



Ohio Revised Code

Section 742.26 Employment of OPFPF or other state retirement system retirant.

Effective: April 11, 2005

Legislation: House Bill 449 - 125th General Assembly

(A) As used in this section:

(1) "Actuarial present value" means the calculation under which the probability of occurrence, based on a specified mortality table, and the discount for future monetary growth at a specified interest rate are considered by an actuary to determine the value of an annuity.

(2) "Other system retirant" means a former member of the public employees retirement system, state teachers retirement system, school employees retirement system, state highway patrol retirement system, or Cincinnati retirement system who is receiving a disability benefit or an age and service or commuted age and service retirement benefit or allowance from a system of which the person is a former member.

(3) "OPFPF retirant" means any person who is receiving a retirement allowance, other than a disability benefit, from the Ohio police and fire pension fund.

(B) The mortality table and interest rate used in determining actuarial present value shall be determined by the board of trustees of the fund based on the recommendations of an actuary employed by the board.

(C)(1) An OPFPF retirant or other system retirant may be employed as a member of a police or fire department. If so employed, the retirant shall make contributions to the fund in accordance with section 742.31 of the Revised Code, and the employer shall make contributions in accordance with sections 742.33 and 742.34 of the Revised Code.

(2) An employer that employs an OPFPF retirant or other system retirant shall notify the board of trustees of the fund of the employment not later than the end of the month in which the employment commences. On receipt of notice from an employer that a person who is an other system retirant has been employed, the fund shall notify the retirement system of which the other system retirant was a member of such employment.

(D) An OPFPF retirant or other system retirant who has received a retirement allowance or benefit for less than two months when employment subject to this section commences shall forfeit the retirement allowance or benefit for the period that begins on the date the employment commences and ends on the earlier of the date the employment terminates or



the date that is two months after the date on which the retirement allowance or benefit commenced. Service and contributions for that period shall not be included in the calculation of any benefits payable under this section, and those contributions shall be refunded on the retirant's death or termination of the employment.

(E) On receipt of notice from the public employees retirement system, school employees retirement system, or state teachers retirement system of the re-employment of an OPFPF retirant, the Ohio police and fire pension fund shall not pay, or if paid shall recover, the amount to be forfeited by the OPFPF retirant in accordance with section 145.38, 3307.35, or 3309.341 of the Revised Code.

(F)(1) On termination of employment under this section, an OPFPF retirant or other system retirant may file an application with the board of trustees of the fund to receive either a benefit, as provided in division (F)(2) of this section, or payment of the retirant's contributions made under this section, as provided in division (H) of this section.

(2) A benefit under this section shall consist of an annuity the actuarial present value of which is equal to two times the sum of all amounts deducted from the salary of the OPFPF retirant or other system retirant and credited to the retirant's individual account in the fund, other than contributions excluded pursuant to division (D) of this section, together with interest credited thereon at the rate determined by the board.

(a) Unless, as described in division (I) of this section, the application is accompanied by a statement of the spouse's consent to another form of payment or the board of trustees waives the requirement of spousal consent, a retirant who is married at the time of application under this division shall receive a monthly annuity under which the actuarial equivalent of the retirant's single life annuity is paid in a lesser amount for life and one-half of the lesser amount continues after the retirant's death to the surviving spouse.

(b) A retirant who is not subject to division (F)(2)(a) of this section shall elect to receive either a monthly annuity or a lump-sum payment. If the retirant fails to elect a plan of payment, the annuity shall be paid as a monthly annuity under the plan of payment specified in rules adopted by the board of trustees of the fund.

A retirant who elects to receive a monthly annuity shall select one of the following as the plan of payment:

(i) The retirant's single life annuity;

(ii) The actuarial equivalent of the retirant's single life annuity in an equal or lesser amount for life and continuing after death to a surviving beneficiary designated at the time the plan of payment is selected.



(c) Notwithstanding divisions (F)(2)(a) and (b) of this section, if a monthly annuity would be less than twenty-five dollars per month, the retirant shall receive a lump sum payment.

