

AN ACT

To amend sections 742.21, 742.212, 742.214, 742.221, 742.23, 742.24, 742.251, 742.27, 742.37, 742.371, 742.375, 742.376, 742.3711, 742.3714, 742.3716, 742.44, 742.442, 742.443, 742.444, 742.52, 5505.01, 5505.15, 5505.162, 5505.163, and 5505.18 and to enact section 5505.178 of the Revised Code to revise the laws governing the Ohio Police and Fire Pension Fund's Deferred Retirement Option Plan and the State Highway Patrol Retirement System.

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

SECTION 1. That sections 742.21, 742.212, 742.214, 742.221, 742.23, 742.24, 742.251, 742.27, 742.37, 742.371, 742.375, 742.376, 742.3711, 742.3714, 742.3716, 742.44, 742.442, 742.443, 742.444, 742.52, 5505.01, 5505.15, 5505.162, 5505.163, and 5505.18 be amended and section 5505.178 of the Revised Code be enacted to read as follows:

Sec. 742.21. (A) As used in this section and sections 742.211 to 742.214 of the Revised Code:

(1) "Full-time service" has the meaning established by rule of the board of trustees of the Ohio police and fire pension fund.

(2) "Military service credit" means credit for service in the armed forces of the United States purchased or obtained from the fund, the Cincinnati retirement system, or a non-uniform retirement system.

(3) "Non-uniform retirement system" or "non-uniform system" means the public employees retirement system, school employees retirement system, or state teachers retirement system.

(B) Unless section 742.212 of the Revised Code applies and except as provided in ~~division~~ divisions (G) and (I) of this section, in computing the pension and benefits payable under section 742.37 or 742.39 of the Revised Code, the Ohio police and fire pension fund shall give a member of the fund who is in the active service of a police or fire department ~~and~~, and is not receiving a pension or benefit payment from the fund, and is not a

participant in the deferred retirement option plan established under section 742.43 of the Revised Code full credit for service credit earned for full-time service as a member of the Cincinnati retirement system or purchased or obtained as military service credit if, for each year of service credit, 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(1) An amount, which shall be paid by the member, equal to the amount withdrawn by the member from the retirement system that is attributable to the year of service credit, with interest at a rate established by the board on that amount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 Cincinnati retirement system, on the amount withdrawn by the member 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 payment was made for military service credit to the date the withdrawal was made;

(3) An amount, which shall be paid by either 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 employed by the member's current employer as a member of a police or fire department at the time the credit was earned, with interest on that amount from the last day of the year for which the service credit was earned or in which payment was made for military service credit to the date the payment is made;

(4) If the member became a member of the fund on or after September 16, 1998, 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)(1) Except as provided in ~~division~~ divisions (G) and (I) of this section, 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 payment from the fund, ~~and~~ has withdrawn the member's contributions from a non-uniform retirement system, and is not a participant in the deferred retirement option plan established under section 742.43 of the Revised Code full credit for service credit earned for full-time service as a member of the non-uniform system or purchased or obtained as military service credit if, for each year of service, the fund receives the sum of the following:

(a) An amount, which shall be paid by the member, equal to the amount withdrawn by the member from the non-uniform system that is attributable to that year of service credit, with interest at a rate established by the board on that amount from the date of withdrawal to the date of payment;

(b) If the member is seeking credit for service under the public employees retirement system or state teachers retirement system, an amount, which shall be paid by the member, equal to the amount of any employer contributions and interest on employee contributions the member received under section 145.40 or 3307.563 of the Revised Code;

(c) Interest, which shall be transferred by the non-uniform system, on the amount withdrawn by the member from the non-uniform 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 payment was made for military service credit to the date the withdrawal was made;

(d) An amount, which shall be transferred by the non-uniform system, equal to the lesser of the amount contributed by the employer to the non-uniform 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 at the time the credit was earned, with interest on that amount from the last day of the year for which the service credit was earned or in which payment was made for military service credit to the date the transfer is made;

(e) If the member became a member of the fund on or after September 16, 1998, the amount, which shall be paid by the member, determined pursuant to division (I) of this section.

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

(3) The amount transferred under division (C)(1) of this section by the public employees retirement system or state teachers retirement system shall not include any amount of employer contributions and interest on employee contributions the member received under section 145.40 or 3307.563 of the Revised Code.

(D) Except as provided in ~~division~~ divisions (G) and (I) of this section, 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 a

non-uniform retirement system, and is not a participant in the deferred retirement option plan established under section 742.43 of the Revised Code full credit for service credit earned for full-time service as a member of the non-uniform system or service credit purchased or obtained as military service credit if both of the following occur:

(1) The non-uniform system transfers to the fund, for each year of service, the sum of the following:

(a) The amount, contributed by the member or, in the case of military service credit, paid by the member, that is attributable to that service;

(b) An amount equal to the lesser of the amount contributed by the employer to the non-uniform 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 at the time the credit was earned;

(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 in the non-uniform system 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 September 16, 1998, the member pays the amount determined pursuant to division (I) of this section.

On receipt of a request from the member, the appropriate non-uniform 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.

(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.

(F) At the request of the fund, the non-uniform 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.

(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 under any other retirement program, service rendered concurrently with any other period for which service credit has already been granted, or for service credit that may be transferred under section 742.214 of the Revised Code.

(H) Interest charged under this section shall be calculated separately for each year of service credit. Unless otherwise specified in this section, it shall be calculated at the lesser of the actuarial assumption rate for that year of the

fund or of the 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.

