

OPINION NO. 87-071**Syllabus:**

1. Pursuant to division (A) of R.C. 3307.021, a member of the State Teachers Retirement System may purchase up to five years of service credit, which shall be considered as the equivalent of Ohio service, on a one year for one year basis for each year of service incurred by reason of having been on active duty as a member of the armed forces of the United States, as defined in R.C. 3307.02, subject to the limitations set forth in R.C. 3307.021, even though the member's first full-time public service in Ohio following termination of military service was covered by either the Public Employees Retirement System or the School Employees Retirement System.
2. Where a member of the State Teachers Retirement System has purchased service credit for any year of military service under the terms of R.C. 145.301 as a member of the Public Employees Retirement System or under R.C. 3309.021 as a member of the School Employees Retirement System, he is not entitled to purchase service credit for that same year of military service under R.C. 3307.021.
3. Pursuant to R.C. 3307.021, a member of the State Teachers Retirement System who is also a member of the Public Employees Retirement System or the School Employees Retirement System may, in the manner and subject to the limitations set forth in R.C. 3307.021, purchase service credit for each year of service incurred by reason of having been on active duty as a member of the armed forces of the United States, as defined in R.C. 3307.02, whether or not he has purchased military service credit under R.C. 145.301 (PERS) or R.C. 3309.021 (SERS), so long as the years of military service for which he is purchasing credit under R.C. 3307.021 are not "used in the calculation of any retirement benefit currently being paid to

such member or payable in the future under any other retirement program except for retired pay for non-regular service under chapter 67 of Title 10, United States Code or social security," R.C. 3307.021(E).

4. As used in R.C. 3307.021(D), the phrase "member rate of contribution in effect at the time the military service began" refers to the State Teachers Retirement System member rate of contribution in effect at the time the military service began.
5. Pursuant to R.C. 3307.021(D) and 3 Ohio Admin. Code 3307-1-04(D), the year upon which a member's payment for the purchase of military service credit is to be based is the first year of employment in public service in Ohio following termination of military service, whether or not such employment was covered by the State Teachers Retirement System; the State Teachers Retirement System may use any reasonable means to ascertain and verify the annual compensation figure upon which payment for service credit under R.C. 3307.021(D) is to be based.
6. The right of a member of the State Teachers Retirement System to purchase service credit in accordance with R.C. 3307.021 is not affected by the fact that he has the right to elect, if also a member of the School Employees Retirement System or the Public Employees Retirement System, to retire separately under each system of which he is a member or to pursue a joint membership retirement under R.C. 3307.41.

**To: C. James Grothaus, Executive Director, State Teachers Retirement System,
Columbus, Ohio**

By: Anthony J. Celebrezze, Jr., Attorney General, September 25, 1987

I have before me your opinion request in which you ask the following questions concerning the purchase of military service credit within the State Teachers Retirement System (STRS) under R.C. 3307.021:

(1) Is an STRS member whose first full-time public service in Ohio following termination of military service was under another Ohio public retirement system eligible to purchase military credit under the terms of R.C. 3307.021?

(2) If your answer to question 1 is yes, assuming that an STRS member's first full-time public service in Ohio following termination of military service was not covered by STRS and that such member who is also a member of PERS or SERS has purchased credit for military service under R.C. 145.301 (PERS) or R.C. 3309.021 (SERS), is such member also eligible to purchase credit for military service under R.C. 3307.021?

(3) If your answers to questions 1 and 2 are in the affirmative, may an individual with membership in more

than one system purchase total military service credit in excess of five years if the actual period or periods of military service exceeded five years, even though individuals with membership in only one system may purchase only up to five years regardless of the length of military service?

(4) If your answers to questions 1 and 2 are in the affirmative, do the terms of [R.C. 3307.021(D)] require payment to STRS of an amount calculated through the use of the STRS contribution rate in effect at the time military service began?

(5) Is the amount to be paid for such purchases to STRS calculated through the use of the first full-time annual STRS earnings after military service ended? If not, by what means is STRS authorized to determine earnings for the first year of service in Ohio following termination of military service?

(6) If your answers to questions 1 and 2 are in the affirmative, does the fact that a person who is a member of both STRS and PERS has the option of retiring under a joint membership plan, as described in R.C. 3307.41, or separately from each system under R.C. 3307.38 (STRS) and R.C. 145.33 (PERS) affect his right to purchase prior military service credit under R.C. 3307.021?

