



## Ohio Revised Code

### Section 742.01 Police and fire pension fund definitions.

Effective: January 7, 2013

Legislation: Senate Bill 340 - 129th General Assembly

---

As used in this chapter:

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

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

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

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

(c) Any person who commences employment on or after September 16, 1998, as a full-time police officer with a police department in a position in which the person is required to satisfactorily complete a peace officer training course in compliance with section 109.77 of the Revised Code.

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

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

(a) Any person who commences employment after November 8, 1990, as a full-time firefighter with



a fire department, in a position in which the person is required to satisfactorily complete or have satisfactorily completed a firefighter training course approved under former section 3303.07 or section 4765.55 or conducted under section 3737.33 of the Revised Code;

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

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

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

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

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

A member of the Ohio national guard, the Ohio military reserve, the Ohio naval militia, or a reserve component of the armed forces of the United States who is absent from employment due to active military duty because of an executive order issued by the president of the United States or an act of congress shall be considered a member of the fund for the duration of the active military duty.

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



(G) "Average annual salary" means the highest average annual salary of a member of the fund during any of the number of years of contributions specified in section 742.37 or 742.39 of the Revised Code, as appropriate, and determined by dividing the member's total salary as an employee during those years by that number.

For the purpose of determining average annual salary for members who, as of July 1, 2013, have fifteen or more years of service credit, "salary" has the same meaning as in division (L)(2) of this section, except that it does not include any amounts that exceed the salary benchmark, determined as follows:

(1) Divide by three the total of the member's salaries for the contiguous three-year period immediately preceding the contiguous three-year period immediately prior to the member's effective date of retirement under section 742.37 or effective date of participation in a deferred option retirement plan under section 742.44 of the Revised Code;

(2) Multiply the amount determined under division (G)(1) of this section by one hundred ten per cent;

(3) Multiply the amount determined under division (G)(2) of this section by one hundred ten per cent;

(4) Multiply the amount determined under division (G)(3) of this section by one hundred ten per cent;

(5) The amount determined under division (G)(4) of this section is the salary benchmark.

(H) "Normal service pension benefit" means the pension benefit payable to a member of the fund under division (C)(1) of section 742.37 of the Revised Code upon attainment of the applicable age listed in that section.

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



Code.

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

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

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

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

(K) Except as provided in rules authorized by section 742.013 of the Revised Code, "terminal pay" means the following payments made by an employer to an employee regardless of whether the payments are made before or after termination:

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

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

(3) Payments for overtime worked that are not included in the payroll for the period in which the overtime is worked or the payroll for any period ending not later than sixty days after the overtime is worked;

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

(L)(1) Except as otherwise provided in this division or in rules authorized by section 742.013 of the Revised Code, "salary" means all compensation, wages, and other earnings paid to an employee by



reason of employment, but without regard to whether compensation, wages, or other earnings are treated as deferred income for federal income tax purposes. "Salary" includes payments for overtime that are included in the payroll for the period in which the overtime is worked or the payroll for any period not later than sixty days after the overtime is worked.

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

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

(b) Reimbursement of expenses;

(c) Terminal pay;

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

(e) Payments made under division (B), (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;

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

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

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

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

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



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