

122-SB228 (NEIN S) Regarding calculation of State Highway Patrol Retirement System pensions.

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[[ DOUBLE BRACKETS INDICATE DELETION OF WORD(S) ]]  
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As Introduced 1  
122nd General Assembly 4  
Regular Session S. B. No. 228 5  
1997-1998 6  
SENATORS NEIN-LATTA-SCHAFRATH-WHITE 8

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A B I L L

To amend sections 5505.17, 5505.18, and 5505.28 and 12  
to enact section 5505.176 of the Revised Code to 13  
make changes to the calculation of certain State 14  
Highway Patrol Retirement System pensions. 15

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO: 17

Section 1. That sections 5505.17, 5505.18, and 5505.28 be 19  
amended and section 5505.176 of the Revised Code be enacted to 21  
read as follows:

Sec. 5505.17. (A)(1) Upon retirement as provided in 30  
section 5505.16 of the Revised Code, a member of the state 31  
highway patrol retirement system shall receive a life pension, 32  
without guaranty or refund, equal to the sum of two and one-half 33  
per cent of the member's final average salary multiplied by the 34  
first twenty years of total service credit, plus two per cent of 35  
the member's final average salary [[for each of the twenty first to]] 36  
[[twenty fifth year, plus one and one half per cent of the]] 37  
[[member's final average salary]] multiplied by the number of years, 38  
and fraction of a year, of total service credit in excess of 39  
[[twenty-five]] TWENTY years; provided that in no case shall the 40  
pension exceed the lesser of [[seventy two]] SEVENTY EIGHT per cent 41  
of the member's final average salary or the limit established by 42  
section 415 of the "Internal Revenue Code of 1986," 100 Stat. 43  
2085, 26 U.S.C.A. 415, as amended.

(2) A member with fifteen or more years of total service 45  
credit, who voluntarily resigns or who is discharged from the 46  
state highway patrol for any reason except retirement under this 48  
chapter, death, dishonesty, cowardice, intemperate habits, or 49  
conviction of a felony, shall receive a pension equal to one and 50  
one half per cent of the member's final average salary multiplied 51  
by the number of years, and fraction of a year, of total service 52  
credit, except that the pension shall not exceed the limit 53  
established by section 415 of the "Internal Revenue Code of 54  
1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended. The pension 55  
shall commence at the end of the calendar month in which the 56  
application is filed with the retirement board on or after the 57  
attainment of age fifty-five years by the applicant. A member 58  
who withdraws any part or all of the accumulated contributions 60  
from the employees' savings fund shall thereupon forfeit all 61  
rights to a pension provided for in this division. 62

(3)(a) A surviving spouse of a deceased member shall 64  
receive a monthly pension, determined as follows, during the 65  
spouse's life: 66

(i) If at the time of death the member was not eligible to 69  
be granted a pension payable under this section or to elect: to 70  
receive a reduced pension payable under section 5505.16 of the 71  
Revised Code, eight hundred fifty

(ii) If at the time of death the member was eligible to be granted a pension payable under this section or to elect to receive a reduced pension payable under section 5505.16 of the Revised Code, the greater of eight hundred fifty dollars or fifty per cent of the computed monthly pension the member would have received had the member been granted a pension under this section or elected to receive a reduced pension under section 5505.16 of the Revised Code. 74

(b) The surviving spouse of a retirant shall receive a monthly pension, determined as follows, during the spouse's life: 75

(i) If the retirant had applied for a pension payable under section 5505.16 of the Revised Code, but at the time of death had not attained the age of eligibility for the pension, eight hundred fifty dollars; 76

(ii) If the retirant had applied for a pension payable under section 5505.16 of the Revised Code and had attained the age of eligibility for the pension, but at the time of death had not elected to begin receiving the pension, the greater of eight hundred fifty dollars or fifty per cent of the computed monthly pension the retirant was eligible to receive under section 5505.16 of the Revised Code; 77

(iii) If the retirant was receiving a pension under this section or section 5505.16 or 5505.18 of the Revised Code, or, regardless of whether or not the retirant had actually received any payment, if the retirant was eligible to receive a pension under this section or section 5505.16 or 5505.18 of the Revised Code and had elected to begin receiving it, the greater of eight hundred fifty dollars or fifty per cent of the computed monthly pension awarded the retirant. 78

