

# As Introduced

129th General Assembly  
Regular Session  
2011-2012

S. B. No. 340

Senators Niehaus, Kearney

—

## A B I L L

To amend sections 171.04, 742.01, 742.04, 742.10, 1  
742.14, 742.16, 742.30, 742.301, 742.31, 742.32, 2  
742.33, 742.34, 742.35, 742.37, 742.3711, 3  
742.3716, 742.38, 742.39, 742.44, 742.442, 4  
742.443, 742.444, 742.45, 742.63, and 742.64; to 5  
enact sections 742.012, 742.013, and 742.161; and 6  
to repeal section 742.011 of the Revised Code to 7  
revise the law governing the Ohio Police and Fire 8  
Pension Fund. 9

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

**Section 1.** That sections 171.04, 742.01, 742.04, 742.10, 10  
742.14, 742.16, 742.30, 742.301, 742.31, 742.32, 742.33, 742.34, 11  
742.35, 742.37, 742.3711, 742.3716, 742.38, 742.39, 742.44, 12  
742.442, 742.443, 742.444, 742.45, 742.63, and 742.64 be amended 13  
and sections 742.012 and 742.161 of the Revised Code be enacted to 14  
read as follows: 15

**Sec. 171.04.** The Ohio retirement study council shall: 16

(A) Make an impartial review from time to time of all laws 17  
governing the administration and financing of the pension and 18  
retirement funds under Chapters 145., 146., 742., 3307., 3309., 19  
and 5505. of the Revised Code and recommend to the general 20

assembly any changes it may find desirable with respect to the 21  
allowances and benefits, sound financing of the cost of benefits, 22  
the prudent investment of funds, and the improvement of the 23  
language, structure, and organization of the laws; 24

(B) Make an annual report to the governor and to the general 25  
assembly covering its evaluation and recommendations with respect 26  
to the operations of the state retirement systems and their funds; 27

(C) Study all changes in the retirement laws proposed to the 28  
general assembly and report to the general assembly on their 29  
probable costs, actuarial implications, and desirability as a 30  
matter of public policy; 31

(D) Review semiannually the policies, objectives, and 32  
criteria adopted under sections 145.11, 742.11, 3307.15, 3309.15, 33  
and 5505.06 of the Revised Code for the operation of the 34  
investment programs of the state retirement systems, including a 35  
review of asset allocation targets and ranges, risk factors, asset 36  
class benchmarks, time horizons, total return objectives, relative 37  
volatility, and performance evaluation guidelines. The council 38  
shall, not later than thirty days after completing a review, 39  
submit to the governor and the general assembly a report 40  
summarizing its findings. 41

(E) Have prepared by an independent actuary, at least once 42  
every ten years, an actuarial review of the ~~annual~~ actuarial 43  
valuations and quinquennial actuarial investigations prepared 44  
under sections 145.22, 742.14, 3307.20, 3309.21, and 5505.12 of 45  
the Revised Code, including a review of the actuarial assumptions 46  
and methods, the data underlying the valuations and 47  
investigations, and the adequacy of each system's employee and 48  
employer contribution rates to amortize its unfunded actuarial 49  
pension liability, if any, and to support the payment of benefits 50  
authorized by Chapter 145., 742., 3307., 3309., or 5505. of the 51  
Revised Code. The council shall submit to the governor and the 52

general assembly a report summarizing the review. 53

(F) Have conducted by an independent auditor at least once 54  
every ten years a fiduciary performance audit of each of the state 55  
retirement systems. 56

All costs associated with an audit conducted pursuant to 57  
division (F) of this section shall be paid by the retirement 58  
system audited. 59

(G) Provide each member of the council with copies of all 60  
proposed rules submitted to the council pursuant to sections 61  
145.09, 742.10, 3307.04, 3309.04, and 5505.04 of the Revised Code 62  
and submit any recommendations to the joint committee on agency 63  
rule review. 64

**Sec. 742.01.** As used in this chapter: 65

(A)(1) "Police department" means the police department of a 66  
municipal corporation. 67

(2) "Member of a police department" means any of the 68  
following: 69

(a) Any person who receives an original appointment as a 70  
full-time regular police officer in a police department from a 71  
duly established civil service eligible list or pursuant to 72  
section 124.411 of the Revised Code, or who is described in 73  
section 742.511 of the Revised Code, or who transfers from the 74  
public employees retirement system to the Ohio police and fire 75  
pension fund pursuant to section 742.513 of the Revised Code, or 76  
who is appointed pursuant to section 737.15 or 737.16 of the 77  
Revised Code as a full-time regular police officer and is paid 78  
solely out of public funds of the employing municipal corporation; 79

(b) Any person who, on October 1, 1965, was contributing four 80  
per cent of the person's annual salary to a police relief and 81  
pension fund established under former section 741.32 of the 82

Revised Code; 83

(c) Any person who commences employment on or after September 84  
16, 1998, as a full-time police officer with a police department 85  
in a position in which the person is required to satisfactorily 86  
complete a peace officer training course in compliance with 87  
section 109.77 of the Revised Code. 88

(B)(1) "Fire department" means a fire department of the state 89  
or an instrumentality of the state or of a municipal corporation, 90  
township, joint fire district, or other political subdivision. 91

(2) "Member of a fire department" means all of the following: 92

(a) Any person who commences employment after November 8, 93  
1990, as a full-time firefighter with a fire department, in a 94  
position in which the person is required to satisfactorily 95  
complete or have satisfactorily completed a firefighter training 96  
course approved under former section 3303.07 or section 4765.55 or 97  
conducted under section 3737.33 of the Revised Code; 98

(b) Any person who has elected under section 742.515 of the 99  
Revised Code to be transferred from the public employees 100  
retirement system to the Ohio police and fire pension fund; 101

(c) Any full-time firefighter who, on November 8, 1990, is a 102  
member of the Ohio police and fire pension fund. 103

(C) "Employee" means any person who is a member of a police 104  
department or a member of a fire department. 105

(D) "Employer" means the government entity by which an 106  
employee is employed and paid. 107

(E) "Member of the fund" means any person, except an other 108  
system retirant as defined in section 742.26 of the Revised Code, 109  
who is contributing a percentage of the person's annual salary to 110  
the Ohio police and fire pension fund or who is receiving a 111  
disability benefit or pension from the fund as a result of service 112

in a police or fire department. A person, other than an other 113  
system retirant, who is contributing a percentage of the person's 114  
annual salary to the fund and is dismissed, resigns, or is granted 115  
a leave of absence from a police or fire department shall be 116  
considered a "member of the fund" for a period of twelve months 117  
after the first day of the dismissal, resignation, or leave of 118  
absence, provided the sum deducted from the person's salary and 119  
credited to the person's account in the fund remains on deposit in 120  
the fund. 121

A member of the Ohio national guard, the Ohio military 122  
reserve, the Ohio naval militia, or a reserve component of the 123  
armed forces of the United States who is absent from employment 124  
due to active military duty because of an executive order issued 125  
by the president of the United States or an act of congress shall 126  
be considered a member of the fund for the duration of the active 127  
military duty. 128

(F) "Year," for the purpose of determining benefits, means 129  
any twelve consecutive calendar months of active service as a 130  
member of the fund, or, in the case of a member whose salary is 131  
paid weekly or biweekly, fifty-two consecutive weeks of active 132  
service as a member. 133

(G) "Average annual salary" means the highest average annual 134  
salary of a member of the fund during any ~~three~~ of the number of 135  
years of contributions specified in section 742.37 or 742.39 of 136  
the Revised Code, as appropriate, and determined by dividing the 137  
member's total salary as an employee during ~~the~~ those years by 138  
~~three~~ that number. 139

For the purpose of determining average annual salary for 140  
members who, as of July 1, 2013, have fifteen or more years of 141  
service credit, "salary" has the same meaning as in division 142  
(L)(2) of this section, except that it does not include any 143  
amounts that exceed the salary benchmark, determined as follows: 144

(1) Divide by three the total of the member's salaries for 145  
the contiguous three-year period immediately preceding the 146  
contiguous three-year period immediately prior to the member's 147  
effective date of retirement under section 742.37 or effective 148  
date of participation in a deferred option retirement plan under 149  
section 742.44 of the Revised Code; 150

(2) Multiply the amount determined under division (G)(1) of 151  
this section by one hundred ten per cent; 152

(3) Multiply the amount determined under division (G)(2) of 153  
this section by one hundred ten per cent; 154

(4) Multiply the amount determined under division (G)(3) of 155  
this section by one hundred ten per cent; 156

(5) The amount determined under division (G)(4) of this 157  
section is the salary benchmark. 158

(H) "Normal service pension benefit" means the pension 159  
benefit payable to a member of the fund under division (C)(1) of 160  
section 742.37 of the Revised Code upon ~~attaining age forty-eight~~ 161  
attainment of the applicable age listed in that section. 162

(I) "Retirement allowance" means the total pension benefit or 163  
disability benefit to which a member of the fund may be entitled 164  
under division (C) of section 742.37 or section 742.39 of the 165  
Revised Code. 166

(J) "Fiduciary" means a person who does any of the following: 167

(1) Exercises any discretionary authority or control with 168  
respect to the management of the system, or with respect to the 169  
management or disposition of its assets; 170

(2) Renders investment advice for a fee, direct or indirect, 171  
with respect to money or property of the system; 172

(3) Has any discretionary authority or responsibility in the 173  
administration of the system. 174

(K) ~~"Terminal pay"~~ Except as provided in rules authorized by 175  
section 742.013 of the Revised Code, "terminal pay" means the 176  
following payments made by an employer to an employee ~~on~~ 177  
~~termination of employment~~ regardless of whether the payments are 178  
made before or after termination: 179

(1) Payments for accrued but unused leave, including sick 180  
leave, vacation, personal leave, and compensatory time; 181

(2) Payments deferred more than one year compensating the 182  
employee for holidays worked or for longevity; 183

(3) Payments for overtime worked that are not included ~~either~~ 184  
in the payroll for the period in which the overtime is worked or 185  
~~for the next subsequent payroll~~ for any period ending not later 186  
than sixty days after the overtime is worked; 187

(4) Other payments that are not compensation for services 188  
rendered in the last pay period in which services were rendered 189  
and are designated as terminal pay by rule of the board of 190  
trustees of the Ohio police and fire pension fund. The board shall 191  
not designate as terminal pay payments deferred one year or less 192  
compensating an employee for holidays worked or for longevity. 193

(L)(1) Except as otherwise provided in this division or in 194  
rules authorized by section 742.013 of the Revised Code, "salary" 195  
means all compensation, wages, and other earnings paid to an 196  
employee by reason of employment, but without regard to whether 197  
compensation, wages, or other earnings are treated as deferred 198  
income for federal income tax purposes. "Salary" includes payments 199  
for overtime that are ~~made not later than the payroll following~~ 200  
~~the payroll period in which the~~ included in the payroll for the 201  
period in which the overtime is worked or the payroll for any 202  
period not later than sixty days after the overtime is worked. 203

(2) "Salary" does not include any of the following: 204

(a) Compensation for services outside the scope of an 205

employee's regular employment;	206
(b) Reimbursement of expenses;	207
(c) Terminal pay;	208
(d) Payments for accrued but unused sick leave or personal leave, or vacation pay covering periods for which salary, compensation, or benefits are paid;	209 210 211
(e) Payments made under division (B), (C), or (E) of section 5923.05 of the Revised Code, Section 4 of Substitute Senate Bill No. 3 of the 119th general assembly, Section 3 of Amended Substitute Senate Bill No. 164 of the 124th general assembly, or Amended Substitute House Bill No. 405 of the 124th general assembly;	212 213 214 215 216 217
(f) Payments made to or on behalf of an employee that are in excess of the annual compensation that may be taken into account by the fund under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended.	218 219 220 221 222
(3) The board shall determine by rule whether any compensation, wages, or earnings not enumerated in this division is salary, and its decision shall be final.	223 224 225
(M) "Actuary" means an individual who satisfies all of the following requirements:	226 227
(1) Is a member of the American academy of actuaries;	228
(2) Is an associate or fellow of the society of actuaries;	229
(3) Has a minimum of five years' experience in providing actuarial services to public retirement plans.	230 231
<u>Sec. 742.012. Contributions made to the Ohio police and fire pension fund for salary that exceeds the salary benchmark calculated under division (G) of section 742.01 of the Revised</u>	232 233 234



Code shall be refunded in accordance with rules adopted by the 235  
trustees of the board under section 742.10 of the Revised Code. 236

Sec. 742.013. The board may, by rule adopted under section 237  
742.10 of the Revised Code, establish definitions of "terminal 238  
pay" and "salary" that differ from those in divisions (K) and (L) 239  
of section 742.01 of the Revised Code. In establishing the 240  
definitions, the board may use elements of the compensation 241  
provisions of the United States Internal Revenue Code and the 242  
Internal Revenue Code form W-2, as those provisions are 243  
interpreted by the internal revenue service of the United States 244  
department of treasury. 245

Sec. 742.04. As used in this section, "county" means the 246  
county of residence of an individual who signs a nominating 247  
petition. 248

Election of the employee members, firefighter retirant 249  
member, and police retirant member of the board of trustees of the 250  
Ohio police and fire pension fund shall be under the supervision 251  
and direction of the board in accordance with rules adopted under 252  
section 742.045 of the Revised Code. 253

Nominating petitions for candidates for an employee member of 254  
the board elected by police officers shall be signed by at least 255  
one hundred police officers, with at least twenty signers from 256  
each of at least five counties of the state, and certified in 257  
accordance with rules adopted under section 742.045 of the Revised 258  
Code. 259

Nominating petitions for candidates for an employee member of 260  
the board elected by firefighters shall be signed by at least one 261  
hundred firefighters, with at least twenty signers from each of at 262  
least five counties of the state, and certified in accordance with 263  
rules adopted under section 742.045 of the Revised Code. 264

Nominating petitions for candidates for an employee member of the board shall be filed in the office of the board not later than four p.m. on the first Monday in April preceding the date of the expiration of the term of the employee member of the board whose successor is to be elected.

The board shall cause ballots to be prepared for the election of employee members of the board which shall contain the names of all candidates for whom certified nominating petitions have been filed with the board.

A police officer or firefighter is eligible to vote in an election if the police officer or firefighter is a member of the fund on the thirty-first Monday in March day of January preceding the date of the expiration of the term of the employee member of the board whose successor is to be elected. The board shall determine whether a member of the fund is eligible to vote at an election and its decision shall be final.

On or before the first Monday in May preceding the date of the expiration of the term of the employee member of the board whose successor is to be elected, the board shall cause ballots to be sent to each member of the fund who is eligible to vote at such election to the address of such member as shown on the records of the board.

Ballots shall be returned to the board not later than the third Tuesday in May following the date that the ballots were mailed to the members of the fund eligible to vote at such election.

On certification of the election results in accordance with rules adopted under section 742.045 of the Revised Code, the person receiving the highest number of votes shall be elected as an employee member of the board for a term of four years beginning on the first Monday in June following such election.

