

As Passed by the Senate

**124th General Assembly
Regular Session
2001-2002**

Sub. S. B. No. 134

**SENATORS Blessing, Austria, Spada, Fingerhut, Coughlin, Robert Gardner,
Herington, Mumper, Ryan**

A B I L L

To amend sections 742.03, 742.14, 742.351, 742.37, 1
742.3716, 742.46, and 742.63; to amend, for the 2
purpose of adopting new section numbers as 3
indicated in parentheses, sections 742.43 (742.113) 4
and 742.44 (742.101); to enact new sections 742.43 5
and 742.44 and sections 742.441, 742.442, 742.443, 6
742.444, 742.445, 742.446, and 742.447 of the 7
Revised Code to provide for establishment of the 8
Ohio Police and Fire Pension Fund deferred 9
retirement option plan. 10

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

Section 1. That sections 742.03, 742.14, 742.351, 742.37, 11
742.3716, 742.46, and 742.63 be amended; sections 742.43 (742.113) 12
and 742.44 (742.101) be amended, for the purpose of adopting new 13
section numbers as indicated in parentheses; and new sections 14
742.43 and 742.44 and sections 742.441, 742.442, 742.443, 742.444, 15
742.445, 742.446, and 742.447 of the Revised Code be enacted to 16
read as follows: 17

Sec. 742.03. (A) As used in this section and in sections 18
742.04 and 742.05 of the Revised Code: 19

(1) "Police officer" means a member of the fund who is or has been an employee of a police department and is not a police retirant.

(2) "Firefighter" means a member of the fund who is or has been an employee of a fire department and is not a firefighter retirant.

(3) "Firefighter retirant" means a member of the fund who is receiving an age and service or disability benefit as a result of service in a fire department or a surviving spouse of a deceased member who is receiving a benefit as a result of the deceased member's service in a fire department. "Firefighter retirant" does not include a member of the fund who is participating in the deferred retirement option plan established under section 742.43 of the Revised Code.

(4) "Police retirant" means a member of the fund who is receiving an age and service or disability benefit as a result of service in a police department or a surviving spouse of a deceased member who is receiving a benefit as a result of the deceased member's service in a police department. "Police retirant" does not include a member of the fund who is participating in the deferred retirement option plan established under section 742.43 of the Revised Code.

(B) The administration, control, and management of the Ohio police and fire pension fund, created under section 742.02 of the Revised Code, is vested in a board of trustees of the Ohio police and fire pension fund, which shall consist of nine members as follows:

(1) The attorney general;

(2) The auditor of state;

(3) The fiscal officer of a municipal corporation who shall be appointed by the governor. This member's term shall be for

three years, commencing on the fourth day of June and ending on
the third day of June. The fiscal officer member shall hold office
from the date of appointment until the end of the term for which
appointed. Any fiscal officer member appointed to fill a vacancy
occurring prior to the expiration of the term for which the fiscal
officer member's predecessor was appointed shall hold office for
the remainder of such term. Any fiscal officer member shall
continue in office subsequent to the expiration date of the fiscal
officer member's term until such member's successor takes office,
or until a period of sixty days has elapsed, whichever occurs
first.

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(4) Four members known as employee members.

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Two employee members shall be police officers elected by
police officers. Two employee members shall be firefighters
elected by firefighters. Employee members of the board shall be
elected for terms of four years as provided by section 742.04 of
the Revised Code.

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(5) One member known as the firefighter retirant member, who
shall be a resident of this state elected by the firefighter
retirants. The firefighter retirant member shall be elected for a
term of four years as provided by section 742.04 of the Revised
Code.

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(6) One member known as the police retirant member, who shall
be a resident of this state elected by the police retirants. The
police retirant member shall be elected for a term of four years
as provided by section 742.04 of the Revised Code.

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(C) No employee member of the board who retires while a
member of the board shall be eligible to become a retirant member
for three years after the date of the member's retirement.

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Sec. ~~742.44~~ 742.101. The board of trustees of the Ohio police

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and fire pension fund shall estimate annually the amount required 81
to pay its expenses for the ensuing year, and shall fix the amount 82
which shall be transferred from the guarantee fund to the expense 83
fund. 84

Sec. ~~742.43~~ 742.113. Except as provided in sections 742.01 to 85
742.61 of the Revised Code, no trustee and no employee of the 86
board of trustees of the Ohio police and fire pension fund shall 87
have any interest, direct or indirect, in the gains or profits of 88
any investment made by the board nor as such, directly or 89
indirectly, receive any pay or annual emolument for the trustee's 90
or employee's services. No trustee or employee of said board 91
shall, directly or indirectly, for self or as an agent or partner 92
of others, borrow any funds or deposits over which the board has 93
jurisdiction or use the same except to make such current and 94
necessary payments as are authorized by the board; nor shall any 95
member or employee of the said board become an endorser or surety 96
or become in any manner an obligor for money loaned by or borrowed 97
from the board. 98

Sec. 742.14. (A) The board of trustees of the Ohio police and 99
fire pension fund shall have prepared annually by or under the 100
supervision of an actuary an actuarial valuation of the pension 101
assets, liabilities, and funding requirements of the Ohio police 102
and fire pension fund as established pursuant to sections 742.01 103
to 742.61 of the Revised Code. The actuary shall complete the 104
valuation in accordance with actuarial standards of practice 105
promulgated by the actuarial standards board of the American 106
academy of actuaries and prepare a report of the valuation. The 107
report shall include all of the following: 108

(1) A summary of the benefit provisions evaluated; 109

(2) A summary of the census data and financial information 110
used in the valuation; 111

(3) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation, including a statement of the assumed rate of payroll growth and assumed rate of growth or decline in the number of members of the fund contributing to the pension fund;

(4) A summary of findings that includes a statement of the actuarial accrued pension liabilities and unfunded actuarial accrued pension liabilities;

(5) A schedule showing the effect of any changes in the benefit provisions, actuarial assumptions, or cost methods since the last annual actuarial valuation;

(6) A statement of whether contributions to the pension fund are expected to be sufficient to satisfy the funding objectives established by the board.