(c) If a monthly pension to a surviving spouse was terminated due to a remarriage, the surviving spouse is eligible to receive a monthly pension under division (A)(3) of this section effective the first day of the first month following [[the]] [[effective date of this amendment]] JUNE 5, 1996. The pension shall be computed under division (A)(3) of this section as of the [[effective date of this amendment]] JUNE 5, 1996. The pension payable to a person who is the surviving spouse of more than one state highway patrol retirement system member or retirant shall be computed on the basis of the service of the member or retirant to whom the surviving spouse was most recently married. 79

(4) A pension of one hundred fifty dollars per month shall be paid by the system to or for the benefit of each child of a deceased member or retirant until the child attains the age of eighteen years or marries, whichever event occurs first, or until the child attains twenty three years of age if the child is a student in and attending an institution of learning or training pursuant to a program designed to complete in each school year the equivalent of at least two thirds of the full time curriculum requirements of the institution, as determined by the retirement board. If any surviving child, regardless of age at the time of the member's or retirant's death, because of physical or mental disability, was totally dependent upon the deceased member or retirant for support at the time of death, a pension of one hundred fifty dollars per month shall be paid by the system to or for the benefit of the child during the child's natural life or until the child recovers from the disability. 80

(5)(a) If a retirant died prior to June 6, 1988, and the surviving spouse was not married to the retirant while the retirant was in the active service of the patrol, the spouse shall receive a pension of the greater of four hundred twenty-five dollars per month or fifty per cent of the computed 81

monthly pension the retirant was receiving. 149

(b) If the pension payable to a person receiving a pension 151  
under division (A)(5)(a) of this section on November 2, 1989, is 152  
less than six hundred dollars per month, the pension shall be 153  
increased to six hundred dollars per month. 154

(c) If the pension payable to a person receiving a pension 157  
under division (A)(5)(a) of this section on [[the effective date of]] 159  
[[this amendment]] JUNE 5, 1996, is less than eight hundred fifty 161  
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dollars per month, the pension shall be increased to eight 162  
hundred fifty dollars per

(6)(a) If a surviving spouse, child, or children of a 164  
deceased member or retirant has been granted benefits prior to 165  
November 18, 1981, such benefits shall be adjusted to comply 166  
thereafter with the benefit provision of this section, except 167  
that the adjusted benefits under division (A)(3) of this section 168  
shall not exceed four hundred twenty-five dollars per month. 169

(b) If the pension payable to the surviving spouse of a 171  
deceased member or retirant under division (A)(3) of this section 172  
is less than six hundred dollars per month, the pension shall be 173  
increased to six hundred dollars per month. 174

(c) If the pension payable to the surviving spouse of a 177  
deceased member or retirant under division (A)(3) of this section 178  
on [[the effective date of this amendment]] JUNE 5, 1996, is less 179  
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than eight hundred fifty dollars per month, the pension shall be 181  
increased to eight hundred fifty dollars per month. 182

(d) The pension payable to a child of a deceased member or 185  
retirant who is receiving a pension under division (A)(4) of this 186  
section on [[the effective date of this amendment]] JUNE 5, 1996, 187  
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shall be increased to one hundred fifty dollars per month. 189

(7) If a deceased member or retirant leaves no spouse or 191  
surviving children, but leaves two parents depending solely upon 192  
the deceased member or retirant for support, each parent shall be 194  
paid a monthly pension of one hundred fifty-four dollars. If in 195  
such case, there is only one parent dependent solely upon the 196  
deceased member or retirant for support, such parent shall be 198  
paid a monthly pension of one hundred fifty-four dollars. Such 199  
pension shall be paid during the life of the surviving parents, 200  
or until dependency ceases, or until remarriage, whichever event 201  
occurs first.

(8) Any amount remaining as accumulated contributions at 203  
the time of death of a member or retirant who leaves no surviving 205  
spouse or dependent children or parents shall be paid to the 206  
estate of the member or retirant.

(9) The increases provided for by divisions (A)(5)(b) and 208  
(c) and (A)(6)(b) and (c) of this section shall be included in 210  
the calculation of the additional benefit paid under section 212  
5505.174 of the Revised Code. 213

(B) The board shall adopt, and may amend or rescind, the 215  
necessary rules for the administration of this section and all 216  
decisions of the board shall be final. Any payment of a pension 217  
or benefit under this section is subject to the provisions of 218  
section 5505.26 of the Revised Code. 219

(C) A member's total service credit may include periods 221  
during which the member's employment with the state highway 222  
patrol is interrupted by a leave of absence, when requested by 224  
the governor, to accept employment with another agency of the 225  
state, provided that: 226

(1) The member is reemployed by the state highway patrol 228  
within thirty days following termination of such other 229  
employment;

(2) The member pays into the retirement system, to the credit of the employees' savings fund, an amount equal to the total contributions the member would have paid had the state highway patrol employment not been so interrupted. Such repayment shall begin within ninety days after the member's return to duty with the state highway patrol and be completed within a period equal to that of the leave of absence.