Nominating petitions for candidates for the police retirant 296  
member of the board shall be signed by at least fifty police 297  
retirants, with at least ten signers from at least five counties 298  
of the state, and certified in accordance with rules adopted under 299  
section 742.045 of the Revised Code. 300

Nominating petitions for candidates for the firefighter 301  
retirant member of the board shall be signed by at least fifty 302  
firefighter retirants, with at least ten signers from at least 303  
five counties of the state, and certified in accordance with rules 304  
adopted under section 742.045 of the Revised Code. 305

Nominating petitions for candidates for the retirant members 306  
of the board shall be filed in the office of the board not later 307  
than four p.m. on the first Monday in April preceding the date of 308  
the expiration of the term of the retirant member of the board 309  
whose successor is to be elected. 310

The board shall cause ballots to be prepared for the election 311  
of these board members which shall contain the names of all 312  
candidates for whom certified nominating petitions have been filed 313  
with the board. 314

A retirant is eligible to vote in an election if the retirant 315  
is a police retirant or firefighter retirant on the thirty-first 316  
~~Monday in April~~ day of January preceding the date of the 317  
expiration of the term of the retirant member of the board whose 318  
successor is to be elected. The board shall determine whether a 319  
police retirant or firefighter retirant is eligible to vote at an 320  
election and its decision shall be final. 321

On or before the first Monday in May preceding the date of 322  
the expiration of the term of a retirant member of the board whose 323  
successor is to be elected, the board shall cause ballots to be 324  
sent to each person who is eligible to vote in the election to the 325  
address of the person as shown on the records of the board. 326

Ballots shall be returned to the board not later than the 327  
third Tuesday in May following the date that the ballots were 328  
mailed to the persons eligible to vote in the election. 329

On certification of the election results in accordance with 330  
rules adopted under section 742.045 of the Revised Code, the 331  
person receiving the highest number of votes shall be elected as 332  
the police retirant member or the firefighter retirant member of 333  
the board for a term of four years beginning on the first Monday 334  
in June following the election. 335

**Sec. 742.10.** The board of trustees of the Ohio police and 336  
fire pension fund may sue and be sued, plead and be impleaded, 337  
contract and be contracted with, employ and fix the compensation 338  
of employees, and adopt rules for the proper administration and 339  
management of the fund. 340

Effective ninety days after ~~the effective date of this~~ 341  
~~amendment~~ September 15, 2004, the board of trustees may not employ 342  
a state retirement system investment officer, as defined in 343  
section 1707.01 of the Revised Code, who does not hold a valid 344  
state retirement system investment officer license issued by the 345  
division of securities in the department of commerce. 346

If the Ohio retirement study council establishes a uniform 347  
format for any report the board is required to submit to the 348  
council, the board shall submit the report in that format. 349

The attorney general shall prescribe procedures for the 350  
adoption of rules authorized under this chapter, consistent with 351  
the provisions of section 111.15 of the Revised Code under which 352  
all rules shall be filed in order to be effective. Such procedures 353  
shall establish methods by which notice of proposed rules is given 354  
to interested parties and rules adopted by the board published and 355  
otherwise made available. When it files a rule with the joint 356  
committee on agency rule review pursuant to section 111.15 of the 357

Revised Code, the board shall submit to the Ohio retirement study 358  
council a copy of the full text of the rule, and if applicable, a 359  
copy of the rule summary and fiscal analysis required by division 360  
(B) of section 127.18 of the Revised Code. 361

~~All rules adopted pursuant to this chapter, prior to August 362~~  
~~20, 1976, shall be published and made available to interested 363~~  
~~parties by January 1, 1977. 364~~

**Sec. 742.14.** (A) The board of trustees of the Ohio police and 365  
fire pension fund shall have prepared ~~annually~~ triennially by or 366  
under the supervision of an actuary an actuarial valuation of the 367  
pension assets, liabilities, and funding requirements of the Ohio 368  
police and fire pension fund as established pursuant to sections 369  
742.01 to 742.61 of the Revised Code. The actuary shall complete 370  
the valuation in accordance with actuarial standards of practice 371  
promulgated by the actuarial standards board of the American 372  
academy of actuaries and prepare a report of the valuation. The 373  
report shall include all of the following: 374

(1) A summary of the benefit provisions evaluated; 375

(2) A summary of the census data and financial information 376  
used in the valuation; 377

(3) A description of the actuarial assumptions, actuarial 378  
cost method, and asset valuation method used in the valuation, 379  
including a statement of the assumed rate of payroll growth and 380  
assumed rate of growth or decline in the number of members of the 381  
fund contributing to the pension fund; 382

(4) A summary of findings that includes a statement of the 383  
actuarial accrued pension liabilities and unfunded actuarial 384  
accrued pension liabilities; 385

(5) A schedule showing the effect of any changes in the 386  
benefit provisions, actuarial assumptions, or cost methods since 387

the last annual actuarial valuation; 388

(6) A statement of whether employee and employer 389  
contributions to the pension fund are expected to be sufficient to 390  
satisfy the funding objectives established by the board. 391

The ~~board shall submit the~~ first triennial report shall be 392  
made not later than November 1, 2013, to the Ohio retirement study 393  
council and the standing committees of the house of 394  
representatives and the senate with primary responsibility for 395  
retirement legislation ~~not later than the first day of November~~ 396  
~~following the year for which the valuation was made and thereafter~~ 397  
triennially, not later than the first day of November. 398

(B) ~~The board shall annually thereafter have prepared by an~~ 399  
~~actuary a report showing the adequacy of the rate of the police~~ 400  
~~officer employers' contribution provided for by section 742.33 of~~ 401  
~~the Revised Code, and the adequacy of the rate of the firefighter~~ 402  
~~employers' contribution provided for by section 742.34 of the~~ 403  
~~Revised Code.~~ 404

~~(C)~~ At such times as the board determines, and at least once 405  
in each quinquennial period, the board shall have prepared by or 406  
under the supervision of an actuary an actuarial investigation of 407  
the mortality, service, and other experience of the members of the 408  
fund and of other system retirants, as defined in section 742.26 409  
of the Revised Code, who are members of a police department or a 410  
fire department to update the actuarial assumptions used in the 411  
actuarial valuation required by division (A) of this section. The 412  
actuary shall prepare a report of the actuarial investigation. The 413  
report shall be prepared and any recommended changes in actuarial 414  
assumptions shall be made in accordance with the actuarial 415  
standards of practice promulgated by the actuarial standards board 416  
of the American academy of actuaries. The report shall include all 417  
of the following: 418

(1) A summary of relevant decrement and economic assumption	419
experience observed over the period of the investigation;	420
(2) Recommended changes in actuarial assumptions to be used	421
in subsequent actuarial valuations required by division (A) of	422
this section;	423
(3) A measurement of the financial effect of the recommended	424
changes in actuarial assumptions;	425
(4) If the investigation required by this division includes	426
the investigation required by division <del>(F)</del> <u>(E)</u> of this section, a	427
report of the result of that investigation.	428
The board shall submit the report to the Ohio retirement	429
study council and the standing committees of the house of	430
representatives and the senate with primary responsibility for	431
retirement legislation not later than the first day of November	432
following the last fiscal year of the period the report covers.	433
<del>(D)</del> <u>(C)</u> The board shall have prepared by or under the	434
supervision of an actuary an actuarial analysis of any introduced	435
legislation expected to have a measurable financial impact on the	436
pension fund. The actuarial analysis shall be completed in	437
accordance with the actuarial standards of practice promulgated by	438
the actuarial standards board of the American academy of	439
actuaries. The actuary shall prepare a report of the actuarial	440
analysis, which shall include all of the following:	441
(1) A summary of the statutory changes that are being	442
evaluated;	443
(2) A description of or reference to the actuarial	444
assumptions and actuarial cost method used in the report;	445
(3) A description of the participant group or groups included	446
in the report;	447
(4) A statement of the financial impact of the legislation,	448

including the resulting increase, if any, in the employer normal 449  
cost percentage; the increase, if any, in actuarial accrued 450  
liabilities; and the per cent of payroll that would be required to 451  
amortize the increase in actuarial accrued liabilities as a level 452  
per cent of covered payroll for all active members of the fund 453  
over a period not to exceed thirty years; 454

(5) A statement of whether the scheduled contributions to the 455  
system after the proposed change is enacted are expected to be 456  
sufficient to satisfy the funding objectives established by the 457  
board. 458

Not later than sixty days from the date of introduction of 459  
the legislation, the board shall submit a copy of the actuarial 460  
analysis to the legislative service commission, the standing 461  
committees of the house of representatives and the senate with 462  
primary responsibility for retirement legislation, and the Ohio 463  
retirement study council. 464

~~(E)~~(D) The board shall have prepared ~~annually~~ triennially a 465  
report giving a full accounting of the revenues and costs relating 466  
to the provision of benefits under section 742.45 of the Revised 467  
Code. The first triennial report shall be made as of December 31, 468  
~~1997~~ 2013, and the thirty-first day of December ~~of each year~~ 469  
triennially thereafter. The report shall include the following: 470

(1) A description of the statutory authority for the benefits 471  
provided; 472

(2) A summary of the benefits; 473

(3) A summary of the eligibility requirements for the 474  
benefits; 475

(4) A statement of the number of participants eligible for 476  
the benefits; 477

(5) A description of the accounting, asset valuation, and 478



funding method used to provide the benefits; 479

(6) A statement of the net assets available for the provision 480  
of the benefits as of the last day of the fiscal year; 481

(7) A statement of any changes in the net assets available 482  
for the provision of benefits, including participant and employer 483  
contributions, net investment income, administrative expenses, and 484  
benefits provided to participants, as of the last day of the 485  
fiscal year; 486

(8) For the last six consecutive fiscal years, a schedule of 487  
the net assets available for the benefits, the annual cost of 488  
benefits, administrative expenses incurred, and annual employer 489  
contributions allocated for the provision of benefits; 490

(9) A description of any significant changes that affect the 491  
comparability of the report required under this division; 492

(10) A statement of the amount paid under division (B) of 493  
section 742.45 of the Revised Code. 494

The board shall submit the report to the Ohio retirement 495  
study council and the standing committees of the house of 496  
representatives and the senate with primary responsibility for 497  
retirement legislation not later than the thirtieth day of June 498  
following the year for which the report was made. 499

~~(F)~~(E) At least once in each quinquennial period, the board 500  
shall have prepared by or under the supervision of an actuary an 501  
actuarial investigation of the deferred retirement option plan 502  
established under section 742.43 of the Revised Code. The 503  
investigation shall include an examination of the financial 504  
impact, if any, on the fund of offering the plan to members. 505

The actuary shall prepare a report of the actuarial 506  
investigation. The report shall include a determination of whether 507  
the plan, as established or modified, has a negative financial 508

impact on the fund and, if so, recommendations on how to modify 509  
the plan to eliminate the negative financial impact. If the 510  
actuarial report indicates that the plan has a negative financial 511  
impact on the fund, the board may modify the plan or cease to 512  
allow members who have not already done so to elect to participate 513  
in the plan. The firefighter and police officers employers' 514  
contributions shall not be increased to offset any negative 515  
financial impact of the plan. 516

If the board ceases to allow members to elect to participate 517  
in the plan, the rights and obligations of members who have 518  
already elected to participate shall not be altered. 519

The board may include the actuarial investigation required 520  
under this division as part of the actuarial investigation 521  
required under division ~~(C)~~(B) of this section. If the report of 522  
the actuarial investigation required by this division is not 523  
included in the report required by division ~~(C)~~(B) of this 524  
section, the board shall submit the report required by this 525  
division to the Ohio retirement study council and the standing 526  
committees of the house of representatives and the senate with 527  
primary responsibility for retirement legislation not later than 528  
the first day of November following the last fiscal year of the 529  
period the report covers. 530

**Sec. 742.16.** The board of trustees of the Ohio police and 531  
fire pension fund shall establish a period of not more than thirty 532  
years to amortize the Ohio police and fire pension fund's unfunded 533  
actuarial accrued pension liabilities. The board shall adopt a 534  
plan that specifies how it proposes to meet the thirty-year 535  
amortization period not later than December 31, 2006. If ~~in any~~ 536  
~~year~~ the period necessary to amortize the unfunded actuarial 537  
accrued pension liability exceeds thirty years, as determined by 538  
the ~~annual~~ actuarial valuation required by section 742.14 of the 539

Revised Code, the board, not later than ninety days after receipt  
of the valuation, shall prepare and submit to the Ohio retirement  
study council and the standing committees of the house of  
representatives and the senate with primary responsibility for  
retirement legislation a report that includes the following  
information:

(A) The number of years needed to amortize the unfunded  
actuarial accrued pension liability as determined by the ~~annual~~  
actuarial valuation;

(B) A plan approved by the board that indicates how the board  
will reduce the amortization period of unfunded actuarial accrued  
pension liability to not more than thirty years;

(C) Whether the board has made any progress in meeting the  
thirty-year amortization period.

Sec. 742.161. The board may, by rule adopted under section  
742.10 of the Revised Code, increase the age and years of service  
credit required to receive a pension or benefit under division (C)  
of section 742.35 of the Revised Code if, in consultation with its  
actuary, the board determines that an increase is necessary to  
meet the amortization period requirement of section 742.16 of the  
Revised Code.

**Sec. 742.30.** (A) The employer's accrued liability, as  
determined pursuant to former section 742.29 of the Revised Code,  
shall be paid to the Ohio police and fire pension fund. Payments  
shall be credited to the police officers' pension reserve fund, or  
to the firefighters' pension reserve fund, in accordance with the  
relief and pension fund from which the liability for such payment  
arises, until such time as the employer's accrued liability on  
account of pensioners and other benefit recipients on the rolls of  
the particular police relief and pension fund or firemen's relief

and pension fund is satisfied. Thereafter, payments shall be 570  
credited to the police officers' contribution fund or the 571  
firefighters' contribution fund, in accordance with the relief and 572  
pension fund from which the liability for such payments arises, 573  
until such time as the employer's accrued liability on account of 574  
deductions made from the compensation of police officers or 575  
firefighters under the particular police relief and pension fund 576  
or firemen's relief and pension fund is satisfied. Thereafter, 577  
payments shall be credited to the police officer employers' 578  
contribution fund, or firefighter employers' contribution fund, in 579  
accordance with the relief and pension fund from which the 580  
liability for such payments arises, until such time as the 581  
employer's total accrued liability under the particular police 582  
relief and pension fund or firemen's relief and pension fund is 583  
satisfied. 584

(B) That part of the employer's accrued liability remaining 585  
unpaid on January 1, 1969, shall be paid by the employer at not 586  
less than the following rates per year: two per cent in 1969, two 587  
per cent in 1970, three per cent in 1971, four per cent in 1972, 588  
and five per cent per annum beginning in 1973 and each year 589  
thereafter for sixty-two years. Except as provided in division (C) 590  
of this section, payments shall be fixed annually and paid on 591  
dates fixed by the board of trustees of the Ohio police and fire 592  
pension fund. 593

(C) The board may enter into an agreement with a municipal 594  
corporation or township for a single payment by the municipal 595  
corporation or township of the employer's accrued liability. The 596  
agreement may provide for a reduction in the amount of the accrued 597  
liability based on the value to the fund of receiving a single 598  
payment. A municipal corporation or township that has made payment 599  
in accordance with such an agreement shall have no further 600  
obligation to make payments under this section. 601

(D) The board shall report every ~~two~~ three years to the  
general assembly ~~during its first regular session on~~ the condition  
of the retirement system, with particular emphasis upon the  
payment of the employer's accrued liability, and make such  
recommendations, upon the advice of its actuary, as it considers  
necessary for the proper funding of the liabilities.

