

AN ACT

To amend sections 145.011, 145.012, 145.09, 145.201, 145.22, 145.295, 145.31, 145.33, 145.35, 145.362, 145.43, 145.45, 145.46, 171.05, 742.01, 742.03, 742.04, 742.05, 742.08, 742.10, 742.11, 742.14, 742.22, 742.221, 742.23, 742.24, 742.251, 742.27, 742.31, 742.32, 742.33, 742.34, 742.35, 742.36, 742.37, 742.371, 742.372, 742.373, 742.374, 742.375, 742.376, 742.378, 742.379, 742.3711, 742.3713, 742.3714, 742.3715, 742.3716, 742.3717, 742.3718, 742.3719, 742.38, 742.39, 742.40, 742.50, 742.511, 742.512, 742.515, 742.52, 742.58, 742.63, 3307.01, 3307.04, 3307.20, 3307.28, 3307.35, 3307.383, 3307.411, 3307.42, 3307.44, 3307.46, 3307.48, 3307.49, 3307.50, 3307.73, 3307.74, 3309.011, 3309.04, 3309.21, 3309.26, 3309.351, 3309.39, 3309.41, 3309.44, 3309.45, 3309.46, 5505.04, 5505.12, 5505.17, 5505.18, 5505.201, 5505.202, 5505.28, and 5731.09; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 742.38 (742.59), 742.39 (742.60), 742.40 (742.61), and 742.61 (742.62); to enact new sections 742.38, 742.39, and 742.40 and sections 145.014, 145.351, 742.381, 742.516, 3113.25, 3307.412, 3307.421, 3309.312, 3309.391, 5505.176, and 5505.181; and to repeal sections 171.06, 742.3720, and 742.3721 of the Revised Code to make changes to the disability benefit programs offered by the five state retirement systems and to make other changes in the law governing the state retirement systems.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 145.011, 145.012, 145.09, 145.201, 145.22, 145.295, 145.31, 145.33, 145.35, 145.362, 145.43, 145.45, 145.46, 171.05, 742.01, 742.03, 742.04, 742.05, 742.08, 742.10, 742.11, 742.14, 742.22, 742.221, 742.23, 742.24, 742.251, 742.27, 742.31, 742.32, 742.33, 742.34, 742.35, 742.36, 742.37, 742.371, 742.372, 742.373, 742.374, 742.375, 742.376, 742.378, 742.379, 742.3711, 742.3713, 742.3714, 742.3715, 742.3716, 742.3717, 742.3718, 742.3719, 742.38, 742.39, 742.40, 742.50, 742.511, 742.512, 742.515, 742.52, 742.58, 742.63, 3307.01, 3307.04, 3307.20, 3307.28, 3307.35, 3307.383, 3307.411, 3307.42, 3307.44, 3307.46, 3307.48, 3307.49, 3307.50, 3307.73, 3307.74, 3309.011, 3309.04, 3309.21, 3309.26, 3309.351, 3309.39, 3309.41, 3309.44, 3309.45, 3309.46, 5505.04, 5505.12, 5505.17, 5505.18, 5505.201, 5505.202, 5505.28, and 5731.09 be amended; that sections 742.38 (742.59), 742.39 (742.60), 742.40 (742.61), and 742.61 (742.62) be amended for the purpose of adopting new section numbers as indicated in parentheses; and that new sections 742.38, 742.39, and 742.40 and sections 145.014, 145.351, 742.381, 742.516, 3113.25, 3307.412, 3307.421, 3309.312, 3309.391, 5505.176, and 5505.181 of the Revised Code be enacted to read as follows:

Sec. 145.011. In addition to the membership of the public employees retirement system as prescribed in division (A) of section 145.01 of the Revised Code and notwithstanding Chapter 3309. Of the Revised Code, there shall be included in such membership all of the following:

(A) The nonteaching employees of the Cleveland state university, the medical college of Ohio at Toledo, and the northeastern Ohio universities college of medicine, ~~notwithstanding Chapter 3309. of the Revised Code.~~ Such;

(B) Any person who elects to transfer from the school employees retirement system to the public employees retirement system under section 3309.312 of the Revised Code;

(C) Any person who is employed full-time on or after the effective date of this amendment pursuant to section 3345.04 Of the Revised Code by the university of Akron as a state university law enforcement officer.

Such employees are included in the definition of member as used in Chapter 145. of the Revised Code. The ~~university~~ universities and colleges shall be subject to the obligations imposed by Chapter 145. of the Revised Code.

Sec. 145.012. (A) "Public employee," as defined in division (A) of section 145.01 of the Revised Code, does not include any person:

(1) Who is employed by a private, temporary-help service and performs services under the direction of a public employer or is employed on a contractual basis as an independent contractor under a personal service contract with a public employer;

(2) Who is an emergency employee serving on a temporary basis in case of fire, snow, earthquake, flood, or other similar emergency;

(3) Who is employed in a program established pursuant to the "Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 1501;

(4) Who is an appointed member of either the motor vehicle salvage dealers board or the motor vehicle dealer's board whose rate and method of payment are determined pursuant to division (J) of section 124.15 of the Revised Code;

(5) Who is employed as an election worker and paid less than five hundred dollars per calendar year for that service;

(6) Who is employed as a firefighter in a position requiring satisfactory completion of a firefighter training course approved under former section 3303.07 or section 4765.55 of the Revised Code or conducted under section 3737.33 of the Revised Code except for ~~either of~~ the following:

(a) Any firefighter who has elected under section 145.013 of the Revised Code to remain a contributing member of the public employees retirement system;

(b) Any firefighter who was eligible to transfer from the public employees retirement system to the police and firemen's disability and pension fund under section 742.51 or 742.515 of the Revised Code and did not elect to transfer;

(c) Any firefighter who has elected under section 742.516 Of the Revised Code to transfer from the police and firemen's disability and pension fund to the public employees retirement system.

(7) Who is a member of the board of health of a city or general health district, which pursuant to sections 3709.051 and 3709.07 of the Revised Code includes a combined health district, and whose compensation for attendance at meetings of the board is set forth in division (B) of section 3709.02 or division (B) of section 3709.05 of the Revised Code, as appropriate;

(8) Who participates in an alternative retirement plan established under Chapter 3305. of the Revised Code;

(9) Who is a member of the board of directors of a sanitary district established under Chapter 6115. of the Revised Code.

(B) No inmate of a correctional institution operated by the department of rehabilitation and correction, no patient in a hospital for the mentally ill

or criminally insane operated by the department of mental health, no resident in an institution for the mentally retarded operated by the department of mental retardation and developmental disabilities, no resident admitted as a patient of the Ohio veterans' home at Sandusky, and no resident of a county home shall be considered as a public employee for the purpose of establishing membership or calculating service credit or benefits under this chapter. Nothing in this division shall be construed to affect any service credit attained by any person who was a public employee before becoming an inmate, patient, or resident at any institution listed in this division, or the payment of any benefit for which such a person or such a person's beneficiaries otherwise would be eligible.

Sec. 145.014. (A) "Employer" or "public employer," as defined in division (D) of section 145.01 of the Revised Code, does not include a regional council created under Chapter 167. of the Revised Code that meets all of the following criteria:

(1) Membership in the council consists of political subdivisions of Ohio and at least two other states;

(2) The primary purpose of the council is regional transportation planning;

(3) The council was not contributing to the public employees retirement system on July 31, 1997.

(B) If, prior to the effective date of this section, the public employees retirement system determined that a regional council described in division (A) of this section was not a public employer, the system shall not require the council to submit employer and employee contributions for the time period FOLLOWING the date of the determination.

(C) an employee of a regional council described in division (A) of this section shall forever be barred from claiming or purchasing membership rights or service credit under the public employees retirement system for the period of that employee's employment with the regional council.

Sec. 145.09. The public employees retirement board shall elect from its membership a ~~chairman~~ chairperson, and shall appoint an executive director who shall serve as secretary to the board, an actuary, and other employees as necessary for the transaction of the business of the public employees retirement system. The compensation of all persons so appointed shall be fixed by the board. Every expense voucher of an employee, officer, or board member of the public employees retirement system shall itemize all purchases and expenditures.

The board shall perform other functions as required for the proper execution of sections 145.01 to 145.58 of the Revised Code, and may adopt

rules for the proper administration and management of sections 145.01 to 145.58 of the Revised Code. ~~The~~

The attorney general shall prescribe procedures for the adoption of rules authorized under this chapter, consistent with the provision of section 111.15 of the Revised Code under which all rules shall be filed in order to be effective. Such procedures shall establish methods by which notice of proposed rules is given to interested parties and rules adopted by the board published and otherwise made available. When it files a rule with the joint committee on agency rule review pursuant to section 111.15 of the Revised Code, the board shall submit to the Ohio retirement study council a copy of the full text of the rule, and if applicable, a copy of the rule summary and fiscal analysis required by division (B) of section 127.18 of the Revised Code.

The board may sue and be sued, plead and be impleaded, contract and be contracted with. All of its business shall be transacted, all of its funds invested, all warrants for money drawn and payments made, and all of its cash and securities and other property shall be held in the name of the board, or in the name of its nominee, provided that nominees are authorized by retirement board resolution for the purpose of facilitating the ownership and transfer of investments and restricted to members of the board, the executive director, and designated members of the staff, or a partnership composed of any of the foregoing persons.

Sec. 145.201. (A)~~(1)~~ Any member who is or has been an elected official of the state or any political subdivision thereof or has been appointed by the governor with the advice and consent of the senate to serve full-time as a member of a board, commission, or other public body may at any time prior to retirement purchase additional service credit in an amount not to exceed thirty-five per cent of the service credit allowed ~~him~~ the member for the period of service as an elected or appointed official subsequent to January 1, 1935, other than credit for military service, part-time service, and service subject to the tax on wages imposed by the "Federal Insurance Contributions Act," 68A Stat. 415 (1954), 26 U.S.C.A. 3101, as amended.

~~(2) Any member who has been appointed by the governor with the advice and consent of the senate to serve full-time as a member of a board, commission, or other public body may, not later than thirty days after such service ceases, purchase additional service credit in an amount not to exceed thirty-five per cent of the service credit allowed him for the period of service as a member of the board, commission, or public body subsequent to January 1, 1935, other than credit for military service, part-time service, and service subject to the tax on wages imposed by the "Federal Insurance~~

~~Contributions Act."~~

The additional service credit may be purchased by paying into the employees' savings fund an amount computed by multiplying by the employee contribution rate in effect at the time of purchase the member's earnable salary for the period of service upon which the purchased credit is based, by the number of years or portions thereof of additional service credit to be purchased, and by paying into the employers' accumulation fund an amount equal to the full amount paid into the employees' savings fund. If a member purchases less than the full amount of the additional service credit to which ~~he~~ the member is entitled, the period of service upon which the purchase is computed shall be ~~his~~ the member's earliest period of such service. The member shall receive full credit for such additional elective service in computing an allowance or benefit under section 145.20, 145.33, 145.331, 145.34, 145.36, 145.361, or 145.46 of the Revised Code, notwithstanding any other provision of this chapter. The payment to the employees' savings fund and the employers' accumulation fund for such additional elective service credit shall, in the event of death or withdrawal from service, be considered as accumulated contributions of the member.

A member of a board, commission, or other public body shall be considered to be serving full-time if full-time service is required by law or if the director of administrative services determines that the duties of the position require full-time service.

(B) Notwithstanding division (A) of this section, a member who purchased service credit under this section prior to January 1, 1980, on the basis of part-time service shall be permitted to retain the credit and shall be given full credit for it in computing an allowance or benefit under section 145.20, 145.33, 145.331, 145.34, 145.36, 145.361, or 145.46 of the Revised Code. The public employees retirement board has no authority to cancel or rescind such credit.

Sec. 145.22. (A) The public employees retirement board shall have prepared annually by or under the supervision of an actuary an actuarial valuation of the pension assets, liabilities, and funding requirements of the public employees retirement system as established pursuant to sections 145.01 to 145.59 of the Revised Code. The actuary shall complete the valuation in accordance with actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries and prepare a report of the valuation. The report shall include all of the following:

- (1) A summary of the benefit provisions evaluated;
- (2) A summary of the census data and financial information used in the

valuation;

(3) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation, including a statement of the assumed rate of payroll growth and assumed rate of growth or decline in the number of members contributing to the retirement system;

(4) A summary of findings that includes a statement of the actuarial accrued pension liabilities and unfunded actuarial accrued pension liabilities;

(5) A schedule showing the effect of any changes in the benefit provisions, actuarial assumptions, or cost methods since the last annual actuarial valuation;

(6) A statement of whether contributions to the retirement system are expected to be sufficient to satisfy the funding objectives established by the board.

The board shall submit the report to the Ohio retirement study commission and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of November following the year for which the valuation was made.

(B) At such time as the public employees retirement board determines, and at least once in each five-year period, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the mortality, service, and other experience of the members, retirants, contributors, and beneficiaries of the system to update the actuarial assumptions used in the actuarial valuation required by division (A) of this section. The actuary shall prepare a report of the actuarial investigation. The report shall be prepared and any recommended changes in actuarial assumptions shall be made in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The report shall include all of the following:

(1) A summary of relevant decrement and economic assumption experience observed over the period of the investigation;

(2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (A) of this section;

(3) A measurement of the financial effect of the recommended changes in actuarial assumptions.

The board shall submit the report to the Ohio retirement study commission and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of November following the last fiscal year of the period

the report covers.

(C) The board may at any time request the actuary to make any studies or actuarial valuations to determine the adequacy of the normal and deficiency rates of contribution provided by section 145.48 of the Revised Code, and those rates may be adjusted by the board, as recommended by the actuary, effective as of the first of any year thereafter.

(D) The board shall have prepared by or under the supervision of an actuary an actuarial analysis of any introduced legislation expected to have a measurable financial impact on the retirement system. The actuarial analysis shall be completed in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary shall prepare a report of the actuarial analysis, which shall include all of the following:

- (1) A summary of the statutory changes that are being evaluated;
- (2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;
- (3) A description of the participant group or groups included in the report;
- (4) A statement of the financial impact of the legislation, including the resulting increase, if any, in the employer normal cost percentage; the increase, if any, in actuarial accrued liabilities; and the per cent of payroll that would be required to amortize the increase in actuarial accrued liabilities as a level per cent of covered payroll for all active members over a period not to exceed thirty years;
- (5) A statement of whether the scheduled contributions to the system after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.

Not later than sixty days from the date of introduction of the legislation, the board shall submit a copy of the actuarial analysis to the legislative budget office of the legislative service commission, the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation, and the Ohio retirement study commission.

(E) The board shall have prepared annually a report giving a full accounting of the revenues and costs relating to the provision of benefits under sections 145.325 and 145.58 of the Revised Code. The report shall be made as of December 31, 1997, and the ~~thirty-first~~ thirty-first day of December of each year thereafter. The report shall include the following:

- (1) A description of the statutory authority for the benefits provided;
- (2) A summary of the benefits;
- (3) A summary of the eligibility requirements for the benefits;

- (4) A statement of the number of participants eligible for the benefits;
- (5) A description of the accounting, asset valuation, and funding method used to provide the benefits;
- (6) A statement of the net assets available for the provision of the benefits as of the last day of the fiscal year;
- (7) A statement of any changes in the net assets available for the provision of benefits, including participant and employer contributions, net investment income, administrative expenses, and benefits provided to participants, as of the last day of the fiscal year;
- (8) For the last six consecutive fiscal years, a schedule of the net assets available for the benefits, the annual cost of benefits, administrative expenses incurred, and annual employer contributions allocated for the provision of benefits;
- (9) A description of any significant changes that affect the comparability of the report required under this division;
- (10) A statement of the amount paid under division (D) of section 145.58 Of the Revised Code.

The board shall submit the report to the Ohio retirement study commission and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the thirtieth day of June following the year for which the report was made.

Sec. 145.295. (A) A member of the public employees retirement system ~~who is a former member of~~ has contributions on deposit with, but is no longer contributing to, the police and firemen's disability and pension fund or state highway patrol retirement system ~~and has not received a refund of the member's accumulated contributions to that fund or system~~ shall, in computing years of service, be given full credit for service credit earned under Chapter 742. or 5505. of the Revised Code or purchased for service in the armed forces of the United States if a transfer to the public employees retirement system is made under this division. At the request of the member, the police and firemen's disability and pension fund or the state highway patrol retirement system shall transfer to the public employees retirement system ~~under division (H) of section 742.379 of the Revised Code or division (C) of section 5505.202 of the Revised Code an, for each year of service, the sum of the following:~~

- (1) An amount equal to the member's payments for service in the armed forces of the United States and accumulated contributions to the transferring police and firemen's disability and pension fund or state highway patrol retirement system ~~with interest compounded annually thereon;~~

(2) An amount equal to the lesser of the employer's contributions to the police and firemen's disability and pension fund or state highway patrol retirement system or the amount that would have been contributed by the employer for the service had the member been employed by the member's current employer as a member of the public employees retirement system;

(3) Interest, determined as provided in division (G) of this section, on the amounts specified in divisions (A)(1) and (2) of this section for the period from the date the last contribution was made under Chapter 742. or Chapter 5505. of the Revised Code day of the year for which the service credit was earned or in which military service credit was purchased or obtained to the date the transfer is made. The interest shall be at the actuarial assumption rate of the transferring fund or system at the time the transfer is made.

(B) A member of the public employees retirement system who has at least eighteen months of contributing service credit with the public employees retirement system, who is a former member of the police and firemen's disability and pension fund or state highway patrol retirement system, and who has received a refund of the member's accumulated contributions to that fund or system shall, in computing years of service, be given full credit for service credit earned under Chapter 742. or 5505. of the Revised Code or purchased for service in the armed forces of the United States if ~~a repayment and transfer are made under division (I) of section 742.379 of the Revised Code or division (F) of section 5505.202 of the Revised Code,~~ for each year of service, the public employees retirement system receives the sum of the following:

(1) An amount, which shall be paid by the member, equal to the amount refunded by the police and firemen's disability and pension fund or the state highway patrol retirement system to the member for that year for accumulated contributions and payments for purchase of credit for service in the armed forces of the United States, with interest on that amount from the date of the refund to the date of the payment;

(2) Interest, which shall be TRANSFERRED by the POLICE AND FIREMEN'S DISABILITY AND PENSION FUND OR STATE HIGHWAY PATROL retirement system, on the amount refunded to the member that is attributable to the year of SERVICE from the last day of the year for which the service credit was earned or in which military service credit was purchased OR OBTAINED to the date the refund was made;

(3) An amount, which shall be transferred by the police and firemen's disability and pension fund or state highway patrol retirement system, equal to the lesser of the employer's contributions to the police and firemen's

disability and pension fund or state highway patrol retirement system for that year or the amount that would have been contributed by the employer for the year had the member been employed by the member's current employer as a member of the public employees retirement system, with interest on that amount from the last day of the year for which the service credit was earned or in which military service credit was purchased or obtained to the date of the transfer.

On receipt of payment from the member, the public employees retirement system shall notify the police and firemen's disability and pension fund or the state highway patrol retirement system, which, on receipt of the notice, shall make the transfer required by this division. Interest shall be determined as provided in division (G) of this section.

(C) A member of the public employees retirement system who purchased credit under former division (A)(1) of this section, as it existed before August 25, 1995, for service as a member of the police and firemen's disability and pension fund or state highway patrol retirement system may elect to have the amount the member paid for this service credit refunded to the member under this division if the member agrees to repurchase this service credit pursuant to division (B) of this section.

(D) Service credit purchased or otherwise obtained under this section shall be considered the equivalent of Ohio service credit.

A member may choose to purchase only part of the credit the member is eligible to purchase under division (B) of this section in any one payment, subject to rules of the public employees retirement board. A member is ineligible to purchase or otherwise obtain credit under this section for service to be used in calculation of any retirement benefit currently being paid or payable to the member in the future.

(E) If a ~~former~~ member of the public employees retirement system who is not a current contributor elects to receive credit under section 742.379 or 5505.202 of the Revised Code for service for which the ~~former~~ member contributed to the retirement system or purchased credit for service in the armed forces of the United States, the retirement system shall transfer to the police and firemen's disability and pension fund or the state highway patrol retirement system, as applicable, an the amount equal to the former member's qualified contributions with interest from the date the last such contribution was made to the date the transfer is made. ~~The interest shall be at the actuarial assumption rate of the public employees retirement system at the time the transfer is made.~~

~~As used in this division, "qualified contributions" has the same meaning as in division (A)(2) of section 742.379 of the Revised Code, in the case of~~

~~the police and firemen's disability and pension fund, and as in division (A)(4) of section 5505.202 of the Revised Code, in the case of the state highway patrol retirement system specified in division (D) of section 742.379 or division (B)(2) of section 5505.202 Of the Revised Code.~~

(F) A member of the public employees retirement system who earned service credit in the public employees retirement system for full-time service as a township or municipal police officer and received service credit in the police and firemen's disability and pension fund under section 742.511 or 742.512 of the Revised Code for such service may elect to have the credit restored as public employees retirement system service credit by paying the public employees retirement system an amount equal to the accumulated contributions paid by the member to the police and firemen's disability and pension fund under section 742.511 or 742.512 of the Revised Code. When such an election is made, the police and firemen's disability and pension fund shall transfer to the public employees retirement system the amount previously transferred under section 742.511 or 742.512 of the Revised Code from the public employees retirement system to the police and firemen's disability and pension fund.

(G) Interest charged under this section shall be calculated separately for each year of service credit at the lesser of the actuarial assumption rate for that year of the public employees retirement system or of the fund or retirement system in which the credit was earned. The interest shall be compounded annually.

Sec. 145.31. A Except as provided in this section, a member or former member of the public employees retirement system with at least eighteen months of contributing service credit in this system, the state teachers retirement system, the school employees retirement system, the police and firemen's disability and pension fund, or the state highway patrol retirement system, after the withdrawal of contributions and cancellation of service credit in this system, may restore such service credit by redepositing in the employees' savings fund the amount withdrawn, with interest on such amount compounded annually at a rate to be determined by the public employees retirement board from the first day of the month of withdrawal to and including the month of redeposit. The member may choose to purchase only part of such credit in any one payment, subject to board rules. The total payment to restore canceled service credit, plus any interest credited thereto, shall be considered as accumulated contributions of the member. If a former member is eligible to buy the service credit as a member of the police and firemen's disability and pension fund or state highway patrol retirement system, the former member is ineligible to restore that service credit under

this section.

Any employee who has been refunded ~~his~~ the employee's accumulated contributions to the public employees retirement system solely by reason of membership in a former firemen's relief and pension fund or a former police relief and pension fund may restore ~~his~~ membership in the public employees retirement system by redepositing with the system the amount refunded, with interest on such amount compounded annually at a rate to be determined by the board from the month of refund to and including the month of redeposit. The member may choose to purchase only part of such credit in any one payment, subject to board rules.

Sec. 145.33. (A) Except as provided in division (B) of this section, a member with at least five years of total service credit who has ~~the member's~~ attained age sixty, or who has thirty years of total Ohio service credit, may apply for age and service retirement which shall consist of:

(1) An annuity having a reserve equal to the amount of the member's accumulated contributions at that time;

(2) A pension equal to the annuity provided by division (A)(1) of this section;

(3) An additional pension, if the member can qualify for prior service, equal to forty dollars multiplied by the number of years, and fraction thereof, of such prior and military service credit;

(4) A basic annual pension equal to one hundred eighty dollars if the member has ten or more years of total service credit as of October 1, 1956, except that the basic annual pension shall not exceed the sum of the annual benefits provided by divisions (A)(1), (2), and (3) of this section. The cost of the basic annual pension shall be included in the deficiency contribution provided by sections 145.48 and 145.50 of the Revised Code.

(5) When a member retires on age and service retirement, the member's total annual single lifetime allowance, including the allowances provided in divisions (A)(1), (2), (3), and (4) of this section, shall be not less than a base amount adjusted in accordance with this division and determined by multiplying the member's total service credit by the greater of the following:

(a) Eighty-six dollars;

(b) Two and one-tenth per cent of the member's final average salary for each of the first thirty years of service plus two and one-half per cent of the member's final average salary for each subsequent year of service.

The allowance shall be adjusted by the factors of attained age or years of service to provide the greater amount as determined by the following schedule:

Years of

Percentage

Attained Birthday	or	Total Service Credit	of Base Amount
58		25	75
59		26	80
60		27	85
61			88
		28	90
62			91
63			94
		29	95
64			97
65		30 or more	100

Members shall vest the right to a benefit in accordance with the following schedule, based on the member's attained age by September 1, 1976:

Attained Birthday	Percentage of Base Amount
66	102
67	104
68	106
69	108
70 or more	110

(6) The total annual single lifetime allowance that a member shall receive under division (A)(5) of this section shall not exceed the lesser of one hundred per cent of the member's final average salary or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(B)(1) A member who has at least twenty-five years of total service credit, including credit for military service under division (C)(2) of this section, while serving as a law enforcement officer and who has ~~the~~ ~~member's~~ attained age fifty-two may apply for an age and service retirement benefit, which shall consist of an annual single lifetime allowance equal to the sum of two and one-half per cent of the member's final average salary multiplied by the first twenty years of the member's total service plus two and one-tenth per cent of the member's final average salary multiplied by the number of years of ~~of~~ the member's total service credit in excess of twenty years, except that no allowance shall exceed the lesser of ninety per cent of the member's final average salary or the limit established by section 415 of

the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(2) A member who has at least fifteen years of total service credit, including credit for military service under division (C)(2) of this section, while serving as a law enforcement officer and has attained sixty-two years of age may apply for an age and service retirement benefit, which shall consist of an annual single lifetime allowance computed as provided in division (B)(1) of this section. The benefit shall not 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.

(3) A member with at least fifteen years of total service credit, including credit for military service under division (C)(2) of this section, while serving as a law enforcement officer who voluntarily resigns or is discharged ~~the member's~~ for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony, may apply for an age and service retirement benefit, which shall consist of an annual single lifetime allowance equal to one and one-half per cent of the member's final average salary multiplied by the number of years of the member's total service credit. The benefit shall not 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 allowance shall commence on the first day of the calendar month following the month in which the application is filed with the public employees retirement board on or after the attainment by the applicant of age fifty-two.

(4) A member who has at least twenty-five years of total service credit, including credit for military service under division (C)(2) of this section, while serving as a law enforcement officer who voluntarily resigns or is discharged ~~the member's~~ for any reason except death, dishonesty, cowardice, intemperate habits, or conviction of a felony, on or after the date ~~the member~~ of attaining forty-eight years of age, but before the date ~~the member~~ of attaining fifty-two years of age, may elect to receive a reduced benefit as determined by the following schedule:

Attained Age	Reduced Benefit
48	75% of the benefit payable under division (B)(1) of this section
49	80% of the benefit payable under division (B)(1) of this section
50	86% of the benefit payable under division (B)(1) of this section
51	93% of the benefit payable under division (B)(1) of this section

A member who has at least twenty-five years of law enforcement service credit, upon attaining forty-eight, forty-nine, fifty, or fifty-one years of age, may elect to retire and receive a reduced benefit determined by the above schedule.

If a member elects to receive a reduced benefit on or after the date ~~the member~~ of attaining forty-eight years of age, but before the date ~~the member~~ of attaining forty-nine years of age, the reduced benefit is payable from the date the member attained forty-eight years of age or from the date the member becomes eligible to receive the reduced benefit, whichever is later. If a member elects to receive a reduced benefit on or after the date ~~the member~~ of attaining forty-nine years of age, but before the date ~~the member~~ of attaining fifty years of age, the reduced benefit is payable from the date the member attained forty-nine years of age or from the date the member becomes eligible to receive the reduced benefit, whichever is later. If a member elects to receive a reduced benefit on or after the date ~~the member~~ of attaining fifty years of age, but before the date ~~the member~~ of attaining fifty-one years of age, the reduced benefit is payable from the date the member attained fifty years of age or from the date the member becomes eligible to receive the reduced benefit, whichever is later. If a member elects to receive a reduced benefit on or after the date ~~the member~~ of attaining fifty-one years of age, but before the date ~~the member~~ of attaining fifty-two years of age, the reduced benefit is payable from the date the member attained fifty-one years of age or from the date the member becomes eligible to receive the reduced benefit, whichever is later.

Once a member elects to receive a reduced benefit determined by the above schedule and has received a payment, the member may not reelect to change that election.

If a member who has resigned or been discharged has left on deposit the member's accumulated contributions in the employees' savings fund and has not elected to receive a reduced benefit determined by the above schedule ~~the member~~, upon attaining fifty-two years of age, the member shall be entitled to receive a benefit computed and paid under division (B)(1) of this section.

(C)(1) A member with service credit as a law enforcement officer and other service credit under this chapter may elect one of the following:

(a) To have all the member's service credit under this chapter, including credit for service as a law enforcement officer, used in calculating a retirement allowance under division (A) of this section if the member qualifies for an allowance under that division;

(b) If the member qualifies for an allowance under division (B) of this

section, to have the member's service credit as a law enforcement officer used in calculating a benefit under that division and the member's credit for all service other than law enforcement service under this chapter used in calculating a benefit consisting of a single life annuity having a reserve equal to the amount of the member's accumulated contributions and an equal amount of the employer's contributions.

(2) Notwithstanding sections 145.01 and 145.30 of the Revised Code, no more than four years of military service credit granted under section 145.30 of the Revised Code and five years of military service credit purchased under section 145.301 or 145.302 of the Revised Code shall be used in calculating service as a law enforcement officer or the total service credit of that person.

(3) Only credit for the member's service as a law enforcement officer or service credit ~~purchased~~ obtained as a police officer or state highway patrol trooper shall be used in computing the benefits under division (B) of this section for the following:

(a) Any person who originally is commissioned and employed as a deputy sheriff by the sheriff of any county, or who originally is elected sheriff, on or after January 1, 1975;

(b) Any deputy sheriff who originally is employed on or after ~~the effective date of this amendment~~ April 16, 1993, as a criminal bailiff or court constable;

(c) Any person who originally is appointed as a township constable or police officer in a township police department or district on or after January 1, 1981;

(d) Any person who originally is employed as a county narcotics agent on or after September 26, 1984;

(e) Any person who originally is employed as an undercover drug agent as defined in section 109.79 of the Revised Code, liquor control investigator, park officer, forest officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, Ohio veterans' home ~~policeman~~ police officer, special ~~policeman~~ police officer for a mental health institution, special ~~policeman~~ police officer for an institution for the mentally retarded and developmentally disabled, or municipal police officer on or after December 15, 1988;

(f) Any person who is originally employed as a state university law enforcement officer, on or after ~~the effective date of this amendment~~ November 6, 1996;

(g) Any person who is originally employed as a Hamilton county municipal court bailiff on or after ~~the effective date of this amendment~~

November 6, 1996;

(h) Any person who is originally employed as a state university law enforcement officer by the university of Akron on or after the effective date of this amendment.

(D) Retirement allowances determined under this section shall be paid as provided in section 145.46 of the Revised Code.

Sec. 145.35. (A) As used in this section, "on-duty illness or injury" means an illness or injury that occurred during or resulted from performance of duties under the direct supervision of a member's appointing authority.

(B) The public employees retirement system shall provide disability coverage to each member who has at least five years of total service credit and disability coverage for on-duty illness or injury to each member who is a law enforcement officer, regardless of length of service.

Not later than October 16, 1992, the public employees retirement board shall give each person who is a member on ~~the effective date of this amendment~~ July 29, 1992, the opportunity to elect disability coverage either under section 145.36 of the Revised Code or under section 145.361 of the Revised Code. The board shall mail notice of the election, accompanied by an explanation of the coverage under each of the Revised Code sections and a form on which the election is to be made, to each member at ~~his~~ the member's last known address. The board shall also provide the explanation and form to any member ~~at his~~ on request.

Regardless of whether the member actually receives notice of ~~his~~ the right to make an election, a member who fails to file a valid election under this section shall be considered to have elected disability coverage under section 145.36 of the Revised Code. To be valid, an election must be made on the form provided by the retirement board, signed by the member, and filed with the board not later than one hundred eighty days after the date the notice was mailed, or, in the case of a form provided at the request of a member, a date specified by rule of the retirement board. Once made, an election is irrevocable, but if the member ceases to be a member of the retirement system, the election is void. If a person who makes an election under this section also makes an election under section 3307.42 or 3309.39 of the Revised Code, the election made for the system that pays a disability benefit to that person shall govern the benefit.

Disability coverage shall be provided under section 145.361 of the Revised Code for persons who become members after ~~the effective date of this amendment~~ July 29, 1992, and for members who elect under this division to be covered under section 145.361 of the Revised Code.

The retirement board may adopt rules governing elections made under

this division.

(C) Application for a disability benefit may be made by a member, by a person acting in ~~his~~ the member's behalf, or by the member's employer, provided the member has disability coverage under section 145.36 or 145.361 of the Revised Code and is not receiving a disability benefit under any other Ohio state or municipal retirement program. Application must be made within two years from the date the member's contributing service terminated, unless the retirement board determines that the member's medical records demonstrate conclusively that at the time the two-year period expired, the member was physically or mentally incapacitated for duty and unable to make an application. Application may not be made by or for any person receiving age and service retirement benefits under section 145.33, 145.331, 145.34, or 145.37 of the Revised Code or any person who, pursuant to section 145.40 of the Revised Code, has been paid the accumulated contributions standing to the credit of ~~his~~ the person's individual account in the employees' savings fund. The application shall be made on a form provided by the retirement board.

(D) The benefit payable to any member who is approved for a disability benefit shall become effective on the first day of the month immediately following the later of the following:

- (1) The last day for which compensation was paid;
- (2) The attainment of eligibility for a disability benefit.

(E) Medical examination of a member who has applied for a disability benefit shall be conducted by a competent disinterested physician or physicians selected by the board to determine whether the member is mentally or physically incapacitated for the performance of duty by a disabling condition either permanent or presumed to be permanent. The disability must have occurred since last becoming a member or have increased since last becoming a member to such extent as to make the disability permanent or presumed to be permanent. A disability is presumed to be permanent if it is expected to last for a continuous period of not less than twelve months following the filing of the application.

If the physician or physicians determine that the member qualifies for a disability benefit, ~~and~~ the board concurs with ~~such~~ the determination, and the member agrees to medical treatment as specified in division (F) of this section, the member shall receive a disability benefit under section 145.36 or 145.361 of the Revised Code. The action of the board shall be final.

(F) The public employees retirement board shall adopt rules requiring a disability benefit recipient, as a condition of continuing to receive a disability benefit, to agree in writing to obtain any medical treatment

recommended by the board's physician and submit medical reports regarding the treatment. If the board determines that a disability benefit recipient is not obtaining the medical treatment or the board does not receive a required medical report, the disability benefit shall be suspended until the treatment is obtained, the report is received by the board, or the board's physician certifies that the treatment is no longer helpful or advisable. Should the recipient's failure to obtain treatment or submit a medical report continue for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

(G) In the event an employer files an application for a disability benefit as a result of a member having been separated from service because ~~he~~ the member is considered to be mentally or physically incapacitated for the performance of ~~his~~ the member's present duty, and the physician or physicians selected by the board reports to the board that the member is physically and mentally capable of performing service similar to that from which ~~he~~ the member was separated and the board concurs in the report, the board shall so certify to the employer and the employer shall restore the member to ~~his~~ the member's previous position and salary or to a similar position and salary.

Sec. 145.351. Not later than March 1, 2000, and each first day of March for the succeeding five years, the public employees retirement board shall make and submit a report for the preceding fiscal year of the disability retirement experience of each employer. The report shall specify the total number of disability applications submitted, the status of each application as of the last day of the fiscal year, total applications granted or denied, and the percentage of disability benefit recipients to the total number of the employer's employees who are members of the public employees retirement system. The report shall be submitted to the governor, the Ohio retirement study council, and the chairpersons of the standing committees and subcommittees of the senate and house of representatives with primary responsibility for retirement legislation.

Sec. 145.362. A disability benefit recipient shall retain membership status and shall be considered on leave of absence from employment during the first five years following the effective date of a disability benefit, notwithstanding any contrary provisions in this chapter.

The public employees retirement board shall require any disability benefit recipient to undergo an annual medical examination, except that the board may waive the medical examination if the board's physician or physicians ~~specify~~ certify that the recipient's disability is ongoing. If any disability benefit recipient refuses to submit to a medical examination, the

recipient's disability benefit shall be ~~discontinued~~ suspended until withdrawal of the refusal. Should the refusal continue for one year, all the recipient's rights in and to the disability benefit shall be ~~forfeited~~ terminated as of the effective date of the original suspension.

On completion of the examination by an examining physician or physicians selected by the board, the physician or physicians shall report and certify to the board whether the disability benefit recipient is no longer physically and mentally ~~capable~~ incapable of resuming the service ~~similar to that~~ from which the recipient was found disabled. If the board concurs in the report that the disability benefit recipient is ~~so capable~~ no longer incapable, the payment of the disability benefit shall be terminated not later than three months after the date of the board's concurrence or upon employment as a public employee. If the leave of absence has not expired, the retirement board shall certify to the disability benefit recipient's last employer before being found disabled that the recipient is ~~capable~~ no longer physically and mentally incapable of resuming service, ~~and the that is the same or similar to that from which the recipient was found disabled.~~ The employer shall restore the recipient to the recipient's previous position and salary or to a position and salary similar thereto, unless the recipient was dismissed or resigned in lieu of dismissal for dishonesty, misfeasance, malfeasance, or conviction of a felony.

~~The board may adopt rules requiring each~~ Each disability benefit recipient ~~to shall~~ file with the board an annual statement of earnings ~~and~~, current medical information on ~~his~~ the recipient's condition, ~~and any other information required in rules adopted by the board.~~ The board may waive the requirement that a disability benefit recipient file an annual statement of earnings or current medical information if the board's physician certifies that the recipient's disability is ongoing.

The board shall annually examine the information submitted by the recipient. If a disability benefit recipient refuses to file the statement or information, the disability benefit shall be suspended until the statement and information are filed. If the refusal continues for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

If a disability benefit recipient is restored to service by, or elected to an elective office with, an employer covered by this chapter, the recipient's disability benefit shall cease.

The board may terminate a disability benefit at the request of the recipient.

If disability retirement under section 145.36 of the Revised Code is

terminated for any reason, the annuity and pension reserves at that time in the annuity and pension reserve fund shall be transferred to the employees' savings fund and the employers' accumulation fund, respectively. If the total disability benefit paid is less than the amount of the accumulated contributions of the member transferred to the annuity and pension reserve fund at the time of the member's disability retirement, the difference shall be transferred from the annuity and pension reserve fund to another fund as may be required. In determining the amount of a member's account following the termination of disability retirement for any reason, the total amount paid shall be charged against the member's refundable account.

If a disability allowance paid under section 145.361 of the Revised Code is terminated for any reason, the reserve on the allowance at that time in the annuity and pension reserve fund shall be transferred from that fund to the employers' accumulation fund.

If a former disability benefit recipient again becomes a contributor, other than as an other system retirant under section 145.38 of the Revised Code, to this system, the state teachers retirement system, or the school employees retirement system, and completes an additional two years of service credit, the former disability benefit recipient shall be entitled to full service credit for the period as a disability benefit recipient.

If any employer employs any member who is receiving a disability benefit, the employer shall file notice of employment with the retirement board, designating the date of employment. In case the notice is not filed, the total amount of the benefit paid during the period of employment prior to notice shall be charged to and paid by the employer.

Sec. 145.43. (A) As used in this section and in section 145.45 Of the Revised Code:

(1) ~~"Dependent child~~ Child ~~is a dependent child as defined in section 145.45 of the Revised Code~~ means a biological or legally adopted child of a deceased member. If a court hearing for an interlocutory decree for adoption was held prior to the member's death, "child" includes the child who was the subject of the hearing notwithstanding the fact that the final decree of adoption, adjudging the surviving spouse as the adoptive parent, is made subsequent to the member's death.

