

2011 -- S 0966

LC02068

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO CITIES AND TOWNS -- RETIREMENT

Introduced By: Senator Daniel DaPonte

Date Introduced: May 12, 2011

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-19-19 of the General Laws in Chapter 45-19 entitled "Relief of
2 Injured and Deceased Fire Fighters and Police Officers" is hereby amended to read as follows:

3 **45-19-19. City and town ordinances providing for retirement of sick or injured**
4 **police officers or fire fighters.** -- The city or town councils of the various cities and towns may
5 provide, by ordinance or through collective bargaining, for the retirement of the personnel of their
6 police and fire departments who have been on leave of absence from their employment due to
7 sickness contracted or injuries sustained in the performance of their duties; provided, that no
8 ordinance is contrary to any pension cost of living increase or escalator clause in a collective
9 bargaining agreement, and provided, further, that no ordinance provides for a disability retirement
10 allowance of less than ~~sixty-six and two thirds percent (66 2/3%)~~ fifty percent (50%) of a retiree's
11 annual salary at the time of retirement nor more than ~~one hundred percent (100%)~~ sixty-six and
12 two-thirds percent (66 2/3%) of a retiree's annual salary in accordance with the provisions of
13 section 45-21-22 of the general laws.

14 SECTION 2. Sections 45-21-16 and 45-21-22 of the General Laws in Chapter 45-21
15 entitled "Retirement of Municipal Employees" are hereby amended to read as follows:

16 **45-21-16. Retirement on service allowance.** -- Retirement of a member on a service
17 retirement allowance shall be made by the retirement board as follows:

18 (1) Any member may retire upon the member's written application to the retirement
19 board as of the first day of the calendar month in which the application was filed, provided the

1 member was separated from service prior to the application, and provided, further, that if
2 separation from service occurs during the month in which application is filed, the effective date is
3 the first day following the separation from service, provided that the member at the time so
4 specified for the member's retirement has attained the applicable minimum retirement age and has
5 completed at least ten (10) years of total service or who, regardless of age, completed thirty (30)
6 years of total service, and notwithstanding that during the period of notification the member has
7 separated from service. The minimum ages for service retirement (except for employees
8 completing thirty (30) years of service) is fifty-eight (58) years: for those employees who have
9 completed at least ten (10) years of contributory service before July 1, 2011. For those
10 employees who have not completed at least ten (10) years of contributory service before July 1,
11 2011, the minimum requirements shall be attainment of age fifty-nine (59) with twenty-nine (29)
12 or more years of contributing service and attainment of age sixty-five (65) for those members
13 with at least ten (10) but less than twenty-nine (29) years of contributing service. Provided
14 further, that any member who has not completed at least ten (10) years of contributory service
15 before July 1, 2011 may retire upon attaining the age of fifty-five (55) and having completed
16 twenty (20) years of contributing service with an actuarial reduction in benefits for each month
17 that the age of the member is less than sixty-five (65) years.

18 (2) Except as specifically provided in sections 45-21-19 through 45-21-22, no member is
19 eligible for pension benefits under this chapter unless the member has been a contributing
20 member of the employees' retirement system for at least ten (10) years.

21 (i) Provided, however, a person who has ten (10) years service credit on or before June
22 16, 1991 is vested.

23 (ii) Furthermore, any past service credits purchased in accordance with section 45-21-62
24 are counted towards vesting.

25 (iii) Any person who becomes a member of the employees' retirement system pursuant to
26 section 45-21-4 shall be considered a contributing member for the purpose of this chapter.

27 (iv) Notwithstanding any other provision of law, no more than five (5) years of service
28 credit may be purchased by a member of the System. The five (5)-year limit does not apply to any
29 purchases made prior to the effective date of this provision. A member who has purchased more
30 than five (5) years of service credit maximum, before January 1, 1995, shall be permitted to apply
31 the purchases towards the member's service retirement. However, no further purchase will be
32 permitted. Repayment, in accordance with applicable law and regulation, of any contribution
33 previously withdrawn from the System is not deemed a purchase of service credit.

