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LC000820

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO PUBLIC OFFICERS AND EMPLOYEES -- RETIREMENT SYSTEM
CONTRIBUTIONS AND BENEFITS

Introduced By: Representatives Messier, J. Brien, Fellela, Kazarian, Alzate, Serpa,
Donovan, McEntee, O'Brien, and Phillips

Date Introduced: February 10, 2023

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 36-10-35 of the General Laws in Chapter 36-10 entitled "Retirement
2 System — Contributions and Benefits" is hereby amended to read as follows:

3 **36-10-35. Additional benefits payable to retired employees.**

4 (a) All state employees and all beneficiaries of state employees receiving any service
5 retirement or ordinary or accidental disability retirement allowance pursuant to the provisions of
6 this title on or before December 31, 1967, shall receive a cost of living retirement adjustment equal
7 to one and one-half percent (1.5%) per year of the original retirement allowance, not compounded,
8 for each calendar year the retirement allowance has been in effect. For the purposes of computation,
9 credit shall be given for a full calendar year regardless of the effective date of the retirement
10 allowance. This cost of living adjustment shall be added to the amount of the retirement allowance
11 as of January 1, 1968, and an additional one and one-half percent (1.5%) shall be added to the
12 original retirement allowance in each succeeding year during the month of January, and provided
13 further, that this additional cost of living increase shall be three percent (3%) for the year beginning
14 January 1, 1971, and each year thereafter, through December 31, 1980. Notwithstanding any of the
15 above provisions, no employee receiving any service retirement allowance pursuant to the
16 provisions of this title on or before December 31, 1967, or the employee's beneficiary, shall receive
17 any additional benefit hereunder in an amount less than two hundred dollars (\$200) per year over
18 the service retirement allowance where the employee retired prior to January 1, 1958.

1 (b) All state employees and all beneficiaries of state employees retired on or after January
2 1, 1968, who are receiving any service retirement or ordinary or accidental disability retirement
3 allowance pursuant to the provisions of this title shall, on the first day of January next following
4 the third anniversary date of the retirement, receive a cost of living retirement adjustment, in
5 addition to his or her retirement allowance, in an amount equal to three percent (3%) of the original
6 retirement allowance. In each succeeding year thereafter through December 31, 1980, during the
7 month of January, the retirement allowance shall be increased an additional three percent (3%) of
8 the original retirement allowance, not compounded, to be continued during the lifetime of the
9 employee or beneficiary. For the purposes of computation, credit shall be given for a full calendar
10 year regardless of the effective date of the service retirement allowance.

11 (c)(1) Beginning on January 1, 1981, for all state employees and beneficiaries of the state
12 employees receiving any service retirement and all state employees, and all beneficiaries of state
13 employees, who have completed at least ten (10) years of contributory service on or before July 1,
14 2005, pursuant to the provisions of this chapter, and for all state employees, and all beneficiaries
15 of state employees who receive a disability retirement allowance pursuant to §§ 36-10-12 — 36-
16 10-15, the cost of living adjustment shall be computed and paid at the rate of three percent (3%) of
17 the original retirement allowance or the retirement allowance as computed in accordance with §
18 36-10-35.1, compounded annually from the year for which the cost of living adjustment was
19 determined to be payable by the retirement board pursuant to the provisions of subsection (a) or (b)
20 of this section. Such cost of living adjustments are available to members who retire before October
21 1, 2009, or are eligible to retire as of September 30, 2009.

22 (2) The provisions of this subsection shall be deemed to apply prospectively only and no
23 retroactive payment shall be made.

24 (3) The retirement allowance of all state employees and all beneficiaries of state employees
25 who have not completed at least ten (10) years of contributory service on or before July 1, 2005, or
26 were not eligible to retire as of September 30, 2009, shall, on the month following the third
27 anniversary date of retirement, and on the month following the anniversary date of each succeeding
28 year be adjusted and computed by multiplying the retirement allowance by three percent (3%) or
29 the percentage of increase in the Consumer Price Index for all Urban Consumers (CPI-U) as
30 published by the United States Department of Labor Statistics determined as of September 30 of
31 the prior calendar year, whichever is less; the cost of living adjustment shall be compounded
32 annually from the year for which the cost of living adjustment was determined payable by the
33 retirement board; provided, that no adjustment shall cause any retirement allowance to be decreased
34 from the retirement allowance provided immediately before such adjustment.

