

Employees' Retirement System of Rhode Island
(ERSRI)

Request for Proposal for Actuarial Services

Issue Date: April 7, 2016



Seth Magaziner, General Treasurer, and Chairperson, ERSRI Retirement
Board

Frank J. Karpinski, Executive Director

50 Service Avenue, Warwick, Rhode Island 02886-1021

Employees' Retirement System of Rhode Island Request for Proposal for Actuarial Services

Executive Summary'
(Please Limit Response to One Page)

Firm Name	
Firm Address	
Telephone	
Contact Person	
Actuarial Team	
Number of Public Defined Benefit Clients	
Average Number of Plan Assets	

Why should the Employees' Retirement System of Rhode Island retain your firm to provide actuarial services? Please summarize your firm's strengths in the space provided.

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Employees' Retirement System of Rhode Island

A. Introduction and Historical Background

The Employees' Retirement System of Rhode Island (ERSRI), the Teachers' Survivors Benefit Fund (TSB), the Municipal Employees' Retirement System (MERS), the State Police Retirement Benefit Trust (SPRBT), the Judicial Retirement Benefit Trust (JRBT) and the RI Judicial Retirement Fund Trust (RIJRFT) are soliciting proposals from qualified firms to provide actuarial services to these plans. This Request for Proposals is issued in accordance with *Regulation No. 3. – Rules Concerning the Selection of Consultants*, a copy of which has been attached to this document.

The Employees' Retirement System is the major public retirement agency in the State of Rhode Island with \$7.5 billion in pension assets. In addition to providing retirement, death, and disability benefits to Rhode Island state employees, it also provides benefits to Rhode Island public school teachers and participants in over 115 municipal plans. The plan has just over 33,000 active employees and approximately 28,000 retirees. The state system began in 1936, with a teacher plan added in 1949. The municipal, or MERS plan, was created in 1951.

For most State Employees, Teachers and General Municipal Employees the defined benefit pension plan has been transitioned into a combination defined benefit/defined contribution plan in 2011 (the Rhode Island Retirement Security Act-RIRSA). In general, benefit accruals under the defined benefit plan have been reduced to an annual accrual rate of 1% multiplied by an employee's highest 5-year average compensation. For all State employees and approximately 50% of teachers (those participating in Social Security), and all General Municipal Employees, the defined contribution plan requires a 5% employee contribution and 1% to 1.5% (based on years of service as June 30, 2012) employer contribution. For Teachers not participating in Social Security, the defined contribution plan requires a 7% employee contribution and 3% employer contribution and Public Safety Members not participating in Social Security, the defined contribution plan requires a 3% employee contribution and 3% employer contribution.

As stated in the Rhode Island General Laws (RIGL) on retirement, the general administration and the responsibility for the proper operation of the retirement system is vested in a Retirement Board (Board). One of its specific statutory duties is the selection of an actuary. RIGL §36-8-10 provides the following:

“The retirement board shall secure the services of an actuary who shall be the actuarial advisor of the board and who shall make the actuarial computations and valuations required by chapters 8 to 10, inclusive.”

Additionally, RIGL §36-8-12 through 14 require experience investigations and an annual valuation of the assets and liabilities of the Employees' Retirement System.

The 1949 Annual Report indicates A.A. Weinberg of Chicago was the consulting actuary to the Employees' Retirement System. He remained the actuary until 1977 when the Martin E. Segal Company replaced Mr. Weinberg. Segal served until 1991, William M. Mercer Co., Inc., then was hired and served until 1997 when the current actuarial firm Gabriel, Roeder, Smith and Company was hired.

ERSRI's current extension of the contract for actuarial services with Gabriel, Roeder, Smith and Company will expire on June 30 2016. The system would like to award a new contract for actuarial services by July 1, 2016. Should a new firm be selected, it will need sufficient time to familiarize itself with the Employees' Retirement System, its retirement law, and its method of operations. The new contract for actuarial services will commence with the beginning of the 2017 Fiscal Year beginning July 1, 2016. The successful firm will produce the June 30, 2016 valuation to be considered by the Board in December 2016.

B.Scope of Services to be Provided

The following are the required services to be provided by the successful actuarial firm:

ERSRI Staff Services

- 1) Attendance by a Fellow or Associate of the Society of Actuaries at twelve (12) monthly board meetings and additional or special meetings upon request.
- 2) Attendance at two (2) annual meetings for an actuarial assumptions workshop and periodic actuarial training for new Trustees or other education.
- 3) Assistance by a Fellow or Associate of the Society of Actuaries on an as needed basis, including responses to routine phone calls and written responses to correspondence from the system. Phone calls shall be returned no more than 24 hours after requested and correspondence shall be answered no more than 24 hours from date of receipt.
- 4) Development and review of the following tables necessary in the calculation of ERSRI benefits: Social Security Option Factors (a leveling option using social security as the basis), Joint and Survivor Factors for all ERSRI plans, Full Actuarial Cost Table per plan, IRS Code Section 415(b) Maximum Benefit Limitations, Municipal Employer Share Reserve Calculation Chart, and such other tables as the Board shall deem necessary.

- 5) Periodic updates regarding federal legislation and/or IRS Rules or Revenue Rulings that may affect the operation of the System and the payment of benefits.
- 6) Calculation of applicability of IRS Code Section 415(b) Maximum Benefit Limitations for individual members who may be potentially affected.

Experience Analysis Services

- 1) The Actuarial firm will report and provide recommendations regarding the adoption of actuarial assumptions (including but not limited to salary, mortality, and interest rate assumptions) to be used for the annual actuarial valuation of the ERSRI (State Employees and Teachers), TSB, MERS, SPRBT, JRBT and the RIJRF. This is intended to be a full experience study. The vendor should assume two (2) experience studies during the 5-year contract. In addition, in preparation for the yearly valuation, actuaries shall perform periodic checks of member data, with special emphasis on MERS and ERSRI Teacher data. The Actuary shall provide experience analyses separately for each plan based on data provided by ERSRI.
- 2) The study should include, but not limited to, the following:
 - a. A study of non-economic assumptions including, but not limited to, rates of withdrawal and return, service retirement rates, growth in membership, progression and promotion salary scales, pre-retirement and post-retirement mortality, disability, and termination from disability;
 - b. A study of economic assumptions including, but not limited to, consumer price inflation, wage inflation, investment yield and administrative expenses.
- 3) The Actuary will document the results of the Experience Analyses in a written format acceptable to ERSRI. The written format will include, at a minimum, a summary of the findings, a discussion of the actuarial cost method and the asset valuation method, a discussion of the economic and demographic assumptions, and a summary of assumption recommendations to be adopted by the ERSRI Board.
- 4) The Actuary will prepare and deliver the Draft Experience Analysis Report for each program, (including the Actuarial Certification) to ERSRI prior to presentation to the Board.
- 5) The Actuary will prepare and deliver the Final Experience Analysis Report for each program, if required (including the Actuarial Certification), to ERSRI within two (2) weeks after ERSRI has notified the Actuary in writing that the review of the Draft

Experience Analysis Reports are complete. If substantial changes are needed, the Actuary and ERSRI will agree upon an acceptable schedule for the delivery of the Final Experience Analysis Report to the Retirement Board.

- 6) The Actuary will provide one (1) bound copy of the report to each member of the Board and various staff up to twenty-five (25) bound copies, in a form as determined by ERSRI, ten (10) days prior to the agreed upon Board meeting date.
- 7) The Actuary will provide one (1) electronic version to ERSRI.
- 8) The Actuary will also provide MS Excel® and/or Word® versions of the valuation and experience study on an annual basis.
- 9) The Actuary may be required to conduct an educational session with the Board and other interested parties at ERSRI Headquarters.
- 10) The Actuary will make a formal presentation to the Board at ERSRI Headquarters on the findings of the Experience Analysis and recommendations for adoption of assumptions, and respond to any questions resulting therefrom.
- 11) Experience studies were performed for the fiscal years ended June 30, 1997, 2000, 2003, 2006, 2010 and 2013.

Funding Valuation Services

- 1) An Actuarial Valuation will be completed every year for the ERSRI, TSB, MERS, SPRBT, JRBT and the RIJRFT and the as of June 30th. The most recent Actuarial Valuation was performed as of June 30, 2015.
- 2) The Annual detailed valuation report of the actuarial status of the plans as of June 30th of the preceding year for ERSRI, TSB, MERS, SPRBT, JRBT and RIJRFT plans must be signed and presented to the Employees' Retirement Board no later than December 15th after the close of the fiscal year (i.e., June 30th).
- 3) The reports shall include - but not be limited to – the following information: summary of valuation results; employee data including a distribution of active state employees, active public school teachers, state employee and teacher retirees, actuarial balance sheet; the development of employer contribution rates; explanation of actuarial method and assumptions; calculation for pooled investments.
- 4) Regarding the MERS plan, it shall be noted that this report shall contain a separate actuarial valuation and employer contribution rate for each municipal employing unit which currently numbers 109 employers. The report shall include – but not be limited – to the following information: summary of valuation results; employee data including a distribution of active municipal employees, active

police and fire employees, municipal and police and fire retirees; actuarial balance sheet; the development of employer contribution rates for each plan; explanation of actuarial method and assumptions; calculation for pooled investments.

- 5) Consistent with the application of RIGL §45-21-52 and §45-21.2-22, preparation of a report that details the financial impact and adjusted employer contribution rates should a participating MERS plan wish to adopt a Cost-of-Living Adjustment under Plan B or C. Should a participating MERS plan request information that is not provided for under Rhode Island General Laws or, is provided for, particular to the individual MERS plan, the cost of preparing such information shall be borne by the participating municipality and not ERSRI. Under such circumstances, the actuary should provide the requesting party with the cost of performing such services and may bill the participating municipality directly; a copy of the study and bill must be provided to ERSRI. The cost of any such request under this section that is not made by ERSRI staff or the participating municipality shall be borne by the person requesting such information and the actuary may bill the requester directly.
- 6) Prepare a valuation of the Teachers' Survivors Benefit Fund consistent with RIGL §16-16-37. The report shall include, but not be limited to, the following information: summary of valuation results; employee data including a distribution of active participating public school teachers and retirees, an actuarial balance sheet; explanation of actuarial method and assumptions; calculation for pooled investments.
- 7) Annually provide copies of the final data including active members, inactive members, retirees and beneficiaries as used in the development of the annual actuarial valuation, as well as exceptions lists regarding questionable records and/or inconsistent and missing data.
- 8) Preparation of software, for use by ERSRI, allowing annual projections of ERSRI assets, liabilities, cash flows, funding ratios, and funding periods using a model based on the current plan provisions, contribution rate structures and actuarial assumptions and methods, but which produce estimated results based on adjustments to the following variables;
 - a. Assumed rate of investment return;
 - b. Membership variations;
 - c. Certain Plan provisions;
 - d. Other economic variables.
- 9) Prepare annual 20 year projections to include, but not be limited to, Employer Contribution Rate, Compensation and Employer

Contributions for Fiscal applicable Years, Actuarial Accrued Liability, Actuarial Value of Assets (AVA), Unfunded Actuarial Accrued Liability, Funded Ratio, Market Value of Assets (MVA) and Funded Ratio Using MVA and AVA at Valuation Date for all plans. Regarding the MERS plan, ERSRI will consider a “template” where ERSRI may input certain data to produce the projection on an as needed basis.

- 10) In a year where an Actuarial Valuation follows an Experience Analysis and the Experience Analysis results in the adoption of any assumption or method that differs from those used in the prior Actuarial Valuation, the Actuary will produce Actuarial Valuation results using old and new assumptions. The Actuary will provide a complete discussion of the change in the Valuation results due to the new assumptions or methods.
- 11) All of the valuations should provide:
 - a. A comparison to the prior Actuarial Valuation including the history of the actuarial value, fair value of assets, and rate of return;
 - b. A summary of the actuarial assumptions and cost method with sufficient explanatory text to permit a reasonable understanding by laypersons knowledgeable in the public pension field;
 - c. A discussion of any significant actuarial gains or losses occurring during the period between Actuarial Valuations including as separate items actuarial gains or losses due to the investment return assumption, increase in salaries, and any other major gain or loss;
 - d. A summary description of the plan provisions;
 - e. A display of age groups and service matrices, as applicable for the program, for active and inactive members, as well as retired lives by age groups, service and benefits;
 - f. A glossary of actuarial terms used in the report.

Pension Protection Act

- 1) The purpose of the Rhode Island Pension Protection Act is to provide current, retired and future public employees financial retirement security by codifying procedures that will promote the sustainability and longevity of the state's retirement systems.

A plan is in endangered status for a plan year if the Retirement Board determines, in consultation with the plan actuary, that the plan has a funded percentage of fifty percent (50%) or less and the

plan's funded percentage has decreased for five (5) consecutive plan years.

- 2) Not later than November 1st of each plan year of a plan, the actuary shall certify to the Board and the Executive Director of the retirement system whether or not a plan is in endangered status for such a plan year.
- 3) In any case in which a plan is in endangered status for a plan year, a funding improvement strategy shall be implemented not later than June 30th following the date the plan was certified as being in endangered status under §36-10.2-6. The Actuary shall submit preliminary funding improvement strategies including a default strategy as described RIGL § 36-10.2-7 to the Board for review not later than January 1st following the date the plan was certified as being in endangered status under § 36-10.2-6.
- 4) Not later than January 1st following the date the plan was certified as being in endangered status under RIGL§ 36-10.2-6, the actuary shall provide to the Board, and in the case of MERS plan shall also provide to the impacted local municipality's legislative governing body, at least five (5) funding improvement strategies but no more than ten (10) funding improvement strategies showing revised benefit structures, revised contribution structures, or both.
- 5) Notwithstanding any other law to the contrary, any reports and funding strategies submitted to the Board pursuant to this section shall be public records.

GASB Valuation Services

- 1) The Actuary shall prepare a separate GASB No. 67 report with the required disclosure information. The exhibits in this report will contain information to be disclosed in ERSRI's CAFR. Because ERSRI is using a roll-forward approach for determining the Total Pension Liability, the report will also reference the prior year's actuarial valuation report (June 30, 2013).
- 2) The actuary shall prepare the information that will be required by GASB No. 67 for ERSRI's CAFR.
- 3) ERSRI will prepare the Statement of Fiduciary Net Position and the Statement of Change in Fiduciary Net Position which appear in the financial statements. The exhibits in the GASB No.67 report incorporate information from these statements. These reports will be provided to the Actuary and the GASB No. 67 report must be provided to ERSRI by November 20th.
- 4) The Actuary shall prepare the following required GASB No. 67 information; Schedule of the Employers' Net Pension Liability, Schedule of Changes in the Employers' Net Pension Liability,

Schedule of the Employers' Contributions, Sensitivity of the Net Pension Liability to Changes in the Discount Rate and Notes to the Schedule of Contributions.

The following list of items will go into the determination of the NPL:

- a. Calculation of the Single Discount Rate (SDR) – This calculation must be done for each Plan under the ERSRI umbrella, including each MERS unit independently. This information will be included in the GASB No. 67 report the Actuary prepares.
 - b. Determine the Total Pension Liability – using the SDR the actuary will calculate the Total Pension Liability as of the valuation date (June 30, 2013).
 - c. For the cost-sharing plans, allocate to each participating employer its proportionate share of the NPL as of June 30, 20xx. The Actuary must prepare this exhibit for all applicable plans displaying the determination of each employer's proportionate share that shows the total sum of the individual allocations equals 100%.
 - d. The Actuary will also provide, in excel format, information for inclusion in each participating employers' CAFR for the period ending June 30, 20xx. This will include the calculation of all deferred inflows and outflows as well as keeping track of the amortization schedule. This will be handled for each employer.
- 5) For GASB No.68 information, the Actuary shall prepare the aggregate pension expense and deferred outflows and inflows of resources for the employers with employees covered by ERSRI as well as the disclosure information for the individual employers that needs to be incorporated into the employers' financial statements.
 - 6) Also for GASB No. 68, prepare the employers' proportionate share of the Net Pension Liability and Pension Expense, their deferred inflows and outflows by component and the employers the deferred outflows and inflows of resources to be recognized in future years' pension expense.

Special Services

At the request of the Employees' Retirement System, perform actuarial services, hereinafter referred to as Special Projects, on an as needed basis. Upon request for any Special Project, the successful firm must provide a written, cost estimate, which shall include.

- A description of the work that will be performed;

- A schedule for the completion of the project;
- The number of consultant hours required by consultant classification;
- Total anticipated expenses.

Such work may be commended only upon the approval of the Employees' Retirement System of Rhode Island. Any work without such approval shall not be chargeable to the Employees' Retirement System of Rhode Island.

Supplemental Services - Actuarial Services Related To Non-Contributory Non-Trusteed Pension Plans

The State also administers two other non-trusteed single employer defined benefit pension plans both of which are closed to new members. The Judicial Non-Contributory Retirement Plan (JNCRP) provides retirement benefits to Judges appointed before January 1, 1990 and who retired before July 1, 2012. The State Police Non-Contributory Retirement Plan (SPNCRP) provides retirement benefits to members of the State Police hired before July 1, 1987. As of June 30, 2014, there were 58 members of the JNCRP and 276 members of the SPNCRP all of whom are retired. Both plans were created by statute and have historically been funded by the State on a pay as you go basis. Accordingly, no assets have been accumulated to date to pay benefits under these two non-trusteed plans.

Pension benefits paid to beneficiaries under the JNCRP and SPNCRP are generally determined based on years of service at retirement and are payable to the retiree or their beneficiary. JNCRP members, in general, are eligible for full retirement benefits equal to their final annual compensation at age 65, if the member has served for 20 years, or at age 70 with 15 years of service. For SPNCRP members, in general, benefits are equal to 50% of salary after 20 years of service; for those who retired after July 1, 1972 an additional 3% annual increment is added until attaining a maximum benefit of 65% of salary after 25 years of service. Both plans have provisions that allow survivors, upon the death of the participant, to continue to receive a portion of the participant's benefit.

In order to properly account for the two non-contributory plans in accordance with the applicable Governmental Accounting Standards Board pronouncement (Statement No. 73) the State is required to have actuarial valuations of the two plans conducted annually as of June 30th.

Other Post Employment Benefit Plans

The Rhode Island State Employees' and Electing Teachers OPEB System (the "System") acts as a common investment and administrative agent for benefits to be provided for six defined benefit other post-employment plans as listed below:

Plan	Members	Plan Type
State employees	State employees and certain employees of the Narragansett Bay Commission, RI Airport Corporation, and RI Commerce Corporation.	Cost-sharing multiple employer
Teachers	Certified public school teachers electing to participate in the System.	Single-employer
Judges	Judges and magistrates.	Single-employer
State police	State police officers.	Single-employer
Legislators	Retired and former members of the General Assembly.	Single-employer
Board of Education (BOE)	Certain employees of the Board of Education inclusive of URI, RIC and CCRI and the Office of Higher Education.	Cost-sharing multiple employer

More information about the System, including benefit provisions and the number of employee and retirees covered by plan can be found in the System's audited financial statements which are available on the web at <http://www.oag.ri.gov/reports.html>. The valuation as of June 30, 2015 is currently being prepared. Prior valuations for 2005 through 2013 can be reviewed on the web at <http://controller.admin.ri.gov/Financial%20Reports/index.php>.

In order to properly account for the 6 OPEB plans in accordance with applicable Governmental Accounting Standards Board pronouncements, including the recently issued Standards 74 and 75, as well as to establish the rates as a percent of payroll for contributions required by law by participating employers, the State is required to have an actuarial valuation of the plans conducted biennially as of June 30th.

Services to be provided will include:

- Statutory contribution and liability determination for funding purposes for each plan.
- Determination of the Net OPEB Liability for each plan in accordance with GASB Statements No. 74 and 75.
- Projections for determining the GASB discount rate.
- Development of the sensitivity analysis required by GASB Statements No. 74 and 75.
- Determination of OPEB expense.
- Determination and historic tracking of deferred inflows and outflows relating to each OPEB plan.
- Allocation of Net OPEB Liability, OPEB expense, deferred inflows and outflows to participating employers in the State Employees plan.

The next regular valuation is scheduled to be conducted as of June 30, 2017.

The supplemental services noted are needed by the State of Rhode Island Department of Administration (DOA); **these services would be paid for by the DOA and would require a separate contract.** Vendors are encouraged to provide proposals for these services separately. ERSRI will not evaluate the responses for these services nor consider them in their vendor evaluation.

Contract Transition Services

The Contractor shall perform transition services for a period of up to six (6) months of the final year, as required, for the purpose of acquainting a new actuarial consulting firm with ERSRI actuarial data and processes. Such services will include routine consulting assignments, completion of special projects and assistance in the transition process.

C. Minimum Qualifications and Proposal Requirements

Proposals must be as succinct as possible while providing an accurate picture of the firm's ability to meet the needs of ERSRI in a thorough, accurate, responsive and cost-effective manner.

Each proposal must contain the following elements:

Transmittal Letter and Minimum Qualifications

Within the transmittal letter, the proposing firm must certify to the following minimum qualifications.

1. The firm is a professional actuarial firm that provides actuarial valuations, experience investigations, and pension consulting services.
2. The principal actuary who will be responsible for the ERSRI account is a fellow of the Society of Actuaries and is an enrolled actuary.
3. The firm must agree not to enter into an engagement to provide actuarial and/or pension consulting services with any agency of the State of Rhode Island, Municipality or Municipal entity that involves the use of data and other information received from the ERSRI, unless approved by the Retirement Board or is required by Rhode Island General Law (RIGL).
4. The letter must be signed by an individual authorized to bind the firm contractually and must state the name, title, address, phone number, fax and internet address of a contact person who is authorized to provide clarification of the proposal should it be necessary.

Understanding

In this section, describe your present understanding of the plans in ERSRI. This discussion, no more than two (2) pages in length, could include a discussion of issues faced by a public retirement system of moderate size and could include comments regarding its size, active and retiree population, administrative structure and operations, funding outlook and statutory constraints. Please describe your insight into current concerns of the system and comment on how your particular firm might aid in the resolution of such concerns.

Professional Staff and Firm Methodology

In this section, describe the experience of the individuals who will be assigned to the ERSRI account.

5. Principal Actuary
 - a. Identify the principal actuary by name and give the year such actuary became a Fellow or Associate of the Society of Actuaries and an enrolled actuary under Section 3042 of the Employees' Retirement Income Security Act of 1974.
 - b. Detail how long the principal actuaries have been involved in pension consulting and identify those mid-sized public retirement systems (with memberships of 30,000-100,000) in which the actuary has worked as the principal actuary. Also, please state whether such work involved the production of yearly actuarial valuations.
 - c. Please include the resume of the principal actuary with your proposal.

6. Support or On-Site Actuary

- a. Will there be a substitute or on-site actuary? If so, please add the response to the questions outlined in 5a and 5b for the substitute or on-site actuary.
- b. Please include the resume of the support or on-site actuary with your proposal.

7. Other Professional Staff

Identify and describe the qualifications of professional staff that will be available for work as needed. Please provide a resume of actuarial credentials for each member of the professional staff including the length of time the staff person has worked for a major actuarial firm.

8. Firm Methodology

Please provide ERSRI with information, not exceeding two pages, regarding your approach to the scope of work outlined in Section B. Should you consider your approach to actuarial services to be different in any way, please describe those differences.

9. Firm History and Operations

- a. Please address the following questions regarding your firm:
 - i. How many years has the firm been providing actuarial services?
 - ii. How many years has the firm been providing actuarial services for public plans?
 - iii. Please detail how many years the team that would be assigned to this account have worked together.
 - iv. Please identify the location of the primary office that will provide services for ERSRI.
 - v. Describe the ownership structure of the firm, including the relationships of each branch office to the branch offices and to the headquarters. Identify the individual who has overall responsibility for the firm's operations.
 - vi. Please describe any material developments in the ownership structure of your organization over the past three years. Describe any planned material changes in your organization in detail.
 - vii. Indicate when and why any senior personnel left or joined the firm in the last three years and specify their involvement in the firm's public pension plan programs. For personnel who have left the firm, please indicate their

- job titles, number of years with the firm and the name of the individual who replaced them.
- viii. How many employees are located at the branch office that will be responsible for ERSRI services under this proposal?
 - ix. If the client contact person is other than the actuary, please identify who will be the client contact person on the ERSRI account?
 - x. Describe the firm's computer capabilities in detail. Please be advised that ERSRI is also in the process of updating and upgrading its retirement computer systems.
 - xi. Describe the procedure used in "reconciling" or "scrubbing" the data provided annually by ERSRI. ERSRI is focused on providing the most accurate data possible; therefore, it is interested in the method in which the vendor will communicate potential variances from year to year to focus on correction if applicable.

10. Valuation, Experience Investigation, and Consulting Services

- a. List current state pension system clients (Preferably in the mid-sized range) of the firm for whom you perform actuarial valuations, accompanying experience investigations, and serve as primary actuary. In addition, please list those state pension systems you have lost as clients during the past five years. Finally, all firms should submit a past template or sample of an actuarial valuation and experience study.
- b. How many defined benefit clients does your firm serve, both public and private?
- c. Please list your current public pension fund clients and include the size of each client's active, inactive, and retired membership, as well as their assets.

11. Pension Consulting Services

- a. Describe the media the firm routinely uses to inform its clients of changes in federal requirements, revisions to accounting standards, pending federal legislation or regulation, new methods of achieving benefit objectives?
- b. Does the firm produce a newsletter specifically for public retirement plans or is the material produced for both public and private clients?
- c. Who prepares the communications materials?
- d. Do you have any special pension consulting services?

12. References

List three public employee retirement system clients for whom the firm has provided professional actuarial and consulting services within the past five years. One of the reference clients must be a client who has been serviced by the proposed team. For each reference listed, include client name, address, and telephone number and name of a contact person. Please star those clients who have worked with the specific actuary who will be assigned ERSRI as a client.

13. Affirmative Action

Please provide any comment that you would like to call to the attention of the Employees' Retirement System of Rhode Island regarding hiring procedures with respect to equal opportunity and affirmative action.

14. Contribution Disclosure

Any firm responding to this RFP must disclose all contributions made by any firm-administered Political Action Committee and/or any contributions made by any principals of the firm to any Rhode Island political candidate during the past three years. Further, the candidate must agree to comply with the terms of Rhode Island's General Laws § 17-27-1 through §17-25-5, "Reporting of Political Contributions by State Vendors."

D. Fees for Services

Please provide the following information regarding fees:

**Annual Retainer Fee for Staff as outlined in ERSRI
Section B. Staff Services:**

Year One:

Year Two:

Year Three:

Year Four:

Year Five:

**Retainer Fee for Services as outlined in Section B
*Experience Analysis Services:***

Year One:

Year Two:

Year Three:

Year Four:

Year Five:

**Annual Retainer Fee for Valuation Services as
outlined in Section B *Funding Valuation Services:***

Year One:

Year Two:

Year Three:

Year Four:

Year Five:

**Annual Retainer Fee for Valuation Services as
outlined in Section B *GASB Valuation Services:***

Year One:

Year Two:

Year Three:

Year Four:

Year Five:

**Annual Retainer Fee for Valuation Services as
outlined in Section B *Supplemental Services (DOA):***

Year One:

Year Two:

Year Three:

Year Four:

Year Five:

Fee per hour for performance of other Special Projects as in B *Special Services*

Year One:

Year Two:

Year Three:

Year Four:

Year Five:

(The successful firm must agree to provide ERSRI with an itemized bill on all special projects. Also, if there are different hourly rates for professional staff on ad hoc consulting please list those hourly rates.)

Total expenditures for all services to be rendered will not exceed:

July 1, 2016 – June 30, 2017 / Year One:

July 1, 2017 – June 30, 2018 / Year Two:

July 1, 2018 – June 30, 2019 / Year Three:

July 1, 2019 - June 30, 2020 / Year Four:

July 1, 2020 - June 30, 2021 / Year Five:

Although the term of the contract is 5 (five) years, ERSRI would be interested in the successful bidders estimate on pricing a contract extension.

E. Submission of Proposals

Bidders should submit their proposals to:

Mailing and Delivery Address

Frank J. Karpinski, Executive Director
Employees' Retirement System of Rhode Island
50 Service Avenue, 2nd Floor
Warwick, Rhode Island 02886

Proposals must be received by:

4 p.m., May 31, 2016

No exceptions to this deadline will be allowed unless the Employees' Retirement System extends the deadline whereupon it will notify recipients of the RFP. The firm's response to this RFP shall be no more than 30 pages (exclusive of exhibits).

You should submit ten (10) copies of your proposal in a sealed package. Clearly, mark the outside of your package:

Employees' Retirement System of Rhode Island
RFP for Actuarial Services.

Bidders may submit an electronic submission instead of a hardcopy, using the same format described above to fkarpinski@ersri.org. Should you choose to submit an electronic submission, please forward an email first without any attachments alerting that you will be providing an electronic submission. You may then forward the submission. Please be advised that ERSRI's email system will limit attachment size to 8MB so you may need to break up your email proposal into multiple emails.

Any firm that wishes to correct, amend or supplement their proposal must do so prior to the filing deadline and must do so by withdrawing its proposal in its entirety and submitting a complete, corrected proposal package. Modification in any other manner will not be accepted.

Proposals become the property of ERSRI upon submission and will not be returned.

All cost for developing proposals are entirely the responsibility of the actuarial firm and shall not be chargeable to ERSRI. ERSRI accepts no responsibility for lost or late delivery of proposals.

Questions

Questions about the Request for Proposal must be submitted in writing by mail or by email at fkarpinski@ersri.org:

Frank J. Karpinski, Executive Director
Employees' Retirement System of Rhode Island
50 Service Avenue, 2nd Floor
Warwick, Rhode Island 02886

All questions must be received no later than May 12, 2016 at 4:00 p.m. All questions received by this deadline will be answered in writing. Copies of all questions and the system response will be mailed to all parties who submitted questions and or who request in writing before May 12, 2016, a copy of the Q&A. The Q&A will be sent on May 19, 2016. This procedure will constitute the bidders conference as referenced in Rule No. 3 Concerning the Selection of Consultants, Section 2.4 (c)

F. Evaluation Criteria

Only proposals that meet the Minimum Qualifications will be evaluated. The evaluation will take place in four phases.

- Phase One will involve review of written proposals.
- Phase Two will involve interviews with the ERSRI Procurement Subcommittee, who will determine the finalists to be presented to the full Board.
- Phase Three will be a best and final offer of three finalists to be presented to the full Board with a recommendation by the Procurement Subcommittee.
- Phase Four will involve interviews of the three finalists with the full ERSRI Board who will make the final selection.

In all phases of the selection process, firms will be evaluated using the following criteria.

Criteria

- Firm understanding of medium sized public defined benefit pension plans ERSRI, MERS
- Firm Methodology

- Professional Staff
- Firm Organizational Background and Resources
- Actuarial Services
- Valuation Services
- Pension Consulting Services
- Fees
- Professional References

G. ERSRI Bid Schedule of Events

RFP Released: April 8, 2016

Questions must be received by: May 12, 2016 – 4:00 p.m.

Proposals Due: May 31, 2016 – 4:00 p.m.

Interviews: July 2016

At ERSRI’s discretion, Best and Final Offers (BAFO) may be solicited from offerors whose scores are ranked highest after the initial review of proposals. BAFOs may address cost, scope changes, staffing changes, changes to approach – both those solicited by ERSRI and those offered by offeror.

These offerors’ best and final offers must be received at the address identified in Section E by the date and time specified in the BAFO request. If a Best and Final Offer is not submitted, the previous submittal will be construed as the Best and Final Offer. BAFO proposals must be prepared in the same number of copies and packaged and submitted according to the same instructions that apply to the initial proposal submission (please refer to Section E). After Best and Final Offers are received, final evaluations will be conducted by the full Board for an award.

ERSRI reserves the right not to solicit Best and Final Offers

H. Miscellaneous Provisions

The Employees’ Retirement Board reserves the right to cancel this RFP at any time and to reject any and all proposals submitted in response to this RFP, if the Employees’ Retirement Board determines such action or actions to be in the best interest of the membership of ERSRI.

ERSRI also reserves the right to request clarification of any submission, modify or alter the Scope of Services and solicit new submissions, reject any or all submissions, and wave immaterial irregularities in any submission.

Data Security

Actuarial Firms submitting bids should note that the failure of the firm or any of its subcontractors to employ commercially reasonable measures in accordance with industry standards to protect against unauthorized access, use or disclosure of ERSRI pension plan member data held directly by the Actuary or such subcontractor (as the case may be), **must agree to have no limitation of liability**. Bidders must provide their security system features in their response to this RFP.

Insurance

The following requirements shall be adhered to by the Contractor throughout the duration of the Contract, and as may otherwise be specified herein. Contractor shall procure and maintain insurance, which shall protect the Contractor and the State from any claims for bodily injury, property damage, and/or personal injury, which may arise out of operations under the Contract. Contractor shall procure the insurance policies at the Contractor's own expense and shall furnish the State an insurance certificate of the coverage required in this Section. Contractor is required to obtain and maintain the following types of insurance coverage for the duration of the Contract:

Insurance / Limits of Liability:

- Worker's Compensation – Statutory
- Unemployment Insurance – Statutory
- Commercial General Liability Insurance – The minimum limits of coverage of such insurance will be \$500,000 per person and \$1,000,000 per occurrence for personal and bodily injury and \$100,000 for property damages.
- Liability, Malpractice, and/or Errors and Omissions Insurance – The contractor shall maintain malpractice and/or an errors and omissions insurance policy in the amount of at least \$10,000,000 or more. Additionally, the contractor shall maintain adequate business insurance to include an umbrella liability policy of at least \$3,000,000 total. Coverage under these policies must include protection from the fraudulent conduct and breach of fiduciary responsibility of the contractor.

ERSRI will not enter into any limited liability clauses of any type with the winning bidder.

During contract negotiations, if the Employees' Retirement board or its agent is unable to agree to contract terms with the candidate receiving the highest evaluation in this RFP process, the Employees' Retirement Board reserves the right to terminate contract negotiations with that candidate. In the event of such an impasse, the Employees' Retirement System may negotiate with the candidate receiving the next highest evaluation.

Contractor will indemnify, and save harmless ERSRI, its directors, officers, employees and agents from and against any and all claims, actions, damages, liabilities, costs, and expenses arising out of Contractor's operation and performance under this Contract including all claims for bodily and personal injuries, sickness, death and/or damages to property.

All offerors must submit within ten (10) calendar days after notification of intent to award the original or a certified true copy of insurance certificate(s) confirming coverage as stipulated above. If this information is not provided within this time frame, the proposal will be rejected. All insurance coverage costs must be exclusive of any legal costs.