(2) ~~"Dependent parent~~ Parent ~~is a person who is a dependent parent for the purposes of section 145.45 of the Revised Code~~ parent or legally adoptive parent of a deceased member.

(3) "Dependent" means a beneficiary who receives one-half of the beneficiary's support from a member during the twelve months prior to the member's death.

(4) "Surviving spouse" means an individual who establishes a valid marriage to a member at the time of the member's death by marriage certificate or pursuant to division (E) of this section.

(5) "Survivor" means a surviving spouse, child, or parent.

(B) ~~Should~~ Except as provided in division (C)(1) of section 145.45 Of the Revised Code, should a member die before age and service retirement, ~~his the member's~~ accumulated contributions, any deposits for purchase of additional annuity, and any payment ~~he the member~~ has made to restore previously forfeited service credit as provided in section 145.31 of the Revised Code, shall be paid to ~~such the~~ person or persons ~~as he the member~~ has designated in writing duly executed on a form provided by the public employees retirement board, signed by ~~him the member~~, and filed with the board prior to ~~his the member's~~ death. A member may designate two or more persons as beneficiaries jointly to be paid the accumulated account in a lump sum. The last designation of any beneficiary revokes all previous designations. The member's marriage, divorce, marriage dissolution, legal separation, or withdrawal of account, or the birth of ~~his the member's~~ child, or ~~his~~ adoption of a child, shall constitute an automatic revocation of ~~his the member's~~ previous designation. If a deceased member was also a member of the school employees retirement system or the state teachers retirement system, the beneficiary last established among the systems shall be the sole beneficiary in all the systems.

If the accumulated contributions of a deceased member are not claimed by a beneficiary; or by the estate of the deceased member; within five years ~~such, the~~ contributions shall be transferred to the income fund and thereafter paid to ~~such the~~ beneficiary or to the member's estate upon application to the board. The board shall formulate and adopt the necessary rules governing all designations of beneficiaries.

(C) ~~If~~ Except as provided in division (C)(1) of section 145.45 Of the Revised Code, if a member dies before age and service retirement and is not survived by a designated beneficiary, any ~~survivors~~ beneficiaries shall qualify ~~as beneficiaries~~ in the following order of precedence, with all attendant rights and privileges:

(1) ~~Spouse~~ Surviving spouse;

(2) ~~Youngest dependent child of a member if such child elects to take survivor benefits under division (B) of section 145.45 of the Revised Code and the total amount of survivor benefits payable to all dependent children of the member by such election exceeds the amount of the accumulated account subject to refund;~~

(3) ~~Children share and share alike;~~

~~(4)~~(3) A dependent parent of a member, if that parent ~~elects to take~~ takes survivor benefits under division (B) of section 145.45 of the Revised Code;

~~(5)~~(4) Parents, share and share alike;

~~(6)~~(5) Estate.

If the beneficiary is deceased or is not located within ninety days, the beneficiary ceases to qualify for any benefit and the beneficiary next in order of precedence shall qualify as a beneficiary.

Any payment made to a beneficiary as determined by the public employees retirement board shall be a full discharge and release to the board from any future claims.

(D) Any amount due a retirant or disability benefit recipient receiving a monthly benefit and unpaid to ~~him~~ the retirant or recipient at ~~his~~ death, shall be paid to the beneficiary designated in writing on a form approved by the board, signed by the retirant or recipient and filed with the board. If no such designation has been filed, or if the designated beneficiary ~~designated by the retirant is deceased or~~ is not located within ninety days, any amounts payable under this chapter due to the death of the retirant or recipient shall be paid in the following order of precedence to the retirant's or recipient's:

(1) Surviving spouse;

(2) Children, share and share alike;

(3) Parents, share and share alike;

(4) Estate.

~~Such~~ THE payment shall be a full discharge and release to the board from any future claim for ~~such~~ THE payment.

Any amount due a beneficiary receiving a monthly benefit and unpaid to ~~him~~ the beneficiary at ~~his~~ the beneficiary's death shall be paid to ~~his~~ the beneficiary's estate.

(E) If the validity of marriage cannot be established to the satisfaction of the retirement board for the purpose of disbursing any amount due under this section or section 145.45 of the Revised Code, the board may accept a decision rendered by a court having jurisdiction in the state in which the member was domiciled at the time of death that the relationship constituted a valid marriage at the time of death, or the "spouse" would have the same status as a widow or widower for purposes of sharing the distribution of the member's intestate personal property.

~~(F) If any amount due under this chapter is payable to a beneficiary who has been found guilty by a court of law of feloniously contributing to the death of the member, then such payment shall not~~ the death of a member is caused by one of the following beneficiaries, no amount due under this

after to the beneficiary shall be paid to such the beneficiary in the absence of a court order to the contrary filed with the board;

(1) A beneficiary who is convicted of, pleads guilty to, or is found not guilty by reason of insanity of a violation of or complicity in the violation of either of the following:

(a) Section 2903.01, 2903.02, or 2903.03 of the Revised Code;

(b) An existing or former law of any other state, the United States, or a foreign nation that is substantially equivalent to section 2903.01, 2903.02, or 2903.03 of the Revised Code;

(2) A beneficiary who is indicted for a violation of or complicity in the violation of the sections or laws described in division (F)(1)(a) or (b) of this section and is adjudicated incompetent to stand trial;

(3) A beneficiary who is a juvenile found to be a delinquent child by reason of committing an act that, if committed by an adult, would be a violation of or complicity in the violation of the sections or laws described in division (F)(1)(a) or (b) of this section.

Sec. 145.45. ~~It~~ Except as provided in division (C)(1) of this section, in lieu of accepting the payment of the accumulated account of a member who dies before service retirement, a beneficiary, as determined in this section or section 145.43 of the Revised Code, may elect to forfeit the accumulated contributions and to substitute certain other benefits under division (A) or (B) of this section.

(A) If a deceased member was eligible for a service retirement benefit as provided in section 145.33, 145.331, or 145.34 of the Revised Code, a surviving spouse or other sole dependent beneficiary may elect to receive a monthly benefit computed as the joint-survivor benefit designated as "plan D" in section 145.46 of the Revised Code, which the member would have received had the member retired on the last day of the month of death and had the member at that time selected such joint-survivor plan. Payment shall begin with the month subsequent to the member's death, except that a surviving spouse who is less than sixty-five years old may defer receipt of such benefit. Upon receipt, the benefit shall be calculated based upon the spouse's age at the time of first payment, and shall accrue regular interest during the time of deferral.

(B) If a deceased member had at least one and one-half years of contributing service credit, with at least one-quarter year of contributing service credit within the two and one-half years prior to the date of death, or was receiving at the time of death a disability benefit as provided in section 145.36, 145.361, or 145.37 of the Revised Code, certain ~~designated beneficiaries~~ qualified survivors may elect to receive monthly benefits as

provided in divisions (B)(1) and (5) of this section.

(1) Number
of Qualified
~~dependents~~
survivors

Annual Benefit as a Per

Or
Monthly
Benefit
shall not be
less than

affecting
the benefit

Cent of Decedent's Final
Average Salary

1

25%

\$ 96

2

40

186

3

50

236

4

55

236

5 or more

60

236

(2) Benefits shall begin as qualified ~~dependents~~ survivors meet eligibility requirements as follows:

(a) ~~Spouse~~ A qualified spouse is the surviving spouse of the deceased member, who is age sixty-two, or age fifty if the deceased member had ten or more years of Ohio service credit, or regardless of age if caring for a ~~dependent~~ qualified child, or regardless of age if adjudged physically or mentally incompetent. A spouse of a member who died prior to August 27, 1970, whose eligibility was determined at the member's death, and who is physically or mentally incompetent on or after August 20, 1976, shall be paid the monthly benefit which that person would otherwise receive when qualified by age.

(b) ~~Dependent~~ A qualified child shall be ~~is~~ any unmarried child of the deceased member under age eighteen, or under age twenty-two if the child is 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 and as further determined by board policy, or regardless of age if adjudged physically or mentally incompetent at the time of the member's death. ~~If not domiciled in the deceased member's household at time of death, to qualify as a dependent child the deceased member must have contributed to one-half or more of the child's support during the twelve-month period prior to death. "Child" as used in this section includes a legally adopted child. If a court hearing for an interlocutory decree for adoption has been held prior to the time of the member's death, the beneficiary shall qualify for the monthly benefit notwithstanding the fact that the final decree of adoption, adjudging the surviving spouse as the adoptive parent, is made subsequent to the death of the member.~~

(c) A qualified parent is a dependent parent aged sixty-five or ~~more who received at least one half of his support from the member during the twelve month period immediately preceding the member's death~~ older or regardless of age if physically or mentally incompetent, a dependent parent whose eligibility was determined by the member's death prior to August 20, 1976, and who is physically or mentally incompetent on or after August 20, 1976, shall be paid the monthly benefit for which that person would otherwise qualify.

(3) "Physically or mentally incompetent" as used in this section may be determined by a court of jurisdiction, or by a physician appointed by the retirement board. Incapability of making a living because of a physically or mentally disabling condition shall meet the qualifications of this division.

(4) Benefits to a qualified ~~dependent~~ survivor shall terminate upon ceasing to meet eligibility requirements as provided in this division, a first marriage, remarriage, abandonment, adoption, or during active military service, 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. If the surviving spouse of a deceased member remarries on or after the effective date of this amendment and at the time of remarriage has attained age fifty five, the benefits provided by this division shall continue. The benefits provided by this division also shall continue to a deceased member's surviving spouse who remarried prior to the effective date of this amendment and had attained age sixty-two at the time of the remarriage. If the benefits of a deceased member's surviving spouse were terminated under this division due to a remarriage occurring on or after February 15, 1995, and if at the time of remarriage the surviving spouse had attained age fifty five, the benefits terminated under this division shall resume on the first day of the month immediately following the effective date of this amendment. Upon, Benefits to a deceased member's surviving spouse that were terminated under a former version of this section that required termination due to remarriage and were not resumed prior to the effective date of this amendment shall resume on the first day of the month immediately following receipt by the board of an application on a form provided by the board.

Upon the death of any subsequent spouse who was a member of the public employees retirement system, state teachers retirement system, or school employees retirement system, the surviving spouse of such member may elect to continue receiving benefits under this division, or to receive survivor's benefits, based upon the subsequent spouse's membership in one or more of the systems, for which such surviving spouse is eligible under

is section or section 3307.49 or 3309.45 of the Revised Code. If the surviving spouse elects to continue receiving benefits under this division, such election shall not preclude the payment of benefits under this division to any other qualified ~~dependent~~ survivor.

Benefits shall begin or resume on the first day of the month following the attainment of eligibility and shall terminate on the first day of the month following loss of eligibility.

(5) Benefits to a qualified spouse shall be paid in the amount determined for the first qualifying ~~dependent~~ survivor in division (B)(1) of this section, but shall not be less than one hundred six dollars per month if the deceased member had ten or more years of Ohio service credit. All other qualifying ~~dependents~~ survivors shall share equally in the benefit or remaining portion thereof.

(6) The beneficiary of a member who is also a member of the state teachers retirement system or of the school employees retirement system, must forfeit the member's accumulated contributions in those systems and in the public employees retirement system, if the beneficiary ~~elects to receive~~ takes a survivor benefit. Such benefit shall be exclusively governed by section 145.37 of the Revised Code.

~~(7)(C)(1)~~ Regardless of whether the member is survived by a spouse or designated beneficiary, if the public employees retirement system receives notice that a deceased member described in division (A) or (B) of this section has one or more qualified children, all persons who are qualified survivors under division (B) of this section shall receive monthly benefits as provided in division (B) of this section.

If, after determining the monthly benefits to be paid under division (B) of this section, the system receives notice that there is a qualified survivor who was not considered when the determination was made, the system shall, notwithstanding section 145.561 Of the Revised Code, recalculate the monthly benefits with that qualified survivor included, even if the benefits to qualified survivors already receiving benefits are reduced as a result. The benefits shall be calculated as if the qualified survivor who is the subject of the notice became eligible on the date the notice was received and shall be paid to qualified survivors effective on the first day of the first month following the system's receipt of the notice.

If the retirement system did not receive notice that a deceased member has one or more qualified children prior to making payment under section 145.43 of the Revised Code to a beneficiary as determined by the retirement system, the payment is a full discharge and release of the system from any future claims under this section or section 145.43 Of the Revised Code.

(2) If benefits under division (C)(1) of this section to all persons, or to all persons other than a surviving spouse or other sole beneficiary, terminate, there are no children under the age of twenty-two years, and the surviving spouse or beneficiary qualifies for benefits under division (A) of this section, the surviving spouse or beneficiary may elect to receive benefits under division (A) of this section. The benefits shall be effective on the first day of the month immediately following the termination.

(D) If the survivor benefits due and paid under this section are in a total amount less than the member's accumulated account that was transferred from the public employees' savings fund to the survivors' benefit fund, then the difference between the total amount of the benefits paid shall be paid to the beneficiary under section 145.43 of the Revised Code.

Sec. 145.46. (A) A retirement allowance calculated under section 145.33, 145.331, or 145.34 of the Revised Code shall be paid as provided in this section. If the member is eligible to elect a plan of payment under this section, the election shall be made on a form provided by the public employees retirement board. A plan of payment elected under this section shall be effective only if approved by the board, which shall approve it only if it is certified by an actuary engaged by the board to be the actuarial equivalent of the retirement allowance calculated under section 145.33, 145.331, or 145.34 of the Revised Code.

(B)(1) Unless the member is eligible to elect another plan of payment, a member who retires under section 145.32, 145.331, or 145.34 of the Revised Code shall receive a retirement allowance under "plan A," which shall consist of the actuarial equivalent of ~~his~~ the member's retirement allowance determined under section 145.33, 145.331, or 145.34 of the Revised Code in a lesser amount payable for ~~his~~ life and one-half of such allowance continuing after ~~his~~ death to ~~his~~ the member's surviving spouse for the life of the spouse.

A member may elect to receive ~~his~~ the member's retirement allowance under a plan of payment other than "plan A" if the member is not married or either ~~his~~ the member's spouse ~~acknowledges having been informed that the member has elected~~ consents in writing to the member's election of a plan of payment other than "plan A" or the board waives the requirement that the spouse ~~make such an acknowledgement~~ consent. An ~~acknowledgement~~ 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, the member's retirement allowance will be paid under "plan A," which consists of the actuarial equivalent of the member's

retirement allowance in a lesser amount payable for life and one-half of the 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 ~~on a form provided by the board~~ witnessed by a notary public. The board may waive the requirement of ~~an acknowledgement~~ consent if the spouse is incapacitated or cannot be located or for any other reason specified by the board. ~~An acknowledgement~~ Consent or waiver is effective only with regard to the spouse who is the subject of the ~~acknowledgement~~ consent or waiver.

(2) A member eligible to elect to receive ~~his~~ the member's retirement allowance under a plan of payment other than "plan A;" shall receive ~~his~~ the member's retirement allowance under one of the following plans elected at the time ~~he~~ the member makes application for retirement:

(a) "Plan B," which shall consist of an allowance determined under section 145.33, 145.331, or 145.34 of the Revised Code;

(b) "Plan C," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 145.33, 145.331, or 145.34 of the Revised Code in a lesser amount payable for ~~his~~ life and one-half or some other portion of the allowance continuing after ~~his~~ death to ~~his~~ the member's sole surviving beneficiary designated at the time of the member's retirement, provided that the amount payable to the beneficiary does not exceed the amount payable to the member;

(c) "Plan D," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 145.33, 145.331, or 145.34 of the Revised Code in a lesser amount payable for ~~his~~ life and continuing after ~~his~~ death to a surviving ~~designated~~ beneficiary designated at the time of the member's retirement;

(d) "Plan E," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 145.33, 145.331, or 145.34 of the Revised Code in a lesser amount payable for a certain period from the member's retirement date as elected by ~~him~~ the member and approved by the retirement board, and on ~~his~~ the member's death before the expiration of that certain period ~~his~~ the member's lesser retirement allowance payable for the remainder of that period to ~~his~~ the member's

surviving designated beneficiary nominated by written designation filed with the retirement board.

Should the nominated beneficiary designated in writing 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.

(3) A member eligible to elect to receive ~~his~~ the member's retirement allowance under a plan of payment other than "plan A" because ~~he~~ the member is unmarried who fails to make an election on retirement shall receive ~~his~~ the member's retirement allowance under "plan B."

(C) If the retirement allowances, as a single life annuity or payment plan as provided in this section, due and paid are in a total amount less than (1) the accumulated contributions, and (2) other deposits made by the member as provided by sections 145.01 to 145.59 of the Revised Code, standing to the credit of the member at the time of ~~his~~ retirement, then the difference between the total amount of the allowances paid and the accumulated contributions and other deposits shall be paid to the beneficiary provided under division (D) of section 145.43 of the Revised Code.

(D)(1) The death of a spouse or any designated beneficiary following retirement shall cancel any plan of payment to provide continuing lifetime benefits to the spouse or beneficiary and return the retirant to ~~his~~ the retirant's single lifetime benefit equivalent, as determined by the board, to be effective the month following receipt by the board of notice of the death.

(2) On divorce, annulment, or marriage dissolution, a retirant receiving a retirement allowance under a plan that provides for continuation of all or part of the allowance after ~~his~~ death for the lifetime of ~~his~~ the retirant'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 plan and receive ~~his~~ the member's single lifetime benefit equivalent as determined by the retirement board. The election shall be made on a form provided by the board and shall be effective the month following its receipt by the board.

(E) Following a marriage or remarriage, a retirant who is receiving ~~his~~ the retirant's retirement allowance under "plan B;" may elect a new plan of payment under division (B)(1), (2)(b), or (2)(c) of this section based on the actuarial equivalent of ~~his~~ the retirant's single lifetime benefit as determined by the board. The plan shall become effective the first day of the month following receipt by the board of an application on a form approved by the board.

(F) Any person who, prior to July 24, 1990, selected an optional plan of

payment at retirement that provided for a return to the single life benefit after the designated beneficiary's death shall have ~~his~~ the retirant's benefit adjusted to the optional plan equivalent without such provision.

(G) A retirant's receipt of ~~his~~ the first month's retirement allowance constitutes ~~his~~ the retirant's final acceptance of the plan of payment and may be changed only as provided in this chapter.

Sec. 171.05. The compensation of all employees of the Ohio retirement study council and other expenses of the council shall be paid upon vouchers approved by the director and the chairperson of the council.

The public employees retirement system, ~~the~~ state teachers retirement system, ~~the~~ school employees retirement system, ~~the~~ state highway patrol retirement system, and ~~the~~ police and firemen's disability and pension fund shall pay the annual expenses of the ~~Ohio retirement study~~ council. The council shall prepare and submit to the retirement boards on or before the thirtieth day of June of each year an itemized estimate of the amounts necessary to pay the expenses of the council during the following year. Such expenses shall be charged to and paid by each of the retirement systems in the same ratio as the assets of each system, as of the preceding January first, bear to the total assets of all five systems on that date.

The council shall establish policies and procedures for purchasing goods and services on a competitive basis and maintaining tangible personal property. The policies and procedures shall be designed to safeguard the use of funds received by the council. An audit performed under Chapter 117. Of the Revised Code shall include a determination of the council's compliance with the policies and procedures.

The council is not subject to Chapters 123., 124., 125., 126., and 127. Of the Revised Code.

The treasurer of state shall be the custodian of all funds of the council.

Sec. 742.01. As used in this chapter:

(A)(1) "Police department" means the police department of a municipal corporation.

(2) "Member of a police department" means ~~both~~ any of the following:

(a) Any person who receives an original appointment as a full-time regular police officer in a police department from a duly established civil service eligible list or pursuant to section 124.411 of the Revised Code, or who is described in section 742.511 of the Revised Code, or who transfers from the public employees retirement system to the police and firemen's disability and pension fund pursuant to section 742.513, or who is appointed pursuant to section 737.15 or 737.16 of the Revised Code as a full-time regular police officer and is paid solely out of public funds of the employing

municipal corporation;

(b) Any person who, on October 1, 1965, was contributing four per cent of the person's annual salary to a police relief and pension fund established under former section 741.32 of the Revised Code;

(c) Any person who commences employment on or after the effective date of this amendment as a full-time police officer with a police department in a position in which the person is required to satisfactorily complete a peace officer training course in compliance with section 109.77 of the Revised Code.

(B)(1) "Fire department" means a fire department of the state or an instrumentality of the state or of a municipal corporation, township, joint fire district, or other political subdivision.

(2) "Member of a fire department" means all of the following:

(a) Any person who commences employment after November 8, 1990, as a full-time firefighter with a fire department, in a position in which the person is required to satisfactorily complete or have satisfactorily completed a firefighter training course approved under former section 3303.07 or section 4765.55 or conducted under section 3737.33 of the Revised Code;

(b) Any person who has elected under section 742.515 of the Revised Code to be transferred from the public employees retirement system to the police and firemen's disability and pension fund;

(c) Any full-time firefighter who, on November 8, 1990, is a member of the police and firemen's disability and pension fund.

(C) "Employee" means any person who is a member of a police department or a member of a fire department.

(D) "Employer" means the government entity by which an employee is employed and paid.

(E) "Member of the fund" means any person, except an other system retirant as defined in section 742.26 of the Revised Code, who is contributing a percentage of the person's annual salary to the police and firemen's disability and pension fund or who is receiving a disability benefit or pension from the fund as a result of service in a police or fire department. A person, other than an other system retirant, who is contributing a percentage of the person's annual salary to the fund and is dismissed, resigns, or is granted a leave of absence from a police or fire department shall be considered a "member of the fund" for a period of twelve months after the first day of the dismissal, resignation, or leave of absence, provided the sum deducted from the person's salary and credited to the person's account in the fund remains on deposit in the fund.

~~(F) "Total disability" means inability to perform the duties of any~~

~~gainful occupation for which the member of the fund is reasonably fitted by training, experience, and accomplishments, provided that absolute helplessness is not a prerequisite of total disability.~~

~~(G) "Permanent disability" means a condition of disability with respect to which the board of trustees of the police and firemen's disability and pension fund finds there is no present indication of recovery. For purposes of making such a determination, the board shall consider and base its findings on all competent evidence, including medical testimony, opinions, and statements, made available to it.~~

~~(H) "Year," for the purpose of determining benefits, means any twelve consecutive calendar months of active service as a member of the fund, or, in the case of a member whose salary is paid weekly or biweekly, fifty-two consecutive weeks of active service as a member.~~

~~(H)(G) "Average annual salary" means the highest average annual salary of a member of the fund during any three years of contributions determined by dividing the member's total salary as an employee during the years by three.~~

~~(J)(H) "Normal service pension benefit" means the pension benefit payable to a member of the fund under division (C)(1) of section 742.37 of the Revised Code upon attaining age forty-eight.~~

~~(K)(I) "Retirement allowance" means the total pension benefit or disability benefit to which a member of the fund may be entitled under division (C) of section 742.37 or section 742.39 of the Revised Code.~~

~~(L)(J) "Fiduciary" means a person who does any of the following:~~

~~(1) Exercises any discretionary authority or control with respect to the management of the system, or with respect to the management or disposition of its assets;~~

~~(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;~~

~~(3) Has any discretionary authority or responsibility in the administration of the system.~~

~~(M)(K) "Terminal pay" means the following payments made by an employer to an employee on termination of employment:~~

~~(1) Payments for accrued but unused leave, including sick leave, vacation, personal leave, and compensatory time;~~

~~(2) Payments deferred more than one year compensating the employee for holidays worked or for longevity;~~

~~(3) Payments for overtime worked that are not included either in the payroll for the period in which the overtime is worked or for the next subsequent payroll period;~~

(4) Other payments that are not compensation for services rendered in the last pay period in which services were rendered and are designated as terminal pay by rule of the board of trustees of the police and firemen's disability and pension fund. The board shall not designate as terminal pay payments deferred one year or less compensating an employee for holidays worked or for longevity.

~~(N)(L)~~(1) Except as otherwise provided in this division, "salary" means all compensation, wages, and other earnings paid to an employee by reason of employment, but without regard to whether compensation, wages, or other earnings are treated as deferred income for federal income tax purposes. "Salary" includes payments for overtime that are made not later than the payroll following the payroll period in which the overtime is worked.

(2) "Salary" does not include any of the following:

(a) Compensation for services outside the scope of an employee's regular employment;

(b) Reimbursement of expenses;

(c) Terminal pay;

(d) Payments for accrued but unused sick leave or personal leave, or vacation pay covering periods for which salary, compensation, or benefits are paid;

(e) Payments made under division (B) or (D) of section 5923.05 of the Revised Code or Section 4 of Substitute Senate Bill No. 3 of the 119th general assembly;

(f) Payments made to or on behalf of an employee that are in excess of the annual compensation that may be taken into account by the fund under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended.

(3) The board shall determine by rule whether any compensation, wages, or earnings not enumerated in this division is salary, and its decision shall be final.

~~(O)(M)~~ "Actuary" means an individual who satisfies all of the following requirements:

(1) Is a member of the American academy of actuaries;

(2) Is an associate or fellow of the society of actuaries;

(3) Has a minimum of five years' experience in providing actuarial services to public retirement plans.

Sec. 742.03. (A) As used in this section and in sections 742.04 and 742.05 of the Revised Code:

(1) "Police officer" means a member of the fund who is or has been an

employee of a police department and is not a police retirant.

(2) "Firefighter" means a member of the fund who is or has been an employee of a fire department and is not a firefighter retirant.

(3) "Firefighter retirant" means a member of the fund who is receiving an age and service or disability benefit as a result of service in a fire department or a surviving spouse of a deceased member who is receiving a benefit as a result of the deceased member's service in a fire department.

(4) "Police retirant" means a member of the fund who is receiving an age and service or disability benefit as a result of service in a police department or a surviving spouse of a deceased member who is receiving a benefit as a result of the deceased member's service in a police department.

(B) The administration, control, and management of the police and firemen's disability and pension fund, created under section 742.02 of the Revised Code, is vested in a board of trustees of the police and firemen's disability and pension fund, which shall consist of nine members as follows:

(1) The attorney general;

(2) The auditor of state;

(3) The fiscal officer of a municipal corporation who shall be appointed by the governor. This member's term shall be for three years, commencing on the fourth day of June and ending on the third day of June. The fiscal officer member shall hold office from the date of appointment until the end of the term for which appointed. Any fiscal officer member appointed to fill a vacancy occurring prior to the expiration of the term for which the fiscal officer member's predecessor was appointed shall hold office for the remainder of such term. Any fiscal officer member shall continue in office subsequent to the expiration date of the fiscal officer member's term until such member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(4) Four members known as employee members.

Two employee members shall be police officers elected by police officers. Two employee members shall be firefighters elected by firefighters. Employee members of the board shall be elected for terms of four years as provided by section 742.04 of the Revised Code.

(5) One member known as the firefighter retirant member, who shall be a resident of this state elected by the firefighter retirants. The firefighter retirant member shall be elected for a term of four years as provided by section 742.04 of the Revised Code.

(6) One member known as the police retirant member, who shall be a resident of this state elected by the police retirants. The police retirant member shall be elected for a term of four years as provided by section

742.04 of the Revised Code.

(C) No employee member of the board who retires while a member of the board shall be eligible to become a retirant member for three years after the date of the member's retirement.

Sec. 742.04. ~~Election~~ As used in this section, "county" means the county of residence of an individual who signs a nominating petition.

Election of the employee members, firefighter retirant member, and police retirant member of the board of trustees of the police and firemen's disability and pension fund shall be under the supervision and direction of the board.

Nominating petitions for candidates for an employee member of the board elected by police officers shall be signed by at least one hundred ~~members of the fund who are~~ police officers, with at least twenty signers from each of at least five counties of the state.

Nominating petitions for candidates for an employee member of the board elected by firefighters shall be signed by at least one hundred ~~members of the fund who are~~ firefighters, with at least twenty signers from each of at least five counties of the state.

Nominating petitions for candidates for an employee member of the board shall be filed in the office of the board not later than four p.m. on the first Monday in April preceding the date of the expiration of the term of the employee member of the board whose successor is to be elected.

The board shall determine the sufficiency of the nominating petitions filed with it and the board's decision shall be final.

The board shall cause ballots to be prepared for the election of employee members of the board which shall contain the names of all candidates for whom proper nominating petitions have been filed with the board.

A Police officer or firefighter is eligible to vote in an election if the police officer or firefighter is a member of the fund on the first Monday in March preceding the date of the expiration of the term of the employee member of the board whose successor is to be elected. The board shall determine whether a member of the fund is eligible to vote at an election and its decision shall be final.

On or before the first Monday in May preceding the date of the expiration of the term of the employee member of the board whose successor is to be elected, the board shall cause ballots to be sent to each member of the fund who is eligible to vote at such election to the address of such member as shown on the records of the board.

Ballots shall be returned to the board not later than the third Tuesday in

May following the date that the ballots were mailed to the members of the fund eligible to vote at such election.

The board shall cause the ballots to be counted and shall declare the person receiving the highest number of votes elected as an employee member of the board for a term of four years beginning on the first Monday in June following such election.

Nominating petitions for candidates for the police retirant member of the board shall be signed by at least fifty police retirants, with at least ten signers from at least five counties of the state.

Nominating petitions for candidates for the firefighter retirant member of the board shall be signed by at least fifty firefighter retirants, with at least ten signers from at least five counties of the state.

Nominating petitions for candidates for the retirant members of the board shall be filed in the office of the board not later than four p.m. on the first Monday in April preceding the date of the expiration of the term of the retirant member of the board whose successor is to be elected.

The board shall determine the sufficiency of the nominating petitions filed with it, and the board's decision shall be final.

The board shall cause ballots to be prepared for the election of these board members which shall contain the names of all candidates for whom proper nominating petitions have been filed with the board.

A retirant is eligible to vote in an election if the retirant is a police retirant or firefighter retirant on the first Monday in April preceding the date of the expiration of the term of the retirant member of the board whose successor is to be elected. The board shall determine whether a police retirant or firefighter retirant is eligible to vote at an election and its decision shall be final.

On or before the first Monday in May preceding the date of the expiration of the term of a retirant member of the board whose successor is to be elected, the board shall cause ballots to be sent to each person who is eligible to vote in the election to the address of the person as shown on the records of the board.

Ballots shall be returned to the board not later than the third Tuesday in May following the date that the ballots were mailed to the persons eligible to vote in the election.

The board shall cause the ballots to be counted and shall declare the person receiving the highest number of votes elected as the police retirant member or the firefighter retirant member of the board for a term of four years beginning on the first Monday in June following the election.

Sec. 742.05. Any vacancy occurring in the term of a member of the

board of trustees of the police and firemen's disability and pension fund who is the fiscal officer of a municipal corporation shall be filled by appointment by the governor for the unexpired term of such member.

Any vacancy occurring in the term of an employee member of the board shall be filled by the remaining employee members and the retirant members of the board for the unexpired term of such member.

Any vacancy occurring in the term of a retirant member of the board shall be filled by the employee members and the remaining retirant member of the board for the unexpired term.

~~When~~ If a member of the board who is the fiscal officer of a municipal corporation ceases to be a fiscal officer of a municipal corporation, a vacancy shall exist.

If an employee member of the board ceases to be ~~an employee of a police or fire department member of the fund~~, a vacancy shall exist.

If as a result of changed circumstances a retirant member no longer qualifies for membership on the board as a retirant member, a vacancy shall exist.

Any employee or retirant member of the board or member of the board who is the fiscal officer of a municipal corporation who fails to attend three consecutive meetings of the board, without valid excuse, shall be considered as having resigned from the board and the board shall declare the member's office vacated and as of the date of the adoption of a proper resolution a vacancy shall exist.

Sec. 742.08. (A) The members of the board of trustees of the police and firemen's disability and pension fund shall serve without compensation but shall be reimbursed for their necessary expenses incurred in the performance of their official duties.

An employee member of the board shall suffer no loss or penalty whatsoever because of absence from ~~his~~ the employee member's regular employment while engaged in official duties as a member of the board.

(B) The board may secure insurance coverage designed to indemnify board members and employees for their actions or conduct in the performance of official duties, and may pay required premiums for such coverage from the expense fund.

(C) The board shall adopt rules in accordance with section 111.15 of the Revised Code establishing a policy for reimbursement of travel expenses incurred by board members in the performance of their official duties. As part of any audit performed under Chapter 117. of the Revised Code, an inquiry shall be made into whether board members have complied with these rules.

(D) No board member shall accept payment or reimbursement for travel expenses, other than for meals and other food and beverages provided to the member, from any source other than the expense fund established under section ~~742.38~~ 742.59 of the Revised Code. Except in the case of an emergency, no out-of-state travel expenses shall be reimbursed unless approved in advance by a majority of the board at a regular board meeting.

Sec. 742.10. The board of trustees of the police and firemen's disability and pension fund may sue and be sued, plead and be impleaded, contract and be contracted with, employ and fix the compensation of employees, and adopt rules for the proper administration and management of the fund. ~~The~~

The attorney general shall prescribe procedures for the adoption of rules authorized under this chapter, consistent with the provisions of section 111.15 of the Revised Code under which all rules shall be filed in order to be effective. Such procedures shall establish methods by which notice of proposed rules is given to interested parties and rules adopted by the board published and otherwise made available. When it files a rule with the joint committee on agency rule review pursuant to section 111.15 of the Revised Code, the board shall submit to the Ohio retirement study council a copy of the full text of the rule, and if applicable, a copy of the rule summary and fiscal analysis required by division (B) of section 127.18 of the Revised Code.

All rules adopted pursuant to this chapter, prior to August 20, 1976, shall be published and made available to interested parties by January 1, 1977.

Sec. 742.11. (A) The members of the board of trustees of the police and firemen's disability and pension fund shall be the trustees of the funds created by section ~~742.38~~ 742.59 of the Revised Code. The board shall have full power to invest the funds. The board and other fiduciaries shall discharge their duties with respect to the funds solely in the interest of the participants and beneficiaries; for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the police and firemen's disability and pension fund; with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims; and by diversifying the investments of the disability and pension fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

To facilitate investment of the funds, the board may establish a partnership, trust, limited liability company, corporation, including a

corporation exempt from taxation under the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, or any other legal entity authorized to transact business in this state.

(B) In exercising its fiduciary responsibility with respect to the investment of the funds, it shall be the intent of the board to give consideration to investments that enhance the general welfare of the state and its citizens where the investments offer quality, return, and safety comparable to other investments currently available to the board. In fulfilling this intent, equal consideration shall be given to investments otherwise qualifying under this section that involve minority owned and controlled firms and firms owned and controlled by women, either alone or in joint venture with other firms.

The board shall adopt, in regular meeting, policies, objectives, or criteria for the operation of the investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines. In adopting policies and criteria for the selection of agents with whom the board may contract for the administration of the funds, the board shall give equal consideration to minority owned and controlled firms, firms owned and controlled by women, and joint ventures involving minority owned and controlled firms and firms owned and controlled by women that otherwise meet the policies and criteria established by the board. Amendments and additions to the policies and criteria shall be adopted in regular meeting. The board shall publish its policies, objectives, and criteria under this provision no less often than annually and shall make copies available to interested parties.

When reporting on the performance of investments, the board shall comply with the performance presentation standards established by the association for investment management and research.

(C) All bonds, notes, certificates, stocks, or other evidences of investments purchased by the board shall be delivered to the treasurer of state, who is hereby designated as custodian thereof, or to the treasurer of state's authorized agent, and the treasurer of state or the agent shall collect the principal, interest, dividends, and distributions that become due and payable and place them when so collected into the custodial funds. Evidences of title of the investments may be deposited by the treasurer of state for safekeeping with an authorized agent, selected by the treasurer of state, who is a qualified trustee under section 135.18 of the Revised Code. The treasurer of state shall pay for the investments purchased by the board on receipt of written or electronic instructions from the board or the board's

designated agent authorizing the purchase and pending receipt of the evidence of title of the investment by the treasurer of state or the treasurer of state's authorized agent. The board may sell investments held by the board, and the treasurer of state or the treasurer of state's authorized agent shall accept payment from the purchaser and deliver evidence of title of the investment to the purchaser on receipt of written or electronic instructions from the board or the board's designated agent authorizing the sale, and pending receipt of the moneys for the investments. The amount received shall be placed into the custodial funds. The board and the treasurer of state may enter into agreements to establish procedures for the purchase and sale of investments under this division and the custody of the investments.

(D) All of the board's business shall be transacted, all its funds shall be invested, all warrants for money drawn and payments shall be made, and all of its cash, securities, and other property shall be held, in the name of the board or its nominee, provided that nominees are authorized by board resolution for the purpose of facilitating the ownership and transfer of investments.

(E) No purchase or sale of any investment shall be made under this section except as authorized by the board of trustees of the police and firemen's disability and pension fund.

(F) Any statement of financial position distributed by the board shall include the fair value, as of the statement date, of all investments held by the board under this section.

Sec. 742.14. (A) The board of trustees of the police and firemen's disability and pension fund shall have prepared annually by or under the supervision of an actuary an actuarial valuation of the pension assets, liabilities, and funding requirements of the police and firemen's disability and pension fund as established pursuant to sections 742.01 to 742.58 of the Revised Code. The actuary shall complete the valuation in accordance with actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries and prepare a report of the valuation. The report shall include all of the following:

- (1) A summary of the benefit provisions evaluated;
- (2) A summary of the census data and financial information used in the valuation;
- (3) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation, including a statement of the assumed rate of payroll growth and assumed rate of growth or decline in the number of members of the fund contributing to the pension fund;
- (4) A summary of findings that includes a statement of the actuarial

accrued pension liabilities and unfunded actuarial accrued pension liabilities;

(5) A schedule showing the effect of any changes in the benefit provisions, actuarial assumptions, or cost methods since the last annual actuarial valuation;

(6) A statement of whether contributions to the pension fund are expected to be sufficient to satisfy the funding objectives established by the board.

The board shall submit the report to the Ohio retirement study commission and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of November following the year for which the valuation was made.

(B) The board shall annually thereafter have prepared by an actuary a report showing the adequacy of the rate of the policemen employers' contribution provided for by section 742.33 of the Revised Code, and the adequacy of the rate of the firemen employers' contribution provided for by section 742.34 of the Revised Code.

(C) At such times as the board determines, and at least once in each quinquennial, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the mortality, service, and other experience of the members of the fund and of other system retirants, as defined in section 742.26 of the Revised Code, who are members of a police department or a fire department to update the actuarial assumptions used in the actuarial valuation required by division (A) of this section. The actuary shall prepare a report of the actuarial investigation. The report shall be prepared and any recommended changes in actuarial assumptions shall be made in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The report shall include all of the following:

(1) A summary of relevant decrement and economic assumption experience observed over the period of the investigation;

(2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (A) of this section;

(3) A measurement of the financial effect of the recommended changes in actuarial assumptions.

The board shall submit the report to the Ohio retirement study commission and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of November following the last fiscal year of the period

the report covers.

(D) The board shall have prepared by or under the supervision of an actuary an actuarial analysis of any introduced legislation expected to have a measurable financial impact on the pension fund. The actuarial analysis shall be completed in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary shall prepare a report of the actuarial analysis, which shall include all of the following:

- (1) A summary of the statutory changes that are being evaluated;
- (2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;
- (3) A description of the participant group or groups included in the report;
- (4) A statement of the financial impact of the legislation, including the resulting increase, if any, in the employer normal cost percentage; the increase, if any, in actuarial accrued liabilities; and the per cent of payroll that would be required to amortize the increase in actuarial accrued liabilities as a level per cent of covered payroll for all active members of the fund over a period not to exceed thirty years;
- (5) A statement of whether the scheduled contributions to the system after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.