34 (3) No member of the municipal employees' retirement system is permitted to purchase

1 service credits for casual or seasonal employment, for employment as a page in the general
2 assembly, or for employment at any state college or university while the employee is a student or
3 graduate assistant of the college or university.

4 (4) A member does not receive service credit in this retirement system for any year or
5 portion of a year, which counts as service credit in any other retirement system in which the
6 member is vested or from which the member is receiving a pension and/or any annual payment
7 for life. This subsection does not apply to any payments received pursuant to the Federal Social
8 Security Act or to payments from a military pension earned prior to participation in state or
9 municipal employment, or to military service credits earned prior to participation in state or
10 municipal employment.

11 (5) A member who seeks to purchase or receive service credit in this retirement system
12 has the affirmative duty to disclose to the retirement board whether or not he or she is a vested
13 member in any other retirement system and/or is receiving a pension retirement allowance or any
14 annual payment for life. The retirement board has the right to investigate whether or not the
15 member has utilized the same time of service for credit in any other retirement system. The
16 member has an affirmative duty to cooperate with the retirement board including, by way of
17 illustration and not by way of limitation, the duty to furnish or have furnished to the retirement
18 board any relevant information which is protected by any privacy act.

19 (6) A member who fails to cooperate with the retirement board shall not have the time of
20 service counted toward total service credit until a time that the member cooperates with the
21 retirement board and until a time that the retirement board determines the validity of the service
22 credit.

23 (7) A member who knowingly makes a false statement to the retirement board regarding
24 service time or credit is not entitled to a retirement allowance and is entitled only to the return of
25 his or her contributions without interest.

26 **45-21-22. Accidental disability allowance.** – (a) Upon retirement for accidental
27 disability [submitted on or before July 1, 2011](#), a member receives a retirement allowance equal to
28 sixty-six and two-thirds percent (66 2/3%) of the rate of the member's compensation at the date of
29 the member's retirement subject to the provisions of section 45-21-31.

30 [\(b\) Upon any application for accidental disability submitted on or after July 1, 2011, if](#)
31 [the member has been found to be permanently and totally disabled from service but has not been](#)
32 [found by the board to be permanently and totally disabled from any employment as a result of](#)
33 [his/her accidental disability, a member shall receive a retirement allowance equal to fifty percent](#)
34 [\(50%\) of the rate of the member's compensation at the date of the member's retirement, subject to](#)

1 the provisions of section 45-21-31. The retiree shall, as a condition of continued receipt of a
2 disability retirement allowance, on or before a date fixed by the retirement board, annually under
3 penalties of perjury, provide the board with such affidavits and accurate evidence of earnings,
4 employment and gainful activity as the board may require, including, but not limited to, joint
5 and/or individual tax returns. Payment of the disability retirement allowance shall continue as
6 long as the individual remains disabled, and regardless of service or age.

7 Upon retirement for accidental disability that has been found by the board to be
8 permanently and totally disabled from any employment, a member shall receive a retirement
9 allowance equal to sixty-six and two-thirds percent (66 2/3%) of the rate of the member's
10 compensation at the date of the member's retirement subject to the provisions of section 45-21-31.
11 The retirement board shall apply the terms of subsection 28-33-17(b) in determining total
12 disability.

13 SECTION 3. Sections 45-21.2-5, 45-21.2-6, 45-21.2-6.1, 45-21.2-6.2, 45-21.2-6.3, 45-
14 21.2-22 and 45-21.2-22.1 of the General Laws in Chapter 45-21.2 entitled "Optional Retirement
15 for Members of Police Force and Fire Fighters" are hereby amended to read as follows:

16 **45-21.2-5. Retirement on service allowance.** -- Retirement of a member on a service
17 retirement allowance shall be made by the retirement board as follows:

18 (1) Any member who has attained or attains age seventy (70) shall be retired as stated in
19 section 45-21-16 subject to the discretions contained in that section; provided, that any member
20 who is a member of the Woonsocket fire department who has attained or attains an age of sixty-
21 five (65) years shall be retired. Retirement occurs on the first day of the next succeeding calendar
22 month in which the member has attained the age of sixty-five (65) years.

