

2016 -- H 7593

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - STATE POLICE

Introduced By: Representatives Carnevale, and Ucci

Date Introduced: February 12, 2016

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-28-22 of the General Laws in Chapter 42-28 entitled "State
2 Police" is hereby amended to read as follows:

3 **42-28-22. Retirement of members.** -- (a) Whenever any member of the state police
4 hired prior to July 1, 2007 has served for twenty (20) years, he or she may retire therefrom or he
5 or she may be retired by the superintendent with the approval of the governor, and in either event
6 a sum equal to one-half (1/2) of the whole salary for the position from which he or she retired
7 determined on the date he or she receives his or her first retirement payment shall be paid him or
8 her during life.

9 (b) For purposes of this section, the term "whole salary" means:

10 (1) For each member who retired prior to July 1, 1966, "whole salary" means the base
11 salary for the position from which he or she retired as the base salary for that position was
12 determined on July 31, 1972;

13 (2) For each member who retired between July 1, 1966 and June 30, 1973, "whole
14 salary" means the base salary for the position from which he or she retired as the base salary,
15 implemented by the longevity increment, for that position was determined on July 31, 1972 or on
16 the date of his or her retirement, whichever is greater;

17 (3) For each member who retired or who retires after July 1, 1973 "whole salary" means
18 the base salary, implemented by the longevity increment, holiday pay, and clothing allowance, for
19 the position from which he or she retired or retires.

1 (c) (1) Any member who retired prior to July 1, 1977 shall receive a benefits payment
2 adjustment equal to three percent (3%) of his or her original retirement, as determined in
3 subsection (b) of this section, in addition to his or her original retirement allowance. In each
4 succeeding year thereafter during the month of January, the retirement allowance shall be
5 increased an additional three percent (3%) of the original retirement allowance, not compounded,
6 to be continued until January 1, 1991. For the purposes of the computation, credit shall be given
7 for a full calendar year regardless of the effective date of the service retirement allowance. For
8 purposes of this subsection, the benefits payment adjustment shall be computed from January 1,
9 1971 or the date of retirement, whichever is later in time.

10 (2) Any member of the state police who retires pursuant to the provisions of this chapter
11 on or after January 1, 1977, shall on the first day of January, next following the third anniversary
12 date of the retirement receive a benefits payment adjustment, in addition to his or her retirement
13 allowance, in an amount equal to three percent (3%) of the original retirement allowance. In each
14 succeeding year thereafter during the month of January, the retirement allowance shall be
15 increased an additional three percent (3%) of the original retirement allowance, not compounded,
16 to be continued until January 1, 1991. For the purposes of the computation, credit shall be given
17 for a full calendar year regardless of the effective date of the service retirement allowance.

18 (3) Any retired member of the state police who is receiving a benefit payment
19 adjustment pursuant to subdivisions (1) and (2) of this section shall beginning January 1, 1991
20 and ending June 30, 2012, receive a benefits payment adjustment equal to fifteen hundred dollars
21 (\$1,500).

22 (d) The benefits payment adjustment as provided in this section shall apply to and be in
23 addition to the retirement benefits under the provisions of § 42-28-5, and to the injury and death
24 benefits under the provisions of § 42-28-21.

25 (e) (1) Any member who retires after July 1, 1972 and is eligible to retire prior to July 1,
26 2012 and who has served beyond twenty (20) years shall be allowed an additional amount equal
27 to three percent (3%) for each completed year served after twenty (20) years, but in no event shall
28 the original retirement allowance exceed sixty-five percent (65%) of his or her whole salary as
29 defined in subsection (b) hereof or sixty-five percent (65%) of his or her salary as defined in
30 subsection (b) hereof in his or her twenty-fifth (25th) year whichever is less.

31 (2) Each member who retired prior to July 1, 1975, shall be entitled to all retirement
32 benefits as set forth above or shall be paid benefits as set forth in subdivision (b)(1) with "whole
33 salary" meaning the base salary for the position from which he or she retired as the base salary for
34 the position was determined on July 1, 1975, whichever is greater.