Not later than sixty days from the date of introduction of the legislation, the board shall submit a copy of the actuarial analysis to the legislative budget office of the legislative service commission, the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation, and the Ohio retirement study commission.

(E) The board shall have prepared annually a report giving a full accounting of the revenues and costs relating to the provision of benefits under section 742.45 of the Revised Code. The report shall be made as of December 31, 1997, and the thirty-first day of December of each year thereafter. The report shall include the following:

- (1) A description of the statutory authority for the benefits provided;
- (2) A summary of the benefits;
- (3) A summary of the eligibility requirements for the benefits;
- (4) A statement of the number of participants eligible for the benefits;
- (5) A description of the accounting, asset valuation, and funding method used to provide the benefits;
- (6) A statement of the net assets available for the provision of the benefits as of the last day of the fiscal year;

(7) A statement of any changes in the net assets available for the provision of benefits, including participant and employer contributions, net investment income, administrative expenses, and benefits provided to participants, as of the last day of the fiscal year;

(8) For the last six consecutive fiscal years, a schedule of the net assets available for the benefits, the annual cost of benefits, administrative expenses incurred, and annual employer contributions allocated for the provision of benefits;

(9) A description of any significant changes that affect the comparability of the report required under this division;

(10) A statement of the amount paid under division (C) of section 742.45 Of the Revised Code.

The board shall submit the report to the Ohio retirement study commission and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the thirtieth day of June following the year for which the report was made.

Sec. 742.22. A member of the fund who is receiving disability benefits from the police and firemen's disability and pension fund and is restored to active duty as a member of a police or fire department shall, in computing years of service under section 742.37 or 742.39 of the Revised Code, be given service credit ~~toward retirement~~ for the time ~~he~~ the member was receiving such disability benefits.

On restoration to active duty as a member of a police or fire department, the member shall make contributions to the fund in accordance with section 742.31 of the Revised Code, and ~~his~~ the member's disability benefits shall be terminated on the first day following restoration to active duty. In determining the amount of the member's account after the termination of disability benefits, the total sum of the disability benefits paid shall be deducted from any refund payable to the member under division (G) of section 742.37 of the Revised Code.

The employer shall notify the board of trustees of the police and firemen's disability and pension fund of the member's return to active duty before the end of the month then current, designating the date of the resumption of active duty. If the member is paid any amount of disability benefits to which ~~he~~ the member is not entitled under this section, such amount shall be repaid to the fund by the member or shall be recovered by a withholding from subsequent retirement allowances or other amounts payable under this chapter.

Sec. 742.221. A member of the police and firemen's disability and

pension fund who, during the period of employment as a member of a police or fire department, is removed from active pay status due to pregnancy or a medical disability leave not exceeding one year for each such leave, shall, in computing years of active service in such department under division (C) of section 742.37 or section 742.39 of the Revised Code, be given full credit for time for which contributions were not made during such leave of absence if all of the following conditions are met:

(A) The leave was approved by the member's employing authority.

(B) During the period of the leave the member was not entitled to receive disability benefits from the fund.

(C) The member pays into the fund an amount equal to the employee contributions that would have been deducted from the base pay had the member remained on active pay status, plus interest compounded annually from the date the leave commenced to the date of payment. The rate of interest shall be determined by the board of the police and firemen's disability and pension fund.

Sec. 742.23. A member of the fund who is an employee of the police department of a municipal corporation and who has resigned or has been honorably discharged from membership in the fire department of the same municipal corporation shall, in computing years of service in the police department under section 742.37 or 742.39 of the Revised Code, be given full credit for time served in such fire department, provided ~~he~~ the member has paid into the police and firemen's disability and pension fund a sum equal to that which ~~he~~ the member would have been required to pay, under former section 741.12 and section 742.31 of the Revised Code, as a member of such fire department during the years for which service credit is claimed had ~~he~~ the member been contributing a percentage of ~~his~~ the member's salary to a firemen's relief and pension fund or to the police and firemen's disability and pension fund as provided by such sections during such years.

Sec. 742.24. A member of the fund who is an employee of the fire department of a municipal corporation and who has resigned or has been honorably discharged from membership in the police department of the same municipal corporation shall, in computing years of service in the fire department under section 742.37 or 742.39 of the Revised Code, be given full credit for the time served in such police department, provided ~~he~~ the member has paid into the police and firemen's disability and pension fund a sum equal to that which ~~he~~ the member would have been required to pay, under former section 741.43 and section 742.31 of the Revised Code, as a member of such police department during the years for which service credit is claimed had ~~he~~ the member been contributing a percentage of ~~his~~ the

member's salary to a police relief and pension fund or to the police and firemen's disability and pension fund, as provided by such sections during such years.

Sec. 742.251. (A) A member of the police and firemen's disability and pension fund, in computing years of active service under division (C) of section 742.37 or section 742.39 of the Revised Code, shall be given full credit for full-time out-of-state or federal service, other than military service, purchased under this section. A member may purchase credit for such service if all of the following conditions are met:

(1) The service was rendered as an employee of an entity of state or local government, or of an entity of the United States government;

(2) The member is eligible to retire under this chapter or will become eligible to retire as a result of purchasing the credit;

(3) The member agrees to retire within ninety days after receiving notice of the amount determined under division (B) of this section.

(B) On receipt of a request from a member eligible to purchase credit under this section, the fund shall obtain from its actuary certification of the amount of the additional liability to the fund for each year of credit the member is eligible to purchase and shall notify the member of that amount. For each year of credit purchased, the member shall pay to the fund an amount equal to the additional liability resulting from the purchase of credit for that year. Payment shall be made in full at the time of purchase.

(C) The number of years of service purchased under this section shall not exceed five.

(D) A member may not purchase credit under this section for service that is used in the calculation of any public or private retirement benefit, other than federal social security benefits, currently being paid or payable in the future to the member.

(E) If the member does not retire within ninety days after purchasing credit under this section, the fund shall withdraw the credit and refund the amount paid by the member.

Sec. 742.27. (A) As used in this section, "lay off" means to cease to employ a person pursuant to sections 124.321 to 124.328 of the Revised Code or pursuant to any similar provisions that apply to the person under any of the following:

(1) A collective bargaining agreement entered into under Chapter 4117. of the Revised Code;

(2) Any ordinance, resolution, contract, agreement, policy, or procedure governing employment.

(B) A member of the police and firemen's disability and pension fund

who, during ~~his~~ employment as a member of a police or fire department, is removed from active pay status by being laid off by ~~his~~ the member's employer, shall, in computing years of active service under division (C) of section 742.37 or section 742.39 of the Revised Code, be given full credit for time for which contributions were not made during the period ~~he~~ the member was laid off, if all of the following conditions are met:

(1) During the time the member was laid off, ~~he~~ the member was not entitled to receive disability benefits from the fund.

(2) During the time the member was laid off, ~~he~~ the member did not render any service that is used in the calculation of any public or private retirement benefit, except any federal social security retirement benefit, currently being paid or payable in the future to the member.

(3) The fund receives the amount determined under division (C) of this section from the member, ~~his~~ the member's employer, or the member and the employer.

The total amount of service purchased by any member under this section shall not exceed two years. A member may choose to purchase only part of such credit in any one payment, subject to board rules.

(C) The amount paid for the credit purchased under this section shall be an amount equal to the additional liability to the fund resulting from the purchase of the credit, as determined by an actuary employed by the board of trustees of the fund.

(D) The board shall have final authority to determine and fix the amount of the payment for credit purchased under this section. The employer may pay all or part of the payment.

(E) The board of trustees shall adopt rules for the implementation of this section.

Sec. 742.31. Each employee shall contribute an amount equal to ten per cent of ~~his~~ the employee's salary to the police and firemen's disability and pension fund. The amount shall be deducted by the employer from the employee's salary as defined in division ~~(N)(L)~~ of section 742.01 of the Revised Code for each payroll period, irrespective of whether the minimum compensation provided by law for the employee is reduced thereby. Every employee shall be deemed to consent to the deductions, and payment to ~~him~~ the employee less the deductions is a complete discharge and acquittance of all claims and demands for the services rendered by ~~him~~ the employee during the period covered by such payment.

Sec. 742.32. The fiscal officer of each employer shall transmit ~~promptly~~ monthly to the secretary of the board of trustees of the police and firemen's disability and pension fund a report of employee deductions ~~at such intervals~~

~~and~~ in such form as the board requires. The report shall show all deductions for the fund made pursuant to section 742.31 of the Revised Code and shall be accompanied by ~~warrants or checks~~ payments covering the total of such deductions. Separate ~~warrants or checks~~ payments shall be so transmitted for that portion of such deductions made from the salaries of members of the police department and for that portion of such deductions made from the salaries of members of the fire department. ~~The A penalty of five per cent of the total amount due for the particular reporting period shall be added when the report, together with payments to cover the total amount due from the salaries of all employees of the employer, is transmitted thirty or more days after the last day of the reporting period. The penalty shall be added to and collected on the next succeeding regular employer billing. If the penalty is not paid within three months after it is added to the regular employer billing, interest at a rate determined by the board may be charged on the amount of the penalty from the date the amount is due to the date of payment.~~

The secretary of the board, after making a record of all such receipts and crediting each employee's individual account with the amount deducted from ~~his~~ the employee's salary, shall deposit the receipts with the treasurer of state for use as provided by this chapter. Where an employer fails ~~or~~ refuses to deduct contributions for any employee and transmit such amounts to the fund, the board may make a determination of the employee's liability for contributions and certify to the employer the amounts due for collection in the same manner and subject to the same penalties as payments due the employer's contributions funds.

Sec. 742.33. (A) Each employer shall pay quarterly, on such dates as the board of trustees of the police and firemen's disability and pension fund requires, from its general fund, or from a levy imposed pursuant to division (J) or (W) of section 5705.19 of the Revised Code, to the fund an amount; ~~certified by the secretary of the board and known as the "policemen police employer's contribution;."~~ Beginning the first day of the first month following the effective date of this amendment, the contribution which shall be nineteen and one-half per cent of the salaries as defined in division ~~(N)(L)~~ of section 742.01 of the Revised Code of the members of the police department of the employer.

(B) The taxing authority of each municipal corporation in which there was a police relief and pension fund on October 1, 1965, shall annually, in the manner provided for making other municipal levies and in addition to all other levies authorized by law, levy a tax of three-tenths of one mill upon all the real and personal property as listed for taxation in the municipal corporation for the purpose of paying the ~~policemen~~ police employer's

contribution and the municipal corporation's accrued liability for its former police relief and pension fund and interest thereon, and of defraying the current operating expenses of the municipal corporation. The annual revenues derived from the tax shall be used in the following order:

(1) First, to pay the current ~~police~~ police employer's contribution and any interest related thereto;

(2) Second, to pay any accrued liability chargeable to the municipal corporation during the current calendar year for its former police relief and pension fund and any interest related thereto;

(3) Third, to defray the current operating expenses of the municipal corporation.

Sec. 742.34. (A) Each employer shall pay quarterly, on such dates as the board of trustees of the police and firemen's disability and pension fund requires, from its general fund, or from a levy imposed pursuant to division (I) or (W) of section 5705.19 of the Revised Code, to the fund an amount, ~~certified by the secretary of the board and known as the "firemen fire~~ firefighters employer's contribution." ~~Beginning the first day of the first month following the effective date of this amendment, the contribution which~~ shall be twenty-four per cent of the salaries as defined in division ~~(N)~~ (L) of section 742.01 of the Revised Code of the members of the fire department of the employer.

(B) The taxing authority of each municipal corporation in which there was a firemen's relief and pension fund on October 1, 1965, shall annually, in the manner provided for making other municipal levies and in addition to all other levies authorized by law, levy a tax of three-tenths of one mill upon all the real and personal property as listed for taxation in the municipal corporation for the purpose of paying the ~~firemen~~ firefighters employer's contribution and the municipal corporation's accrued liability for its former firemen's relief and pension fund and interest thereon, and of defraying the current operating expenses of the municipal corporation. The annual revenues derived from the tax shall be used in the following order:

(1) First, to pay the current ~~firemen~~ firefighters employer's contribution and any interest related thereto;

(2) Second, to pay any accrued liability chargeable to the municipal corporation during the current calendar year for its former firemen's relief and pension fund and any interest related thereto;

(3) Third, to defray the current operating expenses of the municipal corporation.

Sec. 742.35. Each employer shall pay its annual ~~police~~ police employer's contribution and ~~firemen~~ firefighters employer's contribution in

four equal installments promptly ~~after such amount is certified by the secretary of the board of trustees of the police and firemen's disability and pension fund,~~ as provided in sections 742.33 and 742.34 of the Revised Code. ~~Ninety~~ Sixty days after ~~such a billing is submitted~~ the date an installment is due, any amounts which remain unpaid shall be subject to a penalty for late payment in the amount of five per cent. In addition, interest on past due accounts and penalties may be charged at ~~the A rate of six per cent per annum~~ determined by the retirement board from the date the installment is due to the date of payment.

Upon certification by the board to the county auditor of an amount due from any employer within the county who is subject to this chapter, by reason of such employer's delinquency in making employer contribution payments to the fund for past years, such amount shall be withheld from such employer from any funds in the hands of the county treasurer for distribution to such employer. Upon receipt of such certification, the county auditor shall draw a warrant against such funds in favor of the fund for the amount.

Sec. 742.36. The treasurer of state shall pay in August, 1981 and each August thereafter from appropriations made for such purposes to the police and firemen's disability and pension fund one million two hundred thousand dollars which shall be known as the "state contribution." Upon receipt of such state contribution, the board of trustees of the police and firemen's pension fund shall place the state contribution in the guarantee fund to be distributed in accordance with division (G) of section ~~742.38~~ 742.59 of the Revised Code.

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 and section 742.39 Of the Revised Code. 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 or section 742.39 Of the Revised Code 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 the 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 the former fund on the date of the 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 the 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 the 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 the member's election, retire from the police or fire department, and upon notifying the board in writing of the election, shall receive an annual pension, payable in twelve monthly installments, in an amount equal to a percentage of 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 the member was in the active service of the department, plus two per cent for each of the twenty-first to twenty-fifth years the member was in the active service of the department, plus one and one-half per cent for each year in excess of twenty-five years the member was in the active service of the department. The annual pension shall not exceed seventy-two per cent of the member's average annual salary.

A member who completed twenty-five years of active service, has resigned or been discharged, and has left the sum deducted from the member's salary on deposit in the pension fund 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 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 the member's annual salary for the last year the member was in the active service of the police or fire department.~~

~~(3) A member of the fund who is partially disabled as the result of the performance of the member's official duties as a member of a police or fire department shall, if the disability prevents the member from performing those duties and impairs 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 the benefits whenever the impairment of the member's earning capacity warrants an increase or decrease, but in no event shall a benefit paid to the member exceed sixty per cent of 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 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 the member was in the active service of the department, plus two per cent for each of the twenty-first to twenty-fifth years the member was in the active service of the department, plus one and one-half per cent for each year in excess of twenty-five years the member was in the active service of the department. The 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 official duties as a member of the department, unless the contrary is shown by competent evidence.~~

~~If the disability prevents the member from performing official duties and impairs the member's earning capacity, the 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 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 the member's official duties as a member of the department, or by the member's own negligence, such disability preventing the member from performing the member's official duties as a member of the department and impairing 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 the 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 the member exceed the greater of five thousand dollars or an amount equal to a percentage of 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 the member was in the active service of the department, plus two per cent for each of the twenty-first to twenty-fifth years the member was in the active service of the department, plus one and one-half per cent for each year in excess of twenty-five years the member was in the active service of the department, or sixty per cent of the 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 the 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 the member's average annual salary multiplied by the number of full years the member was in the active service of the department. The 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 the member became a full-time regular police officer or firefighter in the department.

~~(7)~~(3) 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 the election to retire, shall receive an annual pension, payable in twelve monthly installments, in an amount equal to a percentage of 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 the member was in the active service of the department, plus two per cent for each of the twenty-first to twenty-fifth years the member was in the active service of the department, plus one and one-half per cent for each year in excess of twenty-five years the member was in the active service of the department. The 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 its final action. The notice shall be sent by certified mail, return receipt requested. Not later than ninety days after 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 the disability benefit award or fails to make an election within the time period, the award shall be rescinded. A member who later seeks a disability benefit award shall be required to make a new application, which shall be dealt with in accordance with the procedure used for original disability benefit applications.~~

~~(4) 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 or section 742.38 Of the Revised Code dies prior to the time the member has received a payment and leaves a surviving spouse or dependent child, the 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 the surviving spouse remarries, except that if the surviving spouse remarries on or after the effective date of this amendment and at the time of remarriage has attained age fifty five, the pension shall continue. A pension terminated under this division due to remarriage shall resume if either of the following is the case:~~

~~(1) The surviving spouse has attained age fifty five at the time of remarriage and the remarriage occurs on or after June 5, 1996;~~

~~(2) The remarriage is a first remarriage and it ceases within two years due to divorce, annulment, dissolution, or death. Benefits to a deceased member's surviving spouse that were terminated under a former version of this section that required termination due to remarriage and were not resumed prior to the effective date of this amendment shall resume on the first day of the month immediately following receipt by the board of an application on a form provided by the board.~~

(E) Each surviving child of a deceased member of the fund shall receive a pension of one hundred eighteen dollars per month until the 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 the institution, as determined by the board of trustees of the police and firemen's disability and pension fund. If any surviving child, regardless of age at the time of the member's death, because of physical or mental disability, is totally dependent upon the deceased member for support at the time of decease, the child shall receive a pension of one hundred eighteen dollars per month during the child's natural life or until the child has recovered from the disability.

(F) If a deceased member of the fund leaves no surviving spouse or surviving children, but leaves two parents dependent upon 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 the member for support, the 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 is entitled to receive an amount equal to the sums deducted from the member's salary and credited to 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 or former division (C)(2), (3), (4), or (5) of this section, shall have the 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, that 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)~~ or former division (C)(2) or (7) of this section shall have the pension or benefit increased as follows:

(1) If 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 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 former 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 (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. 742.371. (A) As used in this section, "lay off" has the same meaning as in division (A) of section 742.27 of the Revised Code.

(B) A member of the fund who has voluntarily resigned or who voluntarily resigns or who has been or is removed from active service in a police or fire department for any reason other than a lay off that was involuntary, as certified pursuant to division (C) of this section, and receives or has received from a police relief and pension fund under division (I) of former section 741.49 of the Revised Code, or from a firemen's relief and pension fund under division (I) of former section 741.18 of the Revised Code, or from a township firemen's relief and pension fund under division (I) of former section 521.11 of the Revised Code, or from the police and firemen's disability and pension fund under division (G) of section 742.37 of the Revised Code, an amount equal to the sum deducted from ~~his~~ the member's salary and credited to one of such funds shall, upon reinstatement to the active service of such police or fire department, deposit with the police and firemen's disability and pension fund an amount equal to the sum so received by ~~him~~ the member, with interest compounded annually thereon, at a rate to be determined by the board of trustees of the police and firemen's disability and pension fund, from the date of such receipt to the date of such deposit. The member may choose to purchase only part of such credit in any one payment, subject to board rules. Such member shall not be entitled to receive any pension or benefit payments under division (B) or (C) of section 742.37 or section 742.39 of the Revised Code until ~~he~~ the member has made the deposit required by this section.

(C) A member of the fund who has been or is removed from active service in a police or fire department as a result of a lay off that was involuntary, as certified pursuant to this division, and receives or has received from a police relief and pension fund under division (I) of former section 741.49 of the Revised Code, or from a firemen's relief and pension fund under division (I) of former section 741.18 of the Revised Code, or from a township firemen's relief and pension fund under division (I) of former section 521.11 of the Revised Code, or from the police and firemen's disability and pension fund under division (G) of section 742.37 of the Revised Code, an amount equal to the sum deducted from ~~his~~ the member's salary and credited to one of such funds may, upon reinstatement to the active service of such police or fire department, deposit with the police and firemen's disability and pension fund an amount equal to the sum so received by ~~him~~ the member, with interest compounded annually thereon, at a rate to be determined by the board of trustees of the police and firemen's

disability and pension fund from the date of such receipt to the date of such deposit. The member may choose to purchase only part of such credit in any one payment, subject to board rules.

If any police or fire department reinstates a member of the fund who was removed from active service in that police or fire department as a result of a lay off that was involuntary, the police or fire department shall upon the request of that member certify to the fund that the member was removed from active service in that police or fire department as a result of a lay off that was involuntary.

Sec. 742.372. A member of the fund who is in the active service of a police department and is not receiving a pension or benefit payment from the police and firemen's disability and pension fund shall, in computing years of active service in such department under division (C) of section 742.37 or section 742.39 of the Revised Code, be given credit for the time served in the active service of another Ohio police or fire department, provided both of the following occur:

(A) ~~He~~ The member was a member of a police or firemen's relief and pension fund or the police and firemen's disability and pension fund during the full time for which such active service credit is claimed.

(B) ~~He~~ The member pays into the police and firemen's disability and pension fund the amount received by ~~him~~ the member under division (I) of former section 521.11, division (I) of former section 741.18, division (I) of former section 741.49, or division (G) of section 742.37 of the Revised Code, with interest compounded annually thereon at a rate to be determined by the board of trustees of the police and firemen's disability and pension fund, from the date of such receipt to the date of such deposit, or there is to ~~his~~ the member's credit in the policemen's contribution fund an amount equal to the sums contributed by ~~him~~ the member to such police or firemen's relief and pension fund or to the police and firemen's disability and pension fund for the full time for which such active service credit is claimed.

Sec. 742.373. A member of the fund who is in the active service of a fire department and is not receiving a pension or benefit payment from the police and firemen's disability and pension fund shall, in computing years of active service in such department under division (C) of section 742.37 or section 742.39 of the Revised Code, be given credit for time served in the active service of another Ohio police or fire department, provided both of the following occur:

(A) ~~He~~ The member was a member of a police or firemen's relief and pension fund or the police and firemen's disability and pension fund during the full time for which such active service credit is claimed.

(B) ~~He~~ The member pays into the police and firemen's disability and pension fund the amount received by ~~him~~ the member under division (I) of former section 521.11, division (I) of former section 741.18, division (I) of former section 741.49, or division (G) of section 742.37 of the Revised Code, with compound interest thereon at a rate to be determined by the board of trustees of the police and firemen's disability and pension fund, from the date of such receipt to the date of such deposit, or there is to ~~his~~ the member's credit in the firemen's contribution fund an amount equal to the sums contributed by ~~him~~ the member to such police or firemen's relief and pension fund or to the police and firemen's disability and pension fund for the full time for which such active service credit is claimed. A member may choose to purchase only part of such credit in any one payment, subject to board rules.

Sec. 742.374. On and after December 31, 1971, all persons who retired and were eligible to receive a pension that was payable prior to July 1, 1968, pursuant to division (B) of section 742.37 of the Revised Code, and all persons who qualified for a payment under ~~divisions~~ division (C)(1) to (5) of such section or division (C)(2), (3), (4), or (5) of former section 742.37 Of the Revised Code prior to such date shall receive an additional monthly payment of two dollars for each year between the member's effective date of retirement or disability and December 31, 1971, or an additional fifty dollars, whichever is less.

This section does not apply to persons included under division (H)(2) of section 742.37 of the Revised Code.

On or before the first day of August in each year, the board of trustees of the police and firemen's disability and pension fund shall certify to the treasurer of state the amount required to be paid in the preceding fiscal year under this section. Upon receipt of such certification, the treasurer of state shall pay to the fund the amount certified.

Sec. 742.375. A member of the fund who is in the active service of a police or fire department and is not receiving a pension or benefit payment from the police and firemen's disability and pension fund shall, in computing years of active service in such department under division (C) of section 742.37 or section 742.39 of the Revised Code, be given full credit for the time served in the state highway patrol retirement system, provided such member pays into the police and firemen's disability and pension fund the amount received by ~~him~~ the member under section 5505.19 of the Revised Code, with interest compounded annually thereon at a rate to be determined by the board from the date of such receipt to the date of such deposit. The member may choose to purchase only part of such credit in any

one payment, subject to board rules.

Upon certification by the board of the police and firemen's disability and pension fund to the board of the state highway patrol retirement system of such payment by the member of the fund, the state highway patrol retirement board shall pay from the employer's accumulation fund under division (C) of section 5505.03 of the Revised Code to the police and firemen's disability and pension fund an amount equal to the payment of the member of the fund.

Sec. 742.376. A member of the fund who is in the active service of a police or fire department and is not receiving a pension or benefit payment from the police and firemen's disability and pension fund shall, in computing years of active service in such department under division (C) of section 742.37 or section 742.39 of the Revised Code, be given full credit for service as a full-time ~~policeman~~ police officer or ~~fireman~~ firefighter, provided that all of the following occur:

(A) Such service was rendered prior to January 1, 1967.

(B) The municipal corporation or township, at the time such service was rendered, had not established a police or firemen's relief and pension fund to which the member could otherwise have made pension contributions.

(C) The member was enrolled in the public employees retirement system, contributed thereto, and has withdrawn ~~his~~ the member's retirement contributions.

(D) The member pays into the police and firemen's disability and pension fund the amount withdrawn by ~~him~~ the member from the public employees retirement system, with interest compounded annually thereon at a rate to be determined by the board from the date of such withdrawal to the date of deposit. The member may choose to purchase only part of such credit in any one payment, subject to board rules.

Purchase of such credit in the police and firemen's disability and pension fund shall forever bar the member from reinstating such credit in the public employees retirement system.

Sec. 742.378. On and after December 19, 1973, all persons who retired and were eligible to receive a pension that was first payable on or after July 1, 1968, and prior to July 1, 1971, pursuant to division (B) of section 742.37 of the Revised Code and all persons who qualified for a payment under ~~divisions~~ division (C)(1) ~~to (5)~~ of such section or division (C)(2), (3), (4), or (5) of former section 742.37 Of the Revised Code shall receive an additional monthly payment of two dollars for each year between the member's effective date of retirement or disability and July 1, 1973.

This section does not apply to persons included under division (H)(2)(5)

of section 742.37 of the Revised Code.

Sec. 742.379. (A) As used in this section:

(1) "Full-time service" has the meaning established by rule of the board of trustees of the police and firemen's disability and pension fund.

(2) "Qualified contributions" means contributions to the public employees retirement system, school employees retirement system, or state teachers retirement system attributable to full-time service or purchase of credit for service in the armed forces of the United States.

(B) ~~A member of~~ In computing the pension and benefits payable under section 742.37 or 742.39 of the Revised Code, the police and firemen's disability and pension fund shall give a member of the fund who is in the active service of a police or fire department and is not receiving a pension or benefit payment from the fund shall, in computing years of active service in the department under division (C) of section 742.37 of the Revised Code, be given full credit for service credit earned for full-time service as a member of the school employees retirement system, state teachers retirement system, or Cincinnati retirement system or purchased from a the retirement system for service in the armed forces of the United States if, for each year of service credit, the member pays into the fund receives the sum of the following:

(1) An amount, which shall be paid by the member, equal to the amount withdrawn by the member from the retirement system that is attributable to the year of service credit, with interest compounded annually thereon at a rate to be determined by the board on that amount from the date of withdrawal to the date of payment;

(2) Interest, which shall be paid either by the member or the retirement system, on the amount withdrawn by the member from the retirement system that is attributable to the year of service from the last day of the year for which the service credit was earned or in which military service credit was purchased OR OBTAINED to the date the withdrawal was made;

(3) AN AMOUNT, WHICH SHALL BE PAID BY either the member or the retirement system, equal to the lesser of the amount contributed by the employer to the retirement system for the year of service or the amount that would have been contributed by the employer for the year of service had the member been employed by the member's current employer as a member of a police or fire department, with interest on that amount from the last day of the year for which the service credit was earned or in which military service was purchased or obtained to the date the payment is made;

(4) If the member became a member of the fund on or after the effective date of this amendment, the amount, which shall be paid by the member,

determined pursuant to division (I) of this section.

Interest shall be determined in accordance with division (H) of this section.

(C) A In computing the pension and benefits payable under section 742.37 or 742.39 of the Revised Code, the fund shall give a member of the fund who is in the active service of a police or fire department and, is not receiving a pension or benefit payment from the fund shall, in computing years of active service in the department under division (C) of section 742.37 of the Revised Code, be given, and has withdrawn the member's contributions from the public employees retirement system, school employees retirement system, or state teachers retirement system full credit for service credit earned for full-time service as a member of the public employees retirement system, school employees retirement system, or state teachers retirement system or purchased from the one of those retirement system systems for service in the armed forces of the United States if one of the following occurs:

(1) For, for each year of service, the fund receives the sum of the following:

(1) An amount, which shall be paid by the member pays into the fund, equal to the amount withdrawn by the member from the public employees former retirement system that is attributable to that year of service credit, with interest compounded annually thereon at a rate to be determined by the board on that amount from the date of withdrawal to the date of payment.;

(2) At the request of the member of the fund, the public employees Interest, which shall be transferred by the former retirement system, on the amount withdrawn by the member from the retirement system that is attributable to the year of service from the last day of the year for which the service credit was earned or in which military service credit was purchased or obtained to the date the withdrawal was made;

(3) AN AMOUNT, WHICH SHALL BE TRANSFERRED BY THE former RETIREMENT SYSTEM, equal to the lesser of the amount contributed by the employer to the retirement system for the year of service or the amount that would have been contributed by the employer for the year of service had the member been employed by the member's current employer as a member of a police or fire department, with interest on the amount transferred from the last day of the year for which the service credit was earned or in which military service credit was purchased or obtained to the date the transfer is made;

(4) If the member became a member of the fund on or after the effective date of this amendment, the amount, which shall be paid by the member,

determined pursuant to division (I) of this section.

On receipt of payment from the member, the fund shall notify the former retirement system, and on receipt of the notice, the retirement system shall make the transfer. Interest shall be determined in accordance with division (H) of this section.

(D) In computing the pension and benefits payable under section 742.37 or 742.39 of the Revised Code, the fund shall give a member of the fund who is in the active service of a police or fire department, is not receiving a pension or benefit from the fund, and has contributions on deposit with the public employees retirement system, school employees retirement system, or state teachers retirement system full credit for service credit earned for full-time service as a member of one of those retirement systems or purchased from one of the retirement systems for service in the armed forces of the United States if both of the following occur:

(1) The retirement system transfers to the fund an, for each year of service, the sum of the following:

(a) An amount equal to the member's qualified contributions with interest compounded annually thereon for the period from the date that the last such contribution was made to the date the payment is made. The interest shall be at the actuarial assumption rate of the system at the time the transfer is made;

(b) AN AMOUNT EQUAL TO the lesser of the employer's qualified contributions to the retirement system or the amount that would have been contributed by the employer for the full-time service had the member been employed by the member's current employer as a member of a police or fire department;

(c) Interest on the amounts SPECIFIED in DIVISIONS (D)(1)(a) and (b) of this section from the last day of the year for which the service credit was earned or in which military service credit was purchased or obtained to the date the transfer is made.

(2) If the member became a member of the fund on or after the effective date of this amendment, the member pays the amount determined pursuant to division (I) of this section.

On receipt of a request from the member, the appropriate retirement system shall make the transfer specified in division (D)(1) of this section. Interest shall be determined in accordance with division (H) of this section.

(D)(E) Subject to board rules, a member of the fund may choose to purchase in any one payment only part of the credit the member is eligible to purchase under division (B) or (C)(1) of this section.

(E)(F) At the request of the fund, the public employees retirement

system, school employees retirement system, state teachers retirement system, or Cincinnati retirement system shall certify to the fund a copy of the records of the service and contributions of a member of the fund who seeks service credit under this section.

~~(F)~~(G) A member of the fund is ineligible to receive credit under this section for service that is used in the calculation of any retirement benefit currently being paid or payable in the future to the member, or service rendered concurrently with any other period for which service credit has already been granted.

~~(G)~~ The (H) Interest charged under this section shall be calculated separately for each year of service credit at the lesser of the actuarial assumption rate for that year of the fund or of the retirement system in which the credit was earned. The interest shall be compounded annually.

The board may, by rule, establish procedures for the receipt of service credit under this section.

~~(H)~~(I) The amount to be paid pursuant to division (B)(4), (C)(4), or (D)(2) of this section is the sum of the following:

(1) an amount equal to the difference between the amount the member paid as employee contributions for the service and the amount the member would have paid had the member been employed by the member's current employer as a member of a police or fire department;

(2) an amount equal to the difference between the amount paid or TRANSFERRED under division (B)(3), (C)(3), or (D)(1)(b) of this section and the amount that would have been contributed by the employer for the service had the member been employed by the member's current employer as a member of a police or fire department;

(3) interest, determined in accordance with division (H) of this section, on the amounts specified in divisions (I)(1) and (2) of this section.

At the request of a member, in lieu of requiring payment of all or part of the amount determined under this division the fund may grant the member an amount of service credit under division (B), (C), or (D) of this section that is less than the amount for which the member is eligible. The service credit granted shall be the same percentage of the service credit for which the member is ELIGIBLE that the amount the fund receives under division (B), (C), or (D) of this section is of the total amount it would receive under those divisions if the full amount determined under this division was paid.

(J)(1) Except as provided in division (J)(2) of this section and notwithstanding any contrary provision of this section, the board shall, in computing a pension or benefit under section 742.37 or 742.39 of the Revised Code, give a member of the fund who is not receiving a pension or

disability benefit from the fund full credit for service credit purchased under this section for service that was less than full-time service if the member provides evidence satisfactory to the board that, after receiving written notice from the fund indicating that the member would be permitted to purchase service credit for service that was less than full-time, the member changed or ceased the member's employment with the understanding that the credit identified in the notice would be used in computing a pension or benefit. If the board has canceled service credit purchased under this section for service that was less than full-time service and the member meets the requirements of division (J)(1) of this section, the board shall restore the service credit on repayment to the fund of the amount refunded to the member at the time of cancellation.

(2) If a member of the fund who is not receiving a pension or disability benefit from the fund purchased credit under this section for service that was less than full-time service and does not meet the requirements of division (J)(1) of this section, the board shall refund to the member any amounts paid to purchase the credit, with interest at a rate determined by the board from the date the member purchased the credit to the date of the refund.

(K) A member of the fund who has purchased service credit under this section, or the member's estate, is entitled to a refund of the amount or portion of the amount paid to purchase the credit if the purchased credit or portion of credit does not increase a pension or benefit payable under section 742.37 or 742.39 of the Revised Code. The refund cancels an equivalent amount of service credit.

(L) If a member or former member of the fund who is not a current contributor and has not received a refund of accumulated contributions elects to receive credit under section 145.295, 3307.412, or 3309.351 of the Revised Code for service for which the member contributed to the fund or purchased credit for service in the armed forces of the United States, the fund shall transfer to the public employees retirement system ~~an~~, school employees retirement system, or state teachers retirement system the amount equal to the member's accumulated contributions and payments for credit for service in the armed forces of the United States with interest compounded annually thereon from the date the last contribution was made to the date the transfer is made. The interest shall be at the actuarial assumption rate of the fund at the time the transfer is made.

(I)(1) If a former member of the fund who has received a refund pursuant to division (I) of former section 521.11, 741.18, or 741.49 of the Revised Code or division (G) of section 742.37 of the Revised Code elects to receive credit under section 145.295 of the Revised Code for service for

~~which the former member contributed to the fund or purchased credit for service in the armed forces of the United States, the former member shall repay the fund the amount refunded, with interest compounded annually thereon as follows:~~

~~(a) From the date of the refund to the date of the repayment to the fund in the case of a former member who had not purchased credit for the service under former division (A)(1) of section 145.295 of the Revised Code as it existed before August 25, 1995;~~

~~(b) In the case of a former member who had used the entire amount of the refund to purchase credit for the service under former division (A)(1) of section 145.295 of the Revised Code as it existed before August 25, 1995, from the date of the refund to the date of such purchase;~~

~~(c) In the case of a former member who had purchased credit for the service under former division (A)(1) of section 145.295 of the Revised Code, as it existed before August 25, 1995, using only a portion of the refund amount, from the date of the refund to the date of the purchase for the portion of the refund used for that purchase and from the date of the refund to the date of repayment under division (I)(1) of this section for the portion of the refund not used for that purchase.~~

~~The interest shall be at the actuarial assumption rate of the fund at the time of repayment or purchase, as applicable.~~

~~(2) Upon receipt of the repayment, the fund shall immediately transfer to the public employees retirement system an amount equal to the former member's accumulated contributions and payments for credit for service in the armed forces of the United States, with interest compounded annually thereon as follows:~~

~~(a) From the date the last contribution was made to the police and firemen's disability and pension fund to the date the transfer is made in the case of a former member who had not purchased credit for the service under former division (A)(1) of section 145.295 of the Revised Code as it existed before August 25, 1995;~~

~~(b) In the case of a former member who had used the entire amount of the refund to purchase credit for the service under former division (A)(1) of section 145.295 of the Revised Code as it existed before August 25, 1995, from the date the last contribution was made to the police and firemen's disability and pension fund to the date of such purchase;~~

~~(c) In the case of a former member who had purchased credit for the service under former division (A)(1) of section 145.295 of the Revised Code, as it existed before August 25, 1995, using only a portion of the refund amount, from the date the last contribution was made to the police~~

~~and firemen's disability and pension fund to the date of the purchase for the portion of the refund used for that purchase and from the date the last contribution was made to the date of transfer for the portion of the refund not used for that purchase.~~

~~The interest shall be at the actuarial assumption rate of the fund at the time of transfer or at the time of purchase under that former division, as applicable.~~

~~The fund shall certify to the public employees retirement system a copy of the records of the former member's service and contributions.~~

~~A former member of the fund who makes the repayment required under this division does not thereby become a member of the fund or have any of the rights, privileges, or obligations of membership specified in division (a) of section 145.295 of the Revised Code, division (A) of section 3307.412 of the Revised Code, or division (A) of section 3309.351 of the Revised Code.~~

~~(M) The board shall adopt rules establishing a payroll deduction plan for the purchase of service credit under this section. The rules shall meet the requirements described in section 742.56 of the Revised Code.~~

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 ~~a form provided by the board~~ 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 police and firemen's disability and 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 filed with the retirement board.

Should the nominated beneficiary designated in writing become

deceased 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.

(B)(1) On or after February 28, 1980, the death of a spouse nominated as beneficiary or the death of any other nominated beneficiary following retirement shall cancel any optional plan of payment to provide continuing lifetime benefits to such nominated beneficiary and return the member of the fund to the member's single lifetime benefit equivalent, as determined by the board, to 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 plan and receive the member's single lifetime benefit equivalent as determined by the retirement board. 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) Following marriage or remarriage, a member of the fund 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. The plan and the member's lesser retirement allowance shall become effective the first day of the month following an application of on the date the election is made 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:

~~(1)(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;

~~(2)(b)~~ The retirant submits to the retirement board a written statement signed by the spouse attesting that the spouse ~~is aware that the retirant has elected~~ 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.

(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, 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)(2)(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

ed 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)(1) Except as otherwise provided in this division, a person is eligible to receive an additional benefit 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, and it is the case that, had the member who elected the optional plan elected instead to receive a retirement allowance payable throughout the member's life, the amount of that retirement allowance would be less than the amount specified in division (G)(2) of this section. A person is not eligible to receive an additional benefit under this section 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.

(2) In 1988, the amount used to determine eligibility under division (G)(1) of this section shall be eighteen thousand dollars. Each year thereafter, the amount shall be the prior year's amount plus five hundred dollars.

(3) On or before the fifteenth day of April of each year, the board of ~~trustees of the police and firemen's disability and pension fund~~ shall determine the average percentage change in the consumer price index 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") for the twelve-month period prior to the first day of January over the next preceding twelve-calendar-month period, as reported by the bureau. On a determination by the board that this change is an increase or that the change plus the accumulation described in division (G)(3) of this section is an increase, the board shall increase all benefits payable under this section or section 742.3715 of the Revised Code to eligible persons by the actuarial equivalent of an amount determined by multiplying twelve thousand dollars by the percentage of the increase in the consumer price index, or that percentage plus the accumulation, except that the percentage shall not

exceed three per cent and 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.