New insurance shall be promptly furnished in the event of insolvency, bankruptcy or failure of any insurance company. The contractor shall notify ERSRI thirty (30) days in advance of cancellation, termination or alteration of insurance policies as required by this RFP. A renewal policy or certificate shall be delivered to ERSRI at least thirty (30) days prior to the expiration date of each expiring policy. If at any time, any of the policies shall be or become unsatisfactory to ERSRI as to form or substance, or any of the carriers issuing such policies shall be or become unsatisfactory to ERSRI, the Contractor shall promptly obtain a new and satisfactory policy in replacement. If determined necessary by ERSRI's Representative/Contract Administrator, the Contractor shall deliver to ERSRI's Representative upon demand a certified copy of any policy required herein for review.

Insurance certificates must be submitted and accepted by ERSRI prior to the commencement of work under this RFP and accompanying contract. Failure to obtain insurance satisfactory to ERSRI will result in the rescission of any Notice of Award to the offeror. Any contract awarded shall be void if this requirement is not met.

Confidentiality

The staff members that are assigned by the successful offeror to this project – be they employees of the offeror, sub-contractors to the offeror or employees of sub-contractors – may be required to sign an ERSRI non-disclosure statement.

ERSRI may treat all information submitted by a offeror as public information following the conclusion of the selection process unless the offeror properly requests that information be treated as confidential at the time of submitting the bid proposal. ERSRI's release of information is governed by the State of Rhode Island's "Access to Public Records" law (Title 38-2). Offerors are encouraged to familiarize themselves with this law before submitting a proposal. ERSRI will copy public records as required to comply with the public records laws.

Any request for confidential treatment of information must be included in the transmittal letter with the offeror's bid proposal. In addition, the offeror must enumerate the specific grounds in the State of Rhode Island's "Access to Public Records" law (Title 38-2) or other applicable law which support treatment of the material as confidential and explain why disclosure is not in the best interest of the public. The request for confidential treatment of information must also include the name, address, and telephone number of the person authorized by the offeror to respond to any inquiries by ERSRI concerning the confidential status of the materials.

Any bid proposal submitted which contains confidential information must be conspicuously marked on the outside as containing confidential information, and each page upon which confidential information appears must be conspicuously marked as containing confidential information. Identification of the entire bid proposal as confidential may be deemed non-responsive and disqualify the offeror.

If the offeror designates any portion of the proposal as confidential, the offeror must submit one copy of the bid proposal from which the confidential information has been excised or redacted. This excised copy is in addition to the number of copies requested in Section E of this RFP. The confidential material must be excised in such a way as to allow the public to determine the general nature of the material removed and to retain as much of the bid proposal as possible.

ERSRI will treat the information marked confidential as confidential information to the extent such information is determined confidential under the State of Rhode Island's "Access to Public Records" law (Title §38-2) or other applicable law or by a court of competent jurisdiction.

The offeror's failure to request confidential treatment of material will be deemed by ERSRI as a waiver of any right to confidentiality which the offeror may have had.

By submitting a bid proposal, the offeror agrees that ERSRI may copy the bid proposal for purposes of facilitating the evaluation of the bid proposal or to respond to requests for public records. The offeror consents to such copying by submitting a bid proposal and warrants that such copying will not violate its rights or the rights of any third party. ERSRI shall have the right to use ideas or adaptations of ideas that are presented in the bid proposals.

The Actuary Employee Relationship

The Actuary understands and acknowledges that the personnel provided to ERSRI under this Agreement are the employees of the Actuary or Independent Actuaries who have a contractual relationship with the Actuary.

The Actuary agrees to indemnify, defend and hold harmless ERSRI from any and all claims made against it including, but not limited to, claims for salaries, liability for tax withholding, workers' compensation, disability or miscellaneous employment benefits, whether based on tort, contract or other theories of recovery arising out of injury, disability, or death of the actuary's employees or Independent actuaries.

The Actuary shall perform a background investigation on all contract employees working for ERSRI under this Agreement.

Please refer to Regulation No. 3 Rules Concerning the Selection of Consultants for additional information regarding the selection process.

Attachments: 2015 Annual Financial Report of the Employees' Retirement System
[http://content.ersri.org/assets/56d9de39d4c96105c2117c63/Independent Auditor s Report as of 06 30 2015 .pdf](http://content.ersri.org/assets/56d9de39d4c96105c2117c63/Independent_Auditor_s_Report_as_of_06_30_2015.pdf)

Rule No. 3 Concerning the Selection of Consultants

Rhode Island General Laws applicable to Retirement



**Employees' Retirement System Of The
State Of Rhode Island
And
Municipal Employees' Retirement System
Of The State Of Rhode Island**

Regulation No. 3

Rules Concerning the Selection of Consultants

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ARTICLE I - GENERAL PROVISIONS

Section 1.1 Introduction.

The Employees' Retirement System of the State of Rhode Island and the Municipal Employees' Retirement System of the State of Rhode Island (the "System") are authorized to employ consulting and other professional services. The purpose of these rules is to adopt internal procedures consistent with the requirements of Chapter 2 of Title 37 of the Rhode Island General Laws (State Purchases Act) in connection with the procurement of consulting services by the System.

Section 1.2 Definitions.

All capitalized terms used herein shall have the same meaning as set forth in the "Rules of the Employees' Retirement System of the State of Rhode Island and the Municipal Employees' Retirement System of the State of Rhode Island for the Procurement of Supplies and Services". The words defined in this subsection shall have the following meanings wherever they appear in these Rules, unless the context in which they are used clearly requires a different meaning.

(1) "Consultant" shall mean any person engaged to provide information regarding a particular area of knowledge in which the person has expertise, including, but not limited to, accountants, actuaries, financial consultants, data processing consultants and physicians, excluding, however, legal services.

Section 1.3 Application of Rules.

These Rules apply to all expenditures of funds by the System under a contract for consulting services, except contracts between the System and the State of its political subdivisions, or between the System and other governments. The provisions of these Rules shall be considered to be incorporated in all contracts of the System to which they apply.

Notwithstanding anything contained in this Section 1.3, the "Rules of the Employees' Retirement System of the State of Rhode Island and the Municipal Employees' Retirement System of the State of Rhode Island for the Procurement of Supplies and Services" shall govern the procurement of supplies and services.

Section 1.4 Procurement Responsibilities of the System.

The Procurement Committee shall select persons or firms to render consultant services pursuant to these Rules. Accordingly, the term "System" shall be used in these Rules to designate the Procurement Committee.

Section 1.5 Public Access to Procurement Records.

Except as otherwise provided for herein all procurement records of the System shall be public record to the extent provided in Chapter 2 of Title 38 (Access to Public Records) of the General laws of Rhode Island and shall be available to the public as provided in such Act.

Section 1.6 Procurement Decisions of the System.

Every determination required by these Rules shall be in writing and based upon written findings of fact by the System. These determinations and written findings shall be retained in an official contract file in the offices of the System.

ARTICLE II - SELECTION OF CONSULTANTS

Section 2.1 General Policy.

It shall be the policy of the System to publicly announce its requirements for consulting services, which are reasonably estimated to exceed ten thousand dollars (\$10,000), and to negotiate contracts for such professional services on the basis of demonstrated competence and qualifications and at fair and reasonable prices.

Section 2.2 Annual Statement of Qualifications and Performance Data.

Consultants shall be encouraged by the Executive Director to submit to the System annually a statement of qualifications and performance data which shall include, but not be limited to the following:

1. The name of the firm and the location of its principal place of business and all offices;
2. The age of the firm and its average number of employees over the past five years;
3. The education, training, and qualifications of members of the firm and key employees;
4. The experience of the firm, reflecting technical capabilities and project experience; and
5. Such other pertinent information as requested by the Executive Director.

Section 2.3 Public Announcement of Needed Consultant Services.

The System shall give public notice in a newspaper of general circulation in the State of the need for consultant services which are reasonably estimated to exceed ten thousand dollars (\$10,000). The System may publish such additional notice as it deems necessary to assure response from qualified individuals or firms. Such public notice shall be published sufficiently in advance of the date when responses must be received in order that interested parties have an adequate opportunity to submit a statement of qualifications and performance data. The notice shall contain a brief statement of the services required, describe the project and specify how a solicitation containing specific information on the project may be obtained.

Section 2.4 Solicitation.

(a) A solicitation shall be prepared which describes the System's requirements and sets forth the evaluation criteria. It shall be distributed to interested persons.

(b) The solicitation shall describe the criteria to be used in evaluating the statement of qualification and performance data and in the selection of firms. Criteria shall include, but are not limited to:

- (1) competence to perform the services as reflected by technical training and education; general experience; experience in providing the required services; and the qualifications and competence of persons who would be assigned to perform the services;
- (2) ability to perform the services as reflected by workload and the availability of adequate personnel, equipment, and facilities to perform the services expeditiously;
- (3) past performance as reflected by the evaluation of private persons and officials of other governmental entities that have retained the services of the firm with respect to such factors as control of costs, quality of work, and ability to meet deadlines; and
- (4) the cost of such services.

(c) For services reasonably estimated to exceed twenty thousand dollars (\$20,000), a bidder's conference shall be held which describes the criteria to be used in evaluating the statement of qualification and performance data and in the selection of firms. The scope of work shall be discussed and further defined at such conference, including on-site visits, if appropriate.

Section 2.5 Evaluation of Statements of Qualifications and Performance Data.

The consultant selection committee shall evaluate statements that may be submitted in response to the solicitation of consultant services and statements of qualifications and performance data, if required. All such statements shall be evaluated in light of the criteria set forth in the solicitation for consulting services. The consultant selection committee may waive informalities in any such statements.

Section 2.6 Final Selection of Contractors.

The consultant selection committee shall select no more than three (3) firms (or two (2) if only two (2) apply) evaluated as being professionally and technically qualified. The firms selected, if still interested in providing the services, shall make a representative available to the consultant selection committee at such time and place as it shall determine, to provide such further information as it may require.

The consultant selection committee shall negotiate with the highest qualified firm for a contract for consulting services for the System at compensation which the consultant selection committee determines to be fair and reasonable. In making such determination, the consultant selection committee shall take into account the professional competence and technical merits of the offerors, and the price for which the services are to be rendered. The consultant selection committee shall be responsible for the final selection of the providers of consulting services.

Section 2.7 Contracts Not Exceeding \$10,000.

The Executive Director of the System shall be responsible for the final decision on consulting contracts not expected to exceed ten thousand dollars (\$10,000). The Executive Director shall, however, notify the Department of Administration, the Division of Purchases and the Division of Budget of the State of its selection. The Executive Director shall use the criteria set forth in Section 2.4(b) in making such determinations. Each determination shall be justified in writing.

ARTICLE III - REMEDIES

Section 3.1 Protest of Solicitation and Award.

(a) Any actual or prospective contractor who is aggrieved in connection with the solicitation or award of any contract under these Rules may file a protest with the System. A protest must be filed in writing not later than two (2) calendar weeks after such aggrieved person knows or should have known of the facts giving rise thereto.

(b) The System shall promptly issue a decision in writing regarding such protest. A copy of that decision shall be furnished to the aggrieved party and shall state the reasons for the action taken.

(c) In the event a protest is filed in a timely manner under this Section, the System shall not proceed further with the solicitation or award which is the subject of the protest until it has issued a decision on the protest, or determined that continuation of the procurement is necessary to protect a substantial interest of the System.

Section 3.2 Debarment and Suspension.

(a) After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the System may debar a person for cause from consideration for award of contracts contemplated by these Rules. The debarment shall not be for a period of more than three years. The System may suspend a person from consideration for award of contracts if there is probable cause for debarment. The suspension shall be for a period of not less than three months.

- (b) The causes for debarment or suspension include the following:
- (1) conviction of a criminal offense in connection with obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
 - (2) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a contractor with the System;
 - (3) conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

(4) violation of contract provisions, as set forth below, of a character which is regarded by the System to be so serious as to justify debarment action, including,

(i) deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

(ii) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;

(5) any other cause the System determines to be so serious and compelling as to affect responsibility as a contractor, including debarment by a governmental entity.

(c) The System shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken; and inform the debarred or suspended person of its rights to judicial review.

(d) A copy of the decision under Subsection (c) of this Section shall be furnished promptly to the debarred or suspended person.

Section 3.3 Resolution of Contract Disputes.

If any claim or controversy arising under contracts to which these Rules apply is not resolved by mutual agreement, the System shall promptly issue a decision in writing regarding the subject matter of such claim or controversy. A copy of that decision shall be furnished to the contractor. If the System does not issue a written decision within thirty (30) days after written request for a final decision, or within such longer period as might be established by the parties to the contract in writing, then the contractor may proceed as if an adverse decision had been received from the System.

ARTICLE IV - ADDITIONAL MATTERS

Section 4.1 Equal Employment Opportunity.

For all contracts for consultant services exceeding ten thousand dollars (\$10,000), contractors must comply with the requirements of federal executive order 11246, as amended, and Section 28-5.1-10 of the General Laws. Failure to comply will be considered a substantial breach of the contract subject to penalties prescribed in regulations administered by the Department of Administration of the State.

Section 4.2 Conflict of Interest.

No member or employee of the System shall have any interest, financial or otherwise, direct or indirect, or engage in any activity which is in substantial conflict with the proper discharge of his or her duties as a member or employee of the System.

ARTICLE V - EFFECTIVE DATE

Section 5.1 Effective Date.

These Rules shall become effective upon adoption by the Board. Thereafter, the Board shall file a copy of these Rules with the Secretary of State.

Section 5.2 Contracts in Effect on Effective Date.

These Rules shall not change in any way a contract commitment by the System or of a contractor to the System which was in existence on the effective date of these Rules.



Rhode Island General Laws

Retirement Statutes
September 2015

While we have worked to assure the accuracy of the information placed in this section, there may be times between updates when information is not current. While this information is prepared as an informational service only, for matters affecting legal rights, please refer to the printed version of the appropriate official publication of the Rhode Island General Laws.

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Legislative intent and findings

(a) It is the intention of the general assembly, in enacting this, the Rhode Island Retirement Security Act of 2011, to ensure the sustainability of the state's public retirement systems. In thoroughly reviewing the condition of the retirement systems throughout the State of Rhode Island and assessing the need for comprehensive reform thereof, the general assembly finds and declares that:

(1) The State of Rhode Island has one of the lowest funded and most vulnerable statewide pension systems in the country.

(2) The State of Rhode Island has suffered deeply through the recent recession and continues to endure some of the highest unemployment and foreclosure rates in the United States.

(3) The current condition of Rhode Island's critically underfunded pension system, combined with the state's continuing financial instability and existing onerous tax burden, threatens the base pensions of current and future public workers, hampers the ability of the state to provide its citizens with vital services necessary for the public's health, safety and welfare, and places an unsustainable financial burden on all Rhode Island citizens and taxpayers.

(4) The state retirement system's unfunded liability exceeds \$7 billion as measured by well-established and accepted public accounting standards.

(5) The largest portion of the retirement system, the Employees Retirement System of Rhode Island (ERSRI) fund for teachers and state employees is funded at a level of 48% which is well below benchmarks for a viable, sustainable and adequately funded system.

(6) Annual government contributions to ERSRI more than doubled between fiscal years 2005 and 2011 and those contributions are estimated to double again in fiscal year 2013 to exceed over \$600 million. Without immediate and comprehensive legislative action future contributions will continue to grow dramatically and exceed \$1 billion dollars in necessary annual contributions.

(7) If pension contributions continue to grow at the current and projected levels, they will be unaffordable and the pension security of our valued public employees will be placed in jeopardy.

(8) It is critical and of paramount importance to ensure that the public pension plans in Rhode Island can provide secure pension benefits to our public employees.

(9) Life expectancy is increasing dramatically as evidenced by the significant changes made to the mortality tables in the most recent experience study conducted by the actuary for the ERSRI and the Municipal Employees Retirement System (MERS). It is essential that these new life expectancy trends be recognized and that retirement ages be increased in a manner that will provide for a fiscally sound balance between the career length of active employees and the expected length of years in which a retiree will receive plan benefits.

(10) The vast majority of the unfunded liability for ERSRI is attributable to service rendered by employees who have already retired, and a very significant portion of this unfunded liability is represented by future cost of living adjustments (COLAs). Although the pension benefits of active employees have been reduced by recent legislative reforms, retirees still receive all the benefits that were in place before the legislative changes. In order to provide a sound benefit program for all members of the retirement system, and to provide current and future employees with adequate benefit levels that will enable the state and its cities and towns to attract and retain a highly qualified workforce, it is essential that the COLA benefits for retirees be impacted as part of this comprehensive reform of the retirement system.

(11) The national credit rating agencies that evaluate the security of Rhode Island's debt offerings have consistently and unanimously emphasized the significant threat posed by the unfunded liabilities of the state's current retirement system. Rapidly escalating pension costs were a critical factor in the negative outlook for the state's credit rating recently issued by Moody's Investors Service.

(12) Future downgrades in the public debt markets related to the rising costs and expenses of the currently existing state pension system will substantially increase Rhode Island's capital cost structure and adversely affect and greatly diminish the state's ability to address critical infrastructure needs for education, transportation and other crucial public projects.

(13) While plans in the Municipal Employees Retirement System (MERS), with an average funding level of 73%, are generally more adequately funded than the ERS plans, annual contributions to the MERS plans will increase dramatically in Fiscal Year 2013 at an average rate of more than 90% for MERS police and fire plans, and greater than 60% for MERS general municipal employee plans. The dramatically increasing costs from rising contributions to the MERS plan will result in the further erosion of the ability of towns and cities to provide services necessary for the health, safety and welfare of their residents.

(14) The fiscal peril related to the growing and substantial unfunded pension liabilities may necessitate other Rhode Island communities filing for bankruptcy protection which has already been shown to jeopardize and result in the reduction of significant percentages of the base of pensions of its retired public servants.

(15) The looming pension crisis has also impacted the ability of many Rhode Island communities to access the debt markets and has resulted in Moody's Investors Service taking negative action on numerous localities which adversely impacts the taxpayers and their ability to provide vital public services.

(16) The myriad of pension program designs throughout Rhode Island creates inefficiencies and it is efficient, equitable and fiscally prudent, wherever feasible, to promote similar plan designs for public employees in similar employment positions.

(b) To advance and maintain the long-term stability of the public pension programs sponsored by the State of Rhode Island and its municipalities, the general assembly further finds and declares that it is of critical and immediate public importance that these public pension programs be restructured:

(1) To ensure that the state and its cities and towns will be able to provide retirement benefits that will enable our public employees to enjoy a dignified retirement.

(2) To ensure a secure and adequate source of retirement funds for public retiree benefits.

(3) To ensure that the cost of current and future benefits is not so great and onerous that it jeopardizes the ability and obligation of the state and its town and cities to fund the costs of providing our children with an excellent public education; rebuilding and sustaining our economy; maintaining roads and bridges; providing assistance, care, and support of our neediest and most vulnerable citizens; and addressing other essential public programs and purposes.

(4) The general assembly expressly finds and declares that the situation currently confronting the State of Rhode Island's publicly financed pension systems has reached an emergency stage and must be addressed without delay and the enactment of the Rhode Island Retirement Security Act of 2011 is reasonable and necessary to achieve and protect the compelling public interests listed herein. The general assembly further finds and declares that the achievement of those compelling public interests, on balance, far outweigh any impact that such enactment might have upon the expectations of active and retired members of the affected pension systems as to potential future pension benefits.

This act would comprehensively amend the contribution and benefits' provisions of both the state and municipal employees' retirement systems. This act would take effect upon passage. **PASSED NOVEMBER 18, 2011**

Title 36 Chapters 8-10 Public Officers and Employees

CHAPTER 36-5 Military Service and Veterans

§ 36-5-3 Retirement or pension credit for period in military service. – Whenever any employee of the state, or of any city, town, or political subdivision thereof, has been, is now, or shall be on a leave of absence from that employment because of service in the armed forces of the United States of America during any war in which the United States has been, is now, or shall be engaged, the leave of absence shall be construed as continuous employment for retirement pension and prescribed rights or benefits in any established retirement system or pension fund by whatever name called, as though the employee had not been on a leave of absence. The employee shall be entitled to all the rights, protections and privileges offered under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), Title 38 U.S. Code, §§ 4301 – 4333 (38 U.S.C. 4301 – 4333) as those sections apply to retirement or pension benefits.

History of Section.

(P.L. 1944, ch. 1383, § 1; P.L. 1948, ch. 2018, § 2; G.L. 1956, § 36-5-3; P.L. 1972, ch. 253, § 1; P.L. 1981, ch. 348, § 1; P.L. 2005, ch. 293, § 1; P.L. 2005, ch. 304, § 1.)

§ 36-5-4 Retirement credit provision supplementary. – Section 36-5-3 shall be deemed to prevail as being in addition to chapters 8 to 10, of this title and any other existing retirement law for any city, town or political subdivision thereof.

History of Section.

(P.L. 1944, ch. 1383, § 2; G.L. 1956, § 36-5-4.)

CHAPTER 36-6

Salaries and Traveling Expenses (Legislators)

§ 36-6-20 Hospital care and hospital surgical-medical service benefits for retired general assembly members. – All retired members of the general assembly who meet all eligibility requirements for retirement and all former members of the general assembly who meet all eligibility requirements for retirement except for age shall be eligible to purchase at their own cost and expense the same benefits provided for active general assembly members under § 36-6-19. The cost for participation shall be deducted directly from the retired general assembly member's monthly retirement proceeds. Retired or former members of the general assembly who are not receiving monthly retirement proceeds shall pay for those benefits through the joint committee on legislative services.

History of Section.

(P.L. 1985, ch. 264, § 1; P.L. 1986, ch. 106, § 1.)

CHAPTER 36-8

Retirement System – Administration

§ 36-8-1 Definition of terms. – The following words and phrases as used in chapters 8 to 10 of this title unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Accumulated contributions" shall mean the sum of all the amounts deducted from the compensation of a member and credited to his or her individual pension account.

(2) "Active member" shall mean any employee of the state of Rhode Island as defined in this section for whom the retirement system is currently receiving regular contributions pursuant to §§ 36-10-1 and 36-10-1.1.

(3) "Actuarial equivalent" shall mean an allowance or benefit of equal value to any other allowance or benefit when computed upon the basis of the actuarial tables in use by the system.

(4) "Annuity reserve" shall mean the present value of all payments to be made on account of any annuity, benefit, or retirement allowance granted under the provisions of chapter 10 of this title computed upon the basis of such mortality tables as shall be adopted from time to time by the retirement board with regular interest.

(5)(a) "Average compensation" for members eligible to retire as of September 30, 2009 shall mean the average of the highest three (3) consecutive years of compensation, within the total service when the average compensation was the highest. For members eligible to retire on or after October 1, 2009, "Average compensation" shall mean the average of the highest five (5) consecutive years of compensation within the total service when the average compensation was the highest.

(b) For members who become eligible to retire on or after July 1, 2012, if more than one half (1/2) of the member's total years of service consist of years of service during which the member devoted less than thirty (30) business hours per week to the service of the state, but the member's average compensation consists of three (3) or more years during which the member devoted more than thirty (30) business hours per week to the service of the state, such member's average compensation shall mean the average of the highest ten (10) consecutive years of compensation within the total service when the average compensation was the highest; provided however, effective July 1, 2015, if such member's average compensation as defined in subsection (a) Above is equal to or less than thirty-five thousand dollars (\$35,000), such amount to be indexed annually in accordance with § 36-10-35(h)(1)(B), such member's average compensation shall mean the greater of: (i) The average of the highest ten (10) consecutive years of compensation within the total service when the average compensation was the highest; or (ii) The member's average compensation as defined in subsection (a) above. To protect a member's accrued benefit on June 30, 2012 under this § 36-8-1(5)(b), in no event shall a member's average compensation be lower than his or her average compensation determined as of June 30, 2012.

(6) "Beneficiary" shall mean any person in receipt of a pension, an annuity, a retirement allowance, or other benefit as provided by chapter 10 of this title.

(7) "Casual employee" shall mean those persons hired for a temporary period, a period of emergency or an occasional period.

(8) "Compensation" as used in chapters 8 – 10 of this title, chapters 16 and 17 of title 16, and chapter 21 of title 45 shall mean salary or wages earned and paid for the performance of duties for covered employment, including regular longevity or incentive plans approved by the board, but shall not include payments made for overtime or any other reason other than performance of duties, including but not limited to the types of payments listed below:

(i) Payments contingent on the employee having terminated or died;

(ii) Payments made at termination for unused sick leave, vacation leave, or compensatory time;

(iii) Payments contingent on the employee terminating employment at a specified time in the future to secure voluntary retirement or to secure release of an unexpired contract of employment;

(iv) Individual salary adjustments which are granted primarily in anticipation of the employee's retirement;

(v) Additional payments for performing temporary or extra duties beyond the normal or regular work day or work year.

(9) "Employee" shall mean any officer or employee of the state of Rhode Island whose business time is devoted exclusively to the services of the state, but shall not include one whose duties are of a casual or seasonal nature. The retirement board shall determine who are employees within the meaning of this chapter. The governor of the state, the lieutenant governor, the secretary of state, the attorney general, the general treasurer, and the members of the general assembly, ex officio, shall not be deemed to be employees within the meaning of that term unless and until they elect to become members of the system as provided in § 36-9-6, but in no case shall it deem as an employee, for the purposes of this chapter, any individual who devotes less than twenty (20) business hours per week to the service of the state, and who receives less than the equivalent of minimum wage compensation on an hourly basis for his or her services, except as provided in § 36-9-24. Any commissioner of a municipal housing authority or any member of a part-time state, municipal or local board, commission, committee or other public authority shall not be deemed to be an employee within the meaning of this chapter.

(10) "Full actuarial costs" or "full actuarial value" shall mean the lump sum payable by a member claiming service credit for certain employment for which that payment is required which is determined according to the age of the member and the employee's annual rate of compensation at the time he or she applies for service credit and which is expressed as a rate percent of the employee's annual rate of compensation to be

multiplied by the number of years for which he or she claims service credit as prescribed in a schedule adopted by the retirement board from time to time on the basis of computation by the actuary. Except as provided in §§ 16-16-7.1, 36-5-3, 36-9-31, 36-10-10.4, 45-21-53, 36-10-8, 45-21-29, 8-3-16(b), 8-8-10.1(b), 42-28-22.1(c) and 28-30-18.1(b):

(i) all service credit purchases requested after June 16, 2009 and prior to July 1, 2012, shall be at full actuarial value; and

(ii) all service credit purchases requested after June 30, 2012 shall be at full actuarial value which shall be determined using the system's assumed investment rate of return minus one percent (1%).

The rules applicable to a service credit purchase shall be the rules of the retirement system in effect at the time the purchase application is submitted to the retirement system.

(11) "Funded Ratio" shall mean the ratio of the actuarial value of assets to the actuarial accrued liability consistent with the funding policy of the retirement board as defined in § 36-8-4.

(12) "Inactive member" shall mean a member who has withdrawn from service as an employee but who has not received a refund of contributions.

(13) "Members" shall mean any person included in the membership of the retirement system as provided in §§ 36-9-1 – 36-9-7.

(14) "Prior service" shall mean service as a member rendered before July 1, 1936, certified on his or her prior service certificate and allowable as provided in § 36-9-28.

(15) "Regular interest" shall mean interest at the assumed investment rate of return, compounded annually, as may be prescribed from time to time by the retirement board.

(16) "Retirement allowance" shall mean annual payments for life made after retirement under and in accordance with chapters 8 to 10 of this title. All allowances shall be paid in equal monthly installments beginning as of the effective date thereof; provided, that a smaller pro rata amount may be paid for part of a month where separation from service occurs during the month in which the application was filed, and when the allowance ceases before the last day of the month.

(17) "Retirement board" or "board" shall mean the board provided in § 36-8-3 to administer the retirement system.

(18) "Retirement system" shall mean the employees' retirement system of the state of Rhode Island as defined in § 36-8-2.

(19) "Service" shall mean service as an employee of the state of Rhode Island as described in subdivision (9) of this section.

(20) "Social Security retirement age" shall mean a member's full retirement age as determined in accordance with the federal Old Age, Survivors and Disability Insurance Act, not to exceed age sixty-seven (67).

(21) "Total service" shall mean prior service as defined above, plus service rendered as a member on or after July 1, 1936.

History of Section.

(P.L. 1936, ch. 2334, § 1; G.L. 1938, ch. 18, § 1; P.L. 1947, ch. 1971, § 1; P.L. 1951, ch. 2830, § 1; P.L. 1953, ch. 3201, § 1; G.L. 1956, § 36-8-1; P.L. 1962, ch. 143, § 1; P.L. 1967, ch. 132, § 1; P.L. 1972, ch. 151, § 2; P.L. 1981, ch. 122, § 1; P.L. 1981, ch. 162, § 1; P.L. 1992, ch. 306, art. 1, § 1; P.L. 1994, ch. 142, § 3; P.L. 1998, ch. 411, § 1; P.L. 2009, ch. 68, art. 7, § 1; P.L. 2011, ch. 363, § 27; P.L. 2011, ch. 408, § 2; P.L. 2011, ch. 409, § 2; P.L. 2015, ch. 141, art. 12, § 3; P.L. 2015, ch. 141, art. 21, § 1.)

§ 36-8-2 Establishment of system. – A retirement system is hereby established and placed under the management of the retirement board for the purpose of providing retirement allowances for employees of the state of Rhode Island under the provisions of chapters 8 – 10 of this title. The retirement system so created shall begin operation as of July 1, 1936. It shall have the power and privileges of a corporation and shall be known as the "employees' retirement system of the state of Rhode Island", and by that name all of its business shall be transacted, all of its funds invested, and all of its cash, securities, and other property held.

History of Section.

(P.L. 1936, ch. 2334, § 2; G.L. 1938, ch. 18, § 2; G.L. 1956, § 36-8-2.)

§ 36-8-3 Responsibility for administration – Rules and regulations. – The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of chapters 8 – 10 of this title are hereby vested in a retirement board. The retirement board shall, from time to time, establish rules and regulations for the administration and transaction of the business of the retirement system. Rules and regulations which have been or may be established pursuant to the provisions of this chapter shall be compiled, codified, and published so that they shall be generally available to the members of the system. The retirement board shall also perform such other functions as are required for the execution of chapters 8 – 10 of this title. The board shall also establish rules and regulations to govern the provisions of §§ 8-3-16, 8-3-17, 8-8-10.1, 8-8-10.2, 8-8.2-7, 8-8.2-8, 28-30-18.1, 28-30-18.2, 42-28-22.1, and 42-28-22.2.

History of Section.

(P.L. 1936, ch. 2334, § 3; G.L. 1938, ch. 18, § 3; G.L. 1956, § 36-8-3; P.L. 1976, ch. 289, § 1; P.L. 1987, ch. 330, § 1; P.L. 1988, ch. 129, art. 22, § 1; P.L. 1989, ch. 494, § 11.)

§ 36-8-3.1 Immunity of board members. – The members of the retirement board shall be immune from suit in any civil action for negligence based on any official act or statement performed or made in good faith in the course of their duties as set out in § 36-8-3.

History of Section.

(P.L. 1987, ch. 191, § 1.)

§ 36-8-4 Composition of retirement board. – (a) There is hereby authorized, created and established in the office of the general treasurer an independent retirement board which shall hold and administer, in trust, the funds of the retirement system in accordance with the provisions of chapters 8 -- 10 of this title and shall perform such functions as authorized by law. The membership of the retirement board shall consist of: the general treasurer or his or her designee who shall be a subordinate within the general treasurer's office; the director of administration or his or her designee who shall be a subordinate within the department of administration; a representative of the budget office or his or her designee from within the budget office, who shall be appointed by the director of administration; the president of the league of cities and towns or his or her designee; two (2) active state employee members of the retirement system or officials from state employee unions to be elected by active state employees; two (2) active teacher members of the retirement system or officials from a teachers union to be elected by active teachers; one active municipal employee member of the retirement system or an official from a municipal employees union to be elected by active municipal employees; two (2) retired members of the retirement system to be elected by retired members of the system; and four (4) public members, all of whom shall be competent by training or experience in the field of finance, accounting or pensions; two (2) of the public members shall be appointed by the governor, one of whom shall serve an initial term of three (3) years and one of whom shall serve an initial term of four (4) years and until his or her successor is appointed and qualified; and two (2) of the public members shall be appointed by the general treasurer, one of whom shall serve an initial term of three (3) years and one of whom shall serve an initial term of four (4) years and until his or her successor is appointed and qualified. Thereafter, the term of these four (4) public members shall be for four (4) years or until their successors are appointed and qualified. Meetings shall be open to the public in accordance with the provisions of chapter 42-46 of the general laws. Any member of the general public who was appointed by the governor prior to July 4, 2006 shall continue to serve until such time as a successor is appointed and qualified. Any member who was elected prior to July 4, 2006 shall serve for the remainder of his or her elected term.

(b) Meetings shall be held at such place as may be designated in the call of the meeting, provided at no cost to the state, at least monthly at the call of the chair.

(c) The elected members of the retirement board shall be seated by the following procedure:

(1) Each candidate for a position on the board must have one hundred (100) signatures of members of their respective group.

(2) The term of office for elected members shall be for four (4) years, and election of their successors shall be given by the board prior to the expiration of the terms of the incumbent elected members.

(3) By petition for recall of twenty percent (20%) of the respective membership of the various groups a new election shall be ordered by the retirement board.

(d) All gubernatorial and general treasurer appointments made under this section after July 4, 2006 shall be subject to the advice and consent of the senate. No one shall be eligible for appointment unless he or she is a resident of this state.

(e) Public members of the board shall be removable by the chair for cause only, and removal solely for partisan or personal reasons unrelated to capacity or fitness for the office shall be unlawful.

(f) Newly appointed and qualified public members shall, within six (6) months of their appointment, attend a training course that shall be developed and provided by the office of the general treasurer and shall include instruction in the following areas: the provisions of chapters 42-46, 36-14 and 38-2 of the Rhode Island general laws, the retirement statutes; and the board's rules and regulations. The director of the department of administration shall, within ninety (90) days of July 4, 2006 prepare and disseminate training materials relating to the provisions of chapters 42-46, 36-14 and 38-2.

History of Section.

