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## A B I L L

To amend sections 742.32, 742.35, 742.351, 742.38, and	1
742.56 and to enact sections 742.352 and 742.353 of	2
the Revised Code to modify the penalties assessed	3
against employers who fail to submit certain	4
reports and information to the Ohio Police and Fire	5
Pension Fund and to reduce the amount of certain	6
penalties currently owed by employers.	7

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

<b>Section 1.</b> That sections 742.32, 742.35, 742.351, 742.38, and	8
742.56 be amended and sections 742.352 and 742.353 of the Revised	9
Code be enacted to read as follows:	10

<b>Sec. 742.32.</b> The fiscal officer of each employer shall	11
transmit monthly to the secretary of the board of trustees of the	12
Ohio police and fire pension fund a report of employee deductions	13

in such form as the board requires. The report shall show all deductions for the fund made pursuant to section 742.31 of the Revised Code and shall be accompanied by payments covering the total of such deductions. The report shall also include the name of each member for whom deductions were made and the portion of the payment attributed to that member. Separate payments shall be so transmitted for that portion of such deductions made from the salaries of members of the police department and for that portion of such deductions made from the salaries of members of the fire department. The report and payment are due the last day of the month following the last day of the reporting period. A penalty of ~~five per cent of the total amount due for the particular reporting period~~ determined under section 742.352 of the Revised Code shall be ~~added when~~ assessed if any of the following occur:

(A) The report, together with payments is received by the board after the due date or is not in the form required by the board.

(B) Payments to cover the total amount due from the salaries of all employees of the employer, is transmitted thirty or more days after the last day of the reporting period are received by the board after the due date. The

The penalty shall be added to and collected on the next succeeding regular employer billing. If the penalty is not paid within ~~three months~~ sixty days after it is added to the regular employer billing, interest at a rate determined by the board may be charged on the total amount due and the amount of the penalty from the date the amount is due to the date of payment.

The secretary of the board, after making a record of all such receipts and crediting each employee's individual account with the amount deducted from the employee's salary, shall deposit the receipts with the treasurer of state for use as provided by this chapter. Where an employer fails to deduct contributions for any

employee and transmit such amounts to the fund, the board may make  
a determination of the employee's liability for contributions and  
certify to the employer the amounts due for collection in the same  
manner and subject to the same penalties as payments due the  
employer's contributions funds.

**Sec. 742.35.** Each As used in this section, "calendar quarter"  
means the three-month period ending on the last day of March,  
June, September, or December.

Each employer shall pay its annual police officer employers'  
contribution and firefighter employers' contribution in four equal  
installments promptly as provided in sections 742.33 and 742.34 of  
the Revised Code. ~~Sixty~~ If an employer fails to make a payment on  
or before the date that is sixty days after the date an  
installment is due, any amounts which remain unpaid shall be  
subject to last day of the calendar quarter, a penalty for late  
payment in the amount of five per cent determined under section  
742.352 of the Revised Code shall be assessed against the  
employer. In addition, interest on past due accounts and penalties  
may be charged at a rate determined by the board ~~of trustees of~~  
~~the Ohio police and fire pension fund~~ from the date the  
installment is due to the date of payment.

Upon certification by the board to the county auditor of an  
amount due from any employer within the county who is subject to  
this chapter, by reason of such employer's delinquency in making  
employer contribution payments to the fund for past ~~years~~ months,  
such amount shall be withheld from such employer from any funds in  
the hands of the county treasurer for distribution to such  
employer. Upon receipt of such certification, the county auditor  
shall draw a warrant against such funds in favor of the fund for  
the amount.

**Sec. 742.351.** (A) On receipt of written notice of a member's election to retire under division (C) of section 742.37 of the Revised Code, the Ohio police and fire pension fund shall request from the employer verification of the member's termination date and any other information the fund determines necessary to calculate and pay a pension under that division. The request shall be on a form created by the fund and specify the date by which the information must be received by the fund, which shall be sixty days after the form is sent by the fund.

(B)(1) On receipt of a request for information under division (A) of this section, the employer shall complete the form and return it to the fund not later than the date specified by the fund.

(2) If the fund does not receive the completed form by the specified date, the fund shall send notice by certified mail to the employer that unless the completed form is received not later than thirty days after the specified date a ~~fine~~ penalty will be imposed.

