

Sec. 742.37. The board of trustees of the police and firemen's disability and pension fund shall adopt rules for the management of the fund and for the disbursement of benefits and pensions as set forth in this section. Any payment of a benefit or pension under this section is subject to the provisions of section 742.461 of the Revised Code. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, NO PENSION OR BENEFIT PAID OR DETERMINED UNDER DIVISION (B) OR (C) OF THIS SECTION 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.

(A) Persons who were receiving benefit or pension payments from a police relief and pension fund, established under former section 741.32 of the Revised Code, or from a firemen's relief and pension fund, established under former 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, 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 former 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 former section 741.32 of the Revised Code, or from a firemen's relief and pension fund, established under former 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 any member of the fund who is not receiving a benefit or pension from the fund on August 12, 1975,

may, upon application for a benefit or pension to be received on or after August 12, 1975, elect to receive a benefit or pension in accordance with 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 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 forty-eight 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 a percentage of his average annual salary. Such percentage shall be the sum of two and one-half per cent for each of the first twenty years he was in the active service of such department, plus two per cent for each of the twenty-first to twenty-fifth years he was in the active service of such department, plus one and one-half per cent for each year in excess of twenty-five years he was in the active service of such department. Such annual pension shall not exceed seventy-two per cent of the member's average annual salary.

If a member who completed twenty-five years of active service and has resigned or been discharged has left the sum deducted from his salary on deposit to his credit in the pension fund, he shall, upon attaining forty-eight years of age, be entitled to receive a normal service pension benefit computed and paid under division (C)(1) of this section.

(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 seventy-two 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 shall, if such disability prevents him from performing those duties and impairs his earning capacity, receive annual disability benefits, payable in twelve monthly installments, in an amount to be fixed by the board. The board may increase or decrease such benefits whenever the impairment of the member's earning capacity warrants an increase or decrease, but in no event shall a benefit paid to such member exceed sixty per cent of his average annual salary. 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 a percentage of his average annual salary. Such percentage shall be the sum of two and one-half per cent for each of the first twenty years he was in the active service of such department, plus two per cent for each of the twenty-first to twenty-fifth years he was in the active service of such

14302
Sub. S.B.
240

Effective
7/24/90

department, plus one and one-half per cent for each year in excess of twenty-five years he was in the active service of such department. Such annual disability benefit shall not exceed seventy-two per cent of the member's average annual salary.

(4) A member of the fund who is disabled as a result of heart disease or any cardiovascular disease of a chronic nature or any respiratory disease of a chronic nature, 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 division (C)(2) or (3) of this section.

A member of the fund who applies for disability benefits as a result of heart disease or any cardiovascular disease of a chronic nature or any respiratory disease of a chronic nature, which disease or any evidence of which disease was not revealed by the physical examination passed by the member upon entry into the department, shall be examined by two physicians designated by the board of trustees of the police and firemen's disability and pension fund, one of whom may be the attending physician. Each examining physician shall submit a written report of his findings to the board.

(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, such disability preventing him from performing his official duties as a member of the department and impairing his earning capacity, shall receive annual disability benefits, payable in twelve monthly installments, 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 benefit paid to such member exceed the greater of five thousand dollars or an amount equal to a percentage of his average annual salary. The percentage shall be the sum of two and one-half per cent for each of the first twenty years he was in the active service of such department, plus two per cent for each of the twenty-first to twenty-fifth years he was in the active service of such department, plus one and one-half per cent for each year in excess of twenty-five years he was in the active service of the department, or sixty per cent of such average annual salary, whichever is 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 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 forty-eight 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 a percentage of his average annual salary. Such percentage shall be the sum of two and one-half per cent for each of the first twenty years he was in the active service of such department, plus two per cent for each of the twenty-first to twenty-fifth years he was in the active service of such department, plus one and one-half per cent for each year in excess of twenty-five years he was in the active service of such department. Such annual pension shall not exceed seventy-two per cent of the member's average annual salary.

(8) Notwithstanding divisions (A), (B), and (C)(1) to (7) of this section, no person shall be eligible to receive a disability benefit, normal service pension benefit, or other benefit while contributing to the police and firemen's disability and pension fund, provided, however, that any person who applies for a normal service pension benefit or benefit other than a disability benefit from the fund may elect to waive such benefit for the period in which he desires to remain in the active service of a municipal police or fire department or township fire department, and shall not be excluded from continued membership in the fund. A member may elect to waive a disability benefit and shall not be excluded from the fund, but if a member waives such benefit, the board of trustees of the fund shall terminate the disability benefit award. If the member later seeks a disability benefit award, he shall be required to make a new application, which shall be dealt with in accordance with the procedure used for original disability benefit applications. Any person who elects to receive any benefit as enumerated above shall be barred from future membership in the fund.

An election to waive a normal service pension benefit or other benefit or a disability benefit shall be made not later than ninety days after the award of the final benefit, on forms provided by the fund.

With the exception of those persons receiving partial disability benefits under division (C)(3) of this section who may make application for increased benefits as provided in such division, no person receiving a pension or other benefit under division (C) of this section on or after July 24, 1986, shall be entitled to apply for any new, changed, or different benefit.

Nothing in this section shall prevent a person from continuing or resuming employment as an employee as that term is defined in division (C) of section 742.01 of the Revised Code.

If a member covered by division (C) of this section dies prior to the time he has received a payment and leaves a surviving spouse or depen-

143 OK
Sub. S.B.
240

Effective
7/24/90

page 3 of 4

dent child, such surviving spouse 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 four hundred ten dollars per month during the natural life of the surviving spouse or until such surviving spouse remarries, except that benefits terminated under this division due to a first remarriage shall resume if the remarriage ceases within two years due to divorce, annulment, dissolution, or death.

(E) Each surviving child of a deceased member of the fund shall receive a pension of one hundred eighteen dollars per month until such child attains the age of eighteen years, or marries, whichever event occurs first. 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 pursuant 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 board of trustees of the police and firemen's disability and pension fund. 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 one hundred eighteen 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-nine 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-eight 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) Subject to the provisions of section 742.461 of the Revised Code, 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 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 division (C)(1), (2), (3), (4), or (5) of this section, shall have such pension increased by ten per cent.

(2) The monthly pension payable to eligible surviving spouses under division (D) of this section shall be increased by forty dollars for each surviving spouse 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 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.

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

(1) If his annual pension or benefit is less than two thousand seven hundred dollars, it shall be increased to three thousand dollars;

(2) If his annual pension or benefit is two thousand seven hundred dollars or more, it shall be increased by three hundred dollars.

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

(a) 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;

(b) A member of the fund who is receiving a pension or benefit under division (A) or (B) of this section, based on funded volunteer or funded part-time service, or off-duty disability, or partial on-duty disability, or early vested service;

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

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

143 OR
Sub. S.B.
240

Effective
7/24/90

Page 4 of 4.

143 of
Sub. S.B.
240

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.

Effective
7/24/90