**Sec. 742.301.** (A) Each employer shall promptly pay the amount  
due on the accrued liability on the dates fixed by the board of  
trustees of the Ohio police and fire pension fund. Upon  
certification by the board that payment of an employer's accrued  
liability has not been paid within thirty days following the date  
a payment is due, a penalty of five per cent of the amount due  
shall be assessed against such employer. If the payment and  
penalty have not been paid within ninety days following the date a  
payment is due, annual interest at six per cent shall be assessed  
against the payment and penalty from the date that the payment is  
due.

(B) Upon certification by the board to the superintendent of  
liquor control or the county auditor of an amount due from any  
employer who is subject to this chapter by reason of such  
employer's delinquency in making payments on the accrued  
liability, the amount due shall be withheld from the employer from  
liquor control permit fees to be distributed to that employer  
according to Chapter 4301. of the Revised Code or from the local  
government fund allocated for distribution to that employer by the  
county budget commission in accordance with Chapter 5739. of the  
Revised Code. Upon receipt of the certification from the board,  
the superintendent or county auditor shall provide for payment  
against such funds in favor of the Ohio police and fire pension  
fund for the certified amount due and any penalty and interest  
thereon.

(C) If the payments under divisions (A) and (B) of this 633  
section are insufficient to pay the Ohio police and fire pension 634  
fund any amounts due the fund from an employer, the fund may seek 635  
payment through the office of budget and management. On 636  
certification by the board to the director of budget and 637  
management of any such amount due, the director shall withhold 638  
from the employer any amount available, not to exceed the amount 639  
certified as due the fund, from any amounts under the director's 640  
control that are payable or due the employer. The director shall 641  
pay the amount withheld to the fund. 642

**Sec. 742.31.** (A) Each employee shall contribute an amount 643  
equal to ~~ten per cent~~ a percentage of the employee's salary to the 644  
Ohio police and fire pension fund. ~~The~~ according to the following 645  
schedule: 646

(1) For salary earned in pay periods beginning not later than 647  
July 1, 2013, ten per cent; 648

(2) For salary earned in pay periods beginning not earlier 649  
than July 2, 2013, but not later than July 1, 2014, ten and 650  
three-quarters per cent; 651

(3) For salary earned in pay periods beginning not earlier 652  
than July 2, 2014, but not later than July 1, 2015, eleven and 653  
one-half per cent; 654

(4) Except as provided in division (B) of this section, for 655  
salary earned in pay periods beginning not earlier than July 2, 656  
2015, twelve and one-quarter per cent. 657

(B) Not earlier than July 2, 2015, the board may, by rule, 658  
increase the employee contribution rates to the fund if the board, 659  
in consultation with its actuary, determines that an increase is 660  
necessary to meet the amortization requirements of section 742.16 661  
of the Revised Code. 662

(C) The amount shall be deducted by the employer from the employee's salary as defined in division (L) of section 742.01 of the Revised Code for each payroll period, irrespective of whether the minimum compensation provided by law for the employee is reduced thereby. Every employee shall be deemed to consent to the deductions, and payment to the employee less the deductions is a complete discharge and acquittance of all claims and demands for the services rendered by the employee during the period covered by such payment.

**Sec. 742.32.** (A) 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 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 business day of the reporting period. ~~A~~

(B) A penalty determined under section 742.352 of the Revised Code shall be assessed if any of the following occur:

~~(A)~~ (1) The report is received by the board after the due date or is not in the form required by the board.

~~(B)~~ (2) Payments to cover the total amount due from the salaries of all employees of the employer are received by the board after the due date.

The penalty shall be added to and collected on the next

succeeding regular employer billing. If the penalty is not paid 694  
within sixty days after it is added to the regular employer 695  
billing, interest at a rate determined by the board may be charged 696  
on the total amount due and the amount of the penalty from the 697  
date the amount is due to the date of payment. 698

(C) The secretary of the board, after making a record of all 699  
such receipts and crediting each employee's individual account 700  
with the amount deducted from the employee's salary, shall deposit 701  
the receipts with the treasurer of state for use as provided by 702  
this chapter. Where an employer fails to deduct contributions for 703  
any employee and transmit such amounts to the fund, the board may 704  
make a determination of the employee's liability for contributions 705  
and certify to the employer the amounts due for collection in the 706  
same manner and subject to the same penalties as payments due the 707  
employer's contributions funds. 708

**Sec. 742.33.** (A) Each employer shall pay ~~quarterly~~ monthly, 709  
on such dates as the board of trustees of the Ohio police and fire 710  
pension fund requires, from its general fund, or from a levy 711  
imposed pursuant to division (J) or (W) of section 5705.19 of the 712  
Revised Code, to the fund an amount known as the "police officer 713  
employers' contribution," which shall be nineteen and one-half per 714  
cent of the salaries as defined in division (L) of section 742.01 715  
of the Revised Code of the members of the police department of the 716  
employer. 717

(B) The taxing authority of each municipal corporation in 718  
which there was a police relief and pension fund on October 1, 719  
1965, shall annually, in the manner provided for making other 720  
municipal levies and in addition to all other levies authorized by 721  
law, levy a tax of three-tenths of one mill upon all the real and 722  
personal property as listed for taxation in the municipal 723  
corporation for the purpose of paying the police officer 724



employers' contribution and the municipal corporation's accrued 725  
liability for its former police relief and pension fund and 726  
interest thereon, and of defraying the current operating expenses 727  
of the municipal corporation. The annual revenues derived from the 728  
tax shall be used in the following order: 729

(1) First, to pay the current police officer employers' 730  
contribution and any interest related thereto; 731

(2) Second, to pay any accrued liability chargeable to the 732  
municipal corporation during the current calendar year for its 733  
former police relief and pension fund and any interest related 734  
thereto; 735

(3) Third, to defray the current operating expenses of the 736  
municipal corporation. 737

**Sec. 742.34.** (A) Each employer shall pay ~~quarterly~~ monthly, 738  
on such dates as the board of trustees of the Ohio police and fire 739  
pension fund requires, from its general fund, or from a levy 740  
imposed pursuant to division (I) or (W) of section 5705.19 of the 741  
Revised Code, to the fund an amount known as the "firefighter 742  
employers' contribution," which shall be twenty-four per cent of 743  
the salaries as defined in division (L) of section 742.01 of the 744  
Revised Code of the members of the fire department of the 745  
employer. 746

(B) The taxing authority of each municipal corporation in 747  
which there was a firemen's relief and pension fund on October 1, 748  
1965, shall annually, in the manner provided for making other 749  
municipal levies and in addition to all other levies authorized by 750  
law, levy a tax of three-tenths of one mill upon all the real and 751  
personal property as listed for taxation in the municipal 752  
corporation for the purpose of paying the firefighter employers' 753  
contribution and the municipal corporation's accrued liability for 754  
its former firemen's relief and pension fund and interest thereon, 755

and of defraying the current operating expenses of the municipal 756  
corporation. The annual revenues derived from the tax shall be 757  
used in the following order: 758

(1) First, to pay the current firefighter employers' 759  
contribution and any interest related thereto; 760

(2) Second, to pay any accrued liability chargeable to the 761  
municipal corporation during the current calendar year for its 762  
former firemen's relief and pension fund and any interest related 763  
thereto; 764

(3) Third, to defray the current operating expenses of the 765  
municipal corporation. 766

**Sec. 742.35.** ~~As used in this section, "calendar quarter"~~ 767  
~~means the three month period ending on the last day of March,~~ 768  
~~June, September, or December.~~ 769

Each employer shall pay its ~~annual~~ police officer employers' 770  
contribution and firefighter employers' contribution in ~~four equal~~ 771  
~~installments promptly~~ monthly payments as provided in sections 772  
742.33 and 742.34 of the Revised Code. ~~If an employer fails to~~ 773  
~~make a payment on or before the date that is sixty days after the~~ 774  
~~last day of the calendar quarter~~ The employer shall make each 775  
payment not later than the last day of the month after the month 776  
for which the police officer or firefighter employee contributions 777  
were withheld. If an employer fails to make the payment 778  
installment by the date it is due, a penalty determined under 779  
section 742.352 of the Revised Code shall be assessed against the 780  
employer. In addition, interest on past due accounts and penalties 781  
may be charged at a rate determined by the board from the date the 782  
~~installment~~ payment is due to the date of payment. 783

Upon certification by the board to the county auditor of an 784  
amount due from any employer within the county who is subject to 785

this chapter, by reason of such employer's delinquency in making 786  
employer contribution payments to the fund ~~for past months~~, such 787  
amount shall be withheld from such employer from any funds in the 788  
hands of the county treasurer for distribution to such employer. 789  
Upon receipt of such certification, the county auditor shall draw 790  
a warrant against such funds in favor of the fund for the amount. 791

**Sec. 742.37.** The board of trustees of the Ohio police and 792  
fire pension fund shall adopt rules for the management of the fund 793  
and for the disbursement of benefits and pensions as set forth in 794  
this section and section 742.39 of the Revised Code. Any payment 795  
of a benefit or pension under this section is subject to the 796  
provisions of section 742.461 of the Revised Code. Notwithstanding 797  
any other provision of this section, no pension or benefit paid or 798  
determined under division (B) or (C) of this section or section 799  
742.39 of the Revised Code shall exceed the limit established by 800  
section 415 of the "Internal Revenue Code of 1986," 100 Stat. 801  
2085, 26 U.S.C.A. 415, as amended. 802

(A) Persons who were receiving benefit or pension payments 803  
from a police relief and pension fund established under former 804  
section 741.32 of the Revised Code, or from a firemen's relief and 805  
pension fund established under former section 521.02 or 741.02 of 806  
the Revised Code, at the time the assets of the fund were 807  
transferred to the Ohio police and fire pension fund, known at 808  
that time as the police and firemen's disability and pension fund, 809  
shall receive benefit and pension payments from the Ohio police 810  
and fire pension fund in the same amount and subject to the same 811  
conditions as such payments were being made from the former fund 812  
on the date of the transfer. 813

(B) A member of the fund who, pursuant to law, elected to 814  
receive benefits and pensions from a police relief and pension 815  
fund established under former section 741.32 of the Revised Code, 816

or from a firemen's relief and pension fund established under 817  
former section 741.02 of the Revised Code, in accordance with the 818  
rules of the fund governing the granting of benefits or pensions 819  
therefrom in force on April 1, 1947, shall receive benefits and 820  
pensions from the Ohio police and fire pension fund in accordance 821  
with such rules; provided, that any member of the fund who is not 822  
receiving a benefit or pension from the fund on August 12, 1975, 823  
may, upon application for a benefit or pension to be received on 824  
or after August 12, 1975, elect to receive a benefit or pension in 825  
accordance with division (C) of this section. 826

(C) ~~Members~~ Unless the board acts under section 742.161 of 827  
the Revised Code, members of the fund who have not elected to 828  
receive benefits and pensions from a police relief and pension 829  
fund or a firemen's relief and pension fund in accordance with the 830  
rules of the fund in force on April 1, 1947, shall receive 831  
pensions and benefits in accordance with the following provisions: 832

(1) A member of the fund who has ~~completed~~ twenty-five years 833  
of ~~active service in a police or fire department~~ credit and has 834  
attained ~~forty-eight years of the requisite~~ age may, ~~at the~~ 835  
~~member's election, elect to retire from the police or fire~~ 836  
~~department. Upon~~ The requisite age is forty-eight for a member 837  
whose membership began before July 2, 2013, and fifty-two for a 838  
member whose membership began on or after that date. 839

Upon notifying the board in writing of the election, the 840  
member shall receive an annual pension, payable in twelve monthly 841  
installments, in an amount equal to a percentage of the member's 842  
average annual salary. ~~The~~ If, as of July 2, 2013, the member had 843  
fifteen or more years of service credit, the average annual salary 844  
shall be determined using three years of contributions. If, as of 845  
that date, the member had less than fifteen years of service 846  
credit, the average annual salary shall be determined using five 847  
years of contributions. 848

The percentage shall be the sum of two and one-half per cent 849  
for each of the first twenty years ~~the member was in the active of~~ 850  
~~service of the department credit~~, plus two per cent for each of 851  
the twenty-first to twenty-fifth years ~~the member was in the~~ 852  
~~active of~~ service ~~of the department credit~~, plus one and one-half 853  
per cent for each year in excess of twenty-five years ~~the member~~ 854  
~~was in the active of~~ service ~~of the department credit~~. The annual 855  
pension shall not exceed seventy-two per cent of the member's 856  
average annual salary. 857

A member who ~~completed~~ has twenty-five years of ~~active~~ 858  
service credit, has resigned or been discharged, and has left the 859  
sum deducted from the member's salary on deposit in the pension 860  
fund shall, upon attaining ~~forty-eight years of the requisite age,~~ 861  
be entitled to receive a normal service pension benefit computed 862  
and paid under division (C)(1) of this section. 863

While participating in the deferred retirement option plan 864  
established under section 742.43 of the Revised Code, a member 865  
shall not be considered to have elected retirement under division 866  
(C)(1) of this section. On notifying the board under division 867  
(B)(1) of section 742.444 of the Revised Code of the member's 868  
election to terminate active service, a member described in 869  
division (B) of that section shall receive an annual pension under 870  
division (C)(1) of this section calculated in accordance with 871  
section 742.442 of the Revised Code and rules that shall be 872  
adopted by the board of trustees of the Ohio police and fire 873  
pension fund. 874

(2) A member of the fund who has ~~served~~ fifteen or more years 875  
~~as an active member of a police or fire department service credit~~ 876  
and who voluntarily resigns or is discharged from the department 877  
for any reason other than dishonesty, cowardice, intemperate 878  
habits, or conviction of a felony, shall receive an annual 879  
pension, payable in twelve monthly installments, in an amount 880

equal to one and one-half per cent of the member's average annual  
salary multiplied by the number of full years of the member was in  
the active member's service of the department credit. The If, as  
of July 2, 2013, the member had fifteen or more years of service  
credit, the average annual salary shall be determined using three  
years of contributions. If, as of that date, the member had less  
than fifteen years of service credit, the average annual salary  
shall be determined using five years of contributions.