(C) The fund shall assess against an employer that fails to return the completed form by the end of the period described in division (B)(2) of this section a ~~fine of one hundred dollars per day. The period for which the fine shall be imposed begins the thirty-first day after the date notice is mailed under division (B)(2) of this section and ends on the day before the day the completed form is received by the fund. Any amount due from an employer under this division shall be collected from the county auditor in the manner provided in section 742.35 of the Revised Code for delinquent contributions~~ penalty determined under section 742.353 of the Revised Code.

(D) The fund shall make one or more monthly payments to a member whose pension does not commence by the ninety-first day after the fund sends a request for information under division (A)

of this section due to the employer's failure to return the  
completed form required under this section. Payment under this  
division shall commence on the first day of the second month  
following a month that includes a day for which an assessment  
against the employer is required under division (C) of this  
section. The payment shall be an amount equal to ~~one hundred~~  
~~dollars for every day that an assessment is required~~ the penalty  
assessed under division (C) of this section less any  
administrative costs incurred by the fund in complying with this  
section. Payment shall continue on a monthly basis until the  
member receives the total amount attributable to the required  
penalty for an employer's failure to return the form that was  
requested for that member's information.

Sec. 742.352. (A) Unless rules are adopted under division (C)  
of this section, the penalties for failing to transmit reports and  
payment in accordance with sections 742.32 and 742.56 of the  
Revised Code or payments in accordance with section 742.35 of the  
Revised Code shall be as follows:

(1) If a report or payment is at least one but not more than  
ten days past due, one hundred dollars;

(2) If a report or payment is at least eleven but not more  
than thirty days past due, the greater of one thousand dollars or  
one per cent of the payment;

(3) If a report or payment is at least thirty-one but not  
more than one hundred eighty days past due, the greater of three  
thousand dollars or two per cent of the payment;

(4) If a report or payment is at least one hundred eighty-one  
days but not more than two hundred ten days past due, the greater  
of seven thousand five hundred dollars or five per cent of the  
payment;

(5) If a report or payment is at least two hundred eleven days past due, the sum of the penalty described in division (A)(4) of this section and, for each day that the report or payment is past due after two hundred ten days, fifty dollars.

(B) Any amount due from an employer under division (A) of this section shall be collected from the county auditor in the same manner as is provided in section 742.35 of the Revised Code.

(C) The board of trustees of the Ohio police and fire pension fund may adopt rules to do all of the following:

(1) Establish penalties in amounts that do not exceed the amounts described in this section;

(2) Establish standards to determine whether an employer has submitted a report in the form required by the board;

(3) Lengthen the periods of time for employers to comply with sections 742.32, 742.35, and 742.56 of the Revised Code.

**Sec. 742.353.** (A) Unless rules are adopted in accordance with division (C) of this section, the penalties assessed under sections 742.351 and 742.38 of the Revised Code shall be as follows:

(1) If a form, report, or statement is at least one but not more than ten days past due, one hundred dollars;

(2) If a form, report, or statement is at least eleven but not more than thirty days past due, one thousand dollars;

(3) If a form, report, or statement is at least thirty-one but not more than one hundred eighty days past due, three thousand dollars;

(4) If a form, report, or statement is at least one hundred eighty-one days but not more than two hundred ten days past due, seven thousand five hundred dollars;

(5) If a form, report, or statement is at least two hundred 167  
eleven days past due, the sum of seven thousand five hundred 168  
dollars and, for each day that the form, report, or statement is 169  
past due after two hundred ten days, three dollars and 170  
thirty-seven cents. 171

The total of the penalties paid by an employer under this 172  
section in a calendar year shall not exceed twenty thousand 173  
dollars. 174

(B) Any amount due from an employer under division (A) of 175  
this section shall be collected from the county auditor in the 176  
same manner as is provided in section 742.35 of the Revised Code. 177

(C) The board of trustees of the Ohio police and fire pension 178  
fund may adopt rules to do all of the following: 179

(1) Establish penalties in amounts that do not exceed the 180  
amounts described in this section; 181

(2) Establish standards to determine whether an employer has 182  
submitted a form, report, or statement in the form required by the 183  
board; 184

(3) Lengthen the periods of time for employers to comply with 185  
sections 742.351 and 742.38 of the Revised Code. 186

**Sec. 742.38.** (A)(1) The board of trustees of the Ohio police 187  
and fire pension fund shall adopt rules establishing minimum 188  
medical testing and diagnostic standards or procedures to be 189  
incorporated into physical examinations administered by physicians 190  
to prospective members of the fund. The standards or procedures 191  
shall include diagnosis and evaluation of the existence of any 192  
heart disease, cardiovascular disease, or respiratory disease. The 193  
rules shall specify the form of the physician's report and the 194  
information to be included in it. 195

The board shall notify all employers of the establishment of 196

the minimum standards or procedures and shall include with the  
notice a copy of the standards or procedures. The board shall  
notify all employers of any changes made to the standards or  
procedures. Once the standards or procedures take effect,  
employers shall cause each prospective member of the fund to  
submit to a physical examination that incorporates the standards  
or procedures.

