mortgage-backed securities crisis that helped cause the Great Recession. He was asked how he would help keep Medicare solvent and address issues surrounding Social Security taxes. Mr. Mnuchin kept his responses to a high level, and indicated that he needed more time to study the issues.

Rep. Mulvaney faced similar tough questions after he disclosed that he failed to pay FICA, federal and state unemployment taxes, several years ago for a household employee. He disclosed the information to the committee and indicated that he paid more than \$15,000 in taxes and was working to finalize any other payments necessary. The Trump administration is standing staunchly behind him. Rep. Mulvaney was peppered with questions about how he would live up to candidate Trump's promise not to harm Social Security. He was asked about entitlement reform, given the fact that Social Security, Medicare and Medicaid play a prominent role in the federal budget. Rep. Mulvaney listed pressure points that he would consider, including a review of retirement age and means testing. Additional taxes, raising the cap on Social Security payroll taxes, and cutting benefits are also on the table.

In the past Congress, Rep. Sean Duffy (R-WI) introduced the "Corporate Governance Reform and Transparency Act," to regulate proxy advisory firms. Several institutional investors, which rely upon proxy advisory firms for research and assistance with proxy voting, began an educational effort to help their delegation members understand their point of view. The Council of Institutional Investors (CII) wrote a letter that was signed by a number of its members, including SERS, opposing the legislation. The role and use of proxy advisory firms has irked several corporations that believe investors rely too heavily on the research that is generated; research that some corporations say does not accurately or fairly describe the nominees for corporate boards, executive pay, and similar issues. This issue will most certainly arise in this Congress or through SEC activity once the Commission members are confirmed.

## **RETIREMENT SECURITY**

The National Institute on Retirement Security (NIRS) issued a research paper in December 2016 on the United Kingdom's new retirement savings program. According to the NIRS press release, the issue brief "analyzes the United Kingdom's bold, new retirement savings program which requires all employers to automatically enroll their employees in retirement accounts. Employers are also required to contribute to the plan if an employee participates in it; however, individuals have the option to opt out. This new program is being phased in and should be fully implemented by 2018."

Senator Orrin Hatch (R-UT) has not re-introduced the "Secure Annuities for Employees Retirement Act," yet. None of the language pertaining to public employee pensions was included in the "Retirement Enhancement and Savings Act of 2016," during the final debate on the Puerto Rico bill last year. It will be important to continue discussing the concerns we have with the SAFE Act, the previously introduced "Public Employees' Pension Transparency Act," by Rep. Devin Nunes (R-CA), and other anti-public employee provisions contained in future bills.

## **WINDFALL ELIMINATION PROVISION**

Representative Kevin Brady (R-TX) has not yet re-introduced his bill from the past Congress, the "Equal Treatment of Public Servants Act," (HR 711) to repeal and replace the Windfall Elimination Provision. As the chairman of the powerful Ways and Means Committee, Chair Brady has the ability to help determine the priorities of the Committee. Staff have already indicated that tax reform is one priority. When the bill

was pulled last summer, Chair Brady stated that the various stakeholders needed to find some consensus before the bill, or the placement of its provisions in another vehicle, could move forward.

## **SECURITIES AND EXCHANGE COMMISSION**

In light of change of administration and potential impacts for public pension fund investors, it might be useful to review the purpose and formation of the Securities and Exchange Commission (SEC). The SEC was created after the Black Tuesday market crash in 1929, and the lengthy Great Depression that followed, to protect investors under President Franklin Roosevelt's first term. Joseph P. Kennedy (D), the father of John and Robert Kennedy, was the first chair of the SEC, named by the President in 1934. Per the current SEC website, the "mission of the SEC is to protect investors; maintain fair, orderly, and efficient markets; and facilitate capital formation. The SEC strives to promote a market environment that is worthy of the public's trust."

As created, the SEC is set to function with five commissioners, one of whom is named by the President as the chair. The commissioners are nominated by the President and confirmed by the U.S. Senate. Each of the commissioners serves a five-year term, which are staggered so that one seat is open each year. Presently, the Commission has only two commissioners, Michael Piowar, serving as acting chair, and Kara Stein, commissioner. Ms. Stein's term will expire in 2017.

The vacancies are problematic for investors because without at least three commissioners, the Commission is not able to vote on rules or regulations. The SEC spent the better part of the last five years promulgating rules under the Dodd-Frank Wall Street Reform and Consumer Act as passed by Congress and signed by President Obama in 2010. The Act was passed, in part, due to the consequences of the Great Recession that began in 2007 and significantly impacted institutional investors and their members, among others.

Beginning in 2008, the author and several peers from public pension funds across the country spent many months in Washington, D.C. meeting with Ohio delegation members and leadership to discuss the concerns stemming from the market losses that occurred to institutional investors and Ohio's public pension funds. We also discussed the perceived lack of transparency in many financial transactions. This group of pension officials also expressed concern that legislation, and any subsequent regulations, must be passed to enhance our ability to invest in the capital markets with the flexibility to generate the returns needed to pay benefits. Institutional investors, by and large, welcomed legislative and regulatory reform but cautioned that it could have a chilling effect if it was too rigid.