If a member's membership began before July 2, 2013, the  
pension payments shall not commence until the member has attained  
the age of forty-eight years and until twenty-five years have  
elapsed from the date on which the member became a full-time  
regular police officer or firefighter in the department. Pension  
payments shall not commence for a member whose membership began on  
or after July 2, 2013, until the member has attained the age of  
fifty-two years and until twenty-five years have elapsed from the  
date on which the member became a full-time regular police officer  
or firefighter.

(3) A member of the fund who has ~~completed~~ fifteen or more  
years of ~~active service in a police or fire department credit~~ and  
who has attained sixty-two years of age, may retire from the  
department and, upon notifying the board in writing of the  
election to retire, shall receive an annual pension, payable in  
twelve monthly installments, in an amount equal to a percentage of  
the member's average annual salary. If, as of July 2, 2013, the  
member had fifteen or more years of service credit, the average  
annual salary shall be determined using three years of  
contributions. If, as of that date, the member had less than  
fifteen years of service credit, the average annual salary shall  
be determined using five years of contributions. 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 of service of the~~

~~department credit~~, plus two per cent for each of the twenty-first 913  
to twenty-fifth years ~~the member was in the active of~~ service of 914  
~~the department credit~~, plus one and one-half per cent for each 915  
year in excess of twenty-five years ~~the member was in the active~~ 916  
~~of service of the department credit~~. The annual pension shall not 917  
exceed seventy-two per cent of the member's average annual salary. 918

(4) A member of the fund whose membership began on or after 919  
July 2, 2013, and who has twenty-five years of service credit and 920  
has attained forty-eight years of age may elect to retire. Upon 921  
notifying the board in writing of the election, the member shall 922  
receive an annual pension, payable in twelve monthly installments, 923  
in an amount determined under division (C)(1) of this section 924  
except that the amount shall be reduced to be the actuarial 925  
equivalent, as determined by the fund's actuary, of the amount 926  
payable had the member retired at fifty-two years of age. 927

(5) With the exception of those persons who may make 928  
application for benefits as provided in section 742.26 of the 929  
Revised Code, no person receiving a pension or other benefit under 930  
division (C) of this section on or after July 24, 1986, shall be 931  
entitled to apply for any new, changed, or different benefit. 932

If a member covered by division (C) of this section or 933  
section 742.38 of the Revised Code dies prior to the time the 934  
member has received a payment and leaves a surviving spouse or 935  
dependent child, the surviving spouse or dependent child shall 936  
receive a pension under division (D) or (E) of this section. 937

(D)(1) Except as provided in division (D)(2) of this section, 938  
a surviving spouse of a deceased member of the fund or a surviving 939  
spouse described in division (D)(4) of this section shall receive 940  
a monthly pension as follows: 941

(a) For the period beginning July 1, 1999, and ending June 942  
30, 2000, five hundred fifty dollars; 943

(b) For the period beginning July 1, 2000, and ending June 30, 2002, five hundred fifty dollars 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 was annually determined by the board under ~~former~~ section 742.3716 of the Revised Code as that section existed on January 31, 2002;

(c) For the period beginning July 1, 2002, and the period beginning 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 sixteen dollars and fifty cents.

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

(3) A pension paid under this division shall continue during the natural life of the surviving spouse. Benefits to a deceased member's surviving spouse that were terminated under a former version of this section that required termination due to remarriage and were not resumed prior to September 16, 1998, shall resume on the first day of the month immediately following receipt by the board of an application on a form provided by the board.

(4) A surviving spouse of a deceased member of or contributor to a fund established under former Chapter 521. or 741. of the



Revised Code whose benefit or pension was terminated or not paid 976  
due to remarriage shall receive a monthly pension under division 977  
(D)(1) of this section. 978

The pension shall commence on the first day of the month 979  
immediately following receipt by the board of a completed 980  
application on a form provided by the board and evidence 981  
acceptable to the board that at the time of death the deceased 982  
spouse was a member of or contributor to a police or firemen's 983  
relief and pension fund established under former Chapter 521. or 984  
741. of the Revised Code and that the surviving spouse's benefits 985  
were terminated or not granted due to remarriage. 986

(E)(1) Each surviving child of a deceased member of the fund 987  
shall receive a monthly pension until the child attains the age of 988  
eighteen years, or marries, whichever event occurs first. A 989  
pension under this division, however, shall continue to be payable 990  
to a child under age twenty-two who is a student in and attending 991  
an institution of learning or training pursuant to a program 992  
designed to complete in each school year the equivalent of at 993  
least two-thirds of the full-time curriculum requirements of the 994  
institution, as determined by the board. If any surviving child, 995  
regardless of age at the time of the member's death, because of 996  
physical or mental disability, is totally dependent upon the 997  
deceased member for support at the time of death, the child shall 998  
receive a monthly pension under this division during the child's 999  
natural life or until the child has recovered from the disability. 1000

(2) An eligible surviving child shall receive a monthly 1001  
pension as follows: 1002

(a) For the period beginning July 1, 2001, and ending June 1003  
30, 2002, a monthly pension of one hundred fifty dollars plus the 1004  
cost of living increase ~~provided for in~~ that was determined under 1005  
former section 742.3720 of the Revised Code; 1006

(b) For the period beginning July 1, 2002, and ending June 1007  
30, 2003, one hundred sixty-three dollars and fifty cents; 1008

(c) For the period beginning July 1, 2003, and the period 1009  
beginning the first day of each July thereafter and continuing for 1010  
the following twelve months, an amount equal to the monthly amount 1011  
paid during the prior twelve-month period plus four dollars and 1012  
fifty cents. 1013

(F)(1) If a deceased member of the fund leaves no surviving 1014  
spouse or surviving children, but leaves one or two parents 1015  
dependent upon the deceased member for support, each parent shall 1016  
be paid a monthly pension. The pensions provided for in this 1017  
division shall be paid during the natural life of the surviving 1018  
parents, or until dependency ceases, or until remarriage, 1019  
whichever event occurs first. 1020

(2) Each eligible surviving parent shall be paid a monthly 1021  
pension as follows: 1022

(a) For the period ending June 30, 2002, one hundred six 1023  
dollars for each parent or two hundred twelve dollars for a sole 1024  
dependent parent; 1025

(b) For the period beginning July 1, 2002, and ending June 1026  
30, 2003, one hundred nine dollars for each parent or two hundred 1027  
eighteen dollars for a sole dependent parent; 1028

(c) For the period beginning July 1, 2003, and the first day 1029  
of each July thereafter and continuing for the following twelve 1030  
months, an amount equal to the monthly amount paid during the 1031  
prior twelve-month period plus three dollars for each parent or 1032  
six dollars for a sole dependent parent. 1033

(G)(1) Subject to the provisions of section 742.461 of the 1034  
Revised Code, a member of the fund who voluntarily resigns or is 1035  
removed from active service in a police or fire department is 1036  
entitled to receive an amount equal to the sums deducted from the 1037

member's salary and credited to the member's account in the fund, 1038  
except that a member receiving a disability benefit or service 1039  
pension is not entitled to receive any return of contributions to 1040  
the fund. 1041

(2) A member described in division (G)(1) of this section who 1042  
is married at the time of application for payment and would be 1043  
eligible for age and service retirement under this section or 1044  
section 742.39 of the Revised Code but for a forfeiture ordered 1045  
under division (A) or (B) of section 2929.192 of the Revised Code 1046  
shall submit with the application a written statement by the 1047  
member's spouse attesting that the spouse consents to the payment 1048  
of the member's accumulated contributions. Consent shall be valid 1049  
only if it is signed and witnessed by a notary public. The board 1050  
may waive the requirement of consent if the spouse is 1051  
incapacitated or cannot be located, or for any other reason 1052  
specified by the board. Consent or waiver is effective only with 1053  
regard to the spouse who is the subject of the consent or waiver. 1054

(H) On and after January 1, 1970, all pensions shall be 1055  
increased in accordance with the following provisions: 1056

(1) A member of the fund who retired prior to January 1, 1057  
1967, has attained age sixty-five on January 1, 1970, and was 1058  
receiving a pension on December 31, 1969, pursuant to division (B) 1059  
or (C)(1) of this section or former division (C)(2), (3), (4), or 1060  
(5) of this section, shall have the pension increased by ten per 1061  
cent. 1062

(2) The monthly pension payable to eligible surviving spouses 1063  
under division (D) of this section shall be increased by forty 1064  
dollars for each surviving spouse receiving a pension on December 1065  
31, 1969. 1066

(3) The monthly pension payable to each eligible child under 1067  
division (E) of this section shall be increased by ten dollars for 1068

each child receiving a pension on December 31, 1969. 1069

(4) The monthly pension payable to each eligible dependent 1070  
parent under division (F) of this section shall be increased by 1071  
thirty dollars for each parent receiving a pension on December 31, 1072  
1969. 1073

(5) A member of the fund, including a survivor of a member, 1074  
who is receiving a pension in accordance with the rules governing 1075  
the granting of pensions and benefits in force on April 1, 1947, 1076  
that provide an increase in the original pension from time to time 1077  
pursuant to changes in the salaries of active members, shall not 1078  
be eligible for the benefits provided in this division. 1079

(I) On and after January 1, 1977, a member of the fund who 1080  
was receiving a pension or benefit on December 31, 1973, under 1081  
division (A), (B), (C)(1), or former division (C)(2) or (7) of 1082  
this section shall have the pension or benefit increased as 1083  
follows: 1084

(1) If the member's annual pension or benefit is less than 1085  
two thousand seven hundred dollars, it shall be increased to three 1086  
thousand dollars. 1087

(2) If the member's annual pension or benefit is two thousand 1088  
seven hundred dollars or more, it shall be increased by three 1089  
hundred dollars. 1090

The following shall not be eligible to receive increased 1091  
pensions or benefits as provided in this division: 1092

(a) A member of the fund who is receiving a pension or 1093  
benefit in accordance with the rules in force on April 1, 1947, 1094  
governing the granting of pensions and benefits, which provide an 1095  
increase in the original pension or benefit from time to time 1096  
pursuant to changes in the salaries of active members; 1097

(b) A member of the fund who is receiving a pension or 1098

benefit under division (A) or (B) of this section, based on funded 1099  
volunteer or funded part-time service, or off-duty disability, or 1100  
partial on-duty disability, or early vested service; 1101

(c) A member of the fund who is receiving a pension under 1102  
division (C)(1) of this section, based on funded volunteer or 1103  
funded part-time service. 1104

(J) On and after July 1, 1977, a member of the fund who was 1105  
receiving an annual pension or benefit on December 31, 1973, 1106  
pursuant to division (B) of this section, based upon partial 1107  
disability, off-duty disability, or early vested service, or 1108  
pursuant to former division (C)(3), (5), or (6) of this section, 1109  
shall have such annual pension or benefit increased by three 1110  
hundred dollars. 1111

The following are not eligible to receive the increase 1112  
provided by this division: 1113

(1) A member of the fund who is receiving a pension or 1114  
benefit in accordance with the rules in force on April 1, 1947, 1115  
governing the granting of pensions and benefits, which provide an 1116  
increase in the original pension or benefit from time to time 1117  
pursuant to changes in the salaries of active members; 1118

(2) A member of the fund who is receiving a pension or 1119  
benefit under division (B) or (C)(2) of this section or former 1120  
division (C)(3), (5), or (6) of this section based on volunteer or 1121  
part-time service. 1122

(K)(1) Except as otherwise provided in this division, every 1123  
person who on July 24, 1986, is receiving an age and service or 1124  
disability pension, allowance, or benefit pursuant to this chapter 1125  
in an amount less than thirteen thousand dollars a year that is 1126  
based upon an award made effective prior to February 28, 1984, 1127  
shall receive an increase of six hundred dollars a year or the 1128  
amount necessary to increase the pension or benefit to four 1129

thousand two hundred dollars after all adjustments required by 1130  
this section, whichever is greater. 1131

(2) Division (K)(1) of this section does not apply to the 1132  
following: 1133

(a) A member of the fund who is receiving a pension or 1134  
benefit in accordance with rules in force on April 1, 1947, that 1135  
govern the granting of pensions and benefits and that provide an 1136  
increase in the original pension or benefit from time to time 1137  
pursuant to changes in the salaries of active members; 1138

(b) A member of the fund who is receiving a pension or 1139  
benefit based on funded volunteer or funded part-time service. 1140

(L) On and after July 24, 1986: 1141

(1) The pension of each person receiving a pension under 1142  
division (D) of this section on July 24, 1986, shall be increased 1143  
to three hundred ten dollars per month. 1144

(2) The pension of each person receiving a pension under 1145  
division (E) of this section on July 24, 1986, shall be increased 1146  
to ninety-three dollars per month. 1147

**Sec. 742.3711.** (A) On application for retirement as provided 1148  
in section 742.37 of the Revised Code, a member of the fund may 1149  
elect to receive a retirement allowance payable throughout the 1150  
member's life, or may elect, on the application for retirement, to 1151  
receive the actuarial equivalent of the member's retirement 1152  
allowance in a lesser amount payable for life and continuing after 1153  
death to a surviving designated beneficiary under one of the 1154  
following optional plans, provided the amount payable to the 1155  
beneficiary shall not exceed the amount payable to the retiring 1156  
member of the fund, and is certified by the actuary engaged by the 1157  
board of trustees of the Ohio police and fire pension fund to be 1158  
the actuarial equivalent of the member's retirement allowance and 1159

is approved by the board. 1160

(1) Option 1. The member's lesser retirement allowance shall 1161  
be paid for life to the sole beneficiary designated at the time of 1162  
the member's retirement. 1163

(2) Option 2. One-half or some other portion of the member's 1164  
lesser retirement allowance shall be paid for life to the sole 1165  
beneficiary designated at the time of the member's retirement. 1166

(3) Option 3. Upon the member's death before the expiration 1167  
of a certain period from the retirement date and elected by the 1168  
member and approved by the retirement board, the member's lesser 1169  
retirement allowance shall be continued for the remainder of that 1170  
period to the beneficiary the member has ~~nominated by written~~ 1171  
~~designation and~~ designated in writing filed with the retirement 1172  
board. 1173

Should the ~~nominated beneficiary~~ member's designated in 1174  
~~writing become deceased~~ beneficiary die prior to the expiration of 1175  
the guarantee period, then for the purpose of completing payment 1176  
for the remainder of the guarantee period, the present value of 1177  
such payments shall be paid to the estate of the beneficiary last 1178  
receiving. 1179

(4) Option 4. The member's lesser retirement allowance or a 1180  
portion of the lesser retirement allowance shall be paid for life 1181  
to two, three, or four surviving beneficiaries designated at the 1182  
time of the member's retirement, in such portions as specified at 1183  
retirement. If the member elects this plan as required by a court 1184  
order issued under section 3105.171 or 3105.65 of the Revised Code 1185  
or the laws of another state regarding the division of marital 1186  
property and compliance with the court order requires the 1187  
allocation of a portion less than ten per cent to any beneficiary, 1188  
the member shall allocate a portion less than ten per cent to that 1189  
beneficiary in accordance with that order. In all other 1190

circumstances, no portion allocated under this plan of payment 1191  
shall be less than ten per cent. The total of the portions 1192  
allocated shall not exceed one hundred per cent of the member's 1193  
lesser allowance. 1194