(I) The amount to be paid pursuant to division (B)(4), (C)(1)(e), or (D)(2) of this section or division (B)(2) or (C)(2)(b) of section 742.212 of the Revised Code 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)(1)(d), or (D)(1)(b) of this section or division (B)(2) or (C)(2)(b) of section 742.212 of the Revised Code 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 or division (B) or (C) of section 742.212 of the Revised Code 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 or division (B) or (C) of section 742.212 of the Revised Code 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 or calculated under section 742.442 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, 3307.761, or 3309.73 of the Revised Code for service for which the member contributed to the fund or purchased as military service credit, the fund shall transfer to the non-uniform retirement system the amount specified in division (B) of section 145.295 of the Revised Code, division (C) of section 3307.761 of the Revised Code, or division (B) of section 3309.73 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. 742.212. (A) If the conditions described in division (A) of section 742.211 of the Revised Code are met, a member of the Ohio police and fire pension fund who is not receiving a pension or benefit from the fund and is not a participant in the deferred retirement option plan established under section 742.43 of the Revised Code is eligible to obtain credit for service as a member of the Cincinnati retirement system under this section.

(B) A member of the fund who has contributions on deposit with the Cincinnati retirement system shall, in computing years of service credit, be given credit for service credit earned for full-time service under the Cincinnati retirement system or purchased or obtained as military service credit if both of the following occur:

(1) For each year of service, the Cincinnati retirement system transfers

to the Ohio police and fire pension fund the sum of the following:

(a) The amount, contributed by the member, or, in the case of military service credit, paid by the member, that is attributable to that service;

(b) An amount 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 employed by the member's current employer as a member of the Ohio police and fire pension fund at the time the credit was earned;

(c) Interest on the amounts specified in divisions (B)(1)(a) and (b) of this section from the last day of the year for which the service credit was earned or in which payment was made for military service credit to the date the transfer is made.

(2) If the member became a member of the fund on or after September 16, 1998, the member pays the amount determined pursuant to division (I) of section 742.21 of the Revised Code.

(C)(1) A member of the fund who has received a refund of the member's contributions to the Cincinnati retirement system shall, in computing years of service, be given credit for service credit earned for full-time service under the Cincinnati retirement system or purchased or obtained as military service credit if both of the following occur:

(a) For each year of service, the Cincinnati retirement system transfers to the Ohio police and fire pension fund the sum of the following:

(i) Interest 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 payment was made for military service credit to the date the refund was made;

(ii) An amount 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 employed by the member's current employer as a member of the Ohio police and fire pension fund at the time the credit was earned, with interest on that amount from the last day of the year for which the service credit was earned to the date of the transfer.

(b) The member pays the sum of the following:

(i) An amount equal to the amount refunded by the Cincinnati retirement system to the member for that year for contributions and payments for military service credit, with interest at a rate established by the board of trustees of the Ohio police and fire pension fund on that amount from the date of the refund to the date of payment;

(ii) An amount equal to the interest, if any, the member received when the refund was made that is attributable to the year of service;

(iii) If the member became a member of the fund on or after September 16, 1998, an amount paid by the member determined pursuant to division (I) of section 742.21 of the Revised Code.

(2) The amount transferred under division (C)(1)(a) of this section shall not include any interest the Cincinnati retirement system paid the person when it made the refund.

(D) Interest charged under this section shall be calculated separately for each year of service credit. Unless otherwise specified in this section, it shall be calculated at the lesser of the actuarial assumption rate for that year of the fund or the Cincinnati retirement system. The interest shall be compounded annually.

(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 this section.

Interest charged under this section shall be calculated separately for each year of ~~service~~ service credit. Unless otherwise specified in this section, it shall be calculated at the lesser of the actuarial assumption rate for that year of the fund or the Cincinnati retirement system. The interest shall be compounded annually.

(F) 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 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) At the request of the fund, the 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.

On receipt of payment from the member under division (C)(1)(b) of this section, the Ohio police and fire pension fund shall notify the Cincinnati retirement system. On receipt of the notice, the Cincinnati retirement system shall transfer the amount described in division (C)(1)(a) of this section.

(H) 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 does not increase a pension or benefit payable under section 742.37 or 742.39 or calculated under section 742.442 of the Revised Code. The refund cancels an equivalent amount of service credit.

(I) The board shall adopt rules establishing a payroll deduction plan for

purchase of service credit under this section. The rules shall meet the requirements described in section 742.56 of the Revised Code.

Sec. 742.214. (A) As used in this section, "transferred service credit" means service credit purchased or obtained under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code prior to the date a member commenced the employment covered by the Ohio police and fire pension fund for which the member is currently contributing to the fund.

(B) A member of the Ohio police and fire pension fund who is in the active service of a police or fire department ~~and~~, has contributions on deposit with, but is no longer contributing to, a non-uniform retirement system, and is not a participant in the deferred retirement option plan established under section 742.43 of the Revised Code shall, in computing years of service, be given full credit for transferred service credit if a transfer to the Ohio police and fire pension fund is made under this section. At the request of a member, the non-uniform system shall transfer to the Ohio police and fire pension fund the sum of the following:

(1) An amount equal to the amounts transferred to the non-uniform system under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code;

(2) Interest, determined as provided in division (E) of this section, on the amount specified in division (B)(1) of this section for the period from the last day of the year in which the transfer under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code was made to the date a transfer is made under this section.

(C) A member of the fund ~~with at least eighteen months of contributing service credit with the Ohio police and fire pension fund~~ who is in the active service of a police or fire department, ~~and~~ has received a refund of contributions to a non-uniform retirement system, and is not a participant in the deferred retirement option plan established under section 742.43 of the Revised Code shall, in computing years of service, be given full credit for transferred service credit if, for each year of service, the Ohio police and fire pension fund receives the sum of the following:

(1) An amount, which shall be paid by the member, equal to the amount refunded by the non-uniform system to the member for that year for transferred service credit, with interest on that amount from the date of the refund to the date a payment is made under this section;

(2) Interest, which shall be transferred by the non-uniform system, on the amount refunded to the member for the period from the last day of the year in which the transfer under section 145.295, 145.2913, 3307.761,

3307.765, 3309.73, or 3309.731 of the Revised Code was made to the date the refund was made;

(3) If the non-uniform system retained any portion of the amount transferred under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code, an amount, which shall be transferred by the non-uniform system, equal to the amount retained, with interest on that amount for the period from the last day of the year in which the transfer under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code was made to the date a transfer is made under this section.