As of this date, the SEC does not have any open comment periods for proposed rules. The deadline for comments on the proposed rules for "Universal Proxy" were due on January 9<sup>th</sup>. While several comments were received on the proposed rules, without at least three commissioners, the rules will not be advanced. The Universal Proxy rule was proposed to require the use of universal proxies in most contested elections of directors to help investors vote effectively.

## **SUMMARY OF KEY ACTIVITIES**

1. Attended the NCPERS Winter Legislative Conference in Washington, D.C.
2. Scheduled Hill visits following the conference with Ohio delegation offices, AFSCME, AARP, the American Benefits Council, and the Council of Institutional Investors.
3. Participated in three January webinars offered by NCPERS and NCTR: Outlook for 2017 State and Federal Legislation, NCPERS' 2016 Public Retirement Systems Study, and the Institutional Limited Partners Association (ILPA's) template on private equity fee reporting.
4. Monitored and reviewed executive orders and new legislation introduced in the 115<sup>th</sup> Congress relating to public pension systems, health care, Social Security, and related topics of interest.
5. Reviewed and monitored activity by regulatory agencies, including the SEC.
6. Calls and email messages to stakeholder contacts to discuss potential health care changes as proposed by President Trump and Congress; discussions on Social Security, charter schools, etc.

7. Discussions with representatives from NASRA and NCTR on the potential introduction of Senator Hatch's "SAFE" Act.
8. Meetings with representatives from Ohio's non-profit retirement organizations.
9. Attendance on the monthly Government Relations Network call.
10. Meetings and calls with SERS representatives regarding federal issues.
11. Review of articles from The Hill, Roll Call, several national news organizations and newspapers.
12. Monitoring legislative activity, including Senate confirmation hearings.

## ADMINISTRATIVE RULES

Susan Russell, Associate General Counsel, and Dawn Viggiano, Sr. Staff Counsel discussed the following Administrative Rules.

### **I. Approval to file with JCARR the following proposed new rule:**

- **3309-1-66 Application for early medicare coverage.**

This new rule addresses H.B. 520 amendments to R.C. 3309.392 requiring certain SERS disability benefit recipients enrolled in SERS' health care program to apply for social security disability insurance benefits and early Medicare based on their disability. The statute gives SERS the authority to exempt individuals from the application requirements for good cause shown. This new rule describes the circumstances under which SERS determines good cause to be shown. The rule is intended to identify circumstances under which an application would be duplicative, unnecessary, or overly burdensome for the recipient. In order for this rule to be in effect on April 5, 2017 when H.B. 520 becomes effective, this rule needs to be filed as an emergency and a regular rule.

### **II. Approval to file with JCARR the following proposed revised amended rule:**

- **3309-1-40 Application and procedures for receiving disability benefits.**

Amendments to this rule were brought to the Board at the December meeting, as part of the five year rule review process. In the meantime, H.B. 520 was passed, which amended R.C. 3309.392 addressing the circumstances under which a SERS disability benefit recipient must apply for social security disability insurance benefits. The statute was amended to more precisely target the individuals who may qualify for early Medicare based on their disability. Since the statute will now only apply to disability benefit recipients enrolled in SERS' health care program, an additional change to this rule removes paragraph (P), which will be addressed in new rule 3309-1-66, Application for early medicare coverage.

### **III. Approval to file with JCARR the following proposed amended rules:**

- **3309-1-07 Application for payment upon termination of employment**

This rule pertains to refunds. H.B. 520 amended SERS' refund statute, R.C. 3309.42 to require a refund applicant who is eligible for age and service retirement to obtain spousal consent. A proposed amendment to the rule identifies the point in time at which eligibility status for retirement is determined. A second amendment sets forth when the spousal consent requirement is waived.

- **3309-1-18 Payment of employee and employer contributions**

This rule sets forth deadlines for the remittance of contributions, payments, and payroll reports by employers. When SMART goes live, the deadlines will change. The rule has been amended to reflect the new deadlines. Paragraph (G), which established a six year payment schedule for overdue

accounts that existed in 2010 is being deleted as the overdue amounts have been collected. In order to take effect when SMART goes live, this rule needs to be filed as an emergency and a regular rule.

### **FILING OF PROPOSED NEW ADMINISTRATIVE RULE**

Legal Counsel discussed with the Retirement Board filing with JCARR the following proposed new rule: 3309-1-66, Application for early Medicare coverage.

Madonna Faragher moved and Jeffrey DeLeone seconded that proposed new rule 3309-1-66 be filed as an emergency and a regular rule with JCARR as discussed. Upon roll call, the vote was as follows: Yea: Madonna Faragher, Jeffrey DeLeone, James Haller, Christine Holland, James Rossler, Daniel Wilson, Beverly Woolridge and Barbra Phillips. The motion carried.

