

2021 -- S 0953 SUBSTITUTE A

LC003000/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO TOWNS AND CITIES --WEST WARWICK PENSION PLAN

Introduced By: Senators Burke, and Gallo

Date Introduced: June 15, 2021

Referred To: Senate Finance

(General Treasurer)

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 45 of the General Laws entitled "TOWNS AND CITIES" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 21.5

4 WEST WARWICK PENSION PLAN

5 **45-21.5-1. Legislative findings.**

6 The general assembly finds and declares the following:

7 (1) All Rhode Islanders deserve retirement security, including those who have spent their
8 careers serving their communities as first responders, school, and municipal employees;

9 (2) The town of West Warwick's pension plans are currently in "critical status" as defined
10 in § 45-65-4 which resulted in the town of West Warwick undergoing pension reform in 2014 and
11 the submission of a funding improvement plan in accordance with § 45-65-6;

12 (3) The town of West Warwick, the West Warwick school department, the labor and other
13 organizations representing its employees, first responders, and retirees, and the state of Rhode
14 Island are united in their desire to see the town of West Warwick remain on the path of fiscal health,
15 and that the predictability and sustainability of the pension system is vital to maintaining fiscal
16 health for the town of West Warwick and retirement security for its employees, first responders
17 and retirees; and

18 (4) The general assembly adopts this chapter to facilitate the assistance of the municipal
19 employees' retirement system (MERS) of the state of Rhode Island in administering the local West

1 Warwick pension plans.

2 **45-21.5-2. Alternative acceptance by the town of West Warwick for West Warwick**
3 **school and municipal employees.**

4 (a) The provisions of this section shall apply only to the locally-administered plan,
5 excluding police and fire within the town of West Warwick, hereinafter referred to as the "West
6 Warwick plan, excluding police and fire."

7 (b) No later than August 31, 2021, West Warwick and the West Warwick school committee
8 may accept the provisions of this chapter, by resolution or an ordinance of its governing body,
9 stating the group or groups of employees to be included as provided in § 45-21-4; provided that,
10 any and all labor organizations, representing active employees of the municipality and active non-
11 certified school employees to be included, have assented to such participation of their respective
12 memberships by ratification of amendments to the applicable collective bargaining agreement by a
13 majority vote of those members of any such labor organization present and voting; and, provided
14 further that, any applicable final and consent judgments are amended. A copy of the resolutions or
15 ordinance and proof of assent from the applicable labor organization, and/or amendment to any
16 applicable final and consent judgments, shall be immediately forwarded to the retirement board for
17 review. A vote of the retirement board to accept the entry of the group or groups into the system
18 provided in this section shall be required.

19 (c) The West Warwick plan, excluding police and fire, shall be closed to new members on
20 August 31, 2021.

21 (d) Following acceptance as provided in subsection (b) of this section, members of the
22 West Warwick plan, excluding police and fire, in active service on August 31, 2021, shall continue
23 to be subject to all plan provisions, as set forth in the 2006 pension plan as modified by any
24 collective bargaining agreement, memorandum of agreement, arbitration award, final and consent
25 judgment and/or any individual contractual agreement between any nonunion employee and the
26 town and/or school committee in effect on August 31, 2021 (hereinafter collectively "the 2006
27 pension plan as modified") . These provisions shall include, but not be limited to, applicable
28 retirement ages, plan restrictions, accrual rates, contribution requirements, eligibility requirements,
29 benefit calculations and any and all provisions related to postemployment benefits, death benefits,
30 cost-of-living adjustments, and rules permitting employment in and pension credit accrual within
31 other municipalities or the state which are participants in any other retirement plan administered by
32 the state. The intent of this section is that all members of the West Warwick plan, excluding police
33 and fire, shall continue to enjoy all benefits and be subject to the same terms of the pension plan in
34 existence on August 31, 2021 and that the municipal employees' retirement system shall

1 administer, but not change, the pension plan benefits and terms formerly provided by the town
2 unless expressly provided otherwise in this section.

3 (e) Disability determinations for new applications received on or after the date assets are
4 transferred pursuant to §45-21.5-6 shall be made by the retirement board, subject to the procedures
5 and standards of §§ 45-21-19, 45-21-22, 45-21-23 and 45-21-24, for members in active service on
6 August 31, 2021. If a disability retirement pension, including a partial disability, is granted, the
7 member shall receive benefits provided by the West Warwick pension plan, excluding police and
8 fire, pursuant to the 2006 pension plan as modified in effect on August 31, 2021.