The board shall submit the report to the Ohio retirement study council and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of November following the year for which the valuation was made.

(B) The board shall annually thereafter have prepared by an actuary a report showing the adequacy of the rate of the police officer employers' contribution provided for by section 742.33 of the Revised Code, and the adequacy of the rate of the firefighter employers' contribution provided for by section 742.34 of the Revised Code.

(C) At such times as the board determines, and at least once in each quinquennial period, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the mortality, service, and other experience of the members of the fund and of other system retirants, as defined in section 742.26 of the Revised Code, who are members of a police department or a

fire department to update the actuarial assumptions used in the 143
actuarial valuation required by division (A) of this section. The 144
actuary shall prepare a report of the actuarial investigation. The 145
report shall be prepared and any recommended changes in actuarial 146
assumptions shall be made in accordance with the actuarial 147
standards of practice promulgated by the actuarial standards board 148
of the American academy of actuaries. The report shall include all 149
of the following: 150

(1) A summary of relevant decrement and economic assumption 151
experience observed over the period of the investigation; 152

(2) Recommended changes in actuarial assumptions to be used 153
in subsequent actuarial valuations required by division (A) of 154
this section; 155

(3) A measurement of the financial effect of the recommended 156
changes in actuarial assumptions; 157

(4) If the investigation required by this division includes 158
the investigation required by division (F) of this section, a 159
report of the result of that investigation. 160

The board shall submit the report to the Ohio retirement 161
study council and the standing committees of the house of 162
representatives and the senate with primary responsibility for 163
retirement legislation not later than the first day of November 164
following the last fiscal year of the period the report covers. 165

(D) The board shall have prepared by or under the supervision 166
of an actuary an actuarial analysis of any introduced legislation 167
expected to have a measurable financial impact on the pension 168
fund. The actuarial analysis shall be completed in accordance with 169
the actuarial standards of practice promulgated by the actuarial 170
standards board of the American academy of actuaries. The actuary 171
shall prepare a report of the actuarial analysis, which shall 172
include all of the following: 173

(1) A summary of the statutory changes that are being evaluated;	174 175
(2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;	176 177
(3) A description of the participant group or groups included in the report;	178 179
(4) A statement of the financial impact of the legislation, including the resulting increase, if any, in the employer normal cost percentage; the increase, if any, in actuarial accrued liabilities; and the per cent of payroll that would be required to amortize the increase in actuarial accrued liabilities as a level per cent of covered payroll for all active members of the fund over a period not to exceed thirty years;	180 181 182 183 184 185 186
(5) A statement of whether the scheduled contributions to the system after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.	187 188 189 190
Not later than sixty days from the date of introduction of the legislation, the board shall submit a copy of the actuarial analysis to the legislative budget office of the legislative service commission, the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation, and the Ohio retirement study council.	191 192 193 194 195 196
(E) The board shall have prepared annually a report giving a full accounting of the revenues and costs relating to the provision of benefits under section 742.45 of the Revised Code. The report shall be made as of December 31, 1997, and the thirty-first day of December of each year thereafter. The report shall include the following:	197 198 199 200 201 202
(1) A description of the statutory authority for the benefits provided;	203 204

(2) A summary of the benefits;	205
(3) A summary of the eligibility requirements for the benefits;	206 207
(4) A statement of the number of participants eligible for the benefits;	208 209
(5) A description of the accounting, asset valuation, and funding method used to provide the benefits;	210 211
(6) A statement of the net assets available for the provision of the benefits as of the last day of the fiscal year;	212 213
(7) A statement of any changes in the net assets available for the provision of benefits, including participant and employer contributions, net investment income, administrative expenses, and benefits provided to participants, as of the last day of the fiscal year;	214 215 216 217 218
(8) For the last six consecutive fiscal years, a schedule of the net assets available for the benefits, the annual cost of benefits, administrative expenses incurred, and annual employer contributions allocated for the provision of benefits;	219 220 221 222
(9) A description of any significant changes that affect the comparability of the report required under this division;	223 224
(10) A statement of the amount paid under division (C) of section 742.45 of the Revised Code.	225 226
The board shall submit the report to the Ohio retirement study council and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the thirtieth day of June following the year for which the report was made.	227 228 229 230 231
<u>(F) At least once in each quinquennial period, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the deferred retirement option plan</u>	232 233 234

established under section 742.43 of the Revised Code. The 235
investigation shall include an examination of the financial 236
impact, if any, on the fund of offering the plan to members. 237

The actuary shall prepare a report of the actuarial 238
investigation. The report shall include a determination of whether 239
the plan, as established or modified, has a negative financial 240
impact on the fund and, if so, recommendations on how to modify 241
the plan to eliminate the negative financial impact. If the 242
actuarial report indicates that the plan has a negative financial 243
impact on the fund, the board may modify the plan or cease to 244
allow members who have not already done so to elect to participate 245
in the plan. The firefighter and police officers employers' 246
contributions shall not be increased to offset any negative 247
financial impact of the plan. 248

If the board ceases to allow members to elect to participate 249
in the plan, the rights and obligations of members who have 250
already elected to participate shall not be altered. 251

The board may include the actuarial investigation required 252
under this division as part of the actuarial investigation 253
required under division (C) of this section. If the report of the 254
actuarial investigation required by this division is not included 255
in the report required by division (C) of this section, the board 256
shall submit the report required by this division to the Ohio 257
retirement study council and the standing committees of the house 258
of representatives and the senate with primary responsibility for 259
retirement legislation not later than the first day of November 260
following the last fiscal year of the period the report covers. 261

