

# As Passed by the Senate

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**REPRESENTATIVES** Schuring, Hollister, Ogg, Barrett, D. Miller, Schneider,  
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## A B I L L

To amend sections 145.297, 145.323, 742.37, 742.3711,	1
742.3716, 742.3717, 742.3718, 742.63, 3307.67,	2
3309.374, and 5505.174 and to repeal section	3
742.3720 of the Revised Code to provide that the	4
annual cost of living increase paid to retired	5
members and beneficiaries of Ohio's state	6
retirement systems will be three per cent, and to	7
provide pension and death benefits to certain	8
surviving spouses of former members of local police	9
or firemen's pension funds established under former	10
Chapter 741. of the Revised Code.	11

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

<b>Section 1.</b> That sections 145.297, 145.323, 742.37, 742.3711,	12
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742.3716, 742.3717, 742.3718, 742.63, 3307.67, 3309.374, and 13  
5505.174 of the Revised Code be amended to read as follows: 14

**Sec. 145.297.** (A) As used in this section, "employing unit" 15  
means: 16

(1) A municipal corporation, agency of a municipal 17  
corporation designated by the legislative authority, park 18  
district, conservancy district, sanitary district, health 19  
district, township, department of a township designated by the 20  
board of township trustees, metropolitan housing authority, public 21  
library, county law library, union cemetery, joint hospital, or 22  
other political subdivision or unit of local government. 23

(2) With respect to state employees, any entity of the state 24  
including any department, agency, institution of higher education, 25  
board, bureau, commission, council, office, or administrative body 26  
or any part of such entity that is designated by the entity as an 27  
employing unit. 28

(3)(a) With respect to employees of a board of alcohol, drug 29  
addiction, and mental health services, that board. 30

(b) With respect to employees of a county board of mental 31  
retardation and developmental disabilities, that board. 32

(c) With respect to other county employees, the county or any 33  
county agency designated by the board of county commissioners. 34

(4) In the case of an employee whose employing unit is in 35  
question, the employing unit is the unit through whose payroll the 36  
employee is paid. 37

(B) An employing unit may establish a retirement incentive 38  
plan for its eligible employees. In the case of a county or county 39  
agency, decisions on whether to establish a retirement incentive 40  
plan for any employees other than employees of a board of alcohol, 41

drug addiction, and mental health services or county board of  
mental retardation and developmental disabilities and on the terms  
of the plan shall be made by the board of county commissioners. In  
the case of a municipal corporation or an agency of a municipal  
corporation, decisions on whether to establish a retirement  
incentive plan and on the terms of the plan shall be made by the  
legislative authority.

All terms of a retirement incentive plan shall be in writing.

A retirement incentive plan shall provide for purchase by the  
employing unit of service credit for eligible employees who elect  
to participate in the plan and for payment by the employing unit  
of the entire cost of the service credit purchased.

Every retirement incentive plan shall remain in effect for at  
least one year. The employing unit shall give employees at least  
thirty days' notice before terminating the plan.

Every retirement incentive plan shall include provisions for  
the timely and impartial resolution of grievances and disputes  
arising under the plan.

No employing unit shall have more than one retirement  
incentive plan in effect at any time.

(C) Any classified or unclassified employee of the employing  
unit who is a member of the public employees retirement system  
shall be eligible to participate in the retirement incentive plan  
established by the employee's employing unit if the employee meets  
the following criteria:

(1) The employee is not any of the following:

(a) An elected official;

(b) A member of a board or commission;

(c) A person elected to serve a term of fixed length;

(d) A person appointed to serve a term of fixed length, other 71  
than a person appointed and employed by the person's employing 72  
unit. 73

(2) The employee is or will be eligible to retire under 74  
section 145.32, 145.34, 145.37, or division (A) of section 145.33 75  
of the Revised Code on or before the date of termination of the 76  
retirement incentive plan. Service credit to be purchased for the 77  
employee under the retirement incentive plan shall be included in 78  
making such determination. 79

(3) The employee agrees to retire under section 145.32, 80  
145.34, 145.37, or division (A) of section 145.33 of the Revised 81  
Code within ninety days after receiving notice from the public 82  
employees retirement system that service credit has been purchased 83  
for the employee under this section. 84

Participation in the plan shall be available to all eligible 85  
employees except that the employing unit may limit the number of 86  
participants in the plan to a specified percentage of its 87  
employees who are members of the public employees retirement 88  
system on the date the plan goes into effect. The percentage shall 89  
not be less than five per cent of such employees. If participation 90  
is limited, employees with more total service credit have the 91  
right to elect to participate before employees with less total 92  
service credit. In the case of employees with the same total 93  
service credit, employees with a greater length of service with 94  
the employing unit have the right to elect to participate before 95  
employees with less service with the employing unit. Employees 96  
with less than eighteen months of service with the employing unit 97  
have the right to elect to participate only after all other 98  
eligible employees have been given the opportunity to elect to 99  
participate. For the purpose of determining which employees may 100  
participate in a plan, total service credit includes service 101  
credit purchased by the employee under this chapter after the date 102

on which the plan is established.

A retirement incentive plan that limits participation may provide that an employee who does not notify the employing unit of the employee's decision to participate in the plan within a specified period of time will lose priority to participate in the plan ahead of other employees with less seniority. The time given to an employee to elect to participate ahead of other employees shall not be less than thirty days after the employee receives written notice that the employee may participate in the plan.

(D) A retirement incentive plan shall provide for purchase of the same amount of service credit for each participating employee, except that the employer may not purchase more service credit for any employee than the lesser of the following:

(1) Five years of service credit;

(2) An amount of service credit equal to one-fifth of the total service credited to the participant under this chapter, exclusive of service credit purchased under this section.

For each year of service credit purchased under this section, the employing unit shall pay an amount equal to the additional liability resulting from the purchase of that year of service credit, as determined by an actuary employed by the public employees retirement board.

(E) Upon the election by an eligible employee to participate in the retirement incentive plan, the employee and the employing unit shall agree upon a date for payment or contracting for payment in installments to the public employees retirement system of the cost of the service credit to be purchased. The employing unit shall submit to the public employees retirement system a written request for a determination of the cost of the service credit, and within forty-five days after receiving the request, the board shall give the employing unit written notice of the

cost.

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The employing unit shall pay or contract to pay in installments the cost of the service credit to be purchased to the public employees retirement system on the date agreed to by the employee and the employing unit. The payment shall be made in accordance with rules adopted by the public employees retirement board. The rules may provide for payment in installments and for crediting the purchased credit to the employee's account upon the employer's contracting to pay the cost in installments. The board shall notify the member when the member is credited with service purchased under this section. If the employee does not retire within ninety days after receiving notice that the employee has been credited with the purchased service credit, the system shall refund to the employing unit the amount paid for the service credit.

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No payment made to the public employees retirement system under this section shall affect any payment required by section 145.48 of the Revised Code.

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**Sec. 145.323.** ~~(A) Beginning April 1, 1971, and each year thereafter, the board of the~~ The public employees retirement system shall determine the average percentage change 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 1982-84=100") for the twelve-calendar-month period prior to the first day of January over the next preceding twelve-calendar-month period, as reported by the bureau.