#### **3309-1-66 Application for early medicare coverage.**

- (A) This rule amplifies section 3309.392 of the Revised Code and applies to a disability benefit recipient whose disability benefit was granted on or after January 7, 2013 and who is enrolled in the school employees retirement system's health care coverage on or after April 5, 2017.
- (B) A disability benefit recipient shall be exempt from the requirements in section 3309.392 of the Revised Code for good cause shown if any of the following apply:
- (1) The disability benefit recipient has attained age sixty-three at the time of enrollment in the retirement system's health care coverage;
  - (2) The disability benefit recipient submits a written request to be exempt from the requirements due to circumstances that make compliance with section 3309.392 of the Revised Code impracticable, and the retirement system approves the request;
  - (3) The disability benefit recipient submitted an application for social security disability insurance benefits, provided the recipient files a copy of the application and the social security administration's acknowledgement with the retirement system;
  - (4) Prior to April 5, 2017, the disability benefit recipient submitted a signed statement to the retirement system certifying that the recipient does not meet the requirements to apply for social security disability insurance benefits; or
  - (5) The disability benefit recipient files with the retirement system written documentation from the social security administration verifying the recipient does not meet the requirements to apply for social security disability insurance benefits or medicare part A hospital insurance benefits.

### **REVISED FILING OF PROPOSED AMENDED ADMINISTRATIVE RULE**

Legal Counsel discussed with the Retirement Board filing with JCARR the following proposed amended rule as a revised rule: 3309-1-40, Application and procedures for receiving disability benefits.

Madonna Faragher moved and Christine Holland seconded that proposed amended rule 3309-1-40 be filed with JCARR as discussed. Upon roll call, the vote was as follows: Yea: Madonna Faragher, Jeffrey DeLeone,

James Haller, Christine Holland, James Rossler, Daniel Wilson, Beverly Woolridge and Barbra Phillips. The motion carried.

**3309-1-40 Application and procedures for receiving disability benefits.**

- (A) For purposes of sections 3309.39, 3309.40, 3309.401 and 3309.41 of the Revised Code and SERS rules:
- (1) "Disability" or "disabled" means that the member meets the following applicable standard of disability:
    - (a) At the time of application: A disabling condition, either permanent or presumed to be permanent for twelve continuous months following the filing of an application, which has occurred or increased since the applicant last became a member and which renders the member mentally or physically incapacitated for the performance of the member's last assigned primary duty as an employee.
    - (b) At the time of annual examination:
      - (i) For a disability benefit recipient with a benefit effective date before January 7, 2013 and for a disability benefit recipient with a benefit effective date on or after January 7, 2013 who is on leave of absence, a disabling condition that renders the member mentally or physically incapable of resuming the service from which the member was found disabled.
      - (ii) For a disability benefit recipient with a benefit effective date on or after January 7, 2013 who is not on leave of absence, a disabling condition that renders the member mentally or physically incapable of performing the duties of any occupation.
  - (2) "Ongoing disability" means:
    - (a) For a disability benefit recipient with a benefit effective date before January 7, 2013, a disability for which medical treatment presently offers no reasonable expectation of improvement to the extent that a member may be found mentally and physically capable of resuming employment that is the same or similar to that from which the member was found disabled.
    - (b) For a disability benefit recipient with a benefit effective date on or after January 7, 2013, a disability for which medical treatment presently offers no reasonable expectation of improvement to the extent that a member may be found mentally and physically capable of employment in any occupation.
  - (3) "Medical treatment" means treatment of common medical acceptance that is readily available, would be covered under the system's health care plan and may include but is not limited to, medicine, physical therapy, psychological or psychiatric services or mechanical devices, but would exclude surgery or other invasive procedures.
  - (4) "Board physician" means the chairman of the medical advisory committee.
  - (5) "Examining physician(s)" means the disinterested physician(s) assigned by the system or the chairman of the medical advisory committee to conduct medical examinations of a disability applicant or recipient to determine eligibility to obtain or continue to receive disability benefits.
  - (6) "Any occupation" means a position that meets all of the following criteria:

