

Am. H.B. 586-
137 O.L.

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

(A) As used in this section:

(1) "Member" means a member of the police and firemen's disability and pension fund or the state highway patrol retirement system, or a member of the public employees retirement system who at the time of his death was a county sheriff or deputy sheriff, or was a correction officer at an institution under the control of the department of rehabilitation and correction, or was a state university law enforcement officer.

(2) "Fire or police department" includes the state highway patrol, a county sheriff's office, the security force of an institution under the control of the department of rehabilitation and correction, and the fire or police department of a township or municipal corporation, and the police force of a state university.

(3) "Fireman or policeman" includes a state highway patrolman, a county sheriff or deputy sheriff, a correction officer at an institution under the control of the department of rehabilitation and correction, a fireman or policeman employed by a township or municipal corporation fire or police department, and A law enforcement officer employed by a state university.

(4) "Correction officer" includes, in addition to any correction officer, any correction corporal, sergeant, lieutenant, or captain.

(B) A spouse of a deceased member shall receive a death benefit each month equal to the full monthly salary received by the deceased member prior to the member's death, MINUS AN AMOUNT EQUAL TO THE BENEFIT RECEIVED UNDER SECTION 145.45, 742.37, OR 5505.17 OF THE REVISED CODE, and shall also receive any increases in salary which would have been granted to the deceased, provided the spouse was married to the deceased member while the deceased member was in the active service of a fire or police department and the deceased member was a fireman or policeman killed in the line of duty or who died of injuries sustained in the line of duty. The spouse of such a deceased member shall receive this benefit during the ~~spouses~~ SPOUSE'S natural life, until such time as EITHER the deceased member would have been eligible, if the member had lived, for the retirement pension provided under section 145.33, division (C) (1) of section 742.37, or division (A) (1) of section 5505.17 of the Revised Code, at which time the benefit shall terminate. The spouse shall then receive the benefit or pension provided for by section 145.15, division (D) of section 742.37 or division (A) (3), (4), or (5) of section 5505.17 of the Revised Code, or until such time as OR the spouse remarries in which. IN EITHER case, the benefit provided under this division shall terminate.

(C) If a member dies in the line of duty as a fireman or policeman or from injuries sustained in the line of duty as a fireman or policeman including heart attacks or other fatal injuries or illnesses caused while in the line of duty, and is survived only by a child or children, then the ~~benefits provided for the spouse in division (B) of this section shall be paid to the child, or, if CHILD OR CHILDREN SHALL RECEIVE A BENEFIT EACH MONTH EQUAL TO THE FULL MONTHLY SALARY RECEIVED BY THE DECEASED MEMBER PRIOR TO THE MEMBER'S DEATH MINUS AN AMOUNT EQUAL TO THE BENEFIT OR BENEFITS RECEIVED UNDER SECTION 145.45, 742.37, OR 5505.17 OF THE REVISED CODE, AND SHALL ALSO RECEIVE ANY INCREASES IN SALARY WHICH WOULD HAVE BEEN GRANTED TO THE DECEASED. IF there is more than one surviving child, THEN THE BENEFIT shall be divided equally among these children, until. WHEN the child reaches the age of eighteen at which time, the benefit shall terminate, unless such child, because of physical or mental disability, is unable to support himself, then until such disability is removed. Benefits under this division, however, shall continue to be paid to an unmarried child under age twenty-two who is a student in and attending an institution of learning or training pursuant to a program designed to complete in each school year the equivalent of at least two-thirds of the full-time curriculum requirements of such institution, as determined by the pension board.~~

(D) If a member dies in the line of duty as a fireman or policeman or from injuries sustained in the line of duty as a fireman or policeman, and is survived by both a spouse and a child or children, then the MONTHLY benefit provided for in ~~division (B) of this section shall be apportioned as follows:~~

(1) If there is a surviving spouse and one surviving child, THEN THE SPOUSE RECEIVES AN AMOUNT EQUAL TO one-half of the ~~benefit to each~~ FULL MONTHLY SALARY RECEIVED BY THE DECEASED MEMBER PRIOR TO THE MEMBER'S DEATH, PLUS ANY INCREASES IN THE SALARY WHICH WOULD HAVE BEEN GRANTED TO THE DECEASED, MINUS AN AMOUNT EQUAL TO THE BENEFIT RECEIVED UNDER SECTION 145.45, 742.37, OR 5505.17 OF THE REVISED CODE, AND THE CHILD RECEIVES AN AMOUNT EQUAL TO ONE-HALF OF THE FULL MONTHLY SALARY RECEIVED BY THE DECEASED MEMBER PRIOR TO THE MEMBER'S DEATH, PLUS ANY INCREASES IN SALARY WHICH WOULD HAVE BEEN GRANTED TO THE DECEASED, MINUS AN AMOUNT EQUAL TO THE BENEFIT RECEIVED UNDER SECTION 145.45, 742.37, OR 5505.17 OF THE REVISED CODE;