9 (f) Subject to the provisions of subsection (b) of this section being met, new employees
10 hired on or after September 1, 2021, shall be subject to the provisions of chapters 21 or 21.2 of this
11 title as applicable, including all applicable disability provisions and benefits provided by §§ 36-
12 10.3-4 and 45-21-52.

13 (g) Members of the West Warwick plan, excluding police and fire, in active service on
14 August 31, 2021, shall have a one-time irrevocable option to become subject to all of the provisions
15 of chapters 21 or 21.2 of this title as applicable, including all applicable disability provisions and
16 benefits provided by §§ 36-10.3-4 and 45-21-52. Such election shall be made on or before
17 September 30, 2021.

18 (h) Notwithstanding any provisions in § 45-21-42.2 to the contrary, the cost to evaluate
19 West Warwick's prospective participation in the retirement system pursuant to this section or § 45-
20 21.5-3, shall be borne by the retirement board.

21 (i) Notwithstanding any provisions in § 45-21-43.1 to the contrary, determination of the
22 employer contribution rate of the closed West Warwick pension plan, excluding police and fire,
23 pursuant to this section shall be computed using an amortization period for the unfunded actuarial
24 accrued liability as determined by the board, based upon the recommendation of the plan's actuary.
25 Future actuarial gains and losses accruing within a plan year will be amortized over individual new
26 twenty (20) year closed periods consistent with § 45-21-43.1(c).

27 (j) Notwithstanding any provisions in § 45-21-56 to the contrary, if a West Warwick
28 pension plan, excluding police and fire, pursuant to this section is in critical status as defined in §
29 45-65-4, and a member of the West Warwick pension plan, excluding police and fire, leaves
30 employment and is hired by another participating municipality that is not in critical status as defined
31 in § 45-65-4, then the retirement system shall transfer the amount of the member's contributions
32 and member's total accrued liability with the West Warwick pension plan, excluding, police and
33 fire, multiplied by the funded status of the West Warwick pension plan, excluding, police and fire,
34 to the account of the current employing municipality.

1 (k) Upon the conditions of subsection (b) of this section being met, the town of West
2 Warwick and the West Warwick school committee shall remain liable to the retirement system for
3 the cost of funding a retirement system for its employees who are participants of the system as
4 provided herein, and the retirement board maintains the right to enforce payment of any liability as
5 provided in chapter 21 of this title.

6 (l) Subject to the provisions of subsection (b) of this section being met, the West Warwick
7 plan, excluding police and fire, and the provisions of this section shall be administered in the same
8 manner provided in chapter 21 of this title; credits for prior service and collection of contributions
9 are determined through reference to that chapter; provided that, where the provisions of that chapter
10 conflict with the provisions of this chapter, then the provisions of this chapter shall control. Liability
11 of contributions is enforced in the same manner as stated in chapter 21 of this title.

12 **45-21.5-3. Retiree participation in retirement plan for school and municipal**
13 **employees.**

14 (a) The provisions of this section shall apply only to the locally-administered plan,
15 excluding police and fire, within the town of West Warwick.

16 (b)(1) Notwithstanding any provision of this chapter to the contrary, no later than August
17 31, 2021, West Warwick and the West Warwick school committee may accept the provisions of
18 this chapter by resolution or an ordinance of its governing body stating the group or groups of
19 retired former employees to be included as provided in § 45-21-4; provided that, a majority of
20 retired former employees have consented in writing to joining the system or any duly constituted
21 retiree organization that represents said retired former employees has assented to joining the
22 system; and, provided further that, any applicable final and consent judgments are amended. A
23 copy of the resolutions or ordinance and proof of assent from the applicable retiree organization,
24 and/or amendment to any applicable final and consent judgments, shall be immediately forwarded
25 to the retirement board for review. A vote of the retirement board to accept the entry of the group
26 or groups of retirees into the system shall be required.

27 (2) For purposes of this section, "retired former employees" means any member of the West
28 Warwick pension plan, excluding police and fire, who has retired prior to September 1, 2021.