(2) Division (A)(2) of this section applies to an employee  
who becomes a member of the fund on or after the date the minimum  
standards or procedures described in division (A)(1) of this  
section take effect. ~~Not later than thirty days after such an~~ For  
~~each employee becomes a member of the fund described in division~~  
(A)(2) of this section, the employer shall forward to the board a  
copy of the physician's report of a physical examination that  
incorporates the standards or procedures described in division  
(A)(1) of this section. If an employer fails to forward the report  
in the form required by the board on or before the date that is  
sixty days after the employee becomes a member of the fund, the  
board shall assess against the employer a ~~fine of one hundred~~  
~~dollars per day, beginning with the first day after the date the~~  
~~report is due and ending on the last day prior to the date the~~  
~~report is received by the board. Any amount due from an employer~~  
~~under division (A)(2) of this section may be collected from the~~  
~~county auditor in the same manner as is provided in section 742.35~~  
~~of the Revised Code~~ penalty determined under section 742.353 of  
the Revised Code.

(B) Application for a disability benefit may be made by a  
member of the fund or, if the member is incapacitated as defined  
in rules adopted by the board, by a person acting on the member's  
behalf. Not later than fourteen days after receiving an  
application for a disability benefit from a member or a person  
acting on behalf of a member, the board shall notify the member's



employer that an application has been filed. The notice shall  
state the member's position or rank. Not later than twenty-eight  
days after receiving the notice or filing an application on behalf  
of a member, the employer shall forward to the board a statement  
certifying the member's job description and any other information  
required by the board to process the application.

If the member applying for a disability benefit becomes a  
member of the fund prior to the date the minimum standards or  
procedures described in division (A)(1) of this section take  
effect, the board may request from the member's employer a copy of  
the physician's report of the member's physical examination taken  
on entry into the police or fire department. ~~Not later than~~  
~~twenty-eight days after receiving a request from the board, the~~  
~~employer shall forward a copy of the report or, if the employer~~  
does not have a copy of the report, a written statement certifying  
that the employer does not have a copy of the report. If an  
employer fails to forward the report or statement in the form  
required by the board on or before the date that is twenty-eight  
days after the date of the request, the board shall assess against  
the employer a ~~fine of one hundred dollars per day, beginning with~~  
~~the first day after the date the report or statement is due and~~  
~~ending on the last day prior to the date the report or statement~~  
~~is received by the board. Any amount due from an employer under~~  
~~this division may be collected from the county auditor in the same~~  
~~manner as is provided in section 742.35 of the Revised Code~~  
penalty determined under section 742.353 of the Revised Code. The  
board shall maintain the information submitted under this division  
and division (A)(2) of this section in the member's file.

(C) For purposes of determining under division (D) of this  
section whether a member of the fund is disabled, the board shall  
adopt rules establishing objective criteria under which the board  
shall make the determination. The rules shall include standards

that provide for all of the following: 261

(1) Evaluating a member's illness or injury on which an 262  
application for disability benefits is based; 263

(2) Defining the occupational duties of a police officer or 264  
firefighter; 265

(3) Providing for the board to assign competent and 266  
disinterested physicians and vocational evaluators to conduct 267  
examinations of a member; 268

(4) Requiring a written report for each disability 269  
application that includes a summary of findings, medical opinions, 270  
including an opinion on whether the illness or injury upon which 271  
the member's application for disability benefits is based was 272  
caused or induced by the actual performance of the member's 273  
official duties, and any recommendations or comments based on the 274  
medical opinions; 275

(5) Providing for the board to consider the member's 276  
potential for retraining or reemployment. 277

(D) This division does not apply to members of the fund who 278  
have elected to receive benefits and pensions in accordance with 279  
division (A) or (B) of section 742.37 of the Revised Code or from 280  
a police relief and pension fund or a firemen's relief and pension 281  
fund in accordance with the rules of that fund in force on April 282  
1, 1947. 283

(1) As used in division (D)(1) of this section: 284

(a) "Totally disabled" means a member of the fund is unable 285  
to perform the duties of any gainful occupation for which the 286  
member is reasonably fitted by training, experience, and 287  
accomplishments. Absolute helplessness is not a prerequisite of 288  
being totally disabled. 289