On receipt of payment from the member, the Ohio police and fire pension fund shall notify the non-uniform 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.

(D) Service credit purchased or obtained under this section shall be used in computing the pension and benefits payable under section 742.37 or 742.39 of the Revised Code. A member may choose to purchase only part of the credit the member is eligible to purchase under division (C) of this section in any one payment, subject to rules adopted by the board of trustees of the Ohio police and fire pension fund. A member is ineligible to purchase or obtain service credit under this section for service to be used in the calculation of any retirement benefit currently being paid or payable to the member in the future under any other retirement program or for service credit that may be purchased or obtained under section 742.21 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 Ohio police and fire pension fund or of the non-uniform retirement system to which the credit was transferred under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code. The interest shall be compounded annually.

(F) Any amounts transferred or paid under divisions (B) and (C) of this section that are attributable to contributions made by the member or to amounts paid to purchase service credit shall be credited to the police officers' contribution fund or firefighters' contribution fund created under section 742.59 of the Revised Code, as applicable. Any remaining amounts shall be credited to one or more of the funds created under that section as determined by the board.

(G) At the request of the Ohio police and fire pension fund, the non-uniform 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. The non-uniform retirement system shall specify the portions of the amounts transferred that are attributable to employee contributions, employer contributions, and interest.

(H) If a member of the fund who is not a current contributor elects to receive service credit under section 145.2913, 3307.765, or 3309.731 of the Revised Code for transferred service credit, as defined in those sections, the fund shall transfer to the non-uniform retirement system, as applicable, the amount specified in division (B) or (C) of section 145.2913, division (B) or (C) of section 3307.765, or division (B) or (C) of section 3309.731 of the Revised Code.

(I) The board may adopt rules to implement this section.

Sec. 742.221. A member of the Ohio police and fire 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; and who is not a participant in the deferred retirement option plan established under section 742.43 of the Revised Code 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 trustees of the Ohio police and fire 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, and who is not a participant in the deferred retirement option plan established under section 742.43 of the Revised Code 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 the member has paid into the Ohio police and fire pension fund a sum equal to that which 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 the member been contributing a percentage of the member's salary to a firemen's relief and pension fund or to the Ohio police and fire 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, and who is not a participant in the deferred retirement option plan established under section 742.43 of the Revised Code~~ 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 the member has paid into the Ohio police and fire pension fund a sum equal to that which 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 the member been contributing a percentage of the member's salary to a police relief and pension fund or to the Ohio police and fire pension fund, as provided by such sections during such years.

Sec. 742.251. (A) A member of the Ohio police and fire pension fund who is not a participant in the deferred retirement option plan established under section 742.43 of the Revised Code, 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 Ohio police and fire pension fund who, during employment as a member of a police or fire department, is removed from active pay status by being laid off by 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 the member was laid off, if all of the following conditions are met:

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

(2) During the time the member was laid off, 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, the member's employer, or the member and the employer.

(4) At the time the fund receives the amount described in division (B)(3) of this section, the member is not a participant in the deferred retirement option plan established under section 742.43 of the Revised Code.

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 shall adopt rules for the implementation of this section.

Sec. 742.37. The board of trustees of the Ohio police and fire 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 Ohio police and fire pension fund, known at that time as the police and firemen's disability and pension fund, shall receive benefit and pension payments from the Ohio police and fire 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 Ohio police and fire 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. ~~Except while participating in the deferred retirement option plan established under section 742.43 of the Revised Code, upon~~ Upon notifying the board in writing of the election, the member 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.

While participating in the deferred retirement option plan established under section 742.43 of the Revised Code, a member shall not be considered to have elected retirement under division (C)(1) of this section. On notifying the board under division (B)(1) of section 742.444 of the Revised Code of the member's election to terminate active service, a member described in division (B) of that section shall receive an annual pension under division (C)(1) of this section calculated in accordance with section 742.442 of the Revised Code and rules that shall be adopted by the board of trustees of the Ohio police and fire pension fund.

(2) 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.

(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.

(4) With the exception of 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.

(D)(1) Except as provided in division (D)(2) of this section, a surviving spouse of a deceased member of the fund or a surviving spouse described in division (D)(4) of this section shall receive a monthly pension as follows:

(a) For the period beginning July 1, 1999, and ending June 30, 2000, five hundred fifty dollars;

(b) For the period beginning July 1, 2000, and ending June 30, 2002, five hundred fifty dollars plus an amount determined by multiplying five hundred fifty dollars by the average percentage change in the consumer price index, not exceeding three per cent, as determined by the board under former section 742.3716 of the Revised Code;

(c) For the period beginning July 1, 2002, and the period beginning the first day of July of each year thereafter and continuing for the following

twelve months, an amount equal to the monthly amount paid during the prior twelve-month period plus sixteen dollars and fifty cents.

(2) A surviving spouse of a deceased member of the fund shall receive a monthly pension of four hundred ten dollars if the surviving spouse is eligible for a benefit under division (B) or (D) of section 742.63 of the Revised Code. If the surviving spouse ceases to be eligible for a benefit under division (B) or (D) of section 742.63 of the Revised Code, the pension shall be increased, effective the first day of the first month following the day on which the surviving spouse ceases to be eligible for the benefit, to the amount it would be under division (D)(1) of this section had the spouse never been eligible for a benefit under division (B) or (D) of section 742.63 of the Revised Code.

(3) A pension paid under this division shall continue during the natural life of the surviving spouse. 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 September 16, 1998, 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.

(4) A surviving spouse of a deceased member of or contributor to a fund established under former Chapter 521. or 741. of the Revised Code whose benefit or pension was terminated or not paid due to remarriage shall receive a monthly pension under division (D)(1) of this section.