Sec. 742.351. (A) On receipt of written notice of a member's 262
election to retire under division (C) of section 742.37 of the 263
Revised Code or to terminate active service as described in 264
division (B) of section 742.444 of the Revised Code, the Ohio 265

police and fire pension fund shall request from the employer 266
verification of the member's termination date and any other 267
information the fund determines necessary to calculate and pay a 268
pension under ~~that~~ division (C) of section 742.37 of the Revised 269
Code. The request shall be on a form created by the fund and 270
specify the date by which the information must be received by the 271
fund, which shall be sixty days after the form is sent by the 272
fund. 273

(B)(1) On receipt of a request for information under division 274
(A) of this section, the employer shall complete the form and 275
return it to the fund not later than the date specified by the 276
fund. 277

(2) If the fund does not receive the completed form by the 278
specified date, the fund shall send notice by certified mail to 279
the employer that unless the completed form is received not later 280
than thirty days after the specified date a fine will be imposed. 281

(C) The fund shall assess against an employer that fails to 282
return the completed form by the end of the period described in 283
division (B)(2) of this section a fine of one hundred dollars per 284
day. The period for which the fine shall be imposed begins the 285
thirty-first day after the date notice is mailed under division 286
(B)(2) of this section and ends on the day before the day the 287
completed form is received by the fund. Any amount due from an 288
employer under this division shall be collected from the county 289
auditor in the manner provided in section 742.35 of the Revised 290
Code for delinquent contributions. 291

(D) The fund shall make one or more monthly payments to a 292
member whose pension does not commence by the ninety-first day 293
after the fund sends a request for information under division (A) 294
of this section due to the employer's failure to return the 295
completed form required under this section. Payment under this 296
division shall commence on the first day of the second month 297

following a month that includes a day for which an assessment 298
against the employer is required under division (C) of this 299
section. The payment shall be an amount equal to one hundred 300
dollars for every day that an assessment is required under 301
division (C) of this section less any administrative costs 302
incurred by the fund in complying with this section. Payment shall 303
continue on a monthly basis until the member receives the total 304
amount attributable to the required penalty for an employer's 305
failure to return the form that was requested for that member's 306
information. 307

Sec. 742.37. The board of trustees of the Ohio police and 308
fire pension fund shall adopt rules for the management of the fund 309
and for the disbursement of benefits and pensions as set forth in 310
this section and section 742.39 of the Revised Code. Any payment 311
of a benefit or pension under this section is subject to the 312
provisions of section 742.461 of the Revised Code. Notwithstanding 313
any other provision of this section, no pension or benefit paid or 314
determined under division (B) or (C) of this section or section 315
742.39 of the Revised Code shall exceed the limit established by 316
section 415 of the "Internal Revenue Code of 1986," 100 Stat. 317
2085, 26 U.S.C.A. 415, as amended. 318

(A) Persons who were receiving benefit or pension payments 319
from a police relief and pension fund established under former 320
section 741.32 of the Revised Code, or from a firemen's relief and 321
pension fund established under former section 521.02 or 741.02 of 322
the Revised Code, at the time the assets of the fund were 323
transferred to the Ohio police and fire pension fund, known at 324
that time as the police and firemen's disability and pension fund, 325
shall receive benefit and pension payments from the Ohio police 326
and fire pension fund in the same amount and subject to the same 327
conditions as such payments were being made from the former fund 328
on the date of the transfer. 329

(B) A member of the fund who, pursuant to law, elected to receive benefits and pensions from a police relief and pension fund established under former section 741.32 of the Revised Code, or from a firemen's relief and pension fund established under former section 741.02 of the Revised Code, in accordance with the rules of the fund governing the granting of benefits or pensions therefrom in force on April 1, 1947, shall receive benefits and pensions from the Ohio police and fire pension fund in accordance with such rules; provided, that any member of the fund who is not receiving a benefit or pension from the fund on August 12, 1975, 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. Except while participating in the deferred retirement option plan established under section 742.43 of the Revised Code,~~ upon notifying the board in writing of the election, the member 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 362
department. The annual pension shall not exceed seventy-two per 363
cent of the member's average annual salary. 364

A member who completed twenty-five years of active service, 365
has resigned or been discharged, and has left the sum deducted 366
from the member's salary on deposit in the pension fund shall, 367
upon attaining forty-eight years of age, be entitled to receive a 368
normal service pension benefit computed and paid under division 369
(C)(1) of this section. 370

(2) A member of the fund who has served fifteen or more years 371
as an active member of a police or fire department and who 372
voluntarily resigns or is discharged from the department for any 373
reason other than dishonesty, cowardice, intemperate habits, or 374
conviction of a felony, shall receive an annual pension, payable 375
in twelve monthly installments, in an amount equal to one and 376
one-half per cent of the member's average annual salary multiplied 377
by the number of full years the member was in the active service 378
of the department. The pension payments shall not commence until 379
the member has attained the age of forty-eight years and until 380
twenty-five years have elapsed from the date on which the member 381
became a full-time regular police officer or firefighter in the 382
department. 383

(3) A member of the fund who has completed fifteen or more 384
years of active service in a police or fire department and who has 385
attained sixty-two years of age, may retire from the department 386
and, upon notifying the board in writing of the election to 387
retire, shall receive an annual pension, payable in twelve monthly 388
installments, in an amount equal to a percentage of the member's 389
average annual salary. The percentage shall be the sum of two and 390
one-half per cent for each of the first twenty years the member 391
was in the active service of the department, plus two per cent for 392
each of the twenty-first to twenty-fifth years the member was in 393

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 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 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.

(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

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(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.

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(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.

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(E) 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.

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(F) If a deceased member of the fund leaves no surviving spouse or surviving children, but leaves two parents dependent

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upon the deceased member for support, each parent shall be paid a
monthly pension of one hundred dollars. If there is only one
parent dependent upon the member for support, the parent shall be
paid a monthly pension of two hundred dollars. The pensions
provided for in this division shall be paid during the natural
life of the surviving parents, or until dependency ceases, or
until remarriage, whichever event occurs first.