23 (2) Any member may retire pursuant to this subdivision upon written application to the
24 board stating at what time the member desires to retire; provided, that the member has completed
25 at least ten (10) years of contributory service before July 1, 2011 and at the specified time for
26 retirement has attained an age of fifty-five (55) years ~~and has completed at least ten (10) years of~~
27 ~~total service~~ , or has completed at least ten (10) years of contributory service on or after July 1,
28 2011 and has attained the age of sixty-five (65) years, and notwithstanding that the member may
29 have separated from service.

30 (3) Any member may retire pursuant to this subdivision upon written application to the
31 board stating at what time the member desires to retire; provided, that the member at the specified
32 time for retirement has completed at least twenty-five (25) years of total service, and, for
33 employees who have not completed at least ten (10) years of contributory service before July 1,
34 2011, and has attained the age of fifty-five (55) years notwithstanding that the member may have

1 separated from service.

2 (4) Any member may retire pursuant to this subdivision upon written application to the
3 board stating at what time the member desires to retire; provided, that the member at the specified
4 time for retirement has attained an age of fifty (50) years and has completed at least twenty (20)
5 years of total service, notwithstanding that the member may have separated from service;
6 provided, that, for employees who have completed at least ten (10) years of contributory service
7 before July 1, 2011, the service retirement allowance, as determined according to the formula
8 provided in section 45-21.2-6, is reduced one-half of one percent (1/2%) for each month that the
9 age of the member is less than fifty-five (55) years and for employees who have not completed at
10 least ten (10) years of contributory service before July 1, 2011, the service retirement allowance
11 as determined according to the formula provided in section 45-21.2-6 is reduced by an actuarial
12 reduction in benefits for each month that the age of the member is less than age fifty-five (55).

13 (5) Any member of the South Kingstown police department may retire pursuant to this
14 subdivision upon written application to the board stating at what time the member desires to
15 retire; provided, that the member at the specified time for retirement has earned a service
16 retirement allowance of fifty percent (50%) of final compensation pursuant to section 45-21.2-
17 6.1. This subsection shall apply only to employees who have completed at least ten (10) years of
18 contributory service before the later of July, 1 2011 or the end of the day on the expiration date
19 set forth in any lawful collective bargaining agreement that was executed and in effect prior to
20 July 1, 2011.

21 (6) Any member of the Johnston police department may retire pursuant to this
22 subdivision upon written application to the board stating at what time the member desires to
23 retire; provided, that the member at the specified time for retirement has earned a service
24 retirement allowance of fifty percent (50%) of final compensation pursuant to section 45-21.2-
25 6.2. This subsection shall apply only to employees who have completed at least ten (10) years of
26 contributory service before the later of July, 1 2011 or the end of the day on the expiration date
27 set forth in any lawful collective bargaining agreement that was executed and in effect prior to
28 July 1, 2011.

29 (7) Any member of the Cranston fire department hired after July 1, 1995, or any member
30 of the Cranston fire department with five (5) years or less of service effective July 1, 1995, may
31 retire pursuant to this subdivision upon written application to the board stating at what time the
32 member desires to retire; provided, that the member at the specified time for retirement has
33 earned a service retirement allowance of fifty percent (50%) of final compensation for at least
34 twenty (20) years service; final compensation for Cranston fire department members is based on

1 the compensation components of weekly salary, longevity and holidays with longevity of the
2 members highest year of earnings and members shall receive a three percent (3%) escalation of
3 their pension payment compounded each year on January 1st following the year of retirement and
4 continuing on an annual basis on that date; further, any illness or injury not covered in title 45 of
5 the general laws relating to the presumption of disability is governed by the collective bargaining
6 agreement between the City of Cranston and members of the Cranston fire department. [This](#)
7 [subsection shall apply only to employees who have completed at least ten \(10\) years of](#)
8 [contributory service before the later of July, 1 2011 or the end of the day on the expiration date](#)
9 [set forth in any lawful collective bargaining agreement that was executed and in effect prior to](#)
10 [July 1, 2011.](#)

