

As Reported by the House Retirement and Aging Committee

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Sub. H. B. No. 373

**REPRESENTATIVES Hughes, Womer Benjamin, Jones, Willamowski,
Manning, Flowers, Ogg, Hollister, Schaffer, Boccieri, Lendrum, Brown,
Schuring, Schneider**

A B I L L

To amend sections 5505.01, 5505.162, 5505.163, and 1
5505.18 and to enact section 5505.178 of the 2
Revised Code to revise the law governing the State 3
Highway Patrol Retirement System. 4

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

Section 1. That sections 5505.01, 5505.162, 5505.163, and 5
5505.18 be amended and section 5505.178 of the Revised Code be 6
enacted to read as follows: 7

Sec. 5505.01. As used in this chapter: 8

(A) "Employee" means any qualified employee in the uniform 9
division of the state highway patrol, any qualified employee in 10
the radio division hired prior to November 2, 1989, and any state 11
highway patrol cadet attending training school pursuant to section 12
5503.05 of the Revised Code whose attendance at the school begins 13
on or after June 30, 1991. "Employee" includes the superintendent 14
of the state highway patrol. In all cases of doubt, the state 15
highway patrol retirement board shall determine whether any person 16
is an employee as defined in this division, and the decision of 17
the board is final. 18

(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. 48

(I) "Retirement board" or "board" means the state highway 49
patrol retirement board provided for in the plan. 50

(J) Except as provided in section 5505.18 of the Revised 51
Code, "member" means any employee included in the membership of 52
the retirement system, whether or not rendering contributing 53
service. 54

(K) "Retirant" means any member who retires with a pension 55
payable from the retirement system. 56

(L) "Accumulated contributions" means the sum of all the 57
following credited to a member's individual account in the 58
employees' savings fund: 59

(1) All amounts deducted from the salary of a ~~the~~ member and 60
credited to the member's individual account in the employees' 61
savings fund; 62

(2) All amounts paid by the member to purchase state highway 63
patrol retirement system service credit pursuant to this chapter 64
or other state law. 65

(M)(1) Except as provided in division (M)(2) of this section, 66
"final average salary" means the average of the highest salary 67
paid a member during any three consecutive or nonconsecutive 68
years. 69

If a member has less than three years of contributing 70
service, the member's final average salary shall be the average of 71
the annual rates of salary paid to the member during the member's 72
total years of contributing service. 73

(2) If a member is credited with service under division 74
(C)(6) of this section or division (D) of section 5505.16 of the 75
Revised Code, the member's final average salary shall be the 76
average of the highest salary that was paid to the member or would 77

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.

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(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.~~

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(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.

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(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.

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(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.

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

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(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;

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

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

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(S)(1) Except as otherwise provided in this division,	108
"salary" means all compensation, wages, and other earnings paid to	109
a member by reason of employment but without regard to whether any	110
of the compensation, wages, or other earnings are treated as	111
deferred income for federal income tax purposes. Salary includes	112
all of the following:	113
(a) Payments for shift differential, hazard duty,	114
professional achievement, and longevity;	115
(b) Payments for occupational injury leave, personal leave,	116
sick leave, bereavement leave, administrative leave, and vacation	117
leave used by the member;	118
(c) Payments made under a disability leave program sponsored	119
by the state for which the state is required by section 5505.151	120
of the Revised Code to make periodic employer and employee	121
contributions to the retirement system.	122
(2) "Salary" does not include any of the following:	123
(a) Payments resulting from the conversion of accrued but	124
unused sick leave, personal leave, compensatory time, and vacation	125
leave;	126
(b) Payments made by the state to provide life insurance,	127
sickness, accident, endowment, health, medical, hospital, dental,	128
or surgical coverage, or other insurance for the member or the	129
member's family, or amounts paid by the state to the member in	130
lieu of providing that insurance;	131
(c) Payments for overtime work;	132
(d) Incidental benefits, including lodging, food, laundry,	133
parking, or services furnished by the state, use of property or	134
equipment of the state, and reimbursement for job-related expenses	135
authorized by the state including moving and travel expenses and	136
expenses related to professional development;	137