The pension shall commence on the first day of the month immediately following receipt by the board of a completed application on a form provided by the board and evidence acceptable to the board that at the time of death the deceased spouse was a member of or contributor to a police or firemen's relief and pension fund established under former Chapter 521. or 741. of the Revised Code and that the surviving spouse's benefits were terminated or not granted due to remarriage.

(E)(1) Each surviving child of a deceased member of the fund shall receive a monthly pension until the child attains the age of eighteen years, or marries, whichever event occurs first. A pension 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. 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

death, the child shall receive a monthly pension under this division during the child's natural life or until the child has recovered from the disability.

(2) An eligible surviving child shall receive a monthly pension as follows:

(a) For the period beginning July 1, 2001, and ending June 30, 2002, a monthly pension of one hundred fifty dollars plus the cost of living increase provided for in former section 742.3720 of the Revised Code;

(b) For the period beginning July 1, 2002, and ending June 30, 2003, one hundred sixty-three dollars and fifty cents;

(c) For the period beginning July 1, 2003, and the period beginning the first day of each July thereafter and continuing for the following twelve months, an amount equal to the monthly amount paid during the prior twelve-month period plus four dollars and fifty cents.

(F)(1) If a deceased member of the fund leaves no surviving spouse or surviving children, but leaves one or two parents dependent upon the deceased member for support, each parent shall be paid a monthly pension. 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.

(2) Each eligible surviving parent shall be paid a monthly pension as follows:

(a) For the period ending June 30, 2002, one hundred six dollars for each parent or two hundred twelve dollars for a sole dependent parent;

(b) For the period beginning July 1, 2002, and ending June 30, 2003, one hundred nine dollars for each parent or two hundred eighteen dollars for a sole dependent parent;

(c) For the period beginning July 1, 2003, and the first day of each July thereafter and continuing for the following twelve months, an amount equal to the monthly amount paid during the prior twelve-month period plus three dollars for each parent or six dollars for a sole dependent parent.

(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

ined age sixty-five on January 1, 1970, and was receiving a pension on December 31, 1969, pursuant to division (B) or (C)(1) 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), 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 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 Ohio police and fire pension fund, and is not a participant in the deferred retirement option plan established under section 742.43 of the Revised Code 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 previously served in the active full-time service of an Ohio police or fire department, provided both of the following occur:

(A) The member was a member of a police or firemen's relief and pension fund or the Ohio police and fire pension fund during the entire period for which such active service credit is claimed.

(B) The member pays into the Ohio police and fire pension fund the amount received by 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 Ohio police and fire pension fund, from the date of such receipt to the date of such deposit.

Subject to board rules, a member may choose to purchase in any one payment only part of the credit that may be purchased under this section.

At the request of the fund, the employer shall certify to the board the dates the member was in the active service of the police or fire department.

Sec. 742.375. Except for service credit transferred under section 742.214 of the Revised Code, 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 Ohio police and fire pension fund, and is not a participant in the deferred retirement option plan established under section 742.43 of the Revised Code 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 Ohio police and fire pension fund the amount received by the member under section 5505.19 of the Revised Code, with interest compounded annually thereon at a rate to be determined by the board of trustees of the Ohio police and fire 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.

Upon certification by the board 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 Ohio police and fire 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 Ohio police and fire pension fund, and is not a participant in the deferred retirement option plan established under section 742.43 of the Revised Code 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 police officer or 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 the member's retirement contributions.

(D) The member pays into the Ohio police and fire pension fund the amount withdrawn by 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 Ohio police and fire pension fund shall forever bar the member from reinstating such credit in the public employees retirement system.

Sec. 742.3711. (A) On application for retirement as provided in section 742.37 of the Revised Code, a member of the fund may elect to receive a retirement allowance payable throughout the member's life, or may elect, on the application for retirement, to receive the actuarial equivalent of the member's retirement allowance in a lesser amount payable for life and continuing after death to a surviving designated beneficiary under one of the following optional plans, provided the amount payable to the beneficiary shall not exceed the amount payable to the retiring member of the fund, and is certified by the actuary engaged by the board of trustees of the Ohio police and fire pension fund to be the actuarial equivalent of the member's retirement allowance and is approved by the board.

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

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

(3) Option 3. Upon the member's death before the expiration of a certain period from the retirement date and elected by the member and approved by the retirement board, the member's lesser retirement allowance shall be continued for the remainder of that period to the beneficiary the member has nominated by written designation and 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~~ The death of a spouse nominated as beneficiary or the death of any other nominated beneficiary following a member's retirement or election under section 742.44 of the Revised Code to participate in the deferred retirement option plan shall cancel 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 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 receiving a pension under section 742.37 or 742.39 of the Revised Code may elect not later than one year after the date of marriage or remarriage a new optional plan of payment based on the actuarial equivalent of the member's single lifetime benefit as determined by the board. The plan and the member's lesser retirement allowance shall become effective 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:

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

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

(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)(1)(b) of this section, it shall determine and pay the retirement allowance in accordance with division (A)(2) of this section, except that the board may provide by rule for waiver by the board of the statement and payment of the allowance other than in accordance with division (A)(2) of this section if the retirant is unable to obtain the statement due to absence or incapacity of the spouse or other cause specified by the board.

(E) A member of the fund who has elected an optional plan under this section or section 742.3715 of the Revised Code may, with the consent of the designated beneficiary, cancel the optional plan and receive the

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

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

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

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

The board shall annually increase all benefits payable under this section or section 742.3715 of the Revised Code to eligible persons by the actuarial equivalent of three hundred sixty dollars, except that no benefit shall exceed the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

The first increase is payable to all eligible persons on July 1, 1988. The increase is payable for the ensuing twelve-month period or until the next increase is granted under this section, whichever is later.

The date of the first increase payable under this section shall be the anniversary date for future increases.

