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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 -- CENTRAL FALLS RETIREMENT

Introduced By: Representatives McLaughlin, Messier, and Ferri

Date Introduced: March 20, 2012

Referred To: House Finance

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 RETIREMENT BENEFITS FOR EXISTING RETIREES OF THE CITY OF CENTRAL FALLS

5 **45-21.4-1. Purpose.** – (a) It is the intent of this chapter to provide the existing retirees of
6 the city of Central Falls with security for the funding of their retirement plan, which includes, but
7 is not limited to, firefighters and police officers, to be administered in accordance with chapter 21
8 of this title. The intent of this chapter is to codify a restructured and sustainable retirement plan
9 for the city of Central Falls for existing retirees, especially in light of the financial circumstances
10 of the August 1, 2011 bankruptcy filing by the city which have resulted in severe cuts to such
11 retirees. It is further the purpose of this chapter to implement the terms of a certain settlement and
12 release agreement approved by ninety-one percent (91%) of the existing retirees of the city of
13 Central Falls, as defined herein, and approved by the United States bankruptcy court for the
14 district of Rhode Island by order dated January 9, 2012 and filed with the retirement board.

15 (b) Further, in consideration and acknowledgement of the drastic and unprecedented
16 reductions in pension benefits of up to fifty-five percent (55%) of the benefits to which they were
17 entitled under the old Central Falls pension plan, and dramatically increased health benefit
18 contributions required of the existing retirees, it is the express intent of this chapter to exempt the
19 existing retirees from certain provisions of chapter 21 of this title in order that the effect on

1 existing retirees of these severe reductions to which they have agreed under the terms of the
2 settlement agreement may be ameliorated.

3 **45-21.4-2. Definitions.** – (a) The definitions stated in section 45-21-2 shall apply to this
4 chapter unless otherwise provided herein.

5 (b) As used in this chapter, unless the context clearly indicates otherwise:

6 (1) “Base retirement allowance” is such amount as is set forth in appendix A and
7 appendix D-A under the column labeled “annualized final base pension” attached to the
8 settlement agreement, as defined herein, including as the same may be amended, until the
9 expiration of the settlement agreement, at which time, base retirement allowance means an
10 amount not less than seventy-five percent (75%) of the retirement benefit being received by the
11 retiree on July 31, 2011.

12 (2) “City” means the city of Central Falls, Rhode Island.

13 (3) ‘Existing retirees’ means:

14 (i) All retirees of the city who participated in a locally administered city pension plan and
15 who were receiving pension benefits from the city by virtue of said plan as of July 31, 2011 and,
16 where the context requires, shall also mean and include the beneficiaries of such retirees where
17 such beneficiaries were receiving such benefits as of such date or where they become entitled to
18 benefits thereafter;

19 (ii) All employees of the city who were participating in a locally administered city
20 pension plan and had submitted their notice of intent to retire under said plan by July 31, 2011;

21 (iii) Excluded from this definition are those retirees of the city who receive city pension
22 benefits guaranteed by John Hancock Life Insurance Company, which as of July 31, 2011
23 constituted a class consisting of fewer than eleven (11) individuals;

24 (iv) Further excluded from this definition are those retirees and employees of the city
25 who, as of July 31, 2011, were participating in or receiving pension benefits from the city’s
26 pension plan governed by the provisions of chapter 21 of this title.

27 (4) “Member” as referenced in chapter 21 of this title, for purposes of this chapter shall
28 include existing retirees of the city of Central Falls, except as may otherwise be provided in this
29 chapter 21.4.

30 (5) “Settlement agreement” means that certain settlement and release agreement approved
31 by ninety-one percent (91%) of the existing retirees of the city of Central Falls and approved by
32 the United States bankruptcy court for the district of Rhode Island by order dated January 9,
33 2012, which shall be placed on file with the retirement board and be available for reference in
34 applying the provisions of this chapter 21.4.

1 **45-21.4-3. Transfer of pension assets.** – The city of Central Falls shall take all necessary
2 measures to facilitate the transfer of all of the existing retirees’ available pension assets to the city
3 of Central Falls retirement system established pursuant to this chapter as soon as practicable after
4 the date of enactment hereof. For the purposes of this section, “available pension assets” shall
5 mean and consist of all city pension assets currently held by John Hancock Life Insurance
6 Company, or any of its affiliates, in excess of those assets which are required to be reserved for
7 those city pensions previously guaranteed by John Hancock Life Insurance Company, which as of
8 July 31, 2011 consisted of fewer than eleven (11) individual pensions. Upon the death of the last
9 remaining beneficiary of said guaranteed pensions, the city shall take all necessary measures to
10 facilitate the transfer of the remaining reserved assets, if any, to the city of Central Falls
11 retirement system established pursuant to this chapter as soon as practicable after the date that
12 notice of said death is provided by the city. For the purposes of this section, “available pension
13 assets” shall not include those assets currently held by John Hancock Life Insurance Company for
14 the benefit of active employees of the city of Central Falls.