Your first question concerns the employment requirements imposed by R.C. 3307.021 with respect to an STRS member's purchase of military service credit. Specifically you ask whether an STRS member whose first full-time public service in Ohio following termination of military service was under another Ohio public retirement system is eligible to purchase military service credit under R.C. 3307.021. Since your questions refer to an STRS member's additional membership in only the Public Employees Retirement System (PERS) or the School Employees Retirement System (SERS), I will address the statutes concerning only those public retirement systems where applicable.

The right to purchase service credit in the State Teachers Retirement System for prior military service is set forth in R.C. 3307.021 which states in pertinent part:

(A) A member may purchase service credit which shall be considered as the equivalent of Ohio service for each year of service incurred by reason of having been on active duty as a member of the armed forces of the United States, as defined in [R.C. 3307.02]. The credit may be purchased at any time. The number of years purchased under this division shall not exceed five.

(B)....

A member may purchase service credit which shall be considered as the equivalent of Ohio service for each year of service such member was a prisoner of war. The number of years purchased under this division shall not exceed five. Service credit may be purchased under this division for the same years of service used to purchase service credit under division (A) of this section. The member may choose to

purchase only part of such credit in any one payment, subject to board rules.

(C) The total number of years purchased under this section shall not exceed the member's total accumulated number of years of Ohio service.

(D) For each year of service purchased under division (A) or (B) of this section, the member shall pay to the state teachers retirement system for credit to his accumulated account an amount determined by the member rate of contribution in effect at the time the military service began multiplied by his annual compensation for full-time employment during the first year of service in Ohio following termination of military service. If, however, a limit on maximum salary or maximum contribution was in effect at the time the military service began, the limit shall be applied to the salary received during the first year of service in Ohio to calculate the amount of payment. To this amount shall be added an amount equal to compound interest at a rate established by the state teachers retirement board from the date active military service terminated to date of payment. The member may choose to purchase only part of such credit in any one payment, subject to board rules.

(E) A member of the state teachers retirement system is ineligible to purchase service credit under this section for any year of military service used in the calculation of any retirement benefit currently being paid to such member or payable in the future under any other retirement program except for retired pay for non-regular service under chapter 67 of Title 10, United States Code or social security. At the time the credit is purchased, the member shall certify on a form furnished by the retirement board that he does and will conform to this requirement. Any benefit paid under this section to which the member is not entitled shall be recovered by any recovery procedures available under this chapter.

Thus, pursuant to R.C. 3307.021(A), a member of STRS, as defined in R.C. 3307.01(E), may, at any time, purchase up to five years of service credit on a one year for one year basis "for each year of service incurred by reason of having been on active duty as a member of the armed forces of the United States, as defined in [R.C. 3307.02]." R.C. 3307.021(B) contains a similar provision authorizing an STRS member to purchase up to five years of service credit on a one year for one year basis "for each year of service such member was a prisoner of war." Further, under division (B), service credit may be purchased for the same years of service for which credit was purchased under division (A). Pursuant to R.C. 3307.021(C), however, the total number of years of service purchased under R.C. 3307.021 may not exceed "the member's total accumulated number of years of Ohio service."¹ A further limitation on the purchase of service credit is set forth in R.C. 3307.021(E) which makes an STRS member ineligible

¹ R.C. 3307.01(D) states:

"Total service," "total service credit,"
except as provided in [R.C. 3307.41], or "Ohio

to purchase service credit "under this section for any year of military service used in the calculation of any retirement benefit currently being paid to such member or payable in the future under any other retirement program except for retired pay for non-regular service under chapter 67 of Title 10, United States Code or social security." (Emphasis added.)