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~~Upon a determination by the board in any year that the change in the consumer price index is an increase or that the change plus the accumulation described in division (B) of this section is an increase, the board shall annually increase each allowance, pension, or benefit payable under this chapter by a percentage~~

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~~equal to the percentage increase in the consumer price index or to~~ 165  
~~that increase plus the accumulation, except that the increase~~ 166  
~~shall not exceed three per cent and, except that~~ no allowance, 167  
pension, or benefit shall exceed the limit established by section 168  
415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 169  
U.S.C.A. 415, as amended. 170

The first increase is payable to all persons becoming 171  
eligible after June 30, 1971, upon such persons receiving an 172  
allowance for twelve months. The increased amount is payable for 173  
the ensuing twelve-month period or until the next increase is 174  
granted under this section, whichever is later. Subsequent 175  
increases shall be determined from the date of the first increase 176  
paid to the former member in the case of an allowance being paid a 177  
beneficiary under an option, or from the date of the first 178  
increase to the survivor first receiving an allowance or benefit 179  
in the case of an allowance or benefit being paid to the 180  
subsequent survivors of the former member. 181

The date of the first increase under this section becomes the 182  
anniversary date for any future increases. 183

The allowance or benefit used in the first calculation of an 184  
increase under this section shall remain as the base for all 185  
future increases, unless a new base is established. 186

~~(B) Any percentage of change in the consumer price index in~~ 187  
~~any year that is in excess of three per cent shall be accumulated~~ 188  
~~and used to determine increases under this section in subsequent~~ 189  
~~years. Any percentage of change in the consumer price index~~ 190  
~~accumulated by an eligible person prior to the effective date of~~ 191  
~~this amendment shall be used in determining any future increases~~ 192  
~~under this section.~~ 193

~~(C)~~ The board shall make all rules necessary to carry out 194  
this section. 195

**Sec. 742.37.** The board of trustees of the Ohio police and 196  
fire pension fund shall adopt rules for the management of the fund 197  
and for the disbursement of benefits and pensions as set forth in 198  
this section and section 742.39 of the Revised Code. Any payment 199  
of a benefit or pension under this section is subject to the 200  
provisions of section 742.461 of the Revised Code. Notwithstanding 201  
any other provision of this section, no pension or benefit paid or 202  
determined under division (B) or (C) of this section or section 203  
742.39 of the Revised Code shall exceed the limit established by 204  
section 415 of the "Internal Revenue Code of 1986," 100 Stat. 205  
2085, 26 U.S.C.A. 415, as amended. 206

(A) Persons who were receiving benefit or pension payments 207  
from a police relief and pension fund established under former 208  
section 741.32 of the Revised Code, or from a firemen's relief and 209  
pension fund established under former section 521.02 or 741.02 of 210  
the Revised Code, at the time the assets of the fund were 211  
transferred to the Ohio police and fire pension fund, known at 212  
that time as the police and firemen's disability and pension fund, 213  
shall receive benefit and pension payments from the Ohio police 214  
and fire pension fund in the same amount and subject to the same 215  
conditions as such payments were being made from the former fund 216  
on the date of the transfer. 217

(B) A member of the fund who, pursuant to law, elected to 218  
receive benefits and pensions from a police relief and pension 219  
fund established under former section 741.32 of the Revised Code, 220  
or from a firemen's relief and pension fund established under 221  
former section 741.02 of the Revised Code, in accordance with the 222  
rules of the fund governing the granting of benefits or pensions 223  
therefrom in force on April 1, 1947, shall receive benefits and 224  
pensions from the Ohio police and fire pension fund in accordance 225  
with such rules; provided, that any member of the fund who is not 226  
receiving a benefit or pension from the fund on August 12, 1975, 227



may, upon application for a benefit or pension to be received on  
or after August 12, 1975, elect to receive a benefit or pension in  
accordance with division (C) of this section.

(C) Members of the fund who have not elected to receive  
benefits and pensions from a police relief and pension fund or a  
firemen's relief and pension fund in accordance with the rules of  
the fund in force on April 1, 1947, shall receive pensions and  
benefits in accordance with the following provisions:

(1) A member of the fund who has completed twenty-five years  
of active service in a police or fire department and has attained  
forty-eight years of age may, at the member's election, retire  
from the police or fire department, and upon notifying the board  
in writing of the election, shall receive an annual pension,  
payable in twelve monthly installments, in an amount equal to a  
percentage of the member's average annual salary. The percentage  
shall be the sum of two and one-half per cent for each of the  
first twenty years the member was in the active service of the  
department, plus two per cent for each of the twenty-first to  
twenty-fifth years the member was in the active service of the  
department, plus one and one-half per cent for each year in excess  
of twenty-five years the member was in the active service of the  
department. The annual pension shall not exceed seventy-two per  
cent of the member's average annual salary.

A member who completed twenty-five years of active service,  
has resigned or been discharged, and has left the sum deducted  
from the member's salary on deposit in the pension fund shall,  
upon attaining forty-eight years of age, be entitled to receive a  
normal service pension benefit computed and paid under division  
(C)(1) of this section.

(2) A member of the fund who has served fifteen or more years  
as an active member of a police or fire department and who  
voluntarily resigns or is discharged from the department for any

reason other than dishonesty, cowardice, intemperate habits, or  
conviction of a felony, shall receive an annual pension, payable  
in twelve monthly installments, in an amount equal to one and  
one-half per cent of the member's average annual salary multiplied  
by the number of full years the member was in the active service  
of the department. The pension payments shall not commence until  
the member has attained the age of forty-eight years and until  
twenty-five years have elapsed from the date on which the member  
became a full-time regular police officer or firefighter in the  
department.

(3) A member of the fund who has completed fifteen or more  
years of active service in a police or fire department and who has  
attained sixty-two years of age, may retire from the department  
and, upon notifying the board in writing of the election to  
retire, shall receive an annual pension, payable in twelve monthly  
installments, in an amount equal to a percentage of the member's  
average annual salary. The percentage shall be the sum of two and  
one-half per cent for each of the first twenty years the member  
was in the active service of the department, plus two per cent for  
each of the twenty-first to twenty-fifth years the member was in  
the active service of the department, plus one and one-half per  
cent for each year in excess of twenty-five years the member was  
in the active service of the department. The annual pension shall  
not exceed seventy-two per cent of the member's average annual  
salary.

(4) With the exception of those persons who may make  
application for benefits as provided in section 742.26 of the  
Revised Code, no person receiving a pension or other benefit under  
division (C) of this section on or after July 24, 1986, shall be  
entitled to apply for any new, changed, or different benefit.

If a member covered by division (C) of this section or  
section 742.38 of the Revised Code dies prior to the time the

member has received a payment and leaves a surviving spouse or  
dependent child, the surviving spouse or dependent child shall  
receive a pension under division (D) or (E) of this section.

(D)(1) Except as provided in division (D)(2) of this section,  
a surviving spouse of a deceased member of the fund or a surviving  
spouse described in division (D)(4) of this section shall receive  
a monthly pension as follows:

(a) For the period beginning July 1, 1999, and ending June  
30, 2000, five hundred fifty dollars;

(b) For the period beginning July 1, 2000, and the first day  
of July of each year thereafter and continuing for the following  
twelve months, an amount equal to the monthly amount paid during  
the prior twelve-month period plus ~~an amount determined by~~  
~~multiplying five hundred fifty~~ sixteen dollars ~~by the average~~  
~~percentage change in the consumer price index, not exceeding three~~  
~~per cent, as determined each year by the board under section~~  
~~742.3716 of the Revised Code~~ and fifty cents.

(2) A surviving spouse of a deceased member of the fund shall  
receive a monthly pension of four hundred ten dollars if the  
surviving spouse is eligible for a benefit under division (B) or  
(D) of section 742.63 of the Revised Code. If the surviving spouse  
ceases to be eligible for a benefit under division (B) or (D) of  
section 742.63 of the Revised Code, the pension shall be  
increased, effective the first day of the first month following  
the day on which the surviving spouse ceases to be eligible for  
the benefit, to the amount it would be under division (D)(1) of  
this section had the spouse never been eligible for a benefit  
under division (B) or (D) of section 742.63 of the Revised Code.

(3) A pension paid under this division shall continue during  
the natural life of the surviving spouse. Benefits to a deceased  
member's surviving spouse that were terminated under a former

version of this section that required termination due to  
remarriage and were not resumed prior to September 16, 1998, shall  
resume on the first day of the month immediately following receipt  
by the board of an application on a form provided by the board.

(4) A surviving spouse of a deceased member of or contributor  
to a fund established under former Chapter 521. or 741. of the  
Revised Code whose benefit or pension was terminated or not paid  
due to remarriage shall receive a monthly pension under division  
(D)(1) of this section.

The pension shall commence on the first day of the month  
immediately following receipt by the board of a completed  
application on a form provided by the board and evidence  
acceptable to the board that at the time of death the deceased  
spouse was a member of or contributor to a police or firemen's  
relief and pension fund established under former Chapter 521. or  
741. of the Revised Code and that the surviving spouse's benefits  
were terminated or not granted due to remarriage.

(E)(1) Each surviving child of a deceased member of the fund  
shall receive a monthly pension of one hundred fifty dollars until  
the child attains the age of eighteen years, or marries, whichever  
event occurs first. A pension under this division, however, shall  
continue to be payable to a child under age twenty-two who is a  
student in and attending an institution of learning or training  
pursuant to a program designed to complete in each school year the  
equivalent of at least two-thirds of the full-time curriculum  
requirements of the institution, as determined by the board. If  
any surviving child, regardless of age at the time of the member's  
death, because of physical or mental disability, is totally  
dependent upon the deceased member for support at the time of  
death, the child shall receive a monthly pension under this  
division during the child's natural life or until the child has  
recovered from the disability.