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(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.

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

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(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.

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(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.

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(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.

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(4) The monthly pension payable to each eligible dependent

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parent under division (F) of this section shall be increased by
thirty dollars for each parent receiving a pension on December 31,
1969.

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(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.

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(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:

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(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.

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(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.

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

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(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;

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(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;

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(c) A member of the fund who is receiving a pension under 519
division (C)(1) of this section, based on funded volunteer or 520
funded part-time service. 521

(J) On and after July 1, 1977, a member of the fund who was 522
receiving an annual pension or benefit on December 31, 1973, 523
pursuant to division (B) of this section, based upon partial 524
disability, off-duty disability, or early vested service, or 525
pursuant to former division (C)(3), (5), or (6) of this section, 526
shall have such annual pension or benefit increased by three 527
hundred dollars. 528

The following are not eligible to receive the increase 529
provided by this division: 530

(1) A member of the fund who is receiving a pension or 531
benefit in accordance with the rules in force on April 1, 1947, 532
governing the granting of pensions and benefits, which provide an 533
increase in the original pension or benefit from time to time 534
pursuant to changes in the salaries of active members; 535

(2) A member of the fund who is receiving a pension or 536
benefit under division (B) or (C)(2) of this section or former 537
division (C)(3), (5), or (6) of this section based on volunteer or 538
part-time service. 539

(K)(1) Except as otherwise provided in this division, every 540
person who on July 24, 1986, is receiving an age and service or 541
disability pension, allowance, or benefit pursuant to this chapter 542
in an amount less than thirteen thousand dollars a year that is 543
based upon an award made effective prior to February 28, 1984, 544
shall receive an increase of six hundred dollars a year or the 545
amount necessary to increase the pension or benefit to four 546
thousand two hundred dollars after all adjustments required by 547
this section, whichever is greater. 548

(2) Division (K)(1) of this section does not apply to the 549

following:

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(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;

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

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(L) On and after July 24, 1986:

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

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

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

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

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(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;

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

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

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(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.

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(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. This division does not apply to a member of the fund who has elected to participate in the deferred retirement option plan established under section 742.43 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.

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(C)(1) On or before the fifteenth day of April of each year,
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 increase all benefits
payable to eligible persons 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 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.

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(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 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 is

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

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

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Sec. 742.43. The board of trustees of the Ohio police and
fire pension fund shall establish and administer a deferred
retirement option plan if the board receives from the internal
revenue service a determination letter indicating that the plan
meets the requirements of section 401(a) of the "Internal Revenue
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a), as amended,
applicable to governmental plans.

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In establishing and administering the plan, the board shall
comply with sections 742.44 to 742.446 of the Revised Code and may
do all things necessary to meet the requirements of section 401(a)
of the "Internal Revenue Code of 1986," as amended, applicable to
governmental plans.

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The board shall adopt rules to implement this section and
sections 742.44 to 742.446 of the Revised Code. The rules shall
specify the date of initial implementation of the plan established
under this section. The rules may also specify a period during
which an election made under section 742.44 of the Revised Code
may be rescinded.

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Sec. 742.44. Except as provided in section 742.14 of the Revised Code, at any time prior to filing an application for retirement under division (C)(1) of section 742.37 of the Revised Code, a member who is eligible to retire under that division may elect to participate in the deferred retirement option plan established under section 742.43 of the Revised Code.

To make an election, an eligible member shall complete and submit to the Ohio police and fire pension fund a form prescribed by the fund. At this time the member may, but is not required to, elect under section 742.3711 of the Revised Code to have the member's monthly pension calculated as a retirement allowance payable throughout the member's life or a retirement allowance that continues to a surviving beneficiary. Unless rescinded during a period specified in rules adopted under section 742.43 of the Revised Code, the election is irrevocable from the date it is received by the fund until the employee ceases to participate in the plan as provided in section 742.444 of the Revised Code.

A member is not required to specify the number of years or portion of a year the member will participate in the plan but must agree to terminate active service in a police or fire department and begin receiving the member's pension not later than the date that is eight years after the effective date of the election to participate in the plan or be subject to the forfeiture provisions of division (C) of section 742.444 of the Revised Code.

The effective date of an election made under this section is the first day of the employer's first payroll period immediately following the board's receipt of the notice of election.

Sec. 742.441. A member who makes an election under section 742.44 of the Revised Code shall continue in the active service of a police or fire department but shall not earn service credit

under this chapter for employment after the election's effective 704
date. While the member is in the active service of a police or 705
fire department, the member shall contribute to the Ohio police 706
and fire pension fund in accordance with section 742.31 of the 707
Revised Code and the employer shall contribute and report in 708
accordance with either section 742.33 or 742.34 of the Revised 709
Code. 710

Neither the member nor the member's spouse and dependents are 711
eligible for benefits under section 742.45 of the Revised Code 712
while the member is participating in the deferred retirement 713
option plan. 714

Sec. 742.442. For each member who elects to participate in 715
the deferred retirement option plan, the Ohio police and fire 716
pension fund shall determine under division (C)(1) of section 717
742.37 of the Revised Code the monthly pension amount that would 718
be payable to the member had the member elected to receive a 719
pension under that division. In determining the pension amount, 720
the fund shall use the member's total service credit and average 721
annual salary as of the last day of the employer's payroll period 722
immediately prior to the effective date of the member's election 723
to participate in the plan. The pension amount shall be calculated 724
as a retirement allowance payable for the member's life, except 725
that, if at the time of electing to participate in the plan the 726
member selected another plan of payment, the pension shall be 727
calculated using the plan of payment selected. 728

A member who participates in the plan is not eligible to make 729
an election under division (B) of section 742.3716 of the Revised 730
Code. 731

