

Am. H. B. 1010  
136 O. L.  
See also: 742.37  
Am. Sub H B 268 m  
136 O. L.

Sec. 742.37. The board of trustees of the police and firemen's disability and pension fund shall adopt rules for the management of such funds and for the disbursement of benefits and pensions as set forth in this section.

(A) Persons who were receiving benefit or pension payments from a police relief and pension fund, established under section 741.32 of the Revised Code, or from a firemen's relief and pension fund, established under section 521.02 or 741.02 of the Revised Code, at the time the assets of such fund were transferred to the police and firemen's disability and pension fund, as provided by section 742.26 of the Revised Code, shall receive benefit and pension payments from the police and firemen's disability and pension fund in the same amount and subject to the same conditions as such payments were being made from such fund on the date of such transfer.

(B) A member of the fund who, pursuant to law, elected to receive benefits and pensions from a police relief and pension fund, established under section 741.32 of the Revised Code, or from a firemen's relief and pension fund, established under section 741.02 of the Revised Code, in accordance with the rules of such fund governing the granting of benefits or pensions therefrom in force on April 1, 1947, shall receive benefits and pensions from the police and firemen's disability and pension fund in accordance with such rules, provided that such a member of the fund who is not receiving a benefit or pension from the fund on the effective date of this

act SECTION may, upon application for a benefit or pension to be received on or after the effective date of this act SECTION, elect to receive a benefit or pension in accordance with the provisions of division (C) of this section.

(C) Members of the fund who have not elected to receive benefits and pensions from a police relief and pension fund or a firemen's relief and pension fund in accordance with the rules and regulations of such fund in force on April 1, 1947, shall receive pensions and benefits in accordance with the following provisions:

(1) A member of the fund who has completed twenty-five years of active service in the police or fire department of a municipal corporation or a fire department of a township and has attained fifty-two years of age may, at his election, retire from the police or fire department, and upon notifying the board in writing of such election, shall receive an annual pension, payable in twelve monthly installments, in an amount equal to two per cent of his average annual salary for the three years during which his total annual salary as a member of said police or fire department was the greatest multiplied by the number of years he was in the active service of such department, or an annual pension of sixteen hundred fifty dollars, whichever amount is the greater. Such annual pension shall not exceed sixty-six per cent of the member's average annual salary for the three years during which his total annual salary as a member of said police or fire department was the greatest.

(2) A member of the fund who is permanently and totally disabled as the result of the performance of his official duties as a member of a police or fire department of a municipal corporation or a fire department of a township, shall be paid annual disability benefits until death, payable in twelve monthly installments, in an amount equal to sixty-six per cent of his annual salary for the last year he was in the active service of such police or fire department.

(3) A member of the fund who is partially disabled as the result of the performance of his official duties as a member of a police or fire department of a municipal corporation or a fire department of a township, and such disability prevents him from performing those duties and impairs his earning capacity, shall be paid monthly disability benefits in an amount to be fixed by the board. The board may increase or decrease such monthly benefits whenever the impairment of the member's earning capacity warrants an increase or decrease, but in no event shall a monthly benefit paid to such member exceed fifty per cent of his average monthly salary for the three years during which his total annual salary as a member of said police or fire department was the greatest. Each such member who has completed twenty-five or more years of active service in the department shall receive annual disability benefits, payable in twelve monthly installments, in an amount equal to two per cent of his average annual salary for the three years during which his total annual salary as a member of said police or fire department was the greatest multiplied by

the number of years he was in the active service of such department, or an annual disability benefit of sixteen hundred fifty dollars, whichever amount is the greater. Such annual disability benefit shall not exceed sixty-six per cent of the member's average annual salary for the three years during which his total annual salary as a member of said police or fire department was the greatest.

(4) A member of the fund who is disabled as a result of heart disease, which disease or any evidence of which disease was not revealed by the physical examination passed by the member upon entry into the department, is presumed to have incurred the disease while performing his official duties as a member of such department unless the contrary is shown by competent evidence.

If such disability prevents the member from performing his official duties and impairs his earning capacity he shall be paid annual disability payments in accordance with the provisions of division (C) (2) or (3) of this section.

A member of the fund who applies for disability benefits as a result of heart disease not revealed by the physical examination passed by the member upon entry into the department shall be EXAMINED BY THREE PHYSICIANS; ONE OF WHOM SHALL BE designated by the municipal corporation; another of whom shall be designated by the board of trustees of the police and firemen's disability and pension fund and the third who shall be selected by the other two previously designated physicians. Each examining physician shall submit a written report of his findings to the board.

*Editorial Statement of the Legislated Service Comm.*  
Sections 145.45, 742.37, and 5505.17 of the Revised Code are amended by this act and also by Am. Sub. H. B. 268 of the 111th General Assembly. Comparison of these amendments in pursuance of section 1.52 of the Revised Code discloses that they are not irreconcilable, so that they are required by that section to be harmonized to give effect to each amendment.