P.L. 1936, ch. 2334, § 3; P.L. 1947, ch. 1971, § 2; P.L. 1949, ch. 2376, § 1; P.L. 1952, ch. 2910, § 1; P.L. 1955, ch. 3619, § 1; P.L. 1972, ch. 207, § 1; P.L. 1976, ch. 289, § 1; P.L. 1979, ch. 100, § 1; P.L. 1980, ch. 176, § 1; P.L. 1987, ch. 598, § 1; P.L. 1994, ch. 142, § 3; P.L. 2006, ch. 319, § 4, eff. July 4, 2006; P.L. 2006, ch. 444, § 4, eff. July 7, 2006; P.L. 2011, ch. 363, § 27, eff. July 13, 2011.

§36-8-4.1 Fiduciary and continuing education requirements - (a) A member of the board shall discharge duties with respect to the retirement system:

- (1) Solely in the interest of the participants and beneficiaries;
- (2) For the exclusive purpose of providing benefits to participants and beneficiaries and paying reasonable expenses of administering the system;
- (3) With the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;
- (4) Impartially, taking into account any differing interests of participants and beneficiaries;
- (5) Incurring only costs that are appropriate and reasonable; and
- (6) In accordance with a good-faith interpretation of the law governing the retirement system.

(b) The retirement board shall establish mandatory continuing education requirements for members of the board.

(c) In the event the retirement board takes any action(s) contrary to the recommendation of the plan actuary, the executive director shall within thirty (30) days, provide notice of such action(s) to all plan members, the governor, the speaker of the house of representatives and the president of the senate. The notice shall also be posted electronically on the retirement board's website.

History of Section.

P.L. 2011, ch. 408, § 3, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 3, eff. Nov. 18, 2011.

§ 36-8-5 Vacancies on board. – If, for any reason whatsoever, there shall be a vacancy in the office of an appointed member of the board the appointing authority shall appoint a successor within seventy (70) days for the balance of the vacated term; provided,

however, that all gubernatorial and general treasurer appointments made under this section after July 4, 2006 shall be subject to the advice and consent of the senate. If, for any reason whatsoever, there shall be a vacancy in the office of an elected member of the board the seat shall be filled by a new election of the respective group within seventy (70) days for the balance of the vacated term.

History of Section.

P.L. 1936, ch. 2334, § 3; P.L. 1947, ch. 1971, § 2; P.L. 1976, ch. 289, § 1; P.L. 2006, ch. 319, § 4, eff. July 4, 2006; P.L. 2006, ch. 444, § 4, eff. July 7, 2006; P.L. 2011, ch. 363, § 27, eff. July 13, 2011

§ 36-8-6 Votes of board – Record of proceedings. – Each member of the board shall be entitled to one vote. A majority of the board shall constitute a quorum and all actions of the board shall be a majority vote of the members present and voting at which a quorum is present. The board shall keep a record of all the proceedings which shall be open to public inspection.

History of Section.

(P.L. 1936, ch. 2334, § 3; G.L. 1938, ch. 18, § 3; P.L. 1947, ch. 1971, § 2; G.L. 1956, § 36-8-6; P.L. 2006, ch. 319, § 4; P.L. 2006, ch. 444, § 4.)

§ 36-8-7 Reimbursement of board members. – Members of the board shall serve without compensation but shall be reimbursed for any necessary expenditures and no employee shall suffer any loss of salary or wages through serving upon the board.

History of Section.

(P.L. 1936, ch. 2334, § 3; G.L. 1938, ch. 18, § 3; P.L. 1947, ch. 1971, § 2; G.L. 1956, § 36-8-7.)

§ 36-8-8 Annual report and statement. – The retirement board shall submit to the governor, the speaker of the house of representatives, the president of the senate and the secretary of state, on or before the first day of December in each year, an annual report showing the financial transactions of the system for the fiscal year of the state next preceding said date. The report shall contain, among other things, a financial balance sheet, a statement of income and expenditures, a valuation balance sheet as prepared by the actuary, a detailed statement of investments acquired and disposed of during the year, and such other statistical data as are deemed necessary for a proper interpretation of the condition of the system and the results of its operations. The report shall also provide: an operating statement summarizing meetings or hearings held, meeting minutes if requested, subjects addressed, decisions rendered, rules or regulations promulgated, studies conducted, policies and plans developed, approved, or modified, and programs administered or initiated; a consolidated financial statement of all the funds received and expended including the source of funds, a listing of any staff supported by these funds, and a summary of any clerical, administrative or technical support received; a summary of performance during the previous fiscal year including accomplishments, shortcomings and remedies; a synopsis of hearings, complaints, suspensions, or other legal matters related to the authority of the board; a summary of any training courses held pursuant to § 36-8-4; a briefing on anticipated activities in the upcoming fiscal year; and findings and recommendations for improvements. The report shall be posted electronically on the general assembly and the secretary of state's website as prescribed in § 42-20-8.2 of the Rhode Island general laws. The director of the department of administration shall be responsible for the enforcement of this provision. The report shall also embody such other data as may be of use in the advancement of knowledge concerning state employee pensions and any recommendations of the board for changes in the laws pertaining to the system. The retirement board shall cause to be published for distribution among the members of the system a financial statement

summarizing the results of operations for the fiscal year.

History of Section.

(P.L. 1936, ch. 2334, § 3; G.L. 1938, ch. 18, § 3; P.L. 1947, ch. 1971, § 2; G.L. 1956, § 36-8-8; P.L. 2006, ch. 319, § 4; P.L. 2006, ch. 444, § 4.)

§ 36-8-8.2 Special pension benefits. – (a) No law shall be enacted conferring special pension benefits upon any individual or group of individuals unless this section is specifically repealed.

(b) The retirement board shall take no administrative action conferring special benefits upon any individual or group of individuals.

History of Section.

(P.L. 1994, ch. 139, § 9.)

§ 36-8-9 Legal adviser – Treasurer – Executive officers and secretary. – (a) There shall be a legal counsel to the board who shall be appointed by the general treasurer. The general treasurer shall be ex-officio chairperson and treasurer of the retirement board and he or she shall be responsible for appointing the custodian of the funds. There shall also be an executive director who shall be appointed by the retirement board. The executive director shall be in charge of administration of the retirement system and shall serve as secretary to the retirement board. In addition, the retirement board shall appoint an assistant director who shall serve as director and/or secretary in the absence of the director.

(b) Any negotiated agreement entered into after June 1, 1992, between any state or municipal agency or department and an employee or employees, whose conditions are contrary to the general laws or the rules, regulations, and policies as adopted and promulgated by the retirement board shall be null and void unless and until approved by formal action of the retirement board for good cause shown.

History of Section.

P.L. 1936, ch. 2334, § 3; P.L. 1947, ch. 1971, § 2; P.L. 1964, ch. 242, art. 8A, § 1; P.L. 1971, ch. 38, § 1; P.L. 1980, ch. 176, § 1; P.L. 1992, ch. 306, art. 1, § 1; P.L. 2011, ch. 408, § 5, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 5, eff. Nov. 18, 2011.

§ 36-8-10 Accounts and statistical records – Clerical and professional assistance – Disbursements. – The general treasurer, under the direction and supervision of the retirement board, shall be charged with the establishment and maintenance of such accounts and statistical records as the retirement board may require and he or she shall employ such clerical assistance as shall be necessary to carry out properly the provisions of chapters 8 – 10 of this title. The retirement board shall secure the services of an actuary who shall be the actuarial advisor of the board and who shall make the actuarial computations and valuations required by chapters 8 – 10. The retirement board shall secure the services of such physicians as shall be necessary to make the medical examinations required by those chapters. The state controller is hereby authorized and directed to draw his or her orders upon the general treasurer for the payment of such sum or sums as may from time to time be necessary, upon receipt by him or her of vouchers prepared and duly authenticated by the chief of the retirement system.

History of Section.

(P.L. 1936, ch. 2334, § 3; P.L. 1937, ch. 2513, § 1; G.L. 1938, ch. 18, § 3; P.L. 1947, ch. 1971, § 2; G.L. 1956, § 36-8-10.)

§ 36-8-10.1 Payment of administrative expense of the retirement board and maintaining the retirement system – Restricted receipts account.

– (a) There is hereby created a restricted receipt account, under the control of the general treasurer, the proceeds of which shall be used solely to pay the expenses of the retirement board, the cost of maintaining the retirement system, and the costs of administering the retirement system.

(b) There shall be transferred to this restricted receipt account seventeen and one-half (17.5) basis points (0.175%), where one hundred (100.0) basis points equals one percent (1.0%), of the average total investments before lending activities as reported in the annual report of the auditor general for the next preceding five fiscal years. Any nonencumbered funds on June 30 of any fiscal year shall be credited to the employees' retirement system of the state of Rhode Island and to the municipal employees' retirement system of the state of Rhode Island in the same proportion as their contributions to the restricted receipt account established by this section during the fiscal year.

History of Section.

(P.L. 1985, ch. 181, art. 7, § 1; P.L. 1986, ch. 287, art. 10, § 1; P.L. 1987, ch. 60, art. 1, § 5; P.L. 2003, ch. 376, art. 25, § 1.)

§ 36-8-11 Collection of actuarial and experience data. – The retirement board shall collect and keep in convenient form such data as shall be necessary for the preparation of the mortality and service tables and for the compilation of such other information as shall be required for the actuarial valuation of the assets and liabilities of the retirement system.

History of Section.

(P.L. 1936, ch. 2334, § 3; G.L. 1938, ch. 18, § 3; G.L. 1956, § 36-8-11.)

§ 36-8-12 Actuarial investigations authorized by board. – Immediately after his or her selection, the actuary shall make such investigation of the mortality, service, and compensation experience of the members as the retirement board shall authorize for the purpose of determining the proper tables to be prepared and submitted to the retirement board for adoption.

History of Section.

(P.L. 1936, ch. 2334, § 3; G.L. 1938, ch. 18, § 3; P.L. 1947, ch. 1971, § 2; G.L. 1956, § 36-8-12.)

§ 36-8-13 Periodic actuarial investigations and valuations – Adoption of tables and rates.

– Every year beginning with the year 1976, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the retirement system, and shall make a valuation of the assets and liabilities of the system, and, taking into account the result of the investigation and valuation, the retirement board shall:

(1) Adopt for the retirement system such mortality, service, and other tables as shall be deemed necessary; and

(2) Certify the rates of contribution payable by the state of Rhode Island to carry out the provisions of chapters 8 – 10 of this title in accordance with the provisions of § 36-10-2.

History of Section.

(P.L. 1936, ch. 2334, § 3; G.L. 1938, ch. 18, § 3; P.L. 1947, ch. 1971, § 2; G.L. 1956, § 36-8-13; P.L. 1976, ch. 289, § 1.)

§ 36-8-14 Annual valuation of assets and liabilities. – On the basis of such tables as the retirement board shall adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds of the system created by this chapter.

History of Section.

(P.L. 1936, ch. 2334, § 3; G.L. 1938, ch. 18, § 3; G.L. 1956, § 36-8-14.)

§ 36-8-15 Custody and investment of funds. – (a) All money immediately required for the payment of retirement allowances or other benefits shall be deemed to be held in a trust under the laws of the state of Rhode Island with respect to which the general treasurer is designated the trustee in accordance with § 36-8-20(b). The trustee shall only invest these funds in accordance with the written objectives and guidelines established by the state investment commission pursuant to the provisions of chapter 10 of title 35 and other applicable law.

(b) All money not immediately required for the payment of retirement allowances or other benefits shall be invested in accordance with the provisions of chapter 10 of title 35 and other applicable law and shall be held in a custodial or trust account in accordance with § 36-8-20(b).

(c) By December 31, 1994, the trust and custodial account established under this section shall be maintained pursuant to written documents which expressly provide that it shall be impossible at any time prior to the satisfaction of all liabilities with respect to employees and their beneficiaries for any part of the corpus or income to be used for or diverted to purposes other than the payment of retirement allowances and other pension benefits to employees and their beneficiaries (except as otherwise permitted by § 36-8-20(b)).

History of Section.

(P.L. 1969, ch. 43, § 1; P.L. 1994, ch. 87, § 3.)

§ 36-8-16 Disposition of investment earnings. – The retirement board shall credit all earned investment income from interest and dividends on investments and bank deposits during any fiscal year to the contingency reserve account.

History of Section.

(P.L. 1936, ch. 2334, § 3; G.L. 1938, ch. 18, § 3; P.L. 1947, ch. 1971, § 2; G.L. 1956, § 36-8-16; P.L. 1980, ch. 57, § 1.)

§ 36-8-17 Improper interest in investments of board. – Except as herein provided, no member of the board and no employee of the board shall have any interest, direct or indirect, in the gains or profits of any investment made by the retirement board, nor as such directly or indirectly receive any pay or emolument for his or her services. No member of the board or employee of the board shall, directly or indirectly, for himself or herself or as an agent, in any manner use the gains or profits, except to make such current and necessary payments as are authorized by the retirement board; nor shall any member or employee of the board become an endorser or surety or become in any manner an obligor for money loaned or borrowed from the retirement board.

History of Section.

(P.L. 1936, ch. 2334, § 4; G.L. 1938, ch. 18, § 4; G.L. 1956, § 36-8-17.)

§ 36-8-18 Severability. – (a) If any provision of chapters 8 – 10 of this title, any rule, or regulation made thereunder, or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction the remainder of those chapters, rules, or regulations and the application of those provisions to other persons or circumstances shall not be affected thereby.

(b) The invalidity of any section or sections or parts of any section or sections of those chapters shall not affect the validity of the remainder of those chapters.

History of Section.

(P.L. 1936, ch. 2334, § 15; G.L. 1938, ch. 18, § 15; G.L. 1956, § 36-8-18.)

§ 36-8-19 Annual audits. – The auditor general shall conduct upon the request of the retirement board a separate annual performance audit of the retirement system which shall include a report on the actuarial valuation of the assets and liabilities of the retirement system. The auditor general may examine all records, files, and other documents, and evaluate all policies and procedures for purposes of conducting the audit. The aforementioned performance audit shall be in addition to the annual audit conducted by the auditor general of the financial statements of the retirement system. A copy of the report shall be given to the governor, the state retirement board, and the joint committee on legislative services.

History of Section.

(P.L. 1991, ch. 44, art. 75, § 1; P.L. 1992, ch. 306, art. 1, § 1.)

§ 36-8-20 Internal Revenue Code qualification. – (a) *Intent.* It is intended that the retirement system satisfy the requirements of § 401(a) of the Internal Revenue Code of 1986 as amended from time to time, 26 U.S.C. § 401 (hereinafter referred to as the "code"), in form and operation, to the extent that those requirements apply to a governmental plan described in § 414(d) of the code, 26 U.S.C. § 414. To this end, the following provisions shall be applicable, administered, and interpreted in a manner consistent with maintaining the tax qualification of the retirement system, and shall supersede any conflicting provisions of chapters 8 – 10 of this title, of chapter 16 of title 16, or of chapter 21 of title 45.

(b) *Exclusive benefit.* All funds of the retirement systems shall be held in one or more trusts, in one or more custodial accounts treated as trusts in accordance with § 401(f) of the code, or in a combination thereof. Under any trust or custodial account, it shall be impossible at any time prior to the satisfaction of all liabilities with respect to employees and their beneficiaries, for any part of the corpus or income to be used for, or diverted to, purposes other than the payment of retirement allowances and other pension benefits to employees and their beneficiaries. However, this requirement shall not prohibit: (1) the return of a contribution within six (6) months after the executive director determines that the contribution was made by a mistake of fact; or (2) the payment of expenses of the retirement system in accordance with applicable law.

(c) *Vesting on plan termination.* In the event of the termination (within the meaning of the code) of the retirement system, the accrued benefits of eligible employees shall become fully and immediately vested but only to the extent those benefits are already funded.

(d) *Forfeitures.* Credits forfeited by an employee pursuant to § 36-10-8, § 16-16-31, or § 45-21-28 shall not be applied to increase the benefits of any other employee.

(e) *Required distributions.* Distributions shall begin to be made not later than the employee's required beginning date as defined under § 401(a)(9) of the code and shall be made in accordance with all other requirements of that code section.

(f) *Limitation on benefits.* Benefits shall not be payable to the extent that they exceed the limitations imposed by § 415 of the code, 26 U.S.C. § 415, as adjusted from time to time pursuant to § 415(d) of the code. In no event shall the member receive a retirement benefit in any year that exceeds the limitations set forth in § 415(b).

(g) *Limitation on compensation.* Benefits and contributions shall not be computed with reference to any compensation that exceeds the maximum dollar amount permitted by § 401(a)(17) of the code as adjusted for increases in the cost-of-living. This provision shall take effect July 1, 1994, and shall apply only with respect to an employee who first becomes a member of the retirement system on or after that date.

(h) *Actuarial determination.* Whenever the amount of any employee's benefit is to be determined on the basis of actuarial assumptions done by a professional actuary, those assumptions shall be specified by resolution of the retirement board.

(i) *Direct rollovers.* Any individual withdrawing any distribution from the retirement system which constitutes an "eligible rollover distribution" within the meaning of § 402(c) of the code, 26 U.S.C. § 402, may elect, in the time and manner prescribed by the retirement board and after receipt of proper notice, to have any portion of the distribution paid directly to another plan that is qualified under § 401(a) or 403(a), 26 U.S.C. § 403(a), of the code, or to an individual retirement account or annuity described in § 408(a) or (b) of the code, 26 U.S.C. § 408, in a direct rollover.

History of Section.

(P.L. 1994, ch. 87, § 1; P.L. 2008, ch. 100, art. 40, § 1.)

§ 36-8-21 Repealed.

CHAPTER 36-9

Retirement System—Membership and Service Credits

§ 36-9-1 Earliest date of commencement of membership. – Membership in the retirement system shall begin not earlier than the first day of July, 1936, and shall consist of the persons described in §§ 36-9-2 and 36-9-3.

History of Section.

(P.L. 1936, ch. 2334, § 7; G.L. 1938, ch. 18, § 7; P.L. 1947, ch. 1971, § 5; P.L. 1949, ch. 2286, § 1; G.L. 1956, § 36-9-1.)

§ 36-9-2 Membership of persons employed after establishment of system. - All employees as defined in chapter 8 of this title who became employees on or after July 1, 1936, shall, under contract of their employment become members of the retirement system and shall receive no pension or retirement allowance from any other pension or retirement system supported wholly or in part by the State of Rhode Island, except as provided in chapter 10.3 of title 36 and § 36-9-3, nor shall they be required to make contributions under any other pension or retirement system of the state except as provided in chapter 10.3 of title 36, anything to the contrary notwithstanding; provided, however, that this section shall not apply to those employees who may be required or elect to participate in a retirement program existing by virtue of chapter 17.1 of title 16 or § 36-10-9.1.

History of Section.

P.L. 1936, ch. 2334, § 7; P.L. 1947, ch. 1971, § 5; P.L. 1949, ch. 2286, § 1; P.L. 1967, ch. 152, § 2; P.L. 1978, ch. 384, § 1; P.L. 1982, ch. 101, § 1; P.L. 1987, ch. 329, § 2; P.L. 1989, ch. 54, § 1; P.L. 2011, ch. 408, § 6, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 6, eff. Nov. 18, 2011.

§ 36-9-2.1 Membership in other retirement systems. – (a) An employee who is a member of the retirement system may be a member of the retirement system of any union provided the union retirement plan is covered by the Employee Retirement Income Security Act of 1974 (ERISA) [29 U.S.C. § 1001 et seq.] and is tax qualified pursuant to the internal revenue service, and remain eligible to participate and receive benefits as provided in chapters 8 through 10 of this title.

(b) Participants in a union retirement system shall not receive a greater wage or benefit increase than that granted other state employees covered by a collective bargaining clause.

History of Section.

(P.L. 2000, ch. 199, § 1.)

§ 36-9-3 Retired members of the state police – Eligibility. – Whenever any retired member of the Rhode Island state police shall be an employee of the state or any of its agencies, commissions, or bureaus in any capacity, other than as a member of the state police, as defined in chapter 8 of this title, that employee shall be eligible to participate and receive benefits as provided in chapters 8 – 10 of this title; provided, however, that in no event shall any retired member collect a state police pension while in the employ of the state as provided herein, nor shall any years of service for which the member is eligible for a state police pension be

included in or added to the members' credits for eligibility or for benefits under chapters 8 to 10 of this title.

History of Section.

(P.L. 1982, ch. 101, § 2.)

§36-9-4 Repealed

§ 36-9-5 Officers and employees exempt – Former court judges and clerks. – (a) The members of the general assembly and the general officers of the state, except to the extent herein provided, the judges of the supreme, superior, family, district courts, the traffic tribunal, judges of the workers' compensation court except to the extent herein provided, school teachers as defined by § 16-16-1 except to the extent provided by chapter 17 of title 16, and members of the Rhode Island state police shall be exempt from the provisions of chapters 8 -- 10 of this title; provided, however, that any justice or associate justice or judge of the supreme court, superior court, family court, district court, or traffic tribunal, chairperson of the workers' compensation court, or judge of the workers' compensation court who was a member of the retirement system prior to becoming a justice or associate justice or judge, shall, upon his or her filing with the retirement board a written waiver of all benefits under the provisions of §§ 8-3-7 -- 8-3-11 or 28-30-15 -- 28-30-18 be permitted to elect to remain a member of the retirement system by paying into the retirement system such sums as provided in § 36-10-1 computed on his or her salary as a justice, associate justice, or judge and shall be eligible for all benefits under this title.

(b) Any justice, associate justice, or judge who shall have retired in accordance with the provisions of this section and who shall be recalled to service shall be recalled in accordance with the provisions of § 8-3-7(c), § 28-30-15(b), or § 28-30-16, or § 28-30-16.1.

History of Section.

P.L. 1936, ch. 2334, § 14; P.L. 1941, ch. 1048, § 1; P.L. 1947, ch. 1971, § 10; P.L. 1948, ch. 2102, § 1; P.L. 1973, ch. 192, § 1; P.L. 1979, ch. 256, § 1; P.L. 1985, ch. 458, § 3; P.L. 1988, ch. 616, § 1; P.L. 2007, ch. 334, § 3, eff. July 6, 2007; P.L. 2007, ch. 402, § 3, eff. July 6, 2007; P.L. 2011, ch. 408, § 6, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 6, eff. Nov. 18, 2011.

§ 36-9-6 Election by elected officers or legislative employees to become members. –

Notwithstanding the fact that their business time may not be devoted exclusively to the services of the state, any member of the general assembly or any of the general officers of the state, may elect to participate in the benefits provided by chapters 8 – 10 of this title by filing an application with the board on or before December 31, 1948, or within six (6) months from the date upon which that person first qualifies for that office, whichever is later.

Notwithstanding any other provision of chapters 8 – 10 of this title, upon becoming a member of the system that person shall be entitled to prior service credit covering service rendered prior to the date of becoming a member of the system for service rendered to the state as a state employee, a member of the general assembly, or as a general officer.

History of Section.

(G.L. 1938, ch. 18, § 7; P.L. 1947, ch. 1971, § 5; P.L. 1948, ch. 2050, § 1; G.L. 1956, § 36-9-6; P.L. 1994, ch. 142, § 2.)

§ 36-9-7 – 36-9-10. Repealed

§ 36-9-11 Retroactive membership of elected legislator. – Any duly elected member of the general assembly who has previously rendered service as a member of the general assembly and who for any reason did not become a member of the state retirement system at the beginning of his or her service to the state as a member of the general assembly or who has otherwise failed to apply for credit for that legislative service may elect to have his or her period of membership made retroactive to the date when he or she was sworn in as a member of the general assembly irrespective of his or her age on that date; provided, that the elected member of the general assembly makes application to the board, and pays into the retirement system, in such manner as the board should by regulation provide, the contributions he or she would have paid into the system had he or she become a member immediately on the date of his or her being sworn in as a member of the general assembly, plus regular interest to date of payment.

History of Section.

(G.L. 1938, ch. 18, § 7; P.L. 1951, ch. 2856, § 1; P.L. 1952, ch. 2903, § 1; G.L. 1956, § 36-9-11; P.L. 1960, ch. 42, § 1; P.L. 1963, ch. 29, § 1; P.L. 1965, ch. 56, § 1; P.L. 1968, ch. 279, § 1; P.L. 1981, ch. 133, § 1.)

§ 36-9-12 – 36-9-19. Repealed

§ 36-9-20 Credit for service as a teacher, municipal employee, or legislator. –

(a) Any state employee who shall have rendered service as a teacher as defined under the provisions of chapters 16 and 17 of title 16 shall be entitled to credit for that service for the various purposes of this system, provided the member shall have been a contributing member of this system for that period. Any state employee who shall have been a contributing member of the municipal system as defined under the provisions of chapter 21 of title 45 shall be given credit for that service for the various purposes of this system, provided the member's contributions are transferred to this system. All contributions made by the member shall be transferred into this system for the periods of service and the retirement system shall calculate the full actuarial value of the accrued benefit with the former employer. If the full actuarial value of the accrued benefit with the former employer is greater than the total employee contributions transferred, the retirement system shall also transfer the difference between the full actuarial value of the accrued benefit with the former employer and the employee's contributions from the account of the former employer to the account of the current employer. In any case in which a member shall have received a refund or refunds of contributions made to the system, the allowance of the aforesaid credit for service shall be conditioned upon the payment of the full actuarial cost as defined in subsection 36-8-1(10). Any service as defined herein for which no contributions were made may be granted provided the member pays to the retirement system the full actuarial cost as defined in § 36-8-1(10). Any state employee or teacher as defined under the provisions of chapters 16 and 17 of title 16 who shall have been employed by a municipality which did not elect to accept chapter 21 of title 45 as provided in § 45-21-4 shall be given credit for that service for the various purposes of this system, provided that the employee shall have met the definitional requirements of "employee" as stated in § 45-21-2(5) and provided the member pays to the retirement system an amount equal to the full actuarial value of the credit as certified by the retirement board; provided, however, that any state employee who shall have been

employed by a municipality which did not elect to accept chapter 21 of title 45 as provided in § 45-21-4 shall be given credit for that service for the various purposes of this system, to a maximum period of four (4) years, provided the member pays to the retirement system the full actuarial cost as defined in subsection 36-8-1(10). Nothing in this section shall be deemed to allow the purchase of four (4) years of service for credit in more than one retirement system.

(b) The retirement board shall fix and determine rules and regulations to govern the provisions of this section.

History of Section.

P.L. 1951, ch. 2830, § 3; P.L. 1970, ch. 112, art. 9, § 1; P.L. 1974, ch. 260, § 2; P.L. 1975, ch. 217, § 1; P.L. 1977, ch. 207, § 1; P.L. 1983, ch. 211, § 4; P.L. 1984, ch. 304, § 1; P.L. 1984, ch. 431, § 1; P.L. 1986, ch. 469, § 1; P.L. 1986, ch. 471, § 1; P.L. 1994, ch. 142, § 4; P.L. 1996, ch. 435, § 1; P.L. 1998, ch. 70, § 2; P.L. 1998, ch. 291, § 2; P.L. 2009, ch. 68, art. 7, § 2, eff. July 1, 2009; P.L. 2011, ch. 408, § 6, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 6, eff. Nov. 18, 2011.

§ 36-9-20.1 – 36-9-20.4. Repealed

§ 36-9-20.5 Purchase of service credit – Inactive status. – Notwithstanding any general or public law to the contrary, any state employee or teacher participating in the employees' retirement system who is on workers' compensation may purchase up to four (4) years of service credit for time currently permitted to be purchased under law without the necessity of returning to active status as an employee. The member shall pay to the system the full actuarial cost as defined in subsection 36-8-1(9), except as provided in § 36-9-31 for military service credit.

History of Section.

(P.L. 1988, ch. 409, § 1; P.L. 1989, ch. 352, § 1; P.L. 1994, ch. 139, § 4; P.L. 2009, ch. 68, art. 7, § 2.)

§ 36-9-21 Service information submitted by department heads. –It shall be the duty of the head of each department and agency to furnish at the times and in the manner that the retirement board and/or the retirement system may direct, information concerning the name, title, compensation, duties, date of birth, and length of service of each member employed, and any other information which the retirement board or retirement system considers necessary for the proper execution of this chapter, and to give prompt notice of all appointments, removals, deaths, resignations, leaves of absence and changes in pay of members.

History of Section.

P.L. 1936, ch. 2334, § 7; P.L. 1947, ch. 1971, § 5; P.L. 2011, ch. 408, § 6, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 6, eff. Nov. 18, 2011.

§ 36-9-22 Cessation of membership. – If any member becomes a beneficiary, dies, or receives a refund of contributions, he or she shall thereupon cease to be a member, subject, however, to the provisions of § 36-10-8 in regard to reinstatement of membership in the case of a member who has received a refund and who has subsequently reentered the service of the state.

History of Section.

(P.L. 1936, ch. 2334, § 7; G.L. 1938, ch. 18, § 7; P.L. 1947, ch. 1971, § 5; G.L. 1956, § 36-9-22.)

§ 36-9-23 Inactive membership. – If a member leaves the service of the state but does not receive a refund of his or her contributions, his or her membership in the system shall continue but his or her status shall be that of an inactive member. In no event shall an inactive member be entitled to an annuity, benefit, or retirement allowance under chapters 8 – 10 of this title other than a refund of his or her contributions as provided in § 36-10-8 or except as provided in § 36-10-11 unless he or she shall reenter the service and be in the service of the state at the time he or she claims to be entitled to any annuity, benefit, or retirement allowance.

History of Section.

(G.L. 1938, ch. 18, § 7; P.L. 1947, ch. 1971, § 5; G.L. 1956, § 36-9-23.)

§ 36-9-24 Part-time school lunch employees. – (a) Whenever any state school lunch employee, who is a member of the system as a full-time employee is involuntarily transferred to a position of less than twenty (20) hours per week, the employee shall remain a contributing member of the retirement system and receive full credit for that part-time service, provided the service shall be at least fifteen (15) hours per week.

(b) Whenever a school lunch employee previously ineligible for membership in the system because of employment less than twenty (20) hours per week, subsequently becomes eligible for membership but who has since attained the age of sixty (60) years, the employee shall have the option to join the system at the time of the subsequent eligible employment status.

History of Section.

(P.L. 1983, ch. 211, § 3; P.L. 1987, ch. 547, § 1.)

§ 36-9-25 Standard for year's service credits. – (a) The retirement board shall fix and determine, by appropriate rules and regulations, how much service in any year is equivalent to a year of service, but in computing that service or in computing the compensation it shall credit no period of more than a month's duration during which a member was absent without pay nor shall more than one year of service be credited on account of all service in one calendar year.

(b) Notwithstanding any other section of law, no member of the retirement system shall be permitted to purchase service credit for any portion of a year for which he or she is already receiving service credit in this retirement system.

History of Section.

(P.L. 1936, ch. 2334, § 8; G.L. 1938, ch. 18, § 8; G.L. 1956, § 36-9-25; P.L. 1959, ch. 105, § 1; P.L. 1969, ch. 29, § 1; P.L. 1980, ch. 174, § 1; P.L. 1997, ch. 169, § 2.)

§ 36-9-25.1 Leave service credits. – (a) Notwithstanding any other provisions of the retirement law or rulings of the retirement board in accordance with the powers vested therein, state employees with at least one year of service who have been granted by their appointing authority a leave of absence without pay to further their education in the field of their state employment, shall be entitled to credit as service for the various purposes of their retirement system, provided the person, upon completion of his or her educational leave, returns to state service for at least one year; and provided further that the employee makes arrangements to pay into the retirement system on or before the date of retirement and in such manner as the retirement board may prescribe an amount equal to the full actuarial cost as defined in subsection 36-8-1(10) based upon his or her expected compensation but for the granting of leave without pay.

(b) Any state employee who is granted a leave of absence without pay for illness, injury, or any other reason may receive credit therefor by making the full actuarial cost as defined in subsection 36-8-1(10); provided the employee returns to state service for at least one year upon completion of the leave. Credit for leaves of absence shall be limited in the aggregate during the total service of an employee to a period of four (4) years.

History of Section.

P.L. 1966, ch. 192, § 1; P.L. 1967, ch. 95, § 1; P.L. 1973, ch. 139, § 1; P.L. 1979, ch. 23, § 1; P.L. 1980, ch. 174, § 1; P.L. 1980, ch. 368, § 1; P.L. 1981, ch. 121, § 1; P.L. 1994, ch. 139, § 5; P.L. 2009, ch. 68, art. 7, § 2, eff. July 1, 2009; P.L. 2011, ch. 408, § 6, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 6, eff. Nov. 18, 2011.

§ 36-9-26 Credits for layoffs. – (a) Members who are laid off for any reason and are not on leave without pay may purchase up to one years' credit for retirement purposes; provided the member did not withdraw his or her retirement contributions while on layoff, and returns to active membership; provided, further, that the member purchases that credit upon his or her return to service from the layoff and pays into the retirement system the full actuarial cost as defined in subsection 36-8-1(10).

(b) The retirement board shall fix and determine rules and regulations to govern the provisions of this section.

History of Section.

P.L. 1983, ch. 313, § 1; P.L. 1988, ch. 520, § 1; P.L. 1989, ch. 474, § 1; P.L. 2009, ch. 68, art. 7, § 2, eff. July 1, 2009; P.L. 2011, ch. 408, § 6, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 6, eff. Nov. 18, 2011.

§ 36-9-27 Repealed

§ 36-9-28 Service creditable on retirement. – At retirement, the total service credited a member shall consist of the service rendered by him or her as an employee during his or her membership, and also, if he or she has a prior service certificate which is in full force and effect, the service as an employee certified on his or her prior service certificate.

History of Section.

(P.L. 1936, ch. 2334, § 8; G.L. 1938, ch. 18, § 8; P.L. 1947, ch. 1971, § 6; G.L. 1956, § 36-9-28.)

§ 36-9-29 - 36-9-30. Repealed

§ 36-9-31 Armed service credit. – (a) Any active member of the retirement system, who served on active duty in the armed service of the United States or in the Merchant Marine service of the United States as defined in P.L. 1946, ch. 1721, § 2 may purchase credit for that service up to a maximum of four (4) years provided that he or she has received an honorable discharge. Provided further that any employee on an official leave of absence for illness or injury shall be eligible to purchase military credits as defined herein while on the leave of absence.

(b) The cost to purchase these credits shall be ten percent (10%) of the member's first year's earnings as a state employee as defined in chapter 9 of this title, multiplied by the number of years and fraction thereof of the armed service or Merchant Marine service up to a maximum of four (4) years.

(c) There will be no interest charge provided the member makes that purchase during his or her first five (5) years of membership in the retirement system, but will be charged regular interest to date of purchase from date of enrollment into membership if purchased after completing five (5) years of membership; provided, however, any member who was in the retirement system prior to July 1, 1980, would not be charged interest whenever he or she purchases the armed services credit.