1 (f) (1) Any member who retires, has served as a member for twenty (20) years or more,
2 and who served for a period of six (6) months or more of active duty in the armed service of the
3 United States or in the merchant marine service of the United States as defined in § 2 of chapter
4 1721 of the Public Laws, 1946, may purchase credit for such service up to a maximum of two (2)
5 years; provided that any member who has served at least six (6) months or more in any one year
6 shall be allowed to purchase one year for such service and any member who has served a fraction
7 of less than six (6) months in his or her total service shall be allowed to purchase six (6) months'
8 credit for such service.

9 (2) The cost to purchase these credits shall be ten percent (10%) of the member's first
10 year salary as a state policeman multiplied by the number of years and/or fraction thereof of such
11 armed service up to a maximum of two (2) years. The purchase price shall be paid into the
12 general fund. For members hired on or after July 1, 1989, the purchase price shall be paid into a
13 restricted revenue account entitled "state police retirement benefits" and shall be held in trust.

14 (3) There will be no interest charge provided the member makes such purchase during
15 his or her twentieth (20th) year or within five (5) years from May 18, 1981, whichever is later,
16 but will be charged regular rate of interest as defined in § 36-8-1 as amended to date of purchase
17 from the date of his or her twentieth (20th) year of state service or five (5) years from May 18,
18 1981, whichever is later.

19 (4) Any member who is granted a leave of absence without pay for illness, injury or any
20 other reason may receive credit therefor by making the full actuarial cost as defined in
21 subdivision 36-8-1(10); provided the employee returns to state service for at least one year upon
22 completion of the leave.

23 (5) In no event shall the original retirement allowance exceed sixty-five percent (65%) of
24 his or her whole salary as defined in subsection (b) hereof or sixty-five percent (65%) of his or
25 her salary as defined in subsection (b) hereof in his or her twenty-fifth (25th) year, whichever is
26 less.

27 (6) 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 shall not apply to any
29 purchases made prior to January 1, 1995. A member who has purchased more than five (5) years
30 of service credits before January 1, 1995, shall be permitted to apply those purchases towards the
31 member's service retirement. However, no further purchase will be permitted. Repayment in
32 accordance with applicable law and regulation of any contribution previously withdrawn from the
33 system shall not be deemed a purchase of service credit.

34 (g) The provisions of this section shall not apply to civilian employees in the Rhode

1 Island state police; and, further, from and after April 28, 1937, chapters 8 -- 10, inclusive, of title
2 36 shall not be construed to apply to the members of the Rhode Island state police, except as
3 provided by §§ 36-8-3, 36-10-1.1, 42-28-22.1, and 42-28-22.2, and section 36-8-1(5) and (8)(a)
4 effective July 1, 2012.

5 (h) Any member of the state police other than the superintendent of state police, who is
6 hired prior to July 1, 2007 and who has served for twenty-five (25) years or who has attained the
7 age of sixty-two (62) years, whichever shall first occur, shall retire therefrom.

8 (i) (1) Any member of the state police, other than the superintendent, who is hired on or
9 after July 1, 2007 and who has served for twenty-five (25) years, may retire therefrom or he or
10 she may be retired by the superintendent with the approval of the governor, and shall be entitled
11 to a retirement allowance of fifty percent (50%) of his or her "whole salary" as defined in
12 subsection (b) hereof.

13 (2) Any member of the state police who is hired on or after July 1, 2007 may serve up to
14 a maximum of thirty (30) years, and shall be allowed an additional amount equal to three percent
15 (3.0%) for each completed year served after twenty-five (25) years, but in no event shall the
16 original retirement allowance exceed sixty-five percent (65%) of his or her "whole salary" as
17 defined in subsection (b) hereof.