(b) "Permanently disabled" means a condition of disability 290

from which there is no present indication of recovery. 291

A member of the fund who is permanently and totally disabled 292  
as the result of the performance of the member's official duties 293  
as a member of a police or fire department shall be paid annual 294  
disability benefits in accordance with division (A) of section 295  
742.39 of the Revised Code. In determining whether a member of the 296  
fund is permanently and totally disabled, the board shall consider 297  
standards adopted under division (C) of this section applicable to 298  
the determination. 299

(2) A member of the fund who is partially disabled as the 300  
result of the performance of the member's official duties as a 301  
member of a police or fire department shall, if the disability 302  
prevents the member from performing those duties and impairs the 303  
member's earning capacity, receive annual disability benefits in 304  
accordance with division (B) of section 742.39 of the Revised 305  
Code. In determining whether a member of the fund is partially 306  
disabled, the board shall consider standards adopted under 307  
division (C) of this section applicable to the determination. 308

(3) A member of the fund who is disabled as a result of heart 309  
disease or any cardiovascular or respiratory disease of a chronic 310  
nature, which disease or any evidence of which disease was not 311  
revealed by the physical examination passed by the member on entry 312  
into the department, is presumed to have incurred the disease 313  
while performing the member's official duties, unless the contrary 314  
is shown by competent evidence. 315

(4) A member of the fund who has completed five or more years 316  
of active service in a police or fire department and has incurred 317  
a disability not caused or induced by the actual performance of 318  
the member's official duties as a member of the department, or by 319  
the member's own negligence, shall if the disability prevents the 320  
member from performing those duties and impairs the member's 321  
earning capacity, receive annual disability benefits in accordance 322

with division (C) of section 742.39 of the Revised Code. In  
determining whether a member of the fund is disabled, the board  
shall consider standards adopted under division (C) of this  
section applicable to the determination.

(5) The board shall notify a member of its final action  
awarding a disability benefit to the member within thirty days of  
the final action. The notice shall be sent by certified mail,  
return receipt requested. Not later than ninety days after receipt  
of notice from the board, the member shall elect, on a form  
provided by the board, either to accept or waive the disability  
benefit award. If the member elects to waive the disability  
benefit award or fails to make an election within the time period,  
the award is rescinded. A member who later seeks a disability  
benefit award shall be required to make a new application, which  
shall be dealt with in accordance with the procedures used for  
original disability benefit applications.

A person is not eligible to apply for or receive disability  
benefits under this division, section 742.39 of the Revised Code,  
or division (C)(2), (3), (4), or (5) of former section 742.37 of  
the Revised Code unless the person is a member of the fund on the  
date on which the application for disability benefits is submitted  
to the fund.

With the exception of persons who may make application for  
increased benefits as provided in division (2) or (4) of this  
section or division (C)(3) or (5) of former section 742.37 of the  
Revised Code on or after July 24, 1986, or persons who may make  
application for benefits as provided in section 742.26 of the  
Revised Code, no person receiving a pension or benefit under this  
section or division (C) of former section 742.37 of the Revised  
Code may apply for any new, changed, or different benefit.

**Sec. 742.56.** (A) The board of trustees of the Ohio police and

fire pension fund may by rule establish a payroll deduction plan 354  
for payment of the following: 355

(1) The cost of service credit members of the fund are 356  
eligible to purchase under this chapter; 357

(2) Charges for participation in programs established under 358  
section 742.53 of the Revised Code. 359

(B) In addition to any other matter considered relevant by 360  
the trustees, the rules shall specify all of the following: 361

(1) The types of service credit that may be paid for through 362  
payroll deduction, including the section of the Revised Code that 363  
authorizes the purchase of each type of service credit for which 364  
payment may be made by payroll deduction; 365

(2) The procedure to be followed by a member to inform the 366  
member's employer and the Ohio police and fire pension fund that 367  
the member wishes to purchase service credit under this chapter or 368  
pay for participation in programs established under section 742.53 369  
of the Revised Code and chooses to pay for it through payroll 370  
deduction; 371

(3) The procedure to be followed by the fund to determine for 372  
each request the amount to be deducted, the number of deductions 373  
to be made, and the interval at which deductions will be made. The 374  
rules may provide for a minimum amount for each deduction or a 375  
maximum number of deductions for the purchase of any type of 376  
credit, but shall provide that no deduction may exceed the 377  
member's net compensation after all deductions and withholdings 378  
required by law. 379

(4) The procedure to be followed by employers in transmitting 380  
amounts deducted from the salaries of their employees to the fund; 381  
382

(5) The procedure to be followed by the fund in crediting 383  
service credit to members who choose to purchase it through 384

payroll deduction.

