

As Introduced

132nd General Assembly

Regular Session

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H. B. No. 362

Representatives Carfagna, Ramos

A BILL

To amend sections 5505.16, 5505.162, 5505.17, 1
5505.174, 5505.18, and 5505.59 of the Revised 2
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 5505.16, 5505.162, 5505.17, 5
5505.174, 5505.18, and 5505.59 of the Revised Code be amended to 6
read as follows: 7

Sec. 5505.16. (A) A member who became a member of the 8
state highway patrol ~~retirement system who has before January 1,~~ 9
2020, may be granted retirement under this division if the 10
member has twenty-five years of service credit according to the 11
rules adopted by the state highway patrol retirement board ~~may~~ 12
~~make application for retirement which, if and has attained age~~ 13
forty-eight. If the member is under age forty-eight, retirement 14
under this division shall be deferred until age forty-eight. 15

(B) A member who has twenty years of service credit 16
according to the rules adopted by the retirement board, ~~may make~~ 17
~~application for~~ be granted retirement that, under this division 18
if the member has attained age fifty-two. If the member is under 19

age fifty-two, retirement under this division shall be deferred 20
until age fifty-two, except that any such member who has 21
~~attained~~ twenty years of service credit may, on or after 22
attaining age forty-eight but before attaining age fifty-two, 23
elect to retire and receive a reduced pension under this 24
division of the greater of nine hundred dollars or an amount 25
computed as follows: 26

Attained Age	Reduced Pension	
48	75% of normal service pension	28
49	80% of normal service pension	29
50	86% of normal service pension	30
51	93% of normal service pension	31

~~In the case of a member who elects to receive a reduced~~ 32
~~pension after attaining age forty eight, the~~ The reduced pension 33
is payable from the later of the date of the member's most 34
recent birthday or the date the member becomes eligible to 35
receive the reduced pension. 36

A member who has elected to receive a reduced pension in 37
accordance with the schedule provided in this division and has 38
received a payment in connection therewith may not change the 39
election. 40

(C) Any member who attains the age of sixty years and has 41
twenty years of service credit according to the rules adopted by 42
the board, shall file application for retirement with the board, 43
and if the member refuses or neglects to do so, the board may 44
deem the member's application to have been filed on the member's 45
sixtieth birthday. The member may, upon written application 46
approved by the superintendent of the state highway patrol, be 47
continued in service after attaining the age of sixty years, but 48

only until the member has accumulated twenty years of service 49
credit in accordance with rules adopted by the board. 50

(D) (1) As used in this division: 51

(a) "Service in the uniformed services" means the 52
performance of duty on a voluntary or involuntary basis in a 53
uniformed service under competent authority and includes active 54
duty, active duty for training, initial active duty for 55
training, inactive duty training, full-time national guard duty, 56
and a period for which a person is absent from a position of 57
employment for the purpose of an examination to determine the 58
fitness of the person to perform any such duty. 59

(b) "Uniformed services" of the United States includes 60
both: 61

(i) Army, navy, air force, marine corps, coast guard, or 62
any reserve components of these services; auxiliary corps as 63
established by congress; army nurse corps; navy nurse corps; 64
service as red cross nurse with the army, navy, air force, or 65
hospital service of the United States, or serving full-time with 66
the American red cross in a combat zone; and such other service 67
as is designated by congress as included therein; 68

(ii) Personnel of the Ohio national guard, the Ohio 69
military reserve, the Ohio naval militia, and the reserve 70
components of the armed forces enumerated in division (D) (1) of 71
this section who are called to active duty pursuant to an 72
executive order issued by the president of the United States or 73
an act of congress. 74

(2) A member's total service credit may include periods 75
not to exceed a total of seven years, while the member's 76
employment with the state highway patrol is or was interrupted 77

due to service in the uniformed services of the United States. 78
Such military service shall be credited to the member towards 79
total service as provided by this chapter and to the extent 80
approved by the board, provided that: 81

(a) The member is or was honorably discharged from service 82
in the uniformed services; 83

(b) The member is or was re-employed by the state highway 84
patrol within ninety days immediately following termination of 85
service in the uniformed services; 86

(c) The member, subject to board rules, pays into the 87
retirement system to the member's credit in the employees' 88
savings fund an amount equal to the total contributions the 89
member would have paid had state highway patrol employment not 90
been so interrupted. Such payment may be made at any time prior 91
to receipt of a pension. 92