(2) An eligible surviving child shall receive a monthly 355  
pension as follows: 356

(a) For the period beginning July 1, 2002, and ending June 357  
30, 2003, one hundred sixty-three dollars and fifty cents; 358

(b) For the period beginning July 1, 2003, and the first day 359  
of each July thereafter and continuing for the following twelve 360  
months, an amount equal to the monthly amount paid during the 361  
prior twelve-month period plus four dollars and fifty cents. 362

(F)(1) If a deceased member of the fund leaves no surviving 363  
spouse or surviving children, but leaves one or two parents 364  
dependent upon the deceased member for support, each parent shall 365  
be paid a monthly pension of ~~one hundred dollars~~. If there is only 366  
~~one parent dependent upon the member for support, the parent shall~~ 367  
~~be paid a monthly pension of two hundred dollars~~. The pensions 368  
provided for in this division shall be paid during the natural 369  
life of the surviving parents, or until dependency ceases, or 370  
until remarriage, whichever event occurs first. 371

(2) Each eligible surviving parent shall be paid a monthly 372  
pension as follows: 373

(a) For the period ending June 30, 2002, one hundred six 374  
dollars for each parent or two hundred twelve dollars for a sole 375  
dependent parent; 376

(b) For the period beginning July 1, 2002, and ending June 377  
30, 2003, one hundred nine dollars for each parent or two hundred 378  
eighteen dollars for a sole dependent parent; 379

(c) For the period beginning July 1, 2003, and the first day 380  
of each July thereafter and continuing for the following twelve 381  
months, an amount equal to the monthly amount paid during the 382  
prior twelve-month period plus three dollars for each parent or 383  
six dollars for a sole dependent parent. 384

(G) Subject to the provisions of section 742.461 of the Revised Code, a member of the fund who voluntarily resigns or is removed from active service in a police or fire department is entitled to receive an amount equal to the sums deducted from the member's salary and credited to the member's account in the fund, except that a member receiving a disability benefit or service pension is not entitled to receive any return of contributions to the fund.

(H) On and after January 1, 1970, all pensions shall be increased in accordance with the following provisions:

(1) A member of the fund who retired prior to January 1, 1967, has attained age sixty-five on January 1, 1970, and was receiving a pension on December 31, 1969, pursuant to division (B) or (C)(1) of this section or former division (C)(2), (3), (4), or (5) of this section, shall have the pension increased by ten per cent.

(2) The monthly pension payable to eligible surviving spouses under division (D) of this section shall be increased by forty dollars for each surviving spouse receiving a pension on December 31, 1969.

(3) The monthly pension payable to each eligible child under division (E) of this section shall be increased by ten dollars for each child receiving a pension on December 31, 1969.

(4) The monthly pension payable to each eligible dependent parent under division (F) of this section shall be increased by thirty dollars for each parent receiving a pension on December 31, 1969.

(5) A member of the fund, including a survivor of a member, who is receiving a pension in accordance with the rules governing the granting of pensions and benefits in force on April 1, 1947, that provide an increase in the original pension from time to time

pursuant to changes in the salaries of active members, shall not  
be eligible for the benefits provided in this division.

(I) On and after January 1, 1977, a member of the fund who  
was receiving a pension or benefit on December 31, 1973, under  
division (A), (B), (C)(1), or former division (C)(2) or (7) of  
this section shall have the pension or benefit increased as  
follows:

(1) If the member's annual pension or benefit is less than  
two thousand seven hundred dollars, it shall be increased to three  
thousand dollars.

(2) If the member's annual pension or benefit is two thousand  
seven hundred dollars or more, it shall be increased by three  
hundred dollars.

The following shall not be eligible to receive increased  
pensions or benefits as provided in this division:

(a) A member of the fund who is receiving a pension or  
benefit in accordance with the rules in force on April 1, 1947,  
governing the granting of pensions and benefits, which provide an  
increase in the original pension or benefit from time to time  
pursuant to changes in the salaries of active members;

(b) A member of the fund who is receiving a pension or  
benefit under division (A) or (B) of this section, based on funded  
volunteer or funded part-time service, or off-duty disability, or  
partial on-duty disability, or early vested service;

(c) A member of the fund who is receiving a pension under  
division (C)(1) of this section, based on funded volunteer or  
funded part-time service.

(J) On and after July 1, 1977, a member of the fund who was  
receiving an annual pension or benefit on December 31, 1973,  
pursuant to division (B) of this section, based upon partial

disability, off-duty disability, or early vested service, or  
pursuant to former division (C)(3), (5), or (6) of this section,  
shall have such annual pension or benefit increased by three  
hundred dollars.

The following are not eligible to receive the increase  
provided by this division:

(1) A member of the fund who is receiving a pension or  
benefit in accordance with the rules in force on April 1, 1947,  
governing the granting of pensions and benefits, which provide an  
increase in the original pension or benefit from time to time  
pursuant to changes in the salaries of active members;

(2) A member of the fund who is receiving a pension or  
benefit under division (B) or (C)(2) of this section or former  
division (C)(3), (5), or (6) of this section based on volunteer or  
part-time service.

(K)(1) Except as otherwise provided in this division, every  
person who on July 24, 1986, is receiving an age and service or  
disability pension, allowance, or benefit pursuant to this chapter  
in an amount less than thirteen thousand dollars a year that is  
based upon an award made effective prior to February 28, 1984,  
shall receive an increase of six hundred dollars a year or the  
amount necessary to increase the pension or benefit to four  
thousand two hundred dollars after all adjustments required by  
this section, whichever is greater.

(2) Division (K)(1) of this section does not apply to the  
following:

(a) A member of the fund who is receiving a pension or  
benefit in accordance with rules in force on April 1, 1947, that  
govern the granting of pensions and benefits and that provide an  
increase in the original pension or benefit from time to time  
pursuant to changes in the salaries of active members;



(b) A member of the fund who is receiving a pension or 477  
benefit based on funded volunteer or funded part-time service. 478

(L) On and after July 24, 1986: 479

(1) The pension of each person receiving a pension under 480  
division (D) of this section on July 24, 1986, shall be increased 481  
to three hundred ten dollars per month. 482

(2) The pension of each person receiving a pension under 483  
division (E) of this section on July 24, 1986, shall be increased 484  
to ninety-three dollars per month. 485

**Sec. 742.3711.** (A) On application for retirement as provided 486  
in section 742.37 of the Revised Code, a member of the fund may 487  
elect to receive a retirement allowance payable throughout the 488  
member's life, or may elect, on the application for retirement, to 489  
receive the actuarial equivalent of the member's retirement 490  
allowance in a lesser amount payable for life and continuing after 491  
death to a surviving designated beneficiary under one of the 492  
following optional plans, provided the amount payable to the 493  
beneficiary shall not exceed the amount payable to the retiring 494  
member of the fund, and is certified by the actuary engaged by the 495  
board of trustees of the Ohio police and fire pension fund to be 496  
the actuarial equivalent of the member's retirement allowance and 497  
is approved by the board. 498

(1) Option 1. The member's lesser retirement allowance shall 499  
be paid for life to the sole beneficiary designated at the time of 500  
the member's retirement. 501

(2) Option 2. One-half or some other portion of the member's 502  
lesser retirement allowance shall be paid for life to the sole 503  
beneficiary designated at the time of the member's retirement. 504  
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(3) Option 3. Upon the member's death before the expiration 506

of a certain period from the retirement date and elected by the member and approved by the retirement board, the member's lesser retirement allowance shall be continued for the remainder of that period to the beneficiary the member has nominated by written designation and filed with the retirement board.

Should the nominated beneficiary designated in writing become deceased prior to the expiration of the guarantee period, then for the purpose of completing payment for the remainder of the guarantee period, the present value of such payments shall be paid to the estate of the beneficiary last receiving.

(B)(1) On or after February 28, 1980, the death of a spouse nominated as beneficiary or the death of any other nominated beneficiary following retirement shall cancel any optional plan of payment to provide continuing lifetime benefits to such nominated beneficiary and return the member of the fund to the member's single lifetime benefit equivalent, as determined by the board, to be effective the month following receipt by the board of notice of the death.