Sec. 742.443. (A) During the period beginning on the 732
effective date of an election to participate in the deferred 733

retirement option plan and ending on the date participation 734
ceases, a member's monthly pension amount determined under section 735
742.442 of the Revised Code shall accrue to the member's benefit. 736
To this amount shall be added any benefit increases the member 737
would be eligible for under division (C) of section 742.3716 of 738
the Revised Code had the member, on the effective date of the 739
member's election, retired under division (C)(1) of section 742.37 740
of the Revised Code. 741

(B)(1) The amounts contributed under section 742.31 of the 742
Revised Code by a member participating in the deferred retirement 743
option plan shall accrue to the member's benefit as follows: 744

(a) During the period beginning on the first day of the first 745
payroll period after the election's effective date and ending on 746
the earlier of the date that is two years thereafter or the date 747
the member ceases participation in the plan, fifty per cent of the 748
member's contributions for that period; 749

(b) During the period beginning on the date that is two years 750
and one day after accruals begin under this division and ending on 751
the earlier of the date that is three years thereafter or the date 752
the member ceases participation in the plan, seventy-five per cent 753
of the member's contributions for that period; 754
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(c) During the period beginning on the date that is three 756
years and one day after accruals begin under this section and 757
ending on the date the member ceases participation in the plan, 758
one hundred per cent of the member's contributions for that 759
period. 760

(2) The Ohio police and fire pension fund shall credit the 761
portion of a member's contributions that are not accrued to the 762
member's benefit under division (B)(1) of this section to the 763
police officers' contribution fund or firefighters' contribution 764

fund, as appropriate.

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(C) During the period beginning on the election's effective date and ending on the date the member ceases participation in the plan, the amounts described in divisions (A) and (B)(1) of this section shall earn interest at an annual rate established by the board of trustees of the fund and compounded annually using a method established by rule adopted under section 742.43 of the Revised Code.

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Sec. 742.444. (A) A member's participation in the deferred retirement option plan ceases on the occurrence of the earliest of the following:

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(1) Termination of the member's active service in a police or fire department;

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(2) The last day of the eight-year period that begins on the effective date of the member's election to participate in the plan;

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(3) Acceptance by the member of a disability benefit awarded by the board of trustees of the Ohio police and fire pension fund, unless the acceptance is revoked by the member in accordance with rules adopted by the board;

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(4) The member's death.

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(B) If a member terminates active service in a police or fire department not later than eight years after the effective date of the member's election to participate in the plan, all of the following apply:

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(1) The member shall notify the Ohio police and fire pension fund of the date of termination on a form prescribed by the fund. The member is not eligible to make another election under section 742.44 of the Revised Code.

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(2) If the member's termination of active service occurs on 794
or after the date that is the first day of the fourth year after 795
the effective date of the election to participate in the plan, the 796
entire amount that has accrued to the member's benefit under the 797
deferred retirement option plan shall be distributed to the member 798
pursuant to the member's selection under division (B)(3) of this 799
section. If the termination of active service occurs before the 800
date that is four years after the effective date of the election 801
to participate, the member shall forfeit the total amount of the 802
interest credited under division (C) of section 742.443 of the 803
Revised Code. 804

(3) The member shall select one of the following as the 805
method of distribution of the amount to be distributed to the 806
member: 807

(a) A single payment; 808

(b) Periodic payments as determined by the board. 809

The fund shall retain amounts accrued to the benefit of a 810
member under the plan until a form specifying the method of 811
distribution selected is filed with the fund by the member or an 812
authorized representative of the member. 813

The board shall afford a member who selects periodic payments 814
the opportunity at least once during each calendar year to change 815
the member's selection. 816

(4) Distribution of the amount accrued to a member's benefit 817
under the deferred retirement option plan shall not commence until 818
the date that is the first day of the fourth year after the 819
effective date of the election. 820

(5) The member shall select a plan of payment under section 821
742.3711 of the Revised Code for the pension payable to the member 822
under division (C) of section 742.37 of the Revised Code, unless 823
the member selected a plan of payment at the time of electing to 824

participate in the plan. The pension shall commence on the first
day of the second month following the date the employee ceases to
participate in the plan.

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(C) If, at the end of the eight-year period that begins on
the effective date of a member's election to participate in the
plan, the member has failed to terminate active service in a
police or fire department, all of the following apply:

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(1) No further amounts shall accrue to the member's benefit,
and the member shall forfeit all amounts that have accrued to the
member's benefit under section 742.443 of the Revised Code. The
amounts forfeited shall be treated as if the member had continued
in the active service of a police or fire department and not
elected to participate in the plan.

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(2) The member shall be granted service credit for the period
the member was participating in the plan, and when the member's
pension is calculated under section 742.37 of the Revised Code,
the calculation shall be made as though the member had never
participated in the plan.

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(3) Further contributions, and service credit for those
contributions, shall be credited as provided in sections 742.31
through 742.34 of the Revised Code.

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Sec. 742.445. If a member ceases participation in the
deferred retirement option plan due to acceptance by the member of
a disability benefit awarded by the board of trustees of the Ohio
police and fire pension fund, both of the following apply:

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(A) The member shall forfeit all amounts that have accrued
under section 742.443 of the Revised Code to the member's benefit
under the deferred retirement option plan, and those amounts shall
be treated as if the member had continued in the active service of
a police or fire department and not participated in the plan.