(3) If the member meets the requirements of division (D) 93
(2) of this section, on receipt of contributions from the 94
member, the state highway patrol shall be billed for the 95
employer contribution that would have been paid pursuant to 96
section 5505.15 of the Revised Code if the member had not 97
rendered service in the uniformed services, subject to board 98
rules. 99

(4) If under division (D) (2) (c) of this section a member 100
pays all or any portion of the contributions later than the 101
lesser of five years or a period that is three times the 102
member's period of service in the uniformed services beginning 103
from the member's date of re-employment, an amount equal to 104
compound interest at a rate established by the board from the 105
member's date of re-employment to the date of payment shall be 106

added to the remaining amount to be paid by the member to 107
purchase service credit under this section. 108

(5) Credit purchased by a member under division (D) (2) of 109
this section shall be used to determine the member's eligibility 110
for retirement under this section and section 5505.17 of the 111
Revised Code. 112

Sec. 5505.162. (A) On application for retirement as 113
provided in section 5505.16 of the Revised Code, a member of the 114
state highway patrol retirement system may elect, on a form 115
provided by the state highway patrol retirement board, to 116
receive the pension that the member is eligible to receive on 117
retirement under that section in one of the following forms: 118

(1) A single lifetime pension; 119

(2) The actuarial equivalent of the single lifetime 120
pension that the member may elect under division (A) (1) of this 121
section in a lesser annual amount payable for the member's life 122
and continuing after the member's death to a surviving 123
designated beneficiary under one of the following optional 124
plans, provided the annual amount payable to the designated 125
beneficiary shall not exceed the annual amount payable to such 126
retiring member, the amount is certified by the actuary employed 127
by the system to be the actuarial equivalent of the member's 128
pension, and the amount is approved by the board: 129

(a) Option 1. The member's lesser pension shall be paid 130
for life to the member's sole beneficiary designated at the time 131
of retirement. 132

(b) Option 2. One-half or some other portion of the 133
member's lesser pension shall be paid for life to the member's 134
sole beneficiary designated at the time of retirement. 135

(c) Option 3. Upon death before the expiration of a 136
certain period from the member's retirement date as elected by 137
the member and approved by the board, the member's lesser 138
pension shall be continued for the remainder of such period to 139
the beneficiaries, and in such order, as designated by the 140
member in writing and filed with the board. No monthly payments 141
shall be paid to joint beneficiaries, but they may jointly 142
receive the present value of any remaining payments in a lump 143
sum settlement. If all designated beneficiaries die before the 144
expiration of such period, the present value of all the payments 145
yet remaining in the period shall be paid to the estate of the 146
beneficiary last receiving such payments. 147

(d) Option 4. The member's lesser pension or portion of 148
the lesser pension shall be paid for life to two, three, or four 149
surviving beneficiaries designated at the time of the member's 150
retirement, in such portions as specified at retirement. If the 151
member elects this plan as required by a court order issued 152
under section 3105.171 or 3105.65 of the Revised Code or the 153
laws of another state regarding the division of marital property 154
and compliance with the court order requires the allocation of a 155
portion less than ten per cent to any person, the member shall 156
allocate a portion less than ten per cent to that person in 157
accordance with that order. In all other circumstances, no 158
portion allocated under this plan of payment shall be less than 159
ten per cent. The total of the portions allocated shall not 160
exceed one hundred per cent of the member's lesser pension. 161

(3) If the member has attained age ~~fifty one with at least~~ 162
~~twenty five years' total service or fifty-two~~ with at least 163
twenty years' total service, a pension consisting of both a 164
partial benefit lump sum in an amount the member designates that 165
constitutes a portion of the single lifetime pension the member 166

may elect under division (A) (1) of this section and the 167
actuarial equivalent of the remainder of the single lifetime 168
pension payable for the member's life, provided an actuary 169
employed by the system certifies the actuarial equivalent and 170
the board approves the partial benefit lump sum payment and the 171
amount to be paid as the actuarial equivalent. 172

The amount designated by a member shall be not less than 173
six times the monthly amount that would be payable to the member 174
as a single lifetime pension under division (A) (1) of this 175
section and not more than sixty times that amount. 176