(2) On divorce, annulment, or marriage dissolution, a member receiving a retirement allowance under a plan that provides for continuation of all or part of the allowance after death for the lifetime of the member's surviving spouse may, with the written consent of the spouse or pursuant to an order of the court with jurisdiction over the termination of the marriage, elect to cancel the plan and receive the member's single lifetime benefit equivalent as determined by the board. The election shall be made on a form provided by the board and shall be effective the month following its receipt by the board.

(C) Following marriage or remarriage, a member of the fund may elect not later than one year after the date of marriage or remarriage a new optional plan of payment based on the actuarial equivalent of the member's single lifetime benefit as determined

by the board. The plan and the member's lesser retirement allowance shall become effective on the date the election is made on a form approved by the board.

(D)(1) Unless one of the following occurs, an application for retirement by a married person shall be considered an election of a benefit under option 2 as provided for in division (A)(2) of this section under which one-half of the lesser retirement allowance payable during the life of the retirant will be paid after death to the retirant's spouse for life as sole beneficiary:

(a) The retirant selects an optional plan under division (A) of this section providing for payment after death to the retirant's spouse for life as sole beneficiary of more than one-half of the lesser retirement allowance payable during the life of the retirant;

(b) The retirant submits to the retirement board a written statement signed by the spouse attesting that the spouse consents to the retirant's election to receive a single lifetime retirement allowance or a payment under an optional benefit plan under which after the death of the retirant the surviving spouse will receive less than one-half of the lesser retirement allowance payable during the life of the retirant.

(2) An application for retirement shall include an explanation of all of the following:

(a) That, if the member is married, unless the spouse consents to another plan of payment, the member's retirement allowance will be paid under "option 2" and consist of the actuarial equivalent of the member's retirement allowance in a lesser amount payable for life and one-half of the lesser allowance continuing after death to the surviving spouse for the life of the spouse;

(b) A description of the alternative plans of payment

available with the consent of the spouse; 570

(c) That the spouse may consent to another plan of payment 571  
and the procedure for giving consent; 572

(d) That consent is irrevocable once notice of consent is 573  
filed with the board. 574

Consent shall be valid only if it is signed, in writing, and 575  
witnessed by an employee of the board or a notary public. 576

(3) If the retirant does not select an optional plan as 577  
described in division (D)(1)(a) of this section and the board does 578  
not receive the written statement provided for in division 579  
(D)(1)(b) of this section, it shall determine and pay the 580  
retirement allowance in accordance with division (A)(2) of this 581  
section, except that the board may provide by rule for waiver by 582  
the board of the statement and payment of the allowance other than 583  
in accordance with division (A)(2) of this section if the retirant 584  
is unable to obtain the statement due to absence or incapacity of 585  
the spouse or other cause specified by the board. 586

(E) A member of the fund who has elected an optional plan 587  
under this section or section 742.3715 of the Revised Code may, 588  
with the consent of the designated beneficiary, cancel the 589  
optional plan and receive the retirement allowance payable 590  
throughout life the member would have received had the member not 591  
elected the optional plan, if the member makes a request to cancel 592  
the optional plan not later than one year after the later of 593  
September 9, 1988, or the date on which the member first receives 594  
a payment under this section or section 742.3715 of the Revised 595  
Code. Cancellation of the optional plan shall be effective the 596  
month after acceptance of the request by the trustees of the fund. 597  
No payment or adjustment shall be made in the retirement allowance 598  
payable throughout the member's life to compensate for the lesser 599  
allowance the member received under the optional plan. 600

The request to cancel the optional plan shall be made on a 601  
form provided by the fund and shall be valid only if the completed 602  
form includes a signed statement of the designated beneficiary's 603  
understanding of and consent to the cancellation. The signature 604  
shall be verified by the trustees of the fund prior to their 605  
acceptance of the cancellation. 606

(F) Any option elected and payments made under this section 607  
shall be in addition to any benefit payable under divisions (D), 608  
(E), and (F) of section 742.37 of the Revised Code. 609

(G) A person is eligible to receive a benefit increase under 610  
this division if the person is receiving a retirement allowance or 611  
benefit under an optional plan elected under this section or 612  
section 742.3715 of the Revised Code based on an award made prior 613  
to July 24, 1986. A person is not eligible to receive an increase 614  
under this division if the person is receiving a pension or 615  
benefit in accordance with rules in force on April 1, 1947, that 616  
govern the granting of pensions and benefits and that provide an 617  
increase in the original pension or benefit from time to time 618  
pursuant to changes in the salaries of active members. 619

~~On or before the fifteenth day of April of each year, the The~~ 620  
~~board shall determine the average percentage change in the~~ 621  
~~consumer price index prepared by the United States bureau of labor~~ 622  
~~statistics (U.S. city average for urban wage earners and clerical~~ 623  
~~workers: "all items 1982-84=100") for the twelve-month period~~ 624  
~~prior to the first day of January over the next preceding~~ 625  
~~twelve-calendar-month period, as reported by the bureau. On a~~ 626  
~~determination by the board that this change is an increase or that~~ 627  
~~the change plus the accumulation described in this division is an~~ 628  
~~increase, the board shall annually increase all benefits payable~~ 629  
under this section or section 742.3715 of the Revised Code to 630  
eligible persons by the actuarial equivalent of ~~an amount~~ 631  
~~determined by multiplying twelve thousand three hundred sixty~~ 632

dollars by the percentage of the increase in the consumer price index, or that percentage plus the accumulation, except that the percentage shall not exceed three per cent and no benefit shall exceed the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

~~Any percentage of change in the consumer price index in any year that is in excess of three per cent shall be accumulated and used to determine increases under this section in succeeding years. Any percentage of change in the consumer price index accumulated by an eligible person prior to September 27, 1996, shall be used in determining any future increases under this section.~~ The first increase is payable to all eligible persons on July 1, 1988. The increase is payable for the ensuing twelve-month period or until the next increase is granted under this section, whichever is later.

The date of the first increase payable under this section shall be the anniversary date for future increases.

**Sec. 742.3716.** (A) As used in this section:

(1) "Eligible person" means a person who meets all of the following conditions:

(a) Has been receiving a pension or benefit under this chapter for one year or more based on an award made on or after July 24, 1986;

(b) Has not made the election provided for in division (B) of this section;

(c) Is not the spouse or survivor of a person who has made the election provided for in division (B) of this section;

(d) Is receiving a benefit in accordance with division (A), (B), or (C) of section 742.37, division (C)(2), (3), (4), or (5)

of former section 742.37, section 742.3711, or section 742.39 of  
the Revised Code.

(2) "Recalculated average annual salary" means the highest  
average annual compensation of a member of the Ohio police and  
fire pension fund during any three years of contributions,  
including amounts included in terminal pay attributable to such  
three years, determined by dividing the member's total earnings as  
an employee during such years by three.

(B)(1) Notwithstanding section 742.37 or 742.39 of the  
Revised Code, a member of the fund who is not receiving a pension  
or benefit under this chapter and who on January 1, 1989, has  
completed fifteen or more years of active service in a police or  
fire department may elect to have any future benefit or pension  
paid to the member or the member's spouse or survivors under this  
chapter calculated on the basis of the member's recalculated  
average annual salary rather than the member's average annual  
salary. The election shall be made by the member prior to or at  
the time of making an election under section 742.3711 of the  
Revised Code.

(2) If the member eligible to make the election under  
division (B)(1) of this section dies prior to making the election  
and at the time of death is eligible to retire and receive a  
pension or benefit under division (C)(1) or (3) of section 742.37  
of the Revised Code, the person entitled to receive a benefit  
under section 742.3714 of the Revised Code may make the election  
provided for in division (B)(1) of this section.

(3) The election under division (B)(1) or (2) of this section  
shall be made on forms provided by the trustees of the fund. Once  
received by the fund, the election shall be irrevocable and shall  
bind the member and any other person who receives a pension or  
benefit based on the member's service. No person who receives a  
pension or benefit calculated in accordance with division (B) of

this section is eligible to receive a cost-of-living allowance  
under this section. If the person making the election receives a  
benefit under section 742.3714 of the Revised Code, that person is  
not eligible to receive a cost-of-living allowance under section  
742.3711 of the Revised Code.