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 Ohio police and fire 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 (3) of section 742.37 of the Revised Code may designate one dependent, not the member's or former member's spouse, as 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 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 the member's or former member's death was eligible to retire and receive a pension or benefit under division (C)(1) or (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 Unless at the time of death the member was participating in the deferred retirement option plan established under section 742.43 of the Revised Code, 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 the member's or former member's lesser retirement allowance to be paid to the surviving spouse or contingent dependent beneficiary. ~~Payments~~ The allowance paid under this section to the surviving spouse or contingent dependent beneficiary of a member who at the time of death was participating in the deferred retirement option plan

established under section 742.43 of the Revised Code shall be an amount calculated in accordance with section 742.442 of the Revised Code and rules that shall be adopted by the board of trustees of the Ohio police and fire pension fund.

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. 742.3716. (A)(1) As used in this section:

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

~~(a)~~(i) Has been receiving a pension or benefit under this chapter for one year or more based on an award made on or after July 24, 1986;

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

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

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

~~(2)~~(b) "Recalculated average annual salary" means the highest average annual compensation of a member of the Ohio police and fire pension fund during any three years of contributions, including amounts included in terminal pay attributable to such three years, determined by dividing the member's total earnings as an employee during such years by three.

(2) In the case of a member participating in the deferred retirement option plan established under section 742.43 of the Revised Code or a member described in division (B) of section 742.444 of the Revised Code, the period of one year or more described in division (A)(1)(a)(i) of this section begins on the effective date of the member's election under section 742.44 of the Revised Code.

(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. This division does not apply to a member of the fund who has elected to participate in the deferred

retirement option plan established under section 742.43 of the Revised Code unless the member's participation has terminated pursuant to division (C) of section 742.444 or to section 742.445 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 (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) The board of trustees of the Ohio police and fire pension fund shall annually increase all benefits payable to eligible persons by three per cent, except that no benefit shall exceed the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

The first increase is payable to all eligible persons who on July 1, 1988, have been receiving a pension or benefit for twelve months or longer. The increase is payable for the ensuing twelve-month period or until the next increase is granted under this section, whichever is later.

The date of the first increase paid under this section shall be the anniversary date for future increases. The pension or benefit used in the first calculation of an increase under this section shall remain as the base for all future increases paid under this section, unless a new base is established by law. In the case of a member who has elected to participate in the deferred retirement option plan established under section 742.43 of the Revised Code or a member described in division (B) of section 742.444 of the Revised Code, the pension amount used in the first calculation of an increase under this section shall be the amount calculated under section 742.442 of the Revised Code unless the member's participation has terminated pursuant to division (C) of section 742.444 or to section 742.445 of the Revised Code.

(2) Increases paid in years subsequent to the year of the first increase

paid under this section shall be paid to all eligible persons who, on the date that the increase is authorized by the board, have been receiving a pension or benefit for twelve months.

Sec. 742.44. Except as provided in section 742.14 of the Revised Code, at any time prior to filing an application for retirement under division (C)(1) of section 742.37 of the Revised Code, a member who is eligible to retire under that division may elect to participate in the deferred retirement option plan established under section 742.43 of the Revised Code.

To make an election, an eligible member shall complete and submit to the Ohio police and fire pension fund a form prescribed by the fund. At this time the member may, but is not required to, elect under section 742.3711 of the Revised Code to have the member's monthly pension calculated as a retirement allowance payable throughout the member's life or a retirement allowance ~~that continues to a surviving beneficiary under option 2 in division (A) of section 742.3711 of the Revised Code.~~ Unless rescinded during a period specified in rules adopted under section 742.43 of the Revised Code, the election is irrevocable from the date it is received by the fund until the employee ceases to participate in the plan as provided in section 742.444 of the Revised Code.

A member is not required to specify the number of years or portion of a year the member will participate in the plan but must agree to terminate active service in a police or fire department and begin receiving the member's pension not later than the date that is eight years after the effective date of the election to participate in the plan or be subject to the forfeiture provisions of division (C) of section 742.444 of the Revised Code.

The effective date of an election made under this section is the first day of the employer's first payroll period immediately following the board's receipt of the notice of election.

Sec. 742.442. For each member who elects to participate in the deferred retirement option plan, the Ohio police and fire pension fund shall determine under division (C)(1) of section 742.37 of the Revised Code the monthly pension amount that would be payable to the member had the member elected to receive a pension under that division. In determining the pension amount, the fund shall use the member's total service credit and average annual salary as of the last day of the employer's payroll period immediately prior to the effective date of the member's election to participate in the plan. The pension amount shall be calculated as a retirement allowance payable for the member's life, except that, if at the time of electing to participate in the plan the member selected ~~another~~ the plan of payment in option 2 of division (A) of section 742.3711 of the Revised Code, the pension shall be

calculated using ~~the~~ that plan of payment ~~selected~~.

A member who participates in the plan is not eligible to make an election under division (B) of section 742.3716 of the Revised Code.

Sec. 742.443. (A) During the period beginning on the effective date of an election to participate in the deferred retirement option plan and ending on the date participation ceases, a member's monthly pension amount determined under section 742.442 of the Revised Code shall accrue to the member's benefit. To this amount shall be added any benefit increases the member would be eligible for under division (C) of section 742.3716 of the Revised Code had the member, on the effective date of the member's election, retired under division (C)(1) of section 742.37 of the Revised Code.

(B)(1) The amounts contributed under section 742.31 of the Revised Code by a member participating in the deferred retirement option plan shall accrue to the member's benefit as follows:

(a) During the period beginning on the first day of the first payroll period after the election's effective date and ending on the earlier of the date that is two years thereafter or the date the member ceases participation in the plan, fifty per cent of the member's contributions for that period;

(b) During the period beginning on the date that is two years and one day after accruals begin under this division and ending on the earlier of the date that is three years thereafter or the date the member ceases participation in the plan, seventy-five per cent of the member's contributions for that period;

(c) During the period beginning on the date that is three years and one day after accruals begin under this section and ending on the date the member ceases participation in the plan, one hundred per cent of the member's contributions for that period.