Any percentage of change in the consumer price index in any year that is in excess of three per cent shall be accumulated and used to determine increases under this section in succeeding years. Any percentage of change in the consumer price index accumulated by an eligible person prior to ~~the effective date of this amendment~~ September 27, 1996, shall be used in determining any future increases under this section. The first additional benefit is payable to all eligible persons on July 1, 1988. The additional benefit 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 additional benefit payable under this section shall be the anniversary date for future additional benefits.

Sec. 742.3713. (A) On and after ~~the effective date of this section November 15, 1981~~, a member of the police and firemen's disability and pension fund who is receiving a pension or benefit effective prior to February 28, 1980, under ~~either~~ division (A), (B), or (C) ~~(1) to (7)~~ of section 742.37 or division (C)(2), (3), (4), or (5) of former section 742.37 of the Revised Code shall have such pension or benefit increased by forty-six 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 (A), (B), or (C) of section 742.37 of the Revised Code based on volunteer or part-time service.

(B) Each surviving spouse who on ~~the effective date of this section November 15, 1981~~, is receiving a pension pursuant to division (D) of section 742.37 of the Revised Code as it was in effect prior to ~~the effective date of this section~~ such date shall have the monthly pension increased forty-six dollars.

Sec. 742.3714. As used in this section, "contingent dependent beneficiary" means a person so designated pursuant to this section by a member or former member of the police and firemen's disability and pension fund.

Prior to retiring under section 742.37 of the Revised Code, a member or former member of the fund who is, or within twelve months will be, eligible to retire and receive a pension or benefit under division (C)(1) or ~~(7)(3)~~ of section 742.37 of the Revised Code may designate one dependent, not ~~his~~ the member's or former member's spouse, as ~~his~~ the contingent dependent beneficiary. The determination of what constitutes a dependent for the purposes of this section shall be made by the board of trustees of the fund in accordance with rules adopted pursuant to this section. The designation shall be made on a form provided by the board and shall be filed with the board. The designation may be changed or withdrawn in accordance with rules adopted by the board pursuant to this section. The designation shall be used only for the purposes of this section and shall cease to have effect if the member or former member retires under section 742.37 of the Revised Code, or dies prior to retirement and is survived by ~~his~~ a spouse. The board shall annually inform members and eligible former members of the fund of the right to designate a contingent dependent beneficiary under this section.

In addition to any other pension, allowance, or benefit payable under this chapter, the surviving spouse of a deceased member or former member of the fund who at the time of ~~his~~ the member's or former member's death was eligible to retire and receive a pension or benefit under division (C)(1) or ~~(7)(3)~~ of section 742.37 of the Revised Code, but had not retired, shall receive an annual retirement allowance under this section, payable in twelve monthly installments. If on the date of death of the member or former member there is no surviving spouse, the allowance shall be paid to the contingent dependent beneficiary. If on such date there is no surviving spouse and no person designated as a contingent dependent beneficiary who is determined by the board of trustees to be a dependent of the member or former member, no allowance or benefit shall be paid under this section.

The allowance paid under this section shall be an amount equal to the amount the surviving spouse or contingent dependent beneficiary would have been entitled to receive had the member or former member retired effective the day following the date of death having selected an option 2 plan under division (A)(2) of section 742.3711 of the Revised Code providing for one-half of ~~his~~ the member's or former member's lesser retirement allowance to be paid to the surviving spouse or contingent dependent beneficiary. Payments under this section are payable effective the first day of the first month following the death of the member or former member of the fund.

Sec. 742.3715. (A) A member of the police and firemen's disability and pension fund who retired under section 742.37 of the Revised Code before

February 28, 1980, may elect to receive the actuarial equivalent of ~~his~~ the member's retirement allowance in a lesser amount payable for the remainder of ~~his~~ the member's life and continuing after ~~his~~ death to ~~his~~ the member's spouse under one of the optional plans described under division (A)(1) or (2) of section 742.3711 of the Revised Code, provided the amount payable under the optional plan elected is certified by the actuary engaged by the board to be the actuarial equivalent of ~~his~~ the member's retirement allowance and is approved by the board. The election shall be made as follows:

(1) Not later than ninety days after September 26, 1984, the member shall file with the board of trustees of the police and firemen's disability and pension fund a notice that ~~he~~ the member wishes to be eligible to make the election authorized by this section. The board shall advise the member with respect to the choices available under the optional plans and have a determination made of the monthly benefits payable under the optional plan elected by the member for inclusion in the statement to be filed under division (B) of this section.

(2) Not later than one year after September 26, 1984, the member shall file a statement, on a form provided by the board, that ~~he~~ the member elects to receive benefits under the optional benefit plan specified in the statement.

A request or form that is mailed to the board shall be considered to have been filed on its postmark date.

(B)(1) The death of the member's spouse shall cancel any plan elected pursuant to this section and return the member to ~~his~~ the member's single lifetime benefit equivalent, as determined by the board, to 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 ~~his~~ death for the lifetime of ~~his~~ 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 plan and receive ~~his~~ the member's single lifetime benefit equivalent as determined by the retirement board. 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) If the member remarries after cancellation under division (B)(1) or (2) of this section of an optional plan, ~~he~~ the member may elect not later than one year after the date of remarriage a new optional plan based on the actuarial equivalent of ~~his~~ the member's single lifetime benefit as determined by the board. ~~Such~~ The plan and the member's lesser retirement allowance

shall become effective on the first day of the month following approval date the election is made on a form approved by the board.

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

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

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

(a) 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;

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

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

(d) Is receiving a benefit in accordance with division (A), (B), or (C)(1) ~~to (7)~~ of section 742.37 ~~or, division (C)(2), (3), (4), or (5) of former section 742.37,~~ section 742.3711, or section 742.39 of the Revised Code.

(2) "Recalculated average annual salary" means the highest average annual compensation of a member of the police and firemen's disability and 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.

(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.

(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 ~~(7)(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) On or before the fifteenth of April of each year, the board of trustees of the police and firemen's disability and pension fund shall determine the average percentage change in the consumer price index 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") for the twelve-month period prior to the first day of January over the next preceding twelve-calendar-month period, as reported by the bureau. Upon a determination by the board that such change is an increase or that the change plus the accumulation described in division (C)(2) of this section is an increase, the board shall increase all benefits payable to eligible persons by a percentage equal to the percentage increase in the consumer price index or to that increase plus the accumulation, except that the increase shall not exceed three per cent and 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.

(2) Any percentage of change in the consumer price index in any year that is in excess of three per cent shall be accumulated and used to determine increases under this section in succeeding years. Any percentage of change in the consumer price index accumulated by an eligible person prior to ~~the effective date of this amendment~~ September 27, 1996, shall be used in determining any future increases under this section. The first additional benefit is payable to all eligible persons who on July 1, 1988, have been receiving a pension or benefit for twelve months or longer. The additional benefit 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 additional benefit paid under this section shall be the anniversary date for future additional benefits. The pension or benefit used in the first calculation of an additional benefit under this section shall remain as the base for all future additional benefits paid under this section, unless a new base is established by law.

(3) Additional benefits paid in years subsequent to the year of the first additional benefit paid under this section shall be paid to all eligible persons

who, on the date that the additional benefit is authorized by the board, have been receiving a pension or benefit for twelve months.

Sec. 742.3717. (A)(1) Except as provided in division (A)(2) of this section, as used in this section, "eligible retirant" means a person who meets all of the following conditions:

(a) The person is receiving an annual pension or benefit under division (A), (B), or (C)~~(4) to (7)~~ of section 742.37 or division (C)(2), (3), (4), or (5) of former section 742.37, of the Revised Code based on an award made prior to July 24, 1986.

(b) The person has not elected under section 742.3711 of the Revised Code to receive a retirement allowance under an optional benefit plan.

(c) The amount of the annual pension or benefit is less than the amount specified in division (B) of this section.

(2) A person is not an eligible retirant 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.

(B) In 1988, the amount used to determine eligibility under division (A)(1)(c) of this section shall be eighteen thousand dollars. Each year thereafter, the amount shall be the prior year's amount plus five hundred dollars.

(C)(1) On or before the fifteenth day of April of each year, the board of trustees of the police and firemen's disability and pension fund shall determine the average percentage change in the consumer price index 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") for the twelve-month period prior to the first day of January over the next preceding twelve-calendar-month period, as reported by the bureau. Upon a determination by the board that this change is an increase or that the change plus the accumulation described in division (C)(2) of this section is an increase, the board shall increase all benefits payable to eligible persons by an amount determined by multiplying twelve thousand dollars by the percentage of the increase in the consumer price index, or that percentage plus the accumulation, except that the percentage shall not exceed three per cent and 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.

(2) Any percentage of change in the consumer price index in any year that is in excess of three per cent shall be accumulated and used to

termine increases under this section in succeeding years. Any percentage of change in the consumer price index accumulated by an eligible person prior to ~~the effective date of this amendment~~ September 27, 1996, shall be used in determining any future increases under this section. The first additional benefit is payable to all eligible retirants on July 1, 1988. The additional benefit 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 additional benefit payable under this section shall be the anniversary date for future additional benefits.

Sec. 742.3718. (A) Except as otherwise provided in this division, each person who on ~~the effective date of this section~~ September 9, 1988, is receiving a pension or benefit of less than five thousand dollars annually under division (A) or (B) of section 742.37 of the Revised Code on the basis of disability or service of twenty-five years or more ~~or~~, under division (C)(1), ~~(2), or (5)~~ of that section, or under division (C)(2) or (5) of former section 742.37 Of the Revised Code shall have the pension or benefit increased to five thousand dollars a year, effective July 1, 1988. This division does not apply to any person receiving a pension or benefit based on funded volunteer or funded part-time service.

(B) On and after July 1, 1988:

(1) The pension of each person receiving a pension or benefit under division (D) of section 742.37 of the Revised Code shall be increased to four hundred ten dollars a month.

(2) The pension of each person receiving a pension or benefit under division (E) of section 742.37 of the Revised Code shall be increased to one hundred eighteen dollars a month.

Sec. 742.3719. Whenever the limits established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended, are raised, the trustees of the police and firemen's disability and pension fund shall increase the amount of the pension, benefit, or allowance of any person whose pension, benefit, or allowance payable under section 742.37, 742.3716, ~~or 742.3717~~, or 742.39 of the Revised Code was limited by the application of section 415. The amount of the increased pension, benefit, or allowance shall not exceed the lesser of the amount the person would have received if the limits established by section 415 had not been applied or the amount the person is eligible to receive subject to the new limits established by section 415.

Sec. 742.38. (A)(1) The board of trustees of the police and firemen's disability and 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 the fund to submit to a physical examination that incorporates the standards or procedures.

(2) Division (A)(2) of this section applies to an employee who becomes a member of the fund on or after the date the minimum standards or procedures described in division (A)(1) of this section take effect. Not later than thirty days after such an employee becomes a member of the fund, the employer shall forward to the board a copy of the physician's report of a physical examination that incorporates the standards or procedures described in division (A)(1) of this section. If an employer fails to forward the report, the board shall assess against the employer a fine of one hundred dollars per day, beginning with the first day after the date the report is due and ending on the last day prior to the date the report is received by the board. Any amount due from an employer under division (A)(2) of this section may be collected from the county auditor in the same manner as is provided in section 742.35 of the Revised Code.

(B) Application for a disability benefit may be made by a member of the fund or, if the member is incapacitated as defined in rules adopted by the board, by a person acting on the member's behalf. Not later than fourteen days after receiving an application for a disability benefit from a member or a person acting on behalf of a member, the board shall notify the member's employer that an application has been filed. The notice shall state the member's position or rank. Not later than twenty-eight days after receiving the notice or filing an application on behalf of a member, the employer shall forward to the board a statement certifying the member's job description and any other information required by the board to process the application.

If the member applying for a disability benefit becomes a member of the fund prior to the date the minimum standards or procedures described in division (A)(1) of this section take effect, the board may request from the member's employer a copy of the physician's report of the member's physical examination taken on entry into the police or fire department. Not

later than twenty-eight days after receiving a request from the board, the employer shall forward a copy of the report or, if the employer does not have a copy of the report, a written statement certifying that the employer does not have a copy of the report. If an employer fails to forward the report or statement, the board shall assess against the employer a fine of one hundred dollars per day, beginning with the first day after the date the report or statement is due and ending on the last day prior to the date the report or statement is received by the board. Any amount due from an employer under this division may be collected from the county auditor in the same manner as is provided in section 742.35 of the Revised Code. The board shall maintain the information submitted under this division and division (A)(2) of this section in the member's file.

(C) For purposes of determining under division (D) of this section whether a member of the fund is disabled, the board shall adopt rules establishing objective criteria under which the board shall make the determination. The rules shall include standards that provide for all of the following:

(1) Evaluating a member's illness or injury on which an application for disability benefits is based;

(2) Defining the occupational duties of a police officer or firefighter;

(3) Providing for the board to assign competent and disinterested physicians and vocational evaluators to conduct examinations of a member;

(4) Requiring a written report for each disability application that includes a summary of findings, medical opinions, including an opinion on whether the illness or injury upon which the member's application for disability benefits is based was caused or induced by the actual performance of the member's official duties, and any recommendations or comments based on the medical opinions;

(5) Providing for the board to consider the member's potential for retraining or reemployment.

(D) This division does not apply to members of the fund who have elected to receive benefits and pensions in accordance with division (A) or (B) of section 742.37 Of the Revised Code or from a police relief and pension fund or a firemen's relief and pension fund in accordance with the rules of that fund in force on April 1, 1947.

(1) As used in division (D)(1) of this section:

(a) "Totally disabled" means a member of the fund is unable to perform the duties of any gainful occupation for which the member is reasonably fitted by training, experience, and accomplishments. Absolute helplessness is not a prerequisite of being totally disabled.

(b) "Permanently disabled" means a condition of disability from which there is no present indication of recovery.

A member of the fund who is permanently and totally disabled as the result of the performance of the member's official duties as a member of a police or fire department shall be paid annual disability benefits in accordance with division (A) of section 742.39 Of the Revised Code. In determining whether a member of the fund is permanently and totally disabled, the board shall consider standards adopted under division (C) of this section applicable to the determination.

(2) A member of the fund who is partially disabled as the result of the performance of the member's official duties as a member of a police or fire department shall, if the disability prevents the member from performing those duties and impairs the member's earning capacity, receive annual disability benefits in accordance with division (B) of section 742.39 Of the Revised Code. In determining whether a member of the fund is partially disabled, the board shall consider standards adopted under division (C) of this section applicable to the determination.

(3) A member of the fund who is disabled as a result of heart disease or any cardiovascular or 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 on entry into the department, is presumed to have incurred the disease while performing the member's official duties, unless the contrary is shown by competent evidence.

(4) A member of the fund who has completed five or more years of active service in a police or fire department and has incurred a disability not caused or induced by the actual performance of the member's official duties as a member of the department, or by the member's own negligence, shall if the disability prevents the member from performing those duties and impairs the member's earning capacity, receive annual disability benefits in accordance with division (C) of section 742.39 Of the Revised Code. In determining whether a member of the fund is disabled, the board shall consider standards adopted under division (C) of this section applicable to the determination.

(5) The board shall notify a member of its final action awarding a disability benefit to the member within thirty days of the final action. The notice shall be sent by certified mail, return receipt requested. Not later than ninety days after 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 the disability benefit award or fails to make an election within the time period, the award is rescinded. A member

who later seeks a disability benefit award shall be required to make a new application, which shall be dealt with in accordance with the procedures used for original disability benefit applications.

A person is not eligible to apply for or receive disability benefits under this division, section 742.39 Of the Revised Code, or division (C)(2), (3), (4), or (5) of former section 742.37 Of the Revised Code unless the person is a member of the fund on the date on which the application for disability benefits is submitted to the fund.

With the exception of persons who may make application for increased benefits as provided in division (2) or (4) of this section or division (C)(3) or (5) of former section 742.37 Of the Revised Code on or after July 24, 1986, OR PERSONS WHO MAY MAKE APPLICATION FOR BENEFITS AS PROVIDED IN SECTION 742.26 OF THE REVISED CODE, NO PERSON RECEIVING A PENSION OR BENEFIT UNDER THIS SECTION OR DIVISION (C) OF FORMER SECTION 742.37 OF THE REVISED CODE may apply for any new, changed, or different benefit.

Sec. 742.381. Not later than March 1, 2000, and each first day of March for the succeeding five years, the board of trustees of the police and firemen's disability and pension fund shall make and submit a report for the preceding fiscal year of the disability retirement experience of each employer. The report shall specify the total number of disability applications submitted, the status of each application as of the last day of the fiscal year, total applications granted or denied, and the percentage of disability benefit recipients to the total number of the employer's employees who are members of the fund. The report shall be submitted to the governor, the Ohio retirement study council, and the chairpersons of the standing committees and subcommittees of the senate and house of representatives with primary responsibility for retirement legislation.

Sec. 742.39. (A) A member of the police and firemen's disability and pension fund determined to be eligible for a disability benefit under division (D)(1) of section 742.38 Of the Revised Code shall be paid annual disability benefits, payable in twelve monthly installments, in an amount equal to seventy-two per cent of the member's average annual salary.

(B) A member of the fund determined to be eligible for a disability benefit under division (D)(2) of section 742.38 Of the Revised Code shall be paid annual disability benefits, payable in twelve monthly installments. If the member has fewer than twenty-five years of active service in a police or fire department, the benefit shall be in an amount fixed by the board of trustees of the police and firemen's disability and pension fund. The board may increase or decrease the benefit whenever the board determines that the

impairment of the member's earning capacity warrants an increase or decrease based on the standards adopted under division (C) of section 742.38 of the Revised Code applicable to the determination, but in no event shall the benefit exceed sixty per cent of the member's average annual salary.

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

(C) A member of the fund determined to be eligible for a disability benefit under division (D)(4) of section 742.38 of the Revised Code shall be paid annual disability benefits, payable in twelve monthly installments, in an amount to be fixed by the board. The board may increase or decrease the benefits whenever the board determines that the impairment of the member's earning capacity warrants an increase or decrease based on the standards adopted under division (C) of section 742.38 of the Revised Code applicable to the determination, but in no event shall a benefit paid to the member exceed the greater of the following:

(1) Five thousand dollars;

(2) An amount fixed by the board, not exceeding sixty per cent of the member's average annual salary.

(D) benefits payable under this section continue until death unless adjusted under division (D)(5) of section 742.38 of the Revised Code or adjusted or terminated under division (C)(3) of section 742.40 of the revised Code.

Sec. 742.40. (A) As used in this section, "disability benefit recipient" means a member of the police and firemen's disability and pension fund who is receiving a disability benefit pursuant to division (C)(2), (3), (4), or (5) of former section 742.37 Of the Revised Code or pursuant to section 742.38 Of the Revised Code.

(B) The board of trustees of the police and firemen's disability and pension fund shall adopt rules requiring a disability benefit recipient, as a condition of continuing to receive a disability benefit, to agree in writing to

obtain any medical treatment recommended by the board's physician or physicians and submit medical reports regarding the treatment. If the board determines that a disability benefit recipient is not obtaining the medical treatment or the board does not receive a required medical report, the disability benefit shall be suspended until the treatment is obtained, the report is received by the board, or the board's physician certifies that the treatment is no longer helpful or advisable. Should the recipient's failure to obtain treatment or submit a medical report continue for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

(C)(1) A disability benefit recipient shall be considered on leave of absence from the recipient's position of employment as a member of a police or fire department during the first five years following the effective date of the recipient's disability benefit, notwithstanding any contrary provisions of this chapter.

(2)(a) The board shall require a disability benefit recipient who has been a member of the fund for less than twenty-five years and has not attained age forty-eight to undergo an annual medical examination, except that the board may waive the medical examination if the board's physician or physicians certify that the recipient's disability is ongoing.

(b) The board may require a disability benefit recipient not described in division (C)(2)(a) of this section to undergo a medical examination at any time it considers necessary.

(c) If a disability benefit recipient refuses to submit to a medical examination, the recipient's disability benefit shall be suspended until the recipient withdraws the refusal. If the refusal continues for one year, the recipient's rights under and to the disability benefit are terminated as of the effective date of the original suspension.

(3) The board shall designate one or more physicians to conduct an examination required under this division. After completing the examination, the physician shall determine and certify to the board whether the disability benefit recipient continues to meet the disability standard set forth in division (D)(1), (2), or (4) of section 742.38 Of the Revised Code or division (C)(2), (3), or (5) of former section 742.37 Of the Revised Code on which the recipient was originally determined to be disabled. If the physician's determination is that the recipient no longer meets the standard and the board concurs in the physician's determination, or the recipient becomes employed as a police officer or firefighter, the disability benefit shall be terminated the earlier of ninety days after the date of the board's concurrence or on the date the recipient returns to employment as a police

officer or firefighter, except that if the recipient was receiving a benefit pursuant to division (D)(1) of section 742.38 Of the Revised Code or division (C)(2) of former section 742.37 Of the Revised Code, the board shall reevaluate the recipient's disability under division (D)(2) of section 742.38 Of the Revised Code and award a benefit under that division if the recipient qualifies for it. A recipient may appeal the board's concurrence in the physician's determination. The board shall adopt rules establishing procedures for the appeal. If the leave of absence provided under division (C)(1) of this section has not expired when a disability benefit is terminated under this division, the board shall certify to the recipient's last employer before being found disabled that the recipient is no longer incapable of resuming service. At the recipient's request, the employer shall restore the recipient to the previous position and salary or to a position and salary similar to it, with all previous rights, including civil service status. The employer is not required to restore the recipient to employment if the recipient was dismissed or resigned in lieu of dismissal for dishonesty, misfeasance, malfeasance, or conviction of a felony.

(D) Each disability benefit recipient shall file with the board an annual statement of earnings and any other information required in rules adopted by the board. The board may waive the requirement that a disability benefit recipient file the annual statement of earnings if the board's physician certifies that the recipient's disability is ongoing.

The board shall annually examine the information submitted by the recipient. If a disability benefit recipient refuses to file the statement or information, the disability benefit shall be suspended until the statement and information are filed. If the refusal continues for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

Sec. 742.50. ¶ As used in this section, "member's contribution" means the total amount deducted from the salary of a member of the police and firemen's disability and pension fund and credited to the member's account in the fund.

If a member of the fund dies before receiving pension and benefit payments from the ~~police and firemen's disability and pension~~ fund in an amount equal to the ~~sums deducted from the member's salary and credited to the member's account in such fund~~, contribution and leaves no surviving spouse, surviving children, or dependent parent eligible for monthly pension payments under section 742.37 of the Revised Code, the board of trustees of the police and firemen's disability and pension fund shall pay to the estate of such deceased member an amount equal to the ~~sums deducted from the~~

~~member's salary and credited to the member's account in the police and firemen's disability and pension fund contribution,~~ less the total amount received by such member as benefit or pension payments from such fund.

If a member who dies before receiving pension and benefit payments from the fund in an amount equal to the member's contribution leaves one or more survivors eligible for monthly pension payments under section 742.37 of the Revised Code but the total amount paid all survivors under that section is less than the member's contribution, the fund shall pay to the survivors or their estates, in equal shares, an amount equal to the member's contribution, less the total amount received by the member and all survivors as benefit or pension payments from the fund.

Sec. 742.511. In computing years of active service under division (C) of section 742.37 or section 742.39 of the Revised Code for a full-time regular ~~policewoman or policeman~~ police officer who, prior to ~~the effective date of this amendment~~ December 1, 1983, was appointed to the police department of a newly incorporated municipal corporation, whether pursuant to section 124.41 of the Revised Code or otherwise, directly from a police department of the township from which such municipal corporation was incorporated, such members shall be given full credit for service as a full-time township police officer and as a full-time ~~policewoman or policeman~~ police officer in the municipal corporation after the date of incorporation and for which contributions were made to the public employees retirement system, if ~~the~~, within thirty days after ~~the effective date of this amendment~~ December 1, 1983, the member makes a written request to the public employees retirement system to withdraw accumulated contributions attributable to such service from the public employees retirement system and, thirty days after receiving such contributions, the member pays into the police and firemen's disability and pension fund the amount withdrawn from the public employees retirement system for the period of service being obtained.

When such an election is made, the public employees retirement system shall certify to the police and firemen's disability and pension fund a copy of the records of the service and contributions of the member and shall transfer to the police and firemen's disability and pension fund an amount equal to the total employer contributions paid on service as a full-time township police officer and on service as a full-time municipal police officer at the rates in effect during such employment, as set forth in section 145.01 of the Revised Code.

Sec. 742.512. In computing years of active service under division (C) of section 742.37 or section 742.39 of the Revised Code for a full-time regular ~~policewoman or policeman~~ police officer who, on or after December 1,

, but prior to ~~the effective date of this amendment~~ June 14, 1988, was appointed pursuant to section 124.41 or 124.411 of the Revised Code to a police department of a newly incorporated municipal corporation directly from a police department of the township from which the municipal corporation was incorporated, full credit for service as a full-time township police officer shall be given if, within thirty days after such appointment, the member made a written request to the public employees retirement system to withdraw accumulated contributions attributable to such service from the public employees retirement system and, within thirty days after receiving such contributions, the member paid into the police and firemen's disability and pension fund the amount withdrawn from the public employees retirement system for the period of service being obtained.

When such an election is made, the public employees retirement system shall certify to the police and firemen's disability and pension fund a copy of the records of the service and contributions of the member and shall transfer to the police and firemen's disability and pension fund an amount equal to the total employer contributions paid on service as a full-time township police officer at the rates in effect during such employment, as set forth in section 145.01 of the Revised Code.

Sec. 742.515. (A) As used in this section, "fire department employer" means a fire department that employs a ~~fireman~~ firefighter.

(B) A full-time ~~fireman~~ firefighter who, on November 8, 1990, is a member of the public employees retirement system, in the employ of a fire department employer, and in a position in which ~~he~~ the firefighter is required to satisfactorily complete or have satisfactorily completed a ~~fire fighter~~ firefighter training course approved under former section 3303.07 or section 4765.55 or conducted under section 3737.33 of the Revised Code may, by giving notice to the police and firemen's disability and pension fund within ninety days of November 8, 1990, elect to transfer to the fund.

When a ~~fireman~~ firefighter makes such an election, the police and firemen's disability and pension fund shall notify the public employees retirement system. All of the ~~fireman's~~ firefighter's credit as a full-time ~~fireman~~ firefighter shall be transferred to the police and firemen's disability and pension fund. The public employees retirement system shall certify to the police and firemen's disability and pension fund a copy of ~~his~~ the firefighter's records of service and contributions and for each year or portion of a year of credit to be transferred shall transfer to the police and firemen's disability and pension fund all of the following:

(1) All contributions to the credit of the ~~fireman~~ firefighter as a full-time ~~fireman~~ firefighter;

(2) An amount equal to the total employer contributions paid on service as a full-time ~~fireman~~ firefighter at the rates in effect during that year;

(3) Any amount paid by the member or the employer to the retirement system for the purchase of service credit for full-time service, including credit for military service and any other credit the member or employer was eligible to purchase for the benefit of the member.

(C) The fire department employer by which a ~~fireman~~ firefighter is employed at the time of a transfer made pursuant to division (B) of this section shall, at the request of the police and firemen's disability and pension fund, certify to the fund the ~~fireman~~ firefighter's salary as a ~~fireman~~ firefighter.

(D) In computing years of active service under division (C) of section 742.37 or section 742.39 of the Revised Code, a member transferred pursuant to this section shall be given full credit by the police and firemen's disability and pension fund for ~~his~~ the firefighter's service as a full-time ~~fireman~~ firefighter and for any service credit for full-time service purchased by ~~him~~ the firefighter, or by ~~his~~ the firefighter's employer on ~~his~~ the firefighter's behalf, from the public employees retirement system.

Sec. 742.516. (A) Not later than ninety days after the effective date of this section, a member of the police and firemen's disability and pension fund who became a member of the fund as a result of the member's employer changing from a fire department consisting primarily of part-time employees to a fire department consisting primarily of full-time employees or who elected to transfer to the fund from the public employees retirement system under section 742.515 of the Revised Code may elect to transfer to the public employees retirement system in accordance with this section. An election shall be made by giving notice to the fund on a form provided by the board of trustees of the fund and shall be irrevocable.

(B) When a member makes the election described in this section, the fund shall notify the system. The fund shall transfer all of the member's service credit to the system and shall certify to the system a copy of the member's records of service and contributions. The fund shall transfer to the system all of the following:

(1) Any amount transferred from the system to the fund pursuant to the election made under section 742.515 of the Revised Code;

(2) An amount equal to the member's contributions to the fund;

(3) An amount equal to the total employer contributions paid on behalf of the member;

(4) Any amount paid by the member or employer to the fund for the purchase of service credit.

At the request of the system, the employer of a member who makes an election under this section shall certify to the system the member's salary.

(C) The system shall give the member full credit for all service as a member of the fund. If the system has on deposit contributions made by, or on behalf of, a member of the fund who makes an election in accordance with this section, the system shall credit the contributions in accordance with Chapter 145. of the Revised Code.

(D) A member of the fund who fails to make an election in accordance with this section shall remain a member of the fund.

Sec. 742.52. (A) A member of the police and firemen's disability and pension fund who is not receiving a disability benefit or pension from the fund may purchase service credit, which shall be used in computing the member's years of service, for each year of service incurred by reason of having been on active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty, and a period for which a member is absent from a position of employment for the purpose of an examination to determine the fitness of the member to perform a duty, as a member of the armed forces of the United States if the member is honorably discharged. Credits which are not authorized under former sections 742.18, 742.19, 742.20, and 742.21 or section 742.521 of the Revised Code may be purchased at any time. The number of years purchased under this division shall not exceed five.

(B) For the purposes of this division, "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the armed forces of the United States who was captured, separated, and incarcerated by an enemy of the United States.

A member may purchase service credit which shall be considered as the equivalent of Ohio service for each year of service the member was a prisoner of war. The number of years purchased under this division shall not exceed five. Service credit may be purchased under this division for the same years of service used to purchase service credit under division (A) of this section. The member may choose to purchase only part of such credit in any one payment, subject to board rules.

(C) The total number of years purchased under this section shall not exceed the member's total accumulated number of years of Ohio service.

(D) For each year of service purchased under division (A) or (B) of this section, the member shall pay to the fund for credit to the member's accumulated account an amount determined by the member rate of contribution in effect at the time the military service began or four per cent, whichever is greater, multiplied by the annual compensation for full-time

employment during the first year of full-time service in Ohio covered by any state or municipal retirement system of this state following termination of military service. To this amount shall be added an amount equal to compound interest at a rate established by the board of trustees of the police and firemen's disability and pension fund from the date active military service terminated to date of payment. For the purpose of this section, the board may define full-time service in Ohio covered by any state or municipal retirement system of this state.

(E) A member is ineligible to purchase service credit under this section for any year of military service that was:

(1) Used in the calculation of any retirement benefit currently being paid to the member or payable in the future under any other retirement program, except for retired pay for non-regular service under Chapter ~~1223~~ 1223, of Section 1662 of Title XVI of the "National Defense Authorization Act for Fiscal Year 1995," 108 Stat. 2998 (1994), 10 U.S.C.A. 12731 to 12739, or social security;

(2) Used to obtain service credit under former section 742.18, 742.19, 742.20, or 742.21 or section 742.521 of the Revised Code. At the time the credit is purchased the member shall certify on a form furnished by the trustees that the member does and will conform to this requirement. Any benefit paid under this section to which the member is not entitled shall be recovered by any recovery procedures available under this chapter.

"Armed forces" of the United States includes army, navy, air force, marine corps, coast guard, or any reserve component of such forces; national guard; the commissioned corps of the United States public health service; the merchant marine service during wartime; auxiliary corps as established by congress; service as a red cross nurse with the army, navy, air force, hospital service of the United States, army nurse corps, navy nurse corps, or serving full-time with the American red cross in a combat zone; and such other service as may be designated by congress as included therein.

A member of the fund who has purchased service credit under this section, or the member's estate, is entitled to be refunded the amount paid to purchase such credit, or a pro rata portion thereof, provided that the purchased service credit, or a portion of the purchased service credit, does not serve to increase a pension or benefit paid under section 742.37 or 742.39 of the Revised Code. The refund of any amount paid to purchase credit under this section, or a pro rata portion thereof, shall cancel an equivalent amount of service credit.

Sec. 742.58. On the death of a member of the police and firemen's disability and pension fund who at the time of death is receiving a retirement

pension or disability benefits, a lump sum payment of one thousand dollars shall be paid to the member's surviving spouse or, if there is no surviving spouse, to the beneficiary the member designated on a form provided by the fund. If there is no surviving spouse or designated beneficiary, the payment shall be made to the member's estate.

Application for the payment shall be made on a form provided by the fund.

Sec. ~~742.38~~ 742.59. The board of trustees of the police and firemen's disability and pension fund shall be the trustee of the funds created as follows:

(A) The "policemen's contribution fund" is the fund in which shall be credited the contributions deducted from the salaries of members of police departments and paid into the police and firemen's disability and pension fund, as provided by section 742.31 of the Revised Code, and that percentage of the employers' accrued liability that is attributable to deductions previously made from the salaries of members of the police department who are still in the active service at the time that portion of the employer's accrued liability is paid. The accumulated contributions of a member of a police department shall be transferred at ~~his~~ the member's retirement from the policemen's contribution fund to the policemen's pension reserve fund.

(B) The "firemen's contribution fund" is the fund in which shall be credited contributions deducted from the salaries of members of fire departments and paid into the police and firemen's disability and pension fund, as provided by section 742.31 of the Revised Code, and that percentage of the employers' accrued liability that is attributable to deductions previously made from the salaries of members of the fire department who are still in the active service at the time that portion of the employers' accrued liability is paid. The accumulated contributions of a member of a fire department shall be transferred at ~~his~~ the member's retirement from the firemen's contribution fund to the firemen's pension reserve fund.

(C) The "policemen employers' contribution fund" is the fund to which the policemen employers' contribution, as provided by section 742.33 of the Revised Code, and that percentage of the employers' accrued liability that is attributable to the employers' liability for prior service of members of the police department who are still in the active service at the time that portion of the employers' accrued liability is paid, and that portion of the state contribution allocated to such fund, as provided by section 742.36 of the Revised Code, shall be credited, and in which shall be accumulated the

erves held in trust for the payment of all pensions or other benefits provided by sections 742.01 to ~~742.58~~ 742.61 of the Revised Code to members of a police department retiring in the future or their qualified beneficiaries and from which the reserves for such pensions and other benefits shall be transferred to the policemen's pension reserve fund.

(D) The "firemen employers' contribution fund" is the fund to which the firemen employers' contribution, as provided in section 742.34 of the Revised Code, and that percentage of the employers' accrued liability that is attributable to the employers' liability for prior service for members of the fire department who are still in the active service at the time that portion of the employers' accrued liability is paid, and that portion of the state contribution allocated to such fund, as provided by section 742.36 of the Revised Code, shall be credited, and in which shall be accumulated the reserves held in trust for the payment of all pensions and other benefits provided by sections 742.01 to ~~742.58~~ 742.61 of the Revised Code to members of a fire department retiring in the future or their qualified beneficiaries and from which the reserves for such pensions and other benefits shall be transferred to the firemen's pension reserve fund.

(E) The "policemen's pension reserve fund" is the fund from which shall be paid all pensions and other benefits for which reserves have been transferred from the policemen's contribution fund and the policemen employers' contribution fund, and to which shall be credited that percentage of the employers' accrued liability that is attributable to the total of deductions previously made from the salaries of members of the police department who are retired and are receiving pensions or other benefits, or whose beneficiaries are receiving benefits, at the time that portion of the employers' accrued liability is paid, and that percentage of the employers' accrued liability that is attributable to prior service of members of the police department who are retired and are receiving pensions or other benefits, or whose beneficiaries are receiving benefits, at the time that portion of the employers' accrued liability is paid.

(F) The "firemen's pension reserve fund" is the fund from which shall be paid all pensions and other benefits for which reserves have been transferred from the firemen's contribution fund and the firemen employers' contribution fund, and to which shall be credited that percentage of the employers' accrued liability that is attributable to the total of deductions previously made from the salaries of members of the fire department who are retired and are receiving pensions or other benefits, or whose beneficiaries are receiving benefits, at the time that portion of the employers' accrued liability is paid, and that percentage of the employers' accrued

liability that is attributable to prior service of members of the fire department who are retired and are receiving pensions or other benefits, or whose beneficiaries are receiving benefits, at the time that portion of the employers' accrued liability is paid.

(G) The "guarantee fund" is the fund from which interest is transferred and credited on the amounts in the funds described in divisions (C), (D), (E), and (F) of this section, and is a contingent fund from which the special requirements of said funds may be paid by transfer from this fund. All income derived from the investment of funds by the board of trustees of the police and firemen's disability and pension fund as trustee under section 742.11 of the Revised Code, together with all gifts and bequests or the income therefrom, shall be paid into this fund.

Any deficit occurring in any other fund that will not be covered by payments to that fund, as otherwise provided by sections 742.01 to ~~742.58~~ 742.61 of the Revised Code, shall be paid by transfers of amounts from the guarantee fund to such fund or funds. Should the amount in the guarantee fund be insufficient at any time to meet the amounts payable therefrom, the amount of such deficiency, with regular interest, shall be paid by an additional employer rate of current contribution as determined by the actuary and shall be approved by the board of trustees of the police and firemen's disability and pension fund, and the amount of such additional employer contribution shall be credited to the guarantee fund.

The board of trustees of the police and firemen's disability and pension fund may accept gifts and bequests. Any funds that may come into the possession of the board in this manner, or any other funds whose disposition is not otherwise provided for, shall be credited to the guarantee fund.

(H) The "expense fund" is the fund from which shall be paid the expenses for the administration and management of the police and firemen's disability and pension fund, as provided by sections 742.01 to ~~742.58~~ 742.61 of the Revised Code, and to which shall be credited from the guarantee fund an amount sufficient to pay the expenses of operation.

Sec. ~~742.39~~ 742.60. Wherever in sections 742.01 to ~~742.49~~, inclusive, 742.61 of the Revised Code, reference is made to the policemen's contribution fund, the firemen's contribution fund, the policemen employers' contribution fund, the firemen employers' contribution fund, the policemen's pension reserve fund, the firemen's pension reserve fund, the guarantee fund, or the expense fund, such reference shall be construed to have been made to each as a separate legal entity. This section does not prevent the deposit or investment of all such moneys intermingled for such purpose, but such funds shall be separate and distinct legal entities for all other purposes.

Sec. ~~742.40~~ 742.61. The treasurer of state shall be the custodian of all funds under the control and management of the board of trustees of the police and firemen's disability and pension fund, and all disbursements of such funds shall be paid by ~~him~~ the treasurer of state only upon instruments duly authorized by the board and bearing the signatures of the ~~chairman~~ chairperson and secretary of the board. The signatures of the ~~chairman~~ chairperson and secretary may be facsimile signatures.

The treasurer of state shall give a separate and additional bond in such amount as is fixed by the board, conditioned upon the faithful performance of ~~his~~ the treasurer of state's duties as custodian of the funds under the control and management of the board and to be executed by a surety company selected by the board that is authorized to transact business in this state. Such bond shall be deposited with the secretary of state and kept in ~~his~~ the secretary of state's office. The board may require the treasurer of state to give other and additional bonds, as the funds under the control and management of the board increase, in such amounts and at such times as are fixed by the board, which additional bonds shall be conditioned, filed, and executed as is provided for the original bond of the treasurer of state covering the funds under the control and management of the board. The premium on all bonds shall be paid by the board.