History of Section.

(P.L. 1980, ch. 173, § 2; P.L. 1981, ch. 344, § 2; P.L. 1984, ch. 21, § 1; P.L. 1984, ch. 242, § 1; P.L. 1984, ch. 425, § 1; P.L. 1985, ch. 183, § 1; P.L. 1986, ch. 463, § 1; P.L. 1988, ch. 510, § 1; P.L. 1992, ch. 306, art. 1, § 4; P.L. 1997, ch. 169, § 2.)

§ 36-9-31.1 Peace corps, teacher corps, and volunteers in service to America.

(a) Any active member who served in the peace corps, teacher corps, or in volunteers in service to America may purchase credit for that service up to a maximum of four (4) years in the aggregate; provided, that any member on an official leave of absence for illness or injury shall be eligible to purchase those credits while on the leave of absence.

(b) The cost to purchase these credits shall be the full actuarial cost as defined in subsection 36-8-1(10) of that service in the peace corps, teacher corps, or VISTA, up to a maximum of four (4) years.

History of Section.

P.L. 1985, ch. 423, § 2; P.L. 1989, ch. 473, § 1; P.L. 1992, ch. 306, art. 1, § 4; P.L. 2009, ch. 68, art. 7, § 2, eff. July 1, 2009; P.L. 2011, ch. 363, § 29, eff. July 13, 2011; P.L. 2011, ch. 408, § 6, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 6, eff. Nov. 18, 2011.

§ 36-9-31.2 – 36-9-35. Repealed

§ 36-9-36 Narragansett Bay water quality management commission – Merger – New employees.

– (a) In the event that the Narragansett Bay water quality management commission, hereinafter referred to as "commission", shall acquire a sewage treatment facility, hereinafter referred to as "facility", of any city, town, or district, or in the event of the merger or consolidation of a facility into or with the commission, then any employee of the facility who subsequently becomes and remains an employee of the commission who is a collectively bargained employee (within the meaning of § 410(b)(3)(A) of the Internal Revenue Code [26 U.S.C. § 410(b)(3)(A)]) may elect to be treated as a transferred employee pursuant to § 36-9-44 and shall be granted service credits for his or her term of service with the facility prior to the transfer, provided:

(1) An actuarial study is made to determine the cost to include each new member of the system; and

(2) The contributions of both the employer and employee made prior to the transfer are paid to the state employees' retirement fund.

(b) If the employee elects not to have his or her funds transferred then that employee shall not receive credit for any prior service.

(c) Each employee shall have six (6) months from the time he or she becomes an employee of the commission to decide whether or not the employee wishes to have their funds transferred and receive credit for their prior service.

History of Section.

(P.L. 1992, ch. 133, art. 108, § 1; P.L. 1999, ch. 225, § 4.)

§ 36-9-37 Purchase of credit while serving a prison sentence – Prohibited.

– Notwithstanding any other provisions of the retirement law or rulings of the retirement board

in accordance with the powers vested to the board, no member of the retirement system shall be allowed to purchase service credits for time while incarcerated in prison, including, but not limited to, work release programs or home confinement programs.

History of Section.

(P.L. 1992, ch. 306, art. 1, § 5.)

§ 36-9-38 Purchase of credits for continuous state service. – Notwithstanding any other provision of the retirement laws of this state, any active member of the employees' retirement system who was 60 years of age or greater when his or her employment commenced, and commenced employment before June 22, 1989, and was ineligible by state law from joining the retirement system shall be allowed to purchase service credits for actual past employment. The number of years for which credits may be purchased shall be limited to the difference between the date upon which they commenced employment at 60 years of age or greater and June 22, 1989, when they were required by law to join the retirement system. Purchase of the past service credits shall be at the rate that contributions would have been calculated at the time of past service, plus interest.

History of Section.

(P.L. 1993, ch. 231, § 1.)

§ 36-9-39 Rhode Island airport corporation – Transferred employees. – (a) *Definitions.*

For the purposes of this section:

(i) "Airport corporation" means the Rhode Island airport corporation, a governmental agency and public instrumentality of the state of Rhode Island.

(ii) "Employee contribution accumulation" means an amount equal to the total member contributions of the transferred employees which were picked up and paid by the airport corporation to the trust maintained by the airport corporation to receive those contributions during the interim period plus actual earnings on the contributions. The employee contribution accumulation attributable to each transferred employee shall be treated as such employee's accumulated contributions for purposes of chapters 9 and 10 of this title.

(iii) "Employer contribution accumulation" means an amount equal to the required contributions applicable to the interim period.

(iv) "Interim period" means the period from the transfer date to the date that the requirement of subsection (c) is satisfied.

(v) "Required contribution" means the amount or amounts required to be contributed to the retirement system by the airport corporation in addition to the member contributions of the transferred employees in order to fund the benefits attributable to the transferred employees earned after the transfer date in accordance with the provisions of this section. The amount of the airport corporation's required contribution for any relevant period following the transfer date shall be an amount determined by multiplying the rate percent established in accordance with § 36-10-2 for the period by the compensation paid by the airport corporation to the transferred employees during the period. The airport corporation shall make its required contribution, other than the required contribution for the interim period, in bi-weekly installments, each to be made within three (3) business days following the pay day. The required contribution applicable to the interim period shall be made in accordance with the provisions of subsection (c) of this chapter.

(vi) "Transfer date" means July 1, 1993.

(vii) "Transferred employee" means any individual who was an employee of the department of transportation of the state of Rhode Island on the date immediately preceding the transfer date, and was an active member of the retirement system on the date immediately preceding the transfer date, and who became an employee of the airport corporation on the transfer date.

(b) Subject to subsections (c), (d) and (e) of this section, the period of service of any transferred employee with the airport corporation after the transfer date shall be treated as service as an employee of the state of Rhode Island for purposes of Chapters 8, 9, and 10 of this title.

(c) The provisions of subsection (b) of this section shall not apply unless within ninety (90) days following the date of enactment of this section, the airport corporation transfers, or causes to have transferred from a trustee or other custodian, to the retirement system, an amount equal to the sum of the employees contribution accumulation and the employer contribution accumulation.

(d) Notwithstanding the foregoing, any individual who is a transferred employee shall not be considered an employee of the state of Rhode Island under subsection (b) for any period of employment in a category of employment making him or her eligible for any other retirement income benefit funded by the airport corporation under a retirement plan sponsored by the airport corporation and intended to qualify under § 401(a)(4), 26 U.S.C. 401(a)(4), of the United States Internal Revenue Code.

(e) Provided the requirement of subsection (c) of this section is satisfied:

(i) Any retirement or death benefit provided to or on behalf of a transferred employee during the interim period by the airport corporation, or a trust established and maintained by the airport corporation, shall be considered provided by the state of Rhode Island retirement system and the amount of benefit paid by the airport corporation, or the trustee, shall reduce the amount required to be transferred to the retirement system under subsection (c) of this section.

(ii) Subsection (b) shall continue to apply after the date of transfer specified in subsection (c) with respect to the period for which the airport corporation thereafter makes its required contribution to the retirement system. In the event that the airport corporation ceases to make its required contribution, the transferred employees shall be considered inactive members of the retirement system as of the date of cessation.

(iii) The member contributions of the transferred employees shall be considered picked up and paid by the airport corporation to the retirement system after the interim period pursuant to the provisions of § 414(h)(2), 26 U.S.C. 414(h)(2), of the United States Internal Revenue Code. The contributions so picked up shall be treated as employer contributions in determining the tax treatment under the United States Internal Revenue Code and shall not be included as gross income of the transferred employee until such time as they are distributed.

History of Section.

(P.L. 1994, ch. 95, § 1.)

§ 36-9-40 Rhode Island airport corporation – Transferred employees – Bumping rights.

– In the event of an adverse employer initiated action by the Rhode Island airport corporation, transferred employees shall be entitled to exercise their bumping rights within the corporation to bump within other bargaining units within Council 94. An adverse employer initiated action is defined as a layoff, job abolishment, privatization, or subcontract of functions within the airport system.

History of Section.

(P.L. 1994, ch. 95, § 1.)

§ 36-9-41 Rhode Island airport corporation – Uninterrupted state service.

– Transferred employees who return to employment with the state of Rhode Island directly from uninterrupted employment with the Rhode Island airport corporation shall have their length of service at the Rhode Island airport corporation deemed to be uninterrupted active state service for purposes of service credits in the state retirement system.

History of Section.

(P.L. 1994, ch. 95, § 1.)

§ 36-9-42 Rhode Island economic development corporation – Transferred employees. –

(a) *Definitions.* For the purposes of this section:

(1) "Economic development corporation" means the Rhode Island economic development corporation, a governmental agency and public instrumentality of the state of Rhode Island.

(2) "Employee contribution accumulation" means an amount equal to the total member contributions of the transferred employees which were picked up and paid by the economic development corporation to the trust maintained by the economic development corporation to receive the contributions during the interim period plus actual earnings on those contributions. The employee contribution accumulation attributable to each transferred employee shall be treated as the employee's accumulated contributions for purposes of chapter 9 and 10 of this title.

(3) "Employer contribution accumulation" means an amount equal to the required contributions applicable to the interim period.

(4) "Interim period" means the period from the transfer date to the date that the requirement of subsection (c) is satisfied.

(5) "Required contribution" means the amount or amounts required to be contributed to the retirement system by the economic development corporation in addition to the member contributions of the transferred employees in order to fund the benefits attributable to the transferred employees earned after the transfer date in accordance with the provisions of this section. The amount of the economic development corporation's required contribution for any relevant period following the transfer date shall be an amount determined by multiplying the rate percent established in accordance with § 36-10-2 for the period by the compensation paid by the economic development corporation to the transferred employees during such period. The economic development corporation shall make its required contribution, other than the required contribution for the interim period, in bi-weekly installments, each to be made within three (3) business days following the pay day. The required contribution applicable to the interim period shall be made in accordance with the provisions of subsection (c) of this section.

(6) "Transfer date" means the effective date of this article.

(7) "Transferred employee" means any individual who was an employee of the department of economic development of the state of Rhode Island on the date immediately preceding the transfer date and was an active member of the retirement system on the date immediately preceding the transfer date and who became an employee of the economic development corporation on the transfer date.

(b) Subject to subsections (c), (d), and (e) of this section, the period of service of any transferred employee with the economic development corporation after the transfer date shall be treated as service as an employee of the state of Rhode Island for purposes of Chapters 8, 9, and 10 of this title.

(c) The provisions of subsection (b) of this section shall not apply unless within ninety (90) days following the date of enactment of this section, the economic development corporation transfers or causes to have transferred from a trustee or other custodian to the retirement system, an amount equal to the sum of the employee contribution accumulation and the employer contribution accumulation.

(d) Notwithstanding the foregoing, any individual who is a transferred employee shall not be considered an employee of the state of Rhode Island under subsection (b) for any period of employment during which he or she elects to participate in any other retirement income benefit funded by the economic development corporation under a retirement plan sponsored by the

economic development corporation and intended to qualify under § 401(a)(4), 26 U.S.C. 401(a)(4), of the United States Internal Revenue Code.

(e) Provided the requirement of subsection (c) of this section is satisfied:

(1) Any retirement or death benefit provided to or on behalf of a transferred employee during the interim period by the economic development corporation, or a trust established and maintained by the economic corporation shall be considered provided by the retirement system and the amount of benefit paid by the economic development corporation or the trustee shall reduce the amount required to be transferred to the retirement system under subsection (c) of this section.

(2) Subsection (b) shall continue to apply after the date of transfer specified in subsection (c) with respect to the period for which the economic development corporation thereafter makes its required contribution to the retirement system. In the event that the economic development corporation ceases to make its required contribution, the transferred employees shall be considered inactive members of the retirement system as of the date of cessation.

(3) The member contributions of the transferred employees shall be considered picked up and paid by the economic development corporation to the retirement system after the interim period pursuant to the provisions of § 414(h)(2), 26 U.S.C. 414(H)(2), of the United States Internal Revenue Code. The contributions so picked up shall be treated as employer contributions in determining the tax treatment under the United States Internal Revenue Code and shall not be included as gross income of the transferred employee until such time as they are distributed.

(4) All transferred employees who are contributing members of the employees retirement system shall continue as members unless they elect to cease contributions as of October 31, 1995. Any transferred employee who has contributed for at least ten (10) years may elect to participate in an alternative retirement program and still maintain vested rights to a pension within the employees retirement system. All transferred employees shall have ninety (90) days to make their election to participate in an alternative retirement program.

History of Section.

(P.L. 1995, ch. 370, art. 12, § 25.)

§ 36-9-43 Rhode Island economic development corporation – Uninterrupted state

service. – Transferred employees, as defined in § 36-9-42, who return to employment with the state of Rhode Island directly from uninterrupted employment with the Rhode Island economic development corporation shall have their length of service at the Rhode Island economic development corporation deemed to be uninterrupted active state service for purposes of service credits in the retirement system.

History of Section.

(P.L. 1995, ch. 370, art. 12, § 25.)

§ 36-9-44 Narragansett Bay Water Quality Management District Commission –

Transferred employees. – (a) Definitions. – For the purposes of this section:

(1) "Commission" means the Narragansett Bay Water Quality Management District Commission, a public corporation of the state of Rhode Island.

(2) "Employee contribution accumulation" means an amount equal to the total member contributions of the transferred employees which were picked up and paid by the commission to the trust maintained by the commission to receive such contributions during the interim period plus actual earnings on such contributions. The employee contribution accumulation attributable to each transferred employee shall be treated as such employee's accumulated contributions for purposes of chapters 9 and 20 of this title.

(3) "Employer contribution accumulation" means an amount equal to the required contributions applicable to the interim period.

(4) "Interim period" means the period from the transfer date to the date that the requirement of subsection (c) is satisfied.

(5) "Required contribution" means the amount or amounts required to be contributed to the retirement system by the commission in addition to the member contributions of the transferred employees in order to fund the benefits attributable to the transferred employees earned after the transfer date in accordance with the provisions of this section. The amount of the required contribution for any relevant period following the transfer date shall be an amount determined by multiplying the rate percent established in accordance with § 36-10-2 for the period by the compensation paid by the commission to the transferred employees during such period. The commission shall make its required contribution, other than the required contribution for the interim period, in bi-weekly installments, each to be made within three (3) business days following the pay day. The required contribution applicable to the interim period shall be made in accordance with the provisions of section (c) of this chapter.

(6) "Transfer date" means the effective date of this section.

(7) "Transferred employee" means any individual who was an employee of the commission on the date immediately preceding the transfer date, was an active member of the retirement system on the date immediately preceding the transfer date and who, from and after the transfer date, is an employee of the commission who is continuously a collectively bargained employee (within the meaning of the regulations issued under § 410(b)(3)(a) of the Internal Revenue Code [26 U.S.C. § 410(b)(3)(a)]).

(b) Subject to subsections (c), (d) and (e) of this section, the period of service of any transferred employee with the commission after the transfer date shall be treated as service as an employee of the state of Rhode Island for purposes of chapters 8, 9 and 10 of this title.

(c) The provisions of subsection (b) of this section shall not apply unless within ninety (90) days following the date of enactment of this section, the commission transfers, or causes to have transferred from a trustee or other custodian, to the retirement system, an amount equal to the sum of the employee contribution accumulation and the employer contribution accumulation.

(d) Notwithstanding the foregoing, any individual who is a transferred employee shall not be treated as an employee of the state of Rhode Island under subsection (b) for any period of employment during which he or she elects to participate in any other retirement income benefit funded by the commission under a retirement plan sponsored by the commission and intended to qualify under § 401(a) or § 408(k) [26 U.S.C. § 401(a) or § 408(k)] of the United States Internal Revenue Code.

(e) Provided the requirement of subsection (c) of this section is satisfied:

(1) Any retirement or death benefit provided to or on behalf of a transferred employee during the interim period by the commission, or a trust established and maintained by the commission shall be considered provided by the retirement system and the amount of benefit paid by the commission or the trustee, shall reduce the amount required to be transferred to the retirement system under subsection (c) of this section.

(2) Subsection (b) shall continue to apply after the date of transfer specified in subsection (c) with respect to the period for which the commission thereafter makes its required contribution to the retirement system. In the event that the commission ceases to make its required contribution, the transferred employees shall be considered inactive members of the retirement system as of the date of such cessation.

(3) The member contributions of the transferred employees shall be considered picked up and paid by the commission to the retirement system after the interim period pursuant to the provisions of § 414(h)(2) [26 U.S.C. § 414(h)(2)] of the United States Internal Revenue Code. The contributions so picked up shall be treated as employer contributions in determining the

tax treatment under the United States Internal Revenue Code, and shall not be included as gross income of the transferred employee until such time as they are distributed.

(4) All employees (whether or not employed on the transfer date) who are members of a collective bargaining unit that, on the transfer date, had members who were contributing members of the employees' retirement system shall be contributing members of the employees' retirement system if so provided by a collective bargaining agreement.

History of Section.

(P.L. 1999, ch. 225, § 5.)

§ 36-9-45 Narragansett Bay Water Quality Management District Commission – Uninterrupted state service. – Transferred employees, as defined in § 36-9-44, who return to employment with the state of Rhode Island directly from uninterrupted employment with the commission shall have their length of service at the commission deemed to be uninterrupted active state service for purposes of service credits in the retirement system, and for the benefits provided for in §§ 36-4-59, 36-5-7 and 36-5-8.

History of Section.

(P.L. 1999, ch. 225, § 5.)

§ 36-9-46 Transfer of state employees to Narragansett Bay water quality management district commission – Union employees. – The transfer of state employees to commission employees shall not alter existing bargaining units, any provision of the general laws to the contrary notwithstanding.

History of Section.

(P.L. 1999, ch. 225, § 5.)

§ 36-9-47 Purchase of service credits payable by installment. – Notwithstanding any other provisions of this chapter or of any other public or general law to the contrary, the retirement board shall permit individuals who purchase service credit to do so in installments. The retirement board shall create, by rule and regulation, provisions allowing that individuals purchasing service credit may do so on an installment plan by payroll deduction not to exceed five (5) years, provided that all purchases must be made prior to retirement. The retirement board shall charge interest at the actuarial assumed rate of return adopted by the board for purchases made on an installment plan.

History of Section.

(P.L. 2001, ch. 193, § 2; P.L. 2001, ch. 269, § 2.)

§ 36-9-48 Underground storage tank financial review board – Transferred employees. –

(a) *Definitions.* For the purposes of this section:

(i) "UST Board" means the Rhode Island Underground Storage Tank Financial Review Board, a governmental agency and a public instrumentality of the state of Rhode Island.

(ii) "Transfer date" means July 1, 2006.

(iii) "Transferred employee" means any individual who was an employee of the UST Board of the state of Rhode Island on the date immediately preceding the transfer date, and who became an employee of the state of Rhode Island, department of environmental management on the transfer date.

(b) Transferred employees who return to employment with the state of Rhode Island directly from uninterrupted employment with the Rhode Island Underground Storage Tank Financial Responsibility Review Board shall have their length of service at the UST Board deemed to be uninterrupted active state service for the purposes of service credits in the state retirement system.

(c) The period of service of any transferred employee from December 29, 2002, to the date of transfer shall be treated as service as an employee of the state of Rhode Island for the purposes of chapters 8, 9 and 10 of this title.

(d) The provisions of subsection (b) of this section shall not apply unless within ninety (90) days following the date of enactment of this section [July 1, 2006], the UST Board transfers, or causes to have transferred from a trustee or other custodian, to the retirement system, an amount equal to the sum of the employees contribution accumulation and the employer contribution accumulation. The amount of transfer shall be determined by the retirement board at full actuarial cost as defined by Rhode Island general law § 36-8.1-9 for the period of service December 29, 2002, to the transfer date. This will be reduced by the transfer to the retirement board of any and all contributions made to the UST Board's Simple IRA by and on behalf of the transferred employees.

(e) Transferred employees who return to service with the state of Rhode Island directly from uninterrupted employment with the Rhode Island Underground Storage Tank Financial Review Board, henceforth referred to as "UST Board" shall have their length of service at the UST Board deemed to be uninterrupted active state service for purposes of service credits in the state retirement system.

History of Section.

(P.L. 2006, ch. 246, art. 27, § 4.)

CHAPTER 36-10

Retirement System—Contributions and Benefit

§ 36-10-1 Member contributions – Deduction from compensation. – (a) Prior to July 1, 2012, each member of the retirement system shall contribute an amount equal to eight and three-quarters percent (8.75%) of his or her compensation as his or her share of the cost of annuities, benefits, and allowances. Effective July 1, 2012, each member of the retirement system shall contribute an amount equal to three and three quarters percent (3.75%) of his or her compensation, except for correctional officers as defined in § 36-10-9.2 who shall contribute an amount equal to eight and three quarters percent (8.75%) of his or her compensation. Effective July 1, 2015, each member of the retirement system, except for correctional officers as defined in § 36-10-9.2, with twenty (20) or more years of total service as of June 30, 2012 shall contribute an amount equal to eleven percent (11%) of compensation. The contributions shall be made in the form of deductions from compensation.

(b) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and receipt of his or her full compensation and payment of compensation, less the deductions, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the person during the period covered by the payment except as to the benefit provided under this chapter.

History of Section.

(P.L. 1936, ch. 2334, § 5; G.L. 1938, ch. 18, § 5; P.L. 1947, ch. 1971, § 3; impl. am. P.L. 1950, ch. 2614, § 1; G.L. 1956, § 36-10-1; P.L. 1960, ch. 20, § 1; P.L. 1964, ch. 240, § 1; P.L. 1965, ch. 231, § 1; P.L. 1968, ch. 152, § 1; P.L. 1970, ch. 112, art. 3, § 1; P.L. 1976, ch. 289, § 3; P.L. 1978, ch. 168, § 1; P.L. 1979, ch. 332, § 2; P.L. 1985, ch. 331, § 2; P.L. 1988, ch. 509, § 1; P.L. 1989, ch. 227, § 1; P.L. 1990, ch. 360, § 1; P.L. 1995, ch. 370, art. 15, § 2; P.L. 2011, ch. 408, § 7; P.L. 2011, ch. 409, § 7; P.L. 2015, ch. 141, art. 21, § 2.)

§ 36-10-1.1 Department payment of member contributions. – (a) Each department, pursuant to the provisions of § 414(h)(2) of the United States Internal Revenue Code, 26 U.S.C. § 414(h)(2), shall pick up and pay the contributions which would be payable by the employees as members under §§ 36-10-1, 8-3-16, 8-8-10.1, 8-8.2-7, 28-30-18.1, and 42-28-22.1. The contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code; and shall not be included as gross income of the employee until such time as they are distributed. Employee contributions which are picked up pursuant to this section shall be treated and identified as member contributions for all purposes of the retirement system except as specifically provided to the contrary in this section.

(b) Member contributions picked up by a department shall be paid from the same source of funds used for the payment of compensation to a member. A deduction shall be made from a member's compensation equal to the amount of his or her contributions picked up by his or her departmental employer. This deduction, however, shall not reduce his or her compensation for purposes of computing benefits under the applicable retirement system. Picked up contributions shall be transmitted to the retirement system in accordance with the provisions of § 36-10-1.

History of Section.

(P.L. 1983, ch. 137, § 1; P.L. 1989, ch. 494, § 12.)

§ 36-10-2 State contributions. – (a)The State of Rhode Island shall make its contribution for the maintenance of the system, including the proper and timely payment of benefits in accordance with the provisions of this chapter and chapters 8, 16, 28, 31 and 42 of this title, by annually appropriating an amount equal to a percentage of the total compensation paid to the active membership. The percentage shall be computed by the actuary employed by the retirement system and shall be certified by the retirement board to the director of administration on or before the fifteenth day of October in each year. In arriving at the yearly employer contribution the actuary shall determine the value of:

- (1) The contributions made by the members;
- (2) Income on investments; and
- (3) Other income of the system.

(b) The Actuary shall thereupon compute the yearly employer contribution that will:

- (1) Pay the actuarial estimate of the normal cost for the next succeeding fiscal year;
- (2) Amortize the unfunded liability of the system in accordance with §36-10-2.1(b).

(c) The State of Rhode Island shall remit to the general treasurer the employer's share of the contribution for state employees, state police, and judges on a payroll frequency basis, and for teachers in a manner pursuant to § 16-16-22.

(d)(1) In accordance with the intent of § 36-8-20 that the retirement system satisfy the requirements of § 401(a) of the Internal Revenue Code of 1986, the state shall pay to the retirement system:

- (i) By June 30, 1995, an amount equal to the sum of the benefits paid to state legislators pursuant to § 36-10-10.1 in excess of ten thousand dollars (\$10,000) per member (plus accrued interest on such amount at eight percent (8%)) for all fiscal years beginning July 1, 1991, and ending June 30, 1995, but this amount shall be paid only if § 36-10-10.1(e) becomes effective January 1, 1995; and
- (ii) By December 31, 1994, twenty million seven hundred eighty eight thousand eight hundred twelve dollars and nineteen cents (\$20,788,812.19) plus accrued interest on that amount at eight percent (8%) compounded monthly beginning March 1, 1991, and ending on the date this payment is completed (reduced by amortized amounts already repaid to the retirement system with respect to the amounts withdrawn by the state during the fiscal year July 1, 1990 -- June 30, 1991); and
- (iii) By June 30, 1995, the sum of the amounts paid by the retirement system for retiree health benefits described in § 36-12-4 for all fiscal years beginning July 1, 1989, and ending June 30, 1994, to the extent that the amounts were not paid from the restricted fund described in subsection (c).

(2) Any and all amounts paid to the retirement system under this subsection shall not increase the amount otherwise payable to the system by the State of Rhode Island under subsection (a) for the applicable fiscal year. The actuary shall make such adjustments in

the amortization bases and other accounts of the retirement system as he or she deems appropriate to carry out the provisions and intent of this subsection.

(e) In addition to the contributions provided for in subsection (a) through (c) and in order to provide supplemental employer contributions to the retirement system, commencing in fiscal year 2006, and each year thereafter:

(1) Except for fiscal year 2009, fiscal year 2010 and fiscal year 2011, for each fiscal year in which the actuarially determined state contribution rate for state employees, including state contributions under chapter 36-10.3, is lower than that for the prior fiscal year, the governor shall include an appropriation to that system equivalent to twenty percent (20%) of the rate reduction for the state's contribution rate for state employees to be applied to the actuarial accrued liability of the state employees' retirement system for state employees for each fiscal year.

(2) Except for fiscal year 2009, fiscal year 2010 and fiscal year 2011, for each fiscal year in which the actuarially determined state contribution rate for teachers, including state contributions under chapter 36-10.3, is lower than that for the prior fiscal year, the governor shall include an appropriation to that system equivalent to twenty percent (20%) of the rate reduction for the state's share of the contribution rate for teachers to be applied to the actuarial accrued liability of the state employees' retirement system for teachers for each fiscal year.

(3) The amounts to be appropriated shall be included in the annual appropriation bill and shall be paid by the general treasurer into the retirement system.

(4) Assessments pursuant to § 42-149-3.1 shall be included in the annual appropriation bill and shall be paid by the general treasurer into the retirement system beginning FY2013.

(f) While the retirement system's actuary shall not adjust the computation of the annual required contribution for the year in which supplemental contributions are received, such contributions once made may be treated as reducing the actuarial liability remaining for amortization in the next following actuarial valuation to be performed.

History of Section.

P.L. 1936, ch. 2334, § 5; P.L. 1947, ch. 1971, § 3; P.L. 1951, ch. 2830, § 2; P.L. 1966, ch. 232, § 1; P.L. 1967, ch. 127, § 1; P.L. 1976, ch. 289, § 3; P.L. 1978, ch. 154, § 1; P.L. 1979, ch. 174, art. 6, § 1; P.L. 1980, ch. 175, § 2; P.L. 1981, ch. 191, § 1; P.L. 1982, ch. 201, § 1; P.L. 1989, ch. 126, art. 28, § 1; P.L. 1990, ch. 360, § 1; P.L. 1994, ch. 70, art. 16, § 2; P.L. 1994, ch. 87, § 4; P.L. 2001, ch. 77, art. 18, § 1; P.L. 2005, ch. 117, art. 7, § 2; P.L. 2008, ch. 9, art. 4, § 1, eff. May 1, 2008; P.L. 2009, ch. 5, art. 10, § 2, eff. April 10, 2009; P.L. 2009, ch. 68, art. 7, § 8, eff. July 1, 2009; P.L. 2010, ch. 9, § 1, eff. May 1, 2010; P.L. 2010, ch. 10, § 1, eff. May 1, 2010; P.L. 2010, ch. 23, art. 16, § 1, eff. June 12, 2010; P.L. 2011, ch. 408, § 7, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 7, eff. Nov. 18, 2011.

§ 36-10-2.1 Actuarial cost method. – (a) To determine the employer contribution rate for the State of Rhode Island for fiscal year 2002 and for all fiscal years subsequent, the actuary shall compute the costs under chapter 10 of title 36 using the entry age normal cost method.

(b) The determination of the employer contribution rate for fiscal year 2013 shall include a reamortization of the current Unfunded Actuarial Accrued Liability (UAAL) over a closed twenty-five (25) year period. After an initial period of five (5) years, future

actuarial gains and losses occurring within a plan year will be amortized over individual new twenty (20) year closed periods.

(c) The determination of the employer contribution rate commencing with fiscal year 2017 shall include a re-amortization of the current unfunded actuarial accrued liability (UAAL) attributable to the sixty percent (60%) of contribution responsibility not partitioned to the state in § 16-16-22 over a closed twenty-five (25) year period. This will be accomplished by dividing the UAAL as of June 30, 2014 into two (2) separate amortization periods. Future actuarial gains and losses occurring within a plan year will be amortized over individual new twenty (20) year closed periods and allocated in the forty percent (40%) state / sixty percent (60%) municipal proportion set forth in § 16-16-22.

History of Section.

(P.L. 1982, ch. 201, § 2; P.L. 1989, ch. 126, art. 28, § 1; P.L. 2001, ch. 77, art. 18, § 1; P.L. 2011, ch. 408, § 7; P.L. 2011, ch. 409, § 7; P.L. 2015, ch. 141, art. 21, § 3.)

§ 36-10-3 Credits to individuals in annuity savings account. – All contributions made by members and interest thereon to July 1, 1947, shall be credited to the individual members' accounts in the annuity savings account. Effective July 1, 1947, the amount of accumulated contributions in the accounts of the members of the system which have been credited to the annuity savings fund shall be transferred to the annuity savings account and maintained in that account to the credit of the individual members. Effective July 1, 1965, the accumulated contributions of any inactive member who has been separated from service for five (5) years or more whose total service is less than ten (10) years shall be transferred from the annuity savings account to the contingent reserve for state employees or teacher members as the case may be. These funds will be held in escrow and should any member reenter service and again become a member, his or her previous contributions shall be revived and reinstated to his or her account for all purposes of this system. A member will still be eligible for a refund of these contributions upon application by him or her or his or her heirs at any time. Member contributions made pursuant to § 36-10-1.1 or 16-16-22.1 pursuant to a plan for the employer pick up of employee contributions shall be credited to a separate fund within an individual member's account in the annuity savings account so that the amounts contributed prior to the effective date for the pick up of employee contributions may be distinguished from the amounts contributed on or after the date of which the governmental employer begins to pick up the employee contributions required by law.

History of Section.

(G.L. 1938, ch. 18, § 5; P.L. 1947, ch. 1971, § 3; P.L. 1949, ch. 2377, § 1; G.L. 1956, § 36-10-3; P.L. 1965, ch. 110, § 1; P.L. 1983, ch. 137, § 2.)

§ 36-10-4 Credits and charges to contingent reserve account. – The amounts credited by the system to the annuity reserve fund and pension accumulation fund prior to July 1, 1947, shall be transferred on that date to a contingent reserve account. All appropriations by the state and all other income of the system except member contributions shall be credited to the contingent reserve account. The annuity savings account of any member of the system who shall be granted an annuity, benefit, or retirement allowance under the provisions of this chapter shall be transferred to the contingent reserve account, and all payments on account of any annuity, benefit, or retirement allowance shall be charged thereto. Any excess remaining in the contingent reserve account at the end of any fiscal year after payments for the year shall

have been charged to the account shall be considered as a contingent reserve to meet the future liabilities of the system.

History of Section.

(G.L. 1938, ch. 18, § 5; P.L. 1947, ch. 1971, § 3; G.L. 1956, § 36-10-4.)

§ 36-10-5 Repealed

§ 36-10-6 Agreements for federal contributions. – The retirement board shall have the authority to enter into agreements with the federal government or appropriate agencies thereof respecting grants, contributions, or reimbursements to be made by the federal government as an equitable share in the cost of providing the annuities, benefits, and retirement allowances for those members of the system whose compensation is paid, in whole or in part, by the federal government or for whose compensation the state receives reimbursement, in whole or in part, from the federal government.

History of Section.

(G.L. 1938, ch. 18, § 5; P.L. 1947, ch. 1971, § 3; G.L. 1956, § 36-10-6.)

§ 36-10-7 Guaranty by state – Annual appropriations. – The general assembly of the state of Rhode Island hereby declares that it is the intention of the state to make payment of the annuities, benefits, and retirement allowances provided for under the provisions of this chapter and to that end that it is the intention of the state to make the appropriations required by the state to meet its obligations to the extent provided in this chapter. The general assembly shall make annual appropriations which shall be sufficient to provide for the payment of the annuities, benefits, and retirement allowances required of the state under this chapter. The amounts to be appropriated shall be included in the annual appropriation bill and shall be paid by the general treasurer into the retirement system.

History of Section.

(P.L. 1936, ch. 2334, § 6; G.L. 1938, ch. 18, § 6; P.L. 1947, ch. 1971, § 4; G.L. 1956, § 36-10-7.)

§ 36-10-8 Refund of contributions – Repayment and restoration of credits.- A member who withdraws from service or ceases to be a member for any reason other than death or retirement shall be paid on demand a refund consisting of the accumulated contributions standing to his or her credit in his or her individual account, without interest. Any member receiving a refund shall thereby forfeit and relinquish all accrued rights as a member of the system together with credits for total service previously granted to the member; provided, however, that if any member who has received a refund shall subsequently reenter the service and again become a member of the system, he or she shall have the privilege of restoring all money previously received or disbursed to his or her credit as a refund of contributions, plus regular interest for the period from the date of refund to the date of the restoration. Upon the repayment of such refund including accrued interest as herein provided, the member shall again receive credit for the amount of total service which he or she had previously forfeited by the acceptance of the refund. The restoration of that credit shall be permitted only after the member shall have rendered at least one year of continuous service following his or her latest reentry into service for which he or she shall have made contributions to this system.