Upon examination of the above-quoted portions of R.C. 3307.021, it becomes apparent that the statute imposes no limitation upon an STRS member's eligibility to purchase military service credit under R.C. 3307.021 by requiring the member's first Ohio service following termination of his military service to be a position of employment covered by STRS. The language of R.C. 3307.021 simply contains no such express limitation. Further, I find no language in the statute indicating that the legislature intended that such a limitation be implied. Rather, since the legislature expressly imposed certain limitations on the entitlement to purchase service credit, e.g., limiting to five the number of years of service which a member may purchase under divisions (A) and (B); division (C), limiting the total number of years of service which may be purchased under the section as a whole; division (E), disallowing the purchase of service credit for years of military service used in the calculation of retirement benefits being paid or payable in the future under certain other retirement programs, I must conclude that the General Assembly did not intend to impose, merely by implication, other limitations on an STRS member's eligibility to purchase military service credit. See generally State ex rel. Alden E. Stilson & Assoc. v. Ferguson, 154 Ohio St. 139, 93 N.E.2d 688 (1950) (citing the general principle of statutory construction that the specification of one thing implies the exclusion of another).

Further support for this conclusion is found by comparing the provisions of R.C. 3307.021 with R.C. 3307.01(S) which defines the phrase "five years of service credit," as used "for the exclusive purpose of satisfying the service credit requirements and determining eligibility for benefits under

service credit" means all service of a member of the state teachers retirement system since last becoming a member and, in addition thereto, restored service credit under [R.C. 3307.28], all prior service credit, all military service credit under [R.C. 3307.02 and 3307.021], and all other service credit established under [R.C. 3307.31, 3307.32, 3307.35, 3307.411, 3307.51, 3307.512, 3307.513, and 3307.73] and former section 3307.52 of the Revised Code and Section 3 of Amended Substitute Senate Bill No. 530 of the 114th general assembly. All service credit purchased under [R.C. 3307.33] shall be used exclusively for the purpose of qualifying for service retirement.

Although R.C. 3307.01(D) defines the terms "total service," "total service credit," and "Ohio service credit," the phrase "total accumulated number of years of Ohio service," as used in R.C. 3307.021, is not defined.

[R.C. 3307.38], means employment covered under Chapter 3307. of the Revised Code and employment covered under a former retirement plan operated, recognized, or endorsed by a college, institute, university, or political subdivision of this state prior to coverage under Chapter 3307. of the Revised Code." (Emphasis added.) Thus, it is evident that where the General Assembly intended to refer only to employment covered by STRS, it has done so in plain language.² I conclude, therefore, in the absence of such an express limitation in R.C. 3307.021 upon the type of Ohio service in which an STRS member must be employed immediately following termination of military service, no such limitation may be implied. Accordingly, in answer to your first question, pursuant to R.C. 3307.021, the fact that an STRS member's first full-time public service in Ohio following termination of military service was under either PERS or SERS does not preclude him from purchasing military service credit in accordance with the terms of R.C. 3307.021.

I have rephrased your second question as follows: Assuming that an STRS member whose first full-time public service in Ohio following termination of his military service was covered by either PERS or SERS and such member has also purchased military service credit under R.C. 145.301 or R.C. 3309.021, is such member eligible to purchase service credit under R.C. 3307.021?

One limitation on an STRS member's ability to purchase military service credit under R.C. 3307.021 is set forth in division (E) of that statute which states in pertinent part: "A member of the state teachers retirement system is ineligible to purchase service credit under this section for any year of military service used in the calculation of any retirement benefit currently being paid to such member or payable in the future under any other retirement program except for retired pay for non-regular service under chapter 67 of Title 10, United States Code or social security." As noted in your letter, R.C. 145.301 and R.C. 3309.021 authorize PERS members and SERS members, respectively, to purchase military service credit as members of those retirement systems. The reason a member elects to purchase additional service credit is that the amount of benefits payable upon retirement is based, in part, on the amount of a member's service credit.

Pursuant to R.C. 145.301(A) and (B), the military service credit purchased under either division "shall be considered as the equivalent of Ohio service." See generally R.C. 145.01(H)(5) (defining "Ohio service credit"). When a PERS member retires on age and service retirement under R.C. 145.33, the amount payable to him is based, in part, on his "total

² Concerning the required contribution for the purchase of military service credit under R.C. 3307.021, 3 Ohio Admin. Code 3307-1-04(D) states: "Contribution shall be made on the annual rate of compensation for full-time employment during the first year of Ohio public service subject to any statutory salary limitations then in effect." (Emphasis added.) As discussed in answer to your fifth question, the language of this rule indicates the administrative interpretation that the purchase of military service under R.C. 3307.021 is not limited to only those situations where the public employment following termination of military service is covered by STRS.

