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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO TOWNS AND CITIES -- RETIREMENT AND DISABILITY BENEFITS

Introduced By: Representatives Trillo, Morgan, Costa, Chippendale, and Reilly

Date Introduced: February 16, 2012

Referred To: House Municipal Government

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 21.4

4 ADJUSTMENT OF DISABILITY PENSIONS

5 **45-21.4-1. Adjustment of disability allowance upon return to work.** – (a) As used in
6 this chapter, the following words shall have the following meanings:

7 (1) "Municipal or quasi-municipal entity" means and includes, but is not limited to, cities,
8 towns, fire districts, water districts, water waste districts, school districts, lighting districts,
9 housing authorities, public building authorities, redevelopment authorities or any other public or
10 quasi-public authority or agency created pursuant to state law.

11 (2) "Disability recipient" means an employee who is a member of a retirement system
12 supported wholly or in part by a municipal or quasi-municipal entity who is receiving a disability
13 pension from said retirement system. The term shall not mean any survivor or third-party
14 beneficiary of the employee.

15 (b) Adjustment of disability pensions:

16 (1) Should the disability recipient of any retirement system supported wholly or in part by
17 a municipal or quasi-municipal entity be engaged in a gainful occupation, the retirement system
18 shall adjust and at least annually readjust, the amount of his or her disability pension to an amount
19 which, when added to the amount of compensation then earned by the beneficiary, shall be in an

1 amount no greater than one hundred percent (100%) of the base salary rate of compensation in
2 effect for the classification that the disability recipient held prior to retirement.

3 (2) The adjustment shall not apply if the retirement system finds that a job-related injury,
4 as defined by the retirement system, of a disability recipient resulted in permanent total disability,
5 as defined in paragraphs 28-33-17-(b)(1)(i-vi). Permanent total disability shall also include all
6 other job-related injuries that the retirement system determines are catastrophic in nature
7 according to the severity of the injury. An employee's age, education, abilities and training may
8 also be taken into account.

9 (3) Any disability recipient who returns to the same or substantially similar job for any
10 other employer as determined by the retirement system shall be given notice that such
11 employment is prohibited. If, three (3) months after being given notice, the disability recipient
12 remains employed in the same or substantially similar job, his or her disability pension shall be
13 permanently revoked.

14 (4) Nothing in this chapter shall be construed to limit a municipal or quasi-municipal
15 entity from applying a greater adjustment than that set forth in this chapter to a disability
16 recipient's pension based upon any other provision of law or contract.

17 (c) Applicability:

18 (1) This chapter shall apply to recipients of disability pensions granted prior to and
19 subsequent to the effective date of this chapter. It shall take effect upon passage of this act.

20 (2) The provisions of this chapter shall supersede any special or general laws to the
21 contrary.

22 (3) Notwithstanding the foregoing, the provisions of this chapter shall in no way impair
23 any contract or collective bargaining agreement currently in effect. Any contracts or collective
24 bargaining agreements entered into or renewed after the effective date of this chapter shall be
25 subject to the provisions of this chapter.

26 (4) Nothing contained in this chapter shall be construed to limit the benefits that survivors
27 or third-party beneficiaries of disability recipients would otherwise receive as if the provisions of
28 subdivision (b)(1) of this section were not in effect.

29 (5) Notwithstanding the foregoing, the provisions of this chapter shall not apply to any
30 disability benefits so long as such benefits are currently contracted for, and paid by, an insurance
31 company. Any contracts entered into or renewed after the effective date of this chapter, shall be
32 subject to the provisions of this chapter.

33 SECTION 2. Section 44-30-95 of the General Laws in Chapter 44-30 entitled "Personal
34 Income Tax" is hereby amended to read as follows:

1 **44-30-95. General powers of tax administrator.** -- (a) General. - The tax administrator
2 shall administer and enforce the Rhode Island personal income tax and is authorized to make any
3 rules and regulations, and to require any facts and information to be reported, that he or she may
4 deem necessary to enforce the tax. The provisions of chapter 1 of this title relating to the tax
5 administrator shall be applicable to the Rhode Island personal income tax.