29 (c)(1) Notwithstanding any other provisions of this section or other applicable law, upon
30 acceptance into the system, all retired former employees and their beneficiaries shall continue to
31 be subject to all plan provisions, as set forth by the plan, collective bargaining agreement,
32 memorandum of agreement, arbitration award, final and consent judgment and/or any individual
33 contractual agreement between any nonunion employee and the town and/or school committee in
34 effect upon the retired former employee's date of retirement. These provisions shall include, but

1 are not limited to, applicable retirement ages, plan restrictions, accrual rates, contribution
2 requirements, eligibility requirements, benefit calculations and any and all provisions related to
3 postemployment benefits, death benefits, cost-of-living adjustments, and rules permitting
4 employment in and pension credit accrual within other municipalities or the state which are
5 participants in any other retirement plan administered by the state. The intent of this section is that
6 all retired former employees of the West Warwick plan, excluding police and fire, shall continue
7 to enjoy all benefits and be subject to the same terms of the pension plan in existence upon his or
8 her date of retirement and that the municipal employees' retirement system shall administer, but not
9 change, the pension plan benefits and terms formerly provided by the town unless expressly
10 provided otherwise in this section.

11 (2) Retired former employees under this section shall not be entitled to any retirement
12 allowance or benefit from the system otherwise available or calculated pursuant to the provisions
13 of §§ 45-21-16, 45-21-27, 45-21-51, or 45-21-51.1 with regard to his or her West Warwick pension
14 benefit.

15 (d) The cost to evaluate West Warwick's prospective membership in the retirement system,
16 and costs related to obtaining consent of retirees to join the system pursuant to this section, shall
17 be borne by the retirement board.

18 (e) Upon the conditions of subsection (b) of this section being met, the town of West
19 Warwick and the West Warwick school committee shall remain liable to the retirement system for
20 the cost of funding a retirement system for its retired employees who are members of the system as
21 provided herein, and the retirement board maintains the right to enforce payment of any liability as
22 provided in chapter 21 of this title.

23 (f) Subject to the provisions of subsection (b) of this section being met, the provisions of
24 this section shall be administered in the same manner provided in chapter 21 of this title; provided
25 that, where the provisions of that chapter conflict with the provisions of this chapter, then the
26 provisions of this chapter shall control. Liability of the municipality is enforced in the same manner
27 as stated in chapter 21 of this title.

28 **45-21.5-4. Alternative acceptance by the town of West Warwick of optional**
29 **retirement for police and firefighters.**

30 (a) The provisions of this section shall apply only to the locally-administered plan for
31 police and fire within the town of West Warwick hereinafter referred to as the "West Warwick plan
32 for police and fire."

33 (b) No later than August 31, 2021, West Warwick may accept the provisions of this chapter,
34 by resolution or an ordinance of its governing body, stating the group or groups of public safety

1 employees to be included as provided in § 45-21-4; provided that, any and all labor organizations,
2 representing active police and fire of the municipality to be included, have assented to such
3 participation of their respective memberships by ratification of amendments to the applicable
4 collective bargaining agreement by a majority vote of those members of any such labor
5 organization present and voting; and, provided further that, any applicable final and consent
6 judgments are amended. A copy of the resolution or ordinance and proof of assent from the
7 applicable labor organization, and/or amendment to any applicable final and consent judgments,
8 shall be immediately forwarded to the retirement board for review. A vote of the retirement board
9 to accept the entry of the group or groups into the system as provided in this section shall be
10 required.

11 (c) The West Warwick plan for police and fire shall be closed to new members on August
12 31, 2021.

13 (d) Following acceptance as provided in subsection (b) of this section, members of the
14 West Warwick plan for police and fire in active service on August 31, 2021, shall continue to be
15 subject to all of the provisions, as set forth in the 2006 pension plan as modified by any collective
16 bargaining agreement, memorandum of agreement, arbitration award, final and consent judgment
17 and/or any individual contractual agreement between any non-union employee and the town in
18 effect on August 31, 2021 (hereinafter collectively “the 2006 pension plan as modified”). These
19 provisions shall include, but not be limited to, applicable retirement ages, plan restrictions, accrual
20 rates, contribution requirements, eligibility requirements, benefit calculations and any and all
21 provisions related to post-employment benefits, death benefits, cost-of-living adjustments, and
22 rules permitting employment in and pension credit accrual within other municipalities or the state
23 which are participants in any other retirement plan administered by the state. The intent of this
24 section is that all members of the West Warwick plan for police and fire shall continue to enjoy all
25 benefits and be subject to the same terms of the pension plan in existence on August 31, 2021 and
26 that the municipal employees’ retirement system shall administer, but not change, the pension
27 benefits and terms formerly provided by the town unless expressly provided otherwise in this
28 section.