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(B) The member shall be granted service credit for the period 855
the member was participating in the plan. 856

Sec. 742.446. (A) As used in this section, "killed in the 857
line of duty" has the same meaning as in section 742.63 of the 858
Revised Code. 859

(B) If a member dies while participating in the deferred 860
retirement option plan, all of the following apply: 861

(1) The amounts accrued to the member's benefit shall be paid 862
to the member's surviving spouse or, if there is no surviving 863
spouse, the beneficiary designated by the member on a form 864
provided by the Ohio police and fire pension fund. If there is no 865
surviving spouse or designated beneficiary, the amounts accrued to 866
the member's benefit shall be paid to the member's estate. A 867
surviving spouse or designated beneficiary may select a method of 868
distribution described in division (B)(3) of section 742.444 of 869
the Revised Code. Any amount payable to the member's estate shall 870
be paid in a single payment. 871

(2) The surviving spouse shall receive a pension or benefit 872
determined under division (D) of section 742.37 of the Revised 873
Code and, if the member was killed in the line of duty, division 874
(F) of section 742.63 of the Revised Code. 875

(3) If eligible, each surviving child shall receive a pension 876
or benefit determined under division (E) of section 742.37 of the 877
Revised Code and, if the member was killed in the line of duty, 878
division (G) of section 742.63 of the Revised Code. 879

(4) If the member has no surviving spouse or surviving 880
children, but has a parent or parents dependent on the member for 881
support, the parent or parents shall receive a pension or benefit 882
determined under division (F) of section 742.37 of the Revised 883
Code and, if the member was killed in the line of duty, division 884

(E) of section 742.63 of the Revised Code. 885

(5) The member's surviving spouse or contingent dependent beneficiary shall receive the greater of a retirement allowance under section 742.3714 of the Revised Code or the retirement allowance resulting from an election made by the member under section 742.3711 of the Revised Code. 886
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(C) A pension, benefit, or allowance described in division (B) of this section is effective on the first day of the month after the member's date of death. Payments shall not commence until the board receives any documentation it requires pursuant to rules adopted by the board. 891
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Sec. 742.447. On receipt of written notice under division (B) of section 742.444 of the Revised Code of a member's termination of active service, 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 verification of termination shall be filed in accordance with section 742.351 of the Revised Code. 896
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Sec. 742.46. The granting of a benefit or pension to any person under sections 742.01 to 742.61 of the Revised Code, other than a person participating in the deferred retirement option plan established under section 742.43 of the Revised Code, vests a right in such person to obtain and receive the amount of such benefit or pension granted to the person subject to sections 742.01 to 742.61 of the Revised Code. Subject to section 742.444 of the Revised Code, a person participating in the deferred retirement option plan vests in the right to obtain and receive the amount accrued to the benefit of the person when the person ceases participating in the plan. 904
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Such right may be enforced by an action in mandamus 915
instituted in the court of common pleas in the county in which the 916
person granted such benefit or pension resides. 917

Sec. 742.63. The board of trustees of the Ohio police and 918
fire pension fund shall adopt rules for the management of the Ohio 919
public safety officers death benefit fund and for disbursements of 920
benefits as set forth in this section. 921

(A) As used in this section: 922

(1) "Member" means a member of the Ohio police and fire 923
pension fund or the state highway patrol retirement system, or a 924
member of the public employees retirement system who at the time 925
of the member's death was a county sheriff or deputy sheriff, a 926
full-time regular police officer in a municipal corporation or 927
township, a full-time regular firefighter employed by the state, 928
an instrumentality of the state, a municipal corporation, a 929
township, a joint fire district, or another political subdivision, 930
a full-time park district ranger or patrol trooper, a full-time 931
law enforcement officer of the department of natural resources, a 932
full-time department of public safety enforcement agent, a 933
full-time law enforcement officer of parks, waterway lands, or 934
reservoir lands under the control of a municipal corporation, a 935
full-time law enforcement officer of a conservancy district, a 936
correction officer at an institution under the control of a 937
county, a group of counties, a municipal corporation, or the 938
department of rehabilitation and correction, a state university 939
law enforcement officer, or a member of a retirement system 940
operated by a municipal corporation who at the time of death was a 941
full-time law enforcement officer of parks, waterway lands, or 942
reservoir lands under the control of the municipal corporation. 943
"Member" includes a member of the Ohio police and fire pension 944
fund who has elected to participate in the deferred retirement 945

option plan established under section 742.43 of the Revised Code. 946

(2) Notwithstanding section 742.01 of the Revised Code, "fire 947
or police department" includes a fire department of the state or 948
an instrumentality of the state or of a municipal corporation, 949
township, joint fire district, or other political subdivision, the 950
state highway patrol, a county sheriff's office, the security 951
force of an institution under the control of the department of 952
rehabilitation and correction, the security force of a jail or 953
workhouse under the control of a county, group of counties, or 954
municipal corporation, the security force of a metropolitan, 955
county, or township park district, the security force of lands 956
under the control of the department of natural resources, 957
department of public safety enforcement agents, the security force 958
of parks, waterway lands, or reservoir lands under the control of 959
a municipal corporation, the security force of a conservancy 960
district, the police department of a township or municipal 961
corporation, and the police force of a state university. 962

(3) "Firefighter or police officer" includes a state highway 963
patrol trooper, a county sheriff or deputy sheriff, a correction 964
officer at an institution under the control of a county, a group 965
of counties, a municipal corporation, or the department of 966
rehabilitation and correction, a police officer employed by a 967
township or municipal corporation, a firefighter employed by the 968
state, an instrumentality of the state, a municipal corporation, a 969
township, a joint fire district, or another political subdivision, 970
a full-time park district ranger or patrol trooper, a full-time 971
law enforcement officer of the department of natural resources, a 972
full-time department of public safety enforcement agent, a 973
full-time law enforcement officer of parks, waterway lands, or 974
reservoir lands under the control of a municipal corporation, a 975
full-time law enforcement officer of a conservancy district, and a 976
state university law enforcement officer. 977