11 (8) Any member of the Cranston police department hired after July 1, 1995, or any
12 member of the Cranston police department with five (5) years or less of service effective July 1,
13 1995, may retire pursuant to this subdivision upon written application to the board stating at what
14 time the member desires to retire; provided, that the member at the specified time for retirement
15 has earned a service retirement allowance of fifty percent (50%) of final compensation for at least
16 twenty (20) years service; final compensation for Cranston police department members is based
17 on the compensation components of weekly salary, longevity and holidays with longevity of the
18 members highest year of earnings and members shall receive a three percent (3%) escalation of
19 their pension payment compounded each year on January 1st following the year of retirement and
20 continuing on an annual basis on that date; further, any illness or injury not covered in title 45 of
21 the general laws relating to the presumption of disability is governed by the collective bargaining
22 agreement between the City of Cranston and members of the Cranston police department. [This](#)
23 [subsection shall apply only to employees who have completed at least ten \(10\) years of](#)
24 [contributory service before the later of July, 1 2011 or the end of the day on the expiration date](#)
25 [set forth in any lawful collective bargaining agreement that was executed and in effect prior to](#)
26 [July 1, 2011.](#)

27 (9) Any member of the Hopkinton police department may retire pursuant to this
28 subdivision upon written application to the board stating at what time the member desires to
29 retire; provided, that the member at the specified time for retirement has earned a service
30 retirement allowance of fifty percent (50%) of final compensation for at least twenty (20) years
31 service; final compensation for Hopkinton police department members is based on the
32 compensation components of weekly salary, longevity and holidays with longevity of the
33 members highest year of earnings and members shall receive a three percent (3%) escalation of
34 their pension payment compounded each year on January 1st following the year of retirement and

1 continuing on an annual basis on that date. This subsection shall apply only to employees who
2 have completed at least ten (10) years of contributory service before the later of July, 1 2011 or
3 the end of the day on the expiration date set forth in any lawful collective bargaining agreement
4 that was executed and in effect prior to July 1, 2011.

5 (10) Any member of the Richmond police department may retire pursuant to this
6 subdivision upon written application to the board stating at what time the member desires to
7 retire; provided, that the member at the specified time for retirement has earned a service
8 retirement allowance of fifty percent (50%) of final compensation for at least twenty-two (22)
9 years' service pursuant to section 45-21.2-6.3. This subsection shall apply only to employees who
10 have completed at least ten (10) years of contributory service before the later of July, 1 2011 or
11 the end of the day on the expiration date set forth in any lawful collective bargaining agreement
12 that was executed and in effect prior to July 1, 2011.

13 **45-21.2-6. Service retirement allowance.** -- (a) Upon retirement from service pursuant
14 to subdivision (1), (2), or (3) of section 45-21.2-5, a member receives a retirement allowance
15 which is a life annuity terminable at the death of the annuitant and shall be an amount equal to
16 two percent (2%) of final compensation multiplied by the years of total service, but not to exceed
17 seventy-five percent (75%) of final compensation.

18 ~~(b) Upon retirement from service pursuant to subdivision (4) of section 45-21.2-5, a~~
19 ~~member receives a retirement allowance which is a life annuity terminable at the death of the~~
20 ~~annuitant computed in accordance with subsection (a) of this section, reduced by one half of one~~
21 ~~percent (1/2%) for each month that the member was under age fifty five (55) at his or her~~
22 ~~retirement.~~

23 (e) (b) Upon retirement, the member may elect to receive the actuarial equivalent of his
24 or her retirement allowance in a lesser retirement allowance as determined by actuarial
25 calculation, which is payable throughout life with the provision that:

26 (1) Option 1. - A reduced retirement allowance payable during the member's life with the
27 provisions that after his or her death it shall continue during the life of and be paid to the person
28 that he or she nominated by written designation duly acknowledged and filed with the retirement
29 board at the time of retirement; or

30 (2) Option 2. - A reduced retirement allowance payable during the member's life with the
31 provision that after his or her death an allowance equal to one-half (1/2) of his or her reduced
32 allowance shall continue during the life of and be paid to the person that he or she nominated by
33 written designation duly acknowledged and filed with the board at the time of retirement.

