



## **Am. S.B. 206**

126th General Assembly  
(As Passed by the General Assembly)

**Sens. Coughlin, Fedor, Armbruster, Hagan, Harris, Niehaus, Schuring, Spada, Kearney, Mumper, Fingerhut, Stivers**

**Reps. Hagan, Smith, G., Stewart, J., Allen, Healy, Coley, Patton, T., Barrett, Blessing, Brown, Bulp, Calvert, Cassell, Combs, Core, DeBose, Distel, Dolan, Domenick, Evans, C., Faber, Fende, Fessler, Flowers, Gibbs, Hughes, Key, Latta, Law, McGregor, J., McGregor, R., Oelslager, Otterman, Perry, Reidelbach, Seitz, Setzer, Sykes, Taylor, Uecker, Wagoner, Walcher, Widener, Willamowski, Woodard, Yates, Yuko**

**Effective date:** \*

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### **ACT SUMMARY**

- Requires the State Highway Patrol Retirement System (SHPRS) to establish and administer a deferred retirement option plan (DROP).
- Requires an SHPRS member receiving a disability pension to file annual earnings statements and medical information until age 60 and makes the member subject to re-examination until that age.

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### **CONTENT AND OPERATION**

#### **Background--deferred retirement option plans**

Generally speaking, a deferred retirement option plan (DROP) is an arrangement under which an employee who is otherwise eligible to retire and receive benefits under an employer's defined benefit retirement plan<sup>1</sup> continues to

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\* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

<sup>1</sup> *A defined benefit plan is one under which members receive retirement benefits based on a formula that takes into account salary, years of service, and sometimes age. In*

work. Instead of having the continued compensation and additional years of service taken into account for purposes of the plan's benefit formula, the employee has a sum of money credited to a separate account during each year of the continued employment. The account earns interest (either at a rate stated in the plan or based on the earnings of the trust underlying the retirement plan). On termination of employment, the employee receives a lump sum distribution of the account (or some alternative distribution), in addition to whatever service retirement benefit the employee has acquired under the defined benefit plan based on earlier years of service and final average salary, calculated at the time the employee elected to participate in the DROP.<sup>2</sup>

### **The act**

#### **Establishment of the SHPRS plan**

(R.C. 5505.50)

The act requires the Board of the State Highway Patrol Retirement System (SHPRS) to establish and administer a deferred retirement option plan (DROP) under which an SHPRS member who is eligible to retire may choose to continue to work and have the member's pension accrue and be paid at the time the member ceases working. The Board is required by the act to adopt rules to establish and administer the plan. The rules are to specify the date of initial implementation of the plan. They may also specify a period during which an election to participate may be rescinded.

The act authorizes the Board to do all things necessary to comply with federal requirements for government pension plans.<sup>3</sup>

#### **Eligibility for participation**

(R.C. 5505.51)

An SHPRS member who is under age 58 and eligible to apply for a full pension may participate in the DROP. A member is eligible for a full pension on

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*contrast, under a defined contribution plan, retirement benefits are based on contributions and earnings from investment of contributions.*

<sup>2</sup> Calhoun, Carol V. and Tepfer, Arthur H. "Deferred Retirement Option Plans ('DROP Plans')," Pension & Benefits Week, October 13, 1998. Available online at Employee Benefits Legal Resource Site, <http://benefitsattorney.com>, visited March 16, 2006.

<sup>3</sup> These requirements are established in the Internal Revenue Code, see 26 United States Code 401(a).

attaining age 48 with 25 years of service credit, or age 52 with 20 years of service credit. (Members who attain age 48 with 20 years of service credit are eligible to apply for a reduced pension, but may not participate in the DROP until they have attained age 52 or earned 25 years of service credit.<sup>4</sup>)

**Election to participate**

(R.C. 5505.51 and 5505.52)

An SHPRS member who is younger than age 58 and eligible to apply to the retirement system for a full pension<sup>5</sup> may, at any time prior to applying, elect to participate in the DROP by filing with SHPRS an election form provided by SHPRS. At the time of electing to participate, the member must also make the election of whether to receive the member's pension in a single lifetime payment or as a joint and survivor annuity.<sup>6</sup> Once received by the retirement system, this election is irrevocable.