(B)(1) The death of a spouse ~~nominated~~ designated as 1195  
beneficiary or the death of any other ~~nominated~~ designated 1196  
beneficiary following a member's retirement or election under 1197  
section 742.44 of the Revised Code to participate in the deferred 1198  
retirement option plan shall cancel the portion of the optional 1199  
plan of payment providing continuing lifetime benefits to the 1200  
deceased ~~nominated~~ designated beneficiary. The member of the fund 1201  
shall receive the actuarial equivalent of the member's single 1202  
lifetime benefit, as determined by the board, based on the number 1203  
of remaining beneficiaries, with no change in the amount payable 1204  
to any remaining beneficiary. The change shall be effective the 1205  
month following receipt by the board of notice of the death. 1206

(2) On divorce, annulment, or marriage dissolution, a member 1207  
receiving a retirement allowance under a plan that provides for 1208  
continuation of all or part of the allowance after death for the 1209  
lifetime of the member's surviving spouse may, with the written 1210  
consent of the spouse or pursuant to an order of the court with 1211  
jurisdiction over the termination of the marriage, elect to cancel 1212  
the portion of the plan providing continuing lifetime benefits to 1213  
that spouse. The member shall receive the actuarial equivalent of 1214  
the member's single lifetime benefit as determined by the board 1215  
based on the number of remaining beneficiaries, with no change in 1216  
amount payable to any remaining beneficiary. The election shall be 1217  
made on a form provided by the board and shall be effective the 1218  
month following its receipt by the board. 1219

(C)(1) Following marriage or remarriage, both of the 1220  
following apply: 1221

(a) A member of the fund receiving a retirement allowance 1222



under section 742.37 or 742.39 of the Revised Code may elect not 1223  
later than one year after the date of marriage or remarriage a new 1224  
optional plan of payment based on the actuarial equivalent of the 1225  
member's single lifetime benefit as determined by the board. 1226

(b) If a member is receiving a retirement allowance pursuant 1227  
to a plan of payment providing for payment to a former spouse 1228  
pursuant to a court order described in division (D)(1)(c) of this 1229  
section and the board has received a copy of the order described 1230  
in that division, the member may elect a new plan of payment under 1231  
"option 4" based on the actuarial equivalent of the retirant's 1232  
single lifetime retirement allowance as determined by the board if 1233  
the new plan of payment elected does not reduce the payment to the 1234  
former spouse. 1235

(2) A plan elected under this division and the member's 1236  
lesser retirement allowance shall become effective on the date of 1237  
receipt by the board of an application on a form approved by the 1238  
board. 1239

(D)(1) Unless one of the following occurs, an application for 1240  
retirement by a married person shall be considered an election of 1241  
a benefit under option 2 as provided for in division (A)(2) of 1242  
this section under which one-half of the lesser retirement 1243  
allowance payable during the life of the retirant will be paid 1244  
after death to the retirant's spouse for life as sole beneficiary: 1245

(a) The retirant selects an optional plan under division (A) 1246  
of this section providing for payment after death to the 1247  
retirant's spouse for life as sole beneficiary of more than 1248  
one-half of the lesser retirement allowance payable during the 1249  
life of the retirant; 1250

(b) The retirant submits to the ~~retirement~~ board a written 1251  
statement signed by the spouse attesting that the spouse consents 1252  
to the retirant's election to receive a single lifetime retirement 1253

allowance or a payment under an optional benefit plan under which 1254  
after the death of the retirant the surviving spouse will receive 1255  
less than one-half of the lesser retirement allowance payable 1256  
during the life of the retirant; 1257

(c) A plan of payment providing for payment in a specified 1258  
amount continuing after the retirant's death to a former spouse is 1259  
required by a court order issued prior to the effective date of 1260  
the retirant's retirement under section 3105.171 or 3105.65 of the 1261  
Revised Code or the laws of another state regarding division of 1262  
marital property. 1263

(d) If a retirant is subject to division (D)(1)(c) of this 1264  
section and the board has received a copy of the order described 1265  
in that division, the board shall accept the retirant's election 1266  
of a plan of payment under this section only if the retirant 1267  
complies with both of the following: 1268

(i) The retirant elects a plan of payment that is in 1269  
accordance with the order described in division (D)(1)(c) of this 1270  
section. 1271

(ii) If the retirant is married, the retirant elects "option 1272  
4" and designates the retirant's current spouse as a beneficiary 1273  
under that plan unless that spouse consents in writing to not 1274  
being designated a beneficiary under any plan of payment or the 1275  
board waives the requirement that the current spouse consent. 1276

(2) An application for retirement shall include an 1277  
explanation of all of the following: 1278

(a) That, if the member is married, unless the spouse 1279  
consents to another plan of payment or there is a court order 1280  
dividing marital property issued under section 3105.171 or 3105.65 1281  
of the Revised Code or the laws of another state regarding the 1282  
division of marital property that provides for payment in a 1283  
specified amount, the member's retirement allowance will be paid 1284

under "option 2" and consist of the actuarial equivalent of the 1285  
member's retirement allowance in a lesser amount payable for life 1286  
and one-half of the lesser allowance continuing after death to the 1287  
surviving spouse for the life of the spouse; 1288

(b) A description of the alternative plans of payment 1289  
available with the consent of the spouse; 1290

(c) That the spouse may consent to another plan of payment 1291  
and the procedure for giving consent; 1292

(d) That consent is irrevocable once notice of consent is 1293  
filed with the board. 1294

Consent shall be valid only if it is signed, in writing, and 1295  
witnessed by an employee of the board or a notary public. 1296

(3) If the retirant does not select an optional plan as 1297  
described in division (D)(1)(a) of this section and the board does 1298  
not receive the written statement provided for in division 1299  
(D)(1)(b) of this section, it shall determine and pay the 1300  
retirement allowance in accordance with division (A)(2) of this 1301  
section, except that the board may provide by rule for waiver by 1302  
the board of the statement and payment of the allowance other than 1303  
in accordance with division (A)(2) of this section if the retirant 1304  
is unable to obtain the statement due to absence or incapacity of 1305  
the spouse or other cause specified by the board. 1306

(E) A member of the fund who has elected an optional plan 1307  
under this section or section 742.3715 of the Revised Code may, 1308  
with the consent of the designated beneficiary, cancel the 1309  
optional plan and receive the retirement allowance payable 1310  
throughout life the member would have received had the member not 1311  
elected the optional plan, if the member makes a request to cancel 1312  
the optional plan not later than one year after the later of 1313  
September 9, 1988, or the date on which the member first receives 1314  
a payment under this section or section 742.3715 of the Revised 1315

Code. Cancellation of the optional plan shall be effective the 1316  
month after acceptance of the request by the trustees of the fund. 1317  
No payment or adjustment shall be made in the retirement allowance 1318  
payable throughout the member's life to compensate for the lesser 1319  
allowance the member received under the optional plan. 1320

The request to cancel the optional plan shall be made on a 1321  
form provided by the fund and shall be valid only if the completed 1322  
form includes a signed statement of the designated beneficiary's 1323  
understanding of and consent to the cancellation. The signature 1324  
shall be verified by the trustees of the fund prior to their 1325  
acceptance of the cancellation. 1326

(F) Any option elected and payments made under this section 1327  
shall be in addition to any benefit payable under divisions (D), 1328  
(E), and (F) of section 742.37 of the Revised Code. 1329

(G) A person is eligible to receive a benefit increase under 1330  
this division if the person is receiving a retirement allowance or 1331  
benefit under an optional plan elected under this section or 1332  
section 742.3715 of the Revised Code based on an award made prior 1333  
to July 24, 1986. A person is not eligible to receive an increase 1334  
under this division if the person is receiving a pension or 1335  
benefit in accordance with rules in force on April 1, 1947, that 1336  
govern the granting of pensions and benefits and that provide an 1337  
increase in the original pension or benefit from time to time 1338  
pursuant to changes in the salaries of active members. 1339

The board shall annually increase all benefits payable under 1340  
this section or section 742.3715 of the Revised Code to eligible 1341  
persons by the actuarial equivalent of three hundred sixty 1342  
dollars, except that no benefit shall exceed the limit established 1343  
by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 1344  
2085, 26 U.S.C.A. 415, as amended. 1345

The first increase is payable to all eligible persons on July 1346

1, 1988. The increase is payable for the ensuing twelve-month 1347  
period or until the next increase is granted under this section, 1348  
whichever is later. 1349

The date of the first increase payable under this section 1350  
shall be the anniversary date for future increases. 1351

If payment of a portion of a benefit is made to an alternate 1352  
payee under section 742.462 of the Revised Code, increases under 1353  
this division granted while the order is in effect shall be 1354  
apportioned between the alternate payee and the benefit recipient 1355  
in the same proportion that the amount being paid to the alternate 1356  
payee bears to the amount paid to the benefit recipient. 1357

If payment of a portion of a retirement allowance is made to 1358  
one or more beneficiaries under "option 4" under division (A)(4) 1359  
of section 742.3711 of the Revised Code, each increase under this 1360  
division granted while the plan of payment is in effect shall be 1361  
divided among the designated beneficiaries in accordance with the 1362  
portion each beneficiary has been allocated. 1363

**Sec. 742.3716.** (A)~~(1)~~ As used in this section: 1364

~~(a) "Eligible person" means a person who meets all of the 1365  
following conditions: 1366~~

~~(i) Has been receiving a pension or benefit under this 1367  
chapter for one year or more based on an award made on or after 1368  
July 24, 1986; 1369~~

~~(ii) Has not made the election provided for in division (B) 1370  
of this section; 1371~~

~~(iii) Is not the spouse or survivor of a person who has made 1372  
the election provided for in division (B) of this section; 1373~~

~~(iv) Is receiving a benefit in accordance with division (A), 1374  
(B), or (C) of section 742.37, division (C)(2), (3), (4), or (5) 1375  
of former section 742.37, section 742.3711, or section 742.39 of 1376~~

~~the Revised Code.~~ 1377

~~(b) "Recalculated average annual salary" means the highest 1378  
average annual compensation of a member of the Ohio police and 1379  
fire pension fund during any three years of contributions, 1380  
including amounts included in terminal pay attributable to such 1381  
three years, determined by dividing the member's total earnings as 1382  
an employee during such years by three. 1383~~

~~(2) In the case of a member participating in the deferred 1384  
retirement option plan established under section 742.43 of the 1385  
Revised Code or a member described in division (B) of section 1386  
742.444 of the Revised Code, the period of one year or more 1387  
described in division (A)(1)(a)(i) of this section begins on the 1388  
effective date of the member's election under section 742.44 of 1389  
the Revised Code. 1390~~

~~(B)(1) Notwithstanding section 742.37 or 742.39 of the 1391  
Revised Code, a member of the fund who is not receiving a pension 1392  
or benefit under this chapter and who on January 1, 1989, has 1393  
completed fifteen or more years of active service in a police or 1394  
fire department may elect to have any future benefit or pension 1395  
paid to the member or the member's spouse or survivors under this 1396  
chapter calculated on the basis of the member's recalculated 1397  
average annual salary rather than the member's average annual 1398  
salary. The election shall be made by the member prior to or at 1399  
the time of making an election under section 742.3711 of the 1400  
Revised Code. This division does not apply to a member of the fund 1401  
who elected to participate in the deferred retirement option plan 1402  
established under section 742.43 of the Revised Code unless the 1403  
member's participation has terminated pursuant to division (C) of 1404  
section 742.444 or to section 742.445 of the Revised Code. 1405~~

~~(2) If the member eligible to make the election under 1406  
division (B)(1) of this section dies prior to making the election 1407  
and at the time of death is eligible to retire and receive a 1408~~

~~pension or benefit under division (C)(1) or (3) of section 742.37~~ 1409  
~~of the Revised Code, the person entitled to receive a benefit~~ 1410  
~~under section 742.3714 of the Revised Code may make the election~~ 1411  
~~provided for in division (B)(1) of this section.~~ 1412

~~(3) The election under division (B)(1) or (2) of this section~~ 1413  
~~shall be made on forms provided by the trustees of the fund. Once~~ 1414  
~~received by the fund, the election shall be irrevocable and shall~~ 1415  
~~bind the member and any other person who receives a pension or~~ 1416  
~~benefit based on the member's service. No person who receives a~~ 1417  
~~pension or benefit calculated in accordance with division (B) of~~ 1418  
~~this section is eligible to receive a cost of living allowance~~ 1419  
~~under this section. If the person making the election receives a~~ 1420  
~~benefit under section 742.3714 of the Revised Code, that person is~~ 1421  
~~not eligible to receive a cost of living allowance under section~~ 1422  
~~742.3711 of the Revised Code.~~ 1423

~~(C)(1) The, "consumer price index" means the index, as~~ 1424  
~~determined by the United States bureau of labor statistics (U.S.~~ 1425  
~~city average for urban wage earners and clerical workers: all~~ 1426  
~~items 1982-84=100), or, if that index is no longer published, a~~ 1427  
~~generally available comparable index.~~ 1428

~~(B)(1) Except as provided in division (D) of this section,~~ 1429  
~~the board of trustees of the Ohio police and fire pension fund~~ 1430  
~~shall annually increase all benefits payable to eligible persons~~ 1431  
~~by three per cent as follows, except that no benefit shall exceed~~ 1432  
~~the limit established by section 415 of the "Internal Revenue Code~~ 1433  
~~of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended-;~~ 1434

~~(a) By three per cent for each person who on the effective~~ 1435  
~~date of this amendment is receiving a pension or disability~~ 1436  
~~benefit in accordance with division (A), (B), or (C) of section~~ 1437  
~~742.37, division (C)(2), (3), (4), or (5) of former section~~ 1438  
~~742.37, section 742.3711, or section 742.39 of the Revised Code~~ 1439  
~~that is based on an award made on or after July 24, 1986, and each~~ 1440

person who, although not receiving a pension or benefit, has 1441  
fifteen or more years of service credit as of July 1, 2013; 1442

(b) By the lesser of three per cent or the percentage 1443  
increase, if any, in the consumer price index for the twelve-month 1444  
period ending on the thirtieth day of September of the immediately 1445  
preceding calendar year, rounded to the nearest one-tenth of one 1446  
per cent, for each person who becomes a member of the fund on or 1447  
after July 2, 2013, or has less than fifteen years of service 1448  
credit as of July 1, 2013, and is not receiving a pension or 1449  
disability benefit under any of the sections listed in division 1450  
(B)(1)(b) of this section. 1451