(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. 5505.162. (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 167
pension that the member may elect under division (A)(1) of this 168
section in a lesser annual amount payable for ~~his~~ the member's 169
life and continuing after ~~his~~ the member's death to a surviving 170
designated beneficiary under one of the following optional plans, 171
provided the annual amount payable to the designated beneficiary 172
shall not exceed the annual amount payable to such retiring 173
member, the amount is certified by the actuary employed by the 174
system to be the actuarial equivalent of ~~his~~ the member's pension, 175
and the amount is approved by the board: 176

~~(1)~~(a) Option 1. ~~His~~ The member's lesser pension shall be 177
paid for life to ~~his~~ the member's sole beneficiary designated at 178
the time of retirement. 179

~~(2)~~(b) Option 2. One-half or some other portion of ~~his~~ the 180
member's lesser pension shall be paid for life to ~~his~~ the member's 181
sole beneficiary designated at the time of ~~his~~ retirement. 182

~~(3)~~(c) Option 3. Upon ~~his~~ death before the expiration of a 183
certain period from ~~his~~ the member's retirement date as elected by 184
~~him~~ the member and approved by the board, ~~his~~ the member's lesser 185
pension shall be continued for the remainder of such period to the 186
beneficiaries, and in such order, as designated by ~~him~~ the member 187
in writing and filed with the board. No monthly payments shall be 188
paid to joint beneficiaries, but they may jointly receive the 189
present value of any remaining payments in a lump sum settlement. 190
If all designated beneficiaries die before the expiration of such 191
period, the present value of all the payments yet remaining in the 192
period shall be paid to the estate of the beneficiary last 193
receiving such payments. 194

(3) If the member has attained age fifty-one with at least 195
twenty-five years' total service or fifty-two with at least twenty 196
years' total service, a pension consisting of both a partial 197
benefit lump sum in an amount the member designates that 198

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.

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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.

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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.

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(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.

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(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

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the termination of the marriage, elect to cancel the plan and 231
receive the equivalent of ~~his~~ the member's single lifetime pension 232
as determined by the board. The election shall be made on a form 233
provided by the board and shall be effective the month following 234
its receipt by the board. 235

(C) Following marriage or remarriage, a member may elect a 236
new optional plan of payment under division (A)(2) of this section 237
based on the actuarial equivalent of ~~his~~ the member's single 238
lifetime pension as determined by the board. The plan shall become 239
effective the first day of the month following receipt by the 240
board of an application on a form approved by the board. 241

(D) A member who has elected an optional plan under division 242
(A)(2) of this section may, with the written consent of the 243
designated beneficiary, cancel the optional plan and receive the 244
single lifetime pension payable throughout his life ~~he~~ that the 245
member would have received had ~~he not elected the optional plan~~ 246
the member elected the single lifetime pension under division 247
(A)(1) of this section, if ~~he~~ the member makes a request to cancel 248
the optional plan not later than one year after the date on which 249
the member first receives a payment under the plan. Cancellation 250
of the optional plan shall be effective the month after acceptance 251
of the request by the board. No payment or adjustment shall be 252
made in the single lifetime pension payable throughout the 253
~~member's life~~ to compensate for the lesser pension ~~he~~ the member 254
received under the optional plan. 255

The request to cancel the optional plan shall be made on a 256
form provided by the board and shall be valid only if the 257
completed form includes a signed statement of the designated 258
beneficiary's understanding of and consent to the cancellation. 259
The designated beneficiary's signature shall be verified by the 260
board prior to its acceptance of the cancellation. 261

(E) Any option elected and payments made under division 262

(A)(2) of this section shall be in addition to any pension payable 263
to the member's surviving spouse, children, or parents under 264
section 5505.17 of the Revised Code. 265

