

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO TOWNS AND CITIES - RETIREMENT OF MUNICIPAL EMPLOYEES IN
CENTRAL FALLS

Introduced By: Senator Elizabeth A. Crowley

Date Introduced: March 13, 2013

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 45-21 of the General Laws entitled "Retirement of Municipal
2 Employees" is hereby amended by adding thereto the following sections:

3 **45-21-67. Definitions – Central Falls retirement plan. --** (1) "Base retirement
4 allowance" is such amount as is set forth in Appendix A, Appendix D-A and Appendix E-A under
5 the column labeled "annualized final base pension" attached to the settlement agreement, as
6 defined herein, including as the same may be amended.

7 (2) "City" means: the city of Central Falls, Rhode Island.

8 (3) "Existing retirees" means:

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

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

17 Excluded from this definition are those retirees of the city who receive city pension
18 benefits guaranteed by John Hancock Life Insurance Company, which as of July 31, 2011,

1 constituted a class consisting of fewer than eleven (11) individuals. Further excluded from this
2 definition are those retirees and employees of the city who, as of July 31, 2011, were participating
3 in or receiving pension benefits from the city's pension plan governed by the provisions of
4 sections 45-21-67 through 45-21-75.

5 (4) "Member" for purposes of this chapter, shall include existing retirees of the city of
6 Central Falls, except as may otherwise be provided in this section.

7 (5) "Settlement agreement" in this chapter shall mean that certain settlement and release
8 agreement approved by ninety-one percent (91%) of the existing retirees of the city of Central
9 Falls and approved by the United States Bankruptcy Court for the District of Rhode Island by
10 order dated January 9, 2012 which, upon satisfaction of the conditions in section 15(i)-(iv) of the
11 settlement agreement, shall be placed on file with the retirement board and the secretary of state
12 and available for reference in applying the provisions of this chapter.

13 **45-21-68. Transfer of pension assets - Central Falls retirement plan. --** The city of
14 Central Falls shall take all necessary measures to facilitate the transfer of all of the existing
15 retirees' available pension assets to the city of Central Falls retirement system established
16 pursuant to this chapter as soon as practicable after the date of enactment hereof. For the
17 purposes of this section, "available pension assets" shall mean and consist of all city pension
18 assets currently held by John Hancock Life Insurance Company, or any of its affiliates, in excess
19 of those assets which are required to be reserved for those city pensions previously guaranteed by
20 John Hancock Life Insurance Company, which as of July 31, 2011 consisted of fewer than eleven
21 (11) individual pensions. Upon the death of the last remaining beneficiary of said guaranteed
22 pensions, the city shall take all necessary measures to facilitate the transfer of the remaining
23 reserved assets, if any, to the city of Central Falls retirement system established pursuant to this
24 chapter as soon as practicable after the date that notice of said death is provided by the city. For
25 the purposes of this section, "available pension assets" shall not include those assets currently
26 held by John Hancock Life Insurance Company for the benefit of active employees of the city of
27 Central Falls.

28 **45-21-69. Mode of administration - Central Falls retirement plan. --** The city of
29 Central Falls retirement system established by sections 45-21-67 through 45-21-75 shall be
30 administered in the same manner provided for in sections 45-21-1 through 45-21-66 provided,
31 however, that where the provisions of 45-21-1 through 45-21-66 conflict with the provisions of
32 sections 45-21-67 through 45-21-75 then the provisions of sections 45-21-67 through 45-21-75
33 shall control. Where the provisions of this chapter conflict with the settlement agreement, the
34 settlement agreement shall control. The city of Central Falls shall provide a complete list of

1 existing retirees who are current participants and beneficiaries of the city's retirement system as
2 of the date of enactment hereof, as well as all data necessary to administer the retirement system
3 pursuant to sections 45-21-67 through 45-21-75 of this chapter, including, but not limited to,
4 names, addresses, titles, compensation, duties, dates of birth, length of service, and beneficiary
5 designations of each member, and any other information that the retirement board shall require.
6 The city shall give prompt notice of all appointments, removals, deaths, resignations, leaves of
7 absence, and changes in pay of members.

8 **45-21-70. Retirement allowances for existing retirees - Central Falls retirement plan.**

9 All existing retirees shall receive a retirement allowance subject to the provisions of sections
10 45-21-67 through 45-21-75 of this chapter, and as set forth in Appendix A, Appendix D-A and
11 Appendix E-A (including as the same may be amended) to the settlement agreement as follows:

12 (a) Maximum reduction of pension payments pursuant to this section. – No pension
13 benefit being paid to an existing retiree prior to the enactment of this chapter was reduced by
14 more than fifty-five percent (55%) as described in the settlement agreement, nor was any such
15 benefit reduced if the existing amount was already less than ten thousand dollars (\$10,000)
16 annually. In no event did a reduction as described in the settlement agreement result in a
17 retirement allowance of less than ten thousand dollars (\$10,000) annually.

18 (b) Spousal or dependent children benefits shall be provided pursuant to section 45-21.3-
19 1, as such statute provided on July 31, 2011, with spousal benefits being payable to the surviving
20 spouse of a deceased existing retiree until said spouse shall remarry, at the rate of sixty seven and
21 one-half percent (67.5%) of the amount of the existing retiree's retirement allowance at the time
22 of his or her death, and if there is no surviving spouse or if the surviving spouse shall remarry,
23 then said benefit shall be paid to the dependent children of the deceased existing retiree until said
24 children shall attain the age of eighteen (18) years of age.