service credit." See generally R.C. 145.01(H)(1) (defining "total service credit" as including, among other things, all of a member's "military service credit computed as provided in Chapter 145. of the Revised Code"). Similarly, R.C. 3309.021(A) and (B) allow an SERS member to purchase military service credit which "shall be considered as the equivalent of Ohio service." Pursuant to R.C. 3309.36, an SERS member's retirement allowance is based, in part, upon his "total service credit." See generally R.C. 3309.01(D) (defining "total service credit"). It is clear, therefore, that like STRS, both PERS and SERS allow members to purchase military service credit which may be used in the calculation of the member's retirement benefit. Thus, pursuant to R.C. 3307.021(E), to the extent that an STRS member has purchased service credit under either R.C. 145.301 or R.C. 3309.021 for a year of military service used in the calculation of a retirement benefit currently being paid to such member or payable in the future under R.C. Chapter 145 or R.C. Chapter 3309, he may not purchase service credit under R.C. 3307.021 for that same year of military service.

Your third question asks whether a person with membership in more than one retirement system may purchase "total military service credit in excess of five years if the actual period or periods of military service exceeded five years, even though individuals with membership in only one system may purchase only up to five years regardless of the length of military service." As stated above, I will assume that your question concerns an individual who is a member of STRS, as well as being a member of either PERS or SERS. I note, initially, that R.C. 3307.021(C) sets forth the following limitation: "The total number of years purchased under this section shall not exceed the member's total accumulated number of years of Ohio service." (Emphasis added.) Further, the purchase of service credit under R.C. 3307.021(A) is specifically limited as follows: "The number of years purchased under this division shall not exceed five." (Emphasis added.) R.C. 3307.021(B) contains the same five year limitation on the purchase of service credit under that division. Thus, an STRS member could conceivably purchase a total of ten years of military service credit if he met the qualifications set forth in both divisions (A) and (B) of R.C. 3307.021, provided that the total number of years of service purchased under such divisions does not exceed "the member's total accumulated number of years of Ohio service," R.C. 3307.021(C), and subject to the limitation established in R.C. 3307.021(E).

As discussed above, each of the three statutes about which you ask, R.C. 145.301, R.C. 3307.021, and R.C. 3309.021, establishes the terms of eligibility for the purchase of service credit for prior military service within PERS, STRS, and SERS, respectively. Like R.C. 3307.021(E), R.C. 145.301(E) disqualifies a PERS member from purchasing service credit in that system "for any year of military service used in the calculation of any retirement benefit currently being paid to the member or payable in the future under any other retirement program except for retired pay for non-regular service under Chapter 67 of title 10, United States Code or social security." Similarly, R.C. 3309.021(E), makes an SERS member ineligible to purchase service credit in SERS under R.C. 3309.021 "for any year of military service used in the calculation of any retirement benefit currently being paid to the member or payable in the future under any other retirement program except for retired pay for non-regular service under chapter 67 of Title 10, United States Code or social

security." Concerning persons who are members of STRS, in addition to PERS or SERS, R.C. 3307.021 limits the purchase of military service credit to the extent that a year of military service may be included as a year of service in no more than one system for the purpose of calculating a person's retirement benefits.

In answer to your third question, pursuant to R.C. 3307.021, a member of STRS who is also a member of PERS or SERS may, in the manner and subject to the limitations set forth in R.C. 3307.021, purchase service credit for each year of service incurred by reason of having been on active duty as a member of the armed forces of the United States, as defined in R.C. 3307.02, whether or not he has purchased military service credit under R.C. 145.301 (PERS) or R.C. 3309.021 (SERS), so long as the years of military service for which he is purchasing credit under R.C. 3307.021 are not "used in the calculation of any retirement benefit currently being paid to such member or payable in the future under any other retirement program except for retired pay for non-regular service under chapter 67 of Title 10, United States Code or social security," R.C. 3307.021(E).

