

2021 -- S 0953

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO TOWNS AND CITIES --WEST WARWICK PENSION PLAN

Introduced By: Senators Burke, and Gallo

Date Introduced: June 15, 2021

Referred To: Senate Finance

(General Treasurer)

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 21.5

4 WEST WARWICK PENSION PLAN

5 **45-21.5-1. Legislative findings.**

6 The general assembly finds and declares the following:

7 (1) All Rhode Islanders deserve retirement security, including those who have spent their
8 careers serving their communities as first responders, school, and municipal employees;

9 (2) The town of West Warwick's pension plans are currently in "critical status" as defined
10 in § 45-65-4 which resulted in the town of West Warwick undergoing pension reform in 2014 and
11 the submission of a funding improvement plan in accordance with § 45-65-6;

12 (3) The town of West Warwick, the West Warwick school department, the labor and other
13 organizations representing its employees, first responders, and retirees, and the state of Rhode
14 Island are united in their desire to see the town of West Warwick remain on the path of fiscal health,
15 and that the predictability and sustainability of the pension system is vital to maintaining fiscal
16 health for the town of West Warwick and retirement security for its employees, first responders
17 and retirees; and

18 (4) The general assembly adopts this chapter to facilitate the assistance of the municipal
19 employees' retirement system (MERS) of the state of Rhode Island in administering the local West

1 Warwick pension plans.

2 **45-21.5-2. Alternative acceptance by the town of West Warwick for West Warwick**
3 **school and municipal employees.**

4 (a) The provisions of this section shall apply only to the locally-administered plan,
5 excluding police and fire within the town of West Warwick, hereinafter referred to as the "West
6 Warwick plan, excluding police and fire."

7 (b) No later than August 31, 2021, West Warwick and the West Warwick school committee
8 may accept the provisions of this chapter, by resolution or an ordinance of its governing body,
9 stating the group or groups of employees to be included as provided in § 45-21-4; provided that,
10 any and all labor organizations, representing active employees of the municipality and active non-
11 certified school employees to be included, have assented to such participation of their respective
12 memberships by ratification of amendments to the applicable collective bargaining agreement by a
13 majority vote of those members of any such labor organization present and voting; and, provided
14 further that, any applicable final and consent judgments are amended. A copy of the resolutions or
15 ordinance and proof of assent from the applicable labor organization, and/or amendment to any
16 applicable final and consent judgments, shall be immediately forwarded to the retirement board for
17 review. A vote of the retirement board to accept the entry of the group or groups into the system
18 provided in this section shall be required.

19 (c) The West Warwick plan, excluding police and fire, shall be closed to new members on
20 August 31, 2021.

21 (d) Following acceptance as provided in subsection (b) of this section, members of the
22 West Warwick plan, excluding police and fire, in active service on August 31, 2021, shall continue
23 to be subject to all plan provisions, as set forth in the 2006 pension plan as modified by any
24 collective bargaining agreement, memorandum of agreement, arbitration award, final and consent
25 judgment and/or any individual contractual agreement between any nonunion employee and the
26 town and/or school committee in effect on the day prior to the effective date of participation
27 (hereinafter collectively "the 2006 pension plan as modified") . These provisions shall include, but
28 not be limited to, applicable retirement ages, plan restrictions, accrual rates, contribution
29 requirements, eligibility requirements, benefit calculations and any and all provisions related to
30 postemployment benefits, death benefits, cost-of-living adjustments, and rules permitting
31 employment in and pension credit accrual within other municipalities or the state which are
32 participants in any other retirement plan administered by the state. The intent of this section is that
33 all members of the West Warwick plan, excluding police and fire, shall continue to enjoy all
34 benefits and be subject to the same terms of the pension plan in existence prior to the effective date

1 of participation and that the municipal employees' retirement system shall administer, but not
2 change, the pension plan benefits and terms formerly provided by the town unless expressly
3 provided otherwise in this section.

4 (e) Disability determinations for new applications received on or after the date assets are
5 transferred pursuant to §45-21.5-6 shall be made by the retirement board, subject to the procedures
6 and standards of §§ 45-21-19, 45-21-22, 45-21-23 and 45-21-24, for members in active service on
7 August 31, 2021. If a disability retirement pension, including a partial disability, is granted, the
8 member shall receive benefits provided by the West Warwick pension plan, excluding police and
9 fire, pursuant to the 2006 pension plan as modified in effect on August 31, 2021.

