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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO PUBLIC OFFICERS AND EMPLOYEES - RETIREMENT BENEFITS

Introduced By: Senators Pichardo, and Crowley

Date Introduced: February 28, 2013

Referred To: Senate 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  
2 "Retirement System-Contributions and Benefits" is hereby amended to read as follows:  
3           **36-10-35. Additional benefits payable to retired employees. --** (a) All state employees  
4 and all beneficiaries of state employees receiving any service retirement or ordinary or accidental  
5 disability retirement allowance pursuant to the provisions of this title on or before December 31,  
6 1967, shall receive a cost of living retirement adjustment equal to one and one-half percent  
7 (1.5%) per year of the original retirement allowance, not compounded, for each calendar year the  
8 retirement allowance has been in effect. For the purposes of computation, credit shall be given for  
9 a full calendar year regardless of the effective date of the retirement allowance. This cost of living  
10 adjustment shall be added to the amount of the retirement allowance as of January 1, 1968, and an  
11 additional one and one-half percent (1.5%) shall be added to the original retirement allowance in  
12 each succeeding year during the month of January, and provided further, that this additional cost  
13 of living increase shall be three percent (3%) for the year beginning January 1, 1971, and each  
14 year thereafter, through December 31, 1980. Notwithstanding any of the above provisions, no  
15 employee receiving any service retirement allowance pursuant to the provisions of this title on or  
16 before December 31, 1967, or the employee's beneficiary, shall receive any additional benefit  
17 hereunder in an amount less than two hundred dollars (\$200) per year over the service retirement  
18 allowance where the employee retired prior to January 1, 1958.  
19           (b) All state employees and all beneficiaries of state employees retired on or after

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

10 (c) (1) Beginning on January 1, 1981, for all state employees and beneficiaries of the  
11 state employees receiving any service retirement and all state employees, and all beneficiaries of  
12 state employees, who have completed at least ten (10) years of contributory service on or before  
13 July 1, 2005 pursuant to the provisions of this chapter, and for all state employees, and all  
14 beneficiaries of state employees who receive a disability retirement allowance pursuant to  
15 sections 36-10-12 -- 36-10-15, the cost of living adjustment shall be computed and paid at the rate  
16 of three percent (3%) of the original retirement allowance or the retirement allowance as  
17 computed in accordance with section 36-10-35.1, compounded annually from the year for which  
18 the cost of living adjustment was determined to be payable by the retirement board pursuant to  
19 the provisions of subsection (a) or (b) of this section. Such cost of living adjustments are  
20 available to members who retire before October 1, 2009 or are eligible to retire as of September  
21 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  
25 employees who have not completed at least ten (10) years of contributory service on or before  
26 July 1, 2005 or were not eligible to retire as of September 30, 2009, shall, on the month following  
27 the third anniversary date of retirement, and on the month following the anniversary date of each  
28 succeeding year be adjusted and computed by multiplying the retirement allowance by three  
29 percent (3%) or the percentage of increase in the Consumer Price Index for all Urban Consumers  
30 (CPI-U) as published by the United States Department of Labor Statistics determined as of  
31 September 30 of the prior calendar year, whichever is less; the cost of living adjustment shall be  
32 compounded annually from the year for which the cost of living adjustment was determined  
33 payable by the retirement board; provided, that no adjustment shall cause any retirement  
34 allowance to be decreased from the retirement allowance provided immediately before such

1 adjustment.

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

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

27 (f) The provisions of sections 45-13-7 -- 45-13-10 shall not apply to this section.

28 (g) (1) Notwithstanding the prior paragraphs of this section, and subject to paragraph  
29 (g)(2) 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  
32 (B) where (A) is equal to the percentage determined by subtracting five and one-half percent  
33 (5.5%) (the "subtrahend") from the Five-Year Average Investment Return of the retirement  
34 system determined as of the last day of the plan year preceding the calendar year in which the

1 adjustment is granted, said percentage not to exceed four percent (4%) and not to be less than  
2 zero percent (0%), and (B) is equal to the lesser of the member's retirement allowance or the first  
3 twenty-five thousand dollars (\$25,000) of retirement allowance, such twenty-five thousand  
4 dollars (\$25,000) amount to be indexed annually in the same percentage as determined under  
5 (g)(1)(A) above. The "Five-Year Average Investment Return" shall mean the average of the  
6 investment returns of the most recent five (5) plan years as determined by the retirement board.  
7 Subject to paragraph (g)(2) below, the benefit adjustment provided by this paragraph shall  
8 commence upon the third (3rd) anniversary of the date of retirement or the date on which the  
9 retiree reaches his or her Social Security retirement age, whichever is later. In the event the  
10 retirement board adjusts the actuarially assumed rate of return for the system, either upward or  
11 downward, the subtrahend shall be adjusted 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 GASB Funded Ratio of the  
14 Employees' Retirement System of Rhode Island, the Judicial Retirement Benefits Trust and the  
15 State Police Retirement Benefits Trust, calculated by the system's actuary on an aggregate basis,  
16 exceeds eighty percent (80%) in which event the benefit adjustment will be reinstated for all  
17 members for such plan year.