Your next question asks whether R.C. 3307.021(D) requires payment to STRS of an amount calculated through the use of the STRS contribution rate in effect at the time military service began. Concerning payment for the purchase of service credit under R.C. 3307.021(A) and (B), R.C. 3307.021(D) states:

For each year of service purchased under division (A) or (B) of this section, the member shall pay to the state teachers retirement system for credit to his accumulated account an amount determined by the member rate of contribution in effect at the time the military service began multiplied by his annual compensation for full-time employment during the first year of service in Ohio following termination of military service. If, however, a limit on maximum salary or maximum contribution was in effect at the time the military service began, the limit shall be applied to the salary received during the first year of service in Ohio to calculate the amount of payment. To this amount shall be added an amount equal to compound interest at a rate established by the state teachers retirement board from the date active military service terminated to date of payment. The member may choose to purchase only part of such credit in any one payment, subject to board rules. (Emphasis added.)

Concerning the rate upon which payment for service credit is made, R.C. 3307.021(D) specifically refers to "the member rate of contribution in effect at the time the military service began." (Emphasis added.) As mentioned above, the term "member" is defined, for purposes of R.C. Chapter 3307, in R.C. 3307.01(E) as meaning:

any person included in the membership of the state teachers retirement system, which shall consist of all teachers and contributors as defined in divisions (B) and (F) of this section. However, for purposes of [R.C. Chapter 3307], the following persons shall not be considered members:

- (1) Students, interns, and residents who are

employed on a part-time basis at state colleges and universities and who are not contributors as defined in division (F) of this section.

(2) Persons exempted from membership pursuant to [R.C. 3307.25]. (Emphasis added.)

Thus, it is evident that the term "member," as used in R.C. Chapter 3307, refers to one who is a member of the State Teachers Retirement System. See generally 3 Ohio Admin. Code 3307-1-04(A) ("[t]he contribution rate in effect at the time the first military service period began shall be utilized in calculating cost of service credit"). In answer to your question, therefore, I conclude that, as used in R.C. 3307.021(D), the phrase "member rate of contribution in effect at the time the military service began" refers to the STRS member rate of contribution in effect at the time the military service began.

Your fifth question asks: "Is the amount to be paid for such purchases to STRS calculated through the use of the first full-time annual STRS earnings after the military service ended? If not, by what means is STRS authorized to determine earnings for the first year of service in Ohio following termination of military service?" R.C. 3307.021(D) bases the payment for the purchase of military service credit on the member's "annual compensation for full-time employment during the first year of service in Ohio following termination of military service." Admittedly, the wording of R.C. 3307.021(D) is unclear as to whether the year of service on which the payment calculation is based must be the first year of employment covered by STRS following termination of military service or whether the phrase "service in Ohio," as used in R.C. 3307.021(D), has a broader meaning.

Pursuant to R.C. 1.49(F), where a statute is ambiguous, the administrative construction of the statute may be considered in order to determine the intention of the legislature. Cf. Jones Metal Products Co. v. Walker, 29 Ohio St. 2d 173, 181, 281 N.E.2d 1, 8 (1972) ("[c]ourts, when interpreting statutes, are required to give due deference to an administrative interpretation formulated by an agency which has accumulated substantial expertise, and to which agency Congress has delegated the responsibility of implementing the congressional command"). In this regard, I note that the State Teachers Retirement Board has, by rule, interpreted the provision of R.C. 3307.021(D) about which you ask. According to the rule: "Contribution shall be made on the annual rate of compensation for full-time employment during the first year of Ohio public service subject to any statutory salary limitations then in effect." 3 Ohio Admin. Code 3307-1-04(D). Thus, according to rule 3307-1-04(D), the year upon which a member's payment for the purchase of military service credit is to be based is the first year of public service in Ohio following termination of military service. Although the rule does qualify the phrase "year of service in Ohio," as used in the first sentence of R.C. 3307.021(D), by describing such service as "public," it contains no further qualification that such year be served in employment covered by STRS. It appears, therefore, that the administrative interpretation of R.C. 3307.021(D) does not require the calculation of the payment for the purchase of military service credit to be based upon earnings in employment covered by STRS.

In addition, I note that, in attempting to ascertain the legislature's intent in the enactment of a statute, it is

sometimes useful to compare the language used elsewhere by the legislature in dealing with related subjects. See Lake Shore Electric Ry. Co. v. PUCO, 115 Ohio St. 311, 319, 154 N.E. 239, 242 (1926) (had the legislature intended a term to have a particular meaning, "it would not have been difficult to find language which would express that purpose," having used such language in other connections). Utilizing this rule of construction, I find that had the legislature intended the phrase "year of service in Ohio," as used in the first sentence of R.C. 3307.021(D), to be limited to a year of service in employment covered by STRS, it could easily have expressed that intention, having used such limiting language elsewhere in the chapter. Compare R.C. 3307.021(D) ("year of service in Ohio") with R.C. 3307.01(S) (defining, for certain purposes, the phrase "five years of service credit" as including "employment covered under [R.C. Chapter 3307]") and R.C. 3307.02 (requiring an STRS member to return to "service as a teacher" within a certain period in order to establish certain military service credit).

