

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 a police or fire department and has attained forty-eight years of age may, at his THE MEMBER'S 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 THE MEMBER'S average annual salary. Such percentage shall be the sum of two and one-half per cent for each of the first twenty years he THE MEMBER was

in the active service of such department, plus two per cent for each of the twenty-first to twenty-fifth years he THE MEMBER 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 THE MEMBER 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 A member who completed twenty-five years of active service and has resigned or been discharged, AND has left the sum deducted from his THE MEMBER'S 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 THE MEMBER'S official duties as a member of a police or fire department shall be paid annual disability benefits until death, payable in twelve monthly installments, in an amount equal to seventy-two per cent of his THE MEMBER'S annual salary for the last year he THE MEMBER 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 THE MEMBER'S official duties as a member of a police or fire department shall, if such disability prevents him THE MEMBER from performing those duties and impairs his THE MEMBER'S 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 THE MEMBER'S 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 THE MEMBER'S average annual salary. Such percentage shall be the sum of two and one-half per cent for each of the first twenty years he THE MEMBER was in the active service of such department, plus two per cent for each of the twenty-first to twenty-fifth years he THE MEMBER 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 THE MEMBER 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 THE MEMBER'S earning capacity, he THE

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MEMBER 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~~ THE EXAMINATION findings to the board.

(5) A member of the fund who has completed five or more years of active service in a police or fire department and has incurred disability not caused or induced by the actual performance of ~~his~~ THE MEMBER'S official duties as a member of such department, or by ~~his~~ THE MEMBER'S own negligence, such disability preventing ~~him~~ THE MEMBER from performing ~~his~~ THE MEMBER'S official duties as a member of the department and impairing ~~his~~ THE MEMBER'S 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~~ THE MEMBER'S average annual salary. The percentage shall be the sum of two and one-half per cent for each of the first twenty years ~~he~~ THE MEMBER was in the active service of such department, plus two per cent for each of the twenty-first to twenty-fifth years ~~he~~ THE MEMBER 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~~ THE MEMBER 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 a police or fire department 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~~ THE MEMBER'S average annual salary multiplied by the number of full years ~~he~~ THE MEMBER 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~~ THE MEMBER 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 a police or fire department 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 percent-

age of ~~his~~ THE MEMBER'S average annual salary. Such percentage shall be the sum of two and one-half per cent for each of the first twenty years ~~he~~ THE MEMBER was in the active service of such department, plus two per cent for each of the twenty-first to twenty-fifth years ~~he~~ THE MEMBER 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~~ THE MEMBER 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) The board of trustees of the police and firemen's disability and pension fund shall notify a member of its final action awarding a disability benefit to the member within thirty days of such final action. The notice shall be sent by certified mail, return receipt requested. Not later than ninety days after ~~his~~ receipt of notice from the board, the member shall elect, on a form provided by the board, either to accept or waive the disability benefit award. If the member elects to waive ~~his~~ THE disability benefit award or fails to make an election ~~with~~ WITHIN the time period, the award shall be rescinded. ~~If the~~ A member WHO 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.

With the exception of those persons who may make application for increased benefits as provided in division (C)(3) or (5) of this section or those persons who may make application for benefits as provided in section 742.26 of the Revised Code, 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.

If a member covered by division (C) of this section dies prior to the time ~~he~~ THE MEMBER has received a payment and leaves a surviving ~~spouse~~ SPOUSE or dependent child, such surviving spouse or dependent child shall receive a pension under division (D) or (E) of this section.

A PERSON IS NOT ELIGIBLE TO APPLY FOR OR RECEIVE DISABILITY BENEFITS UNDER DIVISION (C)(2), (3), (4), OR (5) OF THIS SECTION UNLESS THE PERSON IS A MEMBER OF THE FUND ON THE DATE ON WHICH THE APPLICATION FOR DISABILITY BENEFITS IS SUBMITTED TO THE FUND.

(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

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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~~ THE CHILD shall receive a pension of one hundred eighteen dollars per month during ~~his~~ THE CHILD'S natural life or until ~~he~~ THE CHILD 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~~ THE DECEASED MEMBER 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; ~~other than a PFDPF retiree as defined in section 742.26 of the Revised Code;~~ who voluntarily resigns or is removed from active service in a police or fire department is entitled to receive an amount equal to the sums deducted from his THE MEMBER'S salary and credited to his THE MEMBER'S account in the fund, EXCEPT THAT A MEMBER RECEIVING A DISABILITY BENEFIT OR SERVICE PENSION IS NOT ENTITLED TO RECEIVE ANY RETURN OF CONTRIBUTIONS TO 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.

(I) 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~~ THE MEMBER'S annual pension or benefit is less than two thousand seven hundred dollars, it shall be increased to three thousand dollars.

(2) If ~~his~~ THE MEMBER'S 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, 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

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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.

SECTION 6. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that the recommendations of the Ohio Retirement Study Commission issued in its annual report of December 14, 1994, on the Police and Firemen's Disability and Pension Fund need immediate implementation in order to ensure the proper financing of the benefits provided by the Fund. Therefore, this act shall go into immediate effect.

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