The election to participate in the DROP takes effect on the day the member files an election form with the SHPRS Board. At the time of the election to participate in the DROP, the member is not required to specify the number of years the member intends to participate. However, the member must agree to terminate active service in the State Highway Patrol not later than the earlier of eight years after the effective date of the election or the member's 60th birthday.

On and after a member's election to participate in the DROP takes effect, the member is ineligible to purchase service credit, such as credit for military service or a leave of absence. An SHPRS member who participates in the DROP is a retirant for the purposes of rules adopted by the Board.

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<sup>4</sup> R.C. 5505.16, unchanged by the act, specifies eligibility criteria for an SHPRS pension.

<sup>5</sup> R.C. 5505.17, unchanged by the act, specifies how an SHPRS pension is calculated.

<sup>6</sup> A single lifetime payment results in a full monthly benefit for the member, but provides no benefits for a surviving spouse or other survivor. Under a joint and survivor annuity, the member receives a lesser monthly benefit for the member during the member's life, but after the member's death a lesser benefit continues to be paid to a designated survivor. (R.C. 5505.162, not in the act.)

### **SHPRS Board elections**

(R.C. 5505.52(B))

An SHPRS member participating in the DROP may vote in elections for the retirant members of the Board, but is ineligible to vote in elections for employee members.

### **Accrual of benefits during DROP participation**

(R.C. 5505.52, 5505.53, and 5505.54)

Under the act, a member who elects to participate in the DROP continues in the active service of the State Highway Patrol, receives active service salary and benefits, and continues contributing a portion of the member's salary to SHPRS. Using the member's total service credit and average annual salary as of the election's effective date, SHPRS must determine the monthly pension the member would have received had the member chosen to retire and terminate active service. The determination is made in accordance with the member's election of whether to receive the pension as a single lifetime payment or as a joint and survivor annuity.

SHPRS credits the monthly pension benefit to the member's accrual under the DROP each month that the member remains in active service during participation in the DROP. The member is also credited with any benefit increases the member would have received had the member elected to retire at the time of electing to participate in the DROP.<sup>7</sup> In addition to the deferred pension amounts, the member's employee contributions during participation in the DROP accrue to the member's benefit. The amounts accrued to a member's benefit during participation in the DROP earn interest at an annual rate established by the Board, compounded annually using a method established by the Board in rules.

The member does not accrue retirement service credit for active service during participation in the DROP. And neither the member, nor the member's spouse or dependents are eligible to receive health insurance benefits from SHPRS while the member is participating in the DROP. The State Highway Patrol must continue to contribute and report to SHPRS the same contributions for DROP

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<sup>7</sup> *These benefit increases are the cost-of-living increases provided to retirees age 53 and older who have been receiving pensions for at least 12 months. The increase is equal to 3% of the original pension. (R.C. 5505.174.)*

participants as it contributes and reports for other active members.<sup>8</sup> The act requires that these contributions be credited to the Employer Accumulation Fund.

**Cessation of DROP participation**

(R.C. 742.63, 5505.55, 5505.56, 5505.58, and 5505.59)

A member ceases participating in the DROP in any of four ways: termination of active service; failure to terminate active service at the time required by the act; acceptance of a disability benefit; or death.

**Termination of active service.** A member participating in the DROP who terminates active SHPRS service must notify SHPRS of the date of termination on a form prescribed by the retirement system. Distribution of the accrued amount will be made in accordance with a plan of payment selected by the member.<sup>9</sup>

**Failure to terminate active service.** If the member has not terminated active service either by the end of the eighth year after electing to participate in the DROP or by the member's 60th birthday, SHPRS is to deem the member's service terminated. The member is not eligible to make a new election to participate in the DROP.

**Acceptance of a disability benefit.** A member participating in DROP who is disabled in the line of duty may choose either to receive a regular disability benefit or a regular age and service pension. If a participating member becomes disabled but the disability did not occur in the line of duty, the member will receive the regular age and service pension.

A member disabled in the line of duty who chooses to receive a disability benefit forfeits all amounts accrued under the DROP. The member is granted service credit for active service earned while participating in the DROP, and that service credit is included in determining the member's disability benefit. Members disabled in the line of duty who choose to receive the age and service pension in lieu of a disability benefit and members whose disability does not occur in the line of duty will receive the regular age and service pension, plus any amounts accumulated to the member's benefit under the DROP. Members will not lose any accumulated interest if the disability causes an early withdrawal from the DROP.

