

Sec. 742.01. As used in this chapter:

(A) "Member of a police department" means ~~any~~ BOTH OF THE FOLLOWING:

(1) ANY person who receives an original appointment as a full-time regular police officer in the police department of a municipal corporation from a duly established civil service eligible list or pursuant to section 124.411 of the Revised Code, or who is described in section 742.511 of the Revised Code, or who transfers from the public employees retirement system to the police and firemen's disability and pension fund pursuant to section 742.513 of the Revised Code, or who is appointed pursuant to section 737.15 or 737.16 of the Revised Code as a full-time regular police officer and is paid solely out of public funds of the employing municipal corporation; or

(2) ANY PERSON who, on October 1, 1965, was contributing four per cent of his annual salary to a police relief and pension fund established under former section 741.32 of the Revised Code.

(B) "Member of a fire department" means ~~any~~ ALL OF THE FOLLOWING:

(1) ANY person who receives an original appointment COMMENCES EMPLOYMENT AFTER THE EFFECTIVE DATE OF THIS AMENDMENT as a full-time regular fireman in the fire department of a municipal corporation from a duly established civil service eligible list, or who is appointed to a position in a municipal WITH THE STATE OR AN INSTRUMENTALITY OF THE STATE, OR WITH A MUNICIPAL, TOWNSHIP, JOINT FIRE DISTRICT, OR OTHER POLITICAL SUBDIVISION fire department under section 700.012 or 737.22 who, on October 1, 1965, was contributing four per cent of his annual salary to a firemen's relief and pension fund established under former section 741.02 of the Revised Code, or who is appointed to a position in a township fire department under section 505.38 of the Revised Code, or who, on October 1, 1965, was contributing four per cent of his annual salary to a township firemen's relief and pension fund established under former section 521.02 of the Revised Code, IN A POSITION IN WHICH HE IS REQUIRED TO SATISFACTORILY COMPLETE OR HAVE SATISFACTORILY COMPLETED A FIRE FIGHTER TRAINING COURSE APPROVED UNDER SECTION 3303.07 OR CONDUCTED UNDER SECTION 3737.33 OF THE REVISED CODE;

(2) ANY PERSON WHO HAS ELECTED UNDER SECTION 742.515 OF THE REVISED CODE TO BE TRANSFERRED FROM THE PUBLIC EMPLOYEES RETIREMENT SYSTEM TO THE POLICE AND FIREMEN'S DISABILITY AND PENSION FUND;

(3) ANY FULL-TIME FIREMAN WHO, ON THE EFFECTIVE DATE OF THIS AMENDMENT, IS A MEMBER OF THE POLICE AND FIREMEN'S DISABILITY AND PENSION FUND.

(C) "Employee" means any person who is in the employ of a municipal corporation as a member of a police or fire department or who is in the employ of a township as a member of the township A fire department.

(D) "Employer" means the municipal corporation or township GOVERNMENT ENTITY by which an employee is employed and paid.

(E) "Member of the fund" means any person who is contributing a percentage of his annual salary to the police and firemen's disability and pension fund or who is receiving a disability benefit or pension from such fund as a result of service in a police or fire department of a municipal corporation or in a SERVICE AS A FIREMAN WITH THE STATE OR AN INSTRUMENTALITY OF THE STATE, OR WITH A MUNICIPAL, township, JOINT FIRE DISTRICT, OR OTHER POLITICAL SUBDIVISION fire department. A contributor who is dismissed, resigns, or is granted a leave of absence from a police or fire department shall be considered a "member of the fund" for a period of twelve months after the first day of such dismissal, resignation, or leave of absence, provided the sum deducted from such person's salary and credited to his account in the fund remains on deposit in such fund.

(F) "Total disability" means inability to perform the duties of any gainful occupation for which the member of the fund is reasonably fitted by training, experience, and accomplishments, provided that absolute helplessness is not a prerequisite of total disability.

(G) "Permanent disability" means a condition of disability with respect to which the board of trustees of the police and firemen's disability and pension fund finds there is no present indication of recovery. For purposes of making such a determination, the board shall consider and base its findings on all competent evidence, including medical testimony, opinions, and statements, made available to it.

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

(I) "Average annual salary" means the highest average annual salary of a member of the fund during any three years of contributions determined by dividing his total salary as an employee during such years by three.

(J) "Normal service pension benefit" means the pension benefit payable to a member of the fund under division (C)(1) of section 742.37 of the Revised Code upon attaining age fifty-two.

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

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

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

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

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

(M) "Terminal pay" means the following payments made by an employer to an employee on termination of his employment:

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

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

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(3) Payments for overtime worked that are not included either in the payroll for the period in which they are worked or for the next subsequent payroll period;

(4) Other payments that are not compensation for services rendered in the last pay period in which services were rendered and are designated as terminal pay by rule of the board of trustees of the police and firemen's disability and pension fund. The board shall not designate as terminal pay payments deferred one year or less compensating an employee for holidays worked or for longevity.

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

(1) Compensation for services outside the scope of a member's regular employment;

(2) Reimbursement of expenses;

(3) Terminal pay;

(4) Payments for accrued but unused sick leave or personal leave, or vacation pay covering periods for which salary, compensation, or benefits are paid;

(5) Payments made to or on behalf of a member 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," Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended.

"Salary" does include payments for overtime that are made not later than the payroll following the payroll period in which the overtime is worked.

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