Editorial statement of the Legislative Service Commission

Section 742.63 of the Revised Code is amended by this act and also by Am. H. B. 10 of the 112th General Assembly. Comparison of these amendments in pursuance of section 1.52 of the Revised Code discloses that they are not irreconcilable, so that they are required by that section to be harmonized to give effect to each amendment.

Passed with emergency section.
Effective August 26, 1977

(2) If there is a surviving spouse and more than one child, ~~one-third of the benefit to~~ THEN the spouse RECEIVES AN AMOUNT EQUAL TO ONE-THIRD OF THE FULL MONTHLY SALARY RECEIVED BY THE DECEASED MEMBER PRIOR TO THE MEMBER'S DEATH, PLUS ANY INCREASES IN SALARY WHICH WOULD HAVE BEEN GRANTED TO THE DECEASED, MINUS AN AMOUNT EQUAL TO THE BENEFIT RECEIVED UNDER SECTION 145.45, 742.37, OR 5505.17 OF THE REVISED CODE, and ~~two-thirds of the benefit to the children per capita~~ RECEIVE A BENEFIT, WHICH IS EQUALLY DIVIDED AMONG THEM, EQUAL TO TWO-THIRDS OF THE FULL MONTHLY SALARY RECEIVED BY THE DECEASED MEMBER PRIOR TO THE MEMBER'S DEATH, PLUS ANY INCREASES IN SALARY WHICH WOULD HAVE BEEN GRANTED TO THE DECEASED, MINUS AN AMOUNT EQUAL TO THE BENEFITS RECEIVED UNDER SECTION 145.45, 742.37, OR 5505.17 OF THE REVISED CODE.

(E) Acceptance of any death benefit under this section constitutes waiver for as long as the benefit is accepted of any pension to which such spouse or child is entitled under section 145.45, division (D) or (E) of section 742.37, or division (A) (3), (4), (5), (6), or (7) of section 5505.17 of the Revised Code, but does not prohibit such A spouse or child from receiving other benefits provided under the police and firemen's disability and pension fund, the state highway patrol retirement system, or the public employees retirement system.

(F) NO PERSON SHALL RECEIVE A BENEFIT UNDER THIS SECTION IF EITHER OF THE FOLLOWING OCCURS:

(1) THE PERSON FAILS TO EXERCISE THE RIGHT TO A MONTHLY SURVIVOR BENEFIT UNDER DIVISION (A) OR (B) OF SECTION 145.45, DIVISION (D) OR (E) OF SECTION 742.37, OR DIVISION (A) (3), (4), (5), (6), OR (7) OF SECTION 5505.17 OF THE REVISED CODE;

(2) THE MEMBER'S ACCUMULATED CONTRIBUTIONS, UNDER CHAPTER 145., 742., OR 5505. OF THE REVISED CODE ARE REFUNDED, UNLESS THE MEMBER HAD BEEN A MEMBER OF THE PUBLIC EMPLOYEES RETIREMENT SYSTEM AND HAD FEWER THAN EIGHTEEN MONTHS OF TOTAL SERVICE CREDIT AT THE TIME OF DEATH.

SECTION 4. Within ten days of the effective date of this act, the public employees retirement board, the board of trustees of the police and firemen's disability and pension fund, and the state highway patrol retirement board shall certify to the firemen and policemen's death benefit fund, established under section 742.63 of the Revised Code, the amounts which each board has paid to eligible survivors, under section 145.45, 742.37, or 5505.17 of the Revised Code, since their eligibility was established under section 742.63 of the Revised Code and prior to the effective date of this act.

The board of trustees of the firemen and policemen's death benefit fund shall credit to each eligible survivor the sums already paid by the public employees retirement board, the board of trustees of the police and firemen's disability and pension fund, and the state highway patrol retirement board to survivors who were eligible to receive cash benefits under section 742.63 of the Revised Code.

Any obligation of the firemen and policemen's death benefit fund to refund to the board of trustees of the police and firemen's disability and pension fund, the public employees retirement board, and the state highway patrol retirement board, the sums paid to survivors who were eligible for benefits under section 742.63 of the Revised Code, prior to the effective date of this act, is hereby voided.