10 (f) Subject to the provisions of subsection (b) of this section being met, new employees
11 hired on or after September 1, 2021, shall be subject to the provisions of chapters 21 or 21.2 of this
12 title as applicable, including all applicable disability provisions and benefits provided by §§ 36-
13 10.3-4 and 45-21-52.

14 (g) Members of the West Warwick plan, excluding police and fire, in active service on
15 August 31, 2021, shall have a one-time irrevocable option to become subject to all of the provisions
16 of chapters 21 or 21.2 of this title as applicable, including all applicable disability provisions and
17 benefits provided by §§ 36-10.3-4 and 45-21-52. Such election shall be made on or before
18 September 30, 2021.

19 (h) Notwithstanding any provisions in § 45-21-42.2 to the contrary, the cost to evaluate
20 West Warwick's prospective participation in the retirement system pursuant to this section or § 45-
21 21.5-3, shall be borne by the retirement board.

22 (i) Notwithstanding any provisions in § 45-21-43.1 to the contrary, determination of the
23 employer contribution rate of the closed West Warwick pension plan, excluding police and fire,
24 pursuant to this section shall be computed using an amortization period for the unfunded actuarial
25 accrued liability as determined by the board, based upon the recommendation of the plan's actuary.
26 Future actuarial gains and losses accruing within a plan year will be amortized over individual new
27 twenty (20) year closed periods consistent with § 45-21-43.1(c).

28 (j) Notwithstanding any provisions in § 45-21-56 to the contrary, if a West Warwick
29 pension plan, excluding police and fire, pursuant to this section is in critical status as defined in §
30 45-65-4, and a member of the West Warwick pension plan, excluding police and fire, leaves
31 employment and is hired by another participating municipality that is not in critical status as defined
32 in § 45-65-4, then the retirement system shall transfer the amount of the member's contributions
33 and member's total accrued liability with the West Warwick pension plan, excluding, police and
34 fire, multiplied by the funded status of the West Warwick pension plan, excluding, police and fire,

1 to the account of the current employing municipality.

2 (k) Upon the conditions of subsection (b) of this section being met, the town of West
3 Warwick and the West Warwick school committee shall remain liable to the retirement system for
4 the cost of funding a retirement system for its employees who are participants of the system as
5 provided herein, and the retirement board maintains the right to enforce payment of any liability as
6 provided in chapter 21 of this title. Withdrawal of any West Warwick plan that has joined the
7 retirement system pursuant to this section shall be as provided in § 45-21-5 and subject to §§ 45-
8 21-6 and 45-21-7. Any such withdrawal shall not relieve West Warwick from the liabilities arising
9 from its membership as set forth in §§ 45-21-5, 45-21-6 or 45-21-7.

10 (l) Subject to the provisions of subsection (b) of this section being met, the West Warwick
11 plan, excluding police and fire, and the provisions of this section shall be administered in the same
12 manner provided in chapter 21 of this title; credits for prior service and collection of contributions
13 are determined through reference to that chapter; provided that, where the provisions of that chapter
14 conflict with the provisions of this chapter, then the provisions of this chapter shall control. Liability
15 of contributions is enforced in the same manner as stated in chapter 21 of this title.

16 **45-21.5-3. Retiree participation in retirement plan for school and municipal**
17 **employees.**

18 (a) The provisions of this section shall apply only to the locally-administered plan,
19 excluding police and fire, within the town of West Warwick.

20 (b)(1) Notwithstanding any provision of this chapter to the contrary, no later than August
21 31, 2021, West Warwick and the West Warwick school committee may accept the provisions of
22 this chapter by resolution or an ordinance of its governing body stating the group or groups of
23 retired former employees to be included as provided in § 45-21-4; provided that, a majority of
24 retired former employees have consented in writing to joining the system or any duly constituted
25 retiree organization that represents said retired former employees has assented to joining the
26 system; and, provided further that, any applicable final and consent judgments are amended. A
27 copy of the resolutions or ordinance and proof of assent from the applicable retiree organization,
28 and/or amendment to any applicable final and consent judgments, shall be immediately forwarded
29 to the retirement board for review. A vote of the retirement board to accept the entry of the group
30 or groups of retirees into the system shall be required.

31 (2) For purposes of this section, "retired former employees" means any West Warwick
32 municipal or non-certified school employee who has retired prior to September 1, 2021, pursuant
33 to the provisions of the West Warwick retirement plan, excluding police and fire.