15 **45-21.4-4. Mode of administration.** – The city of Central Falls retirement system
16 established by this chapter shall be administered in the same manner provided in chapter 21 of
17 this title; provided, however, that where the provisions of chapter 21 conflict with the provisions
18 of this chapter, then the provisions of this chapter shall control. Where the provisions of chapter
19 21 or of this chapter conflict with the settlement agreement, the settlement agreement shall
20 control. The city of Central Falls shall provide a complete list of existing retirees who are current
21 participants and beneficiaries of the city’s retirement system as of the date of enactment hereof, as
22 well as all data necessary to administer the retirement system pursuant to this chapter, including
23 but not limited to: names, addresses, titles, compensation, duties, dates of birth, length of service,
24 and beneficiary designations of each member, and any other information that the retirement board
25 shall require. The city shall give prompt notice of all appointments, removals, deaths,
26 resignations, leaves of absence, and changes in pay of members.

27 **45-21.4-5. Retirement allowances for existing retirees.** – Upon expiration of the
28 settlement agreement, all existing retirees shall receive a retirement allowance subject to the
29 provisions of this chapter, of no less than seventy-five percent (75%) of the retirement benefits
30 being received by the retiree on July 31, 2011, and the following provisions:

31 (1) Maximum reduction of pension payments pursuant to this section. No pension benefit
32 being paid to an existing retiree prior to the enactment of this chapter shall be reduced by more
33 than fifty-five percent (55%) as described in the settlement agreement, nor shall any such benefit
34 be reduced if the existing amount was already less than ten thousand dollars (\$10,000) annually.

1 In no event shall a reduction as described in the settlement agreement result in a retirement
2 allowance of less than ten thousand dollars (\$10,000) annually.

3 (2) Spousal benefits. Spousal or dependent children benefits shall be provided pursuant
4 to section 45-21.3-1, as such statute provided on July 31, 2011, with spousal benefits being
5 payable to the surviving spouse of a deceased existing retiree until said spouse shall remarry, at
6 the rate of sixty seven and one-half percent (67.5%) of the amount of the existing retiree's
7 retirement allowance at the time of his or her death, and if there is no surviving spouse or if the
8 surviving spouse shall remarry, then said benefit shall be paid to the dependent children of the
9 deceased existing retiree until said children shall attain the age of eighteen (18).

10 (3) Exemptions. Existing retirees shall be exempt from the provisions of section 45-21-5
11 and shall be expressly permitted to obtain employment with the state or any municipality,
12 whether or not said municipality participates in this system, without the interruption of pension
13 benefits.

14 (4) Further exemptions. Existing retirees shall be exempt from the provisions of section
15 45-21-23. Notwithstanding any other provision herein to the contrary, an existing retiree's
16 disability retirement allowance may be revoked by the retirement board in the event that,
17 following adherence to all procedural steps and processes provided under law, a court of
18 competent jurisdiction (or appropriate governing agency or body) enters a final order, decree or
19 determination, in accordance with applicable law, that is not then stayed, appealed or subject to
20 an appeal: (i) Determining that the disability retirement allowance of such existing retiree was
21 awarded as a result of fraud or misrepresentation, the standard as provided in the settlement
22 agreement; and (ii) Determining the amount to be forfeited. If any amounts are ordered to be
23 recovered as a result of this provision, said funds (net of reasonable attorney's fees, costs and
24 expenses incurred by the city as a result thereof) shall be deposited into the "participating
25 retirees' Wyatt payments account" as defined in the settlement agreement, and shall not be
26 forfeited in the manner specified in section 45-21-46.

27 (5) Exemption. Existing retirees shall be exempt from the provisions of section 45-21-24.
28 No income offset shall reduce the benefits payable to an existing retiree who engages in gainful
29 employment, or has received, or in the future shall receive, income from another source.

30 (6) Exemption. Existing retirees shall be exempt from the provisions of section 45-21-31
31 and shall not be subject to any offset of benefits hereunder for workers' compensation or personal
32 injury recovery for injuries sustained while in the performance of their duties.