29 (e) Disability determinations shall be made by the retirement board, subject to the
30 procedures and standards of §§ 45-21.2-7 (except for the eligible service requirements) and 45-
31 21.2-9 as applicable, for members hired prior to September 1, 2021. If a disability retirement
32 pension is granted, the member shall receive benefits provided by the West Warwick pension plan
33 pursuant to the 2006 pension plan as modified in effect on August 31, 2021. If the retirement board
34 denies the application for an accidental disability pension, the member may submit an appeal to the

1 Rhode Island workers' compensation court pursuant to §§ 45-21.2-9(f) through (j).

2 (f) Subject to the provisions of subsection (b) of this section being met, new employees
3 hired on or after September 1, 2021, shall be subject to all of the provisions of chapter 21.2 of this
4 title as applicable, including all applicable disability provisions and benefits provided by §§ 36-
5 10.3-4 and 45-21-52.

6 (g) Members of the West Warwick plan for police and fire in active service as of August
7 31, 2021, and civilian employees of the West Warwick Fire Department as of August 31, 2021,
8 who are part of the firefighters' bargaining unit but are members of the West Warwick plan
9 excluding police and fire, shall have a one-time irrevocable option to become subject to the
10 provisions of chapters 21 or 21.2 of this title as applicable, including all applicable disability
11 provisions and benefits provided by §§ 36-10.3-4 and 45-21-52. Such election shall be made on or
12 before September 30, 2021.

13 (h) Notwithstanding any provision in § 45-21-42.2 to the contrary, the cost to evaluate
14 West Warwick prospective participation in the retirement system pursuant to this section or § 45-
15 21.5-3, shall be borne by the retirement board.

16 (i) Notwithstanding any provision in § 45-21-43.1 to the contrary, determination of the
17 employer contribution rate of the closed West Warwick pension plan for police and fire pursuant
18 to this section shall be computed using an amortization period for the unfunded actuarial accrued
19 liability as determined by the board, based upon the recommendation of the plan's actuary. Future
20 actuarial gains and losses accruing within a plan year will be amortized over individual new twenty
21 (20) year closed periods consistent with § 45-21-43.1(c).

22 (j) Notwithstanding any provision in § 45-21-56 to the contrary, if a West Warwick pension
23 plan for police and fire pursuant to this section is in critical status as defined in § 45-65-4, and a
24 member of the West Warwick pension plan for police and fire leaves employment and is hired by
25 another participating municipality that is not in critical status as defined in § 45-65-4, then the
26 retirement system shall transfer the amount of the member's contributions and member's total
27 accrued liability with the West Warwick pension plan for police and fire, multiplied by the funded
28 status of the West Warwick pension plan for police and fire, to the account of the current employing
29 municipality.

30 (k) Upon the conditions of subsection (b) of this section being met, the town of West
31 Warwick shall remain liable to the retirement system for the cost of funding a retirement system
32 for its employees who are members of the system as provided herein, and the retirement board
33 maintains the right to enforce payment of any liability as provided in chapter 21 of this title.

34 (l) Subject to the provisions of subsection (b) of this section being met, the West Warwick

1 plan for police and fire and the provisions of this section shall be administered in the same manner
2 provided in chapter 21 of this title; credits for prior service and collection of contributions are
3 determined through reference to that chapter; provided that, where the provisions of that chapter
4 conflict with the provisions of this chapter, then the provisions of this chapter shall control. Liability
5 of contributions is enforced in the same manner as stated in chapter 21 of this title.

6 **45-21.5-5. Retiree participation in optional retirement plan for police and fire.**

7 (a) The provisions of this section shall apply only to the locally-administered plan for
8 police and fire within the town of West Warwick.

9 (b)(1) Notwithstanding any provision of this chapter to the contrary, no later than August
10 31, 2021, West Warwick may accept the provisions of this chapter by resolution or an ordinance
11 of its governing body stating the group or groups of retired former employees to be included as
12 provided in § 45-21-4; provided that, a majority of retired former employees have consented in
13 writing to joining the system or any duly constituted retiree organization that represents said retired
14 former employees has assented to joining the system; and, provided further that, any applicable
15 final and consent judgments are amended. A copy of the resolution or ordinance and proof of assent
16 from the applicable retiree organization, and/or amendment to any final and consent judgments,
17 shall be immediately forwarded to the retirement board for review. A vote of the retirement board
18 to accept the entry of the group or groups of retirees into the system shall be required.