The treasurer of state shall deposit any portion of the funds under the control and management of the board not needed for immediate use in the same manner as state funds are deposited, and subject to all provisions of law with respect to the deposit of state funds, by the treasurer of state, and all interest earned on such funds so deposited shall be collected by the treasurer of state and placed to the credit of the board.

Sec. ~~742.61~~ 742.62. The firemen and policemen's death benefit fund is hereby created as the fund to which shall be credited contributions paid by the state and any moneys resulting from gifts made to the fund. The board of trustees of the police and firemen's disability and pension fund shall be the trustees of the firemen and policemen's death benefit fund. The board shall have the same powers as provided in section 742.10 of the Revised Code, in administering the firemen and policemen's death benefit fund.

Sec. 742.63. The board of trustees of the police and firemen's disability and pension fund shall adopt rules for the management of the firemen and policemen's death benefit fund and for disbursements of benefits as set forth in this section.

(A) As used in this section:

(1) "Member" means a member of the police and firemen's disability and pension fund or the state highway patrol retirement system, or a member

of the public employees retirement system who at the time of the member's death was a county sheriff or deputy sheriff, a full-time regular police officer in a municipal corporation or township, a full-time regular ~~fireman~~ firefighter employed by the state, an instrumentality of the state, a municipal corporation, a township, a joint fire district, or another political subdivision, a full-time park district ranger or patrol trooper, a full-time law enforcement officer of the department of natural resources, a full-time liquor control investigator of the department of public safety, a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of a municipal corporation, a full-time law enforcement officer of a conservancy district, a correction officer at an institution under the control of a county, a group of counties, a municipal corporation, or the department of rehabilitation and correction, a state university law enforcement officer, or a member of a retirement system operated by a municipal corporation who at the time of death was a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of the municipal corporation.

(2) Notwithstanding section 742.01 of the Revised Code, "fire or police department" includes a fire department of the state or an instrumentality of the state or of a municipal corporation, township, joint fire district, or other political subdivision, the state highway patrol, a county sheriff's office, the security force of an institution under the control of the department of rehabilitation and correction, the security force of a jail or workhouse under the control of a county, group of counties, or municipal corporation, the security force of a metropolitan, county, or township park district, the security force of lands under the control of the department of natural resources, the security force of liquor control investigators of the department of public safety, the security force of parks, waterway lands, or reservoir lands under the control of a municipal corporation, the security force of a conservancy district, the police department of a township or municipal corporation, and the police force of a state university.

(3) "~~Fireman~~ Firefighter or ~~policeman~~ police officer" includes a state highway patrol trooper, a county sheriff or deputy sheriff, a correction officer at an institution under the control of a county, a group of counties, a municipal corporation, or the department of rehabilitation and correction, a ~~policeman~~ police officer employed by a township or municipal corporation, a ~~fireman~~ firefighter employed by the state, an instrumentality of the state, a municipal corporation, a township, a joint fire district, or another political subdivision, a full-time park district ranger or ~~patrolman~~ patrol trooper, a full-time law enforcement officer of the department of natural resources, a full-time liquor control investigator of the department of public safety, a

full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of a municipal corporation, a full-time law enforcement officer of a conservancy district, and a state university law enforcement officer.

(4) "Correction officer" includes, in addition to any correction officer, any correction corporal, sergeant, lieutenant, or captain, and the equivalents of all such persons.

(5) "A park district ranger or ~~patrolman~~ patrol trooper" means a peace officer commissioned to make arrests, execute warrants, and preserve the peace upon lands under the control of a board of park commissioners of a metropolitan, county, or township park district.

(6) "Metropolitan, county, or township park district" means a park district created under the authority of Chapter 511. or 1545. of the Revised Code.

(7) "Conservancy district" means a conservancy district created under the authority of Chapter 6101. of the Revised Code.

(8) "Law enforcement officer" means an officer commissioned to make arrests, execute warrants, and preserve the peace upon lands under the control of the governmental entity granting the commission.

(9) "Department of natural resources law enforcement officer" includes a forest officer designated pursuant to section 1503.29 of the Revised Code, a preserve officer designated pursuant to section 1517.10 of the Revised Code, a wildlife officer designated pursuant to section 1531.13 of the Revised Code, a park officer designated pursuant to section 1541.10 of the Revised Code, and a state watercraft officer designated pursuant to section 1547.521 of the Revised Code.

(10) "Retirement eligibility date" means the last day of the month in which a deceased member would have first become eligible, had the member lived, for the retirement pension provided under section 145.33, division (C)(1) of section 742.37, or division (A)(1) of section 5505.17 of the Revised Code or provided by a retirement system operated by a municipal corporation.

(11) "Death benefit amount" means an amount equal to the full monthly salary received by a deceased member prior to death, minus an amount equal to the benefit received under section 145.45, 742.37, 742.3714, or 5505.17 Of the Revised Code or the benefit received from a retirement system operated by a municipal corporation, plus any increases in salary that would have been granted the deceased member.

(12) "Killed in the line of duty" means either of the following:

(a) Death in the line of duty;

(b) death from injury sustained in the line of duty, including heart attack or other fatal injury or illness caused while in the line of duty.

(B) A spouse of a deceased member shall receive a death benefit each month equal to the full ~~monthly salary received by the deceased member prior to the member's death, minus an amount equal to the benefit received under section 145.45, 742.37, 742.3714, or 5505.17 of the Revised Code or the benefit received from a retirement system operated by a municipal corporation, and also shall receive any increases in salary that would have been granted to the deceased~~ death benefit amount, provided that the deceased member was a ~~fireman~~ firefighter or ~~policeman~~ police officer killed in the line of duty ~~or who died of injuries sustained in the line of duty and there are no surviving children eligible for a benefit under this section.~~ The spouse ~~of such a deceased member~~ shall receive this benefit during the spouse's natural life until the earlier of the deceased member's retirement eligibility date or the spouse's remarriage, on which date the benefit provided under this division shall terminate.

(C)(1) If a member ~~dies~~ killed in the line of duty as a ~~fireman~~ firefighter or ~~policeman~~ police officer ~~or from injuries sustained in the line of duty as a fireman or policeman including heart attacks or other fatal injuries or illnesses caused while in the line of duty, and~~ police officer is survived only by a child or children, ~~then~~ the child or children shall receive a benefit each month equal to the full ~~monthly salary received by the deceased member prior to the member's death minus an amount equal to the benefit or benefits received under section 145.45, 742.37, 742.3714, or 5505.17 of the Revised Code or the benefit or benefits received from a retirement system operated by a municipal corporation and also shall receive any increases in salary which would have been granted to the deceased~~ death benefit amount. If there is more than one surviving child, the benefit shall be divided equally among these children. ~~When the child reaches the age of eighteen, the benefit shall terminate unless the child, because of physical or mental disability, is unable to support himself, in which case the benefit shall continue until the disability is removed. Benefits under this division, however, shall continue to be paid to an unmarried 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 the institution, as determined by the board of trustees of the fund.~~

(2) If the death benefit paid under this division is divided among two or more surviving children and any of the children become ineligible to continue receiving a portion of the benefit as provided in division (H) of this

section, the full death benefit amount shall be paid to the remaining eligible child or divided among the eligible children so that the benefit paid to the remaining eligible child or children equals the full death benefit amount.

(3) Notwithstanding ~~division~~ divisions (C)(1) and (2) of this section, all death benefits paid under this division shall terminate on the deceased member's retirement eligibility date.

(D) If a member ~~dies~~ killed in the line of duty as a ~~fireman~~ firefighter or ~~policeman or from injuries sustained in the line of duty as a fireman or policeman, and police officer~~ is survived by both a spouse and a child or children, ~~then~~ the monthly benefit provided shall be as follows:

(1)(a) If there is a surviving spouse and one surviving child, ~~then~~ the spouse ~~receives~~ shall receive an amount each month equal to one-half of the full ~~monthly salary received by the deceased member prior to the member's death, plus any increases in the salary which would have been granted to the deceased, minus an amount equal to the benefit received under section 145.45, 742.37, 742.3714, or 5505.17 of the Revised Code or the benefit received from a retirement system operated by a municipal corporation,~~ death benefit amount and the child ~~receives~~ shall receive an amount equal to one-half of the full ~~monthly salary received by the deceased member prior to the member's death, plus any increases in salary which would have been granted to the deceased, minus an amount equal to the benefit received under section 145.45, 742.37, 742.3714, or 5505.17 of the Revised Code or the benefit received from a retirement system operated by a municipal corporation~~ death benefit amount.

(b) If the surviving spouse becomes ineligible to continue receiving a death benefit due to remarriage or death, or the child becomes ineligible as provided in division (H) of this section, the surviving spouse or child remaining eligible shall receive the full death benefit amount.

(2)(a) If there is a surviving spouse and more than one child, ~~then~~ the spouse ~~receives~~ shall receive an amount each month equal to one-third of the full ~~monthly salary received by the deceased member prior to the member's death, plus any increases in salary which would have been granted to the deceased, minus an amount equal to the benefit received under section 145.45, 742.37, 742.3714, or 5505.17 of the Revised Code or the benefit received from a retirement system operated by a municipal corporation,~~ death benefit amount and the children shall receive a benefit an amount, which is equally divided among them, equal to two-thirds of the full ~~monthly salary received by the deceased member prior to the member's death, plus any increases in salary which would have been granted to the deceased, minus an amount equal to the benefits received under section~~

~~145.45, 742.37, 742.3714, or 5505.17 of the Revised Code or the benefits received from a retirement system operated by a municipal corporation death benefit amount.~~

(b) If a spouse and more than one child each are receiving a death benefit under division (D)(2)(a) of this section and the spouse becomes ineligible to receive a benefit due to remarriage or death, the children shall receive an amount each month, equally divided among them, equal to the full death benefit amount.

(c) If a spouse and more than one child each are receiving a benefit under division (D)(2)(a) of this section and any of the children becomes ineligible to receive a benefit as provided in division (H) of this section, the spouse and remaining eligible child or children shall receive a death benefit as follows:

(i) If there are two or more remaining eligible children, the spouse shall receive an amount each month equal to one-third of the full death benefit amount and the children shall receive an amount each month, equally divided among them, equal to two-thirds of the full death benefit amount;

(ii) If there is one remaining eligible child, the spouse shall receive an amount each month equal to one-half of the full death benefit amount, and the child shall receive an amount each month equal to one-half of the full death benefit amount.

(d) If a spouse and more than one child each are receiving a benefit under division (D)(2)(a) of this section and all of the children become ineligible to receive a benefit as provided in division (H) of this section, the spouse shall receive the full death benefit amount.

(3) Notwithstanding divisions (D)(1) and (2) of this section, death benefits paid under this division to a surviving spouse shall terminate ~~at~~ on the earlier of the member's retirement eligibility date or the spouse's remarriage. Death benefits paid to a surviving child or children shall terminate on the deceased member's retirement eligibility date unless earlier terminated pursuant to division ~~(G)~~ (H) of this section.

(E) If a member ~~dies~~, on or after January 1, 1980, is killed in the line of duty as a ~~fireman~~ firefighter or ~~policeman~~ police officer ~~or from injury sustained in the line of duty as a fireman or policeman, including heart attacks or other fatal injuries or illnesses caused while in the line of duty,~~ and is survived by only a parent or parents dependent upon ~~him~~ the member for support, ~~then~~ the parent or parents shall receive ~~a benefit~~ an amount each month equal to the full ~~monthly salary received by the deceased member prior to the member's death minus an amount equal to the benefit or benefits received under section 145.45, 742.37, or 5505.17 of the Revised Code or~~

~~e benefit or benefits received from a retirement system operated by a municipal corporation and also shall receive any increases in salary which would have been granted to the deceased~~ death benefit amount. If there is more than one surviving parent dependent upon the deceased member for support, ~~then~~ the death benefit amount shall be divided equally among the surviving parents. On the death of one of the surviving parents, the full death benefit amount shall be paid to the other parent.

(F) A surviving spouse whose benefits are terminated in accordance with division (B) or (D)(3) of this section on the deceased member's retirement eligibility date, or who would qualify for a benefit under division (B) or (D) of this section except that the deceased member reached the member's retirement eligibility date prior to the member's death, shall receive a monthly death benefit under this division. The monthly death benefit shall be one-half of an amount equal to the monthly salary received by the deceased member prior to the member's death, plus any salary increases ~~in salary~~ the deceased member would have received prior to the member's retirement eligibility date. The benefit shall terminate on the surviving spouse's remarriage or death. A death benefit payable under this division shall be reduced by an amount equal to any allowance or benefit payable to the surviving spouse under section 742.3714 of the Revised Code.

~~(G)(1) If a deceased member did there is not have a surviving spouse eligible to receive a death benefit under division (F) of this section or the surviving spouse is deceased receiving a death benefit under that division becomes ineligible to receive the benefit due to remarriage or death, a surviving child or children whose benefits under division (C) or (D) of this section are or have been terminated pursuant to division (C)(2)(3) or (D)(3) of this section or who would qualify for a benefit under division (C) or (D) of this section except that the deceased member reached the member's retirement eligibility date prior to the member's death shall receive a monthly death benefit under this division. The monthly death benefit shall be one-half of an amount equal to the monthly salary received by the deceased member prior to the member's death, plus any salary increases in salary the member would have received prior to the member's retirement eligibility date. If there is more than one surviving child, the benefit shall be divided equally among the surviving children. When a child reaches the age of eighteen the portion of the benefit payable to that child shall terminate unless either of the following applies:~~

~~(1) The child, because of a physical or mental disability, is unable to support himself or herself, in which case the benefit shall continue until the~~

disability is removed.

~~(2) The child is an unmarried child under age twenty-two and 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 the institution, as determined by the board of trustees of the fund.~~

(2) If two or more surviving children each are receiving a benefit under this division and any of those children becomes ineligible to continue receiving a benefit as provided in division (H) of this section, the remaining eligible child or children shall receive an amount equal to one-half of the monthly salary received by the deceased member prior to death, plus any salary increases the deceased member would have received prior to the retirement eligibility date. If there is more than one remaining eligible child, the benefit shall be divided equally among the eligible children.

(3) A death benefit, or portion of a death benefit, payable to a surviving child under this division shall be reduced by an amount equal to any allowance or benefit payable to that child under section 742.3714 of the Revised Code, but the reduction in that child's benefit shall not affect the amount payable to any other surviving child entitled to a portion of the death benefit.

~~(H) The termination, or reduction in amount of, any survivor's portion of a death benefit that has been divided among two or more survivors pursuant to division (C), (D), or (G) of this section shall not affect the amount payable to the other survivors entitled to a portion of the death benefit. A death benefit paid to a surviving child under division (C), (D), or (G) of this section shall terminate on the death of the child or, unless one of the following is the case, when the child reaches age eighteen:~~

(1) The child, because of physical or mental disability, is unable to provide the child's own support, in which case the death benefit shall terminate when the disability is removed;

(2) The child is unmarried, under age twenty-two, and 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 the institution, as determined by the trustees of the fund.

(I) Acceptance of any death benefit under this section does not prohibit a spouse or child from receiving other benefits provided under the police and firemen's disability and pension fund, the state highway patrol retirement system, the public employees retirement system, or a retirement system operated by a municipal corporation.

(J) No person shall receive a benefit under this section if any of the following occur:

(1) The person fails to exercise the right to a monthly survivor benefit under division (A) or (B) of section 145.45, division (D), (E), or (F) of section 742.37, or division (A)(3), (4), or (7) of section 5505.17 of the Revised Code; to a monthly survivor benefit from a retirement system operated by a municipal corporation; or to a retirement allowance under section 742.3714 of the Revised Code.

(2) The member's accumulated contributions under this chapter or Chapter 145. or 5505. of the Revised Code are refunded unless the member had been a member of the public employees retirement system and had fewer than eighteen months of total service credit at the time of death.

(3) In the case of a full-time park district ranger or ~~patrolman~~ patrol trooper, a full-time law enforcement officer of the department of natural resources, a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of a municipal corporation, a full-time law enforcement officer of a conservancy district, a correction officer at an institution under the control of a county, group of counties, or municipal corporation, or a member of a retirement system operated by a municipal corporation who at the time of ~~his~~ the member's death was a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of the municipal corporation, the member died prior to April 9, 1981, in the case of a benefit under division (B), (C), or (D) of this section, or prior to January 1, 1980, in the case of a benefit under division (E) of this section.

(4) In the case of a full-time liquor control investigator of the department of public safety, the member died prior to December 23, 1986.

Sec. 3113.25. A child support enforcement agency that learns that an obligor under a support order administered by the agency who was a member of the public employees retirement system, school employees retirement system, or state teachers retirement system has died shall immediately notify the retirement system that the member was survived by one or more children who are the subject of a child support order.

Sec. 3307.01. As used in this chapter:

(A) "Employer" means the board of education, school district, governing authority of any community school established under Chapter 3314. of the Revised Code, college, university, institution, or other agency within the state by which a teacher is employed and paid.

(B) "Teacher" means any person paid from public funds and employed in the public schools of the state under any type of contract described in

section 3319.08 of the Revised Code in a position for which the person is required to have a license issued pursuant to sections 3319.22 to 3319.31 of the Revised Code; any person employed as a teacher by a community school pursuant to Chapter 3314. of the Revised Code; and any other teacher or faculty member employed in any school, college, university, institution, or other agency wholly controlled and managed, and supported in whole or in part, by the state or any political subdivision thereof, including Central state university, Cleveland state university, the university of Toledo, and the medical college of Ohio at Toledo. The educational employees of the department of education, as determined by the state superintendent of public instruction, shall be considered teachers for the purpose of membership in this system. In all cases of doubt, the state teachers retirement board shall determine whether any person is a teacher, and its decision shall be final.

"Teacher" does not include any academic or administrative employee of a public institution of higher education, as defined in section 3305.01 of the Revised Code, who participates in an alternative retirement plan established under Chapter 3305. of the Revised Code.

(C) "Prior service" means all service as a teacher before September 1, 1920, military service credit, all service prior to September 1, 1920, as an employee of any employer who comes within the public employees retirement system, the school employees retirement system, or any other state retirement system established under the laws of Ohio, and similar service in another state, credit for which was procured by a member under section 3307.33 of the Revised Code, prior to June 25, 1945. Prior service credit shall not be granted to any member for service for which credit or benefits have been received in any other state retirement system in Ohio or for credit that was forfeited by withdrawal of contributions, unless the credit has been restored. If the teacher served as an employee in any two or all of the capacities, "prior service" means the total combined service in the capacities prior to September 1, 1920.

If a teacher who has been granted prior service credit for service rendered prior to September 1, 1920, as an employee of an employer who comes within the public employees retirement system or the school employees retirement system, establishes, subsequent to September 16, 1957, and before retirement, three years of contributing service in the public employees retirement system, or one year in the school employees retirement system, the prior service credit granted shall become, at retirement, the liability of the other system if the prior service or employment was in a capacity covered by that system.

(D) "Total service," "total service credit," except as provided in section

3307.41 of the Revised Code, or "Ohio service credit" means all service of a member of the state teachers retirement system since last becoming a member and, in addition thereto, restored service credit under section 3307.28 Of the Revised Code, all prior service credit, all military service credit computed as provided in this chapter, and all other service credit established under sections 3307.22, 3307.31, 3307.311, 3307.32, 3307.35, 3307.411, 3307.412, 3307.51, 3307.512, 3307.513, 3307.514, and 3307.73 and former section 3307.52 of the Revised Code, and Section 3 of Amended Substitute Senate Bill No. 530 of the 114th general assembly. All service credit purchased under section 3307.33 of the Revised Code shall be used exclusively for the purpose of qualifying for service retirement.

(E) "Member" means any person included in the membership of the state teachers retirement system, which shall consist of all teachers and contributors as defined in divisions (B) and (F) of this section and all disability benefit recipients. However, for purposes of this chapter, the following persons shall not be considered members:

(1) A student, intern, or resident who is not a member while employed part-time by a school, college, or university at which the student, intern, or resident is regularly attending classes;

(2) A person denied membership pursuant to section 3307.27 of the Revised Code;

(3) A superannuate or other system retirant as defined in section 3307.381 of the Revised Code;

(4) An individual employed in a program established pursuant to the "Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 1501.

(F) "Contributor" means any person who has an account in the teachers' savings fund.

(G) "Beneficiary" means any person eligible to receive, or in receipt of, a retirement allowance or other benefit provided by this chapter.

(H)(1) "Service retirement" means retirement as provided in section 3307.38 or 3307.39 of the Revised Code.

(2) "Disability retirement" means retirement as provided in section 3307.43 of the Revised Code.

(I) "Accumulated contributions" means the sum of all amounts credited to a contributor's individual account in the teachers' savings fund, together with interest credited thereon at the rates approved by the state teachers retirement board prior to retirement.

(J) "Annuity" means payments for life derived from contributions made by a contributor and paid from the annuity and pension reserve fund. All annuities shall be paid in twelve equal monthly installments.

(K) "Pensions" means annual payments for life derived from appropriations made by an employer and paid from the annuity and pension reserve fund. All pensions shall be paid in twelve equal monthly installments.

(L)(1) "Allowance" or "benefit" means the pension plus the annuity, or any other payment under this chapter, and includes a disability allowance or disability benefit.

(2) "Disability allowance" means an allowance paid on account of disability under section 3307.431 of the Revised Code.

(3) "Disability benefit" means a benefit paid as disability retirement under section 3307.43 of the Revised Code, as a disability allowance under section 3307.431 of the Revised Code, or as a disability benefit under section 3307.41 of the Revised Code.

(M) "Annuity reserve" means the present value, computed upon the basis of mortality tables adopted by the state teachers retirement board with interest, of all payments to be made on account of any annuity, or benefit in lieu of any annuity, granted to a member.

(N) "Pension reserve" means the present value, computed upon the basis of mortality tables adopted by the state teachers retirement board with interest, of all payments to be made on account of any pension, or benefit in lieu of any pension, granted to a member or to a beneficiary.

(O) "Year" means the year beginning the first day of July and ending with the thirtieth day of June next following, except that for the purpose of determining final average salary, "year" may mean the contract year.

(P) "Local district pension system" means any school teachers pension fund created in any school district of the state in accordance with the laws of the state prior to September 1, 1920.

(Q) "Employer contribution" means the amount paid by an employer, as determined by the employer rate, including the normal and deficiency rates, contributions, and funds wherever used in this chapter.

(R) "Five years of service credit," for the exclusive purpose of satisfying the service credit requirements and determining eligibility for benefits under section 3307.38 of the Revised Code, means employment covered under this chapter and employment covered under a former retirement plan operated, recognized, or endorsed by a college, institute, university, or political subdivision of this state prior to coverage under this chapter.

(S) "Actuary" means the actuarial consultant to the state teachers retirement board, who shall be either of the following:

(1) A member of the American academy of actuaries;

(2) A firm, partnership, or corporation of which at least one person is a

member of the American academy of actuaries.

(T) "Fiduciary" means a person who does any of the following:

(1) Exercises any discretionary authority or control with respect to the management of the system, or with respect to the management or disposition of its assets;

(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;

(3) Has any discretionary authority or responsibility in the administration of the system.

(U)(1) Except as otherwise provided in this division, "compensation" means all salary, wages, and other earnings paid to a teacher by reason of the teacher's employment, including compensation paid pursuant to a supplemental contract. The salary, wages, and other earnings shall be determined prior to determination of the amount required to be contributed to the teachers' savings fund under section 3307.51 of the Revised Code and without regard to whether any of the salary, wages, or other earnings are treated as deferred income for federal income tax purposes.

(2) Compensation does not include any of the following:

(a) Payments for accrued but unused sick leave or personal leave, including payments made under a plan established pursuant to section 124.39 of the Revised Code or any other plan established by the employer;

(b) Payments made for accrued but unused vacation leave, including payments made pursuant to section 124.13 of the Revised Code or a plan established by the employer;

(c) Payments made for vacation pay covering concurrent periods for which other salary, compensation, or benefits under this chapter are paid;

(d) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the teacher or the teacher's family, or amounts paid by the employer to the teacher in lieu of providing the insurance;

(e) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, use of the employer's property or equipment, and reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development;

(f) Payments made by the employer in exchange for a member's waiver of a right to receive any payment, amount, or benefit described in division (U)(2) of this section;

(g) Payments by the employer for services not actually rendered;

(h) Any amount paid by the employer as a retroactive increase in salary,

wages, or other earnings, unless the increase is one of the following:

(i) A retroactive increase paid to a member employed by a school district board of education in a position that requires a license designated for teaching and not designated for being an administrator issued under section 3319.22 of the Revised Code that is paid in accordance with uniform criteria applicable to all members employed by the board in positions requiring the licenses;

(ii) A retroactive increase paid to a member employed by a school district board of education in a position that requires a license designated for being an administrator issued under section 3319.22 of the Revised Code that is paid in accordance with uniform criteria applicable to all members employed by the board in positions requiring the licenses;

(iii) A retroactive increase paid to a member employed by a school district board of education as a superintendent that is also paid as described in division (U)(2)(h)(i) of this section;

(iv) A retroactive increase paid to a member employed by an employer other than a school district board of education in accordance with uniform criteria applicable to all members employed by the employer.

(i) Payments made to or on behalf of a teacher that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended. For a teacher who first establishes membership before July 1, 1996, the annual compensation that may be taken into account by the retirement system shall be determined under division (d)(3) of section 13212 of the "Omnibus Budget Reconciliation Act of 1993," Pub. L. No. 103-66, 107 Stat. 472.

(j) Payments made under division (B) or (D) of section 5923.05 of the Revised Code or Section 4 of Substitute Senate Bill No. 3 of the 119th general assembly;

(k) Anything of value received by the teacher that is based on or attributable to retirement or an agreement to retire.

(3) The retirement board shall determine by rule both of the following:

(a) Whether particular forms of earnings are included in any of the categories enumerated in this division;

(b) Whether any form of earnings not enumerated in this division is to be included in compensation.

Decisions of the board made under this division shall be final.

(V) "Retirant" means any former member who is granted age and service retirement as provided in sections 3307.38, 3307.39, 3307.41, and 3307.50 of the Revised Code.

(W) "Disability benefit recipient" means a member who is receiving a disability benefit.

Sec. 3307.04. The general administration and the management of the state teachers retirement system is hereby vested in the state teachers retirement board, which shall adopt rules ~~and regulations~~ necessary for the fulfillment of its duties and ~~responsibility~~ responsibilities under Chapter 3307. of the Revised Code. The board shall adopt policies for the operation of the system, and the investment of funds as provided by section 3307.15 of the Revised Code, and may authorize its administrative officers, or committees composed of board members, to act for the board in accord with such policies and subject to subsequent approval by the board.

The attorney general shall prescribe procedures for the adoption of rules authorized under this chapter, consistent with the provision of section 111.15 of the Revised Code under which all rules shall be filed in order to be effective. Such procedures shall establish methods by which notice of proposed rules ~~are~~ IS given to interested parties and rules adopted by the board published and otherwise made available. When it files a rule with the joint committee on agency rule review pursuant to section 111.15 of the Revised Code, the board shall submit to the Ohio retirement study council a copy of the full text of the rule, and if applicable, a copy of the rule summary and fiscal analysis required by division (B) of section 127.18 of the Revised Code.

All rules adopted pursuant to this chapter, prior to ~~the effective date of this section~~ AUGUST 20, 1976, shall be published and made available to interested parties by January 1, 1977.

Sec. 3307.20. (A) The state teachers retirement board shall have prepared annually by or under the supervision of an actuary an actuarial valuation of the pension assets, liabilities, and funding requirements of the state teachers retirement system as established pursuant to this chapter. The actuary shall complete the valuation in accordance with actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries and prepare a report of the valuation. The report shall include all of the following:

- (1) A summary of the benefit provisions evaluated;
- (2) A summary of the census data and financial information used in the valuation;
- (3) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation, including a statement of the assumed rate of payroll growth and assumed rate of growth or decline in the number of members contributing to the retirement system;

(4) A summary of findings that includes a statement of the actuarial accrued pension liabilities and unfunded actuarial accrued pension liabilities;

(5) A schedule showing the effect of any changes in the benefit provisions, actuarial assumptions, or cost methods since the last annual actuarial valuation;

(6) A statement of whether contributions to the retirement system are expected to be sufficient to satisfy the funding objectives established by the board.

The board shall submit the report to the Ohio retirement study commission and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of May following the year for which the valuation was made.

(B) At such times as the state teachers retirement board determines, and at least once in each quinquennial period, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the mortality, service, and other experience of the members, retirants, and beneficiaries of the system, and other system retirants as defined in section 3307.381 of the Revised Code to update the actuarial assumptions used in the actuarial valuation required by division (A) of this section. The actuary shall prepare a report of the actuarial investigation. The report shall be prepared and any recommended changes in actuarial assumptions shall be made in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The report shall include all of the following:

(1) A summary of relevant decrement and economic assumption experience observed over the period of the investigation;

(2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (A) of this section;

(3) A measurement of the financial effect of the recommended changes in actuarial assumptions.

The board shall submit the report to the Ohio retirement study commission and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of May following the last fiscal year of the period the report covers.

(C) The board may at any time request the actuary to make any other studies or actuarial valuations to determine the adequacy of the normal and deficiency rates of contribution provided by section 3307.53 of the Revised

Code, and those rates may be adjusted by the board, as recommended by the actuary, effective as of the first of any year thereafter.

(D) The board shall have prepared by or under the supervision of an actuary an actuarial analysis of any introduced legislation expected to have a measurable financial impact on the retirement system. The actuarial analysis shall be completed in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary shall prepare a report of the actuarial analysis, which shall include all of the following:

- (1) A summary of the statutory changes that are being evaluated;
- (2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;
- (3) A description of the participant group or groups included in the report;
- (4) A statement of the financial impact of the legislation, including the resulting increase, if any, in the employer normal cost percentage; the increase, if any, in actuarial accrued liabilities; and the per cent of payroll that would be required to amortize the increase in actuarial accrued liabilities as a level per cent of covered payroll for all active members over a period not to exceed thirty years;
- (5) A statement of whether the scheduled contributions to the system after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.

Not later than sixty days from the date of introduction of the legislation, the board shall submit a copy of the actuarial analysis to the legislative budget office of the legislative service commission, the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation, and the Ohio retirement study commission.

(E) The board shall have prepared annually a report giving a full accounting of the revenues and costs relating to the provision of benefits under sections 3307.405 and 3307.74 of the Revised Code. The report shall be made as of June 30, 1997, and the thirtieth day of June of each year thereafter. The report shall include the following:

- (1) A description of the statutory authority for the benefits provided;
- (2) A summary of the benefits;
- (3) A summary of the eligibility requirements for the benefits;
- (4) A statement of the number of participants eligible for the benefits;
- (5) A description of the accounting, asset valuation, and funding method used to provide the benefits;
- (6) A statement of the net assets available for the provision of the

benefits as of the last day of the fiscal year;

(7) A statement of any changes in the net assets available for the provision of benefits, including participant and employer contributions, net investment income, administrative expenses, and benefits provided to participants, as of the last day of the fiscal year;

(8) For the last six consecutive fiscal years, a schedule of the net assets available for the benefits, the annual cost of benefits, administrative expenses incurred, and annual employer contributions allocated for the provision of benefits;

(9) A description of any significant changes that affect the comparability of the report required under this division;

(10) A statement of the amount paid under division (C) of section 3307.74 Of the Revised Code.

The board shall submit the report to the Ohio retirement study commission and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the thirty-first day of December following the year for which the report was made.

Sec. 3307.28. The membership of any person in the state teachers retirement system shall cease on occurrence of any of the following: receipt of payment pursuant to section 3307.46 of the Revised Code; retirement as provided in section 3307.38 or 3307.39 of the Revised Code; death; or denial of membership pursuant to section 3307.27 of the Revised Code.

A Except as provided in this section, a member or former member of the state teachers retirement system with at least one and one-half years of contributing service credit in this system, the public employees retirement system, the school employees retirement system, the police and firemen's disability and pension fund, or the state highway patrol retirement system after the withdrawal and cancellation of service credit in this system may restore all or part of such service credit by repayment of the amount withdrawn. To this amount shall be added interest at a rate per annum, compounded annually, to be determined by the retirement board. Interest shall be payable from the first of the month of withdrawal through the month of repayment. A member may choose to purchase only part of such credit in any one payment. The cost for restoring partial service shall be calculated as the proportion that it bears to the total cost at the time of purchase and is subject to the rules established by the board. If a former member is eligible to buy the service credit as a member of the police and firemen's disability and pension fund or state highway patrol retirement system, the former member is ineligible to restore that service credit under

this section.

The total payment to restore canceled service credit shall be credited as follows:

(A) The amount that equals contributions made pursuant to section 3307.51 of the Revised Code, plus any interest on the contributions paid by the member pursuant to this section, to the member's account in the teachers' savings fund;

(B) The amount that equals the amount paid under section 3307.80 of the Revised Code, to the employers trust fund;

(C) The remainder of the payment to restore canceled service credit, to the guarantee fund.

Sec. 3307.35. An employer may establish a retirement incentive plan for its employees who are members of the state teachers retirement system. The plan shall provide for purchase by the employer of service credit for eligible employees who choose to participate in the plan and for payment by the employer of the entire cost of such service credit. A plan established under this section shall remain in effect until terminated by the employer, except that, once established, the plan must remain in effect for at least one year.

An employee who is a member of the state teachers retirement system shall be eligible to participate in a retirement incentive plan if the employee has attained age fifty and the employee agrees to retire and retires under section 3307.38 of the Revised Code effective within ninety days after receiving notice from the state teachers retirement system that service credit has been purchased for the member under this section.

Participation in the plan shall be available to all eligible employees except that the employer may limit the number of persons for whom it purchases credit in any calendar year to a specified percentage of its employees who are members of the state teachers retirement system on the first day of January of that year. The percentage shall not be less than five per cent of such employees. If participation is limited, employees with a greater length of service with the employer have the right to elect to have credit purchased before employees with a lesser length of service with the employer.

The amount of service credit purchased for any participant shall be uniformly determined but shall not exceed the lesser of the following:

(A) Five years of service credit;

(B) An amount of service credit equal to one-fifth of the total service credited to the participant under sections 3307.02, 3307.021, 3307.022, 3307.22, 3307.28, 3307.31, 3307.311, 3307.32, 3307.41, 3307.411, 3307.412, 3307.512, 3307.513, 3307.514, 3307.52, and 3307.73 of the

Revised Code.

For each year of service credit purchased under this section, the employer shall pay an amount specified by the state teachers retirement board equal to the additional liability resulting from the purchase of that year of service credit as determined by an actuary employed by the board. Payments shall be made in accordance with rules adopted by the board, and the board shall notify each member when the member is credited with service purchased under this section.

No payment made to the state teachers retirement system under this section shall affect any payment required by section 3307.53 of the Revised Code.

Sec. 3307.383. A member whose death occurred prior to July 1, 1973, who at the time of death had more than thirty-four but less than thirty-five years of service credit shall be presumed to have completed thirty-five years of such credit. Any member whose death occurred on or after July 1, 1973, but prior to August 20, 1976, and who at the time of death had more than thirty-one but less than thirty-two years of service credit shall be presumed to have completed thirty-two years of such credit. Any member whose death occurs on or after August 20, 1976, and who at the time of death has more than twenty-nine but less than thirty years of service credit shall be presumed to have completed thirty years of such credit.

Upon the death of a member prior to service retirement, the surviving spouse or dependents of the deceased member shall have the right to purchase any service credit the member, had the member not died, would have been eligible to purchase pursuant to sections 3307.021, 3307.022, 3307.22, 3307.28, 3307.32, 3307.33, 3307.411, 3307.412, 3307.512, and 3307.73 of the Revised Code upon the same terms and conditions which the deceased member could have purchased such service credit had the deceased member not died. Any service credit purchased under this section shall be applied under the provisions of this chapter in the same manner as it would have been applied had it been purchased by the deceased member during the deceased member's lifetime.

Sec. 3307.411. (A) A member of the state teachers retirement system shall, in computing years of total service, be given full credit for time served in ~~an Ohio police or fire department and covered under Chapter 742. or former Chapter 521. or 741. of the Revised Code, in the state highway patrol and covered under Chapter 5505. of the Revised Code, in the public employees retirement system under Chapter 145. of the Revised Code, or in the school employees retirement system under Chapter 3309. of the Revised Code,~~ provided that the member pays to the state teachers retirement system

the amount specified in division (B) of this section.

~~(B)(1) Except as otherwise provided in division (B)(2) of this section, for each year of service purchased under division (A) of this section, a member shall pay the amount he would have paid through regular salary deductions had he been a member of the state teachers retirement system during his prior employment, with compound interest as determined by the state teachers retirement board.~~

~~(2) For each year of service described in division (A) of this section that commenced on or after July 1, 1989, and, regardless of when the service commenced, for each year of service purchased under division (A) of this section by a member who first established membership in the retirement system on or after July 1, 1989, a member shall pay an amount specified by the state teachers retirement board, which shall be not less than fifty per cent of the additional liability resulting from the purchase of that year of service as determined by an actuary employed by the board.~~

(C) A member may choose to purchase only part of the credit ~~he~~ the member is eligible to purchase under this section in any one payment, subject to board rules.

A member is ineligible to purchase credit under this section if credit for the service may be obtained from the public employees retirement system or school employees retirement system or if the credit is for service that is used in the calculation of any retirement benefit currently being paid or payable in the future to the member.

Sec. 3307.412. (A) A member of the state teachers retirement system who has contributions on deposit with the police and firemen's disability and pension fund or the state highway patrol retirement system shall, in computing years of total service, be given full credit for service credit earned under Chapter 742. or 5505. of the Revised Code or purchased for service in the armed forces of the United States if a transfer to the state teachers retirement system is made under this division. At the request of the member, the police and firemen's disability and pension fund or state highway patrol retirement system shall transfer to the state teachers retirement system, for each year of service, THE SUM OF THE FOLLOWING:

(1) an amount equal to THE member's payments for service in the armed forces of the united states and accumulated contributions to the transferring fund or system;

(2) AN AMOUNT EQUAL TO the lesser of the employer's contributions to the police and firemen's disability and pension fund or state HIGHWAY patrol retirement system or the amount that would have been

contributed by the employer for the service had the member been a member of the state teachers retirement system;

(3) interest, determined as provided in division (e) of this section, on the amountS SPECIFIED IN DIVISIONS (A)(1) AND (2) OF THIS SECTION from the last day of the year for which the service credit was earned or in which military service credit was purchased or obtained to the date the transfer is made.

(B) A member who has at least eighteen months of contributing service with the state teachers retirement system, is a former member of the police and firemen's disability and pension fund or state HIGHWAY patrol retirement system, and has received a refund of contributions to that fund or system shall, in computing years of total service, be given full credit for service credit earned under Chapter 742. or 5505. of the Revised Code or purchased for service in the armed forces of the United States if, for each year of service, the STATE TEACHERS RETIREMENT SYSTEM RECEIVES THE SUM OF THE FOLLOWING:

(1) AN AMOUNT, WHICH SHALL BE PAID BY THE member, equal to the amount refunded by the police and firemen's disability and pension fund or the state highway patrol retirement system to the member for that year for accumulated contributions and payments for purchase of credit for service in the armed forces of the united States, with interest on that amount from the date of the refund to the date of the payment;

(2) Interest, which shall be transferred by the police and firemen's disability and pension fund or state highway patrol retirement system, on the amount refunded to the member that is attributable to the YEAR of SERVICE from the last day of the year for which the service credit was earned or in which military service credit was PURCHASED or obtained to the date the refund was made;

(3) AN AMOUNT, WHICH SHALL BE TRANSFERRED BY the police and firemen's disability and pension fund or state highway patrol retirement system, equal to the lesser of the amount contributed by the employer to the police and firemen's disability and pension fund or state HIGHWAY patrol retirement system for that year or the amount that would have been contributed by the employer for the year had the member been a member of the state teachers retirement system, with interest on that amount from the last day of the year for which the service credit was earned or in which military service credit was purchased or obtained to the date of the transfer.