Effective Aug. 27, 1976

(5) A member of the fund who has completed five or more years of active service in the police or fire department of a municipal corporation or a fire department of a township and has incurred disability not caused or induced by the actual performance of his official duties as a member of such department, or by his own negligence, and such disability prevents him from performing his official duties as a member of the department, and impairs his earning capacity, shall receive monthly benefits in an amount to be fixed by the board. The board may increase or decrease such monthly benefits whenever the impairment in the member's earning capacity warrants an increase or decrease, but in no event shall a monthly benefit paid to such member exceed two per cent of his average monthly salary for the three years during which his total annual salary as a member of said police or fire department was the greatest multiplied by the number of full years he was in the active service of the department, or fifty per cent of such average monthly salary, whichever amount is the smaller.

(6) A member of the fund who has served fifteen or more years as an active member of the police or fire department of a municipal corporation or a fire department of a township and who voluntarily resigns or is discharged from such department for any reason other than dishonesty, cowardice, intemperate habits, or conviction of a felony, shall receive an annual pension, payable in twelve monthly installments, in an amount equal to one and

one-half per cent of his average annual salary for the three years during which his total annual salary as a member of said police or fire department was the greatest multiplied by the number of full years he was in the active service of the department. Such pension payments shall not commence until the member has attained the age of fifty-two years and until twenty-five years have elapsed from the date on which he became a full-time regular policeman or fireman in the department.

(7) A member of the fund who has completed fifteen or more years of active service in the police or fire department of a municipal corporation or a fire department of a township, and who has attained sixty-two years of age, may retire from the department and, upon notifying the board in writing of such election to retire, shall receive an annual pension, payable in twelve monthly installments, in an amount equal to two per cent of his average annual salary for the three years during which his total annual salary as a member was the greatest, multiplied by the number of years he was in the active service of such department. Such annual pension shall not exceed sixty-six per cent of the member's average annual salary for the three years during which his total annual salary as a member of the department was the greatest.

(8) A member of the fund who has completed twenty-five years of active service in the police or fire department of a municipal corporation or a fire department of a township and who resigns or is discharged from such service before he attains fifty-two years of age may leave the sum deducted from his salary on deposit to his credit in the pension fund, and upon his attaining fifty-two years of age shall be entitled to receive a service pension, which shall be computed and paid under division (C) (1) of this section. If such member dies prior to the time he has received a pension payment and leaves a widow or dependent child, such widow or dependent child shall receive a pension under division (D) or (E) of this section.

(D) A surviving spouse of a deceased member of the fund shall receive a pension of one hundred sixty dollars per month during the natural life of the surviving spouse or until such surviving spouse remarries, EXCEPT THAT NO PERSON RECEIVING A BENEFIT UNDER SECTION 742.63 OF THE REVISED CODE SHALL AT THE SAME TIME RECEIVE A PENSION UNDER THIS DIVISION.

(E) Each surviving child of a deceased member of the fund shall receive a pension of fifty-five dollars per month until such child attains the age of eighteen years, or marries, whichever event occurs first, EXCEPT THAT NO PERSON RECEIVING A BENEFIT UNDER SECTION 742.63 OF THE REVISED CODE SHALL AT THE SAME TIME RECEIVE A PENSION UNDER THIS DIVISION. Benefits under this division, however, shall continue to be payable to a child under age twenty-two who is a student in and attending an institution of learning or training pur-

suant to a program designed to complete in each school year the equivalent of at least two-thirds of the full-time curriculum requirements of such institution, as determined by the pension board. If any surviving child, regardless of his age at the time of the member's death, because of physical or mental disability, is totally dependent upon such deceased member for support at the time of his decease, he shall receive a pension of fifty-five dollars per month during his natural life or until he has recovered from such disability.

(F) If a deceased member of the fund leaves no surviving spouse or surviving children, but leaves two parents dependent upon him for support, each parent shall be paid a monthly pension of seventy-five dollars. If there is only one parent dependent upon such member for support, such parent shall be paid a monthly pension of one hundred fifty dollars. The pensions provided for in this division shall be paid during the natural life of the surviving parents or until dependency ceases, or until remarriage, whichever event occurs first.

(G) A member of the fund who voluntarily resigns or is removed from active service in a police or fire department of a municipal corporation or a fire department of a township is entitled to receive an amount equal to the sums deducted from his salary and credited to his account in the police and firemen's disability and pension fund.

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

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

(2) The monthly pension payable to eligible widows under division (D) of this section shall be increased by forty dollars for each widow receiving a pension on December 31, 1969.

(3) The monthly pension payable to each eligible child under division (E) of this section shall be increased by ten dollars for each child receiving a pension on December 31, 1969.

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

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