In the next part of your question you assume that the "first year of service in Ohio following termination of military service," referred to in R.C. 3307.021(D), is not limited to the first year of service under STRS following termination of military service. You ask "by what means is STRS authorized to determine earnings for the first year of service in Ohio following termination of military service?" It is well settled that: "[t]he duties and powers of the State Teachers Retirement Board in the administration of the State Teachers Retirement System, are prescribed by law and limited by the statutory provision with reference thereto. It possesses no power except such as is expressly given or such as is necessarily implied to carry out the expressed powers granted." 1933 Op. Att'y Gen. No. 1246, vol. II, p. 1163 (syllabus, paragraph one). As stated in 1933 Op. No. 1246 at 1165: "When the law expressly provides for the manner of administering the State Teachers Retirement System, the Retirement Board has no powers whatever with respect to the particular manner of so administering it other than to carry out the express mandate of the Legislature."

In the situation about which you ask, STRS is charged with the duty of calculating the payment to be made by a member for the purchase of military service credit based upon the member's "annual compensation for full-time employment during the first year of service in Ohio following termination of military service," R.C. 3307.021(D). R.C. 3307.021 does not, however, address the means by which STRS may verify the annual compensation figure upon which the payment under that section is to be based. It therefore follows, by necessary implication, that STRS may use any reasonable means to ascertain and verify the annual compensation figure upon which payment for service credit under R.C. 3307.021(D) is to be based. See generally R.C. 3307.04 (requiring the State Teachers Retirement Board, in whom the administration and management of STRS is vested, to adopt rules and regulations necessary for the fulfillment of its duties and powers under R.C. Chapter 3307); State ex rel. Hunt v. Hildebrant, 93 Ohio St. 1, 112 N.E. 138 (1915) (syllabus, paragraph four) ("[w]here an officer is directed by...a statute of the state to do a particular thing, in the absence of specific directions covering in detail the manner and method of doing it, the command carries with it the implied power and authority necessary to the performance of the duty imposed"); Jewett v.

Valley Ry. Co., 34 Ohio St. 601, 608 (1878) ("[w]here authority is given to do a specified thing, but the precise mode of performing it is not prescribed, the presumption is that the legislature intended the party might perform it in a reasonable manner").

I have restated your final question as follows: Does the fact that a person who is a member of both STRS and PERS has the option of retiring under a joint membership plan, as described in R.C. 3307.41, or separately from each system under R.C. 3307.38 (STRS) and R.C. 145.33 (PERS) affect his right to purchase prior military service credit under R.C. 3307.021?

R.C. 3307.021 sets forth the requirements for and limitations upon an STRS member's purchase of service credit for prior military service. As set forth above, R.C. 3307.021(E) prohibits the purchase of service credit in STRS for any year of military service "used in the calculation of any retirement benefit currently being paid to such member or payable in the future under any other retirement program except for retired pay for non-regular service under chapter 67 of Title 10, United States Code or social security." The identical prohibition against the purchase of service credit in PERS is set forth in R.C. 145.301(E). These provisions insure that, even though a person is a member of STRS and PERS, he may not purchase service credit in more than one system for any year of military service.

Pursuant to R.C. 145.33(A)(5), when a PERS member retires on age and service retirement, one factor used in the calculation of his benefits is his "total Ohio service credit." Similarly, pursuant to R.C. 3307.38, when an STRS member retires on age and service retirement, the member's "Ohio service credit," as defined in R.C. 3307.01(D), is one factor used in calculating the member's retirement benefits. Pursuant to R.C. 145.301(E) and R.C. 3307.021(E), the person in the situation about which you ask would not be able to purchase service credit in both systems and thereby enhance his retirement benefits for any year of military service. Rather, he would be limited to purchasing credit in only one system for any particular year of military service.