History of Section.

P.L. 1936, ch. 2334, § 9; P.L. 1947, ch. 1971, § 9; P.L. 1976, ch. 315, § 1; P.L. 1981, ch. 163, § 2; P.L. 1999, ch. 344, § 1; P.L. 1999, ch. 356, § 1; P.L. 2011, ch. 408, § 7, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 7, eff. Nov. 18, 2011.

§ 36-10-9 Retirement on service allowance – In general. – Retirement of a member on a service retirement allowance shall be made by the retirement board as follows:

(1)(a)(i) Any member may retire upon his or her written application to the retirement board as of the first day of the calendar month in which the application was filed; provided, the member was separated from service prior thereto; and further provided, however, that if separation from service occurs during the month in which application is filed, the effective date shall be the first day following that separation from service; and provided further that the member on his or her retirement date attained the age of sixty (60) and completed at least ten (10) years of contributory service on or before July 1, 2005 or who, regardless of age, has completed twenty-eight (28) years of total service and has completed at least ten (10) years of contributory service on or before July 1, 2005, and who retire before October 1, 2009 or are eligible to retire as of September 30, 2009.

(ii) For members who become eligible to retire on or after October 1, 2009 and prior to July 1, 2012, benefits are available to members who have attained the age of sixty-two (62) and completed at least ten (10) years of contributory service. For members in service as of October 1, 2009 who were not eligible to retire as of September 30, 2009 but become eligible to retire prior to July 1, 2012, the minimum retirement age of sixty-two (62) will be adjusted downward in proportion to the amount of service the member has earned as of September 30, 2009. The proportional formula shall work as follows:

(1) The formula shall determine the first age of retirement eligibility under the laws in effect on September 30, 2009 which shall then be subtracted from the minimum retirement age of sixty-two (62).

(2) The formula shall then take the member's total service credit as of September 30, 2009 as the numerator and the years of service credit determined under (1) as the denominator.

(3) The fraction determined in (2) shall then be multiplied by the age difference determined in (1) to apply a reduction in years from age sixty-two (62).

(b)(i) Any member, who has not completed at least ten (10) years of contributory service on or before July 1, 2005, may retire upon his or her written application to the retirement board as of the first day of the calendar month in which the application was filed; provided, the member was separated from service prior thereto; and further provided, however, that if separation from service occurs during the month in which application is filed, the effective date shall be the first day following that separation from service; provided, the member or his or her retirement date had attained the age of fifty-nine (59) and had completed at least twenty-nine (29) years of total service or provided

that the member on his or her retirement date had attained the age of sixty-five (65) and had completed at least ten (10) years of contributory service; or provided, that the member on his or her retirement date had attained the age of fifty-five (55) and had completed twenty (20) years of total service provided, that the retirement allowance, as determined according to the formula in § 36-10-10 is reduced actuarially for each month that the age of the member is less than sixty-five (65) years, and who retire before October 1, 2009 or are eligible to retire as of September 30, 2009.

(ii) For members who become eligible to retire on or after October 1, 2009 and prior to July 1, 2012, benefits are available to members who have attained the age of sixty-two (62) and completed at least twenty-nine (29) years of total service or have attained the age of sixty-five (65) and completed at least ten (10) years of contributory service. For members in service as of October 1, 2009 who were not eligible to retire as of September 30, 2009 but become eligible to retire prior to July 1, 2012, who have a minimum retirement age of sixty-two (62), the retirement age will be adjusted downward in proportion to the amount of service the member has earned as of September 30, 2009. The proportional formula shall work as follows:

(1) The formula shall determine the first age of retirement eligibility under the laws in effect on September 30, 2009 which shall then be subtracted from the minimum retirement age of sixty-two (62).

(2) The formula shall then take the member's total service credit as of September 30, 2009 as the numerator and the years of service credit determined under (1) as the denominator.

(3) The fraction determined in (2) above shall then be multiplied by the age difference determined in (1) to apply a reduction in years from age sixty-two (62).

(c) Effective July 1, 2012, the following shall apply to all members not eligible to retire prior to July 1, 2012:

(i) A member with contributory service on or after July 1, 2012, shall be eligible to retire upon the completion of at least five (5) years of contributory service and attainment of the member's Social Security retirement age.

(ii) For members with five (5) or more years of contributory service as of June 30, 2012, with contributory service on and after July 1, 2012, who have a retirement age of Social Security Retirement Age, the retirement age will be adjusted downward in proportion to the amount of service the member has earned as of June 30, 2012, but in no event shall a member's retirement age under this subparagraph (ii) be prior to the attainment of age fifty-nine (59) or prior to the member's retirement age determined under the laws in effect on June 30, 2012. The proportional formula shall work as follows:

(1) The formula shall determine the first age of retirement eligibility under the laws in effect on June 30, 2012 which shall then be subtracted from Social Security retirement age;

(2) The formula shall then take the member's total service credit as of June 30, 2012 as the numerator and the projected service at retirement age in effect on June 30, 2012 as the denominator;

(3) The fraction determined in (2) shall then be multiplied by the age difference determined in (1) to apply a reduction in years from Social Security retirement age.

(iii) Effective July 1, 2015, a member who has completed twenty (20) or more years of total service and who has attained an age within five (5) years of the eligible retirement age under subparagraphs (c)(i) or (c)(ii) above or subsection (d) below, may elect to retire provided that the retirement allowance shall be reduced actuarially for each month that the age of the member is less than the eligible retirement age under subparagraphs (c)(i) or (c)(ii) above or subsection (d) below in accordance with the following table:

SEE THE BOOK FOR THE PROPER TABLE.

(iv) Notwithstanding any other provisions of section 36-10-9(c), a member who has completed ten (10) or more years of contributory service as of June 30, 2012, may elect to retire at his or her eligible retirement date as determined under paragraphs (1)(a) and (1)(b) above provided that a member making an election under this paragraph shall receive the member's retirement benefit determined and calculated based on the member's service and average compensation as of June 30, 2012. This provision shall be interpreted and administered in a manner to protect a member's accrued benefit on June 30, 2012.

(d) Notwithstanding any other provisions of subsection (c) above, effective July 1, 2015, members in active service shall be eligible to retire upon the earlier of: (A) The attainment of at least age sixty-five (65) and the completion of at least thirty (30) years of total service, or the attainment of at least age sixty-four (64) and the completion of at least thirty-one (31) years of total service, or the attainment of at least age sixty-three (63) and the completion of at least thirty-two (32) years of total service, or the attainment of at least age sixty-two (62) and the completion of at least thirty-three (33) years of total service; or (B) The member's retirement eligibility date under subsections (c)(i) or (c)(ii) above.

(2) Any faculty employee at a public institution of higher education under the jurisdiction of the board of governors for higher education shall not be involuntarily retired upon attaining the age of seventy (70) years.

(3)(i) Except as specifically provided in § 36-10-9.1, §§ 36-10-12 – 36-10-15, and §§ 45-21-19 – 45-21-22, (I) On or prior to June 30, 2012 no member shall be eligible for pension benefits under this chapter unless the member shall have been a contributing member of the employee's retirement system for at least ten (10) years, or (II) For members in active contributory service on or after July 1, 2012, the member shall have been a contributing member of the retirement system for at least five (5) years.

(ii) Provided, however, a person who has ten (10) years service credit on or before June 16, 1991, shall be vested.

(iii) Furthermore, any past service credits purchased in accordance with § 36-9-38 shall be counted towards vesting.

(iv) Any person who becomes a member of the employees' retirement system pursuant to § 45-21-4 shall be considered a contributing member for the purpose of chapter 21 of title 45 and this chapter.

(v) Notwithstanding any other provision of law, no more than five (5) years of service credit may be purchased by a member of the system. The five (5) year limit shall not apply to any purchases made prior to January 1, 1995. A member who has purchased more than five (5) years of service credits before January 1, 1995, shall be permitted to apply those purchases towards the member's service retirement. However, no further purchase will be permitted. Repayment in accordance with applicable law and regulation of any contribution previously withdrawn from the system shall not be deemed a purchase of service credit.

(vi) Notwithstanding any other provision of law, effective July 1, 2012, except for purchases under §§ 16-16-7.1, 36-5-3, 36-9-31, 36-10-10.4, and 45-21-53, (A) For service purchases for time periods prior to a member's initial date of hire, the purchase must be made within three (3) years of the member's initial date of hire, (B) For service purchases for time periods for official periods of leave as authorized by law, the purchase must be made within three (3) years of the time the official leave was concluded by the member. Notwithstanding the preceding sentence, service purchases from time periods prior to June 30, 2012 may be made on or prior to June 30, 2015.

(4) No member of the employees' retirement system shall be permitted to purchase service credits for casual, seasonal, or temporary employment, or emergency appointment, for employment as a page in the general assembly, or for employment at any state college or university while the employee is a student or graduate assistant of the college or university.

(5) Except as specifically provided in §§ 16-16-6.2 and 16-16-6.4, a member shall not receive service credit in this retirement system for any year or portion of it, which counts as service credit in any other retirement system in which the member is vested or from which the member is receiving a pension and/or any annual payment for life. This subsection shall not apply to any payments received pursuant to the federal Social Security Act or to payments from a military pension earned prior to participation in state or municipal employment, or to military service credits earned prior to participation in state or municipal employment.

(6) A member who seeks to purchase or receive service credit in this retirement system shall have the affirmative duty to disclose to the retirement board whether or not he or she is a vested member in any other retirement system and/or is receiving a pension, retirement allowance, or any annual payment for life. The retirement board shall have the right to investigate as to whether or not the member has utilized the same time of service for credit in any other retirement system. The member has an affirmative duty to cooperate with the retirement board including, by way of illustration and not by way of limitations the duty to furnish or have furnished to the retirement board any relevant information which is protected by any privacy act.

(7) A member who fails to cooperate with the retirement board shall not have the time of service counted toward total service credit until such time as the member cooperates with the retirement board and until such time as the retirement board determines the validity of the service credit.

(8) A member who knowingly makes a false statement to the retirement board regarding service time or credit shall not be entitled to a retirement allowance and is entitled only to the return of his or her contributions without interest.

History of Section.

(P.L. 1936, ch. 2334, § 9; G.L. 1938, ch. 18, § 9; P.L. 1942, ch. 1256, § 1; P.L. 1947, ch. 1971, § 7; P.L. 1951, ch. 2830, § 4; P.L. 1953, ch. 3201, § 2; G.L. 1956, § 36-10-9; P.L. 1960, ch. 20, § 2; P.L. 1962, ch. 143, § 2; P.L. 1966, ch. 286, § 1; P.L. 1969, ch. 101, § 1; P.L. 1970, ch. 112, art. 2, § 1; P.L. 1970, ch. 112, art. 4, § 1; P.L. 1971, ch. 56, § 1; 1971, ch. 239, § 1; P.L. 1972, ch. 48, § 1; P.L. 1972, ch. 93, § 1; P.L. 1972, ch. 103, § 1; P.L. 1972, ch. 175, § 1; P.L. 1973, ch. 42, § 1; 1973, ch. 145, § 1; P.L. 1974, ch. 260, § 1; P.L. 1974, ch. 291, § 1; P.L. 1977, ch. 188, § 1; P.L. 1978, ch. 399, § 1; P.L. 1979, ch. 328, § 1; P.L. 1982, ch. 292, § 1; P.L. 1983, ch. 45, § 1; P.L. 1983, ch. 211, §§ 1, 2; P.L. 1984, ch. 331, § 2; P.L. 1985, ch. 472, § 1; P.L. 1987, ch. 209, § 1; P.L. 1987, ch. 520, § 2; P.L. 1989, ch. 126, art. 55, § 2; P.L. 1991, ch. 111, § 1; P.L. 1992, ch. 306, art. 1, § 7; P.L. 1994, ch. 139, § 1; P.L. 2002, ch. 315, § 1; P.L. 2005, ch. 117, art. 7, § 2; P.L. 2009, ch. 68, art. 7, § 3; P.L. 2011, ch. 408, § 7; P.L. 2011, ch. 409, § 7; P.L. 2015, ch. 141, art. 21, § 4.)

§ 36-10-9.1 Retirement on service allowance – Legislators. – (a) Every person who shall have served as a member of the senate or of the house of representatives, or in combination of both the senate and the house of representatives, and/or other employment as defined in § 36-9-20, and/or including up to four (4) years of military service as defined in § 36-9-31, for a period in the aggregate of eight (8) years, and having attained the age of fifty-five (55) years shall be entitled to receive a retirement allowance, as in § 36-10-10.1 upon application therefor to the retirement board; provided, however, that any person who shall have served as a member of the senate or of the house of representatives, or in combination of both the senate and the house of representatives, and/or other employment as defined in § 36-9-20, and/or including up to four (4) years of military service as defined in § 36-9-31, for a period in the aggregate of twenty (20) years or more shall be entitled to receive a retirement allowance as in § 36-10-10.1 regardless of his or her age upon completion of the twenty (20) years; provided further, however, that if any person who shall have served as a member of the senate or the house of representatives, or in combination of both the senate or the house of representatives, and/or other employment as defined in § 36-9-20, for a period in the aggregate of eight (8) years dies leaving a surviving spouse or domestic partner, the benefit as provided by § 36-10-10.1 shall be payable to his or her spouse or domestic partner to be continued for his or her lifetime or remarriage or establishment of a domestic partnership.

(b) No legislator shall be eligible for benefits under this section unless the legislator shall have served a minimum of four (4) years as a member of the senate or the house of representatives or in combination of both the senate and the house of representatives.

(c) Except as hereinafter provided, any legislator, elected at the general election in 1988 or thereafter to serve as a member of the general assembly shall not be eligible for benefits under subsection (a) of this section unless the legislator shall have served a minimum of eight (8)

years as a member of the senate or the house of representatives or in combination of both the senate and the house of representatives; provided however, that the provisions of this subsection shall not apply to any legislator who was elected to serve as a member of the general assembly prior to the general election of 1988.

(d) Service credits earned prior to January 5, 1993, by a person as a member of the senate or of the house of representatives or in combination of both the senate and the house of representatives may be utilized by that person for any retirement purpose permitted under current law.

(e) Service credits earned on or after January 5, 1993, by a person as a member of the senate or of the house of representatives or in combination of both the senate and the house of representatives may be utilized by that person only for the purposes of § 36-10-10.1.

History of Section.

(P.L. 1983, ch. 211, §§ 1, 2; P.L. 1986, ch. 550, § 1; P.L. 1987, ch. 370, § 1; P.L. 1992, ch. 306, art. 1, § 7; P.L. 2007, ch. 510, § 11.)

§ 36-10-9.2 Retirement on service allowance – Correctional officers. – (a) This section shall apply to the retirement of members employed as assistant director (adult services), assistant deputy director, chief of inspection, and associate directors, correctional officer, chief of security, work rehabilitation program supervisor, supervisor of custodial records and reports, and classification counselor within the department of corrections.

(b)(i) Any member who has attained the age of fifty (50) years may be retired subsequent to the proper execution and filing of a written application; provided, however, that the member shall have completed twenty (20) years of total service within the department of corrections and who retires before October 1, 2009 or is eligible to retire as of September 30, 2009.

(ii) For members who become eligible to retire on or after October 1, 2009, benefits are available to members who have attained the age of fifty-five (55) and have completed at least twenty-five (25) years of total contributory service within the department of corrections. For members in service as of October 1, 2009 who were not eligible to retire as of September 30, 2009 but who are eligible to retire on or prior to June 30, 2012, the minimum retirement age of fifty-five (55) will be adjusted downward in proportion to the amount of service the member has earned as of September 30, 2009. The proportional formula shall work as follows:

(1) The formula shall determine the first age of retirement eligibility under the laws in effect on September 30, 2009 which shall then be subtracted from the minimum retirement age of fifty-five (55).

(2) The formula shall then take the member's total service credit as of September 30, 2009 as the numerator and the years of service credit determined under (1) as the denominator.

(3) The fraction determined in (2) shall then be multiplied by the age difference determined in (1) to apply a reduction in years from age fifty-five (55).

(c) Any member with contributory service on or after July 1, 2012, who has completed at least five (5) years of contributory service but who has not completed twenty-five (25) years of contributory service, shall be eligible to retire upon the attainment of the member's Social Security retirement age.

History of Section.

P.L. 1983, ch. 211, §§ 1, 2; P.L. 1984, ch. 13, § 2; P.L. 2009, ch. 68, art. 7, § 3, eff. July

1, 2009; P.L. 2011, ch. 408, § 7, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 7, eff. Nov. 18, 2011.

§ 36-10-9.3 Retirement on service allowance – Registered nurses. – (a) This section shall apply to the retirement of members employed as registered nurses within the department of behavioral healthcare, developmental disabilities and hospitals.

(b) Any member who has attained the age of fifty (50) years may be retired subsequent to the proper execution and filing of written application; provided, however, that the member shall have completed twenty-five (25) years of total service within the department of behavioral healthcare, developmental disabilities and hospitals and who retires before October 1, 2009 or is eligible to retire as of September 30, 2009.

(c) For members who become eligible to retire on or after October 1, 2009, benefits are available to members who have attained the age of fifty-five (55) and have completed at least twenty-five (25) years of total service within the department of behavioral healthcare, developmental disabilities and hospitals. For members in service as of October 1, 2009 who were not eligible to retire as of September 30, 2009 but who are eligible to retire on or prior to June 30, 2012, the minimum retirement age of fifty-five (55), the retirement age will be adjusted downward in proportion to the amount of service the member has earned as of September 30, 2009. The proportional formula shall work as follows:

(1) The formula shall determine the first age of retirement eligibility under the laws in effect on September 30, 2009 which shall then be subtracted from the minimum retirement age of fifty-five (55).

(2) The formula shall then take the member's total service credit as of September 30, 2009 as the numerator and the years of service credit determined under (1) as the denominator.

(3) The fraction determined in (2) shall then be multiplied by the age difference determined in (1) to apply a reduction in years from age fifty-five (55).

History of Section.

P.L. 1983, ch. 211, § 2; P.L. 2009, ch. 68, art. 7, § 3, eff. July 1, 2009; P.L. 2011, ch. 363, § 30, eff. July 13, 2011; P.L. 2011, ch. 408, § 7, eff. Nov. 18, 2011; P.L. 2011, ch. 408, § 7, eff. Nov. 18, 2011.

§ 36-10-9.4 Post-retirement service as legislator. – Any contrary provisions of the general laws notwithstanding, any retired state employee, teacher, or member of the state police who is a member of the retirement system and who is a member of the general assembly shall continue to be eligible for and receive his or her retirement allowance.

History of Section.

(P.L. 1978, ch. 384, § 2; P.L. 1983, ch. 211, § 2.)

§ 36-10-9.5 Repealed

§ 36-10-9.6 Aeronautics inspectors – Retirement. – (a) This section shall only apply to the retirement of members employed as aeronautics inspectors.

(b) In determining the creditable service of any aeronautics inspector employed by the State of Rhode Island for the purpose of retirement of a service retirement allowance, not including a deferred retirement allowance, there may be added to, and included in, total

service as defined in this chapter, not more than four (4) years of applied work experience, the experience to be defined as a pilot or aeronautics inspector. The service shall not be counted as credible service unless the member shall pay into the retirement system the contribution equal to ten percent (10%) of the member's first year earnings as an aeronautics inspector for the first year purchased, ten percent (10%) of the member's second year earnings as an aeronautics inspector for the second year purchased, ten percent (10%) of the member's third year earnings as an aeronautics inspector for the third year purchased, and ten percent (10%) of the member's fourth year earnings as an aeronautics inspector for the fourth year purchased. Application to purchase credit and payment for each year of the year for which he or she claims credit shall be made on or before December 31, 1987. Thereafter, a member applying for credits shall pay full actuarial costs.

History of Section.

P.L. 1987, ch. 353, § 1; P.L. 2011, ch. 408, § 7, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 7, eff. Nov. 18, 2011.

§ 36-10-9.7 Electronic funds transfer. – All members of the employees retirement system retiring under the provisions of titles 42, 8, 36 or 16 of the Rhode Island general laws on or after July 1, 1998, shall be required to participate in electronic funds transfer and to supply the employees retirement system with a bank routing number to effectuate a monthly transfer of benefits.

History of Section.

(P.L. 1998, ch. 81, § 1.)

§ 36-10-10 Amount of service retirement allowance. – (a)(1)(i) For employees eligible to retire on or before September 30, 2009, upon retirement for service under § 36-10-9, a member whose membership commenced before July 1, 2005 and who has completed at least ten (10) years of contributory service on or before July 1, 2005 shall receive a retirement allowance which shall be determined in accordance with schedule A below for service prior to July 1, 2012:

Schedule A

Years of Service Percentage Allowance

1st through 10th inclusive 1.7%

11th through 20th inclusive 1.9%

21st through 34th inclusive 3.0%

35th 2.0%

(ii) For employees eligible to retire on or after October 1, 2009, who were not eligible to retire on or before September 30, 2009, upon retirement from service under § 36-10-9, a member whose membership commenced before July 1, 2005 and who has completed at least ten (10) years of contributory service on or before July 1, 2005 shall receive a

retirement allowance which shall be determined in accordance with schedule A above for service on before September 30, 2009, and shall be determined in accordance with schedule B in subsection (a)(2) below for service on or after October 1, 2009 and prior to July 1, 2012.

(2) Upon retirement for service under § 36-10-9, a member whose membership commenced after July 1, 2005, or who has not completed at least ten (10) years of contributory service as of July 1, 2005, shall, receive a retirement allowance which shall be determined in accordance with Schedule B below for service prior to July 1, 2012:

Schedule B

Years of Service Percentage Allowance

1st through 10th inclusive 1.60%

11th through 20th inclusive 1.80%

21st through 25th inclusive 2.0%

26th through 30th inclusive 2.25%

31st through 37th inclusive 2.50%

38th 2.25%

(b) The retirement allowance of any member whose membership commenced before July 1, 2005 and who has completed at least ten (10) years of contributory service on or before July 1, 2005 shall be in an amount equal to the percentage allowance specified in subsection (a)(1) of his or her average highest three (3) consecutive years of compensation multiplied by the number of years of total service, but in no case to exceed eighty percent (80%) of the compensation payable at completion of thirty-five (35) years of service; provided, however, for employees retiring on or after October 1, 2009 who were not eligible to retire as of September 30, 2009 the calculation shall be based on the average highest five (5) consecutive years of compensation. Any member who has in excess of thirty-five (35) years on or before June 2, 1985, shall not be entitled to any refund, and any member with thirty-five (35) years or more on or after June 2, 1985, shall contribute from July 1, 1985, until his or her retirement.

The retirement allowance of any member whose membership commenced after July 1, 2005 or who had not completed at least ten (10) years of contributory service as of July 1, 2005, shall, be in an amount equal to the percentage allowance specified in Schedule B of his or her average highest three (3) consecutive years of compensation multiplied by the number of years of total service, but in no case to exceed seventy-five percent (75%) of the compensation payable at the completion of thirty-eight (38) years of service; provided, however, for employees retiring on or after October 1, 2009 who were not eligible to retire as of September 30, 2009 the calculation shall be based on the average highest five (5) consecutive years of compensation.

(c) Any member with thirty-eight (38) years or more of service prior to December 31, 1985, shall not be required to make additional contributions. Contributions made between December 31, 1985, and July 1, 1987, by members with thirty-eight (38) or more years of service prior to December 31, 1985, shall be refunded by the retirement board to the persons, their heirs, administrators, or legal representatives.

(d) For service prior to July 1, 2012, the retirement allowance of a member shall be determined in accordance with subsections (a)(1) and (a)(2) above. For service on and after July 1, 2012, a member's retirement allowance shall be equal to:

(i) For members with fewer than twenty (20) years of total service as of June 30, 2012, one percent (1%) of the member's average compensation multiplied by the member's years of total service on and after July 1 2012; and

(ii) For members with twenty (20) or more years of total service as of June 30, 2012, a member's retirement allowance shall be equal to one percent (1%) of the member's average compensation multiplied by the member's years of total service between July 1, 2012 and June 30, 2015, and two percent (2%) of the member's average compensation multiplied by the member's years of total service on and after July 1, 2015. For purposes of computing a member's total service under the preceding sentence, service purchases shall be included in total service only with respect to those service purchases approved prior to June 30, 2012 and those applications for service purchases received by the retirement system on or before June 30, 2012. In no event shall a member's retirement allowance exceed the maximum limitations set forth in paragraph (b) above.

In no event shall a member's retirement allowance exceed the maximum limitations set forth in paragraph (b) above.

History of Section.

(P.L. 1984, ch. 12, § 2; P.L. 1985, ch. 331, § 2; P.L. 1986, ch. 542, § 1; P.L. 1987, ch. 35, § 1; P.L. 1987, ch. 354, § 1; P.L. 1987, ch. 605, § 1; P.L. 2005, ch. 117, art. 7, § 2; P.L. 2009, ch. 68, art. 7, § 3; P.L. 2011, ch. 408, § 7; P.L. 2011, ch. 409, § 7; P.L. 2015, ch. 141, art. 21, § 5.)

§ 36-10-10.1 Amount of service retirement allowance – Legislators. – (a) Every person who shall have served as a member of the senate or of the house of representatives as provided in § 36-10-9.1 shall be entitled to receive, upon retirement from service as a member of the general assembly and not otherwise regularly employed by the state of Rhode Island or any of its agencies, commissions, or bureaus an annual sum of six hundred dollars (\$600) for each year of total service as determined in § 36-10-9.1; provided, however, that no person shall receive more than twelve thousand dollars (\$12,000) annually, and provided further, however, that the retirement allowance shall be diminished by the amount of any other allowance or payment in the form of wages or salary to which the person shall be entitled from the state of Rhode Island or any of its agencies, commissions, or bureaus pursuant to any other general or special law of the state of Rhode Island, excepting amounts received under the old age and survivors disability insurance program. If any person shall reenter service of the state of Rhode Island or any of its agencies, commissions, or bureaus in any capacity other than as a

member of the senate or of the house of representatives and shall render at least two (2) years of service, he or she shall have the option of electing the service retirement allowance provided in this subsection or the service retirement allowance under the other provisions of this chapter. No member of the general assembly, however, shall be permitted to receive the retirement allowance while serving in the general assembly.

(b) Any member of the general assembly who was duly elected at a special election shall be entitled to receive service credit for the full year during which he or she was duly elected and certified, and any legislator serving during the January 1983, session shall be given credit for a full year, provided the legislator pays to the retirement system a lump sum amount equal to the full actuarial value of the credit as certified by the retirement board.

(c) The provisions of this section shall apply regardless of the date of retirement; provided, however, that no senator or representative, except those in service on July 1, 1983, may purchase more than four (4) years of outside time from whatever source.

(d) Any legislator, elected at the general election in 1988, or thereafter, to serve as a member of the general assembly, shall not include other credits for the purposes of this section, except military service as provided in § 36-9-31; provided however, that the provisions of this subsection shall not apply to any legislator who was elected to serve as a member of the general assembly prior to the general election of 1988.

(e) If a person is entitled under subsection (a) of this section to an annual retirement allowance which is in excess of the amount permitted by § 415(b)(4) of the Internal Revenue Code, 26 U.S.C. § 415(b)(4), the amount in excess of ten thousand dollars (\$10,000):

(i) Shall be paid until June 30, 1995, notwithstanding the limitation on benefits imposed by § 36-8-20(e), relating to § 415 of the Internal Revenue Code of 1986; and

(ii) Shall be paid from the retirement system after June 30, 1995, only to the extent permitted by the limitation on benefits imposed by § 36-8-20(e).

(2) Any amount not permitted to be paid by the retirement system under subdivision (e)(1)(ii) of this section shall be paid out of general funds, but only to the extent that amounts have been appropriated for those payments.

History of Section.

(P.L. 1984, ch. 12, § 2; P.L. 1987, ch. 370, § 1; P.L. 1994, ch. 87, § 5.)

§ 36-10-10.2 Amount of service retirement allowance – Correctional officers. – (a) Upon retirement for service under § 36-10-9.2, a member with twenty-five (25) or more years of service as of June 30, 2012 shall receive a retirement allowance of an amount determined under (i) below. All other members shall receive a retirement allowance of an amount equal to the sum of (i) below for service prior to July 1, 2012, plus (ii) below for service on and after July 1, 2012.

(i) Two percent (2%) of his or her average compensation multiplied by his or her first thirty (30) years of total service within the department of corrections; any and all years of remaining service shall be issued to the member at a retirement allowance of an amount equal to his or her average compensation multiplied by the percentage allowance determined in accordance with Schedule A below:

Schedule A

Years of Service Percentage Allowance

1 through 30 inclusive 2%

31st 6%

32nd 5%

33rd 4%

34th 3%

35th 2%

(ii) On and after July 1, 2012, two percent (2%) of his or her average compensation multiplied by his or her first thirty (30) years of total service within the department of corrections, and three percent (3%) of his or her average compensation multiplied by the member's thirty-first (31st) through thirty-fifth (35th) years of service.

(b) In no case shall a retirement percentage allowance exceed the greater of the member's retirement percentage allowance on June 30, 2012 or seventy-five percent (75%). Any member who has in excess of thirty-five (35) years on or before July 1, 1987, shall not be entitled to any refund. Any member with thirty-five (35) years or more on or after July 1, 1987, shall contribute from July 1, 1987, until his or her retirement, provided, however, that any member with thirty-eight (38) years of service prior to July 1, 1987, shall not be required to contribute.

History of Section.

(P.L. 1984, ch. 12, § 2; P.L. 1987, ch. 587, § 1; P.L. 2011, ch. 408, § 7; P.L. 2011, ch. 409, § 7; P.L. 2015, ch. 141, art. 21, § 6.)

§ 36-10-10.3 Social security supplemental option. – (a) In lieu of the lifetime service retirement allowance, a vested member who has completed at least ten (10) years of contributory service on or before July 1, 2005 who retires in accordance with §§ 16-16-12, 36-10-9 and 36-10-9.2 may choose an optional form of retirement benefit known as the social security supplemental option.

(b) This option provides for the payment of a larger benefit before the attainment of age sixty-two (62) and a reduced amount thereafter. The reduced amount shall be equal to the benefit before age sixty-two (62), including cost of living increases, minus the member's estimated social security benefit payable at age sixty-two (62). Under this option the benefits payable before and after the attainment of age sixty-two (62) will be actuarially determined to be equivalent to the lifetime service retirement allowance as determined in § 36-10-10.

(c) Election of this supplemental option shall be applicable only to those who elect the service retirement allowance determined in accordance with Schedule A as provided by § 36-10-10.

History of Section.

(P.L. 1986, ch. 542, § 2; P.L. 1988, ch. 535, § 1; P.L. 2005, ch. 117, art. 7, § 2.)

§ 36-10-10.4 Effect of deferral and/or reduction of salary. –(a) If subsequent to January 1, 1991, a member sustains a loss of salary due to a deferral of salary or a

reduction in salary in order to avoid shutdowns, layoffs, or because of a retrenchment of state or local finances, then in calculating the service retirement allowance of the member, the amount of salary deferred and/or the amount of the reduction of salary shall not reduce the amount of annual compensation of the member for the purpose of establishing his or her highest three (3) consecutive years of compensation for members eligible to retire on or before September 30, 2009, or his or her highest five (5) consecutive years of compensation for members who are not eligible to retire on or before September 30, 2009. This provision is subject to subsection (c) of this section.

(b)(1) For purposes of subsection (a), reduction of salary shall mean:

(i) The actual dollar amount which represents the difference between the employee's salary prior to the voluntary reduction of salary and the employee's salary after the voluntary reduction of salary; or

(ii) The actual dollar amount which represents the difference between the employee's salary prior to the renegotiation and/or alteration of an existing collective bargaining agreement and the employee's salary after the renegotiation and/or alteration of an existing collective bargaining agreement.

(2) Reduction of salary also means the voluntary or negotiated reduction in the number of hours that an employee works in a pay period and for which he or she is paid.

(c) An employee who has sustained a reduction in salary in accordance with subsection (a) shall pay, prior to retirement, to the retirement board an amount equal to the difference between the amount of contribution the employee would have paid on his or her salary prior to the reduction in salary and the amount that the employee actually contributed plus interest.

History of Section.

P.L. 1991, ch. 129, § 1; P.L. 1991, ch. 174, § 1; P.L. 1994, ch. 139, § 11; P.L. 2008, ch. 9, art. 8, § 1, eff. May 1, 2008; P.L. 2011, ch. 408, § 7, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 7, eff. Nov. 18, 2011.

§ 36-10-11 Service allowance to member withdrawing from service before retirement age.

—The right of a service retirement allowance under the provisions of this chapter shall vest in a member who shall withdraw from service prior to his or her attainment of the minimum age of retirement specified in §§ 36-10-9 -- 36-10-9.3 who shall not have received a refund, provided the member shall have completed at least ten (10) years of contributory service on or before June 30, 2012, for members terminating service or retiring on or before June 30, 2012, or at least five (5) years of contributory service for members terminating service or retiring on or after July 1, 2012. The member shall become entitled to a service retirement allowance upon his or her attainment of the age established in § 36-10-9 or at his or her option at any date subsequent thereto. The rate of service retirement allowance payable in the case of any member shall be that provided in §36-10-10, for the period of total service earned and accrued at the date of withdrawal from service of the member.

History of Section.

P.L. 1947, ch. 1971, § 8; P.L. 2005, ch. 117, art. 7, § 2; P.L. 2009, ch. 68, art. 7, § 3, eff. July 1, 2009; P.L. 2011, ch. 408, § 7, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 7, eff. Nov. 18, 2011.

§ 36-10-12 Retirement for ordinary disability. – (a) Application for ordinary disability may be made by a member, his or her department head, or a person acting in the member's behalf, while in active service or on leave of absence for illness, provided that the member has had five (5) or more years of total service of which at least three (3) consecutive years shall have been as an employee of the state or as a teacher as defined in chapter 16 of title 16 and the member is not entitled to a regular service retirement allowance. A statement from a physician shall accompany the application stating that the member is physically or mentally incapacitated for the performance of duty and that he or she should be retired.

(b) A medical examination of the member shall be made by three (3) physicians engaged by the retirement board for this purpose, and should the medical examination show that the member is physically or mentally incapacitated for the performance of duty and ought to be retired, the physicians shall so report and certify to the retirement board, and the retirement board may retire the member for ordinary disability.