(D) Service credits granted under division (C) of this section shall not include any duplications of credits for which a pension is payable by the public employees retirement system.

Sec. 5505.176. THE STATE HIGHWAY PATROL RETIREMENT SYSTEM SHALL INCREASE THE PENSION PAYABLE TO EACH PERSON RECEIVING A PENSION GRANTED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION THAT WAS CALCULATED UNDER DIVISION (A)(1) OF SECTION 5505.17 OF THE REVISED CODE ON THE BASIS OF TOTAL SERVICE CREDIT OF MORE THAN TWENTY-FIVE YEARS. THE INCREASE SHALL BE AN AMOUNT DETERMINED BY MULTIPLYING THE PENSION PAYABLE TO THE MEMBER ON THE EFFECTIVE DATE OF THIS SECTION BY THE PRODUCT OBTAINED BY MULTIPLYING BY ONE HALF OF ONE PER CENT THE MEMBER'S YEARS AND FRACTION OF A YEAR OF SERVICE IN EXCESS OF TWENTY-FIVE YEARS, EXCEPT THAT THE INCREASED PENSION SHALL NOT EXCEED THE LIMIT ESTABLISHED BY SECTION 415 OF THE "INTERNAL REVENUE CODE OF 1986," 100 STAT. 2085, 26 U.S.C.A. 415, AS AMENDED. THE INCREASED PENSION SHALL BE EFFECTIVE ON THE FIRST DAY OF THE FIRST MONTH FOLLOWING THE EFFECTIVE DATE OF THIS SECTION AND SHALL BE USED IN DETERMINING THE AMOUNT OF THE ADDITIONAL BENEFIT PAID UNDER SECTION 5505.174 OF THE REVISED CODE.

Sec. 5505.18. As used in this section, "member" does not include state highway patrol cadets attending training schools pursuant to section 5503.05 of the Revised

(A) Upon the application of a member of the state highway patrol retirement system, or the superintendent of the state highway patrol on behalf of a member, a member who becomes totally and permanently incapacitated for duty in the employ of the state highway patrol may be retired by the state highway patrol retirement board. The medical examination of a member who has applied for disability retirement shall be conducted by a competent physician or physicians appointed by the board. The physician or physicians shall file a written report with the board containing the following information:

- (1) Whether the member is totally incapacitated for duty in the employ of the patrol;
- (2) Whether the incapacity is expected to be permanent;
- (3) The cause of the member's incapacity.

The board shall determine whether the member qualifies for disability retirement and its decision shall be final. The board shall consider the written medical report, opinions, statements, and other competent evidence in making its determination. If the incapacity is a result of heart disease or any cardiovascular disease of a chronic nature, which disease or any evidence of which was not revealed by the physical examination passed by the member on entry into the patrol, the member is presumed to have incurred the disease in the line of duty as a member of the patrol, unless the contrary is shown by competent evidence.

(B)(1) A member whose retirement on account of disability incurred in the line of duty shall receive the applicable pension provided for in section 5505.17 of the Revised Code, except that if the member has less than twenty-five years of contributing

service, the member's service credit shall be deemed to be 306  
twenty-five years for the purpose of this provision. In no case 308  
shall the member's disability pension be less than sixty per cent 310  
or exceed the lesser of [[seventy-two]] SEVENTY EIGHT per cent of the 311  
member's final average salary or the limit established by section 312  
415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 313  
U.S.C.A. 415, as amended. 314

(2) A member whose retirement on account of disability 316  
incurred not in the line of duty shall receive the applicable 317  
pension provided for in section 5505.17 of the Revised Code, 318  
except that if the member has less than twenty years of 319  
contributing service, the member's service credit shall be deemed 321  
to be twenty years for the purpose of this provision. In no case 322  
shall the member's disability pension exceed the lesser of 323  
[[seventy-two]] SEVENTY-EIGHT per cent of the member's final average 325  
salary or the limit established by section 415 of the "Internal 327  
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as 328  
amended.