~~A member who has attained the age of fifty one with~~ 177
~~twenty five years of service who elects a partial benefit lump~~ 178
~~sum may designate an amount that does not exceed an amount equal~~ 179
~~to one month's pension for each month of service beyond twenty~~ 180
~~five years.~~ A member who has attained the age of fifty-two with 181
twenty years of service who elects a partial benefit lump sum 182
may designate an amount that does not exceed an amount equal to 183
one month's pension for each month of service beyond twenty 184
years. 185

(4) If a plan of payment providing for payment in a 186
specified portion of the pension continuing after the member's 187
death to a former spouse is required by a court order issued 188
under section 3105.171 or 3105.65 of the Revised Code or the 189
laws of another state regarding division of marital property 190
prior to the effective date of the member's retirement and the 191
board has received a copy of the order, the board shall accept 192
the member's election of a plan of payment under this section 193
only if the member elects a plan of payment that is in 194
accordance with the order. 195

(B) (1) The death of a spouse designated as beneficiary or 196

the death of any other designated beneficiary following 197
retirement shall cancel the portion of the optional plan of 198
payment selected under division (A) (2) of this section providing 199
continuing lifetime benefits to the deceased designated 200
beneficiary. The ~~member-retirant~~ shall receive the actuarial 201
equivalent of the ~~member's-retirant's~~ single lifetime pension, 202
as determined by the board based on the number of remaining 203
beneficiaries, with no change in the amount payable to any 204
remaining beneficiary. The change shall be effective the month 205
following receipt by the board of notice of the death. 206

(2) On divorce, annulment, or marriage dissolution, a 207
~~member-retirant~~ receiving a pension under a plan that provides 208
for continuation of all or part of the pension after death for 209
the lifetime of the ~~member's-retirant's~~ surviving spouse may, 210
with the written consent of the spouse or pursuant to an order 211
of the court with jurisdiction over the termination of the 212
marriage, elect to cancel the portion of the plan providing 213
continuing lifetime benefits to that spouse. The ~~member-retirant~~ 214
shall receive the actuarial equivalent of the ~~member's-~~ 215
~~retirant's~~ single lifetime pension as determined by the board 216
based on the number of remaining beneficiaries, with no change 217
in amount payable to any remaining beneficiary. The election 218
shall be made on a form provided by the board and shall be 219
effective the month following its receipt by the board. 220

(C) (1) Following marriage or remarriage of a retirant, 221
both of the following apply: 222

(a) A ~~member-retirant~~ may elect a new optional plan of 223
payment under division (A) (2) of this section based on the 224
actuarial equivalent of the ~~member's-retirant's~~ single lifetime 225
pension as determined by the board. 226

(b) A ~~member-retirant~~ who is receiving a pension pursuant 227
to a plan of payment providing for payment to a former spouse 228
pursuant to a court order described in division (A) (4) of this 229
section may elect a new plan of payment under "option 4" based 230
on the actuarial equivalent of the retirant's single lifetime 231
pension as determined by the board if the new plan of payment 232
elected does not reduce the payment to the former spouse. 233

(2) If the marriage or remarriage occurs on or after ~~the~~ 234
~~effective date of this amendment~~ June 6, 2005, the election must 235
be made not later than one year after the date of the marriage 236
or remarriage. 237

The plan elected under this section shall become effective 238
on the date of receipt by the board of an application on a form 239
approved by the board, but any change in the amount of the 240
pension shall commence on the first day of the month following 241
the effective date of the plan. 242

(D) A ~~member-retirant~~ who has elected an optional plan 243
under division (A) (2) of this section may, with the written 244
consent of the designated beneficiary, cancel the optional plan 245
and receive the single lifetime pension that the ~~member-retirant~~ 246
would have received had the ~~member-retirant~~ elected the single 247
lifetime pension under division (A) (1) of this section, if the 248
~~member-retirant~~ makes a request to cancel the optional plan not 249
later than one year after the date on which the ~~member-retirant~~ 250
first receives a payment under the plan. Cancellation of the 251
optional plan shall be effective the month after acceptance of 252
the request by the board. No payment or adjustment shall be made 253
in the single lifetime pension to compensate for the lesser 254
pension the ~~member-retirant~~ 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 263
payable to the ~~member's~~ retirant's surviving spouse, children, 264
or parents under section 5505.17 of the Revised Code. 265