- (a) Replaces not less than seventy-five per cent of the member's final average salary, adjusted each year by the actual average increase in the consumer price index prepared by the United States bureau of labor statistics (U.S. City Average for Urban Wage Earners and Clerical Workers: "All items 1983-84=100);
  - (b) Is reasonably to be found in the member's regional job market;
  - (c) Is one that the member is qualified for by experience or education.
- (7) "Vocational rehabilitation" means tests, evaluations, and/or training whose purpose is to enable a disability benefit recipient to find employment in any occupation.
- (8) "Annual disability benefit" means the annuity and pension, or allowance, calculated under section 3309.40 or 3309.401 of the Revised Code at the time the member is determined to qualify for a disability benefit.
- (B)
- (1) The school employees retirement board shall appoint a minimum of three members to the medical advisory committee who shall be physicians who demonstrate a wide range of competent medical experience, and a chairman for the medical advisory committee who shall act as medical advisor to the board. The chairman shall have authority and responsibility to assign competent and disinterested physicians to conduct medical examinations of disability applicants and recipients for the purpose of determining the member's eligibility to obtain and continue to receive disability benefits, to recommend and review medical treatment and/or vocational rehabilitation, to certify a disability as ongoing and to submit to the board a recommendation to accompany the report of the medical examiner and/or the medical advisory committee.
  - (2) The board may appoint as consultants, professionals in the field of vocational rehabilitation to provide services to the board on matters of vocational rehabilitation, including to conduct evaluations and to advise and make recommendations to the medical advisory committee, the board physician, and the board.
- (C) The board shall be responsible for screening disability benefit applications; serving as a hearing committee for disability applicants; and determining eligibility to obtain or continue to receive disability benefits.
- (D) (1) In order to qualify for a disability benefit, a member shall submit an application ~~and undergo a medical examination by the examining physician(s) as required. The application shall include that includes~~ report(s) from the member's ~~attending physician(s)~~ health care provider(s) that identifying the medical bases of the application ~~and include supportive medical evidence, a job duty form, and a job description provided by the last employer.~~ ~~and undergo a medical examination by the examining physician(s) as required.~~ Medical examinations will only be assigned for conditions identified by a health care provider.
- (2) For purposes of division (C) of section 3309.39 of the Revised Code,
- (a) A disability occurs before termination of contributing service if the underlying medical condition existed while the member was contributing to SERS;
- (b) A disability occurs after last becoming a member if the underlying condition did not exist or did not render the member incapacitated from working for at least twelve continuous months when the member last became a member of SERS.
- (E) The examining physician(s) shall make a report of the examination on a form provided by the board that sets forth the examining physician(s)' medical opinion as to the nature of any disabilities disclosed; and

- (1) Any recommended medical treatment, and the period of time in which recovery may reasonably be expected with such treatment, or
  - (2) That the disability is ongoing.
- (F) Upon receipt of a completed application, report of the examining physician(s), and any other available evidence pertaining to the application for disability, the board's medical advisory committee and/or the chairman of the medical advisory committee shall review all such information and prepare a recommendation to the board. The recommendation shall include a description of any disability, the nature and duration of any recommended medical treatment and/or vocational rehabilitation, where applicable, or a certification from the board's physician that the disability is ongoing, and any recommended reexamination requirements.
- (G) The board shall determine whether the applicant is eligible for disability benefits. Notice of denial or termination of disability benefits shall be sent to the applicant by regular U.S. mail or certified mail pursuant to rule 3309-1-41 of the Administrative Code. Notice of eligibility for disability benefits shall be sent by regular U.S. mail or certified mail.
- (H) If the board's physician recommends medical treatment and if the board's physician or consultant recommends vocational rehabilitation, the grant of disability benefits, or continuation of disability, shall be conditioned on the applicant completing and returning a signed agreement to obtain recommended medical treatment on a form included with the notice of the conditional grant of disability benefits. Failure to return this agreement, properly completed, within sixty days of the date mailed by the system constitutes failure to meet conditions for granting the disability benefits and will result in an automatic denial of disability benefits without further action by the board, with all rights of appeal pursuant to rule 3309-1-41 of the Administrative Code. Notice of the denial will be sent to the applicant pursuant to rule 3309-1-41 of the Administrative Code.
- (1) A copy of the notice of a conditional grant or continuation of disability benefits shall be sent to the ~~attending physician~~ health care provider designated on the member's application for disability benefits as authorized to receive the applicant's disability information unless the applicant subsequently provides a signed release designating another ~~attending physician~~ health care provider. The applicant's ~~attending physician~~ health care provider shall also receive:
    - (a) A description of the disabling condition,
    - (b) The nature and duration of any recommended medical treatment.
  - (2) The applicant's notice of the conditional grant or continuation of disability benefits shall inform the applicant that information regarding the nature of the disability and recommended treatment has been forwarded to the applicant's ~~attending physician~~ health care provider and that the applicant must contact that ~~physician~~ health care provider to review this information. The applicant shall be informed that the agreement to obtain recommended medical treatment and/or vocational rehabilitation must be properly completed and returned to the system within sixty days of the date that the system mailed the notice. Proper completion requires the signature of the ~~attending physician~~ health care provider indicating that the ~~physician~~ provider has communicated the disability information and recommended medical treatment to the applicant and the signature of the applicant indicating agreement to obtain the recommended medical treatment and/or vocational rehabilitation.
  - (3) Upon the timely return of a properly completed agreement to obtain recommended medical treatment and/or rehabilitation, the system shall forward to the applicant an acknowledgment of receipt of the agreement containing the effective date of the disability benefits and annual reexamination and reporting requirements necessary to continue receiving disability benefits.

(I)

- (1) Based on a certification of ongoing disability by the board physician, the board may waive annual examinations required by division (B) of section 3309.41 of the Revised Code, the filing of annual earnings statements and current medical information required by division (D) of section 3309.41 of the Revised Code, and the filing any other information required in this rule.

If not previously waived, the obligation to file annual earnings statements of a disability recipient whose disability has been certified as ongoing shall automatically be waived when the benefit recipient has satisfied one of the following requirements:

- (a) Has received a disability benefit for twenty years, or
- (b) Has attained age sixty-five.

(2) The board may review any disability granted including those certified as ongoing and request other information pursuant to division (D) of section 3309.41 of the Revised Code.