~~(C)(1) On or before the fifteenth day of April of each year,~~  
~~the~~ The board of trustees of the Ohio police and fire pension fund  
shall ~~determine the average percentage change 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 1982-84=100") for the twelve-month period~~  
~~prior to the first day of January over the next preceding~~  
~~twelve-calendar-month period, as reported by the bureau. Upon a~~  
~~determination by the board that such change is an increase or that~~  
~~the change plus the accumulation described in division (C)(2) of~~  
~~this section is an increase, the board shall annually increase all~~  
benefits payable to eligible persons by annually increase all  
~~a percentage equal to the~~  
~~percentage increase in the consumer price index or to that~~  
~~increase plus the accumulation, except that the increase shall not~~  
~~exceed three per cent and, except that~~ no benefit shall exceed the  
limit established by section 415 of the "Internal Revenue Code of  
1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

~~(2) Any percentage of change in the consumer price index in~~  
~~any year that is in excess of three per cent shall be accumulated~~  
~~and used to determine increases under this section in succeeding~~  
~~years. Any percentage of change in the consumer price index~~  
~~accumulated by an eligible person prior to September 27, 1996,~~  
~~shall be used in determining any future increases under this~~  
~~section.~~ The first additional benefit increase is payable to all  
eligible persons who on July 1, 1988, have been receiving a  
pension or benefit for twelve months or longer. The additional



~~benefit~~ increase is payable for the ensuing twelve-month period or  
until the next increase is granted under this section, whichever  
is later.

The date of the first ~~additional-benefit~~ increase paid under  
this section shall be the anniversary date for future ~~additional~~  
~~benefits~~ increases. The pension or benefit used in the first  
calculation of an ~~additional-benefit~~ increase under this section  
shall remain as the base for all future ~~additional-benefits~~  
increases paid under this section, unless a new base is  
established by law.

~~(3) Additional-benefits~~ (2) Increases paid in years  
subsequent to the year of the first ~~additional-benefit~~ increase  
paid under this section shall be paid to all eligible persons who,  
on the date that the ~~additional-benefit~~ increase is authorized by  
the board, have been receiving a pension or benefit for twelve  
months.

**Sec. 742.3717.** (A)(1) Except as provided in division (A)(2)  
of this section, as used in this section, "eligible person" means  
a person who meets both of the following conditions:

(a) The person is receiving an annual pension or benefit  
under division (A), (B), or (C) of section 742.37 or division  
(C)(2), (3), (4), or (5) of former section 742.37 of the Revised  
Code based on an award made prior to July 24, 1986.

(b) The person has not elected under section 742.3711 of the  
Revised Code to receive a retirement allowance under an optional  
benefit plan.

(2) A person is not an eligible person if the person is  
receiving a pension or benefit in accordance with rules in force  
on April 1, 1947, that govern the granting of pensions and  
benefits and that provide an increase in the original pension or  
benefit from time to time pursuant to changes in the salaries of

active members.

~~(B)(1) On or before the fifteenth day of April of each year,~~  
~~the~~ The board of trustees of the Ohio police and fire pension fund  
~~shall determine the average percentage change 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 1982-84=100") for the twelve-month period~~  
~~prior to the first day of January over the next preceding~~  
~~twelve-calendar-month period, as reported by the bureau. Upon a~~  
~~determination by the board that this change is an increase or that~~  
~~the change plus the accumulation described in division (B)(2) of~~  
~~this section is an increase, the board shall annually increase all~~  
~~benefits payable to eligible persons by an amount determined by~~  
~~multiplying twelve thousand three hundred sixty dollars by the~~  
~~percentage of the increase in the consumer price index, or that~~  
~~percentage plus the accumulation, except that the percentage shall~~  
~~not exceed three per cent and no benefit shall exceed the limit~~  
~~established by section 415 of the "Internal Revenue Code of 1986,"~~  
~~100 Stat. 2085, 26 U.S.C.A. 415, as amended.~~

~~(2) Any percentage of change in the consumer price index in~~  
~~any year that is in excess of three per cent shall be accumulated~~  
~~and used to determine increases under this section in succeeding~~  
~~years. Any percentage of change in the consumer price index~~  
~~accumulated by an eligible person prior to September 27, 1996,~~  
~~shall be used in determining any future increases under this~~  
~~section.~~ The first increase is payable to all eligible persons on  
July 1, 1988. The increase is payable for the ensuing twelve-month  
period or until the next increase is granted under this section,  
whichever is later.

The date of the first increase payable under this section  
shall be the anniversary date for future increases.

**Sec. 742.3718.** (A) Except as otherwise provided in this 789  
division, each person who on September 9, 1988, is receiving a 790  
pension or benefit of less than five thousand dollars annually 791  
under division (A) or (B) of section 742.37 of the Revised Code on 792  
the basis of disability or service of twenty-five years or more, 793  
under division (C)(1) of that section, or under division (C)(2) or 794  
(5) of former section 742.37 of the Revised Code shall have the 795  
pension or benefit increased to five thousand dollars a year, 796  
effective July 1, 1988. This division does not apply to any person 797  
receiving a pension or benefit based on funded volunteer or funded 798  
part-time service. 799

(B) On and after July 1, 1988: 800

(1) The pension of each person receiving a pension or benefit 801  
under division (D) of section 742.37 of the Revised Code shall be 802  
increased to four hundred ten dollars a month. 803

(2) The pension of each person receiving a pension or benefit 804  
under division (E) of section 742.37 of the Revised Code shall be 805  
increased to one hundred eighteen dollars a month. 806

(C) Notwithstanding any average annual salary limitation in 807  
section 742.37 of the Revised Code, each person who on July 1, 808  
1999, is receiving an annual pension or benefit described in 809  
division (A), (B), or (C)(1) or (3) of that section of less than 810  
six thousand six hundred dollars shall have the pension increased 811  
to that amount, effective July 1, 1999. The increase granted under 812  
this division shall be included in a person's base for the purpose 813  
of determining future increases under section 742.3716 of the 814  
Revised Code. 815

(D)(1) Except as provided in division (D)(2) of this section, 816  
the monthly pension of each person who is the surviving spouse of 817  
a deceased member of the fund and on ~~the effective date of this~~ 818  
~~amendment~~ March 17, 2000, is receiving a pension of less than the 819

amount described in division (D)(1) of section 742.37 of the 820  
Revised Code shall be increased as follows: 821

(a) For the period beginning on the first day of the first 822  
month following ~~the effective date of this amendment~~ March 17, 823  
2000, and ending June 30, 2000, to five hundred fifty dollars; 824

(b) For the period beginning July 1, 2000, and the first day 825  
of July of each year thereafter and continuing for the following 826  
twelve months, to an amount equal to the greater of five hundred 827  
fifty dollars or the monthly amount paid during the prior 828  
twelve-month period plus ~~an amount determined by multiplying five~~ 829  
~~hundred fifty~~ sixteen dollars ~~by the average percentage change in~~ 830  
~~the consumer price index, not exceeding three per cent, as~~ 831  
~~determined each year by the board of trustees of the Ohio police~~ 832  
~~and fire pension fund under section 742.3716 of the Revised Code~~ 833  
and fifty cents. 834

(2) An increase under division (D)(1) of this section shall 835  
not be paid to a person who is receiving a pension under division 836  
(D)(2) of section 742.37 of the Revised Code and a benefit under 837  
division (B) or (D) of section 742.63 of the Revised Code until 838  
the person ceases to be eligible for a benefit under division (B) 839  
or (D) of section 742.63 of the Revised Code. The person's monthly 840  
pension shall be increased, effective the first day of the first 841  
month following the date on which the person ceases to be eligible 842  
for the benefit, to the amount it would be under division (D)(1) 843  
of this section had the person never been eligible for a benefit 844  
under division (B) or (D) of section 742.63 of the Revised Code. 845

(E) The monthly pension of each person receiving a pension 847  
under division (E) of section 742.37 of the Revised Code shall be 848  
increased to one hundred fifty dollars effective July 1, 1999. 849

(F) Effective July 1, 1999, the monthly pension of each 850  
person receiving a pension under division (F) of section 742.37 of 851

the Revised Code shall be increased as follows:

(1) If there are two dependent parents, to one hundred  
dollars;

(2) If there is one dependent parent, to two hundred dollars.

**Sec. 742.63.** The board of trustees of the Ohio police and  
fire pension fund shall adopt rules for the management of the Ohio  
public safety officers death benefit fund and for disbursements of  
benefits as set forth in this section.