(c) The retirement board shall establish uniform eligibility requirement standards and criteria for ordinary disability which shall apply to all members who make application for retirement for ordinary disability.

History of Section.

(P.L. 1936, ch. 2334, § 9; G.L. 1938, ch. 18, § 9; G.L. 1956, § 36-10-12; P.L. 1966, ch. 58, § 1; P.L. 1980, ch. 27, § 1; P.L. 1981, ch. 28, § 1; P.L. 1982, ch. 192, § 1; P.L. 1992, ch. 306, art. 1, § 7.)

§ 36-10-13 Amount of ordinary disability benefit. – Upon retirement for ordinary disability under § 36-10-12, a member shall receive a benefit equal to the rate prescribed for service retirement under § 36-10-10, subject to the provisions of § 36-10-31; provided, however, that no member retiring with less than ten (10) years of total service shall receive a benefit less than he or she would have received if he or she had ten (10) years of total service.

History of Section.

(P.L. 1936, ch. 2334, § 9; G.L. 1938, ch. 18, § 9; P.L. 1947, ch. 1971, § 7; G.L. 1956, § 36-10-13; P.L. 1962, ch. 142, § 1; P.L. 1970, ch. 207, § 1; P.L. 1980, ch. 27, § 1; P.L. 1993, ch. 360, § 1.)

§ 36-10-14 Retirement for accidental disability. – (a) Medical examination of an active member for accidental disability and investigation of all statements and certificates by him or her or in his or her behalf in connection therewith shall be made upon the application of the head of the department in which the member is employed or upon application of the member, or of a person acting in his or her behalf, stating that the member is physically or mentally incapacitated for the performance of service as a natural and proximate result of an accident while in the performance of duty, and certify the definite time, place, and conditions of the duty performed by the member resulting in the alleged disability, and that the alleged disability is not the result of willful negligence or misconduct on the part of the member, and is not the result of age or length of service, and that the member should, therefore, be retired.

(b) The application shall be made within five (5) years of the alleged accident from which the injury has resulted in the members present disability and shall be accompanied by an accident report and a physician's report certifying to the disability; provided that if the member was able to return to his or her employment and subsequently reinjures or aggravates the same injury, the application shall be made within the later of five (5) years of the alleged accident or three (3) years of the reinjury or aggravation. The application may also state the member is permanently and totally disabled from any employment.

(c) If a medical examination conducted by three (3) physicians engaged by the retirement board and such investigation as the retirement board may desire to make shall show that the

member is physically or mentally incapacitated for the performance of service as a natural and proximate result of an accident, while in the performance of duty, and that the disability is not the result of willful negligence or misconduct on the part of the member, and is not the result of age or length of service, and that the member has not attained the age of sixty-five (65), and that the member should be retired, the physicians who conducted the examination shall so certify to the retirement board stating the time, place, and conditions of service performed by the member resulting in the disability and the retirement board may grant the member an accidental disability benefit.

(d) The retirement board shall establish uniform eligibility requirements, standards, and criteria for accidental disability which shall apply to all members who make application for accidental disability benefits.

History of Section.

(P.L. 1936, ch. 2334, § 9; G.L. 1938, ch. 18, § 9; G.L. 1956, § 36-10-14; P.L. 1966, ch. 110, § 1; P.L. 1980, ch. 56, § 1; P.L. 1986, ch. 499, § 1; P.L. 1987, ch. 521, § 1; P.L. 1992, ch. 306, art. 1, § 7; P.L. 2009 (effective July 1, 2009) ch. 68, art. 7, § 3.)

§ 36-10-15 Amount of accidental disability benefit. – (a) For disability applications submitted on or before September 30, 2009, upon retirement for accidental disability under §36-10-14, a member shall receive a benefit which shall be equal to sixty-six and two-thirds percent (66 2/3 %) of his or her annual compensation at the time of his or her retirement, subject to the provisions of § 36-10-31.

(b) Upon any application for accidental disability submitted on or after October 1, 2009, if the member has been found to be permanently and totally disabled from service but has not been found by the board to be permanently and totally disabled from any employment as a result of his/her accidental disability, a member shall receive a retirement allowance equal to fifty percent (50%) of the rate of the member's compensation at the date of the member's retirement, subject to the provisions of § 36-10-31. The retiree shall, as a condition of continued receipt of a disability retirement allowance, on or before a date fixed by the retirement board, annually under penalties of perjury provide the board with such affidavits and accurate evidence of earnings, employment and gainful activity as the board may require, including, but not limited, joint and/or individual tax returns. Payment of the disability retirement allowance shall continue as long as the individual remains disabled, and regardless of service or age.

(c) Upon retirement for accidental disability that has been found by the board to be permanently and totally disabling from any employment, a member shall receive a retirement allowance equal to sixty-six and two-thirds percent (66 2/3 %) of the rate of the member's compensation at the date of the member's retirement subject to the provisions of § 36-10-31. The retirement board shall apply the terms of subsection 28-33-17(b) in determining total disability.

History of Section.

P.L. 1936, ch. 2334, § 9; P.L. 1947, ch. 1971, § 7; P.L. 1980, ch. 56, § 1; P.L. 2009, ch. 68, art. 7, § 3, eff. July 1, 2009; P.L. 2011, ch. 363, § 30, eff. July 13, 2011.

§28-33-17(b) In the following cases, it shall for the purpose of this section be that the injury resulted in permanent total disability:

- (i) The total and irrecoverable loss of sight in both eyes or the reduction to one-tenth (1/10th) or less of normal vision with glasses;
- (ii) The loss of both feet at or above the ankle;

- (iii) The loss of both hands at or above the wrist;
- (iv) The loss of one hand and one foot;
- (v) An injury to the spine resulting in permanent and complete paralysis of the legs or arms; and
- (vi) An injury to the skull resulting in incurable imbecility or insanity.

(2) In all other cases, total disability shall be determined only if, as a result of the injury, the employee is physically unable to earn any wages in any employment; provided, that in cases where manifest injustice would otherwise result, total disability shall be determined when an employee proves, taking into account the employee's age, education, background, abilities, and training, that he or she is unable on account of his or her compensable injury to perform his or her regular job and is unable to perform any alternative employment. The court may deny total disability under this subsection without requiring the employer to identify particular alternative employment.

§ 36-10-16 Disability benefits pending final decision on application. – Notwithstanding any of the provisions of chapters 3 and 4 of this title, and/or any existing regulations of the director of administration or the state retirement board, the state retirement board shall accord to a civil service employee, so entitled under present existing regulations, the minimum retirement benefits pending a decision upon any disability retirement of the civil service employee; provided, however, that the granting of the minimum retirement shall not estop the employee claiming disability from any disability retirement consideration by the board.

History of Section.

(P.L. 1950, ch. 2613, § 1; impl. am. P.L. 1951, ch. 2727, art. 2, § 4; G.L. 1956, § 36-10-16.)

§ 36-10-17 Reexamination of disability beneficiaries – Reduction of benefit – Reinstatement to active service. – Once each year the retirement board may, and upon his or her application shall, require any disability beneficiary under the minimum age of service retirement to undergo a medical examination. The examination to be made at the place of residence of the beneficiary or other place mutually agreed upon by a physician or physicians engaged by the retirement board. If the examination indicates that the beneficiary is able to engage in a gainful occupation, his or her name shall be placed on such appropriate lists of candidates as are prepared for appointment to positions in his or her department or agency for which he or she is stated to be qualified and for a salary grade not exceeding that from which he or she was last retired. Should the beneficiary be engaged in a gainful occupation or should he or she be offered service as a result of the placing of his or her name on a list of candidates, the retirement board shall adjust and from time to time readjust, the amount of his or her disability benefit to an amount which shall not exceed the rate of benefit upon which he or she was originally retired, and which, when added to the amount then earnable by him or her, shall not exceed his or her rate of annual compensation currently for the classification that the disability annuitant held prior to retirement. Should any disability beneficiary under the minimum age of service retirement refuse to submit to one medical examination in any year by a physician or physicians designated by the retirement board, his or her benefit shall be discontinued until his or her withdrawal of the refusal and should his or her refusal continue for one year, all his or her rights in and to disability benefit shall be revoked by the retirement board. A disability beneficiary, reinstated to active service, shall be reinstated as a member and participate in the rights of the retirement system to the same extent as any other member.

History of Section.

(P.L. 1936, ch. 2334, § 9; G.L. 1938, ch. 18, § 9; P.L. 1947, ch. 1971, § 7; G.L. 1956, § 36-10-17; P.L. 1989, ch. 403, § 2.)

§ 36-10-18 Optional benefits. – (a) A beneficiary, or, if the beneficiary be an incompetent, then the beneficiary's spouse or domestic partner or if there is no spouse or domestic partner, a guardian of the beneficiary's estate, may elect to receive the benefit in a retirement allowance, payable throughout life, or the beneficiary may then elect to receive the actuarial equivalent, at that time, of the beneficiary's retirement allowance in a lesser retirement allowance as determined by actuarial calculation, which shall be payable throughout life with the provision that:

(1) **Option 1.** Upon the beneficiary's death, the beneficiary's lesser retirement allowance shall be continued throughout the life of and paid to such person having an insurable interest in the beneficiary's life, as the beneficiary, the beneficiary's spouse or domestic partner, or the beneficiary's guardian so electing, shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his or her retirement.

(2) **Option 2.** Upon the beneficiary's death, one-half (1/2) of the beneficiary's lesser retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in the beneficiary's life, as the beneficiary, the beneficiary's spouse or domestic partner, or the beneficiary's guardian so electing, shall nominate by written designation duly acknowledged and filed with the retirement board at the time of the beneficiary's retirement.

(b)(1) For purposes of any election under this section or § 36-10-19.1, the member, member's spouse or domestic partner, or guardian, as the case may be, may designate more than one person to receive benefits after the member's death, provided that the designation shall specify the portion of the actuarial equivalent of the member's retirement allowance to be paid to each person, and provided further that the aggregate actuarial value of the portions shall not exceed the actuarial equivalent of the member's retirement benefit determined:

(i) In the case of an election under this section as of the date of the member's retirement; or

(ii) In the case of an election under § 36-10-19.1 as of the member's date of death.

(2) A member selecting more than one person to receive benefits under this section or § 36-10-19.1 may only select beneficiaries from among his or her children, adopted children, step-children, and/or spouse or domestic partner.

(c) If prior to July 1, 2012, a member elected an optional form of benefit other than a life annuity in accordance with paragraph (a)(1) or (2) above, the member may elect to change his or her form of benefit to a life annuity by filing an election with the retirement board on or before June 30, 2013, provided that the member's beneficiary is still alive at the time the election is filed.

History of Section.

P.L. 1936, ch. 2334, § 10; P.L. 1947, ch. 1971, § 8; P.L. 1973, ch. 259, § 1; P.L. 1980, ch. 58, § 1; P.L. 1984, ch. 43, § 1; P.L. 1994, ch. 424, § 1; P.L. 1996, ch. 297, § 1; P.L. 2007, ch. 510, § 11, eff. Oct. 30, 2007; P.L. 2011, ch. 408, § 7, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 7, eff. Nov. 18, 2011.

§ 36-10-19 Persons eligible for optional benefits – Time of election – Modification or revocation – Effective date. – The optional provisions of § 36-10-18 shall be applicable only to a member applying for a service retirement allowance, an accidental disability retirement allowance, and an ordinary disability retirement allowance or any inactive member applying for retirement under vested rights. The election under option 1 or 2 of § 36-10-18(a) shall be

made at the time of retirement of the member as part of his or her application for a retirement allowance. The election shall be based upon the amount of retirement allowances that may accrue at the date of death of the member and may be revoked or modified by the member at any time after retirement on a form prescribed by the retirement board, provided that, during this time, the named beneficiary has not been divorced from the member. The option, in the case of death of a retired member, shall become effective on the next day following the death of the member and payment of benefits thereunder shall be made in accordance with the provisions hereof, subject to the limitations prescribed in § 36-10-18. This section shall not apply to any one who elects the social security supplemental option as provided by § 36-10-10.3.

History of Section.

(P.L. 1936, ch. 2334, § 9; G.L. 1938, ch. 18, § 9; P.L. 1947, ch. 1971, § 8; P.L. 1949, ch. 2377, § 3; P.L. 1951, ch. 2747, § 1; P.L. 1951, ch. 2830, § 4; P.L. 1953, ch. 3180, § 1; P.L. 1954, ch. 3370, § 1; P.L. 1955, ch. 3610, § 1; G.L. 1956, § 36-10-21; R.P.L. 1957, ch. 60, § 1; P.L. 1960, ch. 132, § 1; P.L. 1969, ch. 186, § 1; P.L. 1970, ch. 112, art. 5, § 1; P.L. 1984, ch. 384, § 1; P.L. 1985, ch. 346, § 1; P.L. 1986, ch. 542, § 3; P.L. 1987, ch. 35, § 1; P.L. 1988, ch. 511, § 1; P.L. 1996, ch. 233, § 1.)

§ 36-10-19.1 Optional annuity protection – In service. (a) Upon the death of a member having: (1) At least ten (10) years of membership service on or before June 30, 2012; or (2) For active contributing members on or after July 1, 2012, at least five (5) years of membership service, the spouse or domestic partner of the member shall have the option to elect to receive option one as provided in § 36-10-18(a) in lieu of a return of contributions, provided the spouse or domestic partner is the designated beneficiary of the member's retirement account. The election shall be based upon the amount of retirement allowance or actuarial equivalent that may accrue at the date of death of the member.

(b) The election under option one of § 36-10-18(a) for a person other than the spouse or domestic partner of the member may be made by the member, while in service, provided the member has (1) At least ten (10) years of membership service on or before June 30, 2012 and before retirement; or (2) For active contributing members on or after July 1, 2012, at least five (5) years of membership service and before retirement, on a form prescribed by the retirement board. The election shall be based upon the amount of retirement allowances or actuarial equivalents that may accrue at the date of death of the member, provided that the election form is executed and filed with the retirement board prior to the date of death. The election may be revoked or modified by the member at any time prior to the date of retirement on a form prescribed by the retirement board.

(c) Upon the death of a member, the option shall become effective thirty (30) days after the first day of the calendar month next following the date of death of the member if death occurs while in an employee status. Should death occur while in an inactive member status, the option under this section shall become payable on the first of the month next succeeding that in which the designated beneficiary attains the age of sixty (60) years.

History of Section.

P.L. 1988, ch. 511, § 2; P.L. 1989, ch. 547, § 1; P.L. 2007, ch. 510, § 11, eff. Oct. 30, 2007; P.L. 2011, ch. 408, § 7, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 7, eff. Nov. 18, 2011.

§ 36-10-20 Accidental death benefits. – Upon the accidental death of a member while in service before retirement, provided that evidence shall be submitted to the retirement board proving that the death of the member was the natural and proximate result of an accident while in the performance of duty at some definite time and place, and that the death was not the result of willful negligence on his or her part, his or her accumulated contributions, including interest on all contributions to the date of death of the member, shall be paid to the person having an insurable interest in his or her life as the member shall have nominated by written designation duly executed and filed with the retirement board, or if the member has filed no nomination or if the person so nominated shall have died, then to the estate of the deceased member, and upon application by or on behalf of the dependents of the deceased member the retirement board shall grant a benefit equal to one-half (1/2) of the rate of annual compensation of the member at date of death:

(1) To the member's widow or widower or domestic partner for life unless he or she remarries or enters into a domestic partnership;

(2) If there be no widow, or widower or domestic partner or if the widow or widower or domestic partner dies or remarries or enters into a domestic partnership before any child of the deceased member shall have attained the age of eighteen (18) years, then to the member's child or children under the age of eighteen (18) years, divided in such manner as the retirement board in its discretion shall determine, to continue as a joint and survivor annuity equal to one-half (1/2) of the member's rate of annual compensation at the date of death until every child dies or attains the age of eighteen (18) years; or

(3) If there be no widow or widower or domestic partner or child under the age of eighteen (18) years surviving the deceased member, then to his or her dependent father or mother as the deceased member shall have nominated by written designation duly acknowledged and filed with the retirement board; or, if there be no nomination, then to his or her dependent father or to his or her dependent mother as the retirement board in its discretion shall direct, to continue for life.

History of Section.

(P.L. 1936, ch. 2334, § 9; G.L. 1938, ch. 18, § 9; P.L. 1947, ch. 1971, § 7; P.L. 1949, ch. 2377, § 2; G.L. 1956, § 36-10-20; P.L. 1984, ch. 426, § 1; P.L. 2007, ch. 510, § 11.)

§ 36-10-21 Ordinary death benefit. – Upon the death of a member before retirement from any cause other than one compensable under § 36-10-20, a payment shall be made of the contributions of the member without interest. If the death of a member occurred while in an employee status, or while on an official leave of absence for illness from his or her position which had not extended at the date of death for a continuous period in excess of one year, a death benefit shall be paid which shall be equal to eight hundred dollars (\$800) for each completed year of total service subject to a minimum payment of four thousand dollars (\$4,000) and a maximum payment of sixteen thousand dollars (\$16,000).

History of Section.

(P.L. 1936, ch. 2334, § 9; G.L. 1938, ch. 18, § 9; P.L. 1947, ch. 1971, § 8; P.L. 1949, ch. 2377, § 3; P.L. 1951, ch. 2747, § 1; P.L. 1951, ch. 2830, § 4; P.L. 1953, ch. 3180, § 1; P.L. 1954, ch. 3370, § 1; P.L. 1955, ch. 3610, § 1; G.L. 1956, § 36-10-21; R.P.L. 1957, ch. 60, § 1; P.L. 1960, ch. 132, § 1; P.L. 1969, ch. 186, § 1; P.L. 1970, ch. 112, art. 5, § 1; P.L. 1986, ch. 395, § 1.)

§ 36-10-22 Retention of death benefit coverage by general assembly member not reelected. – If any present or former member of the general assembly who is a member of the system, who is not reelected, desires to retain his or her ordinary death benefit insurance coverage, he or she shall be allowed to do so providing that he or she pays an annual

contribution of fifteen dollars (\$15.00) per year for each year the insurance is carried by the member or former member of the general assembly.

History of Section.

(G.L. 1938, ch. 18, § 9; P.L. 1951, ch. 2747, § 1; P.L. 1953, ch. 3180, § 1; P.L. 1954, ch. 3370, § 1; G.L. 1956, § 36-10-22.)

§ 36-10-23 Benefit payable on death after retirement. – (a) Upon the death of a member after retirement, unless the member shall have selected any of the options provided in § 36-10-18, a benefit shall be payable consisting of the excess, if any, of the total contributions of the member at date of retirement, without interest, over the aggregate amount of all retirement allowance payments received by the member prior to his or her death.

(b) In addition, a benefit shall be payable upon the death of any retired member, regardless of date of retirement, consisting of the continuation of the ordinary death benefit provisions of the retirement act into retirement in the full amount, accrued at the date of retirement, for the first year subsequent to the date of retirement, provided also that in each succeeding year thereafter this amount shall be reduced on each retirement anniversary date by twenty-five percent (25%) until twenty-five percent (25%) of the total amount accumulated as of the date of retirement has been reached, provided, however, that the amount shall not be reduced to less than four thousand dollars (\$4,000). This sum shall be continued thereafter as the sum payable on death after retirement.

History of Section.

(P.L. 1972, ch. 109, § 2; P.L. 1982, ch. 193, § 1; P.L. 1986, ch. 395, § 1.)

§ 36-10-23.1 Benefit payable on death of retired legislator. – In addition to any service retirement allowance paid to any person who shall have served as a member of the senate or of the house of representatives pursuant to § 36-10-10, there shall be payable, in lieu of the benefit payable on death after retirement as provided by § 36-10-23, the ordinary death benefit provided in § 36-10-21, P.L. 1960, ch. 132, to be paid upon the death of a member occurring while in an employee status before retirement, notwithstanding the death of the former member of the general assembly in fact occurs after retirement, provided the former member of the general assembly had retained his or her ordinary death benefit insurance coverage by paying the annual contribution provided in § 36-10-22.

History of Section.

(P.L. 1961, ch. 152, § 1.)

§ 36-10-24 Person to whom death benefit payable. – The payment of contributions of the member and the death benefit to a member or retired member under the provisions of §§ 36-10-21 – 36-10-23 shall be made to such person as the member shall have nominated by written designation duly executed and filed with the retirement board, or if the member has filed no nomination, or if the person so nominated has died, then to the estate of the deceased member.

History of Section.

(P.L. 1936, ch. 2334, § 9; G.L. 1938, ch. 18, § 9; P.L. 1947, ch. 1971, § 8; P.L. 1949, ch. 2377, § 3; P.L. 1951, ch. 2747, § 1; P.L. 1951, ch. 2830, § 4; P.L. 1953, ch. 3180, § 1; P.L. 1954, ch. 3370, § 1; P.L. 1955, ch. 3558, § 1; G.L. 1956, § 36-10-24.)

§ 36-10-25 – 36-10-30. Repealed

§ 36-10-31 Deduction of amounts received from workers' compensation or as damages. – Any amount paid or payable under the provisions of any workers' compensation law exclusive of Medicare set-aside allocations, specific compensation benefits or any benefits

authorized by the terms of a collective bargaining agreement or as the result of any action for damages for personal injuries against the state of Rhode Island on account of the death or disability of a member shall be offset against and payable in lieu of any benefits payable out of funds provided by the state under the provisions of this chapter on account of the death or disability of the member. If the value of the total commuted benefits under any workers' compensation law or action is less than the present value on an actuarial basis of the benefits otherwise payable under this chapter, the value of the commuted payments shall be deducted from the present value of the benefits and the balance thereof shall be payable under the provisions of this chapter.

History of Section.

(P.L. 1936, ch. 2334, § 11; G.L. 1938, ch. 18, § 11; P.L. 1947, ch. 1971, § 9; G.L. 1956, § 36-10-31; P.L. 2014, ch. 231, § 5; P.L. 2014, ch. 289, § 5.)

§ 36-10-32 Tax exemption. – The right of a member or beneficiary to a pension, an annuity, a retirement allowance, to the return of contributions, any benefit, or right accrued or accruing to any person under the provisions of chapters 8 – 10 of this title, and the money in the various funds created hereunder, are hereby made exempt from any municipal tax or state tax except for the personal income tax imposed under the provisions of chapter 30 of title 44.

History of Section.

(P.L. 1936, ch. 2334, § 12; G.L. 1938, ch. 18, § 12; G.L. 1956, § 36-10-32; P.L. 1985, ch. 496, art. 3, § 1.)

§ 36-10-33 Penalty for fraudulent claim or statement. – Every person who knowingly or willfully makes, presents, or in anyway procures the making or presentation of any false or fraudulent affidavit or affirmation concerning any claim for pension or payment thereof, shall, in every case, forfeit a sum not exceeding ten thousand dollars (\$10,000), in addition to the repayment of any and all money received from the retirement system because of a false or fraudulent claim or statement, with interest, at the rate of twelve percent (12%) per annum, to be sued and recovered by and in the name of the retirement board of the retirement system, and when recovered, paid over to and thereupon become a part of the funds of the retirement system.

History of Section.

P.L. 1936, ch. 2334, § 13; P.L. 1980, ch. 106, § 1; P.L. 2011, ch. 408, § 7, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 7, eff. Nov. 18, 2011.

§ 36-10-34 Exemption of benefits and contributions from attachment. – Any and all retirement benefits and contributions in the state employees' and municipal employees' retirement systems shall be exempt from lien, attachment, or garnishment and shall not be transferable or assignable; provided, however, that any governmental agency which may have a claim on money due from one of its employees related to his or her employment in the agency shall have the right to the payment at the time any refund of contributions is made to the member.

History of Section.

(P.L. 1981, ch. 168, § 1.)

§ 36-10-35 Additional benefits payable to retired employees. – (a) All state employees and all beneficiaries of state employees receiving any service retirement or

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

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

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

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

(3) The retirement allowance of all state employees and all beneficiaries of state employees who have not completed at least ten (10) years of contributory service on or before July 1, 2005 or were not eligible to retire as of September 30, 2009, shall, on the month following the third anniversary date of retirement, and on the month following the anniversary date of each succeeding year be adjusted and computed by multiplying the

retirement allowance by three percent (3%) or the percentage of increase in the Consumer Price Index for all Urban Consumers (CPI-U) as published by the United States Department of Labor Statistics determined as of September 30 of the prior calendar year, whichever is less; the cost of living adjustment shall be compounded annually from the year for which the cost of living adjustment was determined payable by the retirement board; provided, that no adjustment shall cause any retirement allowance to be decreased from the retirement allowance provided immediately before such adjustment.

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

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

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

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

(1) Notwithstanding the prior paragraphs of this section, and subject to paragraph (g)(2) below, for all present and former employees, active and retired members, and beneficiaries receiving any retirement, disability or death allowance or benefit of any kind, the annual benefit adjustment provided in any calendar year under this section shall be equal to (A) multiplied by (B) where (A) is equal to the percentage determined by subtracting five and one-half percent (5.5%) (the "subtrahend") from the Five-Year Average Investment Return of the retirement system determined as of the last day of the plan year preceding the calendar year in which the adjustment is granted, said percentage

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

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

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

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

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

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

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

(B) Notwithstanding the prior subsections of this section, for all present and former employees, active and retired members, and beneficiaries receiving any retirement, disability or death allowance or benefit of any kind, the annual benefit adjustment

provided in any calendar year under this section for adjustments on and after January 1, 2016, and subject to subsection (h)(2) below, shall be equal to (I) multiplied by (II):

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

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

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

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

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

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

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

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

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

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

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

History of Section.

(G.L., § 36-10-35; P.L. 1968, ch 231, § 1; P.L. 1970, ch. 112, art. 10, § 1; P.L. 1980, ch. 237, §§ 2, 3; P.L. 1981, ch. 120, § 2; P.L. 1981, ch. 362, § 1; P.L. 1986, ch. 482, § 2; P.L. 1987, ch. 352, § 1; P.L. 2005, ch. 117, art. 7, § 2; P.L. 2009, ch. 68, art. 7, § 3; P.L. 2010, ch. 23, art. 16, § 1; P.L. 2011, ch. 408, § 7; P.L. 2011, ch. 409, § 7; P.L. 2015, ch. 141, art. 21, § 7.)

§ 36-10-35.1 One time adjustment to original retirement allowances. – (a) All state employees and the beneficiaries of state employees who retired during calendar year 1979 shall receive an additional eight percent (8%) to their original retirement allowances.(b) All state employees and the beneficiaries of state employees who retired during calendar year 1979 shall receive an additional two percent (2%) added to the base eight percent (8%) paid to the 1979 retirees. Provided, further, that an additional two percent (2%) of the retirement allowance shall be paid for each year to a maximum of twenty percent (20%) to those retirees and beneficiaries who retired in calendar year 1973, and prior to 1973, as indicated in the following schedule:

Year of Retirement	Additional Percentage
1979	8%
1978	10%
1977	12%
1976	14%
1975	16%
1974	18%
1973	20%
Years prior to 1973	20%

(c) The additional percentage shall be incorporated into the recipient's monthly benefit starting with the payment due on or after July 31, 1986. Provided further, that the new 1986 pro rated payment shall be the base for any subsequent cost of living adjustment payments.

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

History of Section.

P.L. 1986, ch. 482, § 4.

§ 36-10-36 Post retirement employment. – (a) On and after July 7, 1994, no member who has retired under the provisions of titles 16, 36, or 45 may be employed or reemployed by any state agency or department unless any and all retirement benefits to which he or she may be entitled by virtue of the provisions of titles 16, 36, or 45 are suspended for the duration of any employment or reemployment. No additional service credits shall be granted for any post-retirement employment or reemployment and no deductions shall be taken from an individual's salary for retirement contribution. Notice of any such post-retirement employment or reemployment shall be sent monthly to the retirement board by the employing agency or department and by the retired member.

(b) Any member who has retired under the provisions of titles 16, 36, or 45 may be employed or reemployed by any municipality within the state that has accepted the provisions of chapter 21 of title 45 and participates in the municipal employees' retirement system for a period of not more than seventy-five (75) working days or one hundred fifty (150) half days with half-day pay in any one calendar year without any forfeiture or reduction of any retirement benefits and allowances the member is receiving, or may receive, as a retired member. Pension payments shall be suspended whenever this period is exceeded. No additional contributions shall be taken, and no additional service credits shall be granted, for this service. Notice of this employment or re-employment shall be sent monthly to the retirement board by the employer and by the retired member.

(c) Any member who has retired under the provisions of title 16, 36, or 45 may be employed or re-employed by any municipality within the state that has not accepted the provisions of chapter 21 of title 45 and that does not participate in the municipal employees' retirement system.

(d) Notwithstanding the provisions of this section:

(1) Any retired member of the system shall be permitted to serve as an elected mayor, the town administrator, the city administrator, the town manager, the city manager, the chief administrative officer, or the chief executive officer of any city or town, city or town council member, school committee member, or unpaid member of any part-time state board or commission or member of any part-time municipal board or commission, and shall continue to be eligible for, and receive, the retirement allowance for service other than that as a mayor, administrator, council member, school committee member, or member of any state board or commission or member of any part-time municipal board or commission; provided, however, that no additional service credits shall be granted for any service under this subsection;

(2) Any retired member, who retired from service at any state college, university, state school, or who retired from service as a teacher under the provisions of title 16, or who retired from service under title 36 or title 45, may be employed or reemployed, on a part-time basis, by any state college, university, or state school for the purpose of providing classroom instruction, academic advising of students, and/or coaching. Compensation shall be provided at a level not to exceed the salary provided to other faculty members employed under a collective bargaining agreement at the institution. In no event shall "part-time" mean gross pay of more than fifteen thousand dollars (\$15,000) in any one calendar year. Any retired member who

provides such instruction or service shall do so without forfeiture or reduction of any retirement benefit or allowance; provided, however, that no additional service credits shall be granted for any service under this subsection;

(3) Any retired member who retired from service as a teacher under the provisions of title 16, or as a state employee who, while an active state employee, was certified to teach driver education by the department of elementary and secondary education or by the board of governors for higher education, may be employed or reemployed, on a part-time basis, by the department of elementary and secondary education or by the board of governors of higher education for the purpose of providing classroom instruction in driver education courses in accordance with § 31-10-19 and/or motorcycle driver education courses in accordance with § 31-10.1-1.1. In no event shall "part-time" mean gross pay of more than fifteen thousand dollars (\$15,000) in any one calendar year. Any retired teacher who provides that instruction shall do so without forfeiture or reduction of any retirement benefit or allowance the retired teacher is receiving as a retired teacher; provided, however, that no additional service credits shall be granted for any service under this subsection;

(4) Any retired member who retired from service as a registered nurse may be employed or reemployed, on a per-diem basis, for the purpose of providing professional nursing care and/or services at a state-operated facility in Rhode Island. In no event shall "part-time" mean gross pay of more than fifteen thousand dollars (\$15,000) in any one calendar year. Any retired nurse who provides such care and/or services shall do so without forfeiture or reduction of any retirement benefit or allowance the retired nurse is receiving as a retired nurse; provided, however, that no additional service credits shall be granted for any service under this subsection; and

(5) Any retired member who, at the time of passage of this section, serves as a general magistrate within the family court and thereafter retires from judicial service, may be employed or reemployed by the family court to perform such services as a general magistrate of the family court as the chief judge of the family court shall prescribe without any forfeiture or reduction of any retirement benefits and allowances that he or she is receiving or may receive. For any such services or assignments performed after retirement, the general magistrate shall receive no compensation whatsoever, either monetary or in kind. No additional contributions shall be taken and no additional service credits shall be granted for this service; and

(6) Any retired member of the system shall be permitted to serve as a municipal employee without any forfeiture or reduction of any retirement benefits and allowances that he or she is receiving or may receive; provided, that said member shall be appointed by and serves at the pleasure of the highest elected chief executive officer, as defined in § 45-9-2, in any city or town subject to the provisions of chapter 9 of title 45 entitled "Budget Commissions" relating to the appointment of a fiscal overseer, budget commission, receiver, and/or financial advisor. Provided further, that no additional service credits shall be granted for any service under this subsection.

History of Section.

(P.L. 1991, ch. 6, art. 30, § 2; P.L. 1994, ch. 142, § 1; P.L. 1995, ch. 245, § 1; P.L. 1997, ch. 211, § 1; P.L. 1997, ch. 314, § 1; P.L. 2000, ch. 349, § 1; P.L. 2000, ch. 468, § 1; P.L. 2000, ch. 495, § 1; P.L. 2001, ch. 333, § 1; P.L. 2002, ch. 202, § 1; P.L. 2002, ch. 263, § 1; P.L. 2003, ch. 217, § 2; P.L. 2003, ch. 361, § 2; P.L. 2004, ch. 379, § 1; P.L. 2004, ch. 474, § 1; P.L. 2004, ch. 495, § 1; P.L. 2009, ch. 1, § 2; P.L. 2009, ch. 2, § 2; P.L. 2009, ch. 3, § 1; P.L. 2011, ch. 363, § 30; P.L. 2012, ch. 207, § 2; P.L. 2012, ch. 236, § 2; P.L. 2014, ch. 245, § 1; P.L. 2014, ch. 268, § 1; P.L. 2014, ch. 322, § 1.)

§ 36-10-37 Retirement benefits for certain general state officers. – Any person who has served as governor, lieutenant governor, attorney general, secretary of state, or general treasurer for a period of twenty (20) consecutive years shall be entitled, upon his or her resignation or retirement, to receive annually during his or her life a sum equal to three quarters (3/4) of the salary he or she was receiving at the time of his or her resignation or retirement. This section shall not apply to any person initially elected as governor, lieutenant governor, attorney general, secretary of state, or general treasurer on or after July 1, 2012.

History of Section.

P.L. 1973, ch. 142, § 1; P.L. 2011, ch. 408, § 7, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 7, eff. Nov. 18, 2011.

§ 36-10-38 Combined service credits of general state officers. – When a person has combined and transferred service credits, earned as a member of the Rhode Island municipal retirement system, to the state retirement system, and the service amounts to not less than twenty (20) years in the aggregate as a general state officer and/or as an elected officer of a town or city, as defined in § 45-21-2, the service credits of the person may be deemed to be consecutive service to the state as provided by this chapter.

History of Section.

(P.L. 1976, ch. 249, § 1; P.L. 1994, ch. 142, § 6.)