On receipt of payment from the member, the state teachers retirement system shall notify the police and firemen's disability and pension fund or

the state highway patrol retirement system, which, on receipt of the notice, shall make the transfer required by this division. Interest shall be determined as provided in division (e) of this section.

A member may choose to purchase only part of the credit the member is eligible to purchase under this division in any one payment, subject to rules of the state teachers retirement board.

(C) a member is ineligible to obtain credit under this section for service that is used in the calculation of any retirement benefit currently being paid or payable in the future.

(D) If a member of the state teachers retirement system who is not a current contributor elects to obtain credit under section 742.379 or 5505.202 of the Revised Code for service for which the member contributed to the state teachers retirement system or purchased credit for service in the armed forces of the United States, the state teachers retirement system shall transfer to the police and firemen's disability and pension fund or state highway patrol retirement system, as applicable, the amount specified in DIVISION (D) of section 742.379 or division (B)(2) of section 5505.202 of the Revised Code.

(E) Interest charged under this section shall be calculated separately for each year of service credit at the lesser of the actuarial assumption rate for that year of the state teachers retirement system or of the fund or retirement system in which the credit was earned. The interest shall be compounded annually.

(F) The state teachers retirement board shall credit to a member's account in the teachers' savings fund the amounts described in divisions (A)(1) and (B)(1) of this section, except that the interest paid by the member under division (B)(1) of this section shall be credited to the employers' trust fund. The board shall credit to the employers' trust fund the amounts described in divisions (A)(2), (3), and (B)(2) of this section.

Sec. 3307.42. (A) The state teachers retirement system shall provide disability coverage to each member who has at least five years of total service credit.

Not later than October 16, 1992, the state teachers retirement board shall give each person who is a member on ~~the effective date of this amendment~~ July 29, 1992, the opportunity to elect disability coverage either under section 3307.43 of the Revised Code or under section 3307.431 of the Revised Code. The board shall mail notice of the election, accompanied by an explanation of the coverage under each of the Revised Code sections and a form on which the election is to be made, to each member at ~~his~~ the member's last known address. The board shall also provide the explanation

and form to any member ~~at his~~ on the member's request.

Regardless of whether the member actually receives notice of ~~his~~ the right to make an election, a member who fails to file a valid election under this section shall be considered to have elected disability coverage under section 3307.43 of the Revised Code. To be valid, an election must be made on the form provided by the retirement board, signed by the member, and filed with the board not later than one hundred eighty days after the date the notice was mailed, or, in the case of a form provided at the request of a member, a date specified by rule of the retirement board. Once made, an election is irrevocable, but if the member ceases to be a member of the retirement system, the election is void. If a person who makes an election under this section also makes an election under section 145.35 or 3309.39 of the Revised Code, the election made for the system that pays a disability benefit to that person shall govern the benefit.

Disability coverage shall be provided under section 3307.431 of the Revised Code for persons who become members after ~~the effective date of this amendment~~ July 29, 1992, and for members who elect under this division to be covered under section 3307.431 of the Revised Code.

The retirement board may adopt rules governing elections made under this division.

(B) Application for a disability benefit may be made by a member, by a person acting in ~~his~~ the member's behalf, or by the member's employer, provided the member has at least five years of total service credit and has disability coverage under section 3307.43 or 3307.431 of the Revised Code. The application for a disability benefit shall be made on a form approved by the state teachers retirement board. The benefit payable to any member whose application is approved shall become effective on the first day of the month next following the later of the following:

- (1) The last day for which compensation was paid;
- (2) The attainment of eligibility for a disability benefit.

(C) Medical examination of the member shall be conducted by a competent, disinterested physician or physicians selected by the retirement board to determine whether the member is mentally or physically incapacitated for the performance of duty by a disabling condition, either permanent or presumed to be permanent for twelve continuous months following the filing of an application. ~~Such~~ The disability must have occurred since last becoming a member, or it must have increased since last becoming a member to such an extent as to make the disability permanent or presumably permanent for twelve continuous months following the filing of an application.

(D) Application for a disability benefit must be made within two years from the date the member's contributing service terminated, unless the retirement board determines that the member's medical records demonstrate conclusively that at the time the two-year period expired, the member was physically or mentally incapacitated for duty as a teacher and unable to make application. Application may not be made by any person receiving service retirement benefits under section 3307.38 or 3307.39 of the Revised Code or any person who, pursuant to section 3307.46 of the Revised Code, has been paid the accumulated contributions standing to the credit of ~~his~~ the person's individual account in the teachers' savings fund.

(E) If ~~such~~ the physician or physicians determine that the member qualifies for a disability benefit, ~~and~~ the retirement board concurs with ~~such~~ the determination, and the member agrees to medical treatment as specified in division (G) of this section, the member shall receive a disability benefit under section 3307.43 or 3307.431 of the Revised Code. If such physician or physicians determine that the member does not qualify for a disability benefit, the report of the examiner or examiners shall be evaluated by a board of medical review composed of three physicians appointed by the retirement board.

(F) The state teachers retirement board shall render an order determining whether or not the applicant shall be granted a disability benefit. Notification to the applicant shall be issued, and upon the request of an applicant who is denied a disability benefit, a hearing or appeal relative to such order shall be conducted in accordance with procedures established by the retirement board.

(G) The state teachers retirement board shall adopt rules requiring each disability benefit recipient, as a condition of continuing to receive a disability benefit, to agree in writing to obtain any medical treatment recommended by the board's physician and submit medical reports regarding the treatment. If the board determines that a disability benefit recipient is not obtaining the medical treatment or the board does not receive a required medical report, the disability benefit shall be suspended until the treatment is obtained, the report is received by the board, or the board's physician certifies that the treatment is no longer helpful or advisable. Should the recipient's failure to obtain treatment or submit a medical report continue for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

(H) If an employer files an application for a disability benefit as a result of a member having been separated from service because ~~he~~ the member is considered to be incapacitated for the performance of duty, and the board

denies the disability benefit, the board shall so certify to the employer and such employer shall restore the member to ~~his~~ the member's previous position and salary or to a similar position and salary.

Sec. 3307.421. Not later than September 1, 2000, and each first day of September for the succeeding five years, the state teachers retirement board shall make and submit a report for the preceding fiscal year of the disability retirement experience of each employer. The report shall specify the total number of disability applications submitted, the status of each application as of the last day of the fiscal year, total applications granted or denied, and the percentage of disability benefit recipients to the total number of the employer's employees who are members of the state teachers retirement system. The report shall be submitted to the governor, the Ohio retirement study council, and the chairpersons of the standing committees and subcommittees of the senate and house of representatives with primary responsibility for retirement legislation.

Sec. 3307.44. A disability benefit recipient, notwithstanding section 3319.13 of the Revised Code, shall retain membership in the state teachers retirement system and shall be considered on leave of absence during the first five years following the effective date of a disability benefit.

The state teachers retirement board shall require any disability benefit recipient to submit to an annual medical examination by a physician selected by the board, except that the board may waive the medical examination if the board's physician ~~specifies~~ certifies that the recipient's disability is ongoing. If a disability benefit recipient refuses to submit to a medical examination, the recipient's disability benefit shall be ~~discontinued~~ suspended until the recipient withdraws the refusal. If the refusal continues for one year, all the recipient's rights under and to the disability benefit shall be ~~forfeited~~ terminated as of the effective date of the original suspension.

After the examination, the examiner shall report and certify to the board whether the disability benefit recipient is no longer physically and mentally ~~capable~~ incapable of resuming the service similar to that from which the recipient was found disabled. If the board concurs in a report by the examining physician that the disability benefit recipient is ~~so capable~~ no longer incapable, the payment of a disability benefit shall be terminated not later than the following thirty-first day of August or upon employment as a teacher prior thereto. If the leave of absence has not expired, the board shall so certify to the disability benefit recipient's last employer before being found disabled that the recipient is ~~capable~~ no longer physically and mentally incapable of resuming service, ~~and if that is the same or similar to that from which the recipient was found disabled.~~ If the recipient was under

contract at the time the recipient was found disabled, the employer by the first day of the next succeeding year shall restore the recipient to the recipient's previous position and salary or to a position and salary similar thereto, unless the recipient was dismissed or resigned in lieu of dismissal for dishonesty, misfeasance, malfeasance, or conviction of a felony.

A disability benefit shall terminate if the disability benefit recipient becomes employed as a teacher in any public or private school or institution in this state or elsewhere. An individual receiving a disability benefit from the state teachers retirement system shall be ineligible for any employment as a teacher and it shall be unlawful for any employer to employ the individual as a teacher. If any employer should employ or reemploy the individual prior to the termination of a disability benefit, the employer shall file notice of employment with the state teachers retirement board designating the date of the employment. If the individual should be paid both a disability benefit and also compensation for teaching service for all or any part of the same month, the secretary of the state teachers retirement board shall certify to the employer or to the superintendent of public instruction the amount of the disability benefit received by the individual during the employment, which amount shall be deducted from any amount due the employing district under Chapter 3317. of the Revised Code or shall be paid by the employer to the annuity and pension reserve fund.

~~The board may adopt rules requiring each~~ Each disability benefit recipient ~~to shall~~ shall file with the board an annual statement of earnings ~~and~~, current medical information on ~~his~~ the recipient's condition, ~~and any other information required in rules adopted by the board. The board may waive the requirement that a disability benefit recipient file an annual statement of earnings or current medical information if the board's physician certifies that the recipient's disability is ongoing.~~

The board shall annually examine the information submitted by the recipient. If a disability benefit recipient refuses to file the statement or information, the disability benefit shall be suspended until the statement and information are filed. If the refusal continues for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

A disability benefit also may be terminated by the board at the request of the disability benefit recipient.

If disability retirement under section 3307.43 of the Revised Code is terminated for any reason, the annuity and pension reserves at that time in the annuity and pension reserve fund shall be transferred to the teachers' savings fund and the employers' trust fund, respectively. If the total

ty benefit paid was less than the amount of the accumulated contributions of the member transferred to the annuity and pension reserve fund at the time of the member's disability retirement, then the difference shall be transferred from the annuity and pension reserve fund to another fund as required. In determining the amount of a member's account following the termination of disability retirement for any reason, the total amount paid shall be charged against the member's refundable account.

If a disability allowance paid under section 3307.431 of the Revised Code is terminated for any reason, the reserve on the allowance at that time in the annuity and pension reserve fund shall be transferred from that fund to the employers' trust fund.

If a former disability benefit recipient again becomes a contributor, other than as an other system retirant under section 3307.381 of the Revised Code, to this retirement system, the school employees retirement system, or the public employees retirement system, and completes at least two additional years of service credit, the former disability benefit recipient shall receive credit for the period as a disability benefit recipient.

Sec. 3307.46. (A)(1) Subject to sections 3307.47 and 3307.72 of the Revised Code, a member who ceases to be a teacher for any cause other than death, retirement, receipt of a disability benefit, or election of an alternative retirement plan under section 3305.05 of the Revised Code, upon application, shall be paid the accumulated contributions standing to the credit of the member's individual account in the teachers' savings fund plus an amount calculated in accordance with section 3307.80 of the Revised Code. If the member or the member's legal representative cannot be found within ten years after the member ceased making contributions pursuant to section 3307.51 of the Revised Code, the accumulated contributions may be transferred to the guarantee fund and thereafter paid to the member, to the member's beneficiaries, or to the member's estate, upon proper application.

(2) A member described in division (A)(1) of this section who is married at the time of application for payment and is eligible for age and service retirement under section 3307.38 or 3307.39 Of the Revised Code shall submit with the application a written statement by the member's spouse attesting that the spouse consents to the payment of the member's accumulated contributions. Consent shall be valid only if it is signed and witnessed by a notary public. If the statement is not submitted under this division, the application shall be considered an application for service retirement and shall be subject to division (F)(1) of section 3307.50 Of the Revised Code.

(B) This division applies to any member who ceases to be a teacher by

electing an alternative retirement plan pursuant to section 3305.05 of the Revised Code and who is not otherwise employed as a teacher in a position to which the election does not apply. For purposes of this division, "continuously employed" has the same meaning as in section 3305.01 of the Revised Code.

(1) Subject to sections 3307.47 and 3307.72 of the Revised Code, upon application of any member to whom this division applies who is continuously employed, the state teachers retirement board shall pay the accumulated contributions standing to the credit of the member's individual account in the ~~teacher's~~ teachers' savings fund plus an amount calculated in accordance with section 3307.80 of the Revised Code to the entity providing the alternative retirement plan for application to that plan in accordance with any contract the member has entered into for purposes of that plan.

(2) Subject to sections 3307.47 and 3307.72 of the Revised Code, upon application of any member to whom this division applies who has ceased to be continuously employed, the state teachers retirement board shall pay the accumulated contributions standing to the credit of the member's individual account in the ~~teacher's~~ teachers' savings fund plus an amount calculated in accordance with section 3307.80 of the Revised Code to the entity providing the alternative retirement plan for application to that plan in accordance with any contract the member has entered into for purposes of that plan.

Sec. 3307.48. (A) As used in this section and section 3307.49 Of the Revised Code:

(1) ~~"Dependent child~~ Child" ~~is a person who qualifies as a dependent child under section 3307.49 of the Revised Code~~ means a biological or legally adopted child of a deceased member. If a court hearing for an interlocutory decree for adoption was held prior to the member's death, "child" includes the child who was the subject of the hearing if a final decree of adoption adjudging the member's spouse as the adoptive parent is made subsequent to the member's death.

(2) ~~"Dependent parent~~ Parent" ~~is a person who qualifies as a dependent parent under section 3307.49 of the Revised Code~~ parent or legally adoptive parent of a deceased member.

(3) "Dependent" means a beneficiary who receives one-half of the beneficiary's support from a member during the twelve months prior to the member's death.

(4) "Surviving spouse" means an individual who establishes a valid marriage to a member at the time of the member's death by marriage certificate or pursuant to division (E) of this section.

(5) "Survivor" means a spouse, child, or dependent parent.

~~(B) Should~~ Except as provided in division (G)(1) of section 3307.49 or division (B) of section 3307.80 Of the Revised Code, should a member die before service retirement, the member's accumulated contributions, plus an amount calculated in accordance with section 3307.80 of the Revised Code, and any amounts owed and unpaid to a disability benefit recipient shall be paid to such beneficiaries as the member has nominated by written designation signed by the member and filed with the state teachers retirement board prior to death. The nomination of beneficiary shall be on a form provided by the retirement board. The last nomination of any beneficiary revokes all previous nominations. The member's marriage, divorce, marriage dissolution, legal separation, or withdrawal of account, or the birth of the member's child, or the member's adoption of a child, shall constitute an automatic revocation of the member's previous designation. If a deceased member was also a member of the public employees retirement system or the school employees retirement system, the beneficiary last established among the systems shall be the sole beneficiary in all the systems.

Any beneficiary ineligible for monthly survivor benefits as provided by section 3307.49 of the Revised Code may waive in writing all claim to any benefits and such waiver shall thereby put in effect the succession of beneficiaries under division (C) of this section, provided the beneficiary thereunder is immediately eligible and agrees in writing to accept survivor benefits as provided by section 3307.49 of the Revised Code. If the accumulated contributions of a deceased member are not claimed by a beneficiary, or by the estate of the deceased member, within ten years, they shall be transferred to the guarantee fund and thereafter paid to such beneficiary or to the member's estate upon application to the board. The board shall formulate and adopt rules governing all designations of beneficiaries.

(C) ~~If~~ Except as provided in division (G)(1) of section 3307.49 Of the Revised Code, if a member dies before service retirement and is not survived by a designated beneficiary, any ~~survivors~~ beneficiaries shall qualify as ~~beneficiaries~~, in the following order of precedence, with all attendant rights and privileges:

- (1) ~~Spouse~~ Surviving spouse;
- (2) ~~Youngest dependent child if the child elects survivor benefits under division (C)(2) of section 3307.49 of the Revised Code, and the total amount of survivor benefits payable to all dependent children by such election exceeds the amount of the accumulated account subject to refund;~~
- (3) ~~Children, share and share alike;~~

~~(4)~~(3) A dependent parent, if that parent elects to take survivor benefits under division (C)(2) of section 3307.49 of the Revised Code;

~~(5)~~(4) Parents, share and share alike;

~~(6)~~(5) Estate.

If any survivor dies before payment is made under this section or is not located prior to the ninety-first day after the board receives notification of the member's death, the survivor next in order of precedence shall qualify as a beneficiary, provided that benefits under division (C)(2) of section 3307.49 of the Revised Code are elected. In the event that the beneficiary originally determined is subsequently located, the beneficiary may qualify for benefits under division (C)(2) of section 3307.49 of the Revised Code upon meeting the conditions of eligibility set forth in division (B) of that section, but in no case earlier than the first day of the month following application by such beneficiary. Any payment made to a beneficiary as determined by the board shall be a full discharge and release to the board from any future claims.

(D) Any amount due any person, as an annuitant, receiving a monthly benefit, and unpaid to the annuitant at death, shall be paid to the beneficiary named by written designation signed by the annuitant and filed with the board. If no such designation has been filed, or if the beneficiary designated is deceased or is not located prior to the ninety-first day after the board receives notification of the annuitant's death, such amount shall be paid, in the following order of precedence to the annuitant's:

(1) Surviving spouse;

(2) Children, share and share alike;

(3) Parents, share and share alike;

(4) Estate.

For purposes of this division an "annuitant" is the last person who received a monthly benefit pursuant to the plan of payment selected by the former member. Such payment shall be a full discharge and release to the board from any future claim for such payment.

(E) If the validity of marriage cannot be established to the satisfaction of the board for the purpose of disbursing any amount due under this section or section 3307.49 of the Revised Code, the board may accept a decision rendered by a court having jurisdiction in the state in which the member was domiciled at the time of death that the relationship constituted a valid marriage at the time of death, or the "spouse" would have the same status as a widow or widower for purposes of sharing the distribution of the member's intestate personal property.

~~If any amount due under this section or section 3307.49 of the Revised~~

~~Code is payable to a beneficiary who has been found guilty by a court of law of feloniously contributing to the death of the member, then such payment shall not~~ the death of a member is caused by one of the following beneficiaries, no amount due under this chapter to the beneficiary shall be paid to such the beneficiary in the absence of a court order to the contrary filed with the board:

(1) A beneficiary who is convicted of, pleads guilty to, or is found not guilty by reason of insanity of a violation of or complicity in the violation of either of the following:

(a) Section 2903.01, 2903.02, or 2903.03 of the Revised Code;

(b) An existing or former law of any other state, the United States, or a foreign nation that is substantially equivalent to section 2903.01, 2903.02, or 2903.03 of the Revised Code;

(2) A beneficiary who is indicted for a violation of or complicity in the violation of the sections or laws described in division (F)(1)(a) or (b) of this section and is adjudicated incompetent to stand trial;

(3) A beneficiary who is a juvenile found to be a delinquent child by reason of committing an act that, if committed by an adult, would be a violation of or complicity in the violation of the sections or laws described in division (F)(1)(a) or (b) of this section.

Sec. 3307.49. (A) As used in this section, "physically or mentally incompetent" means incapable of earning a living because of a physically or mentally disabling condition. Physical or mental incompetency may be determined by a court or by a doctor of medicine or osteopathic medicine appointed by the state teachers retirement board.

(B) For the purposes of this section:

~~(1) To qualify as a "A qualified spouse is the surviving spouse," the spouse of a deceased member of the state teachers retirement system must be who is~~ one of the following:

(a) Age sixty-two or any age if the deceased member had ten or more years of Ohio service credit;

(b) Caring for a dependent qualified child;

(c) Adjudged physically or mentally incompetent;

(d) Any age if the deceased member was eligible for a service retirement allowance as provided in section 3307.38 of the Revised Code and the surviving spouse elects to receive a benefit under division (C)(1) of this section.

~~(2)(a) To qualify as a "dependent A qualified child," is the child of a deceased member must meet all who is both~~ of the following:

~~(i) Be unmarried~~ (a) Unmarried;

~~(ii) Be under~~ (b) Under age eighteen, or under age twenty-two if 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 and as further determined by board policy, or any age if adjudged physically or mentally incompetent;

~~(iii) Have been domiciled in the member's household at the time of the member's death unless the deceased member contributed to one-half or more of the child's support during the twelve-month period prior to the member's death.~~

~~(b) If a court hearing for an interlocutory decree for adoption was held prior to the member's death, a child who meets the conditions of division (B)(2)(a) of this section qualifies as a dependent child if a final decree of adoption adjudging the member's spouse as the adoptive parent is made subsequent to the member's death.~~

~~(3) To qualify as a "A qualified parent is a dependent parent," the parent of a deceased member must be who is age sixty-five or older and have received at least one-half of the parent's support from the member during the twelve-month period immediately preceding the member's death.~~

(4) A person is a "qualified ~~dependent~~ survivor" if the person qualifies as a surviving spouse, ~~dependent~~ child, or dependent parent.

(C) ~~In~~ Except as provided in division (G)(1) of this section, in lieu of accepting the payment of the accumulated account of a member who dies before service retirement, a beneficiary, as determined in section 3307.48 of the Revised Code, may elect to forfeit the accumulated account and to substitute benefits under this division.

(1) If a deceased member was eligible for a service retirement allowance as provided in section 3307.38 or 3307.39 of the Revised Code, a surviving spouse, ~~a qualified dependent designated as the member's sole beneficiary pursuant to division (B) of section 3307.48 of the Revised Code, or an individual designated as the member's sole beneficiary pursuant to division (B) of section 3307.48 of the Revised Code who was a qualified child or dependent parent of the member or~~ received one-half or more of support from the member during the twelve-month period preceding the member's death may elect to receive a monthly benefit computed as the joint-survivor allowance designated as option 1 in section 3307.50 of the Revised Code, which the member would have received had the member retired on the last day of the month of death and had the member at that time selected such joint-survivor plan. Payment shall begin with the month subsequent to the member's death.

(2) If a deceased member had completed at least one and one-half years of credit for Ohio service, with at least one-quarter year of Ohio contributing service credit within the two and one-half years prior to the date of death, or was receiving at the time of death a disability benefit as provided in section 3307.43 or 3307.431 of the Revised Code, a surviving spouse or other qualified ~~dependent beneficiary~~ survivor may elect to receive monthly benefits as provided in division (C)(2) of this section. The surviving spouse or other qualified ~~dependent beneficiary~~ survivor shall elect one of the following methods of calculating benefits elected under division (C)(2) of this section, which shall, except as provided in division (G)(1) of this section, remain in effect without regard to any change in the number of qualified ~~dependents~~ survivors:

(a) Number of qualified dependents <u>survivors</u>	Annual benefit as a per cent of member's final average salary	<u>Or</u>	
		Monthly benefit shall not be less than or	
1	25%		\$ 96
2	40		186
3	50		236
4	55		236
5 or more	60		236
		Annual benefit as a per cent of member's final average salary	
(b) Years of service			
		20	29%
		21	33
		22	37
		23	41
		24	45
		25	48
		26	51
		27	54
		28	57
		29	60

(D) If a benefit is calculated pursuant to division (C)(2)(a) of this section, benefits to a surviving spouse shall be paid in the amount determined for the first qualifying ~~dependent~~ survivor in division (C)(2)(a) of this section, but shall not be less than one hundred six dollars per month if the deceased member had ten or more years of Ohio service credit. All other qualifying ~~dependents~~ survivors shall share equally in the benefit or

maining portion thereof.

If a benefit is calculated pursuant to division (C)(2)(b) of this section and is payable to more than one qualified ~~dependent~~ survivor, the benefit shall be apportioned equally among the qualified ~~dependents~~ survivors, except that if there is a surviving spouse, the portion of the benefit allocated to the surviving spouse shall be as follows:

Number of ~~dependents~~

survivors

Spouse's share of total benefit

2	62.5%
3	50.0%
4	45.45%
5 or more	41.67%

(E) Benefits payable under division (C)(2) of this section shall begin or resume on the first day of the month following the day a person becomes a qualified ~~dependent~~ survivor and terminate or be suspended on the first day of the month following the day ~~he~~ the person ceases to be a qualified ~~dependent~~ survivor.

Benefits to a qualified ~~dependent~~ survivor shall terminate upon a first marriage, ~~remarriage~~, abandonment, adoption, or during active military service, except that ~~benefits terminated under this division due to a first remarriage shall resume if either of the following occurs:~~

(1) ~~The remarriage ceases within two years due to divorce, annulment, dissolution, or death;~~

(2) ~~Regardless of its duration, the remarriage ceases due to divorce, annulment, dissolution, or death and the dependent attains or has attained age fifty-five.~~

~~If benefits to a qualified dependent have been terminated under this division due to a first remarriage and, regardless of its duration, the remarriage has ceased due to divorce, annulment, dissolution, or death and if the dependent had attained age fifty-five but not yet attained age sixty-two before the effective date of this amendment, the benefits terminated under this division shall resume on the first day of the month immediately following the effective date of this amendment.~~

~~If the surviving spouse of a deceased member remarries on or after the effective date of this amendment and at the time of the remarriage has attained age fifty-five, the benefits provided by this division shall continue. The benefits provided by this division also shall continue to a deceased member's surviving spouse who remarried prior to the effective date of this amendment and had attained age sixty-two at the time of remarriage. If the benefits of a deceased member's surviving spouse were terminated under~~

~~this division due to a remarriage occurring on or after February 15, 1995, and if at the time of remarriage the surviving spouse had attained age fifty five, the benefits terminated under this division shall resume on the first day of the month immediately following the effective date of this amendment. Upon~~ Benefits to a deceased member's surviving spouse that were terminated under a former version of this section that required termination due to remarriage and were not resumed prior to the effective date of this amendment shall resume on the first day of the month immediately following receipt by the board of an application on a form provided by the board.

Upon the death of any subsequent spouse who was a member of the public employees retirement system, state teachers retirement system, or school employees retirement system, the surviving spouse of such member may elect to continue receiving benefits under this division, or to receive survivor's benefits, based upon the subsequent spouse's membership in one or more of the systems, for which such surviving spouse is eligible under this section or section 145.45 or 3309.45 of the Revised Code. If the surviving spouse elects to continue receiving benefits under this division, such election shall not preclude the payment of benefits under this division to any other qualified ~~dependent~~ survivor.

(F) The beneficiary of a member who is also a member of the public employees retirement system, or the school employees retirement system, must forfeit the member's accumulated contributions in those systems, if the beneficiary elects to receive a benefit under division (C) of this section. Such benefit shall be exclusively governed by section 3307.41 of the Revised Code.

(G)(1) Regardless of whether the member is survived by a spouse or designated beneficiary, if the state teachers retirement system receives notice that a deceased member described in division (C)(1) or (2) of this section has one or more qualified children, all persons who are qualified survivors under division (C)(2) of this section shall receive monthly benefits as provided in division (C)(2) of this section.

If, after determining the monthly benefits to be paid under division (C)(2) of this section, the system receives notice that there is a qualified survivor who was not considered when the determination was made, the system shall, notwithstanding section 3307.711 Of the Revised Code, recalculate the monthly benefits with that qualified survivor included, even if the benefits to qualified survivors already receiving benefits are reduced as a result. The benefits shall be calculated as if the qualified survivor who is the subject of the notice became eligible on the date the notice was

received and shall be paid to qualified survivors effective on the first day of the first month following the system's receipt of the notice.

If the retirement system did not receive notice that a deceased member has one or more qualified children prior to making payment under section 3307.48 of the Revised Code to a beneficiary as determined by the retirement system, the payment is a full discharge and release of the system from any future claims under this section or section 3307.48 Of the Revised Code.

(2) If benefits under division (C)(2) of this section to all persons, or to all persons other than a surviving spouse or sole beneficiary, terminate, there are no children under the age of twenty-two years, and the surviving spouse or beneficiary qualifies for benefits under division (C)(1) of this section, the surviving spouse or beneficiary may elect to receive benefits under division (C)(1) of this section. The benefit shall be calculated based on the age of the spouse or beneficiary at the time of the member's death and is effective on the first day of the month following receipt by the board of an application for benefits under division (C)(1) of this section.

(H) If the benefits due and paid under division (C) of this section are in a total amount less than the member's accumulated account that was transferred from the teachers' savings fund, school employees retirement fund, and public employees retirement fund, to the survivors' benefit fund, then the difference between the total amount of the benefits paid shall be paid to the beneficiary under section 3307.48 of the Revised Code.

~~(H) On and after March 29, 1988:~~

~~(1) Regardless of age, if the surviving spouse of a deceased member who died prior to March 29, 1988, with ten or more years of Ohio service credit has elected to receive monthly benefits under division (C)(2) of this section, the surviving spouse shall receive the benefits.~~

~~(2) Benefits to a surviving spouse that were terminated prior to March 29, 1988, due to a first remarriage shall resume, regardless of the duration of the remarriage, if the remarriage has ceased due to divorce, annulment, dissolution, or death and the surviving spouse attains or has attained age sixty-two.~~

Sec. 3307.50. (A) Upon application for retirement as provided in section 3307.38 or 3307.39 of the Revised Code, the retirant may elect to receive a single lifetime benefit, or may elect to receive the actuarial equivalent of the retirant's benefit in a lesser amount, payable for life, and continuing after death to a beneficiary under one of the following optional plans:

(1) Option 1. The retirant's lesser benefit shall be paid for life to the sole beneficiary named at retirement.

(2) Option 2. Some other portion of the retirant's benefit shall be paid for life to the sole beneficiary named at retirement. The beneficiary's monthly amount shall not exceed the monthly amount payable to the retirant during the retirant's lifetime.

(3) Option 3. The retirant's lesser benefit established as provided under option 1 or option 2 shall be paid for life to the sole beneficiary named at retirement, except that in the event of the death of the sole beneficiary or termination of a marital relationship between the retirant and the sole beneficiary the retirant may elect to return to a single lifetime benefit equivalent as determined by the state teachers retirement board, if, in the case of termination of a marital relationship, the election is made with the written consent of the beneficiary or pursuant to an order of the court with jurisdiction over termination of the marital relationship.

(4) Option 4. Upon the retirant's death before the expiration of a certain period from the retirement date and elected by the retirant, and approved by the ~~state teachers retirement~~ board, the retirant's benefit shall be continued for the remainder of such period to the beneficiary. Monthly benefits shall not be paid to joint beneficiaries, but they may receive the present value of any remaining payments in a lump sum settlement. If all beneficiaries die before the expiration of the certain period, the present value of all payments yet remaining in such period shall be paid to the estate of the beneficiary last receiving.

(5) Option 5. A plan of payment established by the state teachers retirement board combining any of the features of options 1, 2, and 4.

(B) Until the first payment is made to a former member under section 3307.38 or 3307.39 of the Revised Code, the former member may change the selection of a plan of payment. If death occurs prior to an election of a plan of payment, option 1 shall be paid to the spouse or other sole dependent beneficiary.

(C) If the total benefit paid under this section is less than the balance in the teachers' savings fund, the difference shall be paid to the beneficiary provided under division (D) of section 3307.48 of the Revised Code.

(D) In the case of a retirant who elected an optional plan prior to September 15, 1989:

(1) The death of the spouse or other designated beneficiary following retirement shall, at the election of the retirant, cancel any optional plan selected at retirement to provide continuing lifetime benefits to the spouse or other beneficiary and return the retirant to a single lifetime benefit equivalent as determined by the board.

(2) A divorce, annulment, or marriage dissolution shall, at the election

of the retirant, cancel any optional plan selected at retirement to provide continuing lifetime benefits to the spouse as designated beneficiary and return the retirant to a single lifetime benefit equivalent as determined by the board if the election is made with the written consent of the beneficiary or pursuant to an order of a court of common pleas or the court of another state with jurisdiction over the termination of the marriage.

(E) Following marriage or remarriage, a retirant may elect a new optional plan of payment based on the actuarial equivalent of the retirant's single lifetime benefit, as determined by the board, except that if the retirant is receiving a retirement allowance under an optional plan that provides for continuation of benefits after death to a former spouse, the retirant may elect a new optional plan of payment only with the written consent of the former spouse or pursuant to an order of the court with jurisdiction over the termination of the marriage. Such plan shall become effective the first of the month following an application on a form approved by the board.

(F)(1) Unless one of the following occurs, an application for service retirement made pursuant to section 3307.38 or 3307.39 of the Revised Code 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 benefit payable during the life of the retirant will be paid after death to the retirant's spouse for life as sole beneficiary:

~~(1)(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 benefit payable during the life of the retirant.

~~(2)(b)~~ The retirant submits to the retirement board a written statement signed by the spouse attesting that the spouse ~~is aware that the retirant has elected~~ consents to the retirant's election to receive a single lifetime annuity 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 benefit payable during the life of the retirant.

(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, 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 a notary public.

(3) If the retirant does not select an optional plan of payment as described in division (F)(1)(a) of this section and the board does not receive the written statement provided for in division (F)(2)(1)(b) of this section, it shall determine and pay the retirement allowance in accordance with this division, except that the board may provide by rule for waiver by the board of the statement and payment of the benefits other than in accordance with this division or payment under section 3307.46 Of the Revised Code if the retirant is unable to obtain the statement due to absence or incapacity of the spouse or other cause specified by the board.

(G) For the purpose of determining actuarial equivalence under this section, on the advice of an actuary employed by the board, the board shall adopt mortality tables that may take into consideration the membership experience of the state teachers retirement system and may also include the membership experience of the public employees retirement system and the school employees retirement system.

Sec. 3307.73. The state teachers retirement board shall credit years of service to a member who was employed for teaching service by an employer who failed to make retirement contributions to the state teachers retirement system during any year or years beginning on or after September 1, 1920, if the member deposits in the teachers' savings fund a per cent of ~~his~~ the member's annual compensation for such service, at the rate of contribution then in effect, plus interest compounded annually at a rate established by the retirement board. The member may choose to purchase only part of such credit in any one payment, subject to board rules.

~~Such~~ The employer shall, upon the request of such member, certify the amount of ~~such~~ compensation by years of employment to the secretary of the ~~retirement~~ board. For teaching service on or after July 1, 1978, the employer shall pay an amount equal to the employer contributions due at the time the service occurred, plus compound interest at a rate determined by the board from the date the service began to the date of payment.

Sec. 3307.74. (A) The state teachers retirement board may enter into an agreement with insurance companies, health insuring corporations, or government agencies authorized to do business in the state for issuance of a

policy or contract of health, medical, hospital, or surgical benefits, or any combination thereof, for those individuals receiving service retirement or a disability or survivor benefit subscribing to the plan. Notwithstanding any other provision of this chapter, the policy or contract may also include coverage for any eligible individual's spouse and dependent children and for any of the individual's sponsored dependents as the board considers appropriate. If all or any portion of the policy or contract premium is to be paid by any individual receiving service retirement or a disability or survivor benefit, the individual shall, by written authorization, instruct the board to deduct the premium agreed to be paid by the individual to the companies, corporations, or agencies.

The board may contract for coverage on the basis of part or all of the cost of the coverage to be paid from appropriate funds of the state teachers retirement system. The cost paid from the funds of the system shall be included in the employer's contribution rate provided by section 3307.53 of the Revised Code.

The board may provide for self-insurance of risk or level of risk as set forth in the contract with the companies, corporations, or agencies, and may provide through the self-insurance method specific benefits as authorized by the rules of the board.

(B) If the board provides health, medical, hospital, or surgical benefits through any means other than a health insuring corporation, it shall offer to each individual eligible for the benefits the alternative of receiving benefits through enrollment in a health insuring corporation, if all of the following apply:

(1) The health insuring corporation provides health care services in the geographical area in which the individual lives;

(2) The eligible individual was receiving health care benefits through a health maintenance organization or a health insuring corporation before retirement;

(3) The rate and coverage provided by the health insuring corporation to eligible individuals is comparable to that currently provided by the board under division (A) of this section. If the rate or coverage provided by the health insuring corporation is not comparable to that currently provided by the board under division (A) of this section, the board may deduct the additional cost from the eligible individual's monthly benefit.

The health insuring corporation shall accept as an enrollee any eligible individual who requests enrollment.

The board shall permit each eligible individual to change from one plan to another at least once a year at a time determined by the board.

(C) The board shall, beginning the month following receipt of satisfactory evidence of the payment for coverage, make a monthly payment to each recipient of service retirement, or a disability or survivor benefit under the state teachers retirement system who is eligible for insurance coverage under part B of "The Social Security Amendments of 1965," 79 Stat. 301, 42 U.S.C.A. 1395j, as amended. The payment shall be the ~~lesser~~ greater of an the following:

(1) Twenty-nine dollars and ninety cents;

(2) An amount equal to determined by multiplying the basic premium for such the coverage, or an amount equal to the basic premium in effect on April 10, 1991 by a percentage, not exceeding ninety per cent, determined by multiplying the years of service used in calculating the service retirement or benefit by a percentage determined by the board not exceeding three per cent.

(D) The board shall establish by rule requirements for the coordination of any coverage, payment, or benefit provided under this section or section 3307.405 of the Revised Code with any similar coverage, payment, or benefit made available to the same individual by the public employees retirement system, police and firemen's disability and pension fund, school employees retirement system, or state highway patrol retirement system.

(E) The board shall make all other necessary rules pursuant to the purpose and intent of this section.

Sec. 3309.011. "Employee" as defined in division (B) of section 3309.01 of the Revised Code, does not include either of the following:

(A) Any person having a license issued pursuant to sections 3319.22 to 3319.31 of the Revised Code and employed in a public school in this state in an educational position, as determined by the state board of education, under programs provided for by federal acts or regulations and financed in whole or in part from federal funds, but for which no licensure requirements for the position can be made under the provisions of such federal acts or regulations;

(B) Any person who participates in an alternative retirement plan established under Chapter 3305. of the Revised Code;

(C) Any person who elects to transfer from the school employees retirement system to the public employees retirement system under section 3309.312 of the Revised Code;

(D) Any person whose full-time employment by the university of Akron as a state university law enforcement officer pursuant to section 3345.04 Of the Revised Code commences on or after the effective date of this amendment.

Sec. 3309.04. The general administration and management of the school employees retirement system and making effective Chapter 3309. of the Revised Code are hereby vested in the school employees retirement board which may adopt rules and may authorize its administrative officers, or committees composed of members of said board, to act for the board in accord with such policies and subject to subsequent approval by the board.

The attorney general shall prescribe procedures for the adoption of rules authorized under this chapter, consistent with the provision of section 111.15 of the Revised Code under which all rules shall be filed in order to be effective. Such procedures shall establish methods by which notice of proposed rules ~~are~~ IS given to interested parties and rules adopted by the board published and otherwise made available. When it files a rule with the joint committee on agency rule review pursuant to section 111.15 of the Revised Code, the board shall submit to the Ohio retirement study council a copy of the full text of the rule, and if applicable, a copy of the rule summary and fiscal analysis required by division (B) of section 127.18 of the Revised Code.

All rules adopted pursuant to this chapter, prior to ~~the effective date of this section~~ AUGUST 20, 1976, shall be published and made available to interested parties by January 1, 1977.

Sec. 3309.21. (A) The school employees retirement board shall have prepared annually by or under the supervision of an actuary an actuarial valuation of the pension assets, liabilities, and funding requirements of the school employees retirement system as established pursuant to this chapter. The actuary shall complete the valuation in accordance with actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries and prepare a report of the valuation. The report shall include all of the following:

- (1) A summary of the benefit provisions evaluated;
- (2) A summary of the census data and financial information used in the valuation;
- (3) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation, including a statement of the assumed rate of payroll growth and assumed rate of growth or decline in the number of members contributing to the retirement system;
- (4) A summary of findings that includes a statement of the actuarial accrued pension liabilities and unfunded actuarial accrued pension liabilities;
- (5) A schedule showing the effect of any changes in the benefit provisions, actuarial assumptions, or cost methods since the last annual

actuarial valuation;

(6) A statement of whether contributions to the retirement system are expected to be sufficient to satisfy the funding objectives established by the board.