(2) The Ohio police and fire pension fund shall credit the portion of a member's contributions that are not accrued to the member's benefit under division (B)(1) of this section to the police officers' contribution fund or firefighters' contribution fund, as appropriate.

(C) During the period beginning on the election's effective date and ending on the day before the date the member ceases participation in the plan ~~distributions under division (B)(3) of section 742.444 of the Revised Code are completed~~, the amounts described in divisions (A) and (B)(1) of this section shall earn interest at an annual rate established by the board of trustees of the fund and compounded annually using a method established by rule adopted under section 742.43 of the Revised Code.

Sec. 742.444. (A) A member's participation in the deferred retirement

option plan ceases on the occurrence of the earliest of the following:

(1) Termination of the member's active service in a police or fire department;

(2) The last day of the eight-year period that begins on the effective date of the member's election to participate in the plan;

(3) Acceptance by the member of a disability benefit awarded by the board of trustees of the Ohio police and fire pension fund, unless the acceptance is revoked by the member in accordance with rules adopted by the board;

(4) The member's death.

(B) If a member terminates active service in a police or fire department not later than eight years after the effective date of the member's election to participate in the plan, all of the following apply:

(1) The member shall notify the Ohio police and fire pension fund of the date of termination on a form prescribed by the fund. The member is not eligible to make another election under section 742.44 of the Revised Code.

(2) If the member's termination of active service occurs on or after the date that is the first day of the fourth year after the effective date of the election to participate in the plan, the entire amount that has accrued to the member's benefit under the deferred retirement option plan shall be distributed to the member pursuant to the member's selection under division (B)(3) of this section. If the termination of active service occurs before the date that is four years after the effective date of the election to participate, the member shall forfeit the total amount of the interest credited under division (C) of section 742.443 of the Revised Code.

(3) The member shall select one of the following as the method of distribution of the amount to be distributed to the member:

(a) A single payment;

(b) Periodic payments as determined by the board.

The fund shall retain amounts accrued to the benefit of a member under the plan until a form specifying the method of distribution selected is filed with the fund by the member or an authorized representative of the member.

The board shall afford a member who selects periodic payments the opportunity at least once during each calendar year to change the member's selection.

(4) Distribution of the amount accrued to a member's benefit under the deferred retirement option plan shall not commence until the date that is the first day of the fourth year after the effective date of the election.

(5) The member shall select a plan of payment under section 742.3711 of the Revised Code for the pension payable to the member under division

(C) of section 742.37 of the Revised Code, unless the member selected a plan of payment at the time of electing to participate in the plan. The pension shall commence ~~on~~ not later than the first day of the second month following the date the employee ceases to participate in the plan.

(C) If, at the end of the eight-year period that begins on the effective date of a member's election to participate in the plan, the member has failed to terminate active service in a police or fire department, all of the following apply:

(1) No further amounts shall accrue to the member's benefit, and the member shall forfeit all amounts that have accrued to the member's benefit under section 742.443 of the Revised Code. The amounts forfeited shall be treated as if the member had continued in the active service of a police or fire department and not elected to participate in the plan.

(2) The member shall be granted service credit for the period the member was participating in the plan, and when the member's pension is calculated under section 742.37 of the Revised Code, the calculation shall be made as though the member had never participated in the plan.

(3) Further contributions, and service credit for those contributions, shall be credited as provided in sections 742.31 through 742.34 of the Revised Code.

Sec. 742.52. (A) A member of the Ohio police and ~~and~~ fire pension fund who is not receiving a disability benefit or pension from the fund and is not a participant in the deferred retirement option plan established under section 742.43 of the Revised Code 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 who is not a participant in the deferred retirement option plan established under section 742.43 of the Revised Code 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 Ohio police and fire 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. 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 or calculated under section 742.442 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. 5505.01. As used in this chapter:

(A) "Employee" means any qualified employee in the uniform division of the state highway patrol, any qualified employee in the radio division hired prior to November 2, 1989, and any state highway patrol cadet attending training school pursuant to section 5503.05 of the Revised Code whose attendance at the school begins on or after June 30, 1991. "Employee" includes the superintendent of the state highway patrol. In all cases of doubt, the state highway patrol retirement board shall determine whether any person is an employee as defined in this division, and the decision of the board is final.

(B) "Prior service" means all service rendered as an employee of the state highway patrol prior to September 5, 1941, to the extent credited by the board, provided that in no case shall prior service include service rendered prior to November 15, 1933.

(C) "Total service" means all service rendered by an employee to the extent credited by the board. Total service includes all of the following:

(1) Contributing service rendered by the employee since last becoming a member of the state highway patrol retirement system;

(2) All prior service credit;

(3) Restored service credit as provided in this chapter;

(4) Military service credit purchased under division (D) of section 5505.16 or section 5505.25 of the Revised Code;

(5) Credit granted under division (C) of section 5505.17 or section 5505.201, 5505.40, or 5505.402 of the Revised Code;

(6) Credit for any period, not to exceed three years, during which the member was out of service and receiving benefits under Chapters 4121. and 4123. of the Revised Code.

(D) "Beneficiary" means any person, except a retirant, who is in receipt

of a pension or other benefit payable from funds of the retirement system.

(E) "Regular interest" means interest compounded at rates designated from time to time by the retirement board.

(F) "Plan" means the provisions of this chapter.

(G) "Retirement system" or "system" means the state highway patrol retirement system created and established in the plan.

(H) "Contributing service" means all service rendered by a member since September 4, 1941, for which deductions were made from the member's salary under the plan.

(I) "Retirement board" or "board" means the state highway patrol retirement board provided for in the plan.

(J) Except as provided in section 5505.18 of the Revised Code, "member" means any employee included in the membership of the retirement system, whether or not rendering contributing service.

(K) "Retirant" means any member who retires with a pension payable from the retirement system.