~~The first~~ Except as otherwise provided in this section, the 1452  
increase is payable to all eligible persons who ~~on July 1, 1988,~~ 1453  
have been receiving a pension or benefit for twelve months or 1454  
longer and have attained the age of fifty-five. For persons 1455  
receiving a benefit under division (D)(1) of section 742.38 of the 1456  
Revised Code, the first increase is payable to all eligible 1457  
persons who have been receiving a benefit for twelve months or 1458  
longer, regardless of age. The increase is payable for the ensuing 1459  
twelve-month period or until the next increase is granted under 1460  
this section, whichever is later. 1461

The date of the first increase paid under this section shall 1462  
be the anniversary date for future increases. The pension or 1463  
benefit used in the first calculation of an increase under this 1464  
section shall remain as the base for all future increases paid 1465  
under this section, unless a new base is established by law. ~~In~~ 1466  
~~the case of a~~ 1467

A member who has, prior to the effective date of this 1468  
section, elected to participate in the deferred retirement option 1469  
plan established under section 742.43 of the Revised Code or a 1470  
~~member described in division (B) of section 742.444 of the Revised~~ 1471  
~~Code, the~~ shall be eligible to receive an increase under this 1472



section while participating in the deferred retirement option plan 1473  
on attaining the age of fifty-five and having participated in the 1474  
plan twelve months or longer. The pension amount used in the first 1475  
calculation of an increase under this section shall be the amount 1476  
calculated under section 742.442 of the Revised Code unless the 1477  
member's participation has terminated pursuant to division (C) of 1478  
section 742.444 or to section 742.445 of the Revised Code. 1479

(2) Increases paid in years subsequent to the year of the 1480  
first increase paid under this section shall be paid to all 1481  
eligible persons who, on the date that the increase is authorized 1482  
by the board, have been receiving a pension or benefit for twelve 1483  
months. 1484

~~(E)~~(C) If payment of a portion of a benefit is made to an 1485  
alternate payee under section 742.462 of the Revised Code, 1486  
increases under this section granted while the order is in effect 1487  
shall be apportioned between the alternate payee and the benefit 1488  
recipient in the same proportion that the amount being paid to the 1489  
alternate payee bears to the amount paid to the benefit recipient. 1490

~~If payment of a portion of a retirement allowance is made to~~ 1491  
~~one or more beneficiaries under "option 4" under division (A)(4)~~ 1492  
~~of section 742.3711 of the Revised Code, each increase under this~~ 1493  
~~section granted while the plan of payment is in effect shall be~~ 1494  
~~divided among the designated beneficiaries in accordance with the~~ 1495  
~~portion each beneficiary has been allocated.~~ 1496

(D) As used in this division, "recalculated average annual 1497  
salary" means the highest average annual compensation of a member 1498  
of the Ohio police and fire pension fund during any three years of 1499  
contributions, including amounts included in terminal pay 1500  
attributable to those three years, determined by dividing the 1501  
member's total earnings as an employee during those years by 1502  
three. 1503

Notwithstanding any other provision of this section, section 1504  
742.37, or section 742.39 of the Revised Code, a member of the 1505  
fund who is not receiving a pension or benefit under this chapter 1506  
and who on January 1, 1989, had fifteen or more years of service 1507  
credit under this chapter may elect to have any future benefit or 1508  
pension paid to the member or the member's spouse or survivors 1509  
under this chapter calculated on the basis of the member's 1510  
recalculated average annual salary rather than the member's 1511  
average annual salary as determined under section 742.37 or 742.39 1512  
of the Revised Code. The election shall be made by the member 1513  
prior to or at the time of making an election under section 1514  
742.3711 of the Revised Code. 1515

If the member eligible to make the election under this 1516  
division dies prior to making the election and at the time of 1517  
death is eligible to retire and receive a pension or benefit under 1518  
division (C)(1) or (3) of section 742.37 of the Revised Code, the 1519  
person entitled to receive a benefit under section 742.3714 of the 1520  
Revised Code may make the election provided for in this division. 1521

The election shall be made on forms provided by the fund. 1522  
Once received by the fund, the election is irrevocable and binds 1523  
the member and any other person who receives a pension or benefit 1524  
based on the member's service. No person who receives a pension or 1525  
benefit calculated in accordance with this division is eligible to 1526  
receive an increase under this section. If the person making the 1527  
election receives a benefit under section 742.3714 of the Revised 1528  
Code, that person is not eligible to receive an increase under 1529  
division (G) of section 742.3711 of the Revised Code. 1530

**Sec. 742.38.** (A)(1) The board of trustees of the Ohio police 1531  
and fire pension fund shall adopt rules establishing minimum 1532  
medical testing and diagnostic standards or procedures to be 1533  
incorporated into physical examinations administered by physicians 1534

to prospective members of the fund. The standards or procedures 1535  
shall include diagnosis and evaluation of the existence of any 1536  
heart disease, cardiovascular disease, or respiratory disease. The 1537  
rules shall specify the form of the physician's report and the 1538  
information to be included in it. 1539

The board shall notify all employers of the establishment of 1540  
the minimum standards or procedures and shall include with the 1541  
notice a copy of the standards or procedures. The board shall 1542  
notify all employers of any changes made to the standards or 1543  
procedures. Once the standards or procedures take effect, 1544  
employers shall cause each prospective member of the fund to 1545  
submit to a physical examination that incorporates the standards 1546  
or procedures. 1547

(2) Division (A)(2) of this section applies to an employee 1548  
who becomes a member of the fund on or after the date the minimum 1549  
standards or procedures described in division (A)(1) of this 1550  
section take effect. For each employee described in division 1551  
(A)(2) of this section, the employer shall forward to the board a 1552  
copy of the physician's report of a physical examination that 1553  
incorporates the standards or procedures described in division 1554  
(A)(1) of this section. If an employer fails to forward the report 1555  
in the form required by the board on or before the date that is 1556  
sixty days after the employee becomes a member of the fund, the 1557  
board shall assess against the employer a penalty determined under 1558  
section 742.353 of the Revised Code. 1559

(B) Application for a disability benefit may be made by a 1560  
member of the fund or, if the member is incapacitated as defined 1561  
in rules adopted by the board, by a person acting on the member's 1562  
behalf. Not later than fourteen days after receiving an 1563  
application for a disability benefit from a member or a person 1564  
acting on behalf of a member, the board shall notify the member's 1565  
employer that an application has been filed. The notice shall 1566

state the member's position or rank. Not later than twenty-eight 1567  
days after receiving the notice or filing an application on behalf 1568  
of a member, the employer shall forward to the board a statement 1569  
certifying the member's job description and any other information 1570  
required by the board to process the application. 1571

If the member applying for a disability benefit becomes a 1572  
member of the fund prior to the date the minimum standards or 1573  
procedures described in division (A)(1) of this section take 1574  
effect, the board may request from the member's employer a copy of 1575  
the physician's report of the member's physical examination taken 1576  
on entry into the police or fire department or, if the employer 1577  
does not have a copy of the report, a written statement certifying 1578  
that the employer does not have a copy of the report. If an 1579  
employer fails to forward the report or statement in the form 1580  
required by the board on or before the date that is twenty-eight 1581  
days after the date of the request, the board shall assess against 1582  
the employer a penalty determined under section 742.353 of the 1583  
Revised Code. The board shall maintain the information submitted 1584  
under this division and division (A)(2) of this section in the 1585  
member's file. 1586

(C) For purposes of determining under division (D) of this 1587  
section whether a member of the fund is disabled, the board shall 1588  
adopt rules establishing objective criteria under which the board 1589  
shall make the determination. The rules shall include standards 1590  
that provide for all of the following: 1591

(1) Evaluating a member's illness or injury on which an 1592  
application for disability benefits is based; 1593

(2) Defining the occupational duties of a police officer or 1594  
firefighter; 1595

(3) Providing for the board to assign competent and 1596  
disinterested physicians and vocational evaluators to conduct 1597

examinations of a member; 1598

(4) Requiring a written report for each disability 1599  
application that includes a summary of findings, medical opinions, 1600  
including an opinion on whether the illness or injury upon which 1601  
the member's application for disability benefits is based was 1602  
caused or induced by the actual performance of the member's 1603  
official duties, and any recommendations or comments based on the 1604  
medical opinions; 1605

(5) Providing for the board to consider the member's 1606  
potential for retraining or reemployment. 1607

(D) This division does not apply to members of the fund who 1608  
have elected to receive benefits and pensions in accordance with 1609  
division (A) or (B) of section 742.37 of the Revised Code or from 1610  
a police relief and pension fund or a firemen's relief and pension 1611  
fund in accordance with the rules of that fund in force on April 1612  
1, 1947. 1613

~~(1)~~ As used in this division ~~(D)(1) of this section:~~ 1614

~~(a)~~ "Totally disabled" means a member of the fund is unable 1615  
to perform the duties of any gainful occupation for which the 1616  
member is reasonably fitted by training, experience, and 1617  
accomplishments. Absolute helplessness is not a prerequisite of 1618  
being totally disabled. 1619

~~(b)~~ "Permanently disabled" means a condition of disability 1620  
from which there is no present indication of recovery. 1621

(1) A member of the fund who is permanently and totally 1622  
disabled as the result of the performance of the member's official 1623  
duties as a member of a police or fire department shall be paid 1624  
annual disability benefits in accordance with division (A) of 1625  
section 742.39 of the Revised Code. In determining whether a 1626  
member of the fund is permanently and totally disabled, the board 1627  
shall consider standards adopted under division (C) of this 1628

section applicable to the determination. 1629

(2) A member of the fund who is permanently and partially 1630  
disabled as the result of the performance of the member's official 1631  
duties as a member of a police or fire department shall, if the 1632  
disability prevents the member from performing those duties and 1633  
impairs the member's earning capacity, receive annual disability 1634  
benefits in accordance with division (B) of section 742.39 of the 1635  
Revised Code. In determining whether a member of the fund is 1636  
permanently and partially disabled, the board shall consider 1637  
standards adopted under division (C) of this section applicable to 1638  
the determination. 1639

(3) A member of the fund who is permanently disabled as a 1640  
result of heart disease or any cardiovascular or respiratory 1641  
disease of a chronic nature, which disease or any evidence of 1642  
which disease was not revealed by the physical examination passed 1643  
by the member on entry into the department or another examination 1644  
specified in rules the board adopts under section 742.10 of the 1645  
Revised Code, is presumed to have incurred the disease while 1646  
performing the member's official duties, unless the contrary is 1647  
shown by competent evidence. The board may waive the requirement 1648  
that the absence of disease be evidenced by a physical examination 1649  
if competent medical evidence of a type specified in rules adopted 1650  
under section 742.10 of the Revised Code is submitted documenting 1651  
that the disease was not evident prior to or at the time of entry 1652  
into the department. 1653

(4) A member of the fund who has ~~completed~~ five or more years 1654  
of ~~active service in a police or fire department~~ credit and has 1655  
incurred a permanent disability not caused or induced by the 1656  
actual performance of the member's official duties as a member of 1657  
the department, or by the member's own negligence, shall if the 1658  
disability prevents the member from performing those duties and 1659  
impairs the member's earning capacity, receive annual disability 1660

benefits in accordance with division (C) of section 742.39 of the  
Revised Code. In determining whether a member of the fund is  
permanently 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 (D)(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. 742.39.** (A) A member of the Ohio police and fire pension fund determined to be eligible for a disability benefit under division (D)(1) of section 742.38 of the Revised Code shall be paid annual disability benefits, payable in twelve monthly installments, in an amount equal to seventy-two per cent of the member's average annual salary. If, as of July 2, 2013, the member had fifteen or more years of service credit, the average annual salary shall be determined using three years of contributions. If, as of that date, the member had less than fifteen years of service credit, the average annual salary shall be determined using five years of contributions.

(B) A member of the fund determined to be eligible for a disability benefit under division (D)(2) of section 742.38 of the Revised Code shall be paid annual disability benefits, payable in twelve monthly installments. If the member has fewer than twenty-five years of ~~active service in a police or fire department~~ credit, the benefit shall be in an amount fixed by the board of trustees of the Ohio police and fire pension fund. The board may increase or decrease the benefit whenever the board determines that the impairment of the member's earning capacity warrants an increase or decrease based on the standards adopted under division (C) of section 742.38 of the Revised Code applicable to the determination, but in no event shall the benefit exceed sixty per cent of the member's average annual salary.

A member who has ~~completed~~ twenty-five or more years of ~~active service in the department~~ credit shall receive annual disability benefits, 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 of service of the department~~ credit, plus two per cent for each of the twenty-first to twenty-fifth years ~~the member was in~~



~~the active of service of the department credit, plus one and~~ 1724  
~~one-half per cent for each year in excess of twenty-five years ~~the~~~~ 1725  
~~member was in the active of service of the department credit. The~~ 1726  
annual disability benefit shall not exceed seventy-two per cent of 1727  
the member's average annual salary. 1728

In calculating a benefit under this division, a member's 1729  
average annual salary shall be determined using three years of 1730  
contributions if, as of July 2, 2013, the member had fifteen or 1731  
more years of service credit. If, as of that date, the member had 1732  
less than fifteen years of service credit, the average annual 1733  
salary shall be determined using five years of contributions. 1734

(C) A member of the fund determined to be eligible for a 1735  
disability benefit under division (D)(4) of section 742.38 of the 1736  
Revised Code shall be paid annual disability benefits, payable in 1737  
twelve monthly installments, in an amount to be fixed by the 1738  
board. The board may increase or decrease the benefits whenever 1739  
the board determines that the impairment of the member's earning 1740  
capacity warrants an increase or decrease based on the standards 1741  
adopted under division (C) of section 742.38 of the Revised Code 1742  
applicable to the determination, but in no event shall a benefit 1743  
paid to the member exceed sixty per cent of the member's average 1744  
annual salary. 1745

(D) Each of the following persons who on July 1, 1999, is 1746  
receiving annual benefits of less than six thousand six hundred 1747  
dollars shall have the benefits increased to that amount effective 1748  
July 1, 1999: 1749

(1) A person receiving annual benefits described in division 1750  
(A) of this section; 1751

(2) A person receiving annual benefits described in division 1752  
(C) of this section based on an award made prior to September 16, 1753  
1998. 1754

(E) Benefits payable under this section continue until death 1755  
unless adjusted under division (D)(5) of section 742.38 of the 1756  
Revised Code or adjusted or terminated under division (C)(3) of 1757  
section 742.40 of the Revised Code. 1758

**Sec. 742.44.** Except as provided in section 742.14 of the 1759  
Revised Code, at any time prior to filing an application for 1760  
retirement under division (C)(1) of section 742.37 of the Revised 1761  
Code, a member who has attained the requisite age and is eligible 1762  
to retire under that division may elect to participate in the 1763  
deferred retirement option plan established under section 742.43 1764  
of the Revised Code. 1765

