

2018 -- H 7988

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

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

Introduced By: Representatives O'Brien, Marshall, McEntee, Craven, and McKiernan

Date Introduced: March 22, 2018

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

1 prior to January 1, 1958.

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

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

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

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

1 allowance to be decreased from the retirement allowance provided immediately before such
2 adjustment.

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

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

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

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

31 (1) Notwithstanding the prior paragraphs of this section, and subject to paragraph (g)(2)
32 below, for all present and former employees, active and retired members, and beneficiaries
33 receiving any retirement, disability or death allowance or benefit of any kind, the annual benefit
34 adjustment provided in any calendar year under this section shall be equal to (A) multiplied by

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

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

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

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

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

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

34 (1) (A) As soon as administratively reasonable following the enactment into law of this

1 subsection (h)(1)(A), a one-time benefit adjustment shall be provided to members and/or
2 beneficiaries of members who retired on or before June 30, 2012, in the amount of 2% of the
3 lesser of either the member's retirement allowance or the first twenty-five thousand dollars
4 (\$25,000) of the member's retirement allowance. This one-time benefit adjustment shall be
5 provided without regard to the retiree's age or number of years since retirement.

6 (B) Notwithstanding the prior subsections of this section, for all present and former
7 employees, active and retired members, and beneficiaries receiving any retirement, disability or
8 death allowance or benefit of any kind, the annual benefit adjustment provided in any calendar
9 year under this section for adjustments on and after January 1, 2016, and subject to subsection
10 (h)(2) below, shall be equal to (I) multiplied by (II):

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

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

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

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

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

32 (2) Except as provided in subsection (h)(3) of this section, the benefit adjustments under
33 subsection (h)(1)(B) for any plan year shall be suspended in their entirety unless the funded ratio
34 of the employees' retirement system of Rhode Island, the judicial retirement benefits trust and the

1 state police retirement benefits trust, calculated by the system's actuary on an aggregate basis,
2 exceeds eighty percent (80%) in which event the benefit adjustment will be reinstated for all
3 members for such plan year.

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

7 (3) Notwithstanding subsection (h)(2), in each fourth plan year commencing after June
8 30, 2012 commencing with the plan year ending June 30, 2016, and subsequently at intervals of
9 four plan years:

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

12 (ii) Effective for members and/or beneficiaries of members who retired on or before June
13 30, 2015, the dollar amount in subsection (h)(1)(B)(II) of twenty-five thousand eight hundred and
14 fifty-five dollars (\$25,855) shall be replaced with thirty-one thousand and twenty-six dollars
15 (\$31,026) until the funded ratio of the employees' retirement system of Rhode Island, the judicial
16 retirement benefits trust and the state police retirement benefits trust, calculated by the system's
17 actuary on an aggregate basis, exceeds eighty percent (80%).

18 (i) Effective for members and or beneficiaries of members who have retired on or before
19 July 1, 2015, a one-time stipend of five hundred dollars (\$500) shall be payable within sixty (60)
20 days following the enactment of the legislation implementing this provision, and a second one-
21 time stipend of five hundred dollars (\$500) in the same month of the following year. These
22 stipends shall be payable to all retired members or beneficiaries receiving a benefit as of the
23 applicable payment date and shall not be considered cost of living adjustments under the prior
24 provisions of ~~this § 36-10-3~~ [§ 36-10-35](#).

25 (j)(1) Notwithstanding the prior subsections of this section, for all present and former
26 employees, active and retired members, and beneficiaries receiving any retirement, disability, or
27 death allowance or benefit of any kind, the annual benefit adjustment provided in any calendar
28 year under this section for adjustments on and after January 1, 2019, shall be three percent (3%)
29 and applied to the first fifty thousand dollars (\$50,000) of the member's retirement allowance
30 provided that the prior year investment return shall yield a gain of ten percent (10%) or more.

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

1 [pursuant to the provisions of subsection \(h\) of this section.](#)

2 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 OFFICES AND EMPLOYEES - RETIREMENT SYSTEM -
CONTRIBUTIONS AND BENEFITS

1 This act would award all members of the pension system a three percent (3%) annual
2 benefit adjustment (COLA) applied to the first fifty thousand dollars (\$50,000) of a member's
3 retirement allowance on and after January 1, 2019, provided the prior year investment return
4 yields a gain of ten percent (10%) or more until the pension system funding ratio exceeds eighty
5 percent (80%).

6 This act would take effect upon passage.

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