(A) As used in this section:

(1) "Member" means ~~a~~ all of the following:

(a) A member of the Ohio police and fire pension fund or a  
member of or contributor to a police or firemen's relief and  
pension fund established under former Chapter 521. or 741. of the  
Revised Code;

(b) A member of the state highway patrol retirement system;  
~~or a;~~

(c) A member of the public employees retirement system who at  
the time of the member's death was ~~a~~ one of the following:

(i) A county sheriff or deputy sheriff;~~a;~~

(ii) A full-time regular police officer in a municipal  
corporation or township;~~a;~~

(iii) A full-time regular firefighter employed by the state,  
an instrumentality of the state, a municipal corporation, a  
township, a joint fire district, or another political subdivision;  
~~a;~~

(iv) A full-time park district ranger or patrol trooper;~~a;~~

(v) A full-time law enforcement officer of the department of

natural resources,~~a;~~ 880

(vi) A full-time department of public safety enforcement 881  
agent,~~a;~~ 882

(vii) A full-time law enforcement officer of parks, waterway 883  
lands, or reservoir lands under the control of a municipal 884  
corporation,~~a;~~ 885

(viii) A full-time law enforcement officer of a conservancy 886  
district,~~a;~~ 887

(ix) A correction officer at an institution under the control 888  
of a county, a group of counties, a municipal corporation, or the 889  
department of rehabilitation and correction,~~a;~~ 890

(x) A state university law enforcement officer,~~or a.~~ 891

(d) A member of a retirement system operated by a municipal 892  
corporation who at the time of death was a full-time law 893  
enforcement officer of parks, waterway lands, or reservoir lands 894  
under the control of the municipal corporation. 895

(2) Notwithstanding section 742.01 of the Revised Code, "fire 896  
or police department" includes a fire department of the state or 897  
an instrumentality of the state or of a municipal corporation, 898  
township, joint fire district, or other political subdivision, the 899  
state highway patrol, a county sheriff's office, the security 900  
force of an institution under the control of the department of 901  
rehabilitation and correction, the security force of a jail or 902  
workhouse under the control of a county, group of counties, or 903  
municipal corporation, the security force of a metropolitan, 904  
county, or township park district, the security force of lands 905  
under the control of the department of natural resources, 906  
department of public safety enforcement agents, the security force 907  
of parks, waterway lands, or reservoir lands under the control of 908  
a municipal corporation, the security force of a conservancy 909  
district, the police department of a township or municipal 910

corporation, and the police force of a state university. 911

(3) "Firefighter or police officer" includes a state highway 912  
patrol trooper, a county sheriff or deputy sheriff, a correction 913  
officer at an institution under the control of a county, a group 914  
of counties, a municipal corporation, or the department of 915  
rehabilitation and correction, a police officer employed by a 916  
township or municipal corporation, a firefighter employed by the 917  
state, an instrumentality of the state, a municipal corporation, a 918  
township, a joint fire district, or another political subdivision, 919  
a full-time park district ranger or patrol trooper, a full-time 920  
law enforcement officer of the department of natural resources, a 921  
full-time department of public safety enforcement agent, a 922  
full-time law enforcement officer of parks, waterway lands, or 923  
reservoir lands under the control of a municipal corporation, a 924  
full-time law enforcement officer of a conservancy district, and a 925  
state university law enforcement officer. 926

(4) "Correction officer" includes, in addition to any 927  
correction officer, any correction corporal, sergeant, lieutenant, 928  
or captain, and the equivalents of all such persons. 929

(5) "A park district ranger or patrol trooper" means a peace 930  
officer commissioned to make arrests, execute warrants, and 931  
preserve the peace upon lands under the control of a board of park 932  
commissioners of a metropolitan, county, or township park 933  
district. 934

(6) "Metropolitan, county, or township park district" means a 935  
park district created under the authority of Chapter 511. or 1545. 936  
of the Revised Code. 937

(7) "Conservancy district" means a conservancy district 938  
created under the authority of Chapter 6101. of the Revised Code. 939

(8) "Law enforcement officer" means an officer commissioned 940  
to make arrests, execute warrants, and preserve the peace upon 941

lands under the control of the governmental entity granting the 942  
commission. 943

(9) "Department of natural resources law enforcement officer" 944  
includes a forest officer designated pursuant to section 1503.29 945  
of the Revised Code, a preserve officer designated pursuant to 946  
section 1517.10 of the Revised Code, a wildlife officer designated 947  
pursuant to section 1531.13 of the Revised Code, a park officer 948  
designated pursuant to section 1541.10 of the Revised Code, and a 949  
state watercraft officer designated pursuant to section 1547.521 950  
of the Revised Code. 951

(10) "Retirement eligibility date" means the last day of the 952  
month in which a deceased member would have first become eligible, 953  
had the member lived, for the retirement pension provided under 954  
section 145.33, Chapter 521. or 741., division (C)(1) of section 955  
742.37, or division (A)(1) of section 5505.17 of the Revised Code 956  
or provided by a retirement system operated by a municipal 957  
corporation. 958

(11) "Death benefit amount" means an amount equal to the full 959  
monthly salary received by a deceased member prior to death, minus 960  
an amount equal to the benefit received under section 145.45, 961  
742.37, 742.3714, or 5505.17 of the Revised Code or the benefit 962  
received from a retirement system operated by a municipal 963  
corporation, plus any increases in salary that would have been 964  
granted the deceased member. 965

(12) "Killed in the line of duty" means either of the 966  
following: 967

(a) Death in the line of duty; 968

(b) Death from injury sustained in the line of duty, 969  
including heart attack or other fatal injury or illness caused 970  
while in the line of duty. 971

(B) A spouse of a deceased member shall receive a death 972



benefit each month equal to the full death benefit amount,  
provided that the deceased member was a firefighter or police  
officer killed in the line of duty and there are no surviving  
children eligible for a benefit under this section. The spouse  
shall receive this benefit during the spouse's natural life until  
the deceased member's retirement eligibility date, on which date  
the benefit provided under this division shall terminate.

(C)(1) If a member killed in the line of duty as a  
firefighter or police officer is survived only by a child or  
children, the child or children shall receive a benefit each month  
equal to the full death benefit amount. If there is more than one  
surviving child, the benefit shall be divided equally among these  
children.

(2) If the death benefit paid under this division is divided  
among two or more surviving children and any of the children  
become ineligible to continue receiving a portion of the benefit  
as provided in division (H) of this section, the full death  
benefit amount shall be paid to the remaining eligible child or  
divided among the eligible children so that the benefit paid to  
the remaining eligible child or children equals the full death  
benefit amount.

(3) Notwithstanding divisions (C)(1) and (2) of this section,  
all death benefits paid under this division shall terminate on the  
deceased member's retirement eligibility date.

(D) If a member killed in the line of duty as a firefighter  
or police officer is survived by both a spouse and a child or  
children, the monthly benefit provided shall be as follows:

(1)(a) If there is a surviving spouse and one surviving  
child, the spouse shall receive an amount each month equal to  
one-half of the full death benefit amount and the child shall  
receive an amount equal to one-half of the full death benefit

amount. 1004

(b) If the surviving spouse dies or the child becomes 1005  
ineligible as provided in division (H) of this section, the 1006  
surviving spouse or child remaining eligible shall receive the 1007  
full death benefit amount. 1008

(2)(a) If there is a surviving spouse and more than one 1009  
child, the spouse shall receive an amount each month equal to 1010  
one-third of the full death benefit amount and the children shall 1011  
receive an amount, equally divided among them, equal to two-thirds 1012  
of the full death benefit amount. 1013

(b) If a spouse and more than one child each are receiving a 1014  
death benefit under division (D)(2)(a) of this section and the 1015  
spouse dies, the children shall receive an amount each month, 1016  
equally divided among them, equal to the full death benefit 1017  
amount. 1018

(c) If a spouse and more than one child each are receiving a 1019  
benefit under division (D)(2)(a) of this section and any of the 1020  
children becomes ineligible to receive a benefit as provided in 1021  
division (H) of this section, the spouse and remaining eligible 1022  
child or children shall receive a death benefit as follows: 1023

(i) If there are two or more remaining eligible children, the 1024  
spouse shall receive an amount each month equal to one-third of 1025  
the full death benefit amount and the children shall receive an 1026  
amount each month, equally divided among them, equal to two-thirds 1027  
of the full death benefit amount; 1028

(ii) If there is one remaining eligible child, the spouse 1029  
shall receive an amount each month equal to one-half of the full 1030  
death benefit amount, and the child shall receive an amount each 1031  
month equal to one-half of the full death benefit amount. 1032

(d) If a spouse and more than one child each are receiving a 1033  
benefit under division (D)(2)(a) of this section and all of the 1034

children become ineligible to receive a benefit as provided in  
division (H) of this section, the spouse shall receive the full  
death benefit amount.