18 (j) Effective July 1, 2012, any other provision of this section notwithstanding:

19 (j) (1) Any member of the state police, other than the superintendent of state police, who
20 is not eligible to retire on or prior to June 30, 2012 may retire at any time subsequent to the date
21 the member's retirement allowance equals or exceeds fifty percent (50%) of average
22 compensation as defined in section 36-8-1(5)(a), provided that a member shall retire upon the
23 first to occur of:

24 (i) The date the member's retirement allowance equals sixty-five percent (65%); or

25 (ii) The later of the attainment of age sixty-two (62) or completion of five (5) years of
26 service; provided however, any current member as of June 30, 2012 who has not accrued fifty
27 percent (50%) upon attaining the age of sixty-two (62) shall retire upon accruing fifty percent
28 (50%); and upon retirement a member shall receive a retirement allowance which shall equal:

29 (A) For members hired prior to July 1, 2007 the sum of (i), (ii) and (iii) where

30 (i) Is calculated as the member's years of total service before July 1, 2012 multiplied by
31 two and one half percent (2.5%) of average compensation for a member's first twenty (20) total
32 years,

33 (ii) Is calculated as the member's years of total service before July 1, 2012 in excess of
34 twenty (20) years not to exceed twenty-five (25) years multiplied by three percent (3%) of

1 average compensation, and

2 (iii) Is the member's years of total service on or after July 1, 2012 multiplied by two
3 percent (2%) of average compensation as defined in § 36-8-1(5)(a).

4 (B) For members hired on or after July 1, 2007, the member's retirement allowance shall
5 be calculated as the member's years of total contributory service multiplied by two percent (2%)
6 of average compensation.

7 (C) Any member of the state police who is eligible to retire on or prior to June 30, 2012
8 shall retire with a retirement allowance calculated in accordance with paragraph (a) and (e) above
9 except that whole salary shall be defined as final compensation where compensation for purposes
10 of this section and § 42-28-22.1 includes base salary, longevity and holiday pay.

11 (D) Notwithstanding the preceding provisions, in no event shall a member's final
12 compensation be lower than his or her final compensation determined as of June 30, 2012.

13 (2) In no event shall a member's original retirement allowance under any provisions of
14 this section exceed sixty-five percent (65%) of his or her average compensation.

15 (3) For each member who retires on or after July 1, 2012, except as provided in
16 paragraph (j)(1)(C) above, compensation and average compensation shall be defined in
17 accordance with § 36-8-1(5)(a) and (8), provided that for a member whose regular work period
18 exceeds one hundred forty-seven (147) hours over a twenty-four (24) day period at any time
19 during the four (4) year period immediately prior to his/her retirement that member shall have up
20 to four hundred (400) hours of his/her pay for regularly scheduled work earned during this period
21 shall be included as "compensation" and/or "average compensation" for purposes of this section
22 and § 42-28-22.1.

23 (4) This subsection (4) shall be effective for the period July 1, 2012 through June 30,
24 2015.

25 (i) Notwithstanding the prior paragraphs of this section, and subject to paragraph (4)(ii)
26 below, for all present and former members, active and retired members, and beneficiaries
27 receiving any retirement, disability or death allowance or benefit of any kind, whether for or on
28 behalf of a non-contributory member or contributory member, the annual benefit adjustment
29 provided in any calendar year under this section shall be equal to (A) multiplied by (B) where (A)
30 is equal to the percentage determined by subtracting five and one-half percent (5.5%) (the
31 "subtrahend") from the Five-Year Average Investment Return of the retirement system
32 determined as of the last day of the plan year preceding the calendar year in which the adjustment
33 is granted, said percentage not to exceed four percent (4%) and not to be less than zero percent
34 (0%), and (B) is equal to the lesser of the member's retirement allowance or the first twenty-five

1 thousand dollars (\$25,000) of retirement allowance, such twenty-five thousand dollars (\$25,000)
2 amount to be indexed annually in the same percentage as determined under (4)(i)(A) above. The
3 "Five-Year Average Investment Return" shall mean the average of the investment returns for the
4 most recent five (5) plan years as determined by the retirement board. Subject to paragraph (4)(ii)
5 below, the benefit adjustment provided by this paragraph shall commence upon the third (3rd)
6 anniversary of the date of retirement or the date on which the retiree reaches age fifty-five (55),
7 whichever is later. In the event the retirement board adjusts the actuarially assumed rate of return
8 for the system, either upward or downward, the subtrahend shall be adjusted either upward or
9 downward in the same amount.