(3) Interest shall be credited to accounts only at the time of calculation of a benefit payable under division (F)(2) of this section.

(4) A benefit payable under this division shall commence on the first day of the month immediately after the latest of the following:

(a) The last day for which compensation for employment subject to this section was paid;

(b) Attainment by the OPFPF retirant or other system retirant of age sixty;

(c) If the OPFPF retirant or other system retirant was previously employed under this section and is receiving or previously received a benefit under this division, completion of a period of twelve months since the last benefit paid under this section commenced.

(5) No amount received under this division shall be included in determining an additional benefit under section 742.3711, 742.3716, or 742.3717 of the Revised Code or any other post-retirement benefit increase.

(G)(1) If an OPFPF retirant or other system retirant dies while employed in employment subject to this section, a lump-sum payment calculated in accordance with division (F)(2) of this section shall be paid to the retirant's surviving spouse, or if there is no surviving spouse, to the retirant's estate.

(2) If at the time of death an OPFPF retirant or other system retirant receiving a monthly annuity under division (F)(2) of this section has received less than would have been received as a lump-sum payment under division (F)(2) of this section, the difference between the amount received and the amount that would have been received as a lump-sum payment shall be paid to the retirant's surviving spouse, or if there is no surviving spouse, to the retirant's estate.

(3) If a beneficiary receiving a monthly annuity under division (F)(2) of this section dies and, at the time of the beneficiary's death, the total of the amounts paid to the retirant and beneficiary are less than the amount the retirant would have received as a lump sum payment, the difference between the total of the amounts received by the retirant and beneficiary and the amount that the retirant would have received as a lump sum payment shall be paid to the beneficiary's estate.

(H)(1) An OPFPF retirant or other system retirant who applies under division (F)(1) of this section for payment of the retirant's contributions and is unmarried or is married and, unless the board of trustees has waived the requirement of spousal consent, includes with the



application a statement of the spouse's consent to the payment shall be paid the contributions made under division (C) of this section, plus interest, if the following conditions are met:

- (a) The retirant has not attained sixty years of age and has terminated employment subject to this section for any cause other than death or the receipt of a benefit under division (F) of this section.
- (b) Three months have elapsed since the termination of employment subject to this section.
- (c) The retirant has not returned to service subject to this chapter or Chapter 145., 3307., or 3309. of the Revised Code, other than service exempted from contribution to the public employees retirement system pursuant to section 145.03 of the Revised Code, during the three-month period.
- (2) Payment of a retirant's contributions cancels the retirant's right to a benefit under division (F) of this section.
- (I) A statement of a spouse's consent under division (F) of this section to the form of a benefit or under division (H) of this section to a payment of contributions is valid only if signed by the spouse and witnessed by a notary public. The board of trustees may waive the requirement of spousal consent if the spouse is incapacitated or cannot be located, or for any other reason specified by the board. Consent or waiver is effective only with regard to the spouse who is the subject of the consent or waiver.
- (J) An other system retirant subject to this section is not a member of the Ohio police and fire pension fund, does not have any of the rights, privileges, or obligations of membership, except as specified in this section, and is not eligible to receive health, medical, hospital, or surgical benefits under section 742.45 of the Revised Code for employment subject to this section.
- (K) If any payment is made by the Ohio police and fire pension fund to an OPFPF retirant or other system retirant to which the retirant is not entitled, the retirant shall repay it to the fund. If the retirant fails to make the repayment, the fund shall withhold the amount due from any allowances or other amounts due the OPFPF retirant or other system retirant.
- (L) An OPFPF retirant who is employed under this section is not eligible to receive any benefits under section 742.37 of the Revised Code for the employment under this section.
- (M) This section does not affect the receipt of benefits by or eligibility for benefits of any person who on August 20, 1976, was receiving a disability benefit or service retirement pension or allowance from a state or municipal retirement system in Ohio and was a member of any other state or municipal retirement system of this state.
- (N) The board of trustees of the fund may adopt rules to carry out this section.