Sec. 5505.163. (A) A retirant who retired prior to September 266
21, 1994, under section 5505.16 of the Revised Code may elect to 267
receive the actuarial equivalent of the retirant's pension in a 268
lesser amount payable for the remainder of the retirant's life and 269
continuing after death to the retirant's surviving designated 270
beneficiary under one of the optional plans described in division 271
(A)(1), (2), or (3)(a), (b), or (c) of section 5505.162 of the 272
Revised Code, provided the annual amount payable to the designated 273
beneficiary shall not exceed the annual amount payable to the 274
retirant, the amount is certified by the actuary employed by the 275
state highway patrol retirement system to be the actuarial 276
equivalent of the retirant's pension, and the state highway patrol 277
retirement board approves the amount. 278

(B) A retirant interested in making the election authorized 279
by division (A) of this section shall file a notice of interest 280
with the board not later than sixty days after ~~the effective date~~ 281
~~of this section~~ June 30, 2000. The board shall advise the retirant 282
with respect to the choices available under the optional plans and 283
have a determination made of the monthly pension payable under the 284
optional plan elected by the member for inclusion in the statement 285
to be filed under division (C) of this section. 286

(C) To make the election authorized by division (A) of this 287
section, a retirant shall file a statement, on a form provided by 288
the board, indicating that the retirant elects to participate in 289
the optional plan specified in the statement. The form must be 290
filed with the board not later than one hundred twenty days after 291
~~the effective date of this section~~ June 30, 2000. 292

(D) A notice or statement mailed to the board shall be 293

considered to have been filed on its postmark date. 294

(E) Any option elected and payments made under this section 295
shall be in addition to any pension payable to the retirant's 296
surviving spouse, children, or parents under section 5505.17 of 297
the Revised Code. 298

Sec. 5505.178. Except as provided in division (A)(3) of 299
section 5505.162 of the Revised Code, all pensions shall be paid 300
in equal monthly installments. 301

Sec. 5505.18. As used in this section, "member" does not 302
include state highway patrol cadets attending training schools 303
pursuant to section 5503.05 of the Revised Code. 304

(A) Upon the application of a member of the state highway 305
patrol retirement system, a person acting on behalf of a member, 306
or the superintendent of the state highway patrol on behalf of a 307
member, a member who becomes totally and permanently incapacitated 308
for duty in the employ of the state highway patrol may be retired 309
by the board. 310

The medical or psychological examination of a member who has 311
applied for disability retirement shall be conducted by a 312
competent ~~physician~~ health-care professional or ~~physicians~~ 313
professionals appointed by the board. The ~~physician~~ health-care 314
professional or ~~physicians~~ professionals shall file a written 315
report with the board containing the following information: 316

(1) Whether the member is totally incapacitated for duty in 317
the employ of the patrol; 318

(2) Whether the incapacity is expected to be permanent; 319

(3) The cause of the member's incapacity. 320

The board shall determine whether the member qualifies for 321
disability retirement and its decision shall be final. The board 322

shall consider the written medical or psychological report, 323
opinions, statements, and other competent evidence in making its 324
determination. If the incapacity is a result of heart disease or 325
any cardiovascular disease of a chronic nature, which disease or 326
any evidence of which was not revealed by the physical examination 327
passed by the member on entry into the patrol, the member is 328
presumed to have incurred the disease in the line of duty as a 329
member of the patrol, unless the contrary is shown by competent 330
evidence. 331

(B)(1) A member whose retirement on account of disability 332
incurred in the line of duty shall receive the applicable pension 333
provided for in section 5505.17 of the Revised Code, except that 334
if the member has less than twenty-five years of contributing 335
service, the member's service credit shall be deemed to be 336
twenty-five years for the purpose of this provision. In no case 337
shall the member's disability pension be less than sixty-one and 338
one-quarter per cent or exceed the lesser of seventy-nine and 339
one-quarter per cent of the member's final average salary or the 340
limit established by section 415 of the "Internal Revenue Code of 341
1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended. 342