10 (ii) Except as provided in paragraph (4)(iii), the benefit adjustments under this section
11 for any plan year shall be suspended in their entirety unless the Funded Ratio of the Employees'
12 Retirement System of Rhode Island, the Judicial Retirement Benefits Trust and the State Police
13 Retirement Benefits Trust, calculated by the system's actuary on an aggregate basis, exceeds
14 eighty percent (80%) in which event the benefit adjustment will be reinstated for all members for
15 such plan year.

16 In determining whether a funding level under this paragraph (4)(ii) has been achieved,
17 the actuary shall calculate the funding percentage after taking into account the reinstatement of
18 any current or future benefit adjustment provided under this section.

19 (iii) Notwithstanding paragraph (4)(ii), in each fifth plan year commencing after June 30,
20 2012 commencing with the plan year ending June 30, 2017, and subsequently at intervals of five
21 (5) plan years, a benefit adjustment shall be calculated and made in accordance with paragraph
22 (4)(i) above until the Funded Ratio of the Employees' Retirement System of Rhode Island, the
23 Judicial Retirement Benefits Trust and the State Police Retirement Benefits Trust, calculated by
24 the system's actuary on an aggregate basis, exceeds eighty percent (80%).

25 (iv) The provisions of this paragraph (j)(4) of § 42-28-22 shall become effective July 1,
26 2012 and shall apply to any benefit adjustment not granted on or prior to June 30, 2012.

27 (v) The cost-of-living adjustment as provided in this paragraph (j)(4) shall apply to and
28 be in addition to the retirement benefits under the provisions of § 42-28-5 and to the injury and
29 death benefits under the provisions of § 42-28-21.

30 (5) This subsection (5) shall become effective July 1, 2015.

31 (i) (A) As soon as administratively reasonable following the enactment into law of this
32 paragraph (5)(i)(A), a one-time benefit adjustment shall be provided to members and/or
33 beneficiaries of members who retired on or before June 30, 2012, in the amount of two percent
34 (2%) of the lesser of either the member's retirement allowance or the first twenty-five thousand

1 dollars (\$25,000) of the member's retirement allowance. This one-time benefit adjustment shall
2 be provided without regard to the retiree's age or number of years since retirement.

3 (B) Notwithstanding the prior subsections of this section, for all present and former
4 members, active and retired members, and beneficiaries receiving any retirement, disability or
5 death allowance or benefit of any kind, the annual benefit adjustment provided in any calendar
6 year under this section for adjustments on and after January 1, 2016, and subject to subsection
7 (5)(ii) below, shall be equal to (I) multiplied by (II):

8 (I) Shall equal the sum of fifty percent (50%) of (1) plus fifty percent (50%) of (2)
9 where:

10 (1) Is equal to the percentage determined by subtracting five and one-half percent (5.5%)
11 (the "subtrahend") from the five-year average investment return of the retirement system
12 determined as of the last day of the plan year preceding the calendar year in which the adjustment
13 is granted, said percentage not to exceed four percent (4%) and not to be less than zero percent
14 (0%). The "five-year average investment return" shall mean the average of the investment returns
15 of the most recent five (5) plan years as determined by the retirement board. In the event the
16 retirement board adjusts the actuarially assumed rate of return for the system, either upward or
17 downward, the subtrahend shall be adjusted either upward or downward in the same amount.

18 (2) Is equal to the lesser of three percent (3%) or the percentage increase in the
19 Consumer Price Index for all Urban Consumers (CPI-U) as published by the U.S. Department of
20 Labor Statistics determined as of September 30 of the prior calendar year.

21 In no event shall the sum of (1) plus (2) exceed three and one-half percent (3.5%) or be
22 less than zero percent (0%).