The board shall submit the report to the Ohio retirement study commission and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of May following the year for which the valuation was made.

(B) At such times as the school employees retirement board determines, and at least once in each quinquennial period, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the mortality, service, and other experience of the members, retirants, and beneficiaries of the retirement system, and SERS retirants and other system retirants as defined in section 3309.341 of the Revised Code to update the actuarial assumptions used in the actuarial valuation required by division (A) of this section. The actuary shall prepare a report of the actuarial investigation. The report shall be prepared and any recommended changes in actuarial assumptions shall be made in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The report shall include all of the following:

(1) A summary of relevant decrement and economic assumption experience observed over the period of the investigation;

(2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (A) of this section;

(3) A measurement of the financial effect of the recommended changes in actuarial assumptions.

The board shall submit the report to the Ohio retirement study commission and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of May following the last fiscal year of the period the report covers.

(C) The board may at any time request the actuary to make any studies or actuarial valuations to determine the adequacy of the rates of contribution as provided by section 3309.49 of the Revised Code, and those rates may be adjusted by the board, as recommended by the actuary, effective as of the first of any year thereafter.

(D) The board shall have prepared by or under the supervision of an actuary an actuarial analysis of any introduced legislation expected to have a

measurable financial impact on the retirement system. The actuarial analysis shall be completed in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary shall prepare a report of the actuarial analysis, which shall include all of the following:

- (1) A summary of the statutory changes that are being evaluated;
- (2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;
- (3) A description of the participant group or groups included in the report;
- (4) A statement of the financial impact of the legislation, including the resulting increase, if any, in the employer normal cost percentage; the increase, if any, in actuarial accrued liabilities; and the per cent of payroll that would be required to amortize the increase in actuarial accrued liabilities as a level per cent of covered payroll for all active members over a period not to exceed thirty years;
- (5) A statement of whether the scheduled contributions to the system after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.

Not later than sixty days from the date of introduction of the legislation, the board shall submit a copy of the actuarial analysis to the legislative budget office of the legislative service commission, the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation, and the Ohio retirement study commission.

(E) The board shall have prepared annually a report giving a full accounting of the revenues and costs relating to the provision of benefits under sections 3309.375 and 3309.69 of the Revised Code. The report shall be made as of June 30, 1997, and the thirtieth day of June of each year thereafter. The report shall include the following:

- (1) A description of the statutory authority for the benefits provided;
- (2) A summary of the benefits;
- (3) A summary of the eligibility requirements for the benefits;
- (4) A statement of the number of participants eligible for the benefits;
- (5) A description of the accounting, asset valuation, and funding method used to provide the benefits;
- (6) A statement of the net assets available for the provision of the benefits as of the last day of the fiscal year;
- (7) A statement of any changes in the net assets available for the provision of benefits, including participant and employer contributions, net investment income, administrative expenses, and benefits provided to

participants, as of the last day of the fiscal year;

(8) For the last six consecutive fiscal years, a schedule of the net assets available for the benefits, the annual cost of benefits, administrative expenses incurred, and annual employer contributions allocated for the provision of benefits;

(9) A description of any significant changes that affect the comparability of the report required under this division;

(10) A statement of the amount paid under division (D) of section 3309.69 Of the Revised Code.

The board shall submit the report to the Ohio retirement study commission and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the thirty-first day of December following the year for which the report was made.

Sec. 3309.26. The membership of any person in the school employees retirement system shall terminate if ~~he~~ the person withdraws ~~his~~ the person's accumulated contributions, ~~or if he~~ retires on a retirement allowance as provided in sections 3309.36, 3309.38, and 3309.381 of the Revised Code, or ~~if he~~ dies, unless otherwise provided in Chapter 3309. of the Revised Code.

A former member with an account in the employees' savings fund who formerly lost ~~his~~ membership shall be reinstated as a member with all the rights, privileges, and obligations as provided in Chapter 3309. of the Revised Code.

A Except as provided in this section, a member or former member of the school employees retirement system with at least one and one-half years of contributing service credit in this system, the public employees retirement system, the state teachers retirement system, the police and firemen's disability and pension fund, or the state highway patrol retirement system, subsequent to the withdrawal of contributions and cancellation of service credit in this system may restore such service credit by redepositing in the employees' savings fund the amount withdrawn with interest at a rate to be determined by the board, compounded annually, from the first of the month of withdrawal to and including the month of redeposit. A member may choose to purchase only part of such credit in any one payment, subject to board rules. The total payment to restore cancelled service credit, plus any interest credited thereto, shall be considered as accumulated contributions of the member. If a former member is eligible to buy the service credit as a member of the police and firemen's disability and pension fund or state highway patrol retirement system, the former member is ineligible to restore

that service credit under this section.

Sec. 3309.312. (A) Not later than ninety days after the effective date of this section, a member who, on the effective date of this section, is employed full-time pursuant to section 3345.04 of the Revised Code by the university of Akron as a state university law enforcement officer may elect to transfer to the public employees retirement system in accordance with this section. An election shall be made by giving notice to the school employees retirement system on a form provided by the school employees retirement board and shall be irrevocable.

(B) When a member makes the election described in this section, the school employees retirement system shall notify the public employees retirement system. The school employees retirement system shall transfer all of the member's service credit to the public employees retirement system and shall certify to the public employees retirement system a copy of the member's records of service and contributions. For each year or portion of a year of credit, the school employees retirement system shall transfer to the public employees retirement system all of the following:

(1) An amount equal to the accumulated contributions standing to the member's credit;

(2) An amount equal to the total employer contributions paid on behalf of the member;

(3) Any amount paid by the member or employer to the school employees retirement system for the purchase of service credit.

At the request of the public employees retirement system, the employer of a member who makes an election under this section shall certify to the public employees retirement system the member's salary.

(C) A member who elects to transfer to the public employees retirement system under this section shall make contributions and receive benefits under divisions (B) and (C) of section 145.33 Of the Revised Code.

(D) A member who fails to make an election in accordance with this section shall remain a member of the school employees retirement system.

Sec. 3309.351. (A) A member of the school employees retirement system who has contributions on deposit with the police and firemen's disability and pension fund or the state highway patrol retirement system shall, in computing years of ~~active~~ total service, be given full credit for time served in an Ohio police or fire department and covered service credit earned under Chapter 742. or former Chapter 521. or 741. of the Revised Code, or in the state highway patrol and covered under Chapter 5505. of the Revised Code, provided that for each year of service credit, the member pays to the school employees retirement system the amount which he would

~~have paid through regular salary deductions had he been a member of the school employees retirement system during such prior employment, with interest compounded annually from the date of withdrawal to the date of deposit at a rate to be determined by the board or purchased for service in the armed forces of the United States if a transfer to the school employees retirement system is made under this division. At the request of the member, the police and firemen's disability and pension fund or state highway patrol retirement system shall transfer to the school employees retirement system, for each year of service, the sum of the following:~~

~~(1) An amount equal to the member's payments for service in the armed forces of the United States and accumulated contributions to the transferring fund or system;~~

~~(2) An amount equal to the lesser of the employer's contributions to the police and firemen's disability and pension fund or state highway patrol retirement system or the amount that would have been contributed by the employer for the service had the member been a member of the school employees retirement system;~~

~~(3) Interest, determined as provided in division (E) of this section, on the amounts specified in divisions (A)(1) and (2) of this section from the last day of the year for which the service credit was earned or in which military service credit was purchased or obtained to the date the transfer is made.~~

~~(B) A member who has at least eighteen months of contributing service with the school employees retirement system, is a former member of the police and firemen's disability and pension fund or state highway patrol retirement system, and has received a refund of contributions to that fund or system shall, in computing years of total service, be given full credit for service credit earned under Chapter 742. or 5505. Of the Revised Code or purchased for service in the armed forces of the United States if, for each year of service, the school employees retirement system receives the sum of the following:~~

~~(1) An amount, which shall be paid by the member, equal to the amount refunded by the police and firemen's disability and pension fund or the state highway patrol retirement system to the member for that year for accumulated contributions and payments for purchase of credit for service in the armed forces of the United States, with interest on that amount from the date of the refund to the date of the payment;~~

~~(2) Interest, which shall be transferred by the police and firemen's disability and pension fund or state highway patrol retirement system, on the amount refunded to the member that is attributable to the year of service from the last day of the year for which the service credit was earned or in~~

which military service credit was purchased or obtained to the date the refund was made;

(3) An amount, which shall be transferred by the police and firemen's disability and pension fund or state highway patrol retirement system, that is equal to the lesser of the amount contributed by the employer to the police and firemen's disability and pension fund or state highway patrol retirement system for that year or the amount that would have been contributed by the employer for the year had the member been a member of the school employees retirement system, with interest on that amount from the last day of the year for which the service credit was earned or in which military service credit was purchased or obtained to the date of the transfer.

On receipt of payment from the member, the school employees retirement system shall notify the police and firemen's disability and pension fund or the state highway patrol retirement system, which, on receipt of the notice, shall make the transfer required by this division. Interest shall be determined as provided in division (E) of this section. The member may choose to purchase only part of such credit in any one payment, subject to board rules.

(C) A member is ineligible to ~~purchase~~ obtain service credit under this section for service that is used in the calculation of any retirement benefit currently being paid or payable in the future to the member.

Service credit ~~purchased~~ obtained under this section shall be considered the equivalent of Ohio service credit.

(D) If a member of the school employees retirement system who is not a current contributor elects to obtain credit under section 742.379 or 5505.202 Of the Revised Code for service for which the member contributed to the school employees retirement system or purchased credit for service in the armed forces of the United States, the school employees retirement system shall transfer to the police and firemen's disability and pension fund or state highway patrol retirement system, as applicable, the amount specified in division (D) of section 742.379 or division (B)(2) of section 5505.202 Of the Revised Code.

(E) Interest charged under this section shall be calculated separately for each year of service credit at the lesser of the actuarial assumption rate for that year of the school employees retirement system or of the fund or retirement system in which the credit was earned. The interest shall be compounded annually.

Sec. 3309.39. (A) The school employees retirement system shall provide disability coverage to each member who has at least five years of total service credit.

Not later than October 16, 1992, the school employees retirement board shall give each person who is a member on ~~the effective date of this amendment~~ July 29, 1992, the opportunity to elect disability coverage either under section 3309.40 of the Revised Code or under section 3309.401 of the Revised Code. The board shall mail notice of the election, accompanied by an explanation of the coverage under each of the Revised Code sections and a form on which the election is to be made, to each member at ~~his~~ the member's last known address. The board shall also provide the explanation and form to any member at ~~his~~ the member's request.

Regardless of whether the member actually receives notice of ~~his~~ the right to make an election, a member who fails to file a valid election under this section shall be considered to have elected disability coverage under section 3309.40 of the Revised Code. To be valid, an election must be made on the form provided by the retirement board, signed by the member, and filed with the board not later than one hundred eighty days after the date the notice was mailed, or, in the case of a form provided at the request of a member, a date specified by rule of the retirement board. Once made, an election is irrevocable, but if the member ceases to be a member of the retirement system, the election is void. If a person who makes an election under this section also makes an election under section 145.35 or 3307.42 of the Revised Code, the election made for the system that pays a disability benefit to that person shall govern the benefit.

Disability coverage shall be provided under section 3309.401 of the Revised Code for persons who become members after ~~the effective date of this amendment~~ July 29, 1992, and for members who elect under this division to be covered under section 3309.401 of the Revised Code.

The retirement board may adopt rules governing elections made under this division.

(B) Application for a disability benefit may be made by a member, by a person acting in the member's behalf, or by the member's employer, provided the member has at least five years of total service credit and has disability coverage under section 3309.40 or 3309.401 of the Revised Code. The application for a disability benefit shall be made on a form provided by the retirement board. The benefit payable to any member who is approved for a disability benefit shall become effective on the first day of the month next following the later of the following:

- (1) The last day for which compensation was paid;
 - (2) The date on which the member was first incapacitated by the disabling condition.
- (C) Medical examination of a member who has applied for a disability

benefit shall be conducted by a competent disinterested physician or physicians selected by the retirement board to determine whether the member is mentally or physically incapacitated for the performance of the member's last assigned primary duty as an employee by a disabling condition either permanent or presumed to be permanent for twelve continuous months following the filing of an application. Such disability must have occurred since last becoming a member or have increased since last becoming a member to such extent as to make the disability permanent or presumed to be permanent for twelve continuous months following the filing of an application.

(D) Application for a disability benefit must be made within two years from the date the member's contributing service terminated, unless the retirement board determines that the member's medical records demonstrate conclusively that at the time the two-year period expired, the member was physically or mentally incapacitated for duty as an employee and unable to make application. Application may not be made by any person receiving a service retirement allowance or commuted service retirement allowance under section 3309.36, 3309.38, or 3309.381 of the Revised Code or any person who, pursuant to section 3309.42 of the Revised Code, has been paid the accumulated contributions standing to the credit of ~~his~~ the person's individual account in the employees' savings fund.

(E) If the physician or physicians determine that the member qualifies for a disability benefit, ~~and~~ the retirement board concurs with the determination, and the member agrees to medical treatment as specified in division (F) of this section, the member shall receive a disability benefit under section 3309.40 or 3309.401 of the Revised Code. The action of the board shall be final. At the time the board decides it concurs with the determination of the physician or physicians, the board shall determine the date on which the member was first incapacitated by the disabling condition.

(F) The school employees retirement board shall adopt rules requiring a disability benefit recipient, as a condition of continuing to receive a disability benefit, to agree in writing to obtain any medical treatment recommended by the board's physician and submit medical reports regarding the treatment. If the board determines that a disability benefit recipient is not obtaining the medical treatment or the board does not receive a required medical report, the disability benefit shall be suspended until the treatment is obtained, the report is received by the board, or the board's physician certifies that the treatment is no longer helpful or advisable. Should the recipient's failure to obtain treatment or submit a medical report continue for one year, the recipient's right to the disability benefit shall be

terminated as of the effective date of the original suspension.

(G) In the event an employer files an application for a disability benefit as a result of a member having been separated from service because ~~he~~ the member is considered to be mentally or physically incapacitated for the performance of the member's last assigned primary duty as an employee, and the physician or physicians selected by the board report to the board that the member is physically and mentally capable of performing service similar to that from which ~~he~~ the member was separated, and the board concurs in such report, then the board shall so certify to the employer and the employer shall restore the member to ~~his~~ the member's previous position and salary or to a similar position and salary.

Sec. 3309.391. Not later than September 1, 2000, and each first day of September for the succeeding five years, the school employees retirement board shall make and submit a report for the preceding fiscal year of the disability retirement experience of each employer. The report shall specify the total number of disability applications submitted, the status of each application as of the last day of the fiscal year, total applications granted or denied, and the percentage of disability benefit recipients to the total number of the employer's employees who are members of the school employees retirement system. The report shall be submitted to the governor, the Ohio retirement study council, and the chairpersons of the standing committees and subcommittees of the senate and house of representatives with primary responsibility for retirement legislation.

Sec. 3309.41. (A) A disability benefit recipient shall retain membership status and shall be considered on leave of absence from employment during the first five years following the effective date of a disability benefit, notwithstanding any contrary provisions in Chapter 124. or 3319. of the Revised Code.

(B) The school employees retirement board shall require a disability benefit recipient to undergo an annual medical examination, except that the board may waive the medical examination if the board's physician or physicians ~~specify~~ certify that the recipient's disability is ongoing. Should any disability benefit recipient refuse to submit to a medical examination, the recipient's disability benefit shall be ~~discontinued~~ suspended until withdrawal of the refusal. Should the refusal continue for one year, all the recipient's rights in and to the disability benefit shall be ~~forfeited~~ terminated as of the effective date of the original suspension.

(C) On completion of the examination by an examining physician or physicians selected by the board, the physician or physicians shall report and certify to the board whether the disability benefit recipient is no longer

physically and mentally ~~capable~~ incapable of resuming ~~the service similar to or related to that~~ from which the recipient was found disabled. If the board concurs in the report that the disability benefit recipient is ~~so capable~~ no longer incapable, the payment of the disability benefit shall be terminated not later than three months after the date of the board's concurrence or upon employment as an employee. If the leave of absence has not expired, the retirement board shall certify to the disability benefit recipient's last employer before being found disabled that the recipient is ~~capable~~ no longer physically and mentally incapable of resuming service ~~and the that is the same or similar to that from which the recipient was found disabled~~. The employer shall restore the recipient to the recipient's previous position and salary or to a position and salary similar thereto not later than the first day of the first month following termination of the disability benefit, unless the recipient was dismissed or resigned in lieu of dismissal for dishonesty, misfeasance, malfeasance, or conviction of a felony.

(D) ~~The board may adopt rules requiring each~~ Each disability benefit recipient ~~to shall~~ file with the board an annual statement of earnings ~~and~~, current medical information on ~~his~~ the recipient's condition, and any other information required in rules adopted by the board. The board may waive the requirement that a disability benefit recipient file an annual statement of earnings or current medical information on the recipient's condition if the board's physician or physicians certify that the recipient's disability is ongoing.

The board shall annually examine the information submitted by the recipient. If a disability benefit recipient refuses to file the statement or information, the disability benefit shall be suspended until the statement and information are filed. If the refusal continues for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

(E) If a disability benefit recipient is employed by an employer covered by this chapter, the recipient's disability benefit shall cease.

(F) If disability retirement under section 3309.40 of the Revised Code is terminated for any reason, the annuity and pension reserves at that time in the annuity and pension reserve fund shall be transferred to the employees' savings fund and the employers' trust fund, respectively. If the total disability benefit paid is less than the amount of the accumulated contributions of the member transferred into the annuity and pension reserve fund at the time of the member's disability retirement, the difference shall be transferred from the annuity and pension reserve fund to another fund as may be required. In determining the amount of a member's account

following the termination of disability retirement for any reason, the amount paid shall be charged against the member's refundable account.

If a disability allowance paid under section 3309.401 of the Revised Code is terminated for any reason, the reserve on the allowance at that time in the annuity and pension reserve fund shall be transferred from that fund to the employers' trust fund.

The board may terminate a disability benefit at the request of the recipient.

(G) If a disability benefit is terminated and a former disability benefit recipient again becomes a contributor, other than as an other system retirant as defined in section 3309.341 of the Revised Code, to this system, the public employees retirement system, or the state teachers retirement system, and completes an additional two years of service credit after the termination of the disability benefit, the former disability benefit recipient shall be entitled to full service credit for the period as a disability benefit recipient.

(H) If any employer employs any member who is receiving a disability benefit, the employer shall file notice of employment with the retirement board, designating the date of employment. In case the notice is not filed, the total amount of the benefit paid during the period of employment prior to notice shall be paid from amounts allocated under Chapter 3317. of the Revised Code prior to its distribution to the school district in which the disability benefit recipient was so employed.

Sec. 3309.44. (A) As used in this section and in section 3309.45 of the Revised Code:

(1) ~~"Dependent child~~ Child ~~is a dependent child defined in section 3309.45 of the Revised Code~~ means a biological or legally adopted child of a deceased member. If a court hearing for an interlocutory decree for adoption was held prior to the member's death, "child" includes the child who was the subject of the hearing notwithstanding the fact that the final decree of adoption, adjudging the surviving spouse as the adoptive parent, is made subsequent to the member's death.

(2) ~~"Dependent parent~~ Parent ~~is a person who is a dependent parent for the purposes of section 3309.45 of the Revised Code~~ parent or legally adoptive parent of a deceased member.

(3) "Dependent" means a beneficiary who receives one-half of the beneficiary's support from a member during the twelve months prior to the member's death.

(4) "Surviving spouse" means an individual who establishes a valid marriage to a member at the time of the member's death by marriage certificate or pursuant to division (E) of this section.

(5) "Survivor" means a surviving spouse, child, or parent.

(B) ~~Should~~ Except as provided in division (C)(1) of section 3309.45 Of the Revised Code, should a member die before service or commuted service retirement, his the member's accumulated contributions and any amounts owed and unpaid to a disability benefit recipient shall be paid to such beneficiaries as ~~he~~ the member has designated in writing on a form provided by the school employees retirement board, signed by ~~him~~ the member and filed with the board prior to ~~his~~ death. The last designation of any beneficiary revokes all previous designations. The member's marriage, divorce, legal dissolution, legal separation, or withdrawal of account, or the birth of ~~his~~ the member's child, or ~~his~~ the member's adoption of a child, constitutes an automatic revocation of ~~his~~ the member's last designation. If a deceased member was also a member of the public employees retirement system or the state teachers retirement system, the beneficiary last established among the systems shall be the sole beneficiary in all the systems.

If the accumulated contributions of a deceased member are not claimed by a beneficiary, or by the estate of the deceased member, within ten years, they shall be transferred to the guarantee fund and thereafter paid to such beneficiary or to the member's estate upon application to the board. The board shall formulate and adopt rules governing all designations of beneficiaries.

(C) ~~If~~ Except as provided in division (C)(1) of section 3309.45 Of the Revised Code, if a member dies before service or commuted service retirement and is not survived by a ~~nominated~~ designated beneficiary, any ~~survivors~~ beneficiaries shall qualify as ~~beneficiaries~~, in the following order of precedence, with all attendant rights and privileges:

(1) Spouse Surviving spouse;

(2) ~~Youngest dependent child of a member if such child elects to take survivor benefits under division (B) of section 3309.45 of the Revised Code, and the total amount of survivor benefits payable to all dependent children of the member by such election exceeds the amount of the accumulated account subject to refund;~~

(3) ~~A financially dependent incompetent progeny of the member, provided the incompetent progeny elects to take a survivor benefit under division (B) of section 3309.45 of the Revised Code;~~

(4) Children share and share alike;

~~(5)~~(3) A dependent parent of a member who is age sixty-five or older, if that parent elects to take takes survivor benefits under division (B) of section 3309.45 of the Revised Code;

- ~~(6)~~(4) Parents, share and share alike;
- ~~(7)~~(5) Estate.

Any payment made to a beneficiary as determined by the school employees retirement board shall be a full discharge and release to the board from any future claims.

(D) Any amount due any person, as an annuitant receiving a monthly service or commuted service retirement allowance or benefit, and unpaid to ~~him~~ the annuitant at ~~his~~ death, shall be paid to the beneficiary designated in writing on a form provided by the retirement board, signed by the annuitant and filed with the board. If no such designation has been filed, or if the designated beneficiary is deceased or is not located within ninety days, such amount shall be paid, except as otherwise provided in section 3309.45 of the Revised Code, in the following order of precedence to the annuitant's:

- (1) Surviving spouse;
- (2) Children, share and share alike;
- (3) Parents, share and share alike;
- (4) Estate.

For the purpose of this division, an "annuitant" is the last person who received a monthly allowance or benefit pursuant to the plan of payment selected by the retirant or designated by this chapter. Such payment shall be a full discharge and release to the board from any future claim for such payment.

(E) If the validity of marriage cannot be established to the satisfaction of the retirement board for the purpose of disbursing any amount due under this section or section 3309.45 of the Revised Code, the retirement board may accept a decision rendered by a court having jurisdiction in the state in which the member was domiciled at the time of death that the relationship constituted a valid marriage at the time of death, or the "spouse" would have the same status as a widow or widower for purposes of sharing in the distribution of the member's intestate personal property.

~~(F) If any amount due under this section is payable to a beneficiary who has been found guilty by a court of law of feloniously contributing to the death of the member, then such payment shall not~~ the death of a member is caused by one of the following beneficiaries, no amount due under this chapter to the beneficiary shall be paid to ~~such~~ the beneficiary in the absence of a court order to the contrary filed with the retirement board:

(1) A beneficiary who is convicted of, pleads guilty to, or is found not guilty by reason of insanity of a violation of or complicity in the violation of either of the following:

- (a) Section 2903.01, 2903.02, or 2903.03 of the Revised Code;

(b) An existing or former law of any other state, the United States, or a foreign nation that is substantially equivalent to section 2903.01, 2903.02, or 2903.03 of the Revised Code;

(2) A beneficiary who is indicted for a violation of or complicity in the violation of the sections or laws described in division (F)(1)(a) or (b) of this section and is adjudicated incompetent to stand trial;

(3) A beneficiary who is a juvenile found to be a delinquent child by reason of committing an act that, if committed by an adult, would be a violation of or complicity in the violation of the sections or laws described in division (F)(1)(a) or (b) of this section.

Sec. 3309.45. ~~In~~ Except as provided in division (C)(1) of this section, in lieu of accepting the payment of the accumulated account of a member who dies before service retirement, the beneficiary, as determined in section 3309.44 of the Revised Code, may elect to forfeit the accumulated account and to substitute certain other benefits either under division (A) or (B) of this section.

(A) If a deceased member was eligible for a service retirement allowance as provided in section 3309.36, 3309.38, or 3309.381 of the Revised Code, a surviving spouse or other sole dependent beneficiary may elect to receive a monthly benefit computed as the joint-survivor allowance designated as "plan D" in section 3309.46 of the Revised Code, which the member would have received had the member retired on the last day of the month of death and had the member at that time selected such joint-survivor plan. Payment shall begin with the month subsequent to the member's death.

(B) If the deceased member had completed at least one and one-half years of credit for Ohio service, with at least one-quarter year of Ohio contributing service credit within the two and one-half years prior to the date of death, or was receiving at the time of death a disability benefit as provided in section 3309.40 or 3309.401 of the Revised Code, ~~certain designated beneficiaries~~ qualified survivors may elect to receive monthly benefits, provided in divisions (B)(1) and (5) of this section.

(1) Number of

Qualified
dependents
survivors

Annual Benefit as a Per

Cent of Decedent's Final
Average Salary

affecting
the benefit

1

25%

2

40

Or
Monthly
Benefit
shall not be
less than

\$ 96

186

3	50	236
4	55	236
5 or more	60	236

(2) Benefits shall begin as qualified ~~dependents~~ survivors meet eligibility requirements as follows:

(a) ~~Spouse~~ A qualified spouse is the surviving spouse of the deceased member who is age sixty-two, or age fifty if the deceased member had ten or more years of Ohio service credit, or regardless of age if caring for a ~~dependent~~ surviving child, or regardless of age if adjudged physically or mentally incompetent.

(b) ~~Dependent~~ A qualified child shall be is any unmarried child of the deceased member under age eighteen, or under age twenty-two if the child is 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 and as further determined by board policy, or regardless of age if adjudged physically or mentally incompetent. ~~If not domiciled in the deceased member's household at time of death, to qualify as a dependent child the deceased member must have contributed to one-half or more of the child's support during the twelve-month period prior to death. "Child" as used in this section includes a legally adopted child. If a court hearing for an interlocutory decree for adoption has been held prior to the time of the member's death, the child shall qualify for the monthly benefit notwithstanding the fact that the final decree of adoption, adjudging the surviving spouse as the adoptive parent, is made subsequent to the death of the member.~~

(c) A qualified parent is a dependent parent aged sixty-five or more who received at least one-half of the parent's support from the member during the twelve-month period immediately preceding the member's death older.

(3) "Physically or mentally incompetent" as used in this section may be determined by a court of jurisdiction, or by a physician appointed by the retirement board. Incapability of earning a living because of a physically or mentally disabling condition shall meet the qualifications of this division.

(4) Benefits to a qualified ~~dependent~~ survivor shall terminate upon a first marriage, ~~remarriage~~, abandonment, adoption, or during active military service, ~~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. If the surviving spouse of a deceased member remarries on or after the effective date of this amendment and at the time of remarriage has attained age fifty five, the benefits~~

~~vided by this division shall continue. The benefits provided by this division also shall continue to a deceased member's surviving spouse who remarried prior to the effective date of this amendment and had attained age sixty-two at the time of the remarriage. If the benefits of a deceased member's surviving spouse were terminated under this division due to a remarriage occurring on or after February 15, 1995, and if at the time of remarriage the surviving spouse had attained age fifty-five, the benefits terminated under this division shall resume on the first day of the month immediately following the effective date of this amendment. Upon. Benefits to a deceased member's surviving spouse that were terminated under a former version of this section that required termination due to remarriage and were not resumed prior to the effective date of this amendment shall resume on the first day of the month immediately following receipt by the board of an application on a form provided by the board.~~

Upon the death of any subsequent spouse who was a member of the public employees retirement system, state teachers retirement system, or school employees retirement system, the surviving spouse of such member may elect to continue receiving benefits under this division, or to receive survivor's benefits, based upon the subsequent spouse's membership in one or more of the systems, for which such surviving spouse is eligible under this section or section 145.45 or 3307.49 of the Revised Code. If the surviving spouse elects to continue receiving benefits under this division, such election shall not preclude the payment of benefits under this division to any other qualified ~~dependent~~ survivor.

Benefits shall begin or resume on the first day of the month following the attainment of eligibility and shall terminate on the first day of the month following loss of eligibility.

(5) Benefits to a qualified spouse shall be paid in the amount determined for the first qualifying ~~dependent~~ survivor in division (B)(1) of this section, but shall not be less than one hundred six dollars per month if the deceased member had ten or more years of Ohio service credit. All other qualifying ~~dependents~~ survivors shall share equally in the benefit or remaining portion thereof.

(6) The beneficiary of a member who is also a member of the public employees retirement system, or of the state teachers retirement system, must forfeit the member's accumulated contributions in those systems, if the beneficiary ~~elects to receive~~ takes a survivor benefit. Such benefit shall be exclusively governed by section 3309.35 of the Revised Code.

~~(7)(C)(1)~~ Regardless of whether the member is survived by a spouse or designated beneficiary, if the school employees retirement system receives

notice that a deceased member described in division (A) or (B) of this section has one or more qualified children, all persons who are qualified survivors under Division (B) of this section shall receive monthly benefits as provided in division (B) of this section.

If, after determining the monthly benefits to be paid under division (B) of this section, the system receives notice that there is a qualified survivor who was not considered when the determination was made, the system shall, notwithstanding section 3309.661 of the Revised Code, recalculate the monthly benefits with that qualified survivor included, even if the benefits to qualified survivors already receiving benefits are reduced as a result. The benefits shall be calculated as if the qualified survivor who is the subject of the notice became eligible on the date the notice was received and shall be paid to qualified survivors effective on the first day of the first month following the system's receipt of the notice.

If the retirement system did not receive notice that a deceased member has one or more qualified children prior to making payment under section 3309.44 of the Revised Code to a beneficiary as determined by the retirement system, the payment is a full discharge and release of the system from any future claims under this section or section 3309.44 Of the Revised Code.

(2) If benefits under division (C)(1) of this section to all persons, or to all persons other than a surviving spouse or other sole beneficiary, terminate, there are no children under the age of twenty-two years, and the surviving spouse or beneficiary qualifies for benefits under division (A) of this section, the surviving spouse or beneficiary may elect to receive benefits under division (A) of this section. Benefits shall be effective on the first day of the month following receipt by the board of an application for benefits under division (A) of this section.

(D) If the survivor benefits due and paid under this section are in a total amount less than the member's accumulated account that was transferred from the employees' savings fund, the state teachers retirement fund, and the public employees retirement fund to the survivors' benefit fund, then the difference between the total amount of the benefits paid shall be paid to the beneficiary under section 3309.44 of the Revised Code.

Sec. 3309.46. (A) The retirement allowance calculated under section 3309.36, 3309.38, or 3309.381 of the Revised Code shall be paid as provided in this section. If the member is eligible to elect a plan of payment under this section, the election shall be made on ~~a form provided by the school employees~~ the application for retirement ~~board~~. A plan of payment elected under this section shall be effective only if it is certified by the

actuary engaged by the school employees retirement board to be the actuarial equivalent of the member's retirement allowance and is approved by the retirement board.

(B)(1) Unless the member is eligible to elect another plan of payment, a member who retires under section 3309.36, 3309.38, or 3309.381 of the Revised Code shall receive a retirement allowance under "plan A," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser amount payable for life and one-half of such allowance continuing after death to the member's surviving spouse for the life of the spouse.

A member may elect to receive a retirement allowance under a plan of payment other than "plan A" if the member is not married or either the member's spouse ~~acknowledges having been informed that the member has selected~~ consents in writing to the member's election to a plan of payment other than "plan A" or the board waives the requirement that the spouse ~~make such an acknowledgement consent. An acknowledgement~~

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, the member's retirement allowance will be paid under "plan A," which consists of the actuarial equivalent of the member's retirement allowance in a lesser amount payable for life and one-half of the 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 in writing, signed by the spouse, and ~~on a form provided by the board~~ witnessed by an employee of the school employees retirement system or a notary public. The board may waive the requirement of ~~an acknowledgement consent~~ if the spouse is incapacitated or cannot be located or for any other reason specified by the board. ~~An acknowledgement consent~~ or waiver is effective only with regard to the spouse who is the subject of the acknowledgement consent or waiver.

(2) A member eligible to elect to receive a retirement allowance under a plan of payment other than "plan A;" shall receive the retirement allowance

under one of the following plans elected at the time the member makes application for retirement:

(a) "Plan B," which shall consist of an allowance determined under section 3309.36, 3309.38, or 3309.381 of the Revised Code;

(b) "Plan C," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser amount payable for life and one-half or some other portion of the allowance continuing after death to the member's sole surviving beneficiary designated at the time of the member's retirement, provided that the amount payable to the beneficiary does not exceed the amount payable to the member;

(c) "Plan D," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser amount payable for life and continuing after death to a surviving designated beneficiary designated at the time of the member's retirement;

(d) "Plan E," which shall consist of the actuarial equivalent of the member's retirement allowance determined under section 3309.36, 3309.38, or 3309.381 of the Revised Code in a lesser amount payable for a certain period from the member's retirement date as elected by the member and approved by the retirement board, and on the member's death before the expiration of that certain period, the member's lesser retirement allowance continued for the remainder of that period to, and in such order, the beneficiaries as the member has nominated by written designation and filed with the retirement board.

Monthly benefits shall not be paid to joint beneficiaries, but they may receive the present value of any remaining payments in a lump sum settlement. If all beneficiaries die before the expiration of the certain period, the present value of all such payments yet remaining in such period shall be paid to the estate of the beneficiary last receiving.

(3) A member eligible to elect to receive a retirement allowance under a plan of payment other than "plan A" because the member is unmarried who fails to make an election on retirement shall receive a retirement allowance under "plan B."

(C) Until the first payment of any retirement allowance is made, as provided in sections 3309.36, 3309.38, or 3309.381 of the Revised Code, a member may change the member's election of a payment plan if the election is made in accordance with and is consistent with division (B) of this section.

(D) If the retirement allowances due and paid under the above

sions of this section are in a total amount less than (1) the accumulated contributions, (2) the deposits for additional credit as provided by section 3309.31 of the Revised Code, (3) the deposits for additional annuities as provided by section 3309.47 of the Revised Code, (4) the deposits for repurchase of service credit as provided by section 3309.26 of the Revised Code, (5) the accumulated contributions provided by section 3309.65 of the Revised Code, (6) the deposits for purchase of military service credit provided by section 3309.021 or 3309.022 of the Revised Code, and (7) the deposits for the purchase of service credit provided by section 3309.351 of the Revised Code, standing to the credit of the member at the time of retirement, then the difference between the total amount of the allowances paid and the accumulated contributions and other deposits shall be paid to the beneficiary provided under division (D) of section 3309.44 of the Revised Code.

(E)(1) The death of a spouse or any other designated beneficiary following the member's retirement shall cancel any plan of payment to provide continuing lifetime benefits to the spouse or designated beneficiary and the retirant shall receive the retirant's single lifetime retirement allowance equivalent as determined by the board.

(2) On divorce, annulment, or marriage dissolution, a retirant receiving a retirement allowance under a plan of payment that provides for continuation of all or part of the allowance after death for the lifetime of the member's surviving spouse may elect to cancel the plan and receive the member's single lifetime retirement allowance equivalent as determined by the retirement board, except that in the case of a member who retires on or after July 24, 1990, the election may be made only with the written consent of the spouse or pursuant to an order of the court with jurisdiction over the termination of the marriage. The election shall be made on a form provided by the board and shall be effective the month following its receipt by the board.

(3) Following marriage or remarriage, a retirant who is receiving a benefit pursuant to "plan B" may elect a new plan of payment under division (B)(1), (2)(b), or (2)(c) of this section based on the actuarial equivalent of the member's single lifetime retirement allowance as determined by the board. The plan shall become effective the first day of the month following receipt by the board of an application on a form approved by the board.

Sec. 5505.04. (A) The general administration and management of the state highway patrol retirement system and the making effective of this chapter are hereby vested in the state highway patrol retirement board. The board may sue and be sued, plead and be impleaded, contract and be

contracted with, and do all things necessary to carry out this chapter.

The board shall consist of the auditor of state, the superintendent of the state highway patrol, a retirant-member who is a resident of this state, and four employee-members.

The board shall annually elect a chairperson and vice-chairperson from among its members. The vice-chairperson shall act as chairperson in the absence of the chairperson. A majority of the members of the board shall constitute a quorum and any action taken shall be approved by four or more of the members. The board shall meet not less than once each year, upon sufficient notice to the members. All meetings of the board shall be open to the public except executive sessions as set forth in division (G) of section 121.22 of the Revised Code, and any portions of any sessions discussing medical records or the degree of disability of a member excluded from public inspection by this section.

(B) The attorney general shall prescribe procedures for the adoption of rules authorized under this chapter, consistent with the provision of section 111.15 of the Revised Code under which all rules shall be filed in order to be effective. Such procedures shall establish methods by which notice of proposed rules are given to interested parties and rules adopted by the board published and otherwise made available. When it files a rule with the joint committee on agency rule review pursuant to section 111.15 of the Revised Code, the board shall submit to the Ohio retirement study council a copy of the full text of the rule, and if applicable, a copy of the rule summary and fiscal analysis required by division (B) of section 127.18 of the Revised Code.

(C) The retirant-member of the board shall be elected for a four-year term by a general election of service and disability retirants conducted in a manner approved by the board. The term of the initial retirant-member shall commence in August 1990. A person who at the time of retirement is an employee-member of the board is not eligible to become a retirant-member until three years after such person's retirement date. Employee-members of the board shall be elected for terms of four years by a general election of contributing members conducted in a manner approved by the board. The term of office of each employee-member shall commence in August of the year in which such member is elected. Any vacancy occurring in the term of the retirant-member or any employee-member of the board shall be filled by an election conducted in the same manner as other retirant-member and employee-member elections. The retirant-member or employee-member elected shall fill the unexpired term.

(D)(1) As used in this division, "personal history record" means

information maintained by the board on a member, former member, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the system, and other information the board determines to be confidential.

(2) The records of the board shall be open to public inspection, except for the following which shall be excluded: the member's, former member's, retirant's, or beneficiary's personal history record and the amount of a monthly allowance or benefit paid to a retirant, beneficiary, or survivor, except with the written authorization of the individual concerned. All medical reports and recommendations are privileged except that copies of such medical reports or recommendations shall be made available to the individual's personal physician, attorney, or authorized agent upon written release received from such individual or such individual's agent, or when necessary for the proper administration of the fund to the board-assigned physician.

(E) Notwithstanding the exceptions to public inspection in division (D)(2) of this section, the board may furnish the following information:

(1) If a member, former member, or retirant is subject to an order issued under section 2907.15 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court order issued under section 3113.21 of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section.

(3) At the written request of any nonprofit organization or association providing services to retirement system members, retirants, or beneficiaries, the board shall provide to the organization or association a list of the names and addresses of members, former members, retirants, or beneficiaries if the organization or association agrees to use such information solely in accordance with its stated purpose of providing services to such individuals and not for the benefit of other persons, organizations, or associations. The costs of compiling, copying, and mailing the list shall be paid by such entity.