1 (d) For state employees not eligible to retire in accordance with this chapter as of
2 September 30, 2009, and not eligible upon passage of this article, and for their beneficiaries, the
3 cost of living adjustment described in subsection (c)(3) of this section shall only apply to the first
4 thirty-five thousand dollars (\$35,000) of retirement allowance, indexed annually, and shall
5 commence upon the third (3rd) anniversary of the date of retirement or when the retiree reaches
6 age sixty-five (65), whichever is later. The thirty-five thousand dollar (\$35,000) limit shall increase
7 annually by the percentage increase in the Consumer Price Index for all Urban Consumers (CPI-
8 U) as published by the United States Department of Labor Statistics determined as of September
9 30 of the prior calendar year or three percent (3%), whichever is less. The first thirty-five thousand
10 dollars (\$35,000) of retirement allowance, as indexed, shall be multiplied by the percentage of
11 increase in the Consumer Price Index for all Urban Consumers (CPI-U) as published by the United
12 States Department of Labor Statistics determined as of September 30 of the prior calendar year or
13 three percent (3%), whichever is less, on the month following the anniversary date of each
14 succeeding year. For state employees eligible to retire as of September 30, 2009, or eligible upon
15 passage of this article, and for their beneficiaries, the provisions of this subsection (d) shall not
16 apply.

17 (e) All legislators and all beneficiaries of legislators who are receiving a retirement
18 allowance pursuant to the provisions of § 36-10-9.1 for a period of three (3) or more years, shall,
19 commencing January 1, 1982, receive a cost of living retirement adjustment, in addition to a
20 retirement allowance, in an amount equal to three percent (3%) of the original retirement allowance.
21 In each succeeding year thereafter during the month of January, the retirement allowance shall be
22 increased an additional three percent (3%) of the original retirement allowance, compounded
23 annually, to be continued during the lifetime of the legislator or beneficiary. For the purposes of
24 computation, credit shall be given for a full calendar year regardless of the effective date of the
25 service retirement allowance.

26 (f) The provisions of §§ 45-13-7 — 45-13-10 shall not apply to this section.

27 (g) This subsection (g) shall be effective for the period July 1, 2012, through June 30, 2015.

28 (1) Notwithstanding the prior paragraphs of this section, and subject to paragraph (g)(2)
29 below, for all present and former employees, active and retired members, and beneficiaries
30 receiving any retirement, disability or death allowance or benefit of any kind, the annual benefit
31 adjustment provided in any calendar year under this section shall be equal to (A) multiplied by (B)
32 where (A) is equal to the percentage determined by subtracting five and one-half percent (5.5%)
33 (the “subtrahend”) from the Five-Year Average Investment Return of the retirement system
34 determined as of the last day of the plan year preceding the calendar year in which the adjustment

1 is granted, said percentage not to exceed four percent (4%) and not to be less than zero percent
2 (0%), and (B) is equal to the lesser of the member's retirement allowance or the first twenty-five
3 thousand dollars (\$25,000) of retirement allowance, such twenty-five thousand dollars (\$25,000)
4 amount to be indexed annually in the same percentage as determined under (g)(1)(A) above. The
5 "Five-Year Average Investment Return" shall mean the average of the investment returns of the
6 most recent five (5) plan years as determined by the retirement board. Subject to paragraph (g)(2)
7 below, the benefit adjustment provided by this paragraph shall commence upon the third (3rd)
8 anniversary of the date of retirement or the date on which the retiree reaches his or her Social
9 Security retirement age, whichever is later. In the event the retirement board adjusts the actuarially
10 assumed rate of return for the system, either upward or downward, the subtrahend shall be adjusted
11 either upward or downward in the same amount.

12 (2) Except as provided in paragraph (g)(3), the benefit adjustments under this section for
13 any plan year shall be suspended in their entirety unless the Funded Ratio of the Employees'
14 Retirement System of Rhode Island, the Judicial Retirement Benefits Trust and the State Police
15 Retirement Benefits Trust, calculated by the system's actuary on an aggregate basis, exceeds eighty
16 percent (80%) in which event the benefit adjustment will be reinstated for all members for such
17 plan year.

18 In determining whether a funding level under this paragraph (g)(2) has been achieved, the
19 actuary shall calculate the funding percentage after taking into account the reinstatement of any
20 current or future benefit adjustment provided under this section.

21 (3) Notwithstanding paragraph (g)(2), in each fifth plan year commencing after June 30,
22 2012, commencing with the plan year ending June 30, 2017, and subsequently at intervals of five
23 plan years, a benefit adjustment shall be calculated and made in accordance with paragraph (g)(1)
24 above until the Funded Ratio of the Employees' Retirement System of Rhode Island, the Judicial
25 Retirement Benefits Trust and the State Police Retirement Benefits Trust, calculated by the
26 system's actuary on an aggregate basis, exceeds eighty percent (80%).