23 (II) Is equal to the lesser of either the member's retirement allowance or the first twenty-
24 five thousand eight hundred and fifty-five dollars (\$25,855) of retirement allowance, such amount
25 to be indexed annually in the same percentage as determined under subsection (5)(i)(B)(I) above.
26 The benefit adjustments provided by this subsection (5)(i)(B) shall be provided to all retirees
27 entitled to receive a benefit adjustment as of June 30, 2012 under the law then in effect, and for
28 all other retirees the benefit adjustments shall commence upon the third anniversary of the date of
29 retirement or the date on which the retiree reaches his or her Social Security retirement age,
30 whichever is later.

31 (ii) Except as provided in subsection (5)(iii), the benefit adjustments under subsection
32 (5)(i)(B) for any plan year shall be suspended in their entirety unless the funded ratio of the
33 employees' retirement system of Rhode Island, the Judicial retirement benefits trust and the state
34 police retirement benefits trust, calculated by the system's actuary on an aggregate basis, exceeds

1 eighty percent (80%) in which event the benefit adjustment will be reinstated for all members for
2 such plan year.

3 In determining whether a funding level under this subsection (5)(ii) has been achieved,
4 the actuary shall calculate the funding percentage after taking into account the reinstatement of
5 any current or future benefit adjustment provided under this section.

6 (iii) Notwithstanding subsection (5)(ii), in each fourth plan year commencing after June
7 30, 2012 commencing with the plan year ending June 30, 2016, and subsequently at intervals of
8 four plan years: (i) A benefit adjustment shall be calculated and made in accordance with
9 paragraph (5)(i)(B) above; and (ii) Effective for members and/or beneficiaries of members who
10 retired on or before June 30, 2015, the dollar amount in subsection (5)(i)(B)(II) of twenty-five
11 thousand eight hundred and fifty-five dollars (\$25,855) shall be replaced with thirty-one thousand
12 and twenty-six dollars (\$31,026) until the funded ratio of the employees' retirement system of
13 Rhode Island, the judicial retirement benefits trust and the state police retirement benefits trust,
14 calculated by the system's actuary on an aggregate basis, exceeds eighty percent (80%).

15 (iv) Effective for members and or beneficiaries of members who have retired on or
16 before July 1, 2015, a one-time stipend of five hundred dollars (\$500) shall be payable within
17 sixty (60) days following the enactment of the legislation implementing this provision, and a
18 second one-time stipend of five hundred dollars (\$500) in the same month of the following year.
19 These stipends shall be payable to all retired members or beneficiaries receiving a benefit as of
20 the applicable payment date and shall not be considered cost of living adjustments under the prior
21 provisions of this § 42-28-22.

22 (6) Any member with contributory service on or after July 1, 2012, who has completed at
23 least five (5) years of contributory service but who has not retired in accordance with (j)(1)
24 above, shall be eligible to retire upon the attainment of member's Security retirement age as
25 defined in 36-8-1(19).

26 (7) In no event shall a member's retirement allowance be less than the member's
27 retirement allowance calculated as of June 30, 2012 based on the member's years of total service
28 and whole salary as of June 30, 2012.

29 (k) In calculating the retirement benefit for any member, the term base salary as used in
30 subdivision (b)(3) or average compensation as used in paragraph (j) shall not be affected by a
31 deferral of salary plan or a reduced salary plan implemented to avoid shutdowns or layoffs or to
32 effect cost savings. Basic salary shall remain for retirement calculation that which it would have
33 been but for the salary deferral or salary reduction due to a plan implemented to avoid shutdowns
34 or layoffs or to effect cost savings.

1 (l) Notwithstanding any general or public law, rule or regulation to the contrary effective
2 July 1, 2016, the state fire marshal, chief deputy state fire marshals, the director of the Rhode
3 Island fire academy, and deputy state fire marshals shall be considered members for purposes of
4 this chapter and shall have retirement benefits equal to the state police as specified by this
5 chapter.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO STATE AFFAIRS AND GOVERNMENT - STATE POLICE

1 This act would provide that the state fire marshal, the chief deputy state fire marshals, the
2 director of the Rhode Island fire academy, and the deputy state fire marshals, be considered
3 members of the Rhode Island state police for purposes of retirement benefits under this chapter.

4 This act would take effect upon passage.

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