National Association of Police Organizations

NAPO News

# NAPO WINS LEGISLATIVE VICTORY WITH PASSAGE OF PENSION PROTECTION ACT

Over a year of hard work by NAPO has culminated in the passage of the "Pension Protection Act of 2006," H.R. 4, on August 3, 2006. H.R. 4 contains key provisions that aid retired law enforcement officers including the "H.E.L.P.S. Retirees Act" and exemptions to the 10% early withdrawal tax.

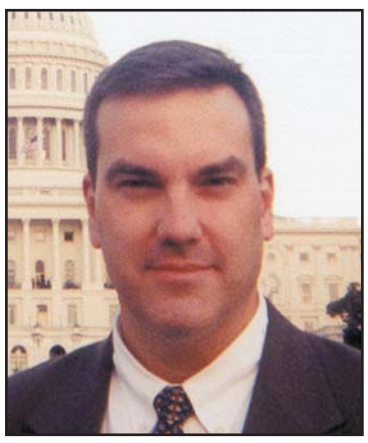
The "H.E.L.P.S. Retirees Act" provision included in H.R. 4, under Title VII, Section 845, allows retired public safety officers to use up to $3,000 annually from their pension funds, including defined benefit plans and defined contribution plans, to pay for qualified health insurance premiums without taxing these distributions. It goes into effect on January 1, 2007.

"This bill will greatly assist law enforcement officers, who often retire earlier than other occupations because of the physical demands and unique job hazards they face, by providing them with means to more affordable healthcare options," states **NAPO Executive Director Bill Johnson**. "It will help preserve the retirement security and the health of those public servants who selflessly serve and protect our communities."

The final compromise bill also includes the DROP Provision, which waives the 10% early withdrawal penalty tax for any distributions from pension plans for public safety officers who retire from service on or after the age of 50 (Title VIII, Sec. 828).

NAPO has been a primary supporter of the "H.E.L.P.S. Retirees Act" since the beginning and we have fought to see it included in the final conference report. NAPO thanks **Congressman Chocola** and his staff for all of their hard work to keep this provision in the final bill. We are looking forward to seeing the President sign it into law.

Please see the attached chart summarizing the public sector provisions of H.R.4.



*Former PBA attorney Bill Johnson is the Executive Director of NAPO.*

*The National Association of Police Organizations (NAPO) is a coalition of law enforcement unions and associations from across the United States that serves to advance the interests of America's law enforcement and corrections officers through legislative and legal advocacy, political action and education. Founded in 1978, NAPO now represents more than 2,000 police unions and associations, 236,000 sworn law enforcement officers, 11,000 retired officers and more than 100,000 citizens who share a common dedication to fair and effective crime control and law enforcement. Florida PBA, Palm Beach County PBA, Dade County PBA, and Coastal Florida PBA are members of NAPO.*

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A big executive boarded a New York to Chicago train. He explained to the porter, "I'm a heavy sleeper, but I want you to be sure and wake me up at 3:00 am for the stop in Buffalo. I don't care what I say, you just make sure I get off in Buffalo."

The next morning the executive woke up in Chicago. He was furious. He found the porter and really gave him an earful before hustling off to purchase a return ticket.

After he left, a co-worker said to the porter, "How can you stand there and let that passenger abuse you like that?"

"That's nothing," said the porter. "You should have heard the guy who I put off in Buffalo!"

## Preliminary Summary of Public Sector Provisions in Compromise Pension Package (H.R. 4)

| | Senate Pension Security and Transparency Act (S. 1783) | House Pension Protection Act of 2005 (H.R. 2830) | HOUSE-PASSED COMPROMISE BILL (H.R. 4) |
|---|---|---|---|
| **Purchase of Service Credit** | Clarifies: 1) service credit can be purchased for periods for which there is no performance of service (e.g. airtime); 2) credit may be purchased in order to qualify for an increased benefit (e.g. a higher tier/formula in the same plan); 3) a trustee-to-trustee transfer of 403(b) and 457 funds into a governmental defined benefit plan to purchase service credit does not need to be tested under the 415(n)limits on after-tax contributions to the plan; 4) once 403(b)/457 funds are transferred to a governmental defined benefit plan, they take on the distribution rules of such a plan (i.e. must be tested under 415(b), etc); and 5) a transfer need not be made between plans maintained by same employer. | No provision | **Follows Senate language** |
| | Would also allow defined benefit plans to accept after-tax rollovers, if they so wished, provided that they separately track the after-tax funds from the pre-tax funds. At present, defined contribution plans and IRAs may accept these types of rollovers. | No Provision | **Follows Senate provision** |
| **Hybrid Plans and DB Plans that Credit Interest** | Clarifies the legality of cash-balance and hybrid plans, but creates new ERISA requirements on such plans that are ill-fitting for governmental plans. Includes a clarification in the Age Discrimination in Employment Act (ADEA) that a DB plan may credit interest, however, it currently cross-references the new ERISA requirements as a condition, which would be extremely problematic for governmental plans (including contributory DB plan refunds and other hybrid-like features such as DROPs, etc.) | Clarifies the legality of cash balance and hybrid plans. Amends ERISA and IRC only (not ADEA) and would only affect private plans. | **Amends ADEA, but generally follows House language requiring DB plans provide equal treatment of "similarly situated" EEs regardless of age. No ERISA cross-reference, but stipulates market rate of return as a maximum, to be further defined by Treasury.** |
| **Expiring EGTRRA Pension Provisions** | No Provision. | Makes permanent the numerous pension provisions enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001, which are currently scheduled to expire in 2010. | **Follows House language** |
| **Exception to 10% Early Withdrawal Penalty for Public Safety Employees** | Would make an additional exception from the 10% early withdrawal tax for any distributions from a governmental defined benefit plan to a qualified public safety employee who separates from service on or after age 50. (Under current law, annuity-like distributions are exempt at any age, and lump-sum or partial-lump sum distributions are exempt from the tax if they are paid to employees who separate from service on or after age 55). | Would make an exception from the 10% early withdrawal tax specifically for distributions from DROP plans to public safety employees. The bill would provide a federal definition of a DROP plan and limit the exclusion to those plans only (raising concerns for plans that do not meet this definition and inequities for public safety personnel with other types of DROPs or alternatives such as partial lump sums, etc.) | **Follows the Senate bill.** |
| **Tax-Free Distributions for Public Safety Retiree Health and Long Term Care** | No provision. | Allows up to $5,000 from governmental pension plans to be distributed pre-tax if used to purchase public safety retiree health or long term care insurance. Eligible participants must separate from service as a public safety officer due to disability or the attainment of normal retirement age from the employer who maintains the eligible retirement plan. Premiums, in order to be excluded from income, would need to be deducted from the distributions from the eligible retirement plan and paid directly to the insurer. All eligible retirement plans of an employer shall be treated as a single plan. | **Follows House bill, but limits the tax-free distributions to $3000.** |