34 (c)(1) Notwithstanding any other provisions of this section or other applicable law, upon

1 acceptance into the system, all retired former employees and their beneficiaries shall continue to
2 be subject to all plan provisions, as set forth by the plan, collective bargaining agreement,
3 memorandum of agreement, arbitration award, final and consent judgment and/or any individual
4 contractual agreement between any nonunion employee and the town and/or school committee in
5 effect upon the retired former employee's date of retirement. These provisions shall include, but
6 are not limited to, applicable retirement ages, plan restrictions, accrual rates, contribution
7 requirements, eligibility requirements, benefit calculations and any and all provisions related to
8 postemployment benefits, death benefits, cost-of-living adjustments, and rules permitting
9 employment in and pension credit accrual within other municipalities or the state which are
10 participants in any other retirement plan administered by the state. The intent of this section is that
11 all retired former employees of the West Warwick plan, excluding police and fire, shall continue
12 to enjoy all benefits and be subject to the same terms of the pension plan in existence upon his or
13 her date of retirement and prior to the effective date of participation and that the municipal
14 employees' retirement system shall administer, but not change, the pension plan benefits and terms
15 formerly provided by the town unless expressly provided otherwise in this section.

16 (2) Retired former employees under this section shall not be entitled to any retirement
17 allowance or benefit from the system otherwise available or calculated pursuant to the provisions
18 of §§ 45-21-16, 45-21-27, 45-21-51, or 45-21-51.1 with regard to his or her West Warwick pension
19 benefit.

20 (d) The cost to evaluate West Warwick's prospective membership in the retirement system,
21 and costs related to obtaining consent of retirees to join the system pursuant to this section, shall
22 be borne by the retirement board.

23 (e) Upon the conditions of subsection (b) of this section being met, the town of West
24 Warwick and the West Warwick school committee shall remain liable to the retirement system for
25 the cost of funding a retirement system for its retired employees who are members of the system as
26 provided herein, and the retirement board maintains the right to enforce payment of any liability as
27 provided in chapter 21 of this title.

28 (f) Subject to the provisions of subsection (b) of this section being met, the provisions of
29 this section shall be administered in the same manner provided in chapter 21 of this title; provided
30 that, where the provisions of that chapter conflict with the provisions of this chapter, then the
31 provisions of this chapter shall control. Liability of the municipality is enforced in the same manner
32 as stated in chapter 21 of this title.

33 **45-21.5-4. Alternative acceptance by the town of West Warwick of optional**
34 **retirement for police and firefighters.**

1 (a) The provisions of this section shall apply only to the locally-administered plan for
2 police and fire within the town of West Warwick hereinafter referred to as the "West Warwick plan
3 for police and fire."

4 (b) No later than August 31, 2021, West Warwick may accept the provisions of this chapter,
5 by resolution or an ordinance of its governing body, stating the group or groups of public safety
6 employees to be included as provided in § 45-21-4; provided that, any and all labor organizations,
7 representing active police and fire of the municipality to be included, have assented to such
8 participation of their respective memberships by ratification of amendments to the applicable
9 collective bargaining agreement by a majority vote of those members of any such labor
10 organization present and voting; and, provided further that, any applicable final and consent
11 judgments are amended. A copy of the resolution or ordinance and proof of assent from the
12 applicable labor organization, and/or amendment to any applicable final and consent judgments,
13 shall be immediately forwarded to the retirement board for review. A vote of the retirement board
14 to accept the entry of the group or groups into the system as provided in this section shall be
15 required.

16 (c) The West Warwick plan for police and fire shall be closed to new members on August
17 31, 2021.

18 (d) Following acceptance as provided in subsection (b) of this section, members of the
19 West Warwick plan for police and fire in active service on August 31, 2021, shall continue to be
20 subject to all of the provisions, as set forth in the 2006 pension plan as modified by any collective
21 bargaining agreement, memorandum of agreement, arbitration award, final and consent judgment
22 and/or any individual contractual agreement between any non-union employee and the town in
23 effect on the day prior to the effective date of participation (hereinafter collectively "the 2006
24 pension plan as modified"). These provisions shall include, but not be limited to, applicable
25 retirement ages, plan restrictions, accrual rates, contribution requirements, eligibility requirements,
26 benefit calculations and any and all provisions related to post-employment benefits, death benefits,
27 cost-of-living adjustments, and rules permitting employment in and pension credit accrual within
28 other municipalities or the state which are participants in any other retirement plan administered by
29 the state. The intent of this section is that all members of the West Warwick plan for police and fire
30 shall continue to enjoy all benefits and be subject to the same terms of the pension plan in existence
31 prior to the effective date of participation and that the municipal employees' retirement system
32 shall administer, but not change, the pension benefits and terms formerly provided by the town
33 unless expressly provided otherwise in this section.