(3) The board or the board's physician and/or may require a disability recipientthe member to submit to a medical examination by thean examining physician(s) and a vocational rehabilitation evaluation by a board-appointed vocational rehabilitation professional or health care professional assigned by the system.

(J) In the absence of a waiver from the board based on a certified ongoing disability, in order to continue receiving disability benefits, the recipient shall comply with the following conditions as set forth in section 3309.41 of the Revised Code:

(1) Submit to an annual medical examination,

(2) If required, submit to a medical examination,

(3) If required, submit to a vocational rehabilitation evaluation,

(2)-(4) If applicable, obtain any recommended medical treatment and submit medical reports regarding the treatment,

(3)-(5) If applicable, obtain any recommended vocational rehabilitation and submit required reports regarding the rehabilitation,

(4)-(6) Annually file an earnings statement, current medical information, and any other information required by the board.

(K)

(1) If a recipient refuses to submit to a required medical examination or evaluation or to file required information, the disability benefits shall be suspended until the examination or evaluation is obtained or the information is filed.

(2) If, when applicable, the recipient fails to obtain recommended medical treatment and submit medical reports regarding the treatment, the disability benefits shall be suspended until the treatment is obtained and the report of the treatment submitted, or the board physician certifies that the treatment is no longer helpful or advisable.

Medical treatment is no longer helpful or advisable if, after a period of time in which it would be medically reasonable to see results, the treatment has failed to produce improvement in the disability, or continuation of the treatment presents a medically significant risk of aggravation or complication of an existing disability or creation of an additional disability.

(2)(3) If, when applicable, the recipient fails to obtain required vocational rehabilitation and submit reports regarding the rehabilitation, the disability benefits shall be suspended until the rehabilitation is obtained and the report submitted, or the board physician or consultant certifies that vocational rehabilitation is no longer helpful or advisable.

Vocational rehabilitation is no longer helpful or advisable if:

- (a) The recipient's disability renders the recipient unable to perform the duties of any position and is not expected to improve sufficiently, or
- (b) After a period of time in which the recipient has complied with recommended vocational rehabilitation, the recipient cannot be reasonably expected to obtain employment in any occupation.

(L) If the recipient's failure to comply with any of the applicable conditions set forth in paragraph (J) of this rule continues for one year from the date of the suspension of benefits for noncompliance, the recipient's right to the disability benefits shall be terminated as of the date of the original suspension.

(M) -On reexamination the board's medical advisory committee and/or the board physician shall review the medical and vocational reports and certify to the board whether the recipient continues to be disabled.

(1) If the medical advisory committee and/or the board physician certifies that the recipient continues to be disabled, the medical advisory committee and/or the board physician shall make recommendations regarding reexamination and, where applicable:

- (a) Recommend a continuation of the medical treatment and/or vocational rehabilitation previously recommended,
- (b) Recommend a modification in medical treatment and/or vocational rehabilitation, or
- (c) Certify that the disability is ongoing.

(2) When the termination standard is whether the recipient can perform any occupation, a recipient shall not be certified for termination unless

(a)(i) a SERS appointed vocational consultant has submitted a report that is based on findings made at the time of the review and that identifies a recognized position that meets the any occupation definition and has submitted a job description that includes a discussion of the physical and mental demands of the position; and

(ii) An examining physician or the medical advisory committee concludes that the recipient is capable of meeting the physical and mental demands of the position; or

(b) The recipient's current earnings statement establishes that the recipient is employed in a position whose annual earnings are seventy-five per cent or more of the recipient's final average salary, adjusted each year by the actual average increase in the consumer price index prepared by the United States bureau of labor statistics (U.S. City Average for Urban Wage Earners and Clerical Workers: "All items 1983-84=100).

(3) If the medical advisory committee and/or the board physician certifies that the recipient meets the applicable standard for termination of disability under division (C) of section 3309.41 of the Revised Code and the board concurs, the board shall:

- (a) Terminate the disability benefits effective as of a date not later than three months after the board's concurrence, or upon notice of employment of the recipient as an employee.

- (b) ~~If the leave of absence has not expired when the board votes to terminate the disability benefit, the board shall certify~~Certify to the recipient's last employer as applicable that the recipient is no longer incapable of resuming service that is the same or similar to that from which the recipient was found disabled,~~if the leave of absence has not expired.~~

(N)

- (1) Disability benefit recipients with a benefit effective date before January 7, 2013 shall be considered on leave of absence from employment during the first five years following the effective date of their disability benefit.
- (2) Disability benefit recipients with a benefit effective date on or after January 7, 2013 shall be considered on leave of absence from employment during the first three years following the effective date of their disability benefit; thereafter, their leave of absence shall terminate as follows:
  - (a) If medical treatment and/or vocational rehabilitation is not recommended, at the end of the first three years;
  - (b) If medical treatment and/or vocational rehabilitation is recommended, but the recipient is not participating in the recommended treatment or rehabilitation, the earlier of the last month the benefit recipient participated in recommended treatment or rehabilitation or the end of five years following the benefit effective date;
  - (c) If medical treatment and/or vocational rehabilitation was recommended and the recipient is participating in the recommended treatment or rehabilitation, at the end of five years following the benefit effective date.