(C) A member placed on a disability pension who has not 330  
attained the age of fifty-five years shall be subject to an 332  
annual medical re-examination by physicians appointed by the 334  
board, except that the board may waive the medical re-examination 335  
if the board's physicians specify that the member's disability is 336  
ongoing. If any member placed on a disability pension refuses to 337  
submit to a medical re examination, the member's disability 338  
pension shall be discontinued until the member withdraws the 340  
refusal. If the refusal continues for one year, all the member's 341  
rights under and to the disability pension shall be forfeited. 342

(D) A retirant who has been on disability pension, and who 345  
has been physically examined and found capable of performing the 346  
retirant's duties, shall be restored to the rank the retirant 348  
held at the time the retirant was pensioned and all previous 349  
rights shall be restored, including the retirant's civil service 351  
status, and the disability pension shall terminate. Upon return 353  
to employment in the patrol, the retirant shall again become a 354  
contributing member of the retirement system, the total service 356  
at the time of the retirant's retirement shall be restored to the 358  
retirant's credit, and the retirant shall be given service credit 359  
for the period the retirant was in receipt of a disability 361  
pension. The provisions of this division shall be retroactive to 362  
September 5, 1941.

(E) The board may adopt rules to carry out this section. 364

Sec. 5505.28. (A) The state highway patrol retirement 373  
board may enter into an agreement with insurance companies, 374  
health insuring corporations, or government agencies authorized 375  
to do business in the state for issuance of a policy or contract 377  
of health, medical, hospital, or surgical benefits, or any 378  
combination thereof, for those persons receiving pensions and 380  
subscribing to the plan. Notwithstanding any other provision of 381  
this chapter, the policy or contract may also include coverage 382  
for any eligible individual's spouse and dependent children and 383  
for any of the individual's sponsored dependents as the board 385  
considers appropriate.

If all or any portion of the policy or contract premium is 387  
to be paid by any individual receiving a service, disability, or 389  
survivor pension or benefit, the individual shall, by written 391  
authorization, instruct the board to deduct from the individual's 393  
pension or benefit the premium agreed to be paid by the 394  
individual to the company, corporation, or agency. 396

The board may contract for coverage on the basis of part or 399  
all of the cost of the coverage to be paid from appropriate funds 400  
of the state highway patrol retirement system. The cost paid 401  
from the funds of the system shall be included in the employer's 403

contribution rate as provided by section 5505.15 of the Revised Code.	404
(B) If the board provides health, medical, hospital, or surgical benefits through any means other than a health insuring corporation, it shall offer to each individual eligible for the benefits the alternative of receiving benefits through enrollment in a health insuring corporation, if all of the following apply:	406 408 411 413 415
(1) The health insuring corporation provides health care services in the geographical area in which the individual lives;	418 420
(2) The eligible individual was receiving health care benefits through a health maintenance organization or a health insuring corporation before retirement;	422 424 425
(3) The rate and coverage provided by the health insuring corporation to eligible individuals is comparable to that currently provided by the board under division (A) of this section. If the rate or coverage provided by the health insuring corporation is not comparable to that currently provided by the board under division (A) of this section, the board may deduct the additional cost from the eligible individual's monthly benefit.	428 431 433 435 436 438
The health insuring corporation shall accept as an enrollee any eligible individual who requests enrollment.	442
The board shall permit each eligible individual to change from one plan to another at least once a year at a time determined by the board.	444 446 447
(C) The board shall, beginning the month following receipt of satisfactory evidence of the payment for coverage, pay monthly to each recipient of a pension under the state highway patrol retirement system who is eligible for medical insurance coverage under part B of "The Social Security Amendments of 1965," 79 Stat. 301, 42 U.S.C.A. 1395j, as amended, [[the lesser of]] an amount [[equal to]] ESTABLISHED BY BOARD RULE NOT EXCEEDING the basic premium for such coverage [[or an amount equal to the basic premium]] [[for such coverage in effect on January 1, 1994]].	449 450 452 453 454 456 457 458
(D) The board shall establish by rule requirements for the coordination of any coverage, payment, or benefit provided under this section with any similar coverage, payment, or benefit made available to the same individual by the public employees retirement system, police and firemen's disability and pension fund, state teachers retirement system, or school employees retirement system.	460 462 463 464 465 466 467
(E) The board shall make all other necessary rules pursuant to the purpose and intent of this section.	469 470
Section 2. That existing sections 5505.17, 5505.18, and 5505.28 of the Revised Code are hereby repealed.	472 473

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