34 **45-21.2-6.1. South Kingstown police department -- Retirement allowance.** -- Upon

1 retirement from service pursuant to subdivision (1), (2), or (5) of section 45-21.2-5, a member of
2 the South Kingstown police department receives a retirement allowance which is a life annuity
3 terminable at the death of the annuitant, and is an amount equal to the sum of two and one-half
4 percent (2.5%) of final compensation multiplied by the years of service accrued after July 1, 1993
5 and two percent (2%) of final compensation multiplied by the years of service accrued prior to
6 July 1, 1993. The annual retirement allowance in no event shall exceed seventy-five percent
7 (75%) of final compensation. [This subsection shall apply only to employees who have completed](#)
8 [at least ten \(10\) years of contributory service before the later of July, 1 2011 or the end of the day](#)
9 [on the expiration date set forth in any lawful collective bargaining agreement that was executed](#)
10 [and in effect prior to July 1, 2011.](#)

11 **45-21.2-6.2. Johnston police department retirement allowance.** -- Upon retirement
12 from service pursuant to subdivision (1), (2), or (6) of section 45-21.2-5, a member of the
13 Johnston police department receives a retirement allowance which is a life annuity terminable at
14 the death of the annuitant, and is an amount equal to the sum of two percent (2%) of final
15 compensation multiplied by the first twenty-five (25) years of service and four percent (4%) of
16 final compensation multiplied by the years of service in excess of twenty-five (25) years. The
17 annual retirement allowance in no event shall exceed seventy-five percent (75%) of final
18 compensation. [This subsection shall apply only to employees who have completed at least ten](#)
19 [\(10\) years of contributory service before the later of July, 1 2011 or the end of the day on the](#)
20 [expiration date set forth in any lawful collective bargaining agreement that was executed and in](#)
21 [effect prior to July 1, 2011.](#)

22 **45-21.2-6.3. Richmond police department -- Retirement allowance.** -- Upon
23 retirement from service pursuant to chapter 45-21.2-5, a member of the Richmond police
24 department shall receive a retirement allowance which shall be terminable at the death of the
25 annuitant, and shall be an amount equal to the sum of two and two thousand seven hundred
26 twenty-seven ten thousandths of a percent (2.2727%) of final compensation (average of final
27 three years' salary) multiplied by the years of service. The annual retirement allowance in no
28 event shall exceed seventy-five percent (75%) of final compensation. [This subsection shall apply](#)
29 [only to employees who have completed at least ten \(10\) years of contributory service before the](#)
30 [later of July, 1 2011 or the end of the day on the expiration date set forth in any lawful collective](#)
31 [bargaining agreement that was executed and in effect prior to July 1, 2011.](#)

32 **45-21.2-22. Optional twenty year retirement on service allowance.** -- The local
33 legislative bodies of the cities and towns may, by ordinance adopted, permit the retirement of a
34 member on a service retirement allowance as follows:

1 (1) Any member may retire pursuant to this section upon his or her written application to
2 the board stating at what time he or she desires to retire; provided, that the member, at the
3 specified time for his or her retirement, has completed at least twenty (20) years of total service,
4 and, notwithstanding that the member may have separated from service;

5 (2) Upon retirement from service pursuant to subdivision (1), a member receives a
6 retirement allowance which is a life annuity terminable at the death of the annuitant, and is equal
7 to two and one-half percent (2 1/2%) of final compensation multiplied by the years of total
8 service, but not to exceed seventy-five percent (75%) of final compensation;

9 (3) Upon the adoption of a service retirement allowance, pursuant to this subdivision,
10 each member contributes an amount equal to one percent (1%) more than that contribution
11 required under section 45-21.2-14;

12 (4) This section is exempt from the provisions of chapter 13 of this title.

13 (5) This subsection shall apply only to employees who have completed at least ten (10)
14 years of contributory service before the later of July, 1 2011 or the end of the day on the
15 expiration date set forth in any lawful collective bargaining agreement that was executed and in
16 effect prior to July 1, 2011.