(3) Notwithstanding divisions (D)(1) and (2) of this section,  
death benefits paid under this division to a surviving spouse  
shall terminate on the member's retirement eligibility date. Death  
benefits paid to a surviving child or children shall terminate on  
the deceased member's retirement eligibility date unless earlier  
terminated pursuant to division (H) of this section.

(E) If a member, on or after January 1, 1980, is killed in  
the line of duty as a firefighter or police officer and is  
survived by only a parent or parents dependent upon the member for  
support, the parent or parents shall receive an amount each month  
equal to the full death benefit amount. If there is more than one  
surviving parent dependent upon the deceased member for support,  
the death benefit amount shall be divided equally among the  
surviving parents. On the death of one of the surviving parents,  
the full death benefit amount shall be paid to the other parent.

(F)(1) The following shall receive a monthly death benefit  
under this division:

(a) A surviving spouse whose benefits are terminated in  
accordance with division (B) or (D)(3) of this section on the  
deceased member's retirement eligibility date, or who would  
qualify for a benefit under division (B) or (D) of this section  
except that the deceased member reached the member's retirement  
eligibility date prior to the member's death, shall receive a  
monthly death benefit under this division. The;

(b) A qualified surviving spouse of a deceased member of or  
contributor to a police or firemen's relief and pension fund  
established under former Chapter 521. or 741. of the Revised Code

who was a firefighter or police officer killed in the line of  
duty.

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(2) The monthly death benefit shall be one-half of an amount  
equal to the monthly salary received by the deceased member prior  
to the member's death, plus any salary increases the deceased  
member would have received prior to the member's retirement  
eligibility date. The benefit shall terminate on the surviving  
spouse's death. A death benefit payable under this division shall  
be reduced by an amount equal to any allowance or benefit payable  
to the surviving spouse under section 742.3714 of the Revised  
Code.

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(3) A benefit granted to a surviving spouse under division  
(F)(1)(b) of this section shall commence on the first day of the  
month immediately following receipt by the board of a completed  
application on a form provided by the board and any evidence the  
board may require to establish that the deceased spouse was killed  
in the line of duty.

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(G)(1) If there is not a surviving spouse eligible to receive  
a death benefit under division (F) of this section or the  
surviving spouse receiving a death benefit under that division  
dies, a surviving child or children whose benefits under division  
(C) or (D) of this section are or have been terminated pursuant to  
division (C)(3) or (D)(3) of this section or who would qualify for  
a benefit under division (C) or (D) of this section except that  
the deceased member reached the member's retirement eligibility  
date prior to the member's death shall receive a monthly death  
benefit under this division. The monthly death benefit shall be  
one-half of an amount equal to the monthly salary received by the  
deceased member prior to the member's death, plus any salary  
increases the member would have received prior to the member's  
retirement eligibility date. If there is more than one surviving  
child, the benefit shall be divided equally among the surviving

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(2) If two or more surviving children each are receiving a 1099  
benefit under this division and any of those children becomes 1100  
ineligible to continue receiving a benefit as provided in division 1101  
(H) of this section, the remaining eligible child or children 1102  
shall receive an amount equal to one-half of the monthly salary 1103  
received by the deceased member prior to death, plus any salary 1104  
increases the deceased member would have received prior to the 1105  
retirement eligibility date. If there is more than one remaining 1106  
eligible child, the benefit shall be divided equally among the 1107  
eligible children. 1108

(3) A death benefit, or portion of a death benefit, payable 1109  
to a surviving child under this division shall be reduced by an 1110  
amount equal to any allowance or benefit payable to that child 1111  
under section 742.3714 of the Revised Code, but the reduction in 1112  
that child's benefit shall not affect the amount payable to any 1113  
other surviving child entitled to a portion of the death benefit. 1114

(H) A death benefit paid to a surviving child under division 1115  
(C), (D), or (G) of this section shall terminate on the death of 1116  
the child or, unless one of the following is the case, when the 1117  
child reaches age eighteen: 1118

(1) The child, because of physical or mental disability, is 1119  
unable to provide the child's own support, in which case the death 1120  
benefit shall terminate when the disability is removed; 1121

(2) The child is unmarried, under age twenty-two, and a 1122  
student in and attending an institution of learning or training 1123  
pursuant to a program designed to complete in each school year the 1124  
equivalent of at least two-thirds of the full-time curriculum 1125  
requirements of the institution, as determined by the trustees of 1126  
the fund. 1127

(I) Acceptance of any death benefit under this section does 1128

not prohibit a spouse or child from receiving other benefits 1129  
provided under the Ohio police and fire pension fund, the state 1130  
highway patrol retirement system, the public employees retirement 1131  
system, or a retirement system operated by a municipal 1132  
corporation. 1133

(J) No person shall receive a benefit under this section if 1134  
any of the following occur: 1135

(1) The person fails to exercise the right to a monthly 1136  
survivor benefit under division (A) or (B) of section 145.45, 1137  
division (D), (E), or (F) of section 742.37, or division (A)(3), 1138  
(4), or (7) of section 5505.17 of the Revised Code; to a monthly 1139  
survivor benefit from a retirement system operated by a municipal 1140  
corporation; or to a retirement allowance under section 742.3714 1141  
of the Revised Code. 1142

(2) The member's accumulated contributions under this chapter 1143  
or Chapter 145. or 5505. of the Revised Code are refunded unless 1144  
the member had been a member of the public employees retirement 1145  
system and had fewer than eighteen months of total service credit 1146  
at the time of death. 1147

(3) In the case of a full-time park district ranger or patrol 1148  
trooper, a full-time law enforcement officer of the department of 1149  
natural resources, a full-time law enforcement officer of parks, 1150  
waterway lands, or reservoir lands under the control of a 1151  
municipal corporation, a full-time law enforcement officer of a 1152  
conservancy district, a correction officer at an institution under 1153  
the control of a county, group of counties, or municipal 1154  
corporation, or a member of a retirement system operated by a 1155  
municipal corporation who at the time of the member's death was a 1156  
full-time law enforcement officer of parks, waterway lands, or 1157  
reservoir lands under the control of the municipal corporation, 1158  
the member died prior to April 9, 1981, in the case of a benefit 1159  
under division (B), (C), or (D) of this section, or prior to 1160

January 1, 1980, in the case of a benefit under division (E) of  
this section.

(4) In the case of a full-time department of public safety  
enforcement agent who prior to June 30, 1999, was a liquor control  
investigator of the department of public safety, the member died  
prior to December 23, 1986;

(5) In the case of a full-time department of public safety  
enforcement agent other than an enforcement agent who, prior to  
June 30, 1999, was a liquor control investigator, the member died  
prior to June 30, 1999.

(K) A surviving spouse whose benefit was terminated prior to  
~~the effective date of this amendment June 30, 1999,~~ due to  
remarriage shall receive a benefit under division (B), (D), or (F)  
of this section beginning on the first day of the month following  
receipt by the board of an application on a form provided by the  
board. The benefit amount shall be determined as of that date.

(1) If the benefit will begin prior to the deceased member's  
retirement eligibility date, it shall be paid under division (B)  
or (D) of this section and shall terminate as provided in those  
divisions. A benefit paid to a surviving spouse under division (D)  
of this section shall be determined in accordance with that  
division, even if benefits paid to surviving children are reduced  
as a result.

(2) If the benefit will begin on or after the deceased  
member's retirement eligibility date, it shall be paid under  
division (F) of this section and shall terminate as provided in  
that division. A benefit paid to a surviving spouse under division  
(F) of this section shall be determined in accordance with that  
division, even if benefits paid to surviving children are  
terminated as a result.