Sec. 5505.17. (A) (1) Upon retirement as provided in 266
section 5505.16 of the Revised Code, a member of the state 267
highway patrol retirement system shall receive a life pension, 268
without guaranty or refund, equal to the greater of one thousand 269
fifty dollars or the sum of two and one-half per cent of the 270
member's final average salary multiplied by the first twenty 271
years of total service credit, plus two and one-quarter per cent 272
of the member's final average salary multiplied by the number of 273
years, and fraction of a year, of total service credit in excess 274
of twenty years but not in excess of twenty-five years, plus two 275
per cent of the member's final average salary multiplied by the 276
number of years, and fraction of a year, in excess of twenty- 277
five years; provided that in no case shall the pension exceed 278
the lesser of seventy-nine and one-quarter per cent of the 279
member's final average salary or the limit established by 280
section 415 of the "Internal Revenue Code of 1986," 100 Stat. 281
2085, 26 U.S.C.A. 415, as amended. 282

(2) A member with fifteen or more years of total service 283
credit, who voluntarily resigns or who is discharged from the 284
state highway patrol for any reason except retirement under this 285
chapter, death, dishonesty, cowardice, intemperate habits, or 286

conviction of a felony, shall receive a pension equal to one and 287
one-half per cent of the member's final average salary 288
multiplied by the number of years, and fraction of a year, of 289
total service credit, except that the pension shall not exceed 290
the limit established by section 415 of the "Internal Revenue 291
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended. The 292
pension shall commence at the end of the calendar month in which 293
the application is filed with the retirement board on or after 294
the attainment of age fifty-five years by the applicant. A 295
member who withdraws any part or all of the accumulated 296
contributions from the employees' savings fund shall thereupon 297
forfeit all rights to a pension provided for in this division. 298

(3) (a) A surviving spouse of a deceased member who died 299
before the effective date of this amendment shall receive a 300
monthly pension, determined as follows, during the spouse's 301
life: 302

(i) If at the time of death the member was not eligible to 303
be granted a pension payable under division (A)(1) of this 304
section or to elect to receive a reduced pension payable under 305
section 5505.16 of the Revised Code, nine hundred dollars; 306

(ii) If at the time of death the member was eligible to be 307
granted a pension payable under division (A)(1) of this section 308
or to elect to receive a reduced pension payable under section 309
5505.16 of the Revised Code, the greater of nine hundred dollars 310
or fifty per cent of the computed monthly pension the member 311
would have received had the member been granted a pension under 312
division (A)(1) of this section or elected to receive a reduced 313
pension under section 5505.16 of the Revised Code. 314

(b) The surviving spouse of a retirant who retired before 315
the effective date of this amendment shall receive a monthly 316

pension, determined as follows, during the spouse's life: 317

(i) If the retirant had ~~applied for a pension payable~~ been granted retirement under section 5505.16 of the Revised Code, 318
but at the time of death had not attained the age of eligibility 319
for ~~the a~~ pension, nine hundred dollars; 320
321

(ii) If the retirant had ~~applied for a pension payable~~ been granted retirement under section 5505.16 of the Revised 322
Code and had attained the age of eligibility for ~~the a~~ pension, 323
but at the time of death had not elected to begin receiving the 324
pension, the greater of nine hundred dollars or fifty per cent 325
of the computed monthly pension the retirant was eligible to 326
receive under section 5505.16 of the Revised Code; 327
328

(iii) If the retirant had been granted retirement and was 329
receiving a pension under division (A) (1) of this section or 330
section 5505.16 or 5505.18 of the Revised Code, or, regardless 331
of whether or not the retirant had actually received any 332
payment, ~~if the retirant was~~ eligible to receive a pension under 333
division (A) (1) of this section or section 5505.16 or 5505.18 of 334
the Revised Code and had elected to begin receiving it, the 335
greater of nine hundred dollars or fifty per cent of the 336
computed monthly pension awarded the retirant. 337

(c) The surviving spouse of a deceased member who dies on 338
or after the effective date of this amendment or a retirant who 339
retires on or after the effective date of this amendment shall 340
receive a monthly pension during the spouse's life if the spouse 341
was married to the member or retirant while the member or 342
retirant was in the active service of the state highway patrol. 343
The pension shall be determined as follows: 344

(i) During the period beginning on the effective date of 345

this amendment and ending December 31, 2017, nine hundred 346
dollars; 347

(ii) During the period beginning January 1, 2018, and 348
continuing the following twelve months, and the period beginning 349
the first day of January of each year thereafter and continuing 350
the following twelve months, an amount equal to the monthly 351
amount payable during the prior twelve-month period plus an 352
amount determined by multiplying nine hundred dollars by the 353
amount the board determines annually under division (B) (1) (b) of 354
section 5505.174 of the Revised Code. 355