17 **45-21.2-22.1. Burrillville police -- Optional twenty-year retirement on service**
18 **allowance.** -- Notwithstanding section 45-21.2-22, the town council of the town of Burrillville,
19 may by ordinance adopted, permit the retirement of a member on a service retirement allowance
20 as follows:

21 (1) Any member may retire pursuant to this section upon his or her written application to
22 the board stating at what time he or she desires to retire; provided, that the member, at the
23 specified time of his or her retirement, has completed at least twenty (20) years of total service;

24 (2) Upon retirement from service, pursuant to subdivision (1), a member receives a
25 retirement allowance that is a life annuity terminable at the death of the annuitant, and is equal to
26 three percent (3%) of final compensation multiplied by the years of total service, but not to
27 exceed sixty percent (60%) of final compensation;

28 (3) Upon retirement from service where member has in excess of twenty (20) years of
29 service, a member receives a retirement allowance that is a life annuity terminable at the death of
30 the annuitant, and is an amount equal to the sum of three percent (3%) of final compensation
31 multiplied by the first twenty (20) years of service and one and one-half percent (1.5%) of final
32 compensation multiplied by the years of service in excess of twenty (20) years. The annual
33 retirement allowance in no event shall exceed seventy-five percent (75%) of final compensation;

34 (4) Upon the adoption of a service retirement allowance, pursuant to this section, each

1 member shall contribute an amount equal to ten and two-tenths percent (10.2%) of the salary or
2 compensation earned or accrued to the member;

3 (5) Notwithstanding anything to the contrary hereinabove, any member who retires with
4 less than twenty (20) years of service shall be subject to section 45-21.2-6 for purposes of
5 determining any service retirement allowance;

6 (6) This section is exempt from the provisions of chapter 13 of this title;

7 (7) Except as specifically set forth hereinabove, all other provisions of chapter 21.2 of
8 this title shall be applicable to Burrillville police officers who make application to retire.

9 (8) This subsection shall apply only to employees who have completed at least ten (10)
10 years of contributory service before the later of July, 1 2011 or the end of the day on the
11 expiration date set forth in any lawful collective bargaining agreement that was executed and in
12 effect prior to July 1, 2011.

13 SECTION 4. Title 45 of the General Laws entitled "TOWNS AND CITIES" is hereby
14 amended by adding thereto the following chapter:

15 CHAPTER 21.4

16 MUNICIPAL RETIREMENT PROGRAMS

17 **45-21.4-1. Purpose.** – It is the intent of this chapter to ensure that cities and towns have
18 the authority to modify retirement benefits for non-vested municipal employees.

19 **45-21.4-2. Definitions.** – Words used in this chapter shall be defined using the definitions
20 contained in section 45-21-2.

21 **45-21.4-3. Limits on retirement benefits.** – Notwithstanding any general law or special
22 law of the State of Rhode Island, no current municipal ordinance, collective bargaining
23 agreement, or interest arbitration award shall require employee retirement benefits that exceed the
24 actuarial value of benefits afforded under state law for those municipal employees who
25 participate in the Municipal Employees Retirement System as authorized by chapters 45-21, 45-
26 21.1 and 45-21.2 of the Rhode Island general laws. For employees who have not already reached
27 their vesting date in a pension plan providing more generous benefits, and except as further
28 limited by this chapter, city and town councils following normal procedures for approval of an
29 ordinance are authorized to amend the retirement benefits for new and non-vested employees and
30 such action shall take precedence over existing collective bargaining agreements for new and
31 non-vested employees.

32 **45-21.4-4. Reporting.** – Prior to final action on such ordinance, the city or town clerk
33 shall forward to the executive director of the state retirement system an actuarial study by a
34 qualified actuarial firm which shall compute the normal cost of the benefits afforded new and/or

1 non-vested employees under the proposed ordinance. Such actuarial study shall be a public
2 document and such reports shall be codified by the executive director in an annual report to the
3 retirement board.

4 SECTION 5. This act shall take effect upon passage.

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LC02068
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CITIES AND TOWNS -- RETIREMENT

1 This act would modify municipal pension benefits for certain employees. It would also
2 provide cities and towns with alternative retirement options.

3 This act would take effect upon passage.

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