(O)

- (1) Amounts paid by a member to purchase service credit shall be credited to the employees' savings fund.
- (2) Service credit for a period of disability shall be considered the equivalent of Ohio service credit.
- (3) Service credit granted or purchased under section 3309.41 of the Revised Code for a period of disability shall not result in the member receiving more than one year of service credit for any year as defined in division (R) of section 3309.01 of the Revised Code.

~~(P)~~

- ~~(1) A disability benefit recipient whose benefit is granted on or after January 7, 2013 who meets the requirements of divisions (a)(1)(A), (B), and (C) of 42 U.S.C. 423 shall file a copy of a completed application for social security disability insurance benefits and a copy of the social security administration's acknowledgement of receipt of the application within one hundred and twenty days of the award of disability.~~
- ~~(2) A disability benefit recipient whose benefit is granted on or after January 7, 2013 who does not meet the requirements of divisions (a)(1)(A), (B), and (C) of 42 U.S.C. 423 shall complete and sign a certified statement that the recipient does not meet the requirements within one hundred and twenty days of the award of disability. A disability benefit recipient who does not submit a certified statement shall be presumed to meet the requirements of divisions (a)(1)(A), (B), and (C) of 42 U.S.C. 423.~~

## FILING OF PROPOSED AMENDED ADMINISTRATIVE RULE

Legal Counsel discussed with the Retirement Board filing with JCARR the following proposed amended rule: 3309-1-07, Application for payment upon termination of employment.

Jeffrey DeLeone moved and Beverly Woolridge seconded that proposed amended rule 3309-1-07 be filed with JCARR as discussed. Upon roll call, the vote was as follows: Yea: Madonna Faragher, Jeffrey DeLeone, James Haller, Christine Holland, James Rossler, Daniel Wilson, Beverly Woolridge and Barbra Phillips. The motion carried.

### **3309-1-07 Application for payment upon termination of employment**

- (A) For purposes of this rule, "retirant" means a "SERS retirant" or "other system retirant" as defined in section 3309.341 of the Revised Code, or a member who retired under section 3309.343 of the Revised Code.
- (B) An application for payment of the accumulated contributions in a member's individual account pursuant to section 3309.42 of the Revised Code shall meet the following requirements:
- (1) The application shall be signed by the member. If the account balance exceeds two hundred dollars, the member's signature must be notarized or witnessed by a SERS counselor.
  - (2) The application of a member who has worked in a SERS-covered position during the six month period preceding the application must include an employer certification completed by the employer's treasurer's office or finance personnel.
- (C) An application for a single life annuity or a return of contributions pursuant to section 3309.344 of the Revised Code shall meet the following requirements:
- (1) The application shall be signed by the retirant and notarized or witnessed by a SERS counselor.
  - (2) The application of a retirant who has worked in a SERS-covered position during the six month period preceding the application must include an employer certification completed by the employer's treasurer's office or finance personnel.
- (D) For purposes of division (A)(2) of section 3309.42 of the Revised Code, "eligible for age and service retirement" means a member is eligible for retirement under section 3309.34, 3309.36, or 3309.381 of the Revised Code on or before the first of the month following the date the application for a refund is received by the school employees retirement system.
- (E) The retirement board waives the requirement of spousal consent in division (A)(2) of section 3309.42 of the Revised Code upon receipt of one of the following:
- (1) The written statement of the spouse's physician certifying that the spouse is medically incapable of consent;
  - (2) A certified copy of a probate court order appointing a guardian for the spouse due to a finding of incompetence; or
  - (3) The affidavits of the member and at least two other persons, one of whom must be unrelated to the member, attesting that the whereabouts of the spouse is unknown."
- (D) A member or retirant may withdraw an application as follows:
- (1) If the payment has not been sent, by delivering a signed written request over the applicant's signature to withdraw the application to the retirement system, prior to the date the payment is

sent or,

- (2) If the payment has been sent, by returning to the retirement system the warrant uncashed with a signed written request over the applicant's signature to withdraw the application and, if applicable, a personal check or money order for any amounts deducted from the refund amount and disbursed by the retirement system as authorized by law no later than thirty days after receipt of the check by the member or financial institution designated by the member.
- (3) If the payment was distributed as a direct rollover pursuant to rule 3309-1-53 of the Administrative Code, by delivering to the retirement system a signed written request over the applicant's signature to withdraw the application, and if the retirement plan that received the distribution returns to the retirement system the full amount transferred not later than sixty days after the transfer.

### **FILING OF PROPOSED AMENDED ADMINISTRATIVE RULE**

Legal Counsel discussed with the Retirement Board filing with JCARR the following proposed amended rule: 3309-1-18, Payment of employee and employer contributions.

Jeffrey DeLeone moved and Christine Holland seconded that proposed amended rule 3309-1-18 be filed as an emergency and a regular rule with JCARR as discussed. Upon roll call, the vote was as follows: Yea: Madonna Faragher, Jeffrey DeLeone, James Haller, Christine Holland, James Rossler, Daniel Wilson, Beverly Woolridge and Barbra Phillips. The motion carried.