(d) In addition to the pension determined under division 356
(A) (3) (c) of this section, the surviving spouse of a deceased 357
member who dies on or after the effective date of this amendment 358
shall receive a monthly pension during the spouse's life if the 359
spouse was married to the member while the member was in the 360
active service of the state highway patrol and, at the time of 361
death, the member was eligible to be granted a pension payable 362
under division (A) (1) of this section or to elect to receive a 363
reduced pension payable under section 5505.16 of the Revised 364
Code. The pension shall be an amount equal to the amount the 365
surviving spouse would have been entitled to receive had the 366
member retired effective the day following the date of death 367
having selected an option 2 plan under division (A) (2) (b) of 368
section 5505.162 of the Revised Code providing for one-half of 369
the member's lesser pension to be paid to the surviving spouse. 370

(e) If a monthly pension to a surviving spouse was 371
terminated due to a remarriage, the surviving spouse is eligible 372
to receive a monthly pension under division (A) (3) of this 373
section effective the first day of the first month following 374
June 5, 1996. The pension shall be computed under division (A) 375

(3) of this section as of June 5, 1996. The pension payable to a 376
person who is the surviving spouse of more than one state 377
highway patrol retirement system member or retirant shall be 378
computed on the basis of the service of the member or retirant 379
to whom the surviving spouse was most recently married. 380

(4) A pension of one hundred fifty dollars per month shall 381
be paid by the system to or for the benefit of each child of a 382
deceased member or retirant until the child attains the age of 383
eighteen years or marries, whichever event occurs first, or 384
until the child attains twenty-three years of age if the child 385
is a student in and attending an institution of learning or 386
training pursuant to a program designed to complete in each 387
school year the equivalent of at least two-thirds of the full- 388
time curriculum requirements of the institution, as determined 389
by the retirement board. If any surviving child, regardless of 390
age at the time of the member's or retirant's death, because of 391
physical or mental disability, was totally dependent upon the 392
deceased member or retirant for support at the time of death, a 393
pension of one hundred fifty dollars per month shall be paid by 394
the system to or for the benefit of the child during the child's 395
natural life or until the child recovers from the disability. 396

(5) (a) If a retirant died prior to June 6, 1988, and the 397
surviving spouse was not married to the retirant while the 398
retirant was in the active service of the patrol, the surviving 399
spouse shall receive a pension of the greater of four hundred 400
twenty-five dollars per month or fifty per cent of the computed 401
monthly pension the retirant was receiving. 402

(b) If the pension payable to a person receiving a pension 403
under division (A) (5) (a) of this section on June 30, 2000, is 404
less than nine hundred dollars per month, the pension shall be 405

increased to nine hundred dollars per month. 406

(6) If a deceased member or retirant leaves no spouse or 407
surviving children, but leaves two parents depending solely upon 408
the deceased member or retirant for support, each parent shall 409
be paid a monthly pension of one hundred fifty-four dollars. If 410
in such case there is only one parent dependent solely upon the 411
deceased member or retirant for support, such parent shall be 412
paid a monthly pension of one hundred fifty-four dollars. Such 413
pension shall be paid during the life of the surviving parents, 414
or until dependency ceases, or until remarriage, whichever event 415
occurs first. 416

(7) Any amount remaining as accumulated contributions at 417
the time of death of a retirant who leaves no surviving spouse 418
or dependent children or parents shall be paid to the 419
beneficiary or beneficiaries the retirant has nominated by 420
written designation duly executed and filed with the board. A 421
retirant may designate an individual or a trust as a 422
beneficiary. If there is no designated beneficiary surviving the 423
retirant, the retirant's accumulated contributions shall be paid 424
according to the state law of descent and distribution; provided 425
that, if the retirant's accumulated contributions are not 426
claimed by an eligible person or by the estate of the retirant 427
within seven years, they shall be transferred to the income fund 428
of the system and after that shall be paid from that fund to 429
such person or estate upon application to the board. 430

(8) The increase provided for by division (A) (5) of this 431
section shall be included in the calculation of the additional 432
benefit paid under section 5505.174 of the Revised Code. 433