33 **45-21.4-6. Automatic increase in retirement allowances.** – Existing retirees subject to
34 the provisions of this chapter shall receive an increase equal to up to two percent (2%) per year of

1 the member's base retirement allowance, not compounded, in each calendar year the retirement
2 allowance has been in effect pursuant to this chapter. This increase shall be added to the base
3 retirement allowance on the first day of July 2012 and in each succeeding calendar year starting
4 on the first day of January, 2013, not compounded, but added to the preceding year's retirement
5 allowance. The amount of the increase shall equal the percentage of increase in the Consumer
6 Price Index for all Urban Consumers (CPI-UC) as published by the United States department of
7 labor statistics determined as of March 31 of the same calendar year, or two percent (2%),
8 whichever is less, applied to the base retirement allowance.

9 **45-21.4-7. Accidental disability retirements.** – Existing retirees receiving an accidental
10 disability retirement as listed on appendix A and appendix D-A (including, as the same may be
11 amended) of the settlement agreement who were placed on disability retirement after medical
12 examinations and certification of their disability, and are receiving retirement benefits in lieu of
13 workers' compensation as a result of injuries or illness sustained in the line of duty which
14 prevented them from performing their duties as police officers or firefighters, may exclude such
15 income from state income tax.

16 **45-21.4-8. Tax exemption.** – The provisions of section 45-21-45, subject to exclusions
17 from income for disability pensions, including those set forth in sections 45-21.4-7 and 45-21-46,
18 and subject to the provisions of subsection 45-21.4-5(d) and section 45-21-47, are expressly made
19 a part of this chapter.

20 **45-21.4-9. Liability of the city -- Enforcement.** – (a) The city is liable to the retirement
21 system for the cost of funding a retirement system for its existing retirees who are members of the
22 system under this chapter.

23 (b) The liability of the city, including the liability under any formalized, commissioner-
24 approved, cooperative service arrangement under this chapter is enforceable by the retirement
25 board against the city through appropriate action in the superior court.

26 (c) The state is further empowered to withhold from the city that amount of the city's
27 portion of any shared taxes which is sufficient to satisfy its liability hereunder.

28 **45-21.4-10. Severability.** – If any provision of this chapter shall be declared
29 unconstitutional, invalid, or unenforceable, such unconstitutionality or invalidity shall in no way
30 affect the validity or enforceability of any other provision hereof which can be given reasonable
31 effect without the part so declared unconstitutional or invalid.

32 **45-21.4-11. Settlement agreement controls.** – Except as otherwise provided herein, the
33 provisions of the settlement agreement shall control as to existing retirees. Further, nothing herein
34 shall be deemed to derogate from the full effect of the inclusion in the settlement agreement of

1 various general law provisions (as they existed as on July 31, 2011) that are incorporated or
2 referenced therein, which provisions shall control over any provisions of this chapter and of
3 chapter 21 and over any general law provisions that may be incorporated or referenced herein.

4 **45-21.4-12. Effectiveness contingent on settlement agreement conditions. –**
5 Notwithstanding anything herein to the contrary, this chapter shall not become effective unless
6 and until the conditions in section 15(1)(iv) of the settlement agreement are satisfied and become
7 effective. Further, in consideration and acknowledgement of the drastic and unprecedented
8 reductions in pension benefits of up to fifty-five percent (55%) of the benefits to which they were
9 entitled under the old Central Falls pension plan, and dramatically increased health benefit
10 contributions required of the existing retirees, it is the express intent of this chapter to exempt the
11 existing retirees from certain provisions of chapter 21 of this title in order that the effect on
12 existing retirees of these severe reductions to which they have agreed under the terms of the
13 settlement agreement may be ameliorated.

14 SECTION 2. This act shall take effect if and when the conditions in section 15(1)(iv) of
15 the settlement agreement are approved by ninety-one percent (91%) of the existing retirees of the
16 city of Central Falls, as defined in subdivision 45-21.4-2(5), and approved by the United States
17 bankruptcy court for the district of Rhode Island by order dated January 9, 2012 and filed with the
18 retirement board, becomes effective.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO TOWNS AND CITIES -- CENTRAL FALLS RETIREMENT

1 This act would modify and set forth retirement benefits for existing retirees of the city of
2 Central Falls.

3 This act would take effect if and when the conditions in section 15(1)(iv) of the
4 settlement agreement are approved by ninety-one percent (91%) of the existing retirees of the city
5 of Central Falls, as defined in subdivision 45-21.4-2(5), and approved by the United States
6 bankruptcy court for the district of Rhode Island by order dated January 9, 2012 and filed with the
7 retirement board, becomes effective.

8 This act would take effect upon passage.

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