#### **3309-1-18 Payment of employee and employer contributions**

A) For purposes of this rule:

- (1) "Employer" has the same meaning as in section 3309.01 of the Revised Code.
  - (2) "Employee" has the same meaning as in section 3309.01 of the Revised Code.
  - (3) ~~"Compensation" has the same meaning as in section 3309.01 of the Revised Code.~~
  - (4) ~~"Report month" means the month in which compensation was paid."Contribution report" means payroll data for each pay date that has been cleared of any errors or warnings.~~
  - (5)(4) "Surcharge" means the employer minimum compensation contribution amount determined pursuant to section 3309.491 of the Revised Code.
- (B) Employee contribution payments shall be remitted to the school employees retirement system by the ~~fifteenth~~fifth business day ~~of the month~~ following the ~~pay date~~report month.
- (C) ~~Payroll data~~Contribution reports shall be submitted to the retirement system by the ~~fifteenth~~fifth business day ~~of the month~~ following the ~~pay date~~report month.
- (D) ~~Effective July 1, 2010, p~~Payments due under section 3309.51 of the Revised Code and paid by an employer directly to the employers' trust fund shall be remitted ~~monthly~~ by the ~~15th~~fifth business day ~~of the month~~ following the ~~pay date~~report month.
- (E) ~~Effective July 1, 2010, p~~Payments due to the employers' trust fund pursuant to section 3309.51 of the Revised Code and received from the amounts allocated under Chapter 3317. of the Revised Code,

section 3314.08 of the Revised Code, and section 3326.33 of the Revised Code shall be remitted each month and attributed to that month.

(F) Annually, the retirement system shall issue a final school year statement that reconciles the estimated employer payments received with the employer payments owed. Within thirty days of the statement's issuance, the employer shall directly pay to the employers' trust fund any balance owed, or the retirement system shall directly refund to the employer any overpayments made. The retirement system shall not issue a refund to an employer whose reports or payments are delinquent.

~~(G) Effective July 1, 2010, the retirement system shall collect overdue payments due to the employers' trust fund pursuant to section 3309.51 of the Revised Code and received from the amounts allocated under Chapter 3317. of the Revised Code, section 3314.08 of the Revised Code, and section 3326.33 of the Revised Code by way of additional installments.~~

~~(1) The additional installments shall be monthly equal amounts collected over a six-year period.~~

~~(2) The retirement system shall include the additional installments with the certification of the regular estimated payments to the superintendent of public instruction.~~

~~(3) In the event of a short fall of available funds to cover both the regular and additional payments, the employer shall remit the full amount of the short fall directly to the employers' trust fund no later than the fifteenth day of the month following the report month.~~

~~(4) The retirement system may agree to a modified payment plan as to an employer declared to be in fiscal watch or fiscal emergency pursuant to section 3316.03 of the Revised Code. To obtain a modification, the employer must submit a proposed payment plan and obtain written approval of its terms from the retirement system.~~

~~(H) Effective July 1, 2010, s~~urcharge payments due to the employers' trust fund shall be collected in one of the following ways:

(1) An employer who does not receive amounts allocated under section 3314.08 or 3326.33 of the Revised Code may choose to pay its surcharge directly to the employers' trust fund. An employer who chooses this option must pay its surcharge within thirty days after receipt of the certified amount due from the retirement system.

(2) For those employers who do not choose the direct pay option under paragraph ~~(G)(1)(H)(1)~~ of this rule, as well as employers who receive amounts allocated under section 3314.08 or 3326.33 of the Revised Code, the retirement system shall include surcharge payments in the estimated payments certified to the superintendent of public instruction pursuant to section 3309.51 of the Revised Code.

~~(H)(H)~~ For any payments made pursuant to paragraphs (B), (D), (F), ~~(G)~~ and ~~(H)(1)(G)(1)~~ of this rule, a payment ~~report~~ remittance information shall be submitted in the manner specified by the retirement system no later than the date the payment is remitted.

~~(J)(I)~~ The retirement system may extend a due date for an employer upon a finding that good cause has been shown.

Barbra Phillips asked Anne Jewel to provide an update on Health Care.

### **2016 HEALTH CARE EXPERIENCE**

Anne Jewel, Director of Health Care Services, reviewed health care's experience in 2016. She also addressed dental and vision contract renewals.

**2016 Health Care Experience:** The health care fund experienced a net loss of \$38 million in 2016, due not to an increase in expenses, but to no investment income or employer contribution being allocated to health care. All monies from the employer contribution (except for the employer surcharge) are currently being used to fund the pension fund under the funding policy. Even with the 2016 loss, the health care fund remains within the \$300 to \$400 million funding range where it has been for the past 10 years. Looking ahead, Ms. Jewel says she anticipates the health care fund to decrease again in 2017, but that loss is expected to be much smaller than 2016.

Aetna took over administration of the non-Medicare plan in 2016 which has resulted in savings. In addition, some 225 non-Medicare plan participants have enrolled in the new SERS Wraparound option that provides savings for not only the participant, but the health care fund as well.

