

active members.

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

The first increase is payable to all eligible persons on July 1, 1988. The increase is payable for the ensuing twelve-month period or until the next increase is granted under this section, whichever is later.

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

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

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

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

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

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

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

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

~~(iv) Is receiving a benefit in accordance with division (A), (B), or (C) of section 742.37, division (C)(2), (3), (4), or (5) of former section 742.37, section 742.3711, or section 742.39 of the Revised Code.~~

~~(b)(1) "Recalculated average annual salary" means the highest average annual compensation of a member of the Ohio police and fire pension fund during any three years of contributions, including amounts included in terminal pay attributable to such three years, determined by dividing the member's total earnings as an employee during such years by three.~~

~~(2) In the case of a member participating in the deferred retirement~~

~~option plan established under section 742.43 of the Revised Code or a member described in division (B) of section 742.444 of the Revised Code, the period of one year or more described in division (A)(1)(a)(i) of this section begins on the effective date of the member's election under section 742.44 of the Revised Code.~~

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

~~(2) If the member eligible to make the election under division (B)(1) of this section dies prior to making the election and at the time of death is eligible to retire and receive a pension or benefit under division (C)(1) or (3) of section 742.37 of the Revised Code, the person entitled to receive a benefit under section 742.3714 of the Revised Code may make the election provided for in division (B)(1) of this section.~~

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

~~(C)(1) The (2) "Consumer price index" means the index, as prepared by the United States bureau of labor statistics (U.S. city average for urban wage earners and clerical workers: all items 1982-84=100), or, if that index is no longer published, a generally available comparable index.~~

~~(B) For persons who become members of the fund on or after July 1, 2013, and members of the fund who as of July 1, 2013, have less than~~

fifteen years of service credit and are not receiving a pension or disability benefit under this chapter, the board of trustees of the Ohio police and fire pension fund shall annually increase ~~all the pension or benefits that become~~ payable to eligible persons by three per cent, except that no benefit shall each member pursuant to section 742.37 of the Revised Code or division (D)(2) or (4) of section 742.38 of the Revised Code once the member has received the pension or benefit for at least one year and has attained the age of fifty-five. Benefits that become payable pursuant to division (D)(1) of section 742.38 of the Revised Code shall be increased annually once the member has received the benefits for at least one year.

The pension or benefit shall be increased by the lesser of the following:

(1) Three per cent;

(2) The percentage increase, if any, in the consumer price index over the twelve-month period that ends on the thirtieth day of September of the immediately preceding year, rounded to the nearest one-tenth of one per cent.

In no event shall the pension or benefit exceed the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

The first increase is payable to all eligible persons who on July 1, 1988, have been receiving a pension or benefit for twelve months or longer. The increase is payable for the ensuing twelve-month period or until the next increase is granted under this section, whichever is later.

The date of the first increase paid under this ~~section~~ division shall be the anniversary date for future increases. The pension or benefit used in the first calculation of an increase under this ~~section~~ division shall remain as the base for all future increases paid under this ~~section~~ division, unless a new base is established by law. ~~In the case of a member who has elected~~

(C) For members of the fund who as of July 1, 2013, have fifteen or more years of service credit and are not receiving a pension or disability benefit under this chapter and members who are receiving a pension or disability benefit that became effective before that date and did not make the election under division (D) of this section, the board shall annually increase the pension or benefits that become payable to each member pursuant to section 742.37 of the Revised Code or division (D)(2) or (4) of section 742.38 of the Revised Code once the member has received the pension or benefits for at least one year and has attained the age of fifty-five. Benefits that become payable pursuant to division (D)(1) of section 742.38 of the Revised Code shall be increased once the member has received the benefits for at least one year.

The pension or disability benefit shall be increased by three per cent. In no event shall the pension or benefit exceed the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 415, as amended.

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

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

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

(3) The election under division (D)(1) or (2) of this section shall be made on forms provided by the fund. Once received by the fund, the election is irrevocable and binds the member and any other person who receives a pension or benefit based on the member's service. No person who receives a pension or benefit calculated in accordance with division (D) of this section is eligible to receive an increase under this section. If the person making the election receives a benefit under section 742.3714 of the Revised Code, that person is not eligible to receive an increase under division (G) of section 742.3711 of the Revised Code.

(E) A member whose election to participate in the deferred retirement option plan established under section 742.43 of the Revised Code ~~or a member described in division (B) of section 742.444 of the Revised Code,~~ the pension amount used in the first calculation of an increase under this section shall be the amount calculated under section 742.442 of the Revised Code unless the member's participation has terminated pursuant to division

~~(C) of section 742.444 or to section 742.445 of the Revised Code.~~

~~(2) Increases paid in years subsequent to the year of the first increase paid under this section shall be paid to all eligible persons who, on the date that the increase is authorized by the board, have been receiving a pension or benefit for twelve months is effective prior to July 2, 2013, is eligible to receive an increase under this section while participating in the deferred retirement option plan on attaining the age of fifty-five and having participated in the plan twelve months. The pension amount used in the first calculation of an increase under this section shall be the amount calculated under section 742.442 of the Revised Code unless the member's participation has terminated pursuant to division (C) of section 742.444 or to section 742.445 of the Revised Code. A member whose election to participate in the deferred retirement option plan is effective on or after July 2, 2013, shall not receive an increase under this section while participating in the deferred retirement option plan.~~

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

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

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

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