34 (e) Disability determinations shall be made by the retirement board, subject to the

1 procedures and standards of §§ 45-21.2-7 and 45-21.2-9 (except for the eligible service
2 requirements) as applicable, for members hired prior to September 1, 2021. If a disability retirement
3 pension is granted, the member shall receive benefits provided by the West Warwick pension plan
4 pursuant to the 2006 pension plan as modified in effect on August 31, 2021. If the retirement board
5 denies the application for an accidental disability pension, the member may submit an appeal to the
6 Rhode Island workers' compensation court pursuant to §§ 45-21.2-9(f) through (j).

7 (f) Subject to the provisions of subsection (b) of this section being met, new employees
8 hired on or after September 1, 2021, shall be subject to all of the provisions of chapter 21.2 of this
9 title as applicable, including all applicable disability provisions and benefits provided by §§ 36-
10 10.3-4 and 45-21-52.

11 (g) Members of the West Warwick plan for police and fire in active service as of August
12 31, 2021, shall have a one-time irrevocable option to become subject to the provisions of chapters
13 21 or 21.2 of this title as applicable, including all applicable disability provisions and benefits
14 provided by §§ 36-10.3-4 and 45-21-52. Such election shall be made on or before September 30,
15 2021.

16 (h) Notwithstanding any provision in § 45-21-42.2 to the contrary, the cost to evaluate
17 West Warwick prospective participation in the retirement system pursuant to this section or § 45-
18 21.5-3, shall be borne by the retirement board.

19 (i) Notwithstanding any provision in § 45-21-43.1 to the contrary, determination of the
20 employer contribution rate of the closed West Warwick pension plan for police and fire pursuant
21 to this section shall be computed using an amortization period for the unfunded actuarial accrued
22 liability as determined by the board, based upon the recommendation of the plan's actuary. Future
23 actuarial gains and losses accruing within a plan year will be amortized over individual new twenty
24 (20) year closed periods consistent with § 45-21-43.1(c).

25 (j) Notwithstanding any provision in § 45-21-56 to the contrary, if a West Warwick pension
26 plan for police and fire pursuant to this section is in critical status as defined in § 45-65-4, and a
27 member of the West Warwick pension plan for police and fire leaves employment and is hired by
28 another participating municipality that is not in critical status as defined in § 45-65-4, then the
29 retirement system shall transfer the amount of the member's contributions and member's total
30 accrued liability with the West Warwick pension plan for police and fire, multiplied by the funded
31 status of the West Warwick pension plan for police and fire, to the account of the current employing
32 municipality.

33 (k) Upon the conditions of subsection (b) of this section being met, the town of West
34 Warwick shall remain liable to the retirement system for the cost of funding a retirement system

1 for its employees who are members of the system as provided herein, and the retirement board
2 maintains the right to enforce payment of any liability as provided in chapter 21 of this title.

3 (l) Subject to the provisions of subsection (b) of this section being met, the West Warwick
4 plan for police and fire and the provisions of this section shall be administered in the same manner
5 provided in chapter 21 of this title; credits for prior service and collection of contributions are
6 determined through reference to that chapter; provided that, where the provisions of that chapter
7 conflict with the provisions of this chapter, then the provisions of this chapter shall control. Liability
8 of contributions is enforced in the same manner as stated in chapter 21 of this title.

9 **45-21.5-5. Retiree participation in optional retirement plan for police and fire.**

10 (a) The provisions of this section shall apply only to the locally-administered plan for
11 police and fire within the town of West Warwick.

12 (b)(1) Notwithstanding any provision of this chapter to the contrary, no later than August
13 31, 2021, West Warwick may accept the provisions of this chapter by resolution or an ordinance
14 of its governing body stating the group or groups of retired former public safety employees to be
15 included as provided in § 45-21-4; provided that, a majority of retired former police and fire
16 employees have consented in writing to joining the system or any duly constituted retiree
17 organization that represents said retired former public safety employees has assented to joining the
18 system; and, provided further that, any applicable final and consent judgments are amended. A
19 copy of the resolution or ordinance and proof of assent from the applicable retiree organization,
20 and/or amendment to any final and consent judgments, shall be immediately forwarded to the
21 retirement board for review. A vote of the retirement board to accept the entry of the group or
22 groups of retirees into the system shall be required.