~~Sec. 3307.67. (A) Beginning April 1, 1971, and each year~~ 1191  
~~thereafter, the~~ The state teachers retirement board shall 1192  
~~determine the average percentage change in the consumer price~~ 1193  
~~index prepared by the United States bureau of labor statistics~~ 1194  
~~(U.S. City Average for Urban Wage Earners and Clerical Workers:~~ 1195  
~~"All Items 1982-84=100") for the twelve-calendar-month period~~ 1196  
~~prior to the first day of January over the next preceding~~ 1197  
~~twelve-calendar-month period, as reported by the bureau.~~ 1198

~~Upon a determination by the board in any year that the change~~ 1199  
~~in the consumer price index is an increase or that the change plus~~ 1200  
~~the accumulation described in division (B) of this section is an~~ 1201  
~~increase, the board shall~~ annually increase each allowance or 1202  
benefit payable under sections 3307.50 to 3307.79 of the Revised 1203  
Code by ~~a percentage equal to the percentage increase in the~~ 1204  
~~consumer price index or to that increase plus the accumulation,~~ 1205  
~~except that the increase shall not exceed three per cent and,~~ 1206  
except that no allowance or benefit shall exceed the limit 1207  
established by section 415 of the "Internal Revenue Code of 1986," 1208  
100 Stat. 2085, 26 U.S.C.A. 415, as amended. 1209

The first increase is payable to all persons becoming 1210  
eligible after June 30, 1971, upon such persons receiving an 1211  
allowance or benefit for twelve months. The increased amount is 1212  
payable for the ensuing twelve-month period or until the next 1213  
increase is granted under this section, whichever is later. 1214  
Subsequent increases shall be determined from the date of the 1215  
first increase paid to the former member in the case of an 1216  
allowance being paid a beneficiary under an option, or from the 1217  
date of the first increase to the survivor first receiving an 1218  
allowance or benefit in the case of an allowance or benefit being 1219  
paid to the subsequent survivors of the former member. 1220

The date of the first increase under this section becomes the 1221



anniversary date for any future increases.

The allowance or benefit used in the first calculation of an increase under this section shall remain as the base for all future increases, unless a new base is established.

~~(B) Any percentage of change in the consumer price index in any year that is in excess of three per cent shall be accumulated and used to determine increases under this section in subsequent years. Any percentage of change in the consumer price index accumulated by an eligible person prior to September 27, 1996, shall be used in determining any future increases under this section.~~

~~(C) The board shall make all rules necessary to carry out this section.~~

**Sec. 3309.374.** ~~(A) Beginning April 1, 1971, and each year thereafter, the board of the The school employees retirement system shall determine the average percentage change 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 1982-84=100") for the twelve-calendar-month period prior to the first day of January over the next preceding twelve-calendar-month period, as reported by the bureau.~~

~~Upon a determination by the board in any year that the change in the consumer price index is an increase or that the change plus the accumulation described in division (B) of this section is an increase, the board shall annually increase each allowance, pension, or benefit payable under this chapter by a percentage equal to the percentage increase in the consumer price index or to that increase plus the accumulation, except that the increase shall not exceed three per cent and, except that no allowance, pension, or benefit shall exceed the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26~~

U.S.C.A. 415, as amended. 1253

The first increase is payable to all persons becoming 1254  
eligible after June 30, 1971, upon such persons receiving an 1255  
allowance, pension, or benefit for twelve months. 1256

The increased amount is payable for the ensuing twelve-month 1257  
period or until the next increase is granted under this section, 1258  
whichever is later. Subsequent increases shall be determined from 1259  
the date of the first increase paid to the former member in the 1260  
case of an allowance being paid a beneficiary under an option, or 1261  
from the date of the first increase to the survivor first 1262  
receiving an allowance or benefit in the case of an allowance or 1263  
benefit being paid to the subsequent survivors of the former 1264  
member. 1265

The date of the first increase under this section becomes the 1266  
anniversary date for any future increases. 1267

The allowance or benefit used in the first calculation of an 1268  
increase under this section shall remain as the base for all 1269  
future increases, unless a new base is established. Any increase 1270  
resulting from payment of a recalculated benefit under Section 3 1271  
of Substitute Senate Bill No. 270 of the 123rd general assembly 1272  
shall be included in the calculation of future increases under 1273  
this section. 1274

~~(B) Any percentage of change in the consumer price index in 1275  
any year that is in excess of three per cent shall be accumulated 1276  
and used to determine increases under this section in subsequent 1277  
years. Any percentage of change in the consumer price index 1278  
accumulated by an eligible person prior to September 27, 1996, 1279  
shall be used in determining any future increases under this 1280  
section. 1281~~

~~(C)~~ The board shall make all rules necessary to carry out 1282  
this section. 1283

Sec. 5505.174. (A) The following persons are eligible to 1284  
receive an ~~additional benefit~~ increase under this section: 1285

(1) Persons fifty-three years old or older who have been 1286  
receiving pensions pursuant to division (B) of section 5505.16, 1287  
division (A)(1) of section 5505.17, or division (B) of section 1288  
5505.18 of the Revised Code for not less than twelve months; 1289

(2) Persons who have been receiving pensions pursuant to 1290  
division (B) of section 5505.18 of the Revised Code for not less 1291  
than sixty months regardless of age; 1292

(3) Persons who have been receiving pensions pursuant to 1293  
section 5505.162 or division (A)(3), (4), (5), (6), or (7) of 1294  
section 5505.17 of the Revised Code for not less than twelve 1295  
months regardless of age. 1296

(B) ~~On the fifteenth day of September of each year, the The~~ 1297  
state highway patrol retirement board shall ~~determine the average~~ 1298  
~~percentage change in the consumer price index prepared by the~~ 1299  
~~United States bureau of labor statistics (U.S. City Average for~~ 1300  
~~Urban Wage Earners and Clerical Workers: "All Items 1982-84=100")~~ 1301  
~~for the twelve-month period prior to the first day of January over~~ 1302  
~~the next preceding twelve-calendar-month period, as reported by~~ 1303  
~~the bureau. Upon a determination by the board that the change is~~ 1304  
~~an increase or that the change plus the accumulation described in~~ 1305  
~~division (C) of this section is an increase, the board shall~~ 1306  
annually increase each benefit payable under this chapter by a 1307  
~~percentage equal to the percentage increase in the consumer price~~ 1308  
~~index or to that increase plus the accumulation, except that the~~ 1309  
~~increase shall not exceed three per cent and, except that no~~ 1310  
benefit shall exceed the limit established by section 415 of the 1311  
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, 1312  
as amended. 1313

~~For each person eligible to receive the additional benefit~~ 1314

~~under this section, the accumulation shall commence on the later  
of May 6, 1988, or the effective date of the pension the person  
receives.~~

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The first ~~additional benefit~~ increase is payable to all  
persons becoming eligible on or after November 18, 1981. The  
~~additional benefit~~ increase is payable for each ensuing  
twelve-month period or until the next increase is granted under  
this section, whichever is later.

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The date of the first ~~additional benefit~~ increase paid under  
this section shall be the anniversary date for future ~~additional  
benefits~~ increases. The pension used in the first calculation of  
an ~~additional benefit~~ increase under this section shall remain as  
the base for all future ~~additional benefits~~ increases paid under  
this section, unless a new base is established.

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~~Additional benefits~~ Increases paid in years subsequent to the  
year of the first ~~additional benefit~~ increase paid under this  
section shall be paid to all persons who, on the date that the  
~~additional benefit~~ increase is authorized by the board, are  
eligible ~~for the benefit~~ as provided in this section.

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~~(C) Any percentage of change in the consumer price index in  
any year that is in excess of three per cent shall be accumulated  
and used to determine increases under this section in subsequent  
years. Any percentage of change in the consumer price index  
accumulated by an eligible person prior to the effective date of  
this amendment shall be used in determining any future increases  
under this section.~~

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~~(D)~~ The board shall adopt, and may amend or rescind, any rule  
necessary to carry out this section.

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~~The board shall adopt, and may amend or rescind, any rule  
necessary to carry out this section.~~

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**Section 2.** That existing sections 145.297, 145.323, 742.37, 1345  
742.3711, 742.3716, 742.3717, 742.3718, 742.63, 3307.67, 3309.374, 1346  
and 5505.174 and section 742.3720 of the Revised Code are hereby 1347  
repealed. 1348

**Section 3.** Section 742.63 of the Revised Code is presented in 1349  
this act as a composite of the section as amended by both Sub. 1350  
H.B. 222 and Am. Sub. H.B. 283 of the 123rd General Assembly. The 1351  
General Assembly, applying the principle stated in division (B) of 1352  
section 1.52 of the Revised Code that amendments are to be 1353  
harmonized if reasonably capable of simultaneous operation, finds 1354  
that the composite is the resulting version of the section in 1355  
effect prior to the effective date of the section as presented in 1356  
this act. 1357