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<sup>8</sup> Currently, SHPRS members contribute 10% of annual salary, while the State Highway Patrol contributes 24.5% of annual salary.

<sup>9</sup> See "**Distribution of DROP accrual**" below.

**Death.** The amounts accrued to the member's benefit are to be paid to the member's surviving spouse or other designated beneficiary in a single, lump sum payment. If there is no surviving spouse or designated beneficiary, the amounts accrued to the member's benefit must be paid to the member's estate. These amounts are in addition to any pension the surviving spouse and surviving children will receive under current law.<sup>10</sup>

**Distribution of DROP accrual**

(R.C. 5505.56(B) and (C) and 5505.57)

Once a member ceases participation in the DROP, the member's monthly pension is paid to the member, rather than accruing in the DROP. Payment of the monthly pension begins on the day following the member's last day of active service in the State Highway Patrol.

On ceasing participation in the DROP, a member must select one of the distribution options provided under federal law as a method of distribution of the member's accrued amounts.<sup>11</sup> SHPRS must distribute to the member the amount accrued to the member's benefit, including interest, except as follows:

(1) A member who was younger than age 52 at the time of election and terminates active service before the date that is four years after the effective date of the member's election forfeits the interest accrued under the DROP and must wait until the first day of the fourth year after the effective date of the election to begin receiving the remainder of the member's amount accrued under the DROP.

(2) A member who was age 52 or older at the time of election and terminates active service before the date that is three years after the effective date of the member's election forfeits the interest accrued under the DROP and must wait until the date that is three years after the effective date of the election to begin receiving the remainder of the member's amount accrued under the DROP.

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<sup>10</sup> As provided in R.C. 5505.17 (unchanged by the act). A number of death benefits are provided to survivors of an SHPRS member killed in the line of duty. These benefits include the SHPRS death benefit (a one-time benefit; R.C. 5505.30, not in the act) and survivor benefits from the Ohio Public Safety Officers Death Benefit Fund (a monthly benefit) (R.C. 742.63). These benefits are unchanged in the act. The surviving spouse and surviving children of a DROP participant are eligible for these benefits.

<sup>11</sup> Federal law requires the accrual to be paid in periodic payments either over the life of the member or over the life of the member and the member's designated beneficiary (26 U.S.C. 401(a)).

**Actuarial investigations; SHPRS Board option to modify plan**

(R.C. 5505.12)

In addition to the actuarial investigations already required to be performed by SHPRS' actuary, the act requires the SHPRS Board to have prepared by or under supervision of an actuary an actuarial investigation of the DROP every five years. The actuarial investigation must include an examination of the financial impact, if any, on the retirement system of offering the DROP. The actuary must prepare a report of the investigation that includes a determination of whether the DROP has a negative financial impact on the retirement system and, if so, recommendations to the Board how to modify the DROP to eliminate the negative impact. The Board must modify the DROP if the actuarial report indicates that it has a negative financial impact on the retirement system. If the Board modifies the plan, the rights and obligations of members who have already elected to participate in the plan are not to be affected.

The report of the actuarial investigation must be submitted to the Ohio Retirement Study Council and to the standing House and Senate committees with primary responsibility for retirement legislation.

The act specifies that the state's contributions to the Employer Accumulation Fund are not to be increased to offset any negative financial impact of the DROP.

**Disability examination**

(R.C. 5505.18)

SHPRS members who are placed on a disability pension must file with the Board an annual statement of earnings, medical/psychological information, or other information required by Board adopted rules. Members receiving a disability pension are also subject to an annual medical/psychology exam by Board appointed health-care professionals. The Board may waive this requirement if the health-care professional certifies that the disability is ongoing.

Under prior law, these requirements applied to all members receiving a disability pension who are age 55 or younger. The act extends this requirement to include all those receiving a disability pension who are age 60 or younger.

**Technical changes**

(R.C. 5505.01 and 5505.18)

These sections are amended to make them technically consistent with statutes governing the DROP.

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**HISTORY**

ACTION	DATE
Introduced	10-18-05
Reported, S. Health, Human Services & Aging	11-17-05
Passed Senate (33-0)	12-06-05
Reported, H. Financial Institutions, Real Estate and Securities	01-31-06
Passed House (94-0)	03-01-06

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