19 (2) For purposes of this section, "retired former employees" means any member of the West
20 Warwick plan for police and fire who has retired prior to September 1, 2021.

21 (c)(1) Notwithstanding any other provisions of this section or other applicable law, upon
22 acceptance into the system, all retired former employees and their beneficiaries shall continue to
23 be subject to all plan provisions, as set forth by the plan, collective bargaining agreement,
24 memorandum of agreement, arbitration award, final and consent judgment and/or any individual
25 contractual agreement between any nonunion employee and the town in effect upon the retired
26 former employee's date of retirement. These provisions shall include, but are not limited to,
27 applicable retirement ages, plan restrictions, accrual rates, contribution requirements, eligibility
28 requirements, benefit calculations and any and all provisions related to postemployment benefits,
29 death benefits, cost-of-living adjustments, and rules permitting employment in and pension credit
30 accrual within other municipalities or the state which are participants in any other retirement plan
31 administered by the state. The intent of this section is that all retired former employees of the West
32 Warwick plan, including police and fire, shall continue to enjoy all benefits and be subject to the
33 same terms of the pension plan in existence upon his or her date of retirement and that the municipal
34 employees' retirement system shall administer, but not change, the pension plan benefits and terms

1 formerly provided by the town unless expressly provided otherwise in this section.

2 (2) Retired former employees under this section, shall not be entitled to any retirement
3 allowance or benefit from the system otherwise available or calculated pursuant to the provisions
4 of §§ 45-21.2-6, 45-21.2-13, 45-21.2-20, 45-21.2-21, or 45-21.2-22 with regard to his or her West
5 Warwick pension benefit.

6 (d) The cost to evaluate West Warwick's prospective membership in the retirement system,
7 and costs related to obtaining consent of retirees to join the system pursuant to this section, shall
8 be borne by the retirement board.

9 (e) Upon the conditions of subsection (b) of this section being met, the town of West
10 Warwick shall remain liable to the retirement system for the cost of funding a retirement system
11 for its retired public safety employees who are members of the system as provided herein, and the
12 retirement board maintains the right to enforce payment of any liability as provided in chapter 21
13 of this title.

14 (f) Subject to the provisions of subsection (b) of this section being met, the provisions of
15 this section shall be administered in the same manner provided in chapter 21 of this title; provided
16 that, where the provisions of that chapter conflict with the provisions of this chapter, then the
17 provisions of this chapter shall control. Liability of the municipality is enforced in the same manner
18 as stated in chapter 21 of this title.

19 **45-21.5-6. Transfer of assets.**

20 Subject to the provisions of §§ 45-21.5-2(b) and 45-21.5-3(b) being met, no later than July
21 1, 2022, the system shall be responsible for administering the West Warwick plans and West
22 Warwick shall transfer to the system the accumulated contributions of each member entering the
23 system, the assets related to the actuarial accrued liability of those transferred employees and any
24 other assets of the West Warwick plans.

25 **45-21.5-7. Funding improvement period.**

26 Subject to the provisions of §§ 45-21.5-2(b), 45-21.5-3(b), 45-21.5-4(b) and 45-21.5-5(b)
27 being met, the funding improvement plan submitted by the town of West Warwick on March 29,
28 2014 shall have a funding improvement period of twenty (20) years for purposes of § 36-10.2-8.

29 **45-21.5-8. Withdrawal from the municipal employees' retirement system.**

30 Withdrawal of any West Warwick plan that has joined the municipal employee retirement
31 system pursuant to this chapter shall be as provided in § 45-21-5 and subject to §§ 45-21-6 and 45-
32 21-7. Any such withdrawal shall not relieve West Warwick from the liabilities arising from its
33 membership as set forth §§ 45-21-5, 45-21-6 or 45-21-7.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO TOWNS AND CITIES --WEST WARWICK PENSION PLAN

- 1 This act would authorize the town of West Warwick to join the State Employees'
- 2 Retirement System of Rhode Island.
- 3 This act would take effect upon passage.

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