To make an election, an eligible member shall complete and 1766  
submit to the Ohio police and fire pension fund a form prescribed 1767  
by the fund. At this time the member may, but is not required to, 1768  
elect under section 742.3711 of the Revised Code to have the 1769  
member's monthly pension calculated as a retirement allowance 1770  
payable throughout the member's life or a retirement allowance 1771  
under option 2 in division (A) of section 742.3711 of the Revised 1772  
Code. ~~Unless rescinded during a period specified in rules adopted~~ 1773  
~~under section 742.43 of the Revised Code, the~~ The election is 1774  
irrevocable from the date it is received by the fund ~~until the~~ 1775  
~~employee ceases to participate in the plan as provided in section~~ 1776  
~~742.444 of the Revised Code~~ unless the member is required to 1777  
select a plan of payment providing for payment in a specified 1778  
amount continuing after the member's death to a former spouse 1779  
pursuant to a court order issued prior to the effective date of 1780  
the member's retirement under section 3105.171 or 3105.65 of the 1781  
Revised Code or the laws of another state regarding division of 1782  
marital property. 1783

A member is not required to specify the number of years or 1784  
portion of a year the member will participate in the plan but must 1785

agree to terminate active service in a police or fire department 1786  
and begin receiving the member's pension not later than the date 1787  
that is eight years after the effective date of the election to 1788  
participate in the plan or be subject to the forfeiture provisions 1789  
of division (C) of section 742.444 of the Revised Code. 1790

The effective date of an election made under this section is 1791  
the first day of the employer's first payroll period immediately 1792  
following the board's receipt of the notice of election. 1793

**Sec. 742.442.** For each member who elects to participate in 1794  
the deferred retirement option plan, the Ohio police and fire 1795  
pension fund shall determine under division (C)(1) of section 1796  
742.37 of the Revised Code the monthly pension amount that would 1797  
be payable to the member had the member elected to receive a 1798  
pension under that division. In determining the pension amount, 1799  
the fund shall use the member's total service credit and average 1800  
annual salary as of the last day of the employer's payroll period 1801  
immediately prior to the effective date of the member's election 1802  
to participate in the plan. The pension amount shall be calculated 1803  
as a retirement allowance payable for the member's life, except 1804  
that, if at the time of electing to participate in the plan the 1805  
member selected the plan of payment in option 2 of division (A) of 1806  
section 742.3711 of the Revised Code, the pension shall be 1807  
calculated using that plan of payment. 1808

A member who participates in the plan is not eligible to make 1809  
an election under division ~~(B)~~(D) of section 742.3716 of the 1810  
Revised Code. 1811

**Sec. 742.443.** (A) During the period beginning on the 1812  
effective date of an election to participate in the deferred 1813  
retirement option plan and ending on the date participation 1814  
ceases, a member's monthly pension amount determined under section 1815

742.442 of the Revised Code shall accrue to the member's benefit. 1816  
~~To~~ If the member is eligible for increases under section 742.3716 1817  
of the Revised Code, to this amount shall be added any benefit 1818  
increases the member would be eligible for under ~~division (C) of~~ 1819  
~~section 742.3716 of the Revised Code that section~~ had the member, 1820  
on the effective date of the member's election, retired under 1821  
division (C)(1) of section 742.37 of the Revised Code. 1822

(B)(1) The amounts contributed under section 742.31 of the 1823  
Revised Code by a member ~~participating who, before July 2, 2013,~~ 1824  
elects to participate in the deferred retirement option plan shall 1825  
accrue to the member's benefit as follows: 1826

(a) During the period beginning on the first day of the first 1827  
payroll period after the election's effective date and ending on 1828  
the earlier of the date that is two years thereafter or the date 1829  
the member ceases participation in the plan, fifty per cent of the 1830  
member's contributions for that period; 1831

(b) During the period beginning on the date that is two years 1832  
and one day after accruals begin under this division and ending on 1833  
the earlier of the date that is three years thereafter or the date 1834  
the member ceases participation in the plan, seventy-five per cent 1835  
of the member's contributions for that period; 1836

(c) During the period beginning on the date that is three 1837  
years and one day after accruals begin under this section and 1838  
ending on the date the member ceases participation in the plan, 1839  
one hundred per cent of the member's contributions for that 1840  
period. 1841

(2) The amounts contributed under section 742.31 of the 1842  
Revised Code by a member who, on or after July 2, 2013, elects to 1843  
participate in the deferred retirement option plan shall accrue to 1844  
the member's benefit as follows: 1845

(a) During the period beginning on the first day of the first 1846  
payroll period after the election's effective date and ending on 1847  
the earlier of the date that is three years thereafter or the date 1848  
the member ceases participation in the plan, fifty per cent of the 1849  
member's contributions for that period; 1850

(b) During the period beginning on the date that is three 1851  
years and one day after accruals begin under this division and 1852  
ending on the earlier of the date that is five years thereafter or 1853  
the date the member ceases participation in the plan, seventy-five 1854  
per cent of the member's contributions for that period; 1855

(c) During the period beginning on the date that is five 1856  
years and one day after accruals begin under this section and 1857  
ending on the date the member ceases participation in the plan, 1858  
one hundred per cent of the member's contributions for that 1859  
period. 1860

(3) The Ohio police and fire pension fund shall credit the 1861  
portion of a member's contributions that are not accrued to the 1862  
member's benefit under division (B)(1) or (2) of this section to 1863  
the police officers' contribution fund or firefighters' 1864  
contribution fund, as appropriate. 1865

(C) During the period beginning on the election's effective 1866  
date and ending on the day before the date distributions under 1867  
division (B)(3) of section 742.444 of the Revised Code are 1868  
completed, the amounts described in divisions (A) and (B)(1) of 1869  
this section shall earn interest at an annual rate established by 1870  
the board of trustees of the fund and compounded annually using a 1871  
method established by rule adopted under section 742.43 of the 1872  
Revised Code. 1873

**Sec. 742.444.** (A) A member's participation in the deferred 1874  
retirement option plan ceases on the occurrence of the earliest of 1875  
the following: 1876

(1) Termination of the member's active service in a police or fire department; 1877  
1878

(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; 1879  
1880  
1881

(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; 1882  
1883  
1884  
1885

(4) The member's death. 1886

(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: 1887  
1888  
1889  
1890

(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. 1891  
1892  
1893  
1894

(2) If the member's termination of active service occurs ~~on or after the date that is the first day of the fourth year after the effective date of the election to participate~~ the member has completed five years of participation in the plan, the entire amount that has accrued to the member's benefit under the deferred retirement option plan shall be distributed to the member pursuant to the member's selection under division (B)(3) of this section. 1895  
1896  
1897  
1898  
1899  
1900  
1901  
1902  
1903  
1904  
1905  
1906

If the member's termination of active service occurs before the ~~date that is four years after the effective date of the election to participate~~ member has completed five years of participation, the member shall forfeit the total amount of the interest credited under division (C) of section 742.443 of the Revised Code. 1907

(3) The member shall select one of the following as the 1907

method of distribution of the amount to be distributed to the 1908  
member: 1909

(a) A single payment; 1910

(b) Periodic payments as determined by the board. 1911

The fund shall retain amounts accrued to the benefit of a 1912  
member under the plan until a form specifying the method of 1913  
distribution selected is filed with the fund by the member or an 1914  
authorized representative of the member. 1915

The board shall afford a member who selects periodic payments 1916  
the opportunity at least once during each calendar year to change 1917  
the member's selection. 1918

(4) Distribution of the amount accrued to a member's benefit 1919  
under the deferred retirement option plan shall not commence until 1920  
the member has completed five years of participation, which shall 1921  
be the date that is the first day of the ~~fourth~~ sixth year after 1922  
the effective date of the election. 1923

(5) The member shall select a plan of payment under section 1924  
742.3711 of the Revised Code for the pension payable to the member 1925  
under division (C) of section 742.37 of the Revised Code, unless 1926  
the member selected a plan of payment at the time of electing to 1927  
participate in the plan. The pension shall commence not later than 1928  
the first day of the second month following the date the employee 1929  
ceases to participate in the plan. 1930

(C) If, at the end of the eight-year period that begins on 1931  
the effective date of a member's election to participate in the 1932  
plan, the member has failed to terminate active service in a 1933  
police or fire department, all of the following apply: 1934

(1) No further amounts shall accrue to the member's benefit, 1935  
and the member shall forfeit all amounts that have accrued to the 1936  
member's benefit under section 742.443 of the Revised Code. The 1937

amounts forfeited shall be treated as if the member had continued 1938  
in the active service of a police or fire department and not 1939  
elected to participate in the plan. 1940

(2) The member shall be granted service credit for the period 1941  
the member was participating in the plan, and when the member's 1942  
pension is calculated under section 742.37 of the Revised Code, 1943  
the calculation shall be made as though the member had never 1944  
participated in the plan. 1945

(3) Further contributions, and service credit for those 1946  
contributions, shall be credited as provided in sections 742.31 1947  
through 742.34 of the Revised Code. 1948

**Sec. 742.45.** (A) The board of trustees of the Ohio police and 1949  
fire pension fund may enter into an agreement with insurance 1950  
companies, health insuring corporations, or government agencies 1951  
authorized to do business in the state for issuance of a policy or 1952  
contract of health, medical, hospital, or surgical benefits, or 1953  
any combination thereof, for those individuals receiving service 1954  
or disability pensions or survivor benefits subscribing to the 1955  
plan. Notwithstanding any other provision of this chapter, the 1956  
policy or contract may also include coverage for any eligible 1957  
individual's spouse and dependent children and for any of the 1958  
eligible individual's sponsored dependents as the board considers 1959  
appropriate. 1960

If all or any portion of the policy or contract premium is to 1961  
be paid by any individual receiving a service, disability, or 1962  
survivor pension or benefit, the individual shall, by written 1963  
authorization, instruct the board to deduct from the individual's 1964  
benefit the premium agreed to be paid by the individual to the 1965  
company, corporation, or agency. 1966

The board may contract for coverage on the basis of part or 1967  
all of the cost of the coverage to be paid from appropriate funds 1968



of the Ohio police and fire pension fund. The cost paid from the 1969  
funds of the Ohio police and fire pension fund shall be included 1970  
in the employer's contribution rates provided by sections 742.33 1971  
and 742.34 of the Revised Code. 1972

The board may provide for self-insurance of risk or level of 1973  
risk as set forth in the contract with the companies, 1974  
corporations, or agencies, and may provide through the 1975  
self-insurance method specific benefits as authorized by the rules 1976  
of the board. 1977

(B) Except as otherwise provided in this division, the board 1978  
shall, beginning the month following receipt of satisfactory 1979  
evidence of the payment for coverage, pay monthly to each 1980  
recipient of service, disability, or survivor benefits under the 1981  
Ohio police and fire pension fund who is eligible for ~~medical~~ 1982  
~~insurance~~ coverage under part B of the medicare program 1983  
established under Title XVIII of "The Social Security Amendments 1984  
of 1965," 79 Stat. 301 (1965), 42 U.S.C.A. 1395j, as amended, an 1985  
amount specified by the board or determined pursuant to a formula 1986  
established by the board that is not less than ninety-six dollars 1987  
and forty cents, for such coverage, except that the board shall 1988  
not pay an amount that exceeds the amount paid by the recipient 1989  
for the coverage. 1990

The board shall pay not more than one monthly premium under 1991  
this division to an eligible benefit recipient even if the 1992  
recipient is receiving more than one monthly benefit from the 1993  
fund. The board shall not pay a monthly premium under this 1994  
division to an eligible benefit recipient who is receiving 1995  
reimbursement for the premium from any other source. 1996

(C) The board shall establish by rule requirements for the 1997  
coordination of any coverage, payment, or benefit provided under 1998  
this section with any similar coverage, payment, or benefit made 1999  
available to the same individual by the public employees 2000

retirement system, state teachers retirement system, school 2001  
employees retirement system, or state highway patrol retirement 2002  
system. 2003

(D) The board shall make all other necessary rules pursuant 2004  
to the purpose and intent of this section. 2005

**Sec. 742.63.** The board of trustees of the Ohio police and 2006  
fire pension fund shall adopt rules for the management of the Ohio 2007  
public safety officers death benefit fund and for disbursements of 2008  
benefits as set forth in this section. 2009

(A) As used in this section: 2010

(1) "Member" means all of the following: 2011

(a) A member of the Ohio police and fire pension fund, 2012  
including a member of the fund who has elected to participate in 2013  
the deferred retirement option plan established under section 2014  
742.43 of the Revised Code or a member of or contributor to a 2015  
police or firemen's relief and pension fund established under 2016  
former Chapter 521. or 741. of the Revised Code; 2017

(b) A member of the state highway patrol retirement system, 2018  
including a member who is participating in the deferred retirement 2019  
option plan established under section 5505.50 of the Revised Code; 2020

(c) A member of the public employees retirement system who at 2021  
the time of the member's death was one of the following: 2022

(i) A county sheriff or deputy sheriff; 2023

(ii) A full-time regular police officer in a municipal 2024  
corporation or township; 2025

(iii) A full-time regular firefighter employed by the state, 2026  
an instrumentality of the state, a municipal corporation, a 2027  
township, a joint fire district, or another political subdivision; 2028

(iv) A full-time park district ranger or patrol trooper; 2029

(v) A full-time law enforcement officer of the department of natural resources;	2030 2031
(vi) A full-time department of public safety enforcement agent;	2032 2033
(vii) A full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of a municipal corporation;	2034 2035 2036
(viii) A full-time law enforcement officer of a conservancy district;	2037 2038
(ix) A correction officer at an institution under the control of a county, a group of counties, a municipal corporation, or the department of rehabilitation and correction;	2039 2040 2041
(x) A state university law enforcement officer;	2042
(xi) An investigator, as defined in section 109.541 of the Revised Code, or an investigator commissioned as a special agent of the bureau of criminal identification and investigation.	2043 2044 2045
(xii) A drug agent, as defined in section 145.01 of the Revised Code.	2046 2047
(d) A member of a retirement system operated by a municipal corporation who at the time of death was a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of the municipal corporation.	2048 2049 2050 2051
(2) Notwithstanding section 742.01 of the Revised Code, "fire or police department" includes a fire department of the state or an instrumentality of the state or of a municipal corporation, township, joint fire district, or other political subdivision, the state highway patrol, a county sheriff's office, the security force of an institution under the control of the department of rehabilitation and correction, the security force of a jail or workhouse under the control of a county, group of counties, or	2052 2053 2054 2055 2056 2057 2058 2059

municipal corporation, the security force of a metropolitan, 2060  
county, or township park district, the security force of lands 2061  
under the control of the department of natural resources, 2062  
department of public safety enforcement agents, the security force 2063  
of parks, waterway lands, or reservoir lands under the control of 2064  
a municipal corporation, the security force of a conservancy 2065  
district, the police department of a township or municipal 2066  
corporation, and the police force of a state university. 2067