- (4) "Correction officer" includes, in addition to any 978
correction officer, any correction corporal, sergeant, lieutenant, 979
or captain, and the equivalents of all such persons. 980
- (5) "A park district ranger or patrol trooper" means a peace 981
officer commissioned to make arrests, execute warrants, and 982
preserve the peace upon lands under the control of a board of park 983
commissioners of a metropolitan, county, or township park 984
district. 985
- (6) "Metropolitan, county, or township park district" means a 986
park district created under the authority of Chapter 511. or 1545. 987
of the Revised Code. 988
- (7) "Conservancy district" means a conservancy district 989
created under the authority of Chapter 6101. of the Revised Code. 990
- (8) "Law enforcement officer" means an officer commissioned 991
to make arrests, execute warrants, and preserve the peace upon 992
lands under the control of the governmental entity granting the 993
commission. 994
- (9) "Department of natural resources law enforcement officer" 995
includes a forest officer designated pursuant to section 1503.29 996
of the Revised Code, a preserve officer designated pursuant to 997
section 1517.10 of the Revised Code, a wildlife officer designated 998
pursuant to section 1531.13 of the Revised Code, a park officer 999
designated pursuant to section 1541.10 of the Revised Code, and a 1000
state watercraft officer designated pursuant to section 1547.521 1001
of the Revised Code. 1002
- (10) "Retirement eligibility date" means the last day of the 1003
month in which a deceased member would have first become eligible, 1004
had the member lived, for the retirement pension provided under 1005
section 145.33, division (C)(1) of section 742.37, or division 1006
(A)(1) of section 5505.17 of the Revised Code or provided by a 1007
retirement system operated by a municipal corporation. 1008

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

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

(a) Death in the line of duty;

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

(B) A spouse of a deceased member shall receive a death 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 1040
divided among the eligible children so that the benefit paid to 1041
the remaining eligible child or children equals the full death 1042
benefit amount. 1043

(3) Notwithstanding divisions (C)(1) and (2) of this section, 1044
all death benefits paid under this division shall terminate on the 1045
deceased member's retirement eligibility date. 1046

(D) If a member killed in the line of duty as a firefighter 1047
or police officer is survived by both a spouse and a child or 1048
children, the monthly benefit provided shall be as follows: 1049

(1)(a) If there is a surviving spouse and one surviving 1050
child, the spouse shall receive an amount each month equal to 1051
one-half of the full death benefit amount and the child shall 1052
receive an amount equal to one-half of the full death benefit 1053
amount. 1054

(b) If the surviving spouse dies or the child becomes 1055
ineligible as provided in division (H) of this section, the 1056
surviving spouse or child remaining eligible shall receive the 1057
full death benefit amount. 1058

(2)(a) If there is a surviving spouse and more than one 1059
child, the spouse shall receive an amount each month equal to 1060
one-third of the full death benefit amount and the children shall 1061
receive an amount, equally divided among them, equal to two-thirds 1062
of the full death benefit amount. 1063

(b) If a spouse and more than one child each are receiving a 1064
death benefit under division (D)(2)(a) of this section and the 1065
spouse dies, the children shall receive an amount each month, 1066
equally divided among them, equal to the full death benefit 1067
amount. 1068

(c) If a spouse and more than one child each are receiving a 1069
benefit under division (D)(2)(a) of this section and any of the 1070

children becomes ineligible to receive a benefit as provided in 1071
division (H) of this section, the spouse and remaining eligible 1072
child or children shall receive a death benefit as follows: 1073

(i) If there are two or more remaining eligible children, the 1074
spouse shall receive an amount each month equal to one-third of 1075
the full death benefit amount and the children shall receive an 1076
amount each month, equally divided among them, equal to two-thirds 1077
of the full death benefit amount; 1078

(ii) If there is one remaining eligible child, the spouse 1079
shall receive an amount each month equal to one-half of the full 1080
death benefit amount, and the child shall receive an amount each 1081
month equal to one-half of the full death benefit amount. 1082

(d) If a spouse and more than one child each are receiving a 1083
benefit under division (D)(2)(a) of this section and all of the 1084
children become ineligible to receive a benefit as provided in 1085
division (H) of this section, the spouse shall receive the full 1086
death benefit amount. 1087

(3) Notwithstanding divisions (D)(1) and (2) of this section, 1088
death benefits paid under this division to a surviving spouse 1089
shall terminate on the member's retirement eligibility date. Death 1090
benefits paid to a surviving child or children shall terminate on 1091
the deceased member's retirement eligibility date unless earlier 1092
terminated pursuant to division (H) of this section. 1093

(E) If a member, on or after January 1, 1980, is killed in 1095
the line of duty as a firefighter or police officer and is 1096
survived by only a parent or parents dependent upon the member for 1097
support, the parent or parents shall receive an amount each month 1098
equal to the full death benefit amount. If there is more than one 1099
surviving parent dependent upon the deceased member for support, 1100
the death benefit amount shall be divided equally among the 1101

surviving parents. On the death of one of the surviving parents, 1102
the full death benefit amount shall be paid to the other parent. 1103

(F) A surviving spouse whose benefits are terminated in 1104
accordance with division (B) or (D)(3) of this section on the 1105
deceased member's retirement eligibility date, or who would 1106
qualify for a benefit under division (B) or (D) of this section 1107
except that the deceased member reached the member's retirement 1108
eligibility date prior to the member's death, shall receive a 1109
monthly death benefit under this division. The monthly death 1110
benefit shall be one-half of an amount equal to the monthly salary 1111
received by the deceased member prior to the member's death, plus 1112
any salary increases the deceased member would have received prior 1113
to the member's retirement eligibility date. The benefit shall 1114
terminate on the surviving spouse's death. A death benefit payable 1115
under this division shall be reduced by an amount equal to any 1116
allowance or benefit payable to the surviving spouse under section 1117
742.3714 of the Revised Code. 1118

