**South Carolina General Assembly**

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**H. 5182**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Bustos, Leber and Wooten

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Currently residing in the House Committee on **Ways and Means**

Summary: Police Officer Retention Incentive Program

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/28/2024 House Introduced and read first time (House Journal‑page 125)

 2/28/2024 House Referred to Committee on **Ways and Means** (House Journal‑page 125)

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**VERSIONS OF THIS BILL**

[02/28/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/5182_20240228.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 5 TO CHAPTER 11, TITLE 9 SO AS TO CREATE THE “POLICE OFFICER RETENTION INCENTIVE PROGRAM”; AND BY AMENDING SECTION 8‑11‑620, RELATING TO LEAVE AND LUMP‑SUM PAYMENTS PERMITTED UPON TERMINATION OF EMPLOYMENT, DEATH, OR RETIREMENT OF EMPLOYEES, SO AS TO INCLUDE THE POLICE OFFICER RETENTION INCENTIVE PROGRAM.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 11, Title 9 of the S.C. Code is amended by adding:

Article 5

Police Officer Retention Incentive Program

 Section 9‑11‑610. (A) An active contributing member who is eligible for service retirement under this chapter and complies with the requirements of this article may elect to participate in the Police Officer Retention Incentive Program (program). A member electing to participate in the program retires for purposes of the system. The program participant shall agree to continue employment with an employer participating in the system for a program period, not to exceed five years. The member shall notify the system before the beginning of the program period. Participation in the program does not guarantee employment for the specified program period.

 (B) Notwithstanding the provisions of Section 9‑11‑10(7), a payment for unused annual leave is not included in calculating a member’s deferred program benefit during the program period. The member’s average final compensation for the purpose of calculating the deferred program retirement benefit must be solely the average of the member’s highest twelve consecutive quarters of earnable compensation at the time the member enters the program. During the specified program period, receipt of the member’s normal retirement benefit is deferred. The member’s deferred monthly benefit must be placed in the system’s trust fund on behalf of the member. No interest is paid on the member’s deferred monthly benefit placed in the system’s trust fund during the specified program period.

 (C) During the specified program period, the employer shall pay to the system the employer contribution for active members prescribed by law with respect to any program participant it employs, regardless of whether the program participant is a full‑ or part‑time employee, or a temporary or permanent employee. The program participant shall pay to the system the employee contribution as if the program participant were an active contributing member, but the program participant does not accrue additional service credit in the system for these employer and employee contributions. If an employer who is obligated to the system pursuant to this subsection fails to pay the amount due, as determined by the system, the amount must be deducted from any funds payable to the employer by the State.

 (D) A program participant is retired from the retirement system as of the beginning of the program period. A program participant is not eligible to receive disability retirement benefits. Accrued annual leave and sick leave used in any manner in the calculation of the program participant’s retirement benefit is deducted from the amount of such leave accrued by the participant.

 (E) A program participant is retired for retirement benefit purposes only. For employment purposes, a program participant is considered to be an active employee, retaining all other rights and benefits of an active employee except for grievance rights pursuant to Section 8‑17‑370, and is not subject to the earnings limitation of Section 9‑11‑90 during the program period.

 (F)(1) Upon termination of employment either during or at the end of the program period, the member must receive the balance in the member’s program account by electing one of the following distribution alternatives:

 (a) a lump‑sum distribution, paying appropriate taxes; or

 (b) to the extent permitted under law, a tax‑sheltered rollover into an eligible plan.

 (2) Upon termination of employment, the retirement systems shall recalculate the average final compensation of the member to determine the benefit the member receives after participation in the program. The average final compensation calculated at the commencement of the program must be increased by an amount up to and including forty‑five days’ termination pay for unused annual leave received by the member at termination of employment, divided by three. The member’s benefit after participation in the program must be calculated in accordance with Section 9‑11‑60, utilizing the recalculated average final compensation determined in this subsection, and the member’s service credit, including sick leave, as of the date the member began participation in the program, plus any cost‑of‑living increases declared during the program period with respect to the amount of the member’s deferred program benefit.

