

2011 -- H 6211

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO TOWNS AND CITIES - RETIREMENT - POLICE AND FIREFIGHTERS

Introduced By: Representatives Johnston, and DaSilva

Date Introduced: June 01, 2011

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-21.2-9 of the General Laws in Chapter 45-21.2 entitled
2 "Optional Retirement for Members of Police Force and Fire Fighters" is hereby amended to read
3 as follows:
4 **45-21.2-9. Retirement for accidental disability.** -- (a) Any member in active service,
5 regardless of length of service, is entitled to an accidental disability retirement allowance.
6 Application for the allowance is made by the member or on the member's behalf, stating that the
7 member is physically or mentally incapacitated for further service as the result of an injury
8 sustained while in the performance of duty and certifying to the time, place, and conditions of the
9 duty performed by the member which resulted in the alleged disability and that the alleged
10 disability was not the result of the willful negligence or misconduct on the part of the member,
11 and was not the result of age or length of service, and that the member has not attained the age of
12 sixty-five (65); provided further, that any application that includes confirmation that the member
13 has been determined eligible and receiving injured on duty pay pursuant to section 45-19-1 based
14 upon a presumption conferred by statute or collective bargaining agreement that the injury or
15 illness was sustained in the performance of duty, then said member shall be exempt from said
16 certification. The application shall be made within eighteen (18) months of the alleged accident
17 from which the injury has resulted in the member's present disability and shall be accompanied by
18 an accident report and a physician's report certifying to the disability. If the member was able to
19 return to his or her employment and subsequently reinjures or aggravates the same injury, the

1 member shall make another application within eighteen (18) months of the reinjury or
2 aggravation which shall be accompanied by a physician's report certifying to the reinjury or
3 aggravation causing the disability. If a medical examination made by three (3) physicians
4 engaged by the retirement board, and other investigations as the board may make, confirms the
5 statements made by the member, the board may grant the member an accidental disability
6 retirement allowance.

7 (b) For the purposes of subsection (a), "aggravation" shall mean an intervening work-
8 related trauma that independently contributes to a member's original injury that amounts to more
9 than the natural progression of the preexisting disease or condition and is not the result of age or
10 length of service. The intervening independent trauma causing the aggravation must be an
11 identifiable event or series of work-related events that are the proximate cause of the member's
12 present condition of disability.

13 (c) "Occupational cancer", as used in this section, means a cancer arising out of
14 employment as a fire fighter, due to injury due to exposures to smoke, fumes, or carcinogenic,
15 poisonous, toxic, or chemical substances while in the performance of active duty in the fire
16 department.

17 (d) For purposes of subsection (a), "reinjury" shall mean a recurrence of the original
18 work-related injury from a specific ascertainable event. The specific event must be the proximate
19 cause of the member's present condition of disability.

20 (e) Any fire fighter, including one employed by the state, or a municipal firefighter
21 employed by a municipality that participates in the optional retirement for police officers and fire
22 fighters as provided in this chapter, who is unable to perform his or her duties in the fire
23 department by reason of a disabling occupational cancer which develops or manifests itself
24 during a period while the fire fighter is in the service of the department, and any retired member
25 of the fire force of any city or town who develops occupational cancer, is entitled to receive an
26 occupational cancer disability and he or she is entitled to all of the benefits provided for in this
27 chapter, chapters 19, 19.1, and 21 of this title and chapter 10 of title 36 if the fire fighter is
28 employed by the state.

29 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would provide that a member of the police force or a firefighter whose eligibility
2 for injured on duty is pay based on a presumption, conferred by statute or collective bargaining
3 agreement, that the injury was sustained in the performance of duty would not need to certify to
4 the time, place and conditions of the duty performed that resulted in the injury.

5 This act would take effect upon passage.

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