(B) The board shall adopt, and may amend or rescind, the 434
necessary rules for the administration of this section and all 435

decisions of the board shall be final. Any payment of a pension 436
or benefit under this section is subject to the provisions of 437
section 5505.26 of the Revised Code. 438

(C) A member's total service credit may include periods 439
during which the member's employment with the state highway 440
patrol is interrupted by a leave of absence, when requested by 441
the governor, to accept employment with another agency of the 442
state, provided that: 443

(1) The member is reemployed by the state highway patrol 444
within thirty days following termination of such other 445
employment; 446

(2) The member pays into the retirement system, to the 447
credit of the employees' savings fund, an amount equal to the 448
total contributions the member would have paid had the state 449
highway patrol employment not been so interrupted. Such 450
repayment shall begin within ninety days after the member's 451
return to duty with the state highway patrol and be completed 452
within a period equal to that of the leave of absence. 453

(D) Service credits granted under division (C) of this 454
section shall not include any duplications of credits for which 455
a pension is payable by the public employees retirement system. 456

Sec. 5505.174. (A) Eligibility for an increase under this 457
section shall be determined as follows: 458

(1) For a person whose pension effective date is prior to 459
January 7, 2013, an "eligible person" is one of the following: 460

(a) A person fifty-three years old or older who has been 461
receiving a pension pursuant to division (B) of section 5505.16, 462
division (A)(1) of section 5505.17, or division (B) of section 463
5505.18 of the Revised Code for not less than twelve months; 464

(b) A person who has been receiving a pension pursuant to 465
division (B) of section 5505.18 of the Revised Code for not less 466
than sixty months regardless of age; 467

(c) A person who has been receiving a pension pursuant to 468
section 5505.162 or division (A) (3), (4), (5), or (6) of section 469
5505.17 of the Revised Code for not less than twelve months 470
regardless of age. 471

(2) For a person whose pension effective date is on or 472
after January 7, 2013, but before the effective date of this 473
amendment, an "eligible person" is a person who is sixty years 474
old or older who has been receiving a pension pursuant to 475
division (B) of section 5505.16, section 5505.162, division (A) 476
(1), (3), (4), (5), or (6) of section 5505.17, or division (B) 477
of section 5505.18 of the Revised Code for not less than twelve 478
months. 479

(3) For a person whose pension effective date is on or 480
after the effective date of this amendment, an "eligible person" 481
is a person who is sixty years old or older who has been 482
receiving a pension pursuant to division (B) of section 5505.16, 483
section 5505.162, division (A) (1), (3) (a), (b), or (d), (4), 484
(5), or (6) of section 5505.17, or division (B) of section 485
5505.18 of the Revised Code for not less than twelve months. 486

(B) (1) Except as otherwise provided in this section, the 487
state highway patrol retirement board shall annually increase 488
pensions payable to eligible persons under this chapter in 489
accordance with the following: 490

(a) For each person sixty-five years of age or older who 491
is receiving a pension not greater than one hundred eighty-five 492
per cent of the federal poverty level for a family of two 493

persons, as revised annually by the United States department of 494
health and human services in accordance with section 673(2) of 495
the "Omnibus Reconciliation Act of 1981," 95 Stat. 511, 42 496
U.S.C. 9902, as amended, the board shall increase the pension by 497
three per cent. 498

(b) For persons other than those described in division (B) 499
(1) (a) of this section, the board may increase the pension. Any 500
increase shall be determined by the board based on compliance 501
with the amortization period requirement of section 5505.121 of 502
the Revised Code. The board's determination shall be based on 503
the annual actuarial valuation required by section 5505.12 of 504
the Revised Code. If the board determines that an increase may 505
be made, the increase shall not exceed three per cent of the 506
eligible person's pension. 507

(2) No increase under this section shall exceed the limit 508
established by section 415 of the "Internal Revenue Code of 509
1986," 100 Stat. 2085, 26 U.S.C. 415, as amended. 510

(3) The date of the first increase paid under this section 511
shall be the anniversary date for future increases. The pension 512
used in the first calculation of an increase under this section 513
shall remain as the base for all future increases paid under 514
this section, unless a new base is established. 515

(C) If payment of a portion of a benefit is made to an 516
alternate payee under section 5505.261 of the Revised Code, 517
increases under this section granted while the order is in 518
effect shall be apportioned between the alternate payee and the 519
eligible person in the same proportion that the amount being 520
paid to the alternate payee bears to the amount paid to the 521
eligible person. 522

If payment of a portion of a benefit is made to one or more beneficiaries under "option 4" under division (A)(4) of section 5505.162 of the Revised Code, each increase under this section granted while the plan of payment is in effect shall be divided among the designated beneficiaries in accordance with the portion each beneficiary has been allocated.