 (G)(1) If a program participant dies during the specified program period, the member’s designated beneficiary must receive the balance in the member’s program account by electing one of the following distribution alternatives:

 (a) a lump‑sum distribution, paying appropriate taxes; or

 (b) to the extent permitted under law, a tax‑sheltered rollover into an eligible plan.

 (2) In accordance with the form of system benefit selected by the member at the time the program commenced, the member’s designated beneficiary must receive either a survivor benefit or a refund of contributions from the member’s system account.

 (3) If a program participant elected either Option B or C under Section 9‑11‑150, then the designated survivor beneficiary shall receive a survivor benefit based on a recalculated average final compensation. The average final compensation calculated at the commencement of the program must be increased by an amount up to and including forty‑five days’ termination pay for unused annual leave received by the member’s legal representative at the member’s death, divided by three. The survivor benefit must be calculated in accordance with Section 9‑11‑60, utilizing the recalculated average final compensation determined in this subsection, and the member’s service credit, including sick leave, as of the date the member began participation in the program, plus any cost‑of‑living increases declared during the program period with respect to the amount of the member’s deferred program benefit.

 (H) A program participant shall terminate employment no later than the day before the fifth annual anniversary of the date the member commenced participation in the program.

 (I) A member is not eligible to participate in the program if the member has participated previously in and received a benefit under this program or any other state retirement system. However, a member who has received a disability benefit, but who has been restored to active service and voided his optional benefit selection pursuant to Section 9‑11‑90 and repaid any benefit received is eligible to participate in the program.

 (J) Notwithstanding any other provision of this section, a member who begins participation after June 30, 2035, shall end his participation no later than the fifth anniversary of the date the member commenced participation in the program, or June 30, 2041, whichever is earlier. A member’s participation may not continue after June 30, 2041, under any circumstance.

SECTION 2. Section 8‑11‑620 of the S.C. Code is amended to read:

 Section 8‑11‑620. (A)(1) Upon termination from state employment, an employee may take both annual leave and a lump‑sum payment for unused leave, but this combination may not exceed forty‑five days in a calendar year except as provided in Section 8‑11‑610. If an employee dies, the employee’s legal representative is entitled to a lump‑sum payment for the employee’s unused leave, not to exceed forty‑five working days, except as provided in Section 8‑11‑610. An active member of the South Carolina Retirement System or South Carolina Police Officers Retirement System who is terminated within one year of retirement eligibility shall have five business days after the date of termination to purchase any service credit that the member is otherwise eligible to purchase as provided in Section 9‑1‑1140 or Section 9‑11‑50 in order to attain retirement eligibility.

 (2) Upon retirement from state employment, if the member does not elect to participate in the Teacher and Employee Retention Incentive Program or the Police Officer Retention Incentive Program, a lump‑sum must be paid for unused leave, not to exceed forty‑five days, unless a higher maximum is approved pursuant to Section 8‑11‑610, and without regard to the earned leave taken during the calendar year in which the employee retires.

 (3) Upon retirement from state employment, if the employee participates in the Teacher and Employee Retention Incentive Program or the Police Officer Retention Incentive Program, the employee shall not receive payment for unused annual leave until the employee terminates from state employment and ends participation in the Teacher and Employee Retention Incentive Program or the Police Officer Retention Incentive Program. Upon termination of state employment and participation in the Teacher and Employee Retention Incentive Program or the Police Officer Retention Incentive Program, a lump‑sum must be paid for unused leave, not to exceed forty‑five days, unless a higher maximum is approved pursuant to Section 8‑11‑610, and without regard to the earned leave taken during the calendar year in which the employee retires.

 (4) No lump‑sum for unused leave of a state employee must be paid following the termination for any reason from state employment of that employee if, while employed, that employee received a service retirement benefit on account of previous service under retirement systems established in Chapters 1 and 11 of, Title 9.

 (B) A retired member of the South Carolina Police Officers Retirement System who is hired by the State, a state agency, institution of higher learning, board, commission, or school that is a governmental unit of this State is not eligible for a lump‑sum payment for unused leave provided pursuant to subsection (A) of this section.

SECTION 3. This act takes effect upon approval by the Governor.

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