27 (4) Notwithstanding any other provision of this chapter, the provisions of this paragraph
28 (g) shall become effective July 1, 2012, and shall apply to any benefit adjustment not granted on or
29 prior to June 30, 2012.

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

31 (1)(A) As soon as administratively reasonable following the enactment into law of this
32 subsection (h)(1)(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 2% of the lesser
34 of either the member's retirement allowance or the first twenty-five thousand dollars (\$25,000) of

1 the member's retirement allowance. This one-time benefit adjustment shall be provided without
2 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 employees, 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 year
6 under this section for adjustments on and after January 1, 2016, and subject to subsection (h)(2)
7 below, shall be equal to (I) multiplied by (II):

8 (I) Shall equal the sum of fifty percent (50%) of (i) plus fifty percent (50%) of (ii) where:

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

17 (ii) Is equal to the lesser of three percent (3%) or the percentage increase in the Consumer
18 Price Index for all Urban Consumers (CPI-U) as published by the U.S. Department of Labor
19 Statistics determined as of September 30 of the prior calendar year. In no event shall the sum of (i)
20 plus (ii) exceed three and one-half percent (3.5%) or be less than zero percent (0%).

21 (II) Is equal to the lesser of either the member's retirement allowance or the first twenty-
22 five thousand eight hundred and fifty-five dollars (\$25,855) of retirement allowance, such amount
23 to be indexed annually in the same percentage as determined under subsection (h)(1)(B)(I) above.

24 The benefit adjustments provided by this subsection (h)(1)(B) shall be provided to all
25 retirees entitled to receive a benefit adjustment as of June 30, 2012, under the law then in effect,
26 and for all other retirees the benefit adjustments shall commence upon the third anniversary of the
27 date of retirement or the date on which the retiree reaches his or her Social Security retirement age,
28 whichever is later.

29 (2) Except as provided in subsection (h)(3) of this section, the benefit adjustments under
30 subsection (h)(1)(B) for any plan year shall be suspended in their entirety unless the funded ratio
31 of the employees' retirement system of Rhode Island, the judicial retirement benefits trust and the
32 state police retirement benefits trust, calculated by the system's actuary on an aggregate basis,
33 exceeds eighty percent (80%) in which event the benefit adjustment will be reinstated for all
34 members for such plan year.

1 In determining whether a funding level under this subsection (h)(2) has been achieved, the
2 actuary shall calculate the funding percentage after taking into account the reinstatement of any
3 current or future benefit adjustment provided under this section.

4 (3) Notwithstanding subsection (h)(2), in each fourth plan year commencing after June 30,
5 2012, commencing with the plan year ending June 30, 2016, and subsequently at intervals of four
6 plan years:

7 (i) A benefit adjustment shall be calculated and made in accordance with subsection
8 (h)(1)(B) above; and

9 (ii) Effective for members and/or beneficiaries of members who retired on or before June
10 30, 2015, the dollar amount in subsection (h)(1)(B)(II) of twenty-five thousand eight hundred and
11 fifty-five dollars (\$25,855) shall be replaced with thirty-one thousand and twenty-six dollars
12 (\$31,026) until the funded ratio of the employees' retirement system of Rhode Island, the judicial
13 retirement benefits trust and the state police retirement benefits trust, calculated by the system's
14 actuary on an aggregate basis, exceeds eighty percent (80%).

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

22 (j)(1) Notwithstanding the prior subsections of this section, for all present and former
23 employees, active and retired members, and beneficiaries receiving any retirement, disability, or
24 death allowance or benefit of any kind, the annual benefit adjustment provided in any calendar
25 year, under this section for adjustments on and after July 1, 2023, shall be three percent (3%) and
26 applied to the first thirty thousand dollars (\$30,000) of the member's retirement allowance provided
27 that the prior year investment return shall yield a gain of eight percent (8%) or more.

28 (2) In the event that the funding ratio of the employee's retirement system of Rhode Island,
29 the judicial retirement benefits trust and the state police retirement benefits trust, calculated by the
30 system's actuary on an aggregate basis exceeds eighty percent (80%), this subsection shall become
31 null and void and the annual benefit adjustment shall be awarded pursuant to the provisions of
32 subsection (h) of this section.

1 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 PUBLIC OFFICERS AND EMPLOYEES -- RETIREMENT SYSTEM
CONTRIBUTIONS AND BENEFITS

1 This act would award all members of the state pension system a three percent (3%) annual
2 benefit adjustment (COLA), to be applied to the first thirty thousand dollars (\$30,000) of a
3 member's retirement allowance, on July 1, 2023, in one lump sum, provided the prior year
4 investment yields a gain of eight percent (8%) or more. This provision would apply until the
5 pension system-funding ratio is eighty percent (80%).

6 This act would take effect upon passage.

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