Ms. Jewel updated the Board on the initiative to assist health care enrollees in applying for Medicare earlier than age 65. As of January 2017, 26 benefit recipients have been approved for Medicare early while some 271 applications are pending with Social Security.

A surprising finding are the number of benefit recipients who are not eligible to apply for Medicare early. About 2,000 benefit recipients have self-reported they have never paid into Medicare (started with their district prior to 1986 and have never changed employers) and thus would not be eligible for Medicare before age 65. Ms. Jewel says in the coming months, efforts will be made to confirm this information.

**Dental and Vision Coverage:** Ms. Jewel noted that the vision and dental plans continue to be popular and enrollment is growing steadily. There are some 32,000 participants in the Delta Dental plan and nearly 20,000 in the VSP vision plan.

Based on enrollment and positive experience, Health Care Services offered both vendors the opportunity to quote new four-year rates before deciding whether to issue a new RFP. Favorable renewal rates were received.

VSP is offering no premium increases for the next four years and a \$30 increase in the retail frame benefit allowance. Delta Dental is proposing to keep benefits unchanged and has offered multi-year not-to-exceed renewal rates. Not-to-exceed rates mean that if there is a rate increase, the increase cannot exceed the rate cap. In addition, renewal rates are based on experience and an 85% loss ratio.

Based on the vendor responses, Ms. Jewel will recommend acceptance of their re-contracting terms during the March Board meeting.

### **COMPENSATION COMMITTEE**

Ms. Faragher provided an update on the Compensation Committee's meeting. She stated that the Committee reviewed the Interim Executive Directors goals, and acknowledged the Board's pleasure with where the organization is moving. Ms. Faragher also recognized Helen Ninos, noting that she is doing an outstanding job as Interim Executive Director. Concluding, Ms. Faragher stated that the Board is very pleased with the direction of the COLA legislation.

Concluding the Compensation Committee update, the Board took a recess at 12:22 p.m. and reconvened at 1:29 p.m.

#### **EXECUTIVE SESSION**

At 1:29 p.m., Madonna Faragher moved and James Haller seconded the motion that the Board go into Executive Session pursuant to R.C. 121.22 (G)(5) to review applications for Disability Retirement Benefits. Upon roll call, the vote was as follows: Yea: Madonna Faragher, Jeffrey DeLeone, James Haller, Christine Holland, James Rossler, Daniel Wilson, Beverly Woolridge and Barbra Phillips. The motion carried.

The Board returned to open session at 3:00 p.m.

Barbra Phillips excused Daniel Wilson from the remainder of the meeting.

#### **EXECUTIVE SESSION**

At 3:08 p.m., Madonna Faragher moved and James Haller seconded the motion that the Board go into Executive Session pursuant to R.C. 121.22 (G)(1) to discuss the employment and compensation of a public employee. Upon roll call, the vote was as follows: Yea: Madonna Faragher, Jeffrey DeLeone, James Haller, Christine Holland, James Rossler, Daniel Wilson, Beverly Woolridge and Barbra Phillips. The motion carried.

The Board returned to open session at 4:39 p.m.

Concluding the Executive Session, the Board recessed at 4:39 p.m.

#### **February 17, 2017**

The Board reconvened at 8:32 a.m.

#### **EMPLOYMENT OF EXECUTIVE DIRECTOR**

James Rossler moved and Madonna Faragher seconded to authorize the Board Chair to sign an Offer Letter offering Richard Stensrud employment as Executive Director at SERS upon the terms and conditions as discussed in the Executive Session of February 16, 2017. Upon roll call, the vote was as follows: Madonna Faragher, Jeffrey DeLeone, James Haller, Christine Holland, James Rossler, Daniel Wilson, Beverly Woolridge and Barbra Phillips. The motion carried.

#### **CONTINUED OR NEW BUSINESS**

Helen Ninos informed the Board that SERS will go-live with its new Member Benefit System on Monday, February 27, 2017.

The Board continued with the review of calendar dates and future Board meetings.

## **CALENDAR DATES FOR FUTURE BOARD MEETINGS**

### **2017**

March 16 and 17 (Thurs. and Fri.)  
April 20 and 21 (Thurs. and Fri.)  
May 18 and 19 (Thurs. and Fri.)  
June 15 and 16 (Thurs. and Fri.)  
July 20 and 21 (Thurs. and Fri.)  
September 21 and 22 (Thurs. and Fri.)  
October 19 and 20 (Thurs. and Fri.)  
November 16 and 17 (Thurs. and Fri.)  
December 21 and 22 (Thurs. and Fri.)

**\*\*NOTE:** *The above dates are tentative.*

### **BOARD INFORMATION REQUESTS AND FOLLOW-UP ITEMS**

Ms. Ninos continued by reviewing open and closed information items and noted requests made during the meeting.

### **ADJOURNMENT**

Barbra Phillips moved that the Board adjourn to meet on Thursday, March 16, 2017 for their regularly scheduled meeting. The meeting adjourned at 8:44 a.m.

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Barbra Phillips– Board Chair

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Helen M. Ninos – Secretary