(3) "Firefighter or police officer" includes a state highway 2068  
patrol trooper, a county sheriff or deputy sheriff, a correction 2069  
officer at an institution under the control of a county, a group 2070  
of counties, a municipal corporation, or the department of 2071  
rehabilitation and correction, a police officer employed by a 2072  
township or municipal corporation, a firefighter employed by the 2073  
state, an instrumentality of the state, a municipal corporation, a 2074  
township, a joint fire district, or another political subdivision, 2075  
a full-time park district ranger or patrol trooper, a full-time 2076  
law enforcement officer of the department of natural resources, a 2077  
full-time department of public safety enforcement agent, a 2078  
full-time law enforcement officer of parks, waterway lands, or 2079  
reservoir lands under the control of a municipal corporation, a 2080  
full-time law enforcement officer of a conservancy district, and a 2081  
state university law enforcement officer. 2082

(4) "Correction officer" includes, in addition to any 2083  
correction officer, any correction corporal, sergeant, lieutenant, 2084  
or captain, and the equivalents of all such persons. 2085

(5) "A park district ranger or patrol trooper" means a peace 2086  
officer commissioned to make arrests, execute warrants, and 2087  
preserve the peace upon lands under the control of a board of park 2088  
commissioners of a metropolitan, county, or township park 2089  
district. 2090

(6) "Metropolitan, county, or township park district" means a 2091

park district created under the authority of Chapter 511. or 1545. 2092  
of the Revised Code. 2093

(7) "Conservancy district" means a conservancy district 2094  
created under the authority of Chapter 6101. of the Revised Code. 2095

(8) "Law enforcement officer" means an officer commissioned 2096  
to make arrests, execute warrants, and preserve the peace upon 2097  
lands under the control of the governmental entity granting the 2098  
commission. 2099

(9) "Department of natural resources law enforcement officer" 2100  
includes a forest officer designated pursuant to section 1503.29 2101  
of the Revised Code, a preserve officer designated pursuant to 2102  
section 1517.10 of the Revised Code, a wildlife officer designated 2103  
pursuant to section 1531.13 of the Revised Code, a park officer 2104  
designated pursuant to section 1541.10 of the Revised Code, and a 2105  
state watercraft officer designated pursuant to section 1547.521 2106  
of the Revised Code. 2107

(10) "Retirement eligibility date" means the last day of the 2108  
month in which a deceased member would have first become eligible, 2109  
had the member lived, for the retirement pension provided under 2110  
~~section 145.33~~, Chapter 145., 521. or 741., division (C)(1) of 2111  
section 742.37, or division (A)(1) of section 5505.17 of the 2112  
Revised Code or provided by a retirement system operated by a 2113  
municipal corporation. 2114

(11) "Death benefit amount" means an amount equal to the full 2115  
monthly salary received by a deceased member prior to death, minus 2116  
an amount equal to the benefit received under section 145.45, 2117  
742.37, 742.3714, or 5505.17 of the Revised Code or the benefit 2118  
received from a retirement system operated by a municipal 2119  
corporation, plus any increases in salary that would have been 2120  
granted the deceased member. 2121

(12) "Killed in the line of duty" means either of the 2122

following: 2123

    (a) Death in the line of duty; 2124

    (b) Death from injury sustained in the line of duty, 2125  
including heart attack or other fatal injury or illness caused 2126  
while in the line of duty. 2127

    (B) A spouse of a deceased member shall receive a death 2128  
benefit each month equal to the full death benefit amount, 2129  
provided that the deceased member was a firefighter or police 2130  
officer killed in the line of duty and there are no surviving 2131  
children eligible for a benefit under this section. The spouse 2132  
shall receive this benefit during the spouse's natural life until 2133  
the deceased member's retirement eligibility date, on which date 2134  
the benefit provided under this division shall terminate. 2135

    (C)(1) If a member killed in the line of duty as a 2136  
firefighter or police officer is survived only by a child or 2137  
children, the child or children shall receive a benefit each month 2138  
equal to the full death benefit amount. If there is more than one 2139  
surviving child, the benefit shall be divided equally among these 2140  
children. 2141

    (2) If the death benefit paid under this division is divided 2142  
among two or more surviving children and any of the children 2143  
become ineligible to continue receiving a portion of the benefit 2144  
as provided in division (H) of this section, the full death 2145  
benefit amount shall be paid to the remaining eligible child or 2146  
divided among the eligible children so that the benefit paid to 2147  
the remaining eligible child or children equals the full death 2148  
benefit amount. 2149

    (3) Notwithstanding divisions (C)(1) and (2) of this section, 2150  
all death benefits paid under this division shall terminate on the 2151  
deceased member's retirement eligibility date. 2152

    (D) If a member killed in the line of duty as a firefighter 2153

or police officer is survived by both a spouse and a child or 2154  
children, the monthly benefit provided shall be as follows: 2155

(1)(a) If there is a surviving spouse and one surviving 2156  
child, the spouse shall receive an amount each month equal to 2157  
one-half of the full death benefit amount and the child shall 2158  
receive an amount equal to one-half of the full death benefit 2159  
amount. 2160

(b) If the surviving spouse dies or the child becomes 2161  
ineligible as provided in division (H) of this section, the 2162  
surviving spouse or child remaining eligible shall receive the 2163  
full death benefit amount. 2164

(2)(a) If there is a surviving spouse and more than one 2165  
child, the spouse shall receive an amount each month equal to 2166  
one-third of the full death benefit amount and the children shall 2167  
receive an amount, equally divided among them, equal to two-thirds 2168  
of the full death benefit amount. 2169

(b) If a spouse and more than one child each are receiving a 2170  
death benefit under division (D)(2)(a) of this section and the 2171  
spouse dies, the children shall receive an amount each month, 2172  
equally divided among them, equal to the full death benefit 2173  
amount. 2174

(c) If a spouse and more than one child each are receiving a 2175  
benefit under division (D)(2)(a) of this section and any of the 2176  
children becomes ineligible to receive a benefit as provided in 2177  
division (H) of this section, the spouse and remaining eligible 2178  
child or children shall receive a death benefit as follows: 2179

(i) If there are two or more remaining eligible children, the 2180  
spouse shall receive an amount each month equal to one-third of 2181  
the full death benefit amount and the children shall receive an 2182  
amount each month, equally divided among them, equal to two-thirds 2183  
of the full death benefit amount; 2184

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

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

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

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

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

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



eligibility date prior to the member's death; 2216

(b) A qualified surviving spouse of a deceased member of or 2217  
contributor to a police or firemen's relief and pension fund 2218  
established under former Chapter 521. or 741. of the Revised Code 2219  
who was a firefighter or police officer killed in the line of 2220  
duty. 2221

(2) The monthly death benefit shall be one-half of an amount 2222  
equal to the monthly salary received by the deceased member prior 2223  
to the member's death, plus any salary increases the deceased 2224  
member would have received prior to the member's retirement 2225  
eligibility date. The benefit shall terminate on the surviving 2226  
spouse's death. A death benefit payable under this division shall 2227  
be reduced by an amount equal to any allowance or benefit payable 2228  
to the surviving spouse under section 742.3714 of the Revised 2229  
Code. 2230

(3) A benefit granted to a surviving spouse under division 2231  
(F)(1)(b) of this section shall commence on the first day of the 2232  
month immediately following receipt by the board of a completed 2233  
application on a form provided by the board and any evidence the 2234  
board may require to establish that the deceased spouse was killed 2235  
in the line of duty. 2236

(G)(1) If there is not a surviving spouse eligible to receive 2237  
a death benefit under division (F) of this section or the 2238  
surviving spouse receiving a death benefit under that division 2239  
dies, a surviving child or children whose benefits under division 2240  
(C) or (D) of this section are or have been terminated pursuant to 2241  
division (C)(3) or (D)(3) of this section or who would qualify for 2242  
a benefit under division (C) or (D) of this section except that 2243  
the deceased member reached the member's retirement eligibility 2244  
date prior to the member's death shall receive a monthly death 2245  
benefit under this division. The monthly death benefit shall be 2246  
one-half of an amount equal to the monthly salary received by the 2247

deceased member prior to the member's death, plus any salary 2248  
increases the member would have received prior to the member's 2249  
retirement eligibility date. If there is more than one surviving 2250  
child, the benefit shall be divided equally among the surviving 2251  
children. 2252

(2) If two or more surviving children each are receiving a 2253  
benefit under this division and any of those children becomes 2254  
ineligible to continue receiving a benefit as provided in division 2255  
(H) of this section, the remaining eligible child or children 2256  
shall receive an amount equal to one-half of the monthly salary 2257  
received by the deceased member prior to death, plus any salary 2258  
increases the deceased member would have received prior to the 2259  
retirement eligibility date. If there is more than one remaining 2260  
eligible child, the benefit shall be divided equally among the 2261  
eligible children. 2262

(3) A death benefit, or portion of a death benefit, payable 2263  
to a surviving child under this division shall be reduced by an 2264  
amount equal to any allowance or benefit payable to that child 2265  
under section 742.3714 of the Revised Code, but the reduction in 2266  
that child's benefit shall not affect the amount payable to any 2267  
other surviving child entitled to a portion of the death benefit. 2268

(H) A death benefit paid to a surviving child under division 2269  
(C), (D), or (G) of this section shall terminate on the death of 2270  
the child or, unless one of the following is the case, when the 2271  
child reaches age eighteen: 2272

(1) The child, because of physical or mental disability, is 2273  
unable to provide the child's own support, in which case the death 2274  
benefit shall terminate when the disability is removed; 2275

(2) The child is unmarried, under age twenty-two, and a 2276  
student in and attending an institution of learning or training 2277  
pursuant to a program designed to complete in each school year the 2278

equivalent of at least two-thirds of the full-time curriculum 2279  
requirements of the institution, as determined by the trustees of 2280  
the fund. 2281

(I) Acceptance of any death benefit under this section does 2282  
not prohibit a spouse or child from receiving other benefits 2283  
provided under the Ohio police and fire pension fund, the state 2284  
highway patrol retirement system, the public employees retirement 2285  
system, or a retirement system operated by a municipal 2286  
corporation. 2287

(J) No person shall receive a benefit under this section if 2288  
any of the following occur: 2289

(1) The person fails to exercise the right to a monthly 2290  
survivor benefit under division (A) or (B) of section 145.45, 2291  
division (D), (E), or (F) of section 742.37, or division (A)(3), 2292  
(4), or (7) of section 5505.17 of the Revised Code; to a monthly 2293  
survivor benefit from a retirement system operated by a municipal 2294  
corporation; or to a retirement allowance under section 742.3714 2295  
of the Revised Code. 2296

(2) The member's accumulated contributions under this chapter 2297  
or Chapter 145. or 5505. of the Revised Code are refunded unless 2298  
the member had been a member of the public employees retirement 2299  
system and had fewer than eighteen months of total service credit 2300  
at the time of death. 2301

(3) In the case of a full-time park district ranger or patrol 2302  
trooper, a full-time law enforcement officer of the department of 2303  
natural resources, a full-time law enforcement officer of parks, 2304  
waterway lands, or reservoir lands under the control of a 2305  
municipal corporation, a full-time law enforcement officer of a 2306  
conservancy district, a correction officer at an institution under 2307  
the control of a county, group of counties, or municipal 2308  
corporation, or a member of a retirement system operated by a 2309

municipal corporation who at the time of the member's death was a 2310  
full-time law enforcement officer of parks, waterway lands, or 2311  
reservoir lands under the control of the municipal corporation, 2312  
the member died prior to April 9, 1981, in the case of a benefit 2313  
under division (B), (C), or (D) of this section, or prior to 2314  
January 1, 1980, in the case of a benefit under division (E) of 2315  
this section. 2316

(4) In the case of a full-time department of public safety 2317  
enforcement agent who prior to June 30, 1999, was a liquor control 2318  
investigator of the department of public safety, the member died 2319  
prior to December 23, 1986; 2320

(5) In the case of a full-time department of public safety 2321  
enforcement agent other than an enforcement agent who, prior to 2322  
June 30, 1999, was a liquor control investigator, the member died 2323  
prior to June 30, 1999. 2324

(K) A surviving spouse whose benefit was terminated prior to 2325  
June 30, 1999, due to remarriage shall receive a benefit under 2326  
division (B), (D), or (F) of this section beginning on the first 2327  
day of the month following receipt by the board of an application 2328  
on a form provided by the board. The benefit amount shall be 2329  
determined as of that date. 2330

(1) If the benefit will begin prior to the deceased member's 2331  
retirement eligibility date, it shall be paid under division (B) 2332  
or (D) of this section and shall terminate as provided in those 2333  
divisions. A benefit paid to a surviving spouse under division (D) 2334  
of this section shall be determined in accordance with that 2335  
division, even if benefits paid to surviving children are reduced 2336  
as a result. 2337

(2) If the benefit will begin on or after the deceased 2338  
member's retirement eligibility date, it shall be paid under 2339  
division (F) of this section and shall terminate as provided in 2340

that division. A benefit paid to a surviving spouse under division 2341  
(F) of this section shall be determined in accordance with that 2342  
division, even if benefits paid to surviving children are 2343  
terminated as a result. 2344

**Sec. 742.64.** If a any person ~~who is a disability benefit~~ 2345  
~~recipient or an alternate payee, as defined in section 3105.80 of~~ 2346  
~~the Revised Code,~~ is paid any benefit or payment by the Ohio 2347  
police and fire pension fund to which the person is not entitled, 2348  
the person shall repay the fund. If the person fails to repay, the 2349  
fund shall withhold the amount due from any benefit or payment due 2350  
the person or the person's beneficiary under this chapter or may 2351  
collect the amount in any other manner provided by law. 2352

**Section 2.** That existing sections 171.04, 742.01, 742.04, 2353  
742.10, 742.14, 742.16, 742.30, 742.301, 742.31, 742.32, 742.33, 2354  
742.34, 742.35, 742.37, 742.3711, 742.3716, 742.38, 742.39, 2355  
742.44, 742.442, 742.443, 742.444, 742.45, 742.63, and 742.64 and 2356  
section 742.011 of the Revised Code are hereby repealed. 2357

**Section 3.** (A) The amendments by this act of sections 742.33, 2358  
742.34, and 742.35 of the Revised Code regarding the frequency of 2359  
employer payments to the Ohio Police and Fire Pension Fund apply 2360  
to police officer employers' contributions and firefighter 2361  
employers' contributions due the Fund for employee payrolls paid 2362  
on or after the ninety-first day after the effective date of this 2363  
section. 2364

(B) Police officer employers' contributions and firefighter 2365  
employers' contributions due the Fund for employee payrolls paid 2366  
before the ninety-first day after the effective date of this 2367  
section shall be paid to the Fund not later than the date the 2368  
contributions would have been due under section 742.33 or 742.34 2369  
of the Revised Code, as those sections existed immediately prior 2370

to the effective date of this section. 2371

(C) Any applicable penalty determined under section 742.352 2372  
of the Revised Code shall be assessed against an employer if the 2373  
employer fails to make a payment on or before the date the payment 2374  
is due. 2375