

2021 -- H 5359

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

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

Introduced By: Representatives Messier, Barros, Kazarian, Solomon, McNamara,
Fellela, C Lima, Donovan, and McLaughlin

Date Introduced: February 05, 2021

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 "Retirement
2 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 equal
7 to one and one-half percent (1.5%) per year of the original retirement allowance, not compounded,
8 for each calendar year the retirement allowance has been in effect. For the purposes of computation,
9 credit shall be given for a full calendar year regardless of the effective date of the retirement
10 allowance. This cost of living adjustment shall be added to the amount of the retirement allowance
11 as of January 1, 1968, and an additional one and one-half percent (1.5%) shall be added to the
12 original retirement allowance in each succeeding year during the month of January, and provided
13 further, that this additional cost of living increase shall be three percent (3%) for the year beginning
14 January 1, 1971, and each year thereafter, through December 31, 1980. Notwithstanding any of the
15 above provisions, no employee receiving any service retirement allowance pursuant to the
16 provisions of this title on or before December 31, 1967, or the employee's beneficiary, shall receive
17 any additional benefit hereunder in an amount less than two hundred dollars (\$200) per year over
18 the service retirement allowance where the employee retired prior to January 1, 1958.

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

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

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

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

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

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

27 (1) Notwithstanding the prior paragraphs of this section, and subject to paragraph (g)(2)
28 below, for all present and former employees, active and retired members, and beneficiaries
29 receiving any retirement, disability or death allowance or benefit of any kind, the annual benefit
30 adjustment provided in any calendar year under this section shall be equal to (A) multiplied by (B)
31 where (A) is equal to the percentage determined by subtracting five and one-half percent (5.5%)
32 (the "subtrahend") from the Five-Year Average Investment Return of the retirement system
33 determined as of the last day of the plan year preceding the calendar year in which the adjustment
34 is granted, said percentage not to exceed four percent (4%) and not to be less than zero percent

1 (0%), and (B) is equal to the lesser of the member's retirement allowance or the first twenty-five
2 thousand dollars (\$25,000) of retirement allowance, such twenty-five thousand dollars (\$25,000)
3 amount to be indexed annually in the same percentage as determined under (g)(1)(A) above. The
4 "Five-Year Average Investment Return" shall mean the average of the investment returns of the
5 most recent five (5) plan years as determined by the retirement board. Subject to paragraph (g)(2)
6 below, the benefit adjustment provided by this paragraph shall commence upon the third (3rd)
7 anniversary of the date of retirement or the date on which the retiree reaches his or her Social
8 Security retirement age, whichever is later. In the event the retirement board adjusts the actuarially
9 assumed rate of return for the system, either upward or downward, the subtrahend shall be adjusted
10 either upward or downward in the same amount.

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

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

20 (3) Notwithstanding paragraph (g)(2), in each fifth plan year commencing after June 30,
21 2012 commencing with the plan year ending June 30, 2017, and subsequently at intervals of five
22 plan years, a benefit adjustment shall be calculated and made in accordance with paragraph (g)(1)
23 above until the Funded Ratio of the Employees' Retirement System of Rhode Island, the Judicial
24 Retirement Benefits Trust and the State Police Retirement Benefits Trust, calculated by the system's
25 actuary on an aggregate basis, exceeds eighty percent (80%).

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

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

30 (1)(A) As soon as administratively reasonable following the enactment into law of this
31 subsection (h)(1)(A), a one-time benefit adjustment shall be provided to members and/or
32 beneficiaries of members who retired on or before June 30, 2012, in the amount of 2% of the lesser
33 of either the member's retirement allowance or the first twenty-five thousand dollars (\$25,000) of
34 the member's retirement allowance. This one-time benefit adjustment shall be provided without

1 regard to the retiree's age or number of years since retirement.

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

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

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

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

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

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

28 (2) Except as provided in subsection (h)(3) of this section, the benefit adjustments under
29 subsection (h)(1)(B) for any plan year shall be suspended in their entirety unless the funded ratio
30 of the employees' retirement system of Rhode Island, the judicial retirement benefits trust and the
31 state police retirement benefits trust, calculated by the system's actuary on an aggregate basis,
32 exceeds eighty percent (80%) in which event the benefit adjustment will be reinstated for all
33 members for such plan year.

34 In determining whether a funding level under this subsection (h)(2) has been achieved, the

1 actuary shall calculate the funding percentage after taking into account the reinstatement of any
2 current or future benefit adjustment provided under this section.

3 (3) Notwithstanding subsection (h)(2), in each fourth plan year commencing after June 30,
4 2012 commencing with the plan year ending June 30, 2016, and subsequently at intervals of four
5 plan years:

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

8 (ii) Effective for members and/or beneficiaries of members who retired on or before June
9 30, 2015, the dollar amount in subsection (h)(1)(B)(II) of twenty-five thousand eight hundred and
10 fifty-five dollars (\$25,855) shall be replaced with thirty-one thousand and twenty-six dollars
11 (\$31,026) until the funded ratio of the employees' retirement system of Rhode Island, the judicial
12 retirement benefits trust and the state police retirement benefits trust, calculated by the system's
13 actuary on an aggregate basis, exceeds eighty percent (80%).

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

21 (j)(1) Notwithstanding the prior subsections of this section, for all present and former
22 employees, active and retired members, and beneficiaries receiving any retirement, disability, or
23 death allowance or benefit of any kind, the annual benefit adjustment provided in any calendar year
24 under this section for adjustments on and after January 1, 2022, shall be three percent (3%) and
25 applied to the first thirty thousand dollars (\$30,000) of the member's retirement allowance provided
26 that the prior year investment return shall yield a gain of ten percent (10%) or more.

27 (2) In the event that the funding ratio of the employee's retirement system of Rhode Island,
28 the judicial 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%), this subsection shall become
30 null and void and the annual benefit adjustment shall be awarded pursuant to the provisions of
31 subsection (h) of this section.

32 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 OFFICERS 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 thirty thousand dollars (\$30,000) of a member's
3 retirement allowance on and after January 1, 2022, provided the prior year investment return yields
4 a gain of ten percent (10%) or more. This provision would apply until the pension system funding
5 ratio exceeds eighty percent (80%).

6 This act would take effect upon passage.

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