18 In determining whether a funding level under this paragraph (g)(2) has been achieved,  
19 the actuary shall calculate the funding percentage after taking into account the reinstatement of  
20 any current or future benefit adjustment provided under this section. "GASB Funded Ratio" shall  
21 mean the ratio of the actuarial value of assets to the actuarial accrued liability.

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

28 (4) Notwithstanding any other provision of this chapter, the provisions of this paragraph  
29 (g) of section 36-10-35 shall become effective July 1, 2012 and shall apply to any benefit  
30 adjustment not granted on or prior to June 30, 2012.

31 (5) Notwithstanding subdivisions (g)(1), (g)(2), (g)(3), and (g)(4), the annual benefit  
32 adjustment shall be calculated and made in accordance with subdivisions (c)(3) and (d)(1) for all  
33 members whose annual retirement allowance is at or below one hundred fifty percent (150%) of  
34 the federal poverty level. In order to receive the annual benefit adjustment, the retiree must

1 [provide a certified earnings statement that proves their annual income from the defined benefit](#)  
2 [plan\(s\) is one hundred fifty percent \(150%\) below the federal poverty level to the retirement](#)  
3 [system.](#)

4 SECTION 2. Section 45-21-52 of the General Laws in Chapter 45-21 entitled  
5 "Retirement of Municipal Employees" is hereby amended to read as follows:

6 **45-21-52. Automatic increase in service retirement allowance.** -- (a) The local  
7 legislative bodies of the cities and towns may extend to their respective employees automatic  
8 adjustment increases in their service retirement allowances, by a resolution accepting any of the  
9 plans described in this section:

10 (1) Plan A. - All employees and beneficiaries of those employees receiving a service  
11 retirement or disability retirement allowance under the provisions of this chapter on December 31  
12 of the year their city or town accepts this section, receive a cost of living adjustment equal to one  
13 and one-half percent (1 1/2%) per year of the original retirement allowance, not compounded, for  
14 each calendar year the retirement allowance has been in effect. This cost of living adjustment is  
15 added to the amount of the retirement allowance as of January 1 following acceptance of this  
16 provision, and an additional one and one-half percent (1 1/2%) is added to the original retirement  
17 allowance in each succeeding year during the month of January, and provided, further, that this  
18 additional cost of living increase is three percent (3%) for the year beginning January 1 of the  
19 year the plan is accepted and each succeeding year.

20 (2) Plan B. - All employees and beneficiaries of those employees receiving a retirement  
21 allowance under the provisions of this chapter on December 31 of the year their municipality  
22 accepts this section, receive a cost of living adjustment equal to three percent (3%) of their  
23 original retirement allowance. This adjustment is added to the amount of the retirement allowance  
24 as of January 1 following acceptance of this provision, and an additional three percent (3%) of the  
25 original retirement allowance, not compounded, is payable in each succeeding year in the month  
26 of January.

27 (3) Plan C. - All employees and beneficiaries of those employees who retire on or after  
28 January 1 of the year following acceptance of this section, on the first day of January next  
29 following the date of the retirement, receive a cost of living adjustment in an amount equal to  
30 three percent (3%) of the original retirement allowance.

31 (b) In each succeeding year in the month of January, the retirement allowance is  
32 increased an additional three percent (3%) of the original retirement allowance, not compounded.