25 (c) Existing retirees shall be exempt from the provisions of section 45-21-54 and are
26 expressly permitted to obtain employment with the state or any municipality, whether or not said
27 municipality participates in this system, without the interruption of pension benefits.

28 (d) Existing retirees shall be exempt from the provisions of section 45-21-23.
29 Notwithstanding any other provision herein to the contrary, an existing retiree's disability
30 retirement allowance may be revoked by the retirement board in the event that, following
31 adherence to all procedural steps and processes provided under law, a court of competent
32 jurisdiction (or appropriate governing agency or body) enters a final order, decree or
33 determination, in accordance with applicable law, that is not then stayed, appealed or subject to
34 an appeal: (i) Determining that the disability retirement allowance of such existing retiree was

1 awarded as a result of fraud or misrepresentation, the standard as provided in the settlement
2 agreement; and (ii) Determining the amount to be forfeited. If any amounts are ordered to be
3 recovered as a result of this provision, said funds (net of reasonable attorney's fees, costs and
4 expenses incurred by the city as a result thereof) shall be deposited into the "Participating
5 Retirees' Restricted Five (5) Year Account" as defined in the Settlement Agreement, and shall not
6 be forfeited in the manner specified in section 45-21-46.

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

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

13 **45-21-71. Automatic increase in retirement allowances - Central Falls retirement**
14 **plan. -- Existing retirees subject to the provisions of section 45-21-66 through 45-21-75 of this**
15 **chapter, shall receive an increase equal to up to two percent (2%) per year of the member's base**
16 **retirement allowance, not compounded, in each calendar year the retirement allowance has been**
17 **in effect pursuant to this chapter. This increase shall be added to the base retirement allowance**
18 **on the first day of July 2012 and in each succeeding calendar year starting on the first day of**
19 **January, 2013, not compounded, but added to the preceding year's retirement allowance. The**
20 **amount of the increase shall equal the percentage of increase in the Consumer Price Index for all**
21 **Urban Consumers (CPI-U) as published by the United States Department of Labor Statistics**
22 **determined as of March 31 of the same calendar year, or two percent (2%), whichever is less,**
23 **applied to the base retirement allowance.**

24 **45-21-72. Accidental disability retirements - Central Falls retirement plan. --**
25 **Existing retirees who have been receiving accidental disability benefits on account of becoming**
26 **physically or mentally incapacitated from the performance of their job duties as a result of an**
27 **illness or injury sustained while, or resulting from, the performance of their job duties, and not as**
28 **a result of age or length of service, are listed on Appendix A and Appendix D-A (including as the**
29 **same may be amended) of the settlement agreement and were placed on accidental disability**
30 **retirement after medical examinations and certification that the retiree is physically or mentally**
31 **incapacitated as a result of injuries or illness sustained while, or resulting from the performance**
32 **of their job duties, which prevented them from performing their duties as police officers or**
33 **firefighters.**

34 **45-21-73. Tax exemption – Fraudulent claims - Central Falls retirement plan. -- The**

1 [provisions of section 45-21-45 \(but subject to exclusions from income for disability pensions, 45-](#)
2 [21-46 \(but subject to subsection 45-21-70\(d\)\), and 45-21-47 are expressly made applicable to and](#)
3 [controlling over this chapter.](#)

4 **45-21-74. Settlement agreement controls - Central Falls retirement plan.** – [Except as](#)
5 [otherwise provided herein, the provisions of the settlement agreement shall control as to existing](#)
6 [retirees. Further, nothing herein shall be deemed to derogate from the full effect of the inclusion](#)
7 [in the settlement agreement of various general law provisions \(as in effect on July 31, 2011\) that](#)
8 [are incorporated or referenced therein, which provisions shall control over any provisions of](#)
9 [chapter 45-21 and over any general law provisions that may be incorporated or referenced herein.](#)

10 **45-21-75. Liability of the city of Central Falls - Enforcement.** -- [\(a\) The city is liable](#)
11 [to the retirement system for the cost of funding a retirement system for its existing retirees who](#)
12 [are members of the system under this section and chapter.](#)

13 [\(b\) The liability of the city under this section and chapter is enforceable by the retirement](#)
14 [board against the city through appropriate action in the superior court.](#)

15 [\(c\) The state is further empowered to withhold from the city that amount of the city's](#)
16 [portion of any shared taxes or state aid which is sufficient to satisfy its liability hereunder.](#)

17 SECTION 2. This act shall take effect upon satisfaction of the conditions in section 15(i)
18 – (iv) of the settlement agreement, which shall be evidenced by the joint filing by the state-
19 appointed receiver and counsel to the existing retirees of an attested copy of the settlement
20 agreement with the retirement board and the secretary of state's office.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO TOWNS AND CITIES - RETIREMENT OF MUNICIPAL EMPLOYEES IN
CENTRAL FALLS

1 This act would provide a process for the city of Central Falls locally-administered
2 municipal employee retirement plans, to transition existing retirees, and at their option active
3 employees, to a state-administered municipal employees retirement system in order to secure the
4 fiscal stability and proper administration of said pension plan.

5 This act would take effect upon satisfaction of the conditions in section 15(i) – (iv) of the
6 settlement agreement which would be evidenced by the joint filing by the state-appointed receiver
7 and counsel to the existing retirees of an attested copy of the settlement agreement with the
8 retirement board and the secretary of state’s office.

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