(2) A member whose retirement on account of disability 343
incurred not in the line of duty shall receive the applicable 344
pension provided for in section 5505.17 of the Revised Code, 345
except that if the member has less than twenty years of 346
contributing service, the member's service credit shall be deemed 347
to be twenty years for the purpose of this provision. In no case 348
shall the member's disability pension exceed the lesser of 349
seventy-nine and one-quarter per cent of the member's final 350
average salary or the limit established by section 415 of the 351
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, 352
as amended. 353

(C) The state highway patrol retirement board shall adopt 354

rules requiring a disability pension recipient, as a condition of 355
continuing to receive a disability pension, to agree in writing to 356
obtain any medical or psychological treatment recommended by the 357
board's ~~physician~~ health-care professional and submit medical or 358
psychological reports regarding the treatment. If the board 359
determines that a disability pension recipient is not obtaining 360
the medical or psychological treatment or the board does not 361
receive a required medical or psychological report, the disability 362
pension shall be suspended until the treatment is obtained, the 363
report is received by the board, or the board's ~~physician~~ 364
health-care professional certifies that the treatment is no longer 365
helpful or advisable. Should the recipient's failure to obtain 366
treatment or submit a medical or psychological report continue for 367
one year, the recipient's right to the disability benefit shall be 368
terminated as of the effective date of the original suspension. 369

(D) A member placed on a disability pension who has not 370
attained the age of fifty-five years shall be subject to an annual 371
medical or psychological re-examination by ~~physicians~~ health-care 372
professionals appointed by the board, except that the board may 373
waive the ~~medical~~ re-examination if the board's ~~physicians~~ 374
health-care professionals certify that the member's disability is 375
ongoing. If any member placed on a disability pension refuses to 376
submit to a medical or psychological re-examination, the member's 377
disability pension shall be suspended until the member withdraws 378
the refusal. If the refusal continues for one year, all the 379
member's rights under and to the disability pension shall be 380
terminated as of the effective date of the original suspension. 381

(E) Each recipient of a disability pension who has not 382
attained the age of fifty-five years shall file with the board an 383
annual statement of earnings, current medical or psychological 384
information on the recipient's condition, and any other 385
information required in rules adopted by the board. The board may 386

waive the requirement that a disability benefit recipient file an 387
annual statement of earnings or current medical or psychological 388
information if the board's physician health-care professional 389
certifies that the recipient's disability is ongoing. 390

The board shall annually examine the information submitted by 391
the recipient. If a recipient refuses to file the statement or 392
information, the disability pension shall be suspended until the 393
statement and information are filed. If the refusal continues for 394
one year, the right to the pension shall be terminated as of the 395
effective date of the original suspension. 396

(F)(1) Except as provided in division (F)(2) of this section, 397
a retirant who has been on disability pension, and who has been 398
physically or psychologically examined and found no longer 399
incapable of performing the retirant's duties, shall be restored 400
to the rank the retirant held at the time the retirant was 401
pensioned and all previous rights shall be restored, including the 402
retirant's civil service status, and the disability pension shall 403
terminate. Upon return to employment in the patrol, the retirant 404
shall again become a contributing member of the retirement system, 405
the total service at the time of the retirant's retirement shall 406
be restored to the retirant's credit, and the retirant shall be 407
given service credit for the period the retirant was in receipt of 408
a disability pension. The provisions of division (F)(1) of this 409
section shall be retroactive to September 5, 1941. 410

(2) The state highway patrol is not required to take action 412
under division (F)(1) of this section if the retirant was 413
dismissed or resigned in lieu of dismissal for dishonesty, 414
misfeasance, malfeasance, or conviction of a felony. 415

(G) The board may adopt rules to carry out this section, 416
including rules that specify the types of health-care 417
professionals the board may appoint for the purpose of this 418

section. 419

Section 2. That existing sections 5505.01, 5505.162, 420
5505.163, and 5505.18 of the Revised Code are hereby repealed. 421