

hundred dollars.

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

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

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

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

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

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

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

(L) On and after July 24, 1986:

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

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

Sec. 742.3711. (A) On application for retirement as provided in section 742.37 of the Revised Code, a member of the fund may elect to receive a retirement allowance payable throughout the member's life, or may elect, on the application for retirement, to receive the actuarial equivalent of the member's retirement allowance in a lesser amount payable for life and continuing after death to a surviving designated beneficiary under one of the

following optional plans, provided the amount payable to the beneficiary shall not exceed the amount payable to the retiring member of the fund, and is certified by the actuary engaged by the board of trustees of the Ohio police and fire pension fund to be the actuarial equivalent of the member's retirement allowance and is approved by the board.

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

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

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

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

(4) Option 4. The member's lesser retirement allowance or a portion of the lesser retirement allowance shall be paid for life to two, three, or four surviving beneficiaries designated at the time of the member's retirement, in such portions as specified at retirement. If the member elects this plan as required by a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property and compliance with the court order requires the allocation of a portion less than ten per cent to any beneficiary, the member shall allocate a portion less than ten per cent to that beneficiary in accordance with that order. In all other circumstances, no portion allocated under this plan of payment shall be less than ten per cent. The total of the portions allocated shall not exceed one hundred per cent of the member's lesser allowance.

(B)(1) The death of a spouse ~~nominated~~ designated as beneficiary or the death of any other ~~nominated~~ designated beneficiary following a member's retirement or election under section 742.44 of the Revised Code to participate in the deferred retirement option plan shall cancel the portion of the optional plan of payment providing continuing lifetime benefits to the deceased ~~nominated~~ designated beneficiary. The member of the fund shall receive the actuarial equivalent of the member's single lifetime benefit, as

determined by the board, based on the number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary. The change shall be effective the month following receipt by the board of notice of the death.

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

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

(a) A member of the fund receiving a retirement allowance under section 742.37 or 742.39 of the Revised Code may elect not later than one year after the date of marriage or remarriage a new optional plan of payment based on the actuarial equivalent of the member's single lifetime benefit as determined by the board.

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

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

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

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

payable during the life of the retirant;

(b) The retirant submits to the ~~retirement~~ board a written statement signed by the spouse attesting that the spouse consents to the retirant's election to receive a single lifetime retirement allowance or a payment under an optional benefit plan under which after the death of the retirant the surviving spouse will receive less than one-half of the lesser retirement allowance payable during the life of the retirant;

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

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

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

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

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

(a) That, if the member is married, unless the spouse consents to another plan of payment or there is a court order dividing marital property issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property that provides for payment in a specified amount, the member's retirement allowance will be paid under "option 2" and consist of the actuarial equivalent of the member's retirement allowance in a lesser amount payable for life and one-half of the lesser allowance continuing after death to the surviving spouse for the life of the spouse;

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

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

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

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

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

(E) A member of the fund who has elected an optional plan under this section or section 742.3715 of the Revised Code may, with the consent of the designated beneficiary, cancel the optional plan and receive the retirement allowance payable throughout life the member would have received had the member not elected the optional plan, if the member makes a request to cancel the optional plan not later than one year after the later of September 9, 1988, or the date on which the member first receives a payment under this section or section 742.3715 of the Revised Code. Cancellation of the optional plan shall be effective the month after acceptance of the request by the trustees of the fund. No payment or adjustment shall be made in the retirement allowance payable throughout the member's life to compensate for the lesser allowance the member received under the optional plan.

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

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

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

active members.

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~~