Jeffrey A. Bernard *Legislative Service Commission*

H.B. 340

126th General Assembly
(As Introduced)

Reps. Schneider, Flowers, Seitz, McGregor, Webster, Reidelbach, Blessing, Latta, Carano

BILL SUMMARY

- Authorizes the State Highway Patrol Retirement System to establish a health care savings account program.

CONTENT AND OPERATION

Background: State Highway Patrol Retirement System health insurance

(R.C. 5505.28; not in the bill)

The State Highway Patrol Retirement System (SHPRS) is authorized to provide health insurance coverage to SHPRS members receiving pension benefits and subscribing to the system's health insurance plan. SHPRS currently provides health care coverage to retirees and their surviving spouses. At this time SHPRS does not charge a premium for retiree health coverage. SHPRS also provides health coverage to a retiree's spouse or certain dependent children, but this coverage requires payment of a premium by the retiree.[1] The statutory authority for SHPRS to provide health insurance is unaffected by the bill.

[1] *Telephone conversation of September 16 and meeting of October 6, 2005 with SHPRS Executive Director Dick Curtis. SHPRS health care coverage information is available at: http://www.ohprs.org/health.htm (visited 16 September 2005).*

Health care savings account program

(R.C. 5505.281)

The bill authorizes SHPRS to establish and administer a health care savings account program[2] that complies with section 401(h) of the U.S. Internal Revenue Code of 1986 (26 United States Code 401(h)). Under such a program, SHPRS members or the state could make deposits to provide funds after retirement to members for the payment of health, medical, hospital, surgical, dental, or vision care expenses, including insurance premiums, deductible amounts, or co-payments.

The bill does not alter the statutory obligation of SHPRS active members to contribute 10% of annual salary to SHPRS, nor the state's obligation to contribute (R.C. 5505.15; not in the bill). The bill provides that contributions made into a health savings account are in addition to the contributions required by current law. The bill requires SHPRS to adopt rules to implement and administer the plan if it is created.

COMMENT

IRS 401(h) accounts

Section 401(h) of the IRS Code allows a pension or annuity plan to establish a separate account within the pension trust to provide benefits for sickness, accident, hospitalization, and medical expenses of retired employees and their spouses and dependents (26 U.S.C. 401(h)). These accounts provide tax advantages to individuals, as contributions are pre-tax investments and withdrawals are not taxed if used for allowed expenses (withdrawals must be made exclusively to fund health care expenses after retirement). A retiree cannot use a 401(h) account to fund general retirement expenses.

While the funds of a 401(h) account can be merged with pension funds for investment purposes, 401(h) account assets cannot be used to provide general pension benefits. IRS 401(h) requires that such accounts be separate from the pension or benefit account. 401(h) accounts do not affect the regular pension benefit.

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[2] *The health care savings account is separate and distinct from the current health plan offered by SHPRS to retirees. According to Director Curtis, the bill will have no affect on the current SHPRS health plan (meeting of October 6, 2005; see* ***COMMENT****).*

Board approved health savings account program[3]

SHPRS has developed and approved a health savings account plan that it plans to implement and administer if the bill is enacted.[4] The IRS must approve this plan before it can begin. The plan allows SHPRS members to make pre-tax contributions while employed by the Highway Patrol and non-taxable withdrawals to offset health care expenses after retirement. This tax status of the account translates into a discount on health care expenses by the amount of an individual's marginal tax rate. Funds from the account can be used to offset out-of-pocket health expenses after retirement.

The plan developed by SHPRS requires participants to join within one year of the plan being offered or one year after initial employment. A member who elects not to participate cannot later change that election. Once made an election to participate in the plan is irrevocable but the member can increase the rate of contribution. A member who does not make an election will be deemed to have elected to join the plan at the minimum contribution rate (1%). The maximum contribution is 10% of annual salary.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	09-13-05	p. 1632

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[3] *The following section is based on a discussion between LSC staff and Director Curtis on October 6, 2005.*

[4] *Ohio State Highway Patrol Retirement System, "Health Care Benefit Plan and Trust for a 401(h) Account," July 27, 2005.*