33 (c) (1) Notwithstanding any other paragraphs of this section, and subject to paragraph  
34 (c)(2) below, for all present and former employees, active and retired members, and beneficiaries

1 receiving any retirement, disability or death allowance or benefit of any kind by reason of  
2 adoption of this section by their employer, the annual benefit adjustment provided in any calendar  
3 year under this section shall be equal to (A) multiplied by (B) where (A) is equal to the  
4 percentage determined by subtracting five and one-half percent (5.5%) (the "subtrahend") from  
5 the Five-Year Average Investment Return of the retirement system determined as of the last day  
6 of the plan year preceding the calendar year in which the adjustment is granted, said percentage  
7 not to exceed four percent (4%) and not to be less than zero percent (0%), and (B) is equal to the  
8 lesser of the member's retirement allowance or the first twenty-five thousand dollars (\$25,000) of  
9 retirement allowance, such twenty-five thousand dollars (\$25,000) amount to be indexed annually  
10 in the same percentage as determined under (c)(1)(A) above. The "Five-Year Average Investment  
11 Return" shall mean the average of the investment returns of the most recent five (5) plan years as  
12 determined by the retirement board. Subject to paragraph (c)(2) below, the benefit adjustment  
13 provided by this paragraph shall commence upon the third (3rd) anniversary of the date of  
14 retirement or the date on which the retiree reaches his or her Social Security retirement age,  
15 whichever is later; or for municipal police and fire retiring under the provisions of chapter 45-  
16 21.2, the benefit adjustment provided by this paragraph shall commence on the later of the third  
17 (3rd) anniversary of the date of retirement or the date on which the retiree reaches age fifty-five  
18 (55). In the event the retirement board adjusts the actuarially assumed rate of return for the  
19 system, either upward or downward, the subtrahend shall be adjusted either upward or downward  
20 in the same amount.

21 (2) Except as provided in paragraph (c)(3) the benefit adjustments provided under this  
22 section for any plan year shall be suspended in their entirety for each municipal plan within the  
23 municipal employees retirement system unless the municipal plan is determined to be funded at a  
24 GASB Funded Ratio equal to or greater than eighty percent (80%) as of the end of the  
25 immediately preceding plan year in accordance with the retirement system's actuarial valuation  
26 report as prepared by the system's actuary, in which event the benefit adjustment will be  
27 reinstated for all members for such plan year.

28 In determining whether a funding level under this paragraph (c)(2) has been achieved,  
29 the actuary shall calculate the funding percentage after taking into account the reinstatement of  
30 any current or future benefit adjustment provided under this section. "GASB Funded Ratio" shall  
31 mean the ratio of the actuarial value of assets to the actuarial accrued liability.

32 (3) Notwithstanding paragraph (c)(2), for each municipal plan that has a GASB Funded  
33 Ratio of less than eighty percent (80%) as of June 30, 2012, in each fifth plan year commencing  
34 after June 30, 2012 commencing with the plan year ending June 30, 2017, and subsequently at

1 intervals of five (5) plan years, a benefit adjustment shall be calculated and made in accordance  
2 with paragraph (c)(1) above until the municipal plan's GASB Funded Ratio exceeds eighty  
3 percent (80%).

4 (d) Upon acceptance of any of the plans in this section, each employee shall on January 1  
5 next succeeding the acceptance, contribute by means of salary deductions, pursuant to section 45-  
6 21-41, one percent (1%) of the employee's compensation concurrently with and in addition to  
7 contributions otherwise being made to the retirement system.

8 (e) The city or town shall make any additional contributions to the system, pursuant to  
9 the terms of section 45-21-42, for the payment of any benefits provided by this section.

10 (f) The East Greenwich town council shall be allowed to accept Plan C of section 45-21-  
11 52(a)(3) for all employees of the town of East Greenwich who either, pursuant to contract  
12 negotiations, bargain for Plan C, or who are non-union employees who are provided with Plan C  
13 and who shall all collectively be referred to as the "Municipal-COLA Group" and shall be  
14 separate from all other employees of the town and school department, union or non-union, who  
15 are in the same pension group but have not been granted Plan C benefits. Upon acceptance by the  
16 town council, benefits in accordance with this section shall be available to all such employees  
17 who retire on or after January 1, 2003.

18 (g) Notwithstanding subdivision (c)(2), the annual benefit adjustment shall be calculated  
19 and made in accordance with subdivision (c)(1) for all members whose annual retirement  
20 allowance is at or below one hundred fifty percent (150%) of the federal poverty level. In order to  
21 receive the annual benefit adjustment the retiree must provide a certified earnings statement that  
22 proves their annual income from the defined benefit plan(s) is one hundred fifty percent (150%)  
23 below the federal poverty level to the retirement system.

24 SECTION 3. 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 BENEFITS

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1           This act would restore cost of living adjustments for retired state and municipal  
2 employees if their annual retirement allowance is at or below one hundred fifty percent (150%) of  
3 the federal poverty level.

4           This act would take effect upon passage.

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