23 (2) For purposes of this section, "retired former employees" means any West Warwick
24 police officer or firefighter who has retired prior to September 1, 2021, pursuant to the provisions
25 of the West Warwick retirement plan for police and fire.

26 (c)(1) Notwithstanding any other provisions of this section or other applicable law, upon
27 acceptance into the system, all retired former public safety employees and their beneficiaries shall
28 continue to be subject to all plan provisions, as set forth by the plan, collective bargaining
29 agreement, memorandum of agreement, arbitration award, final and consent judgment and/or any
30 individual contractual agreement between any nonunion employee and the town in effect upon the
31 retired former employee's date of retirement. These provisions shall include, but are not limited to,
32 applicable retirement ages, plan restrictions, accrual rates, contribution requirements, eligibility
33 requirements, benefit calculations and any and all provisions related to postemployment benefits,
34 death benefits, cost-of-living adjustments, and rules permitting employment in and pension credit

1 accrual within other municipalities or the state which are participants in any other retirement plan
2 administered by the state. The intent of this section is that all retired former employees of the West
3 Warwick plan, including police and fire, shall continue to enjoy all benefits and be subject to the
4 same terms of the pension plan in existence upon his or her date of retirement and prior to the
5 effective date of participation and that the municipal employees' retirement system shall
6 administer, but not change, the pension plan benefits and terms formerly provided by the town
7 unless expressly provided otherwise in this section.

8 (2) Retired former employees under this section, shall not be entitled to any retirement
9 allowance or benefit from the system otherwise available or calculated pursuant to the provisions
10 of §§ 45-21.2-6, 45-21.2-13, 45-21.2-20, 45-21.2-21, or 45-21.2-22 with regard to his or her West
11 Warwick pension benefit.

12 (d) The cost to evaluate West Warwick's prospective membership in the retirement system,
13 and costs related to obtaining consent of retirees to join the system pursuant to this section, shall
14 be borne by the retirement board.

15 (e) Upon the conditions of subsection (b) of this section being met, the town of West
16 Warwick shall remain liable to the retirement system for the cost of funding a retirement system
17 for its retired public safety employees who are members of the system as provided herein, and the
18 retirement board maintains the right to enforce payment of any liability as provided in chapter 21
19 of this title.

20 (f) Subject to the provisions of subsection (b) of this section being met, the provisions of
21 this section shall be administered in the same manner provided in chapter 21 of this title; provided
22 that, where the provisions of that chapter conflict with the provisions of this chapter, then the
23 provisions of this chapter shall control. Liability of the municipality is enforced in the same manner
24 as stated in chapter 21 of this title.

25 **45-21.5-6. Transfer of assets.**

26 Subject to the provisions of §§ 45-21.5-2(b) and 45-21.5-3(b) being met, no later than July
27 1, 2022, the system shall be responsible for administering the West Warwick plans and West
28 Warwick shall transfer to the system the accumulated contributions of each member entering the
29 system, the assets related to the actuarial accrued liability of those transferred employees and any
30 other assets of the West Warwick plans.

31 **45-21.5-7. Funding improvement period.**

32 Subject to the provisions of §§ 45-21.5-2(b), 45-21.5-3(b), 45-21.5-4(b) and 45-21.5-5(b)
33 being met, the funding improvement plan submitted by the town of West Warwick on March 29,
34 2014 shall have a funding improvement period of twenty (20) years for purposes of § 36-10.2-8.

1 **45-21.5-8. Withdrawal from the municipal employees' retirement system.**
2 Withdrawal of any West Warwick plan that has joined the municipal employee retirement
3 system pursuant to this chapter shall be as provided in § 45-21-5 and subject to §§ 45-21-6 and 45-
4 21-7. Any such withdrawal shall not relieve West Warwick from the liabilities arising from its
5 membership as set forth §§ 45-21-5, 45-21-6 or 45-21-7.

6 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 TOWNS AND CITIES --WEST WARWICK PENSION PLAN

- 1 This act would authorize the town of West Warwick to join the State Employees'
- 2 Retirement System of Rhode Island.
- 3 This act would take effect upon passage.

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