§ 36-10-39 Fiscal impact of proposed legislation impacting the retirement system. – Proposed legislation which directly impacts the retirement system can potentially affect the benefits of all plan participants and beneficiaries. Since it is in the best interests of plan participants and beneficiaries to determine the financial consequences of any proposed legislation which would directly impact the state's liability to the retirement system, such legislation shall not be approved by the general assembly unless an explanatory statement or note, prepared and paid for by the employees' retirement system of the state of Rhode Island is appended to the proposed legislation which actuarially calculates, based upon approved retirement board assumptions, the projected twenty (20) year cost of the proposed legislation. These statements or notes shall be known as "pension impact notes," and they shall accompany each such bill or resolution prior to consideration of the house in which the bill or resolution originated. The reasonable cost of preparing pension impact notes shall be charged as an administrative expense and paid from the retirement system's restricted receipts account established pursuant to § 36-8-10.1. Only the chair of the senate committee on finance with the approval of the president of the senate can request a pension impact note on proposed legislation that originates in the senate. Only the chair of the house committee on finance with the approval of the speaker of the house can request a pension impact note on proposed legislation that originates in the house. The governor can request a pension impact note on proposed legislation recommended in the appropriation acts required by §§ 35-3-7 or 35-3-8. This section shall be in addition to the requirements of chapter 12 of title 22.

History of Section.

(P.L. 1994, ch. 139, § 8; P.L. 2008, ch. 100, art. 23, § 2.)

§ 36-10-40 Domestic partner – Definition. – For purposes of this chapter, "domestic partner" shall be defined as a person who, prior to the decedent's death, was in an exclusive, intimate and committed relationship with the decedent, and who certifies by affidavit that their relationship met the following qualifications:

(1) Both partners were at least eighteen (18) years of age and were mentally competent to contract;

(2) Neither partner was married to anyone else;

(3) Partners were not related by blood to a degree which would prohibit marriage in the state of Rhode Island;

(4) Partners resided together and had resided together for at least one year at the time of death; and

(5) Partners were financially interdependent as evidenced by at least two (2) of the following:

(i) Domestic partnership agreement or relationship contract;

(ii) Joint mortgage or joint ownership of primary residence;

(iii) Two (2) of: (A) joint ownership of motor vehicle; (B) joint checking account; (C) joint credit account; (D) joint lease; and/or

(iv) The domestic partner had been designated as a beneficiary for the decedent's will, retirement contract or life insurance.

History of Section.

(P.L. 2007, effective October 30, 2007, ch. 510, § 12.)

CHAPTER 36-10.1

Rhode Island Public Employee Pension Revocation and Reduction Act

§ 36-10.1-1 Short title. – This chapter shall be known and may be cited as the "Public Employee Pension Revocation and Reduction Act".

History of Section.

(P.L. 1992, ch. 306, art. 1, § 8.)

§ 36-10.1-2 Definitions. – (a) "Crime related to public office or public employment" shall mean any of the following criminal offenses:

- (1) The committing, aiding, or abetting of an embezzlement of public funds;
- (2) The committing, aiding, or abetting of any felonious theft by a public officer or employee from his or her employer;
- (3) Bribery in connection with employment of a public officer or employee; and
- (4) The committing of any felony by a public officer or employee who, willfully and with the intent to defraud, realizes or obtains, or attempts to realize or obtain, a profit, gain, or advantage for himself or herself or for some other person through the use or attempted use of the power, rights, privileges, duties, or position of his or her public office or employment position.

(b) "Public official" or "public employee" shall mean any current or former state or municipal elected official as defined in § 36-14-2(10), state or municipal appointed official as defined in § 36-14-2(4), and any employee of state or local government, of boards, commissions or agencies as defined in § 36-14-2(8)(i), (ii), who is otherwise entitled to receive or who is receiving retirement benefits under this title, under title 16, under title 45, under title 8, under chapter 30 of title 28, under chapter 43 of title 31, or under chapter 28 of title 42, whether that person is acting on a permanent or temporary basis and whether or not compensated on a full-time or part-time basis. For the purposes of this chapter, all these persons are deemed to be engaged in public employment.

(c) As used in this chapter, the phrase "pleads guilty or nolo contendere" shall not include any plea of nolo contendere which does not constitute a conviction by virtue of § 12-10-12 or 12-18-3.

(d) For purposes of this chapter, "domestic partner" shall be defined as a person who, prior to the decedent's death, was in an exclusive, intimate and committed relationship with the decedent, and who certifies by affidavit that their relationship met the following qualifications:

- (1) Both partners were at least eighteen (18) years of age and were mentally competent to contract;
- (2) Neither partner was married to anyone else;
- (3) Partners were not related by blood to a degree which would prohibit marriage in the state of Rhode Island;
- (4) Partners resided together and had resided together for at least one year at the time of death; and
- (5) Partners were financially interdependent as evidenced by at least two (2) of the following:

- (i) Domestic partnership agreement or relationship contract;
- (ii) Joint mortgage or joint ownership of primary residence;
- (iii) Two (2) of: (A) joint ownership of motor vehicle; (B) joint checking account; (C) joint credit account; (D) joint lease; and/or
- (iv) The domestic partner had been designated as a beneficiary for the decedent's will, retirement contract or life insurance.

History of Section.

(P.L. 1992, ch. 306, art. 1, § 8; P.L. 2007, ch. 510, § 13; P.L. 2010, ch. 239, § 12.)

§ 36-10.1-3 Revocation and reduction of benefits. – (a) Notwithstanding any other provision of law, any retirement or other benefit or payment of any kind to which a public official or public employee is otherwise entitled under this chapter, under title 16, under title 45, under title 8, under chapter 30 of title 28, under chapter 43 of title 31, or under chapter 28 of title 42 shall be revoked or reduced, in accordance with the provisions of this chapter, or § 11-41-31 if, after January 1, 1993, the public official or public employee is convicted of or pleads guilty or nolo contendere to any crime related to his or her public office or public employment. Any such conviction or plea shall be deemed to be a breach of the public officer's or public employee's contract with his or her employer.

(b) Whenever any public official or public employee is convicted of or pleads guilty or nolo contendere to any crime related to his or her public office or public employment, the retirement board, if no finding is made by the judge in the criminal action pursuant to § 11-41-31, shall:

(1) Initiate a civil action in the superior court for the revocation or reduction of any retirement or other benefit or payment to which the public official or public employee is otherwise entitled under this title, under title 16, under title 45, under title 8, under chapter 30 of title 28, under chapter 43 of title 31, or under chapter 28 of title 42.

(2) The superior court shall order the public official or employee to appear and show cause as to why any retirement or other benefit or payment to which the public official or public employee is otherwise entitled under this title, under title 16, under title 45, under title 8, under chapter 30 of title 28, under chapter 43 of title 31, or under chapter 28 of title 42 should not be withheld pending adjudication of the civil action in the superior court.

(3) Legal standing is hereby conferred upon the retirement board to initiate and maintain a civil action, and jurisdiction over that civil action is hereby conferred upon the superior court.

(c) In any civil action under this chapter for the revocation or reduction of retirement or other benefits or payments, the superior court shall determine:

(i) Whether the public employee has been convicted of or pled guilty or nolo contendere to any crime related to his or her public office or public employment and, if so;

(ii) Whether the retirement or other benefits or payments to which the public official or public employee is otherwise entitled should be revoked or diminished and, if so;

(iii) In what amount or by what proportion such revocation or reduction should be ordered.

(2) In rendering its decision hereunder, the superior court shall consider and address each of the following factors:

(i) The fact that the allowance of retirement or other benefits or payments for service under this title, under title 16, under title 45, under title 8, under chapter 30 of title 28, under chapter 43 of title 31, and under chapter 28 of title 42 presumes and requires that the service shall have been honorably rendered;

(ii) The severity of the crime related to public office or public employment of which the public official or public employee has been convicted or to which the public official or public employee has pled guilty or nolo contendere;

(iii) The amount of monetary loss suffered by the public official's or public employee's employer or by any other person as a result of the subject crime related to public office or public employment;

(iv) The degree of public trust reposed in the subject public official or public employee by virtue of his or her public office or public employment; and

(v) Any such other factors as, in the judgment of the superior court, justice may require.

(d) If the superior court determines that the retirement or other benefits or payments of a public official or public employee should be revoked or reduced under this chapter, it may, in its discretion and after taking into consideration the financial needs and resources of any innocent spouse or domestic partner, dependents and/or designated beneficiaries of the public official or public employee, order that some or all of the revoked or reduced benefits or payments be paid to any innocent spouse or domestic partner, dependent or beneficiary as justice may require.

(e) If the superior court determines that the retirement or other benefits or payments of a public official or public employee should not be revoked or reduced under this chapter, it shall order that the retirement or other benefits or payments be made to the public official or public employee as if the initiation of the civil action had not occurred.

History of Section.

(P.L. 1992, ch. 306, art. 1, § 8; P.L. 1995, ch. 212, § 1; P.L. 1996, ch. 292, § 2; P.L. 2007, ch. 510, § 13.)

§ 36-10.1-4 Return of contribution. – (a) Any public official or public employee whose retirement or other benefits or payments are revoked pursuant to this chapter shall be entitled to a return of his or her contribution paid into the relevant pension fund(s), without interest.

(b) Any public official or employee whose retirement or other benefits or payments are reduced pursuant to this chapter shall be entitled to a pro rata return of a portion of his or her contribution paid into the relevant pension fund(s) in an amount proportionate to the amount of any such reduction, without interest.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, no payments in return of contributions shall be made or ordered unless and until the superior court determines that the public official or public employee whose retirement or other benefits or payments have been revoked or reduced under this chapter has satisfied in full any judgments or orders rendered by any court of competent jurisdiction for the payment of restitution for losses incurred by any person as a result of the subject crime related to public office or public employment. If the superior court determines that the public official or employee whose retirement or other benefits or payments have been revoked or reduced under this chapter has failed to satisfy any outstanding judgment or order of restitution rendered by any court of competent jurisdiction, it may order that any funds otherwise due to the public official or public employee as a return of contribution, or any portion thereof, be paid in satisfaction of the judgment or order.

History of Section.

(P.L. 1992, ch. 306, art. 1, § 8.)

§ 36-10.1-5 Municipal employee pension revocation and reduction. – The superior court shall have jurisdiction to review any decisions, appeals, or other proceedings initiated pursuant to any municipal ordinance providing for the revocation or reduction of the pension of any municipal employee for circumstances constituting dishonorable service as defined by municipal ordinances.

History of Section.

(P.L. 2014, ch. 497, § 1; P.L. 2014, ch. 526, § 1.)

CHAPTER 10.2 PENSION PROTECTION ACT

§ 36-10.2-1 Short title. – This chapter shall be known and may be cited as the "Rhode Island Pension Protection Act".

History of Section.

(P.L. 2011, ch. 408, § 8; P.L. 2011, ch. 409, § 8, effective November 18, 2011.)

§ 36-10.2-2 Purpose. – The purpose of the Rhode Island Pension Protection Act is to provide current, retired and future public employees financial retirement security by codifying procedures that will promote the sustainability and longevity of the state's retirement systems. The act will implement a fair process to be used to facilitate needed changes in times of fiscal distress.

History of Section.

(P.L. 2011, ch. 408, § 8; P.L. 2011, ch. 409, § 8.)

§ 36-10.2-3 Definitions. – As used in this chapter, the following terms, unless the context requires a different interpretation, have the following meanings:

(1) "Retirement board" or "board" means the retirement board of the Employees' Retirement System of the State of Rhode Island as defined in Chapter 36-8.

(2) "Actuary" means the actuary selected from time to time and employed by the board in accordance with Chapter 36-8.

(3) "Plan" or "plans" means any plan or plans that are part of the following public retirement systems: the Employees' Retirement System of Rhode Island (ERS); the Municipal Employees' Retirement System of Rhode Island (MERS); the Rhode Island State Police Retirement Benefits Trust (SPRBT); and the Rhode Island Judicial Retirement Benefits Trust (JRBT).

(4) "Funded percentage" means the percentage equal to a fraction- the numerator of which is the actuarial value of the plan's assets, as determined by the actuary, and the denominator of which is the accrued liability of the plan, determined by the actuary using actuarial assumptions approved by the board.

History of Section.

(P.L. 2011, ch. 408, § 8; P.L. 2011, ch. 409, § 8.)

§ 36-10.2-4 Actuarial valuation methodology. – Actuarial accounting methods used by the actuary in determining the funded percentage shall be determined by the board in compliance with all applicable public pension accounting laws, rules and regulations. The actuary or the board shall not, year to year, change actuarial methods for the sole purpose of achieving a more favorable funding or fiscal result. Any actuarial assumptions not determined by the board shall be made by the actuary in good faith and in accordance with accepted actuarial standards.

History of Section.

(P.L. 2011, ch. 408, § 8; P.L. 2011, ch. 409, § 8.)

§ 36-10.2-5 Determination of endangered status. – A plan is in endangered status for a plan year if the retirement board determines, in consultation with the plan actuary, that the plan:

- (i) Has a funded percentage of fifty percent (50%) or less;
- (ii) The plan's funded percentage has decreased for five (5) consecutive plan years.

History of Section.

(P.L. 2011, ch. 408, § 8; P.L. 2011, ch. 409, § 8.)

§ 36-10.2-6 Annual certification and notice requirements. – (1) Not later than November 1st of each plan year of a plan, the actuary shall certify to the board and the executive director of the retirement system whether or not a plan is in endangered status for such a plan year.

(2) In any case in which the actuary certifies that a plan is in endangered status for a plan year, the executive director of the retirement system shall, not later than thirty (30) business days following the certification, provide notification of the endangered status to the members, beneficiaries, the general assembly, the governor, the general treasurer and any local or municipal employer of a MERS plan determined to be in endangered status. The notification shall also be posted electronically on the retirement board's website.

History of Section.

(P.L. 2011, ch. 408, § 8; P.L. 2011, ch. 409, § 8.)

§ 36-10.2-7 Funding improvement strategy procedure. – (1) In any case in which a plan is in endangered status for a plan year, except for a plan year where a plan is already in a funding improvement period and meeting its scheduled funding targets for the three (3) consecutive prior plan years, a funding improvement strategy shall be implemented not later than June 30th following the date the plan was certified as being in endangered status under § 36-10.2-6. The plan actuary shall submit preliminary funding improvement strategies including a default strategy as described in subparagraphs (3) and (4) to the board for review not later than January 1st following the date the plan was certified as being in endangered status under § 36-10.2-6.

(2) The funding improvement strategy shall be formulated to achieve, based on reasonably anticipated experience and reasonable actuarial assumptions, the following requirements:

(a) The plan's funded percentage shall improve in accordance with paragraph (i) or paragraph (ii), applying the paragraph that produces the greater funded percentage increase for the plan in a ten (10) year period.

(i) As of the close of a ten (10) year funding improvement period, the plan's funded percentage shall equal or exceed the sum of:

(I) The plan's funded percentage as of the beginning of the plan year that the actuary initially certified the plan as endangered; plus

(II) Fifty percent (50%) of the difference between eighty percent (80%) and the plan's funded percentage under paragraph (I); or

(ii) The plan's funded percentage shall improve at the rate of at least one percent (1%) annually until the plan's funded percentage equals or exceeds eighty percent (80%).

(b) In the event that the state or a local municipality, as the employer of a plan, determines that, based on reasonable actuarial assumptions and upon exhaustion of all reasonable measures, the plan cannot reasonably be expected to meet the guidelines of subdivisions (i) and (ii), then the employer's legislative governing body shall provide a report to the retirement board, no later than March 1st following the date the plan was certified as being in endangered status under § 36-10.2-6, explaining why the plan is not reasonably expected to meet the guidelines of subdivisions (i) or (ii) and provide a reasonable funding improvement strategy to emerge from endangered status.

(3) Not later than January 1st following the date the plan was certified as being in endangered status under § 36-10.2-6, the actuary shall provide to the board, and in the case of MERS plan shall also provide to the impacted local municipality's legislative governing body, at least five (5) funding improvement strategies but no more than ten (10) funding improvement strategies showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the plan to meet the applicable requirements found in subparagraph (2).

(4) In addition to any funding improvement strategies provided by the board in subparagraph (3), the board shall include a default funding improvement strategy ("Default

A") that shall show increases in employer and employee contributions under the plan necessary to achieve the applicable requirements found in subsection (2), assuming no amendments to reduce future benefit accruals under the plan.

(5) Not later than April 1st following the date the plan was certified as being in endangered status under § 36-10.2-6, the board shall submit the "Default A" strategy as described in subparagraph (4) and one additional funding improvement strategy, as selected by the board, to the general assembly.

(6) Not later than June 30th following the date the plan was certified as being in endangered status under § 36-10.2-6, the general assembly shall select and enact into law one of the two (2) submitted funding improvement strategies. If no funding improvement strategy is approved by the general assembly by June 30th, the "Default A" strategy as described in subparagraph (4) shall be enacted into law effective July 1st following the date the plan was certified as being in endangered status under § 36-10.2-6. "Default A" shall remain in effect until either the actuary certifies under § 36-10.2-6 for a plan year that the plan is no longer in endangered status or the general assembly selects a funding improvement strategy consistent with the provisions of this chapter.

(7) Notwithstanding any other law to the contrary, any reports and funding strategies submitted to the board pursuant to this section shall be public records.

History of Section.

(P.L. 2011, ch. 408, § 8; P.L. 2011, ch. 409, § 8.)

§ 36-10.2-8 Funding improvement period. – (1) The funding improvement period for any funding improvement strategy adopted pursuant to this chapter shall begin on the first day of July immediately after the adoption date of the funding improvement strategy.

(2) The funding improvement period shall be a ten (10) year period unless the actuary certifies under § 36-10.2-6 for a plan year that the plan is no longer in endangered status. In such a case, the funding improvement period shall end as of the close of the preceding plan year.

(3) A plan may not be amended during the funding improvement period so as to be inconsistent with the funding improvement strategy.

History of Section.

(P.L. 2011, ch. 408, § 8; P.L. 2011, ch. 409, § 8.)

§ 36-10.2-9 Transition period. – Effective for plan years beginning July 1, 2012 any new legislation enacted contemporaneously with this chapter that is expected to improve the funding percentage of such a plan to eighty percent (80%) or greater within a reasonable funding improvement period not to exceed twenty (20) years shall be considered to constitute a funding improvement strategy. The funding improvement period shall be governed by such enacted legislation and shall begin July 1, 2012.

History of Section.

(P.L. 2011, ch. 408, § 8; P.L. 2011, ch. 409, § 8.)

§ 36-10.2-10 Severability. – The holding of any section or sections or parts hereof to be void, ineffective, or unconstitutional for any cause shall not be deemed to affect any other section or part hereof.

History of Section.

(P.L. 2011, ch. 408, § 8; P.L. 2011, ch. 409, § 8.)

CHAPTER 10.3

DEFINED CONTRIBUTION RETIREMENT PLAN

SECTION 36-10.3-1

§ 36-10.3-1 Definitions. – As used in this chapter, the following terms, unless the context requires a different interpretation, shall have the following meanings:

(1) "Compensation" means compensation as defined in section 36-8-1(8).

(2) "Employee" means an employee as defined in §§ 36-8-1(9) and 45-21-2(7) and a teacher as defined in § 16-16-1(12), effective July 1, 2012; provided however, effective July 1, 2015, "employee" shall not include any employee with twenty (20) or more years of total service as of June 30, 2012 in the employees retirement system under chapters 8 through 10 of title 36 or chapter 16 of title 16 (ERS), or the municipal employees retirement system under chapter 21 of title 45 (MERS).

(3) "Employer" means the State of Rhode Island or the local municipality which employs a member of the Employees Retirement System under chapters 8 through 10 of title 36 or chapter 16 of title 16 (ERS) or the Municipal Employees Retirement System under chapters 21 and 21.2 of title 45 (MERS).

(4) "Plan" means the retirement plan established by this chapter.

(5) A "public safety member" shall mean a member of MERS who is a municipal fire fighter or a municipal policeman or policewoman as defined in § 45-21.2-2 who does not participate in Social Security under the Federal Old Age, Survivors, and Disability income program.

(6) "Regular member" means:

(i) An employee who is a member of ERS other than correctional officers as defined in § 36-10-9.2; or

(ii) An employee who is a member of MERS other than a public safety member.

(7) The "retirement board" or "board" shall mean the retirement board of the Employees Retirement System of Rhode Island as defined in Chapter 36-8. The retirement board shall be the plan administrator and plan trustee and shall administer the plan in accordance with § 36-8-4.1.

(8) "State investment commission" or "commission" means the state investment commission as defined in § 35-10-1.

(9) "Supplemental employer" includes any employer that provides supplemental contributions to the defined contribution retirement plan as provided in § 36-10.3-3.

(10) "Supplemental member" is defined in § 36-10.3-3.

History of Section.

(P.L. 2011, ch. 408, § 9; P.L. 2011, ch. 409, § 9; P.L. 2015, ch. 141, art. 21, § 8.)

§ 36-10.3-2 Establishment. – (1) A defined contribution retirement plan is established for members of the Employees' Retirement System of Rhode Island (ERS) and the Municipal Employees' Retirement System of Rhode Island (MERS).

(2) The defined contribution retirement plan is a plan in which retirement savings are accumulated in an individual account for the exclusive benefit of the member or beneficiaries. The plan is established effective July 1, 2012, at which time contributions by employers and members begin.

(3) The defined contribution plan established by this chapter is intended to qualify under 26 U.S.C. 401(a), 414(d), and 414(k) (Internal Revenue Code) in effect from time to time as a qualified governmental retirement plan established and maintained by the state for its employees, for the employees of participating political subdivisions, public corporations, and public organizations of the state, and for the employees of other employers whose participation is authorized by this chapter.

(4) Exclusive benefit. All funds of the plan shall be held in one or more trusts, in one or more custodial accounts treated as trusts in accordance with section 401(f) of the Internal Revenue Code, or in a combination thereof. Under any trust or custodial account, it shall be impossible at any time prior to the satisfaction of all liabilities with respect to employees and their beneficiaries, for any part of the corpus or income to be used for, or diverted to, purposes other than the payment of retirement savings benefits to employees and their beneficiaries. However, this requirement shall not prohibit: (i) The return of a contribution within six (6) months after the plan administrator determines that the contribution was made by a mistake of fact; or (ii) The payment of expenses of the plan in accordance with applicable law.

(b) Vesting on plan termination. In the event of the termination (within the meaning of the Internal Revenue Code) of the plan, the amounts credited to members' accounts shall become fully and immediately vested.

(c) Forfeitures. Amounts forfeited by an employee shall not be applied to increase the benefits of any other employee, and shall reduce employer contributions as shall be set forth in the plan document.

(d) Required distributions. In no event shall a member receive contributions in any year that exceed the limitation set forth in section 415(c) of the Internal Revenue Code.

(e) Limitation on benefits. Benefits shall not be payable to the extent that they exceed the limitations imposed by section 415 of the Internal Revenue Code, 26 U.S.C. section 415, as adjusted from time to time pursuant to section 415(d) of the Internal Revenue Code. In no event shall the member receive a retirement benefit in any year that exceeds the limitations set forth in section 415(b) of the Internal Revenue Code.

(f) Limitation on compensation. Benefits and contributions shall not be computed with reference to any compensation that exceeds the maximum dollar amount permitted by section 401(a)(17) of the Internal Revenue Code as adjusted for increases in the cost-of-living.

(5) The state investment commission shall select an appropriate third-party administrator for the plan and shall adopt such plan, trust and/or custodial documents, with such features and attributes as the commission determines necessary or advisable in its discretion to effectuate the provisions of this chapter in accordance with the following:

(a) The commission shall select one or more firm(s) or company(ies) to provide retirement plan investment, plan administration, and communication services to employees who

participate in the defined contribution plan. The plan shall provide for appropriate long-term retirement oriented investments, and shall include annuity or annuity-like options as determined by the commission. In determining the firm or the company to provide these plan services, the commission shall consider all of the following:

- (i) The financial stability of the company or firm.
 - (ii) The cost of the investments, plan administration, and services to the members.
 - (iii) The experience of the company or firm in providing defined contribution retirement plans.
 - (iv) The experience of the company or firm in providing plan education, counseling, and advice to participants of defined contribution plans.
 - (v) Any criminal convictions, securities or antitrust law violations, material civil or regulatory fines or judgments against the company or firm which the company or firm shall be required to disclose to the commission as part of the selection process.
- (b) The defined contribution retirement plan shall include an option that any disbursement of the accumulated assets in a participant's defined contribution plan account or accounts may be made as a life annuity. The defined contribution retirement plan may offer participants a menu of lifetime annuity options, either fixed or variable, or a combination of both.
- (c) Accumulations in the defined contribution plan are intended to be for retirement purposes and loans or hardship distribution options permitted under the plan, if any, shall be structured for the primary purpose of this plan to support members in their retirement.
- (d) The plan shall provide education, counseling and objective employee-specific plan advice to employees.
- (e) The plan shall include a limited number of investment options which shall include either: (i) Investment portfolio options that are constructed to reflect different risk profiles such as conservative, moderate and aggressive; and/or (ii) Options constructed to reflect different risk profiles that automatically reallocate and rebalance contributions as an employee ages.

History of Section.

(P.L. 2011, ch. 408, § 9; P.L. 2011, ch. 409, § 9.)

§ 36-10.3-3 Supplemental participation for local public employers. – Employers that include job positions, other than public safety positions, that do not participate in Social Security under the Federal Old Age, Survivors and Disability Income program, but which currently contribute to ERS or MERS on behalf of such positions, shall make supplemental contributions to the plan on behalf of regular members in such positions as a supplemental employer in accordance with subsection 36-10.3-6(a). A supplemental employer may request a different level of supplemental contributions in accordance with subsection 36-10.3-6(b) by an ordinance or resolution of its governing body. A regular member in such positions shall be referred to as a "supplemental member" in § 36-10.3-6.

History of Section.

(P.L. 2011, ch. 408, § 9; P.L. 2011, ch. 409, § 9.)

§ 36-10.3-4 Member contributions. – (1) Each regular member shall contribute to the member's individual account in the plan an amount equal to five percent (5%) of the member's compensation from July 1 to the following June 30.

(2) Each public safety member not participating in Social Security under the Federal Old Age, Survivors and Disability Income program, shall contribute to the member's individual account an amount equal to three percent (3%) of the member's compensation from July 1 to the following June 30.

(3) Contributions by supplemental members shall be governed by § 36-10.3-6.

(4) The employer shall deduct the contribution from the member's compensation at the end of each payroll period, and the contribution shall be credited by the plan to the member's

individual account. The contributions shall be deducted from the member's compensation before the computation of applicable federal taxes and shall be treated as employer contributions under 26 U.S.C. 414(h)(2). A member shall not have the option of making the payroll deduction directly in cash instead of having the contribution picked up by the employer.

(5) Contributions of employees shall be made by payroll deductions. Every member shall be considered to consent to payroll deductions. It is of no consequence that a payroll deduction may cause the compensation paid in cash to an employee to be reduced below the minimum required by law. Payment of an employee's compensation, less payroll deductions, is a full and complete discharge and satisfaction of all claims and demands by the employee relating to remuneration of services during the period covered by the payment, except with respect to the benefits provided under the plan.

(6) Additional voluntary member contributions may be permitted in accordance with this section in such manner as determined in the discretion of the commission.

History of Section.

(P.L. 2011, ch. 408, § 9; P.L. 2011, ch. 409, § 9.)

§ 36-10.3-5 Employer contributions. – (1) An employer shall contribute to each regular member's individual account the following amounts:

(i) For members with fewer than ten (10) years of total service as of June 30, 2012, an amount equal to one percent (1%) of the member's compensation at the end of each payroll period from July 1 to the following June 30;

(ii) For members with ten (10) or more, but fewer than fifteen (15) years of total service as of June 30, 2012, an amount equal to one percent (1%) of the member's compensation at the end of each payroll period from July 1, 2012 through June 30, 2015, and effective July 1, 2015, an amount equal to one and one-quarter percent (1.25%) of the member's compensation at the end of each payroll period; and

(iii) For members with fifteen (15) or more, but fewer than twenty (20) years of total service as of June 30, 2012, an amount equal to one percent (1%) of the member's compensation at the end of each payroll period from July 1, 2012 through June 30, 2015, and effective July 1, 2015, an amount equal to one and one-half percent (1.5%) of the member's compensation at the end of each payroll period from July 1 to the following June 30.

(2) An employer shall contribute to the individual account of each public safety member, not participating in Social Security under the Federal Old Age, Survivors and Disability Income program, an amount equal to three percent (3%) of the member's compensation from July 1 to the following June 30.

(3) Contributions by supplemental employers shall be governed by § 36-10.3-6.

History of Section.

(P.L. 2011, ch. 408, § 9; P.L. 2011, ch. 409, § 9; P.L. 2015, ch. 141, art. 21, § 9.)

§ 36-10.3-6 Supplemental employer and member contributions. – (a) A supplemental member shall contribute to the member's individual account an amount equal to two percent (2%) of the member's compensation from July 1 to the following June 30 in addition to the requirements of § 36-10.3-4. For such members, a supplemental employer shall contribute to the member's individual account an amount equal to two percent (2%) of the member's compensation from July 1 to the following June 30 in addition to the requirements of § 36-10.3-5.

(b) A supplemental employer may request a different level of supplemental member contributions and supplemental employer contributions subject to the approval of the state investment commission.

History of Section.

(P.L. 2011, ch. 408, § 9; P.L. 2011, ch. 409, § 9.)

§ 36-10.3-7 Vesting of contributions. – (1) The total amount contributed by the member, including associated investment gains and losses, shall immediately vest in the member and is non-forfeitable.

(2) The total amount contributed by the employer, including associated investment gains and losses, vests with the member and is nonforfeitable upon completion of three (3) years of contributory service. Service credited under ERS or MERS prior to the effective date of this plan shall be credited to members for vesting purposes.

History of Section.

(P.L. 2011, ch. 408, § 9; P.L. 2011, ch. 409, § 9.)

§ 36-10.3-8 Investments. – The state investment commission shall determine from time to time the investment options available under the plan and a member may direct his or her account among the investment options offered under the plan pursuant to the plan documents.

History of Section.

(P.L. 2011, ch. 408, § 9; P.L. 2011, ch. 409, § 9.)

§ 36-10.3-9 Distributions. – The plan documents shall specify the distribution options available under the plan which shall include a lump sum and rollover distribution option, and may include such installment, annuity, hardship, loan or death benefit options as determined by the state investment commission in its discretion subject to section 36-10.3-2(5).

History of Section.

(P.L. 2011, ch. 408, § 9; P.L. 2011, ch. 409, § 9.)

§ 36-10.3-10 Rollover contributions and distributions. – (1) An employee entering the plan may elect, at the time and in the manner prescribed by the administrator, to have all or part of a direct rollover distribution from an eligible retirement plan owned by the member paid directly into the member's individual account.

(2) Rollover contributions do not count as a purchase of membership service for the purpose of determining years of service.

(3) A distributee may elect, at the time and in the manner prescribed by the administrator, to have all or part of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in the direct rollover.

(4) In this section:

(a) "Direct rollover" means the payment of an eligible rollover distribution by the plan to an eligible retirement plan specified by a distributee who is eligible to elect a direct rollover;

(b) "Distributee" means a member, or a beneficiary who is the surviving spouse or domestic partner of the member, or an alternate payee;

(c) "Eligible retirement plan" means:

(i) An individual retirement account described in 26 U.S.C. 408(d)(3)(A);

- (ii) An annuity plan described in 26 U.S.C. 403(a);
 - (iii) A qualified trust described in 26 U.S.C. 401(a);
 - (iv) An annuity plan described in 26 U.S.C. 403(b);
 - (v) A governmental plan described in 26 U.S.C. 457(b);
 - (vi) An individual retirement annuity defined in 26 U.S.C. 408(b); or
 - (vii) On or after January 1, 2008, a Roth IRA described in 26 U.S.C. 408A;
- (d) "Eligible rollover distribution" means a distribution of all or part of a total account to a distributee, except for:

- (i) A distribution that is one of a series of substantially equal installments payable not less frequently than annually over the life expectancy of the distributee or the joint and last survivor life expectancy of the distributee and the distributee's designated beneficiary, as defined in 26 U.S.C. 401(a)(9);
- (ii) A distribution that is one of a series of substantially equal installments payable not less frequently than annually over a specified period of ten (10) years or more;
- (iii) A distribution that is required under 26 U.S.C. 401(a)(9);
- (iv) The portion of any distribution that is not includable in gross income; however, a portion under this paragraph may be transferred only to an individual retirement account or annuity described in 26 U.S.C. 408(a) or (b), to a qualified plan described in 26 U.S.C. 401(a) or 403(a), or to an annuity contract described in 26 U.S.C. 403(b), that agrees to separately account for amounts transferred, including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not includable in gross income; and
- (v) Other distributions that are reasonably expected to total less than two hundred dollars (\$200) during a year.

History of Section.

(P.L. 2011, ch. 408, § 9; P.L. 2011, ch. 409, § 9.)

§ 36-10.3-11 Annual report and statement. – The retirement board shall submit to the governor, the general treasurer, the auditor general, the speaker of the house of representatives and the president of the senate, on or before the first day of December of each fiscal year, an annual report including a financial statement of the plan for the fiscal year of the state next preceding said date. The retirement board shall cause to be published for distribution among the members of the system a financial statement summarizing the results of operations for the fiscal year. The report and financial statement shall also be posted electronically on the retirement board's website.

History of Section.

(P.L. 2011, ch. 408, § 9; P.L. 2011, ch. 409, § 9.)

§ 36-10.3-12 Severability. – The holding of any section or sections or parts hereof to be void, ineffective, or unconstitutional for any cause shall not be deemed to affect any other section or part hereof.

History of Section.

(P.L. 2011, ch. 408, § 9; P.L. 2011, ch. 409, § 9.)

§ 36-10.3-13 Waiver of administrative fees. – Any plan administration fees assessed to members of the plan after July 1, 2015, shall be reimbursed by the state for any member whose annual compensation is thirty-five thousand dollars (\$35,000) or less, said dollar amount to be indexed annually in the same percentage determined under § 36-10-35(h)(1)(B).

History of Section.
(P.L. 2015, ch. 141, art. 21, § 10.)

CHAPTER 36-11

Organization of State Employees

§ 36-11-12 Retirement system matters excluded from collective bargaining. – Any and all matters relating to the employees' retirement system of the state of Rhode Island are excluded as negotiable items in the collective bargaining process.

History of Section.

(P.L. 1979, ch. 160, § 1.)

CHAPTER 36-12

Insurance Benefits

§ 36-12-1 Definitions. – The following words, as used in §§ 36-12-1 – 36-12-14, shall have the following meanings:

(1) "Employer", means the state of Rhode Island.