Similarly, even though a member of STRS who is also a member of PERS elects to retire under the joint membership plan established in R.C. 3307.41, he is not entitled to purchase and thus receive service credit in excess of one year for any year of military service, regardless of whether the credit was purchased through PERS or STRS. R.C. 3307.41 states in pertinent part:

To coordinate and integrate membership in the state retirement systems, the following provisions apply:

(A) Retirement systems are the public employees retirement system, the state teachers retirement system, and the school employees retirement system.

(B) At the member's option, total contributions and service credit in all retirement systems shall be used in determining the eligibility for benefits. If total contributions and service credit are combined, the following provisions apply:

....
(2) "Total service credit" includes the total credit in all retirement systems except that such

credit shall not exceed one year for any period of twelve months.

(5) In determining the total credit to be used in calculating the benefit, credit shall not be reduced below that certified by the system or systems transferring the credit, except that such total combined service credit shall not exceed one year of credit for any one "year" as defined in the statute governing the system making the calculation. (Emphasis added.)

See generally R.C. 3307.01(P) (defining "year" as meaning, "the year beginning the first day of July and ending with the thirtieth day of June next following, except that for the purpose of determining final average salary, 'year' may mean the contract year"). It is clear, therefore, that whether the person in the situation about which you ask retires separately under PERS, pursuant to R.C. 145.33, and STRS, pursuant to R.C. 3307.38, or under a joint membership plan governed by R.C. 3307.41, the person may not purchase, and thus will not receive, more than one year of credit for any year of military service. An STRS member's right to purchase credit for prior military service is governed by the terms and conditions set forth in R.C. 3307.021 and is not affected by the member's decision ultimately to retire separately from STRS under R.C. 3307.38 and from PERS under R.C. 145.33 or to retire under a joint membership plan described in R.C. 3307.41.

Based on the foregoing, it is my opinion, and you are hereby advised that:

1. Pursuant to division (A) of R.C. 3307.021, a member of the State Teachers Retirement System may purchase up to five years of service credit, which shall be considered as the equivalent of Ohio service, on a one year for one year basis for each year of service incurred by reason of having been on active duty as a member of the armed forces of the United States, as defined in R.C. 3307.02, subject to the limitations set forth in R.C. 3307.021, even though the member's first full-time public service in Ohio following termination of military service was covered by either the Public Employees Retirement System or the School Employees Retirement System.
2. Where a member of the State Teachers Retirement System has purchased service credit for any year of military service under the terms of R.C. 145.301 as a member of the Public Employees Retirement System or under R.C. 3309.021 as a member of the School Employees Retirement System, he is not entitled to purchase service credit for that same year of military service under R.C. 3307.021.
3. Pursuant to R.C. 3307.021, a member of the State Teachers Retirement System who is also a member of the Public Employees Retirement System or the School Employees Retirement System may, in the manner and subject to the limitations set forth in R.C. 3307.021, purchase service credit for each year of service incurred by reason of having

been on active duty as a member of the armed forces of the United States, as defined in R.C. 3307.02, whether or not he has purchased military service credit under R.C. 145.301 (PERS) or R.C. 3309.021 (SERS), so long as the years of military service for which he is purchasing credit under R.C. 3307.021 are not "used in the calculation of any retirement benefit currently being paid to such member or payable in the future under any other retirement program except for retired pay for non-regular service under chapter 67 of Title 10, United States Code or social security," R.C. 3307.021(E).

4. As used in R.C. 3307.021(D), the phrase "member rate of contribution in effect at the time the military service began" refers to the State Teachers Retirement System member rate of contribution in effect at the time the military service began.
5. Pursuant to R.C. 3307.021(D) and 3 Ohio Admin. Code 3307-1-04(D), the year upon which a member's payment for the purchase of military service credit is to be based is the first year of employment in public service in Ohio following termination of military service, whether or not such employment was covered by the State Teachers Retirement System; the State Teachers Retirement System may use any reasonable means to ascertain and verify the annual compensation figure upon which payment for service credit under R.C. 3307.021(D) is to be based.
6. The right of a member of the State Teachers Retirement System to purchase service credit in accordance with R.C. 3307.021 is not affected by the fact that he has the right to elect, if also a member of the School Employees Retirement System or the Public Employees Retirement System, to retire separately under each system of which he is a member or to pursue a joint membership retirement under R.C. 3307.41.