(L) "Accumulated contributions" means the sum of ~~all the following~~ credited to a member's individual account in the employees' savings fund:

(1) All amounts deducted from the salary of a ~~the~~ member and credited to the member's individual account in the employees' savings fund;

(2) All amounts paid by the member to purchase state highway patrol retirement system service credit pursuant to this chapter or other state law.

(M)(1) Except as provided in division (M)(2) of this section, "final average salary" means the average of the highest salary paid a member during any three consecutive or nonconsecutive years.

If a member has less than three years of contributing service, the member's final average salary shall be the average of the annual rates of salary paid to the member during the member's total years of contributing service.

(2) If a member is credited with service under division (C)(6) of this section or division (D) of section 5505.16 of the Revised Code, the member's final average salary shall be the average of the highest salary that was paid to the member or would have been paid to the member, had the member been rendering contributing service, during any three consecutive or nonconsecutive years. If that member has less than three years of total service, the member's final average salary shall be the average of the annual rates of salary that were paid to the member or would have been paid to the member during the member's years of total service.

(N) "Pension" means an annual amount payable by the retirement system throughout the life of a person or as otherwise provided in the plan.

~~All pensions shall be paid in equal monthly installments.~~

(O) "Pension reserve" means the present value of any pension, or benefit in lieu of any pension, computed upon the basis of mortality and other tables of experience and interest the board shall from time to time adopt.

(P) "Deferred pension" means a pension for which an eligible member of the system has made application and which is payable as provided in division (A) or (B) of section 5505.16 of the Revised Code.

(Q) "Retirement" means termination as an employee of the state highway patrol, with application having been made to the system for a pension or a deferred pension.

(R) "Fiduciary" means any of the following:

(1) A person who 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) A person who renders investment advice for a fee, direct or indirect, with respect to money or property of the system;

(3) A person who has any discretionary authority or responsibility in the administration of the system.

(S)(1) Except as otherwise provided in this division, "salary" means all compensation, wages, and other earnings paid to a member by reason of employment but without regard to whether any of the compensation, wages, or other earnings are treated as deferred income for federal income tax purposes. Salary includes all of the following:

(a) Payments for shift differential, hazard duty, professional achievement, and longevity;

(b) Payments for occupational injury leave, personal leave, sick leave, bereavement leave, administrative leave, and vacation leave used by the member;

(c) Payments made under a disability leave program sponsored by the state for which the state is required by section 5505.151 of the Revised Code to make periodic employer and employee contributions to the retirement system.

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

(a) Payments resulting from the conversion of accrued but unused sick leave, personal leave, compensatory time, and vacation leave;

(b) Payments made by the state to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the member or the member's family, or amounts paid by the state to the member in lieu of providing that insurance;

(c) Payments for overtime work;

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

(e) Payments made to or on behalf of a member 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;

(f) Payments made under division (B), (C), or (E) of section 5923.05 of the Revised Code, Section 4 of Substitute Senate Bill No. 3 of the 119th general assembly, Section 3 of Amended Substitute Senate Bill No. 164 of the 124th general assembly, or Amended Substitute House Bill No. 405 of the 124th general assembly.

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

(T) "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. 5505.15. (A)(1) A member of the state highway patrol retirement system shall contribute ~~nine and one-half~~ ten per cent of the member's annual salary to the state highway patrol retirement fund. The amount shall be deducted by the employer from the employee's salary for each payroll period.

(2) The total contributions arising from deductions made prior to January 1, 1966, from the salaries of members in the employ of the state highway patrol and standing to the credit of their individual accounts in the retirement fund shall be transferred and credited to their respective individual accounts in the employees' savings fund.

(B) The state shall annually pay into the employer accumulation fund, in monthly or less frequent installments as the state highway patrol retirement board requires, an amount that shall be a certain percentage of the total salaries paid contributing members and shall be known as the "employer contribution." If a member severs connection with the patrol or is dismissed, the employer contribution shall remain in the retirement system.

The rate percentage of the employer contribution shall be certified by

the board to the director of budget and management and shall not be lower than nine per cent of the total salaries paid contributing members and shall not exceed three times the rate percentage being deducted from the annual salaries of contributing members. The board shall prepare and submit to the director, on or before the first day of November of each even-numbered year, an estimate of the amounts necessary to pay the state's obligations accruing during the biennium beginning the first day of July of the following year. Such amounts shall be included in the budget and allocated as certified by the board.

Sec. 5505.162. (A) On application for retirement as provided in section 5505.16 of the Revised Code, a member of the state highway patrol retirement system may elect, on a form provided by the state highway patrol retirement board, to receive a the pension that the member is eligible to receive on retirement under that section in one of the following forms:

(1) A single lifetime pension ~~or he may elect, on a form provided by the state highway patrol retirement board, to receive the:~~

(2) The actuarial equivalent of this the single lifetime pension that the member may elect under division (A)(1) of this section in a lesser annual amount payable for his the member's life and continuing after his the member's death to a surviving designated beneficiary under one of the following optional plans, provided the annual amount payable to the designated beneficiary shall not exceed the annual amount payable to such retiring member, the amount is certified by the actuary employed by the system to be the actuarial equivalent of his the member's pension, and the amount is approved by the board:

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

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

~~(3)(c)~~ Option 3. Upon his death before the expiration of a certain period from his the member's retirement date as elected by ~~him~~ the member and approved by the board, his the member's lesser pension shall be continued for the remainder of such period to the beneficiaries, and in such order, as designated by ~~him~~ the member in writing and filed with the board. No monthly payments shall be paid to joint beneficiaries, but they may jointly receive the present value of any remaining payments in a lump sum settlement. If all designated beneficiaries die before the expiration of such period, the present value of all the payments yet remaining in the period shall be paid to the estate of the beneficiary last receiving such payments.