6 (b) Examination of books and witnesses. - The tax administrator, for the purpose of
7 ascertaining the correctness of any return, or for the purpose of making an estimate of Rhode
8 Island income of any person where information has been obtained, shall have the power to
9 examine or to cause to have examined, by any agent or representative designated by the tax
10 administrator for that purpose, any books, papers, records, or memoranda bearing upon the
11 matters required to be included in the return, and may require the attendance of the person
12 rendering the return or any officer or employee of the person, or the attendance of any other
13 person having knowledge in the premises, and may take testimony and require proof material for
14 its information, with power to administer oaths to the person or persons.

15 (c) Secrecy requirement. - It shall be unlawful for any state official or employee to
16 divulge or to make known to any person in any manner whatever not provided by law the amount
17 or source of income, profits, losses, expenditures, or any particular of them set forth or disclosed
18 in any return, or to permit any return or copy of the return or any book containing any abstract or
19 particulars thereof to be seen or examined by any person except as provided by law. It shall be
20 unlawful for any person to print or publish in any manner whatever not provided by law any
21 return or any part thereof or source of income, profits, losses, or expenditures appearing in any
22 return. Any offense against the foregoing provision shall be punished by a fine not exceeding one
23 thousand dollars (\$1,000), or by imprisonment not exceeding one year, or both, at the discretion
24 of the court. If the offender is an officer or employee of the state of Rhode Island, the offender
25 may be dismissed from office or discharged from employment.

26 (d) Interstate and federal agreements. - The governor or the tax administrator may enter
27 into agreements with tax officials of other states and the federal government to provide for the
28 exchange of information and to apportion or otherwise equitably determine taxes for the purposes
29 of carrying out the provisions of section 44-30-18 and otherwise avoiding multiple taxation.

30 (e) Income tax claims of other states. - The courts of this state shall recognize and
31 enforce liabilities for personal income taxes lawfully imposed by any other state which extends a
32 like comity to this state, and the duly authorized officer of any other state may sue for the
33 collection of a tax in the courts of this state. A certificate by the secretary of state of the other
34 state that an officer suing for the collection of a tax is duly authorized to collect the tax shall be

1 conclusive proof of that authority. For the purposes of this section, the word "taxes" shall include
2 additions to tax, interest, and penalties, and liability for taxes, additions to tax, interest and
3 penalties shall be recognized and enforced by the courts of this state to the same extent that the
4 laws of the other state permit the enforcement in its courts of liability for taxes, additions to tax,
5 interest, and penalties due this state under this part.

6 (f) Small tax balances. - The tax administrator is authorized to abate the unpaid portion
7 of the assessment of any tax, or any liability in respect thereof, if the administrator determines
8 under uniform rules prescribed by him or her that the administration and collection costs involved
9 would not warrant collection of the amount due.

10 (g) Limited disclosure of information -- Retirement board. - The tax administrator shall
11 disclose to the retirement board of the state of Rhode Island [and to the retirement systems of](#)
12 [municipal systems of municipal and quasi-municipal entities as defined in section 45-21.4-1,](#)
13 information needed by the board [and said retirement systems](#) to implement the provisions of
14 sections 36-10-17, ~~and~~ 45-21-24, [16-16-19 and 45-21.4-1](#). The content and nature of the
15 information to be disclosed shall be determined and approved by the tax administrator and shall
16 be kept confidential by the board.

17 (h) Limited disclosure of information -- Jury Commissioner. - The tax administrator shall
18 disclose to the jury commissioners of the State of Rhode Island information needed by him or her
19 to implement provisions of section 9-9-1(d).

20 SECTION 3. Severability.—If any provision of this act or the application thereof to any
21 person or circumstances is held invalid, such invalidity shall not affect other provisions or
22 applications of the act, which can be given effect without the invalid provision or application, and
23 to this end the provisions of this act are declared to be severable.

24 SECTION 4. 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 require municipal and quasi-municipal entities not currently enrolled in
2 the state retirement system to annually adjust the disability pensions of pension beneficiaries
3 according to any compensation earned. Exempted from the offset would be those whose job-
4 related injuries are found to be permanent total disabilities.

5 This act would take effect upon passage.

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