

As Reported by the Senate Ways and Means Committee

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A B I L L

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

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

Section 1. That sections 742.32, 742.35, 742.351, 742.38, and
742.56 be amended and sections 742.352 and 742.353 of the Revised
Code be enacted to read as follows:

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Sec. 742.32. The fiscal officer of each employer shall
transmit monthly to the secretary of the board of trustees of the
Ohio police and fire pension fund a report of employee deductions
in such form as the board requires. The report shall show all

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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

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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

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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

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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

eleven days past due, the sum of seven thousand five hundred
dollars and, for each day that the form, report, or statement is
past due after two hundred ten days, three dollars and
thirty-seven cents.

The total of the penalties paid by an employer under this
section in a calendar year shall not exceed twenty thousand
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 form, report, or statement in the form required by the
board;

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

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

The board shall notify all employers of the establishment of
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

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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:

(1) Evaluating a member's illness or injury on which an application for disability benefits is based;	262 263
(2) Defining the occupational duties of a police officer or firefighter;	264 265
(3) Providing for the board to assign competent and disinterested physicians and vocational evaluators to conduct examinations of a member;	266 267 268
(4) Requiring a written report for each disability application that includes a summary of findings, medical opinions, including an opinion on whether the illness or injury upon which the member's application for disability benefits is based was caused or induced by the actual performance of the member's official duties, and any recommendations or comments based on the medical opinions;	269 270 271 272 273 274 275
(5) Providing for the board to consider the member's potential for retraining or reemployment.	276 277
(D) This division does not apply to members of the fund who have elected to receive benefits and pensions in accordance with division (A) or (B) of section 742.37 of the Revised Code or from a police relief and pension fund or a firemen's relief and pension fund in accordance with the rules of that fund in force on April 1, 1947.	278 279 280 281 282 283
(1) As used in division (D)(1) of this section:	284
(a) "Totally disabled" means a member of the fund is unable to perform the duties of any gainful occupation for which the member is reasonably fitted by training, experience, and accomplishments. Absolute helplessness is not a prerequisite of being totally disabled.	285 286 287 288 289
(b) "Permanently disabled" means a condition of disability from which there is no present indication of recovery.	290 291

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

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

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

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

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
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(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. 385

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(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, 742.38, and 742.56 of the Revised Code are hereby repealed.

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 447
division (B) of this section, as reduced under this section. 448

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(2) If an employer fails to pay all amounts due in accordance 449
with division (C)(1) of this section or to file all required 450
reports, the Board shall reinstate to the original amount any fine 451
or penalty that was reduced and the employer shall pay to the Fund 452
the reinstated fine or penalty amount. If the employer fails to 453
pay the reinstated fine or penalty amount, that amount shall be 454
collected from the county auditor in the same manner as is 455
provided in section 742.35 of the Revised Code. 456

(3) To each employer that, prior to the effective date of 457
this section, paid the full amount of a fine or penalty reduced 458
under division (B) of this section, the Board shall either refund 459
the amount of the reduction or use the amount to reduce any 460
outstanding amounts owed by the employer to the Fund under Chapter 461
742. of the Revised Code. 462

(D) Notwithstanding sections 117.28, 117.30, 117.33, 117.36, 463
117.42, and 131.02 of the Revised Code, no civil action shall be 464
instituted to recover the amount of a reduction made under 465
division (B)(1) or (2) of this section. An employer who meets the 466
requirements of divisions (B) and (C)(1) or divisions (B) and 467
(C)(3) of this section shall not be required to reimburse the Fund 468
for any amount not paid as the result of the reduction. 469