(D) The board shall adopt, and may amend or rescind, any rule necessary to carry out this section.

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 Code.

(A) Upon the application of a member of the state highway patrol retirement system, a person acting on behalf of a member, 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 on disability by the board. To be eligible for retirement on account of disability incurred not in the line of duty, a member must have five or more years of service credit according to rules adopted by the board.

The medical or psychological examination of a member who has applied for disability retirement shall be conducted by a competent health-care professional or professionals appointed by the board. The health-care professional or professionals 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. 552

The board shall determine whether the member qualifies for 553
disability retirement and its decision shall be final. The board 554
shall consider the written medical or psychological report, 555
opinions, statements, and other competent evidence in making its 556
determination. If the incapacity is a result of heart disease or 557
any cardiovascular disease of a chronic nature, which disease or 558
any evidence of which was not revealed by the physical 559
examination passed by the member on entry into the patrol, the 560
member is presumed to have incurred the disease in the line of 561
duty as a member of the patrol, unless the contrary is shown by 562
competent evidence. 563

(B) (1) Except as provided under division (A) of section 564
5505.58 of the Revised Code, a member whose retirement on 565
account of disability incurred in the line of duty shall receive 566
the applicable pension provided for in section 5505.17 of the 567
Revised Code, except that if the member has less than twenty- 568
five years of contributing service, the member's service credit 569
shall be deemed to be twenty-five years for the purpose of this 570
provision. In no case shall the member's disability pension be 571
less than sixty-one and one-quarter per cent or exceed the 572
lesser of seventy-nine and one-quarter per cent of the member's 573
final average salary or the limit established by section 415 of 574
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 575
415, as amended. 576

(2) Except as provided under division (B) of section 577
5505.58 of the Revised Code, a member whose retirement on 578
account of disability incurred not in the line of duty shall 579
receive the applicable pension provided for in section 5505.17 580
of the Revised Code, except that if the board's determination 581

that the member qualifies for disability retirement was made 582
before the effective date of this amendment and the member has 583
less than twenty years of contributing service, the member's 584
service credit shall be deemed to be twenty years for the 585
purpose of this provision. ~~In~~ If the board's determination that 586
the member qualifies for disability retirement is made on or 587
after the effective date of this amendment and the member has 588
less than twelve years of contributing service, the member's 589
service credit shall be deemed to be twelve years for the 590
purpose of this provision. 591

In no case shall the member's disability pension under 592
this division exceed the lesser of seventy-nine and one-quarter 593
per cent of the member's final average salary or the limit 594
established by section 415 of the "Internal Revenue Code of 595
1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended. 596

(C) The state highway patrol retirement board shall adopt 597
rules requiring a disability retirant, as a condition of 598
continuing to receive a disability pension, to agree in writing 599
to obtain any medical or psychological treatment recommended by 600
the board's health-care professional and submit medical or 601
psychological reports regarding the treatment. If the board 602
determines that a disability retirant is not obtaining the 603
medical or psychological treatment or the board does not receive 604
a required medical or psychological report, the disability 605
pension shall be suspended until the treatment is obtained, the 606
report is received by the board, or the board's health-care 607
professional certifies that the treatment is no longer helpful 608
or advisable. Should the retirant's failure to obtain treatment 609
or submit a medical or psychological report continue for one 610
year, the recipient's right to the disability pension shall be 611
terminated as of the effective date of the original suspension. 612

(D) A disability retirant who has not attained the age of 613
sixty years shall be subject to an annual medical or 614
psychological re-examination by health-care professionals 615
appointed by the board, except that the board may waive the re- 616
examination if the board's health-care professionals certify 617
that the retirant's disability is ongoing. If any retirant 618
refuses to submit to a medical or psychological re-examination, 619
the retirant's disability pension shall be suspended until the 620
retirant withdraws the refusal. If the refusal continues for one 621
year, all the retirant's rights under and to the disability 622
pension shall be terminated as of the effective date of the 623
original suspension. 624