(3) If the member has attained age fifty-one with at least twenty-five years' total service or fifty-two with at least twenty years' total service, a pension consisting of both a partial benefit lump sum in an amount the member designates that constitutes a portion of the single lifetime pension the member may elect under division (A)(1) of this section and the actuarial equivalent of the remainder of the single lifetime pension payable for the member's life, provided an actuary employed by the system certifies the actuarial equivalent and the board approves the partial benefit lump sum payment and the amount to be paid as the actuarial equivalent.

The amount designated by a member shall be not less than six times the monthly amount that would be payable to the member as a single lifetime pension under division (A)(1) of this section and not more than sixty times that amount.

A member who has attained the age of fifty-one with twenty-five years of service who elects a partial benefit lump sum may designate an amount that does not exceed an amount equal to one month's pension for each month of service beyond twenty-five years. A member who has attained the age of fifty-two with twenty years of service who elects a partial benefit lump sum may designate an amount that does not exceed an amount equal to one month's pension for each month of service beyond twenty years.

(B)(1) The death of a spouse designated as beneficiary or the death of any other designated beneficiary following retirement shall cancel any optional plan of payment selected under division (A)(2) of this section to provide continuing lifetime benefits to such designated beneficiary and return the member to the equivalent of ~~his~~ the member's single lifetime pension, 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 pension under a plan that provides for continuation of all or part of the pension 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 the equivalent of ~~his~~ the member's single lifetime pension as determined by the 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 may elect a new optional plan of payment under division (A)(2) of this section based on the actuarial equivalent of ~~his~~ the member's single lifetime pension 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.

(D) A member who has elected an optional plan under division (A)(2) of this section may, with the written consent of the designated beneficiary, cancel the optional plan and receive the single lifetime pension payable ~~throughout his life~~ that the member would have received had ~~he not elected the optional plan~~ the member elected the single lifetime pension under division (A)(1) of this section, if ~~he~~ the member makes a request to cancel the optional plan not later than one year after the date on which the member first receives a payment under the plan. Cancellation of the optional plan shall be effective the month after acceptance of the request by the board. No payment or adjustment shall be made in the single lifetime pension ~~payable throughout the member's life~~ to compensate for the lesser pension ~~he~~ the member received under the optional plan.

The request to cancel the optional plan shall be made on a form provided by the board 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 designated beneficiary's signature shall be verified by the board prior to its acceptance of the cancellation.

(E) Any option elected and payments made under division (A)(2) of this section shall be in addition to any pension payable to the member's surviving spouse, children, or parents under section 5505.17 of the Revised Code.

Sec. 5505.163. (A) A retirant who retired prior to September 21, 1994, under section 5505.16 of the Revised Code may elect to receive the actuarial equivalent of the retirant's pension in a lesser amount payable for the remainder of the retirant's life and continuing after death to the retirant's surviving designated beneficiary under one of the optional plans described in ~~division (A)(1), (2), or (3)(a), (b), or (c)~~ of section 5505.162 of the Revised Code, provided the annual amount payable to the designated beneficiary shall not exceed the annual amount payable to the retirant, the amount is certified by the actuary employed by the state highway patrol retirement system to be the actuarial equivalent of the retirant's pension, and the state highway patrol retirement board approves the amount.

(B) A retirant interested in making the election authorized by division (A) of this section shall file a notice of interest with the board not later than sixty days after ~~the effective date of this section~~ June 30, 2000. The board shall advise the retirant with respect to the choices available under the optional plans and have a determination made of the monthly pension payable under the optional plan elected by the member for inclusion in the

statement to be filed under division (C) of this section.

(C) To make the election authorized by division (A) of this section, a retirant shall file a statement, on a form provided by the board, indicating that the retirant elects to participate in the optional plan specified in the statement. The form must be filed with the board not later than one hundred twenty days after ~~the effective date of this section~~ June 30, 2000.

(D) A notice or statement mailed to the board shall be considered to have been filed on its postmark date.

(E) Any option elected and payments made under this section shall be in addition to any pension payable to the retirant's surviving spouse, children, or parents under section 5505.17 of the Revised Code.

Sec. 5505.178. Except as provided in division (A)(3) of section 5505.162 of the Revised Code, all pensions shall be paid in equal monthly installments.

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 board.

The medical or psychological examination of a member who has applied for disability retirement shall be conducted by a competent ~~physician~~ health-care professional or ~~physicians~~ professionals appointed by the board. The ~~physician~~ health-care professional or ~~physicians~~ professionals 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 or psychological 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-one and one-quarter per cent or exceed the lesser of seventy-nine and one-quarter 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-nine and one-quarter 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 or psychological treatment recommended by the board's physician health-care professional and submit medical or psychological reports regarding the treatment. If the board determines that a disability pension recipient is not obtaining the medical or psychological treatment or the board does not receive a required medical or psychological report, the disability pension shall be suspended until the treatment is obtained, the report is received by the board, or the board's physician health-care professional certifies that the treatment is no longer helpful or advisable. Should the recipient's failure to obtain treatment or submit a medical or psychological 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 or psychological re-examination by physicians health-care professionals appointed by the board, except that the board may waive the ~~medical~~ re-examination if the board's physicians health-care professionals certify that the member's disability is ongoing. If any member placed on a disability pension refuses

o submit to a medical or psychological re-examination, the member's disability pension shall be 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 terminated as of the effective date of the original suspension.

(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 or psychological 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 or psychological information if the board's ~~physician~~ health-care professional 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 or psychologically examined and found 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 division (F)(1) of this section shall be retroactive to September 5, 1941.

(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, including rules that specify the types of health-care professionals the board may appoint for the purpose of this section.

SECTION 2. That existing sections 742.21, 742.212, 742.214, 742.221, 742.23, 742.24, 742.251, 742.27, 742.37, 742.371, 742.375, 742.376, 742.3711, 742.3714, 742.3716, 742.44, 742.442, 742.443, 742.444, 742.52, 5505.01, 5505.15, 5505.162, 5505.163, and 5505.18 of the Revised Code are hereby repealed.

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 _____