(4) Within fourteen days after receiving from the director of human services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the board shall inform the auditor of state of the name, current or most recent employer address, and social security number of each member whose name and social security number are the same as those of a person whose name or

social security number was submitted by the director. The board and its employees, except for purposes of furnishing the auditor of state with information required by this section, shall preserve the confidentiality of recipients of public assistance in compliance with division (A) of section 5101.181 of the Revised Code.

(F) A statement that contains information obtained from the system's records that is certified and signed by an officer of the retirement system and to which the system's official seal is affixed, or copies of the system's records to which the signature and seal are attached, shall be received as true copies of the system's records in any court or before any officer of this state.

Sec. 5505.12. (A) The state highway patrol retirement board shall have prepared annually by or under the supervision of an actuary an actuarial valuation of the pension assets, liabilities, and funding requirements of the state highway patrol retirement system as established pursuant to this chapter. The actuary shall complete the valuation in accordance with actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries and prepare a report of the valuation. The report shall include all of the following:

- (1) A summary of the benefit provisions evaluated;
- (2) A summary of the census data and financial information used in the valuation;
- (3) A description of the actuarial assumptions, actuarial cost method, and asset valuation method used in the valuation, including a statement of the assumed rate of payroll growth and assumed rate of growth or decline in the number of members contributing to the retirement system;
- (4) A summary of findings that includes a statement of the actuarial accrued pension liabilities and unfunded actuarial accrued pension liabilities;
- (5) A schedule showing the effect of any changes in the benefit provisions, actuarial assumptions, or cost methods since the last annual actuarial valuation;
- (6) A statement of whether contributions to the retirement system are expected to be sufficient to satisfy the funding objectives established by the board.

The board shall submit the report to the Ohio retirement study commission and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of November following the year for which the valuation was made.

(B) At such times as the state highway patrol retirement board

determines, and at least once in each five year period after January 1, 1966, the board shall have prepared by or under the supervision of an actuary an actuarial investigation of the mortality, service, and other experience of the members, retirants, and beneficiaries to update the actuarial assumptions used in the actuarial valuation required by division (A) of this section. The actuary shall prepare a report of the actuarial investigation. The report shall be prepared and any recommended changes in actuarial assumptions shall be made in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The report shall include all of the following:

- (1) A summary of relevant decrement and economic assumption experience observed over the period of the investigation;
- (2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (A) of this section;
- (3) A measurement of the financial effect of the recommended changes in actuarial assumptions.

The board shall submit the report to the Ohio retirement study commission and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the first day of November following the last fiscal year of the period the report covers.

(C) The board may at any time request the actuary to make any studies or actuarial valuations to determine the adequacy of the rates of contributions provided by section 5505.15 of the Revised Code.

(D) The board shall have prepared by or under the supervision of an actuary an actuarial analysis of any introduced legislation expected to have a measurable financial impact on the retirement system. The actuarial analysis shall be completed in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary shall prepare a report of the actuarial analysis, which shall include all of the following:

- (1) A summary of the statutory changes that are being evaluated;
- (2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;
- (3) A description of the participant group or groups included in the report;
- (4) A statement of the financial impact of the legislation, including the resulting increase, if any, in the employer normal cost percentage; the increase, if any, in actuarial accrued liabilities; and the per cent of payroll that would be required to amortize the increase in actuarial accrued

liabilities as a level per cent of covered payroll for all active members over a period not to exceed thirty years;

(5) A statement of whether the scheduled contributions to the system after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.

Not later than sixty days from the date of introduction of the legislation, the board shall submit a copy of the actuarial analysis to the legislative budget office of the legislative service commission, the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation, and the Ohio retirement study commission.

(E) The board shall have prepared annually a report giving a full accounting of the revenues and costs relating to the provision of benefits under section 5505.28 of the Revised Code. The report shall be made as of December 31, 1997, and the thirty-first day of December of each year thereafter. The report shall include the following:

- (1) A description of the statutory authority for the benefits provided;
- (2) A summary of the benefits;
- (3) A summary of the eligibility requirements for the benefits;
- (4) A statement of the number of participants eligible for the benefits;
- (5) A description of the accounting, asset valuation, and funding method used to provide the benefits;
- (6) A statement of the net assets available for the provision of the benefits as of the last day of the fiscal year;
- (7) A statement of any changes in the net assets available for the provision of benefits, including participant and employer contributions, net investment income, administrative expenses, and benefits provided to participants, as of the last day of the fiscal year;
- (8) For the last six consecutive fiscal years, a schedule of the net assets available for the benefits, the annual cost of benefits, administrative expenses incurred, and annual employer contributions allocated for the provision of benefits;
- (9) A description of any significant changes that affect the comparability of the report required under this division;
- (10) A statement of the amount paid under division (C) of section 5505.28 Of the Revised Code.

The board shall submit the report to the Ohio retirement study commission and the standing committees of the house of representatives and the senate with primary responsibility for retirement legislation not later than the thirtieth day of June following the year for which the report was made.

Sec. 5505.17. (A)(1) Upon retirement as provided in section 5505.16 of the Revised Code, a member of the state highway patrol retirement system shall receive a life pension, without guaranty or refund, equal to the sum of two and one-half per cent of the member's final average salary multiplied by the first twenty years of total service credit, plus two per cent of the member's final average salary ~~for each of the twenty-first to twenty-fifth years, plus one and one-half per cent of the member's final average salary~~ multiplied by the number of years, and fraction of a year, of total service credit in excess of ~~twenty-five~~ twenty years; provided that in no case shall the pension exceed the lesser of ~~seventy-two~~ seventy-eight per cent of the member's final average salary or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(2) A member with fifteen or more years of total service credit, who voluntarily resigns or who is discharged from the state highway patrol for any reason except retirement under this chapter, death, dishonesty, cowardice, intemperate habits, or conviction of a felony, shall receive a pension equal to one and one-half per cent of the member's final average salary multiplied by the number of years, and fraction of a year, of total service credit, except that the pension shall not 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 pension shall commence at the end of the calendar month in which the application is filed with the retirement board on or after the attainment of age fifty-five years by the applicant. A member who withdraws any part or all of the accumulated contributions from the employees' savings fund shall thereupon forfeit all rights to a pension provided for in this division.

(3)(a) A surviving spouse of a deceased member shall receive a monthly pension, determined as follows, during the spouse's life:

(i) If at the time of death the member was not eligible to be granted a pension payable under this section or to elect to receive a reduced pension payable under section 5505.16 of the Revised Code, eight hundred fifty dollars;

(ii) If at the time of death the member was eligible to be granted a pension payable under this section or to elect to receive a reduced pension payable under section 5505.16 of the Revised Code, the greater of eight hundred fifty dollars or fifty per cent of the computed monthly pension the member would have received had the member been granted a pension under this section or elected to receive a reduced pension under section 5505.16 of the Revised Code.

(b) The surviving spouse of a retirant shall receive a monthly pension, determined as follows, during the spouse's life:

(i) If the retirant had applied for a pension payable under section 5505.16 of the Revised Code, but at the time of death had not attained the age of eligibility for the pension, eight hundred fifty dollars;

(ii) If the retirant had applied for a pension payable under section 5505.16 of the Revised Code and had attained the age of eligibility for the pension, but at the time of death had not elected to begin receiving the pension, the greater of eight hundred fifty dollars or fifty per cent of the computed monthly pension the retirant was eligible to receive under section 5505.16 of the Revised Code;

(iii) If the retirant was receiving a pension under this section or section 5505.16 or 5505.18 of the Revised Code, or, regardless of whether or not the retirant had actually received any payment, if the retirant was eligible to receive a pension under this section or section 5505.16 or 5505.18 of the Revised Code and had elected to begin receiving it, the greater of eight hundred fifty dollars or fifty per cent of the computed monthly pension awarded the retirant.

(c) If a monthly pension to a surviving spouse was terminated due to a remarriage, the surviving spouse is eligible to receive a monthly pension under division (A)(3) of this section effective the first day of the first month following ~~the effective date of this amendment~~ June 5, 1996. The pension shall be computed under division (A)(3) of this section as of ~~the effective date of this amendment~~ June 5, 1996. The pension payable to a person who is the surviving spouse of more than one state highway patrol retirement system member or retirant shall be computed on the basis of the service of the member or retirant to whom the surviving spouse was most recently married.

(4) A pension of one hundred fifty dollars per month shall be paid by the system to or for the benefit of each child of a deceased member or retirant until the child attains the age of eighteen years or marries, whichever event occurs first, or until the child attains twenty-three years of age if the child 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 the institution, as determined by the retirement board. If any surviving child, regardless of age at the time of the member's or retirant's death, because of physical or mental disability, was totally dependent upon the deceased member or retirant for support at the time of death, a pension of one hundred fifty dollars per month shall be paid by the system to or for the benefit of the

child during the child's natural life or until the child recovers from the disability.

(5)(a) If a retirant died prior to June 6, 1988, and the surviving spouse was not married to the retirant while the retirant was in the active service of the patrol, the surviving spouse shall receive a pension of the greater of four hundred twenty-five dollars per month or fifty per cent of the computed monthly pension the retirant was receiving.

(b) If the pension payable to a person receiving a pension under division (A)(5)(a) of this section on November 2, 1989, is less than six hundred dollars per month, the pension shall be increased to six hundred dollars per month.

(c) If the pension payable to a person receiving a pension under division (A)(5)(a) of this section on ~~the effective date of this amendment~~ June 5, 1996, is less than eight hundred fifty dollars per month, the pension shall be increased to eight hundred fifty dollars per month.

(6)(a) If a surviving spouse, child, or children of a deceased member or retirant has been granted benefits prior to November 18, 1981, such benefits shall be adjusted to comply thereafter with the benefit provision of this section, except that the adjusted benefits under division (A)(3) of this section shall not exceed four hundred twenty-five dollars per month.

(b) If the pension payable to the surviving spouse of a deceased member or retirant under division (A)(3) of this section is less than six hundred dollars per month, the pension shall be increased to six hundred dollars per month.

(c) If the pension payable to the surviving spouse of a deceased member or retirant under division (A)(3) of this section on ~~the effective date of this amendment~~ June 5, 1996, is less than eight hundred fifty dollars per month, the pension shall be increased to eight hundred fifty dollars per month.

(d) The pension payable to a child of a deceased member or retirant who is receiving a pension under division (A)(4) of this section on ~~the effective date of this amendment~~ June 5, 1996, shall be increased to one hundred fifty dollars per month.

(7) If a deceased member or retirant leaves no spouse or surviving children, but leaves two parents depending solely upon the deceased member or retirant for support, each parent shall be paid a monthly pension of one hundred fifty-four dollars. If in such case, there is only one parent dependent solely upon the deceased member or retirant for support, such parent shall be paid a monthly pension of one hundred fifty-four dollars. Such pension shall be paid during the life of the surviving parents, or until dependency ceases, or until remarriage, whichever event occurs first.

(8) Any amount remaining as accumulated contributions at the time of death of a member or retirant who leaves no surviving spouse or dependent children or parents shall be paid to the estate of the member or retirant.

(9) The increases provided for by divisions (A)(5)(b) and (c) and (A)(6)(b) and (c) of this section shall be included in the calculation of the additional benefit paid under section 5505.174 of the Revised Code.

(B) The board shall adopt, and may amend or rescind, the necessary rules for the administration of this section and all decisions of the board shall be final. Any payment of a pension or benefit under this section is subject to the provisions of section 5505.26 of the Revised Code.

(C) A member's total service credit may include periods during which the member's employment with the state highway patrol is interrupted by a leave of absence, when requested by the governor, to accept employment with another agency of the state, provided that:

(1) The member is reemployed by the state highway patrol within thirty days following termination of such other employment;

(2) The member pays into the retirement system, to the credit of the employees' savings fund, an amount equal to the total contributions the member would have paid had the state highway patrol employment not been so interrupted. Such repayment shall begin within ninety days after the member's return to duty with the state highway patrol and be completed within a period equal to that of the leave of absence.

(D) Service credits granted under division (C) of this section shall not include any duplications of credits for which a pension is payable by the public employees retirement system.

Sec. 5505.176. The state highway patrol retirement system shall increase the pension payable to each person receiving a pension granted prior to the effective date of this section that was calculated under division (A)(1) of section 5505.17 Of the Revised Code on the basis of total service credit of more than twenty-five years. The increase shall be an amount determined by multiplying the pension payable to the member on the effective date of this section by the product obtained by multiplying by one-half of one per cent the member's years and fraction of a year of service in excess of twenty-five years, except that the increased pension shall not 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 increased pension shall be effective on the first day of the first month following the effective date of this section and shall be used in determining the amount of the additional benefit paid under section 5505.174 Of the Revised Code.

Sec. 5505.18. As used in this section, "member" does not include state

highway patrol cadets attending training schools pursuant to section 5503.05 of the Revised Code.

(A) Upon the application of a member of the state highway patrol retirement system, a person acting on behalf of a member, or the superintendent of the state highway patrol on behalf of a member, a member who becomes totally and permanently incapacitated for duty in the employ of the state highway patrol may be retired by the ~~state highway patrol retirement~~ board.

The medical examination of a member who has applied for disability retirement shall be conducted by a competent physician or physicians appointed by the board. The physician or physicians shall file a written report with the board containing the following information:

- (1) Whether the member is totally incapacitated for duty in the employ of the patrol;
- (2) Whether the incapacity is expected to be permanent;
- (3) The cause of the member's incapacity.

The board shall determine whether the member qualifies for disability retirement and its decision shall be final. The board shall consider the written medical report, opinions, statements, and other competent evidence in making its determination. If the incapacity is a result of heart disease or any cardiovascular disease of a chronic nature, which disease or any evidence of which was not revealed by the physical examination passed by the member on entry into the patrol, the member is presumed to have incurred the disease in the line of duty as a member of the patrol, unless the contrary is shown by competent evidence.

(B)(1) A member whose retirement on account of disability incurred in the line of duty shall receive the applicable pension provided for in section 5505.17 of the Revised Code, except that if the member has less than twenty-five years of contributing service, the member's service credit shall be deemed to be twenty-five years for the purpose of this provision. In no case shall the member's disability pension be less than sixty per cent or exceed the lesser of ~~seventy-two~~ seventy-eight per cent of the member's final average salary or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(2) A member whose retirement on account of disability incurred not in the line of duty shall receive the applicable pension provided for in section 5505.17 of the Revised Code, except that if the member has less than twenty years of contributing service, the member's service credit shall be deemed to be twenty years for the purpose of this provision. In no case shall the member's disability pension exceed the lesser of ~~seventy-two~~ seventy-eight

per cent of the member's final average salary or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(C) The state highway patrol retirement board shall adopt rules requiring a disability pension recipient, as a condition of continuing to receive a disability pension, to agree in writing to obtain any medical treatment recommended by the board's physician and submit medical reports regarding the treatment. If the board determines that a disability pension recipient is not obtaining the medical treatment or the board does not receive a required medical report, the disability pension shall be suspended until the treatment is obtained, the report is received by the board, or the board's physician certifies that the treatment is no longer helpful or advisable. Should the recipient's failure to obtain treatment or submit a medical report continue for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

(D) A member placed on a disability pension who has not attained the age of fifty-five years shall be subject to an annual medical re-examination by physicians appointed by the board, except that the board may waive the medical re-examination if the board's physicians ~~specify~~ certify that the member's disability is ongoing. If any member placed on a disability pension refuses to submit to a medical re-examination, the member's disability pension shall be ~~discontinued~~ suspended until the member withdraws the refusal. If the refusal continues for one year, all the member's rights under and to the disability pension shall be ~~forfeited~~ terminated as of the effective date of the original suspension.

~~(D)~~ (E) Each recipient of a disability pension who has not attained the age of fifty-five years shall file with the board an annual statement of earnings, current medical information on the recipient's condition, and any other information required in rules adopted by the board. The board may waive the requirement that a disability benefit recipient file an annual statement of earnings or current medical information if the board's physician certifies that the recipient's disability is ongoing.

The board shall annually examine the information submitted by the recipient. If a recipient refuses to file the statement or information, the disability pension shall be suspended until the statement and information are filed. If the refusal continues for one year, the right to the pension shall be terminated as of the effective date of the original suspension.

(F)(1) Except as provided in division (F)(2) of this section, a retirant who has been on disability pension, and who has been physically examined and found ~~capable~~ no longer incapable of performing the retirant's duties,

shall be restored to the rank the retirant held at the time the retirant was pensioned and all previous rights shall be restored, including the retirant's civil service status, and the disability pension shall terminate. Upon return to employment in the patrol, the retirant shall again become a contributing member of the retirement system, the total service at the time of the retirant's retirement shall be restored to the retirant's credit, and the retirant shall be given service credit for the period the retirant was in receipt of a disability pension. The provisions of ~~this division~~ (F)(1) of this section shall be retroactive to September 5, 1941.

~~(F)(2)~~ (2) The state highway patrol is not required to take action under division (f)(1) of this section if the retirant was dismissed or resigned in lieu of dismissal for dishonesty, misfeasance, malfeasance, or conviction of a felony.

(G) The board may adopt rules to carry out this section.

Sec. 5505.181. Not later than March 1, 2000, and each first day of March for the succeeding five years, the state highway patrol retirement board shall make and submit a report for the preceding fiscal year of the disability retirement experience of the state highway patrol. The report shall specify the total number of disability applications submitted, the status of each application as of the last day of the fiscal year, total applications granted or denied, and the percentage of disability benefit recipients to the total number of the patrol's employees who are members of the state highway patrol retirement system. The report shall be submitted to the governor, the Ohio retirement study council, and the chairpersons of the standing committees and subcommittees of the senate and house of representatives with primary responsibility for retirement legislation.

Sec. 5505.201. A member of the state highway patrol retirement system shall, in computing years of active service in the highway patrol under sections 5505.16, 5505.17, and 5505.18 of the Revised Code, be given full credit for time served as a ~~police officer~~ police officer or ~~fireman~~ firefighter covered under Chapter 742. and former Chapters 521. and 541. of the Revised Code, provided such member pays to the state highway patrol retirement system the amount received by ~~him~~ the member under division (I) of former section 521.11, division (I) of former section 741.18, division (I) of former section 741.49, or division (G) of section 742.37 of the Revised Code, with compound interest thereon at a rate to be determined by the state highway patrol retirement board from the date of such receipt to the date of such deposit. A member may choose to purchase only part of such credit in any one payment, subject to board rules.

Upon certification by the state highway patrol retirement board to the

board of trustees of the police and firemen's disability and pension fund of such payment by the member, the police and firemen's disability and pension fund shall pay from the appropriate employers' contribution fund under section ~~742.38~~ 742.59 of the Revised Code to the state highway patrol retirement system an amount equal to the payment of the member.

Sec. 5505.202. (A) As used in this section:

(1) ~~"State or municipal retirement system" means the public employees retirement system, the school employees retirement system, the state teachers retirement system, and the Cincinnati retirement system.~~

(2) ~~"Amount received" means the amount received by a former member of a state retirement system under section 145.40, 3307.46, or 3309.42 of the Revised Code, or the amount received by a former member of the Cincinnati retirement system as a return of the former member's contributions and payments for credit purchased for service as a member of the armed forces of the United States.~~

(3) ~~"Full-time service" means full-time service as defined by rule which shall be adopted by the state highway patrol retirement board.~~

(4)(2) ~~"Qualified contributions" means contributions to the public employees retirement system, state teachers retirement system, or school employees retirement system attributable to full-time service or purchase of credit for service in the armed forces of the United States.~~

(B) ~~In addition to credit purchased under section 5505.201 of the Revised Code, a member's total service credit for~~ (1) For purposes of computing the pension payable to the member under section 5505.17 or 5505.18 of the Revised Code shall include the following:

(1) ~~Service credit earned as a member of a state or municipal retirement system if, in the case of a member who, a member of the state highway patrol retirement system who is a former member of the public employees retirement system, school employees retirement system, or state teachers retirement system and has received a return of contributions from the state or municipal former retirement system, the member pays into the state highway patrol retirement system shall be given full credit for service credit earned for full-time service as a member of the former retirement system or purchased for service in the armed forces of the United States if, for each year of service credit, THE STATE HIGHWAY PATROL RETIREMENT SYSTEM RECEIVES THE SUM OF THE FOLLOWING:~~

(a) AN AMOUNT, WHICH SHALL BE PAID BY THE MEMBER to the member's credit in the employees savings fund ~~an amount,~~ equal to the amount received by the member from the ~~state or municipal former retirement system~~ for that year that is attributable to contributions made for

full-time service and payments for credit purchased for service in the armed forces of the United States, plus interest ~~compounded annually on such amount. The interest, at a rate determined by the state highway patrol retirement board, shall be computed on that amount~~ from the date payment was made to the member by the ~~state or municipal~~ former retirement system to the date the member makes the payment to the state highway patrol retirement system. ~~At the request of the state highway patrol retirement system, the state or municipal retirement system shall certify the beginning and ending dates of the member's service covered by that system, the amount received by the member from that system, and the date on which the payment was made. The state highway patrol retirement system shall determine the extent to which the amount received by the member is attributable to full-time service and shall inform the member of the payment necessary to purchase credit under this division. Subject to board rules, a member may choose to purchase in any one payment only part of the credit the member is eligible to purchase under this division;~~

(b) Interest, which shall be transferred by the former retirement system, on the amount received by the member that is attributable to the year of service from the last day of the year for which the service credit was earned or in which the military service credit was purchased OR OBTAINED to the date the amount was paid to the member;

(c) AN AMOUNT, WHICH SHALL BE TRANSFERRED BY the former retirement system, equal to the lesser of the employer's qualified contributions to the former retirement system for the year of service or the amount that would have been contributed by the employer for the year of service had the member been a member of the state highway patrol retirement system, with interest on that amount from the last day of the year for which the service credit was earned or in which military service credit was purchased or obtained to the date the transfer is made.

On receipt of payment from the member, the STATE HIGHWAY PATROL RETIREMENT SYSTEM shall notify the former retirement system, which, on receipt of the notice, shall make the transfer required by this division. Interest shall be determined in accordance with division (E) of this section.

(2) Full-time service credit earned as a member of the public employees retirement system or credit purchased for service in the armed forces of the United States if the member for purposes of computing the pension payable under section 5505.17 or 5505.18 of the Revised Code, a member of the state highway patrol retirement system who has not received a return of contributions to that on deposit with the public employees retirement

system, school employees retirement system, or state teachers retirement system and shall be given full credit for service credit earned for full-time service as a member of THAT retirement system or purchased for service in the armed forces of the United States if, at the member's request for each year of service, the public employees retirement system, school employees retirement system, or state teachers retirement system transfers to the state highway patrol retirement system an the sum of the following:

(a) An amount equal to the member's qualified contributions with interest compounded annually thereon for the period from the date that the last such contribution was made to the date the transfer is made. The interest shall be at the actuarial assumption rate of the public employees retirement system at the time the transfer is made. The public employees retirement system shall certify to the state highway patrol retirement system a copy of the records of the service and contributions of the member;

(b) AN AMOUNT EQUAL TO the lesser of the employer's qualified contributions to the PUBLIC EMPLOYEES retirement system, SCHOOL EMPLOYEES RETIREMENT SYSTEM, OR STATE TEACHERS RETIREMENT SYSTEM or the amount that would have been contributed by the employer for the full-time service had the member been a member of the state highway patrol retirement system;

(c) Interest, determined in accordance with division (E) of this section, on the amounts specified in divisions (B)(2)(a) and (b) of this section from the last day of the year for which the service credit was earned or in which military service credit was purchased or obtained to the date the transfer is made.

On receipt of a request from the member, the appropriate retirement system shall make the transfer.

(3) For purposes of computing the pension payable under section 5505.17 or 5505.18 of the revised Code, a member of the state highway patrol retirement system who HAS CONTRIBUTIONS ON DEPOSIT WITH the Cincinnati retirement system shall be given full credit for service credit earned for full-time service as a member of that retirement system or purchased from the retirement system for service in the armed forces of the United States if, for each year of service credit, THE STATE HIGHWAY PATROL RETIREMENT SYSTEM RECEIVES THE SUM OF THE FOLLOWING:

(a) AN AMOUNT, WHICH SHALL BE PAID BY THE member to the member's credit in the employees savings fund, equal to the amount withdrawn from the Cincinnati retirement system that is attributable to that year of service, with interest on that amount determined in accordance with

division (I) of this section from the date of withdrawal to the date of payment;

(b) INTEREST, WHICH SHALL BE PAID EITHER BY THE MEMBER OR THE CINCINNATI RETIREMENT SYSTEM, ON THE AMOUNT WITHDRAWN FROM THE CINCINNATI RETIREMENT SYSTEM THAT IS ATTRIBUTABLE TO THE YEAR OF SERVICE FROM THE LAST DAY OF THE YEAR FOR WHICH THE SERVICE CREDIT WAS EARNED OR IN WHICH THE MILITARY SERVICE CREDIT WAS PURCHASED OR OBTAINED TO THE DATE THE AMOUNT WAS WITHDRAWN;

(c) AN AMOUNT, WHICH SHALL BE PAID either BY the member or the Cincinnati retirement system, equal to the lesser of the amount contributed by the employer to the Cincinnati retirement system for the year of service or the amount that would have been contributed by the employer for the year of service had the member been a member of the state highway patrol retirement system, with interest on that amount from the last day of the year for which the service credit was earned or in which military service was purchased or obtained to the date the payment is made.

(C) If a member who is not a current contributor and has not received a refund of accumulated contributions elects to receive credit under section 145.295, 3307.412, or 3309.351 of the Revised Code for service for which the member contributed to the state highway patrol retirement system and credit purchased for service in the armed forces of the United States, the state highway patrol retirement system shall transfer to the public employees appropriate retirement system an the amount equal to the member's accumulated contributions and payments for credit purchased for service in the armed forces of the United States with interest compounded annually thereon for the period from the date the last contribution was made to the date the transfer is made. The interest shall be at the actuarial assumption rate of the state highway patrol retirement system at the time the transfer is made. The state highway patrol retirement system shall certify to the public employees retirement system a copy of the records of the service and contributions of the member specified in division (A) of section 145.295, division (A) of section 3307.412, or division (A) of section 3309.351 of the Revised Code.

(D)(1) A member is ineligible to purchase or otherwise receive credit under this section for service that is used in the calculation of any retirement benefit currently being paid or that is payable in the future to the member, or service rendered concurrently with any other period for which service credit has already been granted.

(2) Except as provided under division (D)(3) of this section, no service credit purchased under this section or received as a result of a transfer requested under this section shall be used to determine any member's eligibility for retirement under sections 5505.16 and 5505.17 of the Revised Code.

(3) Service credit obtained under this section by a member for credit purchased for service in the armed forces of the United States or for service as a state highway patrol cadet attending training school pursuant to section 5503.05 of the Revised Code shall be used to determine the member's eligibility for retirement under sections 5505.16 and 5505.17 of the Revised Code.

(4) Subject to rules of the state highway patrol retirement system, a member may choose to purchase only part of the credit the member is eligible to purchase under division (B)(1) OR (3) of this section.

(E) The at the request of the state highway patrol retirement system, the public employees retirement system, school employees retirement system, state teachers retirement system, or Cincinnati retirement system shall certify to the state highway patrol retirement system a copy of the records of service, salary, and contributions of a member who seeks service credit under this section.

Interest charged under this section shall be calculated separately for each year of service credit at the lesser of the actuarial assumption rate for that year of the state highway patrol retirement system or of the retirement system in which the credit was earned. The interest shall be compounded annually.

The state highway patrol retirement system board may adopt rules establishing procedures for the purchase of service credit or the transfer of contributions under this section.

~~(F)(1) If a former member of the state highway patrol retirement system who has received a refund of accumulated contributions pursuant to section 5505.19 of the Revised Code elects to receive credit under section 145.295 of the Revised Code for service for which the member contributed to the state highway patrol retirement system and credit purchased for service in the armed forces of the United States, the former member shall repay the state highway patrol retirement system the amount refunded, with interest compounded annually thereon as follows:~~

~~(a) From the date of the refund to the date of repayment to the state highway patrol retirement system in the case of a former member who had not purchased credit for the service under former division (A)(1) of section 145.295 of the Revised Code as it existed before August 25, 1995;~~

~~(b) In the case of a former member who had used the entire amount of the refund to purchase credit for the service under former division (A)(1) of section 145.295 of the Revised Code as it existed before August 25, 1995, from the date of the refund to the date of such purchase;~~

~~(c) In the case of a former member who had purchased credit for the service under former division (A)(1) of section 145.295 of the Revised Code, as it existed before August 25, 1995, using only a portion of the refund amount, from the date of the refund to the date of the purchase for the portion of the refund used for that purchase and from the date of the refund to the date of repayment under division (F)(1) of this section for the portion of the refund not used for that purchase.~~

~~The interest shall be at the actuarial assumption rate of the state highway patrol retirement system at the time of repayment or purchase, as applicable.~~

~~(2) Upon receipt of the repayment, the state highway patrol retirement system shall immediately transfer to the public employees retirement system an amount equal to the amount of the former member's accumulated contributions and payments for credit for service in the armed forces of the United States, plus interest compounded annually thereon as follows:~~

~~(a) From the date the last contribution was made to the state highway patrol retirement system to the date the transfer is made in case of a former member who had not purchased credit for the service under former division (A)(1) of section 145.295 of the Revised Code as it existed before August 25, 1995;~~

~~(b) In the case of a former member who had used the entire amount of the refund to purchase credit for the service under former division (A)(1) of section 145.295 of the Revised Code as it existed before August 25, 1995, from the date the last contribution was made to the state highway patrol retirement system to the date of such purchase;~~

~~(c) In the case of a former member who had purchased credit for the service under former division (A)(1) of section 145.295 of the Revised Code, as it existed before August 25, 1995, using only a portion of the refund amount, from the date the last contribution was made to the state highway patrol retirement system to the date of the purchase for the portion of the refund used for that purchase and from the date the last contribution was made to the date of transfer for the portion of the refund not used for that purchase.~~

~~The interest shall be at the actuarial assumption rate of the state highway patrol retirement system at the time of transfer or at the time of purchase under that former division, as applicable.~~

~~The state highway patrol retirement system shall certify to the public employees retirement system a copy of the records of the former member's service and contributions.~~

~~A former member who makes the repayment required under this division does not thereby become a member of the state highway patrol retirement system or have any of the rights, privileges, or obligations of membership.~~

Sec. 5505.28. (A) The state highway patrol retirement board may enter into an agreement with insurance companies, health insuring corporations, or government agencies authorized to do business in the state for issuance of a policy or contract of health, medical, hospital, or surgical benefits, or any combination thereof, for those persons receiving pensions and subscribing to the plan. Notwithstanding any other provision of this chapter, the policy or contract may also include coverage for any eligible individual's spouse and dependent children and for any of the individual's sponsored dependents as the board considers appropriate.

If all or any portion of the policy or contract premium is to be paid by any individual receiving a service, disability, or survivor pension or benefit, the individual shall, by written authorization, instruct the board to deduct from the individual's pension or benefit the premium agreed to be paid by the individual to the company, corporation, or agency.

The board may contract for coverage on the basis of part or all of the cost of the coverage to be paid from appropriate funds of the state highway patrol retirement system. The cost paid from the funds of the system shall be included in the employer's contribution rate as provided by section 5505.15 of the Revised Code.

(B) If the board provides health, medical, hospital, or surgical benefits through any means other than a health insuring corporation, it shall offer to each individual eligible for the benefits the alternative of receiving benefits through enrollment in a health insuring corporation, if all of the following apply:

(1) The health insuring corporation provides health care services in the geographical area in which the individual lives;

(2) The eligible individual was receiving health care benefits through a health maintenance organization or a health insuring corporation before retirement;

(3) The rate and coverage provided by the health insuring corporation to eligible individuals is comparable to that currently provided by the board under division (A) of this section. If the rate or coverage provided by the health insuring corporation is not comparable to that currently provided by

the board under division (A) of this section, the board may deduct the additional cost from the eligible individual's monthly benefit.

The health insuring corporation shall accept as an enrollee any eligible individual who requests enrollment.

The board shall permit each eligible individual to change from one plan to another at least once a year at a time determined by the board.

(C) The board shall, beginning the month following receipt of satisfactory evidence of the payment for coverage, pay monthly to each recipient of a pension under the state highway patrol retirement system who is eligible for medical insurance coverage under part B of "The Social Security Amendments of 1965," 79 Stat. 301, 42 U.S.C.A. 1395j, as amended, ~~the lesser of an amount equal to established by board rule not exceeding the basic premium for such coverage or an amount equal to the basic premium for such coverage in effect on January 1, 1994.~~

(D) The board shall establish by rule requirements for the coordination of any coverage, payment, or benefit provided under this section with any similar coverage, payment, or benefit made available to the same individual by the public employees retirement system, police and firemen's disability and pension fund, state teachers retirement system, or school employees retirement system.

(E) The board shall make all other necessary rules pursuant to the purpose and intent of this section.

Sec. 5731.09. (A) Except as provided in division (B) of this section, the value of the gross estate includes the value of an annuity or other payment receivable by a beneficiary by reason of surviving the decedent under any form of contract or agreement under which an annuity or similar payment was payable to the decedent, or the decedent possessed the right to receive such annuity or payment, either alone or in conjunction with another, for ~~his~~ the decedent's life or for any period not ascertainable without reference to ~~his~~ the decedent's death, or for any period which does not in fact end before ~~his~~ the decedent's death.

However, the value of the gross estate includes only such part of the value of the annuity or other payment receivable under the contract or agreement as is proportionate to that part of the purchase price of the contract or agreement contributed by the decedent. The value of the gross estate does not include the part of the value of the annuity or other payment as is proportionate to the part of the purchase price of the contract or agreement contributed by the employer or former employer of the decedent, whether to an employee's trust or fund forming part of a pension, annuity, retirement, bonus, or profit-sharing plan or otherwise, if the contributions

were made by reason of the decedent's employment.

(B) The value of the gross estate does not include the value of a pension or annuity accruing to any person under federal employment, including service in the armed forces, or the value of an annuity or other payment from the police and firemen's disability and pension fund created by section 742.02 of the Revised Code, the firemen and policemen's death benefit fund created by section ~~742.61~~ 742.62 of the Revised Code, the state highway patrol retirement system created by section 5505.02 of the Revised Code, the public employees retirement system created by section 145.03 of the Revised Code, the state teachers retirement system created by section 3307.03 of the Revised Code, and the school employees retirement system created by section 3309.03 of the Revised Code.

SECTION 2. That existing sections 145.011, 145.012, 145.09, 145.201, 145.22, 145.295, 145.31, 145.33, 145.35, 145.362, 145.43, 145.45, 145.46, 171.05, 742.01, 742.03, 742.04, 742.05, 742.08, 742.10, 742.11, 742.14, 742.22, 742.221, 742.23, 742.24, 742.251, 742.27, 742.31, 742.32, 742.33, 742.34, 742.35, 742.36, 742.37, 742.371, 742.372, 742.373, 742.374, 742.375, 742.376, 742.378, 742.379, 742.3711, 742.3713, 742.3714, 742.3715, 742.3716, 742.3717, 742.3718, 742.3719, 742.38, 742.39, 742.40, 742.50, 742.511, 742.512, 742.515, 742.52, 742.58, 742.61, 742.63, 3307.01, 3307.04, 3307.20, 3307.28, 3307.35, 3307.383, 3307.411, 3307.42, 3307.44, 3307.46, 3307.48, 3307.49, 3307.50, 3307.73, 3307.74, 3309.011, 3309.04, 3309.21, 3309.26, 3309.351, 3309.39, 3309.41, 3309.44, 3309.45, 3309.46, 5505.04, 5505.12, 5505.17, 5505.18, 5505.201, 5505.202, 5505.28, and 5731.09 and sections 171.06, 742.3720, and 742.3721 of the Revised Code are hereby repealed.

SECTION 3. An election made under division (C) of former section 742.3711 or division (C) of former section 742.3715 of the Revised Code on or after January 1, 1997, shall be considered to have taken effect on the date the election was made.

SECTION 4. Not later than one year after the effective date of this act, the Ohio Retirement Study Council shall have prepared a report that proposes to establish an alternative disability benefit plan for the Police and Firemen's Disability and Pension Fund and State Highway Patrol Retirement System that provides coverage to a disability benefit recipient until the recipient

reaches retirement eligibility age and, thereafter, permits the recipient to apply for age and service retirement. The proposed plan shall cost no more than the existing disability benefit plan offered by the retirement systems. The report shall be submitted to the chairpersons of the standing committees of the Senate and House of Representatives with primary responsibility for retirement legislation and to the executive directors of the Police and Firemen's Disability and Pension Fund and State Highway Patrol Retirement System.

SECTION 5. The repeal of section 171.06 of the Revised Code by this act is intended to confirm the earlier repeal of that section by Am. Sub. S.B. 82 of the 121st General Assembly.

SECTION 6. Section 145.33 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 379 and Am. Sub. H.B. 450 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 742.512 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 243 and H.B. 462 of the 117th General Assembly, with the new language of neither of the acts shown in capital letters. Section 3309.011 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 586 and Am. Sub. S.B. 230 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. Section 5505.04 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 627 and Am. Sub. H.B. 668 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

SECTION 7. The Ohio Retirement Study Council shall establish a task force consisting of the Administrator of the Bureau of Workers' Compensation and representatives of the Public Employees Retirement Board, Board of Trustees of the Police and Firemen's Disability and Pension Fund, School Employees Retirement Board, State Teachers Retirement Board, and State Highway Patrol Retirement Board to examine the

feasibility of coordinating benefits between the Bureau and retirement systems. Not later than one year after the effective date of this act, the Ohio Retirement Study Council shall have prepared a report of the findings of the task force. The report shall contain a survey of how other states coordinate similar benefits and an examination of the types of benefits provided by the Bureau and retirement systems. The report shall be submitted to the chairpersons of the standing committees and subcommittees of the Senate and House of Representatives with primary responsibility for retirement legislation.

SECTION 8. As used in this section, "member" means a member of the Public Employees Retirement System, School Employees Retirement System, or State Teachers Retirement System.

The amendments to sections 145.43, 145.45, 3307.48, 3307.49, 3309.44, and 3309.45 of the Revised Code by this act shall apply with regard to members whose deaths occur on or after the effective date of this act.

SECTION 9. (A) The Ohio Retirement Study Council shall have prepared a report that examines all of the following with regard to law enforcement officers and firefighters covered by the Police and Firemen's Disability and Pension Fund and Public Employees Retirement System:

- (1) The criteria used to determine membership in the Fund and System;
- (2) The extent to which service credit earned in one of the retirement systems can be transferred and used in the calculation of benefits from the other system;
- (3) Any other matter related to the information described in divisions (A)(1) and (2) of this section.

(B) The Public Employees Retirement System, Police and Firemen's Disability and Pension Fund, and employers of members of those retirement systems shall cooperate fully with the Ohio Retirement Study Council and its agents in providing information for the report. Notwithstanding sections 145.27 and 742.41 of the Revised Code, the retirement systems shall furnish to the Council, or the Council's agent, any records necessary to complete the report. The Council and its agents shall preserve the confidentiality of information in records that are confidential or privileged under section 145.27 or 742.41 of the Revised Code, and the records shall not be open to public inspection. Records or copies of records furnished under this section to the Council or its agent shall be returned by the Council to the retirement

Sub. H. B. No. 648

181

system from which they were obtained immediately on completion of their use by the Council or its agent.

(C) The report shall be completed and submitted not later than one year after the effective date of this act to the chairpersons of the standing committees of the Senate and House of Representatives with primary responsibility for retirement legislation.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____