(E) Each disability retirant who has not attained the age 625
of sixty years shall file with the board an annual statement of 626
earnings, current medical or psychological information on the 627
recipient's condition, and any other information required in 628
rules adopted by the board. The board may waive the requirement 629
that a disability retirant file an annual statement of earnings 630
or current medical or psychological information if the board's 631
health-care professional certifies that the retirant's 632
disability is ongoing. 633

The board shall annually examine the information submitted 634
by the retirant. If a retirant refuses to file the statement or 635
information, the disability pension shall be suspended until the 636
statement and information are filed. If the refusal continues 637
for one year, the right to the pension shall be terminated as of 638
the effective date of the original suspension. 639

(F) (1) Except as provided in division (F) (2) of this 640
section, a disability retirant who has been physically or 641
psychologically examined and found no longer incapable of 642

performing the retirant's duties, or who becomes employed as a 643
law enforcement officer, shall have the right to be restored to 644
the rank the retirant held at the time the retirant was 645
pensioned and the right to have all previous rights restored, 646
including the retirant's civil service status, and the 647
disability pension shall terminate. Upon return to employment in 648
the patrol, the retirant shall again become a contributing 649
member of the retirement system, the total service at the time 650
of the retirant's retirement shall be restored to the retirant's 651
credit, and the retirant shall be given service credit for the 652
period the retirant was in receipt of a disability pension. 653

(2) The state highway patrol is not required to take 654
action under division (F)(1) of this section if the retirant was 655
dismissed or resigned in lieu of dismissal for dishonesty, 656
misfeasance, malfeasance, or conviction of a felony. 657

(G) The board shall adopt a rule to define "law 658
enforcement officer" for purposes of division (F)(1) of this 659
section, and may adopt other rules to carry out this section, 660
including rules that specify the types of health-care 661
professionals the board may appoint for the purpose of this 662
section. 663

Sec. 5505.59. If a member dies while participating in the 664
deferred retirement option plan, all of the following apply: 665

(A) The amounts accrued to the member's benefit shall be 666
paid to the member's surviving spouse or, if there is no 667
surviving spouse, the beneficiary designated by the member on a 668
form provided by the state highway patrol retirement system. A 669
member may designate an individual or a trust as a beneficiary. 670
If there is no surviving spouse or designated beneficiary, the 671
amounts accrued to the member's benefit shall be paid to the 672

member's estate. 673

Any payment made under this division to a member's estate 674
shall be made in the form of a single lump sum payment. A 675
surviving spouse or designated beneficiary may select as the 676
method of distribution of the amount accrued to the member under 677
the plan one of the distribution options provided under section 678
401(a) of the "Internal Revenue Code of 1986," 26 U.S.C. 401(a), 679
as amended, applicable to governmental plans. 680

(B) ~~The member's surviving spouse and, if eligible, each~~ 681
~~surviving child,~~ shall receive a pension as follows: 682

(1) For the surviving spouse of a member who made an 683
election under section 5505.51 of the Revised Code before the 684
effective date of this amendment, a pension as described in 685
division (A) (3) (b) (iii) ~~or (4)~~ of section 5505.17 of the Revised 686
Code, utilizing the pension amount calculated under section 687
5505.53 of the Revised Code; 688

(2) For the surviving spouse of a member that made an 689
election under section 5505.51 of the Revised Code on or after 690
the effective date of this amendment, a pension as described in 691
division (A) (3) (c) of section 5505.17 of the Revised Code. 692

(C) If eligible, each surviving child of a member shall 693
receive a pension as described in division (A) (4) of section 694
5505.17 of the Revised Code. 695

(D) If the member has no surviving spouse or surviving 696
children, but has a parent or parents dependent on the member 697
for support, the parent or parents shall receive a pension 698
determined under division (A) (6) of section 5505.17 of the 699
Revised Code. 700

~~(D)~~ (E) The lump sum payment described in section 5505.30 701

of the Revised Code shall be paid to the member's surviving 702
spouse or, if there is no surviving spouse, the beneficiary 703
designated by the member on a form provided by the state highway 704
patrol retirement system. A member may designate an individual 705
or a trust as a beneficiary. If there is no surviving spouse or 706
designated beneficiary, the payment shall be made to the 707
member's estate. 708

Section 2. That existing sections 5505.16, 5505.162, 709
5505.17, 5505.174, 5505.18, and 5505.59 of the Revised Code are 710
hereby repealed. 711