(C) If the trustees of the fund establish a payroll deduction plan under this section, the trustees shall certify to the member's employer for each member for which deductions are to be made, the amount of each deduction and the payrolls from which deductions are to be made. The employer shall make the deductions as certified and transmit the amounts deducted ~~in accordance with the rules established by the trustees under this section on or before the last day of the month following the last day of the reporting period during which the deductions are made.~~ The deduction shall be accompanied by a report, in such form as the board requires, that includes the name of each member for whom deductions were made and the deductions attributed to that member. If the employer fails to transmit the deductions or the report on or before the last day of the month following the last day of the reporting period during which the deductions are made, a penalty determined under section 742.352 shall be assessed against the employer. On certification by the board to the county auditor of an amount due from an employer within the county who is subject to this division, by reason of the employer's delinquency in transmitting amounts due under this division for past months, those amounts shall be withheld from the employer from any funds in the hands of the county treasurer for distribution to the employer. On receipt of the certification, the county auditor shall draw a warrant against the funds in favor of the Ohio police and fire pension fund for the amount.

(D) Rules adopted under this section shall not affect any right to purchase service credit conferred by any other section of the Revised Code, including the right of a member under any such section to purchase only part of the service credit the member is eligible to purchase.

**Section 2.** That existing sections 742.32, 742.35, 742.351, 416  
742.38, and 742.56 of the Revised Code are hereby repealed. 417

**Section 3.** (A) As used in this section, "employer" has the 418  
same meaning as in division (D) of section 742.01 of the Revised 419  
Code. 420

(B)(1) Notwithstanding section 742.38 of the Revised Code, as 421  
that section existed immediately prior to the effective date of 422  
its amendment by this act, and subject to division (C) of this 423  
section, the Board of Trustees of the Ohio Police and Fire Pension 424  
Fund shall reduce by ninety per cent a fine incurred prior to the 425  
effective date of this section under division (A)(2) of section 426  
742.38 of the Revised Code if, prior to that date, the Board 427  
received from the employer who is subject to the fine the report 428  
that is the subject of the fine and the report was in the form 429  
provided in rules adopted by the Board. If the total amount of 430  
outstanding fines assessed against an employer under division 431  
(A)(2) of section 742.38 of the Revised Code exceeds \$30,000 after 432  
the reduction required by this division, the board shall further 433  
reduce the total amount of the outstanding fines to \$30,000. 434

(2) Notwithstanding sections 742.32 and 742.35 of the Revised 435  
Code, as those sections existed immediately prior to the effective 436  
date of their amendment by this act, and subject to division (C) 437  
of this section, the Board shall reduce by fifty per cent a 438  
penalty incurred under section 742.32 or 742.35 of the Revised 439  
Code during the period beginning January 1, 2000, and ending on 440  
the effective date of this section, if on or before the date that 441  
is six months after the date the report and payment were due, the 442  
Board receives from the employer the report and payment that are 443  
the subject of the penalty and the report is in the form provided 444  
in rules adopted by the Board. 445

(C)(1) Not later than June 1, 2002, an employer shall pay to 446

the Fund the amount of all fines and penalties described in  
division (B) of this section, as reduced under this section.

(2) If an employer fails to pay all amounts due in accordance  
with division (C)(1) of this section or to file all required  
reports, the Board shall reinstate to the original amount any fine  
or penalty that was reduced and the employer shall pay to the Fund  
the reinstated fine or penalty amount. If the employer fails to  
pay the reinstated fine or penalty amount, that amount shall be  
collected from the county auditor in the same manner as is  
provided in section 742.35 of the Revised Code.

(3) To each employer that, prior to the effective date of  
this section, paid the full amount of a fine or penalty reduced  
under division (B) of this section, the Board shall either refund  
the amount of the reduction or use the amount to reduce any  
outstanding amounts owed by the employer to the Fund under Chapter  
742. of the Revised Code.

(D) Notwithstanding sections 117.28, 117.30, 117.33, 117.36,  
117.42, and 131.02 of the Revised Code, no civil action shall be  
instituted to recover the amount of a reduction made under  
division (B)(1) or (2) of this section. An employer who meets the  
requirements of divisions (B) and (C)(1) or divisions (B) and  
(C)(3) of this section shall not be required to reimburse the Fund  
for any amount not paid as the result of the reduction.