(G)(1) If there is not a surviving spouse eligible to receive 1119
a death benefit under division (F) of this section or the 1120
surviving spouse receiving a death benefit under that division 1121
dies, a surviving child or children whose benefits under division 1122
(C) or (D) of this section are or have been terminated pursuant to 1123
division (C)(3) or (D)(3) of this section or who would qualify for 1124
a benefit under division (C) or (D) of this section except that 1125
the deceased member reached the member's retirement eligibility 1126
date prior to the member's death shall receive a monthly death 1127
benefit under this division. The monthly death benefit shall be 1128
one-half of an amount equal to the monthly salary received by the 1129
deceased member prior to the member's death, plus any salary 1130
increases the member would have received prior to the member's 1131
retirement eligibility date. If there is more than one surviving 1132
child, the benefit shall be divided equally among the surviving 1133

children. 1134

(2) If two or more surviving children each are receiving a 1135
benefit under this division and any of those children becomes 1136
ineligible to continue receiving a benefit as provided in division 1137
(H) of this section, the remaining eligible child or children 1138
shall receive an amount equal to one-half of the monthly salary 1139
received by the deceased member prior to death, plus any salary 1140
increases the deceased member would have received prior to the 1141
retirement eligibility date. If there is more than one remaining 1142
eligible child, the benefit shall be divided equally among the 1143
eligible children. 1144

(3) A death benefit, or portion of a death benefit, payable 1145
to a surviving child under this division shall be reduced by an 1146
amount equal to any allowance or benefit payable to that child 1147
under section 742.3714 of the Revised Code, but the reduction in 1148
that child's benefit shall not affect the amount payable to any 1149
other surviving child entitled to a portion of the death benefit. 1150

(H) A death benefit paid to a surviving child under division 1151
(C), (D), or (G) of this section shall terminate on the death of 1152
the child or, unless one of the following is the case, when the 1153
child reaches age eighteen: 1154

(1) The child, because of physical or mental disability, is 1155
unable to provide the child's own support, in which case the death 1156
benefit shall terminate when the disability is removed; 1157

(2) The child is unmarried, under age twenty-two, and a 1158
student in and attending an institution of learning or training 1159
pursuant to a program designed to complete in each school year the 1160
equivalent of at least two-thirds of the full-time curriculum 1161
requirements of the institution, as determined by the trustees of 1162
the fund. 1163

(I) Acceptance of any death benefit under this section does 1164

not prohibit a spouse or child from receiving other benefits 1165
provided under the Ohio police and fire pension fund, the state 1166
highway patrol retirement system, the public employees retirement 1167
system, or a retirement system operated by a municipal 1168
corporation. 1169

(J) No person shall receive a benefit under this section if 1170
any of the following occur: 1171

(1) The person fails to exercise the right to a monthly 1172
survivor benefit under division (A) or (B) of section 145.45, 1173
division (D), (E), or (F) of section 742.37, or division (A)(3), 1174
(4), or (7) of section 5505.17 of the Revised Code; to a monthly 1175
survivor benefit from a retirement system operated by a municipal 1176
corporation; or to a retirement allowance under section 742.3714 1177
of the Revised Code. 1178

(2) The member's accumulated contributions under this chapter 1179
or Chapter 145. or 5505. of the Revised Code are refunded unless 1180
the member had been a member of the public employees retirement 1181
system and had fewer than eighteen months of total service credit 1182
at the time of death. 1183

(3) In the case of a full-time park district ranger or patrol 1184
trooper, a full-time law enforcement officer of the department of 1185
natural resources, a full-time law enforcement officer of parks, 1186
waterway lands, or reservoir lands under the control of a 1187
municipal corporation, a full-time law enforcement officer of a 1188
conservancy district, a correction officer at an institution under 1189
the control of a county, group of counties, or municipal 1190
corporation, or a member of a retirement system operated by a 1191
municipal corporation who at the time of the member's death was a 1192
full-time law enforcement officer of parks, waterway lands, or 1193
reservoir lands under the control of the municipal corporation, 1194
the member died prior to April 9, 1981, in the case of a benefit 1195
under division (B), (C), or (D) of this section, or prior to 1196

January 1, 1980, in the case of a benefit under division (E) of 1197
this section. 1198

(4) In the case of a full-time department of public safety 1199
enforcement agent who prior to June 30, 1999, was a liquor control 1200
investigator of the department of public safety, the member died 1201
prior to December 23, 1986; 1202

(5) In the case of a full-time department of public safety 1203
enforcement agent other than an enforcement agent who, prior to 1204
June 30, 1999, was a liquor control investigator, the member died 1205
prior to June 30, 1999. 1206

(K) A surviving spouse whose benefit was terminated prior to 1207
~~the effective date of this amendment June 30, 1999,~~ due to 1208
remarriage shall receive a benefit under division (B), (D), or (F) 1209
of this section beginning on the first day of the month following 1210
receipt by the board of an application on a form provided by the 1211
board. The benefit amount shall be determined as of that date. 1212

(1) If the benefit will begin prior to the deceased member's 1213
retirement eligibility date, it shall be paid under division (B) 1214
or (D) of this section and shall terminate as provided in those 1215
divisions. A benefit paid to a surviving spouse under division (D) 1216
of this section shall be determined in accordance with that 1217
division, even if benefits paid to surviving children are reduced 1218
as a result. 1219

(2) If the benefit will begin on or after the deceased 1220
member's retirement eligibility date, it shall be paid under 1221
division (F) of this section and shall terminate as provided in 1222
that division. A benefit paid to a surviving spouse under division 1223
(F) of this section shall be determined in accordance with that 1224
division, even if benefits paid to surviving children are 1225
terminated as a result. 1226

Section 2. That existing sections 742.03, 742.14, 742.351, 1227
742.37, 742.3716, 742.43, 742.44, 742.46, and 742.63 of the 1228
Revised Code are hereby repealed. 1229

Section 3. Section 742.63 of the Revised Code is presented in 1230
this act as a composite of the section as amended by both Sub. 1231
H.B. 222 and Am. Sub. H.B. 283 of the 123rd General Assembly, with 1232
the new language of neither of the acts shown in capital letters. 1233
This is in recognition of the principle stated in division (B) of 1234
section 1.52 of the Revised Code that such amendments are to be 1235
harmonized where not substantively irreconcilable and constitutes 1236
a legislative finding that such is the resulting version in effect 1237
prior to the effective date of this act. 1238