(2) "Employee", means all persons who are classified employees as the term "classified employee" is defined under § 36-3-3, and all persons in the unclassified and non-classified service of the state; provided, however, that the following shall not be included as "employees" under §§ 36-12-1 – 36-12-14:

(i) Part-time personnel whose work week is less than twenty (20) hours a week and limited period and seasonal personnel;

(ii) Members of the general assembly, its clerks, doorkeepers, and pages.

(3) "Dependents" means an employee's spouse, domestic partner and unmarried children under nineteen (19) years of age. Domestic partners shall certify by affidavit to the benefits director of the division of personnel that the (i) partners are at least eighteen (18) years of age and are mentally competent to contract, (ii) partners are not married to anyone, (iii) partners are not related by blood to a degree which would prohibit marriage in the state of Rhode Island, (iv) partners reside together and have resided together for at least one year, (v) partners are financially interdependent as evidenced by at least two (2) of the following: (A) domestic partnership agreement or relationship contract; (B) joint mortgage or joint ownership of primary residence, (C) two (2) of: (I) joint ownership of motor vehicle; (II) joint checking account; (III) joint credit account; (IV) joint lease; and/or (D) the domestic partner has been designated as a beneficiary for the employee's will, retirement contract or life insurance. Misrepresentation of information in the affidavit will result in an obligation to repay the benefits received, and a civil fine not to exceed one thousand dollars (\$1000) enforceable by the attorney general and payable to the general fund. The employee will notify the benefits director of the division of personnel by completion of a form prescribed by the benefits director when the domestic partnership ends.

(4) "Retired employee", means all persons retired from the active service of the state, who, immediately prior to retirement, were employees of the state as determined by the retirement board under § 36-8-1, and also all retired teachers who have elected to come under the employees' retirement system of the state of Rhode Island.

(5) "Long-term health care insurance", means any insurance policy or rider advertised, marketed, offered, or designed to provide coverage for not less than twelve (12) consecutive months for each covered person on an expense incurred, indemnity, prepaid, or other basis for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital. The term includes: group and individual policies or riders whether issued by insurers, fraternal benefit societies, nonprofit health, hospital, and medical service corporations; prepaid health plans, health maintenance organizations; or any similar organization. Long-term health care insurance shall not include: any insurance policy which is offered primarily to provide basic medicare supplement coverage; basic hospital expense coverage; basic medical-surgical expense coverage; hospital confinement indemnity coverage; major medical expense coverage; disability income protection coverage; accident only coverage; specified disease or specified accident coverage; or limited benefit health coverage. This list of excluded coverages is illustrative and is not intended to be all inclusive.

(6) "Retiree health care insurance", means the health benefit employees who retire from active service of the state (subsequent to July 1, 1989), who immediately prior to retirement were employees of the state as determined by the retirement board pursuant to § 36-8-1, shall be entitled to receive, which shall be equal to semi-private hospital care, surgical/medical care and major medical with a one hundred seventy-five dollar (\$175) calendar year deductible. Employees who retire prior to age sixty-five (65) shall, upon the attainment of Medicare eligibility, receive hospital care, surgical/medical services, rights and benefits which, when taken together with their federal Medicare program benefits (public law 89-97), 42 U.S.C. § 1305 et seq., shall be comparable to those provided for retirees prior to that age. The aforementioned program will be provided on a shared basis in accordance with § 36-12-4.

History of Section.

(P.L. 1960, ch. 136, § 1; P.L. 1967, ch. 105, § 1; P.L. 1988, ch. 433, § 1; P.L. 1989, ch. 227, § 2; P.L. 1989, ch. 542, § 88; P.L. 2001, ch. 110, § 1.)

§ 36-12-2 Hospital care and surgical-medical service benefits. – (a) Employees of the state of Rhode Island shall receive, in addition to wages, salaries, and any other remuneration or benefits, hospital care and surgical-medical services, rights, and benefits purchased by the director of administration pursuant to § 36-12-6, with the specific condition that the benefits and services provided by the carrier(s) will be substantially equivalent to those set forth in any collective bargaining agreement(s) executed between the state of Rhode Island and authorized representatives of the unions representing state employees or the health care coverage presently being provided.

(b) The state will work diligently with leadership of organized labor in order to ensure competitive, cost effective health care services for all employees of the state who may be eligible for those benefits.

(c) Any new plan must accept pre-existing conditions for those individuals who will be covered by the new policy.

(d) Part-time employees whose work week is less than twenty (20) hours a week may purchase the benefits set forth above. The employees shall pay the same rate for the benefits as the group rate paid by the state for the benefits. Payments for the benefits may be deducted in accordance with the provisions of § 36-12-3.

History of Section.

(P.L. 1960, ch. 136, § 2; P.L. 1966, ch. 226, § 1; P.L. 1967, ch. 105, § 2; P.L. 1984, ch. 310, § 1; P.L. 1996, ch. 326, § 6.)

§ 36-12-2.1 Health insurance benefits – Coverage for abortions excluded. – (a) The state of Rhode Island or any city or town shall not include in any health insurance contracts, plans, or policies covering employees, any provision which shall provide coverage for induced abortions (except where the life of the mother would be endangered if the fetus were carried to term, or where the pregnancy resulted from rape or incest). This section shall be applicable to all contracts, plans or policies of:

- (1) All health insurers subject to title 27;
- (2) All group and blanket health insurers subject to title 27;
- (3) All nonprofit hospital, medical, surgical, dental, and health service corporations;
- (4) All health maintenance organizations; and
- (5) Any provision of medical, hospital, surgical, and funeral benefits and of coverage against accidental death or injury when the benefits or coverage are incidental to or part of other insurance authorized by the statutes of this state.

(b) Provided, however, that the provisions of this section shall not apply to benefits provided under existing collective bargaining agreements entered into prior to June 30, 1982.

(c) Nothing contained herein shall be construed to pertain to insurance coverage for complications as the result of an abortion.

History of Section.

(P.L. 1981, ch. 290, § 1; P.L. 1983, ch. 262, § 1.)

§ 36-12-2.2 Disabled retired employees – Hospital care and surgical-medical service

benefits. – Notwithstanding any other provision of the law to the contrary, an employee of the state of Rhode Island who retires under the provisions of title 36 of the Rhode Island general laws with a disability pension benefit shall receive only the following state-sponsored health care and subsidies.

(a) Disabled retired employees who retire on or before September 30, 2008, and who are at least sixty (60) years of age as of September 30, 2008.

(1) Any disabled retired employee of the state of Rhode Island who retires on or before September 30, 2008, and is at least sixty (60) years of age as of September 30, 2008, will be eligible until age sixty-five (65) to continue to purchase hospital care and surgical-medical service benefits as set forth in § 36-12-2 and as are received by classified employees.

Furthermore, if he/she retired subsequent to July 1, 1989, he/she shall receive for himself or herself a subsidy on the individual medical plan in accordance with the following formula until attaining age sixty-five (65):

SEE THE BOOK FOR THE PROPER TABLE.

(2) Any disabled retired employee of the state of Rhode Island who retires on or before September 30, 2008, and is at least sixty-five (65) years of age as of September 30, 2008, will be eligible to continue to purchase hospital care and surgical-medical service benefits as set forth in § 36-12-2 and as are received by classified employees. Furthermore, if he/she retired subsequent to July 1, 1989, he/she shall receive for himself or herself a subsidy on his or her individual medical plan in accordance with the following formula applied to the cost of the Medicare supplemental plan:

SEE THE BOOK FOR THE PROPER TABLE.

(3) Payment for the coverage shall be at the same group rate used by the state in making payment for state employees.

(b) Disabled retired employees who retire after September 30, 2008, or are under sixty (60) years of age on September 30, 2008. Any disabled retired employee of the state of Rhode Island who retires after September 30, 2008, or any disabled retired employee of the state of Rhode Island who is under sixty (60) years of age on September 30, 2008, will be eligible to receive state-sponsored medical coverage and subsidies as follows:

(1) If the retiree is under fifty-nine (59) years of age, the retiree shall have the right to purchase hospital care and surgical-medical service benefits as set forth in § 36-12-2 and as are received by classified employees. Payment for the coverage shall be at the same group rate used by the state in making payment for state employees.

Furthermore, if the retiree is under fifty-nine (59) years of age, and retired after July 1, 1989, and before September 30, 2008, and the retiree had a minimum of twenty-eight (28) years of total service, he/she shall receive for himself or herself a ninety percent (90%) subsidy on the individual medical plan until attaining age fifty-nine (59).

(2) At age fifty-nine (59) the retiree and his/her dependents shall be eligible only for enrollment in the medical plans available to non-disabled state employee retirees. If the retiree has a minimum of ten (10) years of contributory service, and up to twenty (20) years of total service, the retiree will be eligible for a fifty percent (50%) state subsidy on the cost of the individual retiree medical plan. If the retiree has a minimum of ten (10) years of contributory service, and twenty (20) years or more of total service, the retiree will be eligible for an eighty

percent (80%) state subsidy on the cost of the individual retiree medical plan. The retiree is responsible for full payment for any additional dependent plans.

(c) Disabled retired employees who retire after September 30, 2008, or are under sixty-five (65) years of age on September 30, 2008. Any disabled retired employee of the state of Rhode Island who retires after September 30, 2008, or any disabled retired employee of the state of Rhode Island who is under sixty-five (65) years of age on September 30, 2008, will be eligible to receive only the following state-sponsored medical coverage and subsidies upon attaining age sixty-five (65):

(1) If the retiree is eligible for Medicare at age sixty-five (65), the retiree and spouse shall enroll in a state-sponsored Medicare supplemental plan.

(2) If a retiree is not eligible for Medicare at age sixty-five (65), the retiree may remain in the same medical plan that the retiree was enrolled in prior to attaining age sixty-five (65).

(3) If the retiree has a minimum of ten (10) years of contributory service, and up to twenty (20) years of total service, the retiree will receive a fifty percent (50%) state subsidy based on the cost of the individual Medicare supplemental plan. If the retiree has a minimum of ten (10) years of contributory service and twenty (20) years or more of total service, the retiree will be eligible for an eighty percent (80%) state subsidy based on the cost of the individual Medicare supplemental plan. The retiree is responsible for full payment for any additional dependent plans.

(d) Payments for retiree and dependent medical coverage shall be deducted from the purchaser's retirement benefits received pursuant to chapter 10 of this title.

History of Section.

(P.L. 1985, ch. 450, § 1; P.L. 2008, ch. 9, art. 4, § 2; P.L. 2011, ch. 363, § 31.)

§ 36-12-2.3 Health insurance benefits – Administrative services fees for continued coverage requirements of group health plans. – In accordance with the Tax Reform Act of 1986 (P.L. 99-514), amending § 162(k) of the Federal Internal Revenue Code, 26 U.S.C. § 162(k), in the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), 42 U.S.C. § 403, a general revenue receipt account is created to be used solely for deposit of any applicable administrative services fees.

History of Section.

(P.L. 1989, ch. 126, art. 42, § 1; P.L. 1995, ch. 370, art. 40, § 110.)

§ 36-12-2.4 Health insurance benefits – COBRA. – For purposes of fulfilling any employer obligations under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), 42 U.S.C. § 403 et seq., a domestic partner shall be deemed a dependent of an employee as defined herein.

History of Section.

(P.L. 2006, ch. 189, § 2; P.L. 2006, ch. 316, § 2.)

§ 36-12-3 Deductions from pay. – Payments for hospital care and surgical-medical services, rights, and benefits of dependents of employees may be deducted from the state payroll as provided in §§ 36-6-12 and 36-6-13. Payments for surgical-medical services, rights, and benefits of all persons in the service of the state, other than employees, as defined in § 36-12-1(2), whether employed, appointed, or elected, and the dependents of persons may also be deducted from the state payroll as provided in §§ 36-6-12 and 36-6-13.

History of Section.

(P.L. 1960, ch. 136, § 3; P.L. 1981, ch. 276, § 1.)

§ 36-12-4 Coverage of retired employees. – (a) *Retired employees who retire on or before September 30, 2008.* Any retired employee who retired on or before September 30, 2008 shall be entitled to be covered under §§ 36-12-1 – 36-12-5 for himself and herself and, if he or she so desires, his or her dependents, upon agreeing to pay the total cost of his or her contract at the group rate for active state employees. Payments of any retired employee for coverage shall be deducted from his or her retirement allowance and remitted from time to time in payment for such contract. In addition, any retired employee who retired on or before September 30, 2008 shall be permitted to purchase coverage for his or her dependents upon agreeing to pay the additional cost of the contract at the group rate for active state employees. Payment for coverage for dependents shall be deducted from his or her retirement allowances and remitted as required in payment for the contract.

(b) *State employees who retire subsequent to July 1, 1989, and on or before September 30, 2008.* Employees who retire subsequent to July 1, 1989, and on or before September 30, 2008, from active service of the state, and who were employees of the state as determined by the retirement board under § 36-8-1, shall be entitled to receive for himself or herself a retiree health care insurance benefit as described in § 36-12-1 in accordance with the following formula:

SEE THE BOOK FOR THE PROPER TABLE.

If the retired employee is receiving a subsidy on September 30, 2008, the state will continue to pay the same subsidy share until the retiree attains age sixty-five (65).

When the retiree reaches that age which will qualify him or her for Medicare supplement the formula shall be:

SEE THE BOOK FOR THE PROPER TABLE.

(c) *Retired employees who retire on or after October 1, 2008.* Any retired employee who retires on or after October 1, 2008 shall be entitled to be covered under §§ 36-12-1 – 36-12-5 for himself and herself and, if he or she so desires, his or her dependents, upon agreeing to pay the total cost of the contract in the plan in which he or she enrolls. Payments of any retired employee for coverage shall be deducted from his or her retirement allowance and remitted from time to time in payment for such contract. Any retired employee who retires on or after October 1, 2008, shall be permitted to purchase coverage for his or her dependents upon agreeing to pay the additional cost of the contract at the group rate for the plan in which the dependent is enrolled. Payment for coverage for dependents shall be deducted from the retired employee's retirement allowances and remitted as required in payment for the contract. The Director of Administration shall develop and present to the chairpersons of the House Finance Committee and the Senate Finance Committee by May 23, 2008 a retiree health plan option or options to be offered to retirees eligible for state-sponsored medical coverage who are under age sixty-five (65) or are not eligible for Medicare. This plan will have a reduced benefit level and will have an actuarially based premium cost not greater than the premium cost of the plan offered to the active state employee population. This new plan option will be available to employees retiring after September 30, 2008, and their dependents.

(d) *State employees who retire on or after October 1, 2008.* Employees who retire on or after October 1, 2008 from active service of the state, and who were employees of the state as determined by the retirement board under § 36-8-1, and who have a minimum of twenty (20) years of service, and who are a minimum of fifty-nine (59) years of age, shall be entitled to receive for himself or herself a retiree health care insurance benefit as described in § 36-12-1. The State will subsidize 80% of the cost of the health insurance plan for individual coverage in which the retired state employee is enrolled in. Payments of any retired employee for coverage shall be deducted from his or her retirement allowance and remitted from time to time in payment for such contract.

(e) Retired employees, including retired teachers, who are non-Medicare eligible and who reach the age of sixty-five (65) shall be allowed to continue to purchase group health care insurance benefits in the same manner as those provided to retired employees who have not reached the age of sixty-five (65).

History of Section.

(P.L. 1960, ch. 136, § 4; P.L. 1989, ch. 227, § 2; P.L. 1998, ch. 259, § 1; P.L. 2008, ch. 9, art. 4, § 2.)

§ 36-12-5 Annual appropriations. – The general assembly shall annually appropriate a sum sufficient to carry out the purposes of §§ 36-12-1–36-12-5. The state controller is hereby authorized and directed to draw his or her orders upon the general treasurer for the payment of the sum, or so much thereof as may be required from time to time, upon receipt by him or her of properly authenticated vouchers.

History of Section.

(P.L. 1960, ch. 136, § 5.)

§ 36-12-6 Authority to purchase group life, accidental death, long term health care, and other insurance benefits. –

(a) The director of administration, or any employee of the department of administration designated by the director as his or her agent, is hereby authorized, empowered, and directed to contract with one or more insurance companies duly licensed by this state for the purchase of one or more contracts providing for group life, accidental death, long term health care and other insurance benefits in conformity with the provisions of §§ 36-12-6 – 36-12-14, to purchase contracts of insurance and to administer all provisions of §§ 36-12-6 – 36-12-14. Before entering into any insurance contract under this chapter, the director shall invite proposals from such qualified insurers as in his or her opinion would desire to accept any part of the insurance coverage authorized by §§ 36-12-6 – 36-12-14 including hospital care and surgical-medical services with the specific condition that the benefits and services provided by the carrier(s) will be substantially equivalent to those set forth in any collective bargaining agreements executed between the state of Rhode Island and authorized representatives of the unions representing state employees or the health care coverage presently being provided.

(b) The state will work diligently with leadership of organized labor in order to ensure competitiveness, cost effective health care services for all employees of the state who may be eligible for those benefits.

(c) Any new plan must accept pre-existing conditions for those individuals who will be covered by the new policy.

(d) The director may arrange with the company or companies from which the policy or policies of insurance authorized herein are purchased to reinsure portions of any contract or contracts of insurance with other insurance companies duly licensed in this state which elect to enter into contracts of reinsurance and are legally competent to do so. The director may annually redetermine the amount or amounts of coverage to be allocated to reinsuring companies in advance of any contract year after the first year.

(e) The director may designate one or more of those insurance companies as the administering company or companies.

(f) Each employee who is covered under any contract or contracts shall receive a certificate setting forth the benefits to which the employee and his or her dependents are entitled thereunder, to whom benefits shall be payable, to whom claims should be submitted, and summarizing the provisions of the contract principally affecting the employee and his or her dependents.

(g) The director may, on June 30, 1961, or at the end of any fiscal year thereafter, discontinue any insurance contract or contracts he or she has purchased from any corporation or corporations and replace it or them with a contract or contracts in any other corporation or corporations meeting the requirements of §§ 36-12-6 – 36-12-14.

History of Section.

(P.L. 1960, ch. 119, § 1; P.L. 1988, ch. 433, § 1; P.L. 1996, ch. 326, § 6.)

§ 36-12-7 Eligibility for benefits. – (a) All persons in the service of the state on and after July 1, 1960, whether elected, appointed or employed, who elect to participate in an insurance contract or contracts shall be eligible to participate therein. The director, however, with the consent of the insurance company or companies, may by rule or regulation exclude those classes of temporary, part-time, or intermittent employees for whom insurance contracts shall be deemed to be impracticable.

(b) The director, with the consent of the insurance company or companies, may authorize the inclusion in insurance contracts of employees of public authorities, full-time employees of organizations representing state employees, or other appropriate agencies of the state as may be designated in the rules or regulations of the director, and may prescribe the rate of contribution required from such participating authorities, or other agencies.

History of Section.

(P.L. 1960, ch. 119, § 2; P.L. 1968, ch. 235, § 1.)

§ 36-12-8 Provisions of insurance contract. – (a) The director is hereby authorized and directed to establish a life insurance plan for employees of the state as herein provided, which, subject to the conditions and limitations contained in §§ 36-12-6 – 36-12-14, and in the regulations promulgated pursuant to the authority vested in him or her by §§ 36-12-6 – 36-12-14, will provide for each participating employee group life insurance equal to the amount of his or her annual compensation, taken to the next higher multiple of one thousand dollars (\$1,000), plus an equal amount of group accidental death insurance with dismemberment coverage as provided herein.

(b) In addition to the benefits provided hereinbefore and subject to the conditions and limitations of the policy or policies purchased by the director, the policy or policies shall provide payments as follows:

SEE THE BOOK FOR THE PROPER TABLE.

(c) For any one accident the aggregate amount of group accidental death and dismemberment insurance that may be paid shall not exceed the amount of life insurance provided by §§ 36-12-6 – 36-12-14.

(d) The director shall by regulation provide for the conversion of other than annual rates of compensation to an annual basis and shall further specify the types of compensation to be included in annual compensation.

(e) The amount of insurance shall be reduced by one percent (1%) thereof at the end of each calendar month following the date the employee attains the age of sixty-five (65), until the amount of the insurance reaches forty percent (40%) of the annual salary at age seventy (70). The amount of insurance shall remain at forty percent (40%) of the annual salary thereafter until the active employee reaches age seventy-four (74), at which point it shall be reduced to thirty percent (30%) of the annual salary until age eighty (80), at which point it shall be reduced to twenty-five percent (25%) of the annual salary and it shall remain at twenty-five percent (25%) thereafter.

History of Section.

(P.L. 1960, ch. 119, § 3; P.L. 1987, ch. 574, § 1.)

§ 36-12-9 Beneficiaries – Payment of benefits. – (a) The policy or policies issued hereunder shall include a provision prescribing the conditions under which an insured employee may designate and change the beneficiary or beneficiaries to receive insurance payable upon the death of the employee.

(b) If, at the death of any employee insured hereunder, there shall be more than one designated beneficiary, then, unless the employee shall have specified the respective interests of the beneficiaries, the interests of the beneficiaries shall be several and equal. If any designated beneficiary shall predecease the employee, the rights and interest of the beneficiary shall thereupon automatically terminate. If, at the death of the employee, there be no designated beneficiary as to all or any part of the insurance, then the amount of the insurance payable for which there is no designated beneficiary shall be payable to the estate of the employee; provided, however, that the insurance company may, in that case, at its option, and subject to rules approved by the director, pay the amount to any one of the following surviving relatives: wife, husband, mother, father, child, or children. Payment to any one or more of the surviving relatives shall completely discharge the insurance company's liability with respect to the amount of insurance so paid.

History of Section.

(P.L. 1960, ch. 119, § 4.)

§ 36-12-10 Participation by employees. – Any policy of insurance purchased by the director as authorized in §§ 36-12-6 – 36-12-14 shall provide that all employees eligible under the terms of §§ 36-12-6 – 36-12-14 will be automatically insured thereunder commencing on the date they first become so eligible; provided, that any employee desiring not to be so insured shall, on an appropriate form to be prescribed by the director, give written notice to the director that he or she desires not to be insured. If the notice is received before the employee shall have become insured under the policy he or she shall not be so insured; if it is received after he or she shall have become insured his or her insurance under the policy shall cease, effective with the end of the pay period during which the notice is received by the director.

History of Section.

(P.L. 1960, ch. 119, § 5.)

§ 36-12-11 Deductions from salary – Payments by employers. – (a) During any period in which an employee under age sixty-five (65) is insured under a policy of insurance purchased by the director as authorized in §§ 36-12-6 – 36-12-14, there shall be withheld by the employer from each salary payment of the employee, as his or her share of the cost of his or her group life and accidental death and dismemberment insurance, an amount specified in the contract or policy which shall not exceed the rate of twenty-five cents (25¢) biweekly for each one thousand dollars (\$1,000) of his or her group life insurance; provided, that an employee who is paid on other than a biweekly basis shall have an amount so withheld, determined at a proportionate rate, which rate shall be adjusted to the nearest cent.

(b) The cost of providing the insurance benefits provided for in §§ 36-12-6 – 36-12-14, together with the cost of administration of the provisions of §§ 36-12-6 – 36-12-14 in excess of the amounts paid by employees therefor, shall be paid by the participating employers in those proportions and at those times as the director may determine.

(c) The payments shall be made by the participating employers out of appropriations made therefor, and the general assembly shall annually appropriate those sums to the fund herein created which may be required during the fiscal year.

(d) The sums withheld from employees and the funds appropriated by participating employers as provided herein shall be deposited with the general treasurer of the state to the credit of a fund which is hereby created as the group life insurance fund.

(e) During any period in which an employee is insured under a policy of long term health care insurance purchased by the director as authorized in § 36-12-6, there shall be withheld by the employer from each salary payment of the employee as his or her cost of long term care insurance an amount specified in the contract or policy; provided, that an employee who is paid on other than a biweekly basis shall have an amount so withheld, determined at a proportionate rate, which rate shall be adjusted to the nearest cent.

History of Section.

(P.L. 1960, ch. 119, § 6; P.L. 1988, ch. 433, § 1.)

§ 36-12-12 Termination of insurance. – Each contract of insurance purchased under §§ 36-12-6 – 36-12-14 shall contain a provision, in terms approved by the director, to the effect that any insurance thereunder on any employee shall cease upon the termination of his or her employment subject to a provision which shall be contained in the contract of insurance for temporary extension of coverage under conditions approved by the director and for conversion to an individual policy of life insurance for the employee, except that the director may by appropriate general regulation provide that an employee who retires, under the provisions of any retirement system of the state of Rhode Island, with the exception of that provided in § 42-28-22, shall have his or her life insurance only, in effect at the time of retirement, continue in the amounts for which he or she would have been insured from time to time had his or her salary payments continued at the same rate as on the date of cessation of employment.

History of Section.

(P.L. 1960, ch. 119, § 7; P.L. 1969, ch. 159, § 1; P.L. 1987, ch. 574, § 1.)

§ 36-12-13 Regulations and effective date of insurance. – Subject to the provisions of §§ 36-12-6 – 36-12-14, the director is hereby authorized to promulgate such rules and regulations as may be necessary and proper to give effect to the intent and purposes of §§ 36-12-6 – 36-12-14, and without limiting the generality of the foregoing, to establish an effective date or dates for the insurance coverage provided hereunder.

History of Section.

(P.L. 1960, ch. 119, § 8.)

§ 36-12-14 Severability. – The provisions of §§ 36-12-6 – 36-12-14 are hereby declared to be severable, and in case any part, section, or provision of §§ 36-12-6 – 36-12-14 is held void by any court of competent jurisdiction, the remaining parts, sections, and provisions of §§ 36-12-6 – 36-12-14 shall not, thereby, be impaired or otherwise affected.

History of Section.

(P.L. 1960, ch. 119, § 9.)

CHAPTER 36-13 Deferred Compensation Plans

§ 36-13-1 Deferred compensation plans authorized. – (a) The state or any city, town, or other political subdivision may, by contract, agree with any employee to defer, in whole or in part, any portion of that employee's compensation, and may subsequently contract with financial institutions for the purchase of government securities or with other financial entities for the purchase of mutual funds, and procure a fixed or variable life insurance or annuity contract for the purpose of providing funds to meet its obligations under a deferred compensation program for the employees from any financial institutions or from any life underwriters duly licensed by this state who represents an insurance company licensed to contract business in this state.

(b) In the administration of a deferred compensation plan for state employees authorized under this chapter, after October 1, 1998, the state shall engage three companies ("Authorized Companies") to administer such deferred compensation plans. After October 1, 1998, only such Authorized Companies shall be entitled to enroll state employees in such deferred compensation plans in accordance with the following guidelines:

(1) Employees must have the option of purchasing or investing in alternative financial products referred to herein which have been approved by the State Investment Commission;

(2) The alternative financial products shall include, without limitation, a variable product and a fixed product;

(3) The Authorized Companies (or an entity related thereto) must:

(i) Be selected in accordance with the provisions of this chapter,

(ii) Covenant that all employees covered under any plan authorized under this chapter shall, at all times, be granted the unfettered right to cancel, change, liquidate, amend or interchange any investment contract or product purchased in any such plan without such employees incurring a financial penalty or fee of any kind or nature imposed by contract, and

(iii) Be granted equal access to all eligible employees;

(4) Procedures shall be established to ensure that personalized information regarding employees shall not be provided to third parties by the Authorized Companies.

"Personalized Information" shall include, without limitation, social security numbers, home addresses, telephone numbers, amounts invested, medical or disability information; and

(5) The Authorized Companies shall be permitted to offer any financial product referred to herein which shall have been approved by the State Investment Commission. Notwithstanding any other provisions of this section (b), if the department of administration determines that less than three companies are qualified to be engaged as Authorized Companies because of (a) insufficient experience in the administration of deferred compensation plans or (b) a failure to assure adherence to the guidelines set forth herein, the state may engage less than three Authorized Companies.

(6) If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

History of Section.

(P.L. 1975, ch. 34, § 1; P.L. 1982, ch. 447, § 1; P.L. 1995, ch. 182, § 1; P.L. 1995, ch. 225, § 1; P.L. 1998, ch. 459, § 1; P.L. 1999, ch. 151, § 1; P.L. 2011, ch. 363, § 33.)

§ 36-13-1.1 State investment commission. – The state investment commission shall, from time to time, select the financial institutions and/or entities in which the state shall invest the funds under the deferred compensation plan for state employees.

History of Section.

(P.L. 1995, ch. 182, § 2; P.L. 1995, ch. 225, § 2.)

§ 36-13-2 Entering into agreements. – The chief administrative officer of any city or town or director of administration of the state of Rhode Island is hereby authorized to enter into contractual agreements with employees of that particular state agency, department, board, commission, or institution on behalf of the state to defer any portion of that employee's compensation.

History of Section.

(P.L. 1975, ch. 34, § 1.)

§ 36-13-3 Administration of program. – The administration of the deferred compensation program within each state agency, department, board, commission, or institution shall be under the direction of the director or principal officer of that particular agency, department, board, commission, or institution. Each city, town, or other political subdivision shall designate an officer to administer the deferred compensation program. Reductions in payroll shall be made, in each instance, by the appropriate payroll officer. The administrator of the deferred compensation program may contract with a private corporation or institution for providing consolidated billing and other administrative services.

History of Section.

(P.L. 1975, ch. 34, § 1.)

§ 36-13-4 "Employee" defined. – For the purposes of this chapter, "employee" means any person, whether appointed, elected or under contract, providing services for the state, county, city, town, or other political subdivision, for which compensation is paid.

History of Section.

(P.L. 1975, ch. 34, § 1.)

§ 36-13-5 Annuity and insurance contracts. – Notwithstanding any other provision of law to the contrary, those persons designated to administer the deferred compensation program are hereby authorized to make payments for the purchase of government securities, mutual funds, fixed or variable life insurance, or annuity contracts under the deferred compensation program. The payments shall not be construed to be a prohibited use of the general assets of the state, county, city, or other political subdivision.

History of Section.

(P.L. 1975, ch. 34, § 1; P.L. 1982, ch. 447, § 1; P.L. 1995, ch. 182, § 1; P.L. 1995, ch. 225, § 1.)

§ 36-13-6 Other benefits unaffected. – The deferred compensation program established by this chapter shall exist and serve in addition to retirement, pension, or benefit systems established by the state, county, city, town, or other political subdivision, and no deferral of income under the deferred compensation program shall affect a reduction of any retirement, pension, or other benefit provided by law. However, any sum deferred under the deferred compensation program shall not be subject to taxation until distribution is

actually made to the employee.

History of Section.

(P.L. 1975, ch. 34, § 1.)

§ 36-13-7 Financial liability limitations. – The financial liability of the state, city, town, or other political subdivision under a deferred compensation program shall be limited in each instance to the value of the particular fixed or variable life insurance or annuity contract or contracts purchased on behalf of any employee.

History of Section.

(P.L. 1975, ch. 34, § 1.)

§ 36-13-8 Severability. – If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter, which can be given effect without the invalid provisions or application, and to this end the provisions of this chapter are declared to be severable.

History of Section.

(P.L. 1995, ch. 182, § 2.)

Title 16 Chapters 7, 15, 16, 17 and 17.1 Education

CHAPTER 16-7 Foundation Level School Support

§ 16-7-19.1 Optional incentive plan. – (a) Any school committee in a municipality, or regional school district with an elected school committee, may by resolution to the retirement board, and the chief executive officer in any municipality with an appointed school committee may by order to the retirement board, as a result of a bargaining agreement with its teacher employees, accept an incentive plan to provide supplemental payments for teachers who are eligible for a service retirement allowance at the time they retire, or who become eligible for a service retirement allowance subsequent to their retirement, as follows: As an incentive to retire, the school committee shall grant no later than thirty (30) days following retirement a lump sum payment not to exceed one hundred fifty dollars (\$150) for each year of service in that community, up to a maximum of thirty (30) years of service.

(b) Each teacher must notify the school committee by July 1 of the year in which they intend to retire. The incentive payment shall be paid to the teacher no later than thirty (30) days following retirement or at the time they become eligible for a service retirement allowance and no retirement contribution shall be made from this payment.

(c) Incentive payments under the plan shall not be included in the final salary of a teacher for the computation of the basic pension due from the retirement plan and the supplemental amount shall be computed as a separate item based on the existing pension formula, including three (3) year average, and the supplemental payment shall then be added to the teacher's basic pension amount.

(d) Supplemental payments under this section shall be applied, in the case of an option, after the option annuity amount is determined, and shall be continued for the lifetime of the teacher only and not to a beneficiary.

(e) Supplemental payments under this section shall not be included in the original pension allowance subject to any cost of living increase provided by § 16-16-40.

(f) The total of all supplemental payments to retired teachers under this section shall be reimbursed to the retirement board by the school districts on a monthly basis. Whenever any amounts due are not paid within thirty (30) days from the date due, the board shall levy regular interest on the payments from date due to date of payment.

(g) Any school committee in a municipality or regional school district with an elected school committee may terminate the optional incentive plan by resolution to the retirement board and the chief executive officer of a municipality with an appointed school committee may terminate the optional incentive plan by order to the retirement board, provided that:

(1) No teacher who retires after the termination of the plan shall be eligible for any incentive or supplemental payments.

(2) Any retired teacher who is receiving supplemental payments prior to the termination of the plan shall continue to receive payments for the remaining lifetime of the teacher, and the school district shall continue to be liable for the reimbursement of the payments to the retirement board as provided in subsection (f) of this section.

History of Section.

(P.L. 1981, ch. 162, § 4; P.L. 1983, ch. 289, § 1; P.L. 1986, ch. 432, § 1; P.L. 1987, ch. 368, § 1; P.L. 1988, ch. 84, § 74; P.L. 1988, ch. 129, art. 11, § 1; P.L. 1991, ch. 44, art. 39, § 1; P.L. 2011, ch. 265, § 3.)

CHAPTER 16-15 Teachers' Pensions

§ 16-15-13 Additional pension and retirement grants – Declaration of policy. – The state pension systems for teachers of public education have proved to be inadequate to meet the special needs of retirement during this period of sharply increasing costs of living. A completely adequate retirement system for teachers is an essential responsibility of the state in providing sound public education. Therefore, §§ 16-15-13 to 16-15-15 are designed to provide additional state aid for retired teachers in order to make the teaching profession more attractive to qualified teachers and to provide for the security and welfare of education in the state.

History of Section.

(P.L. 1959, ch. 124, § 1.)

§ 16-15-14 Annual grant for teachers retiring after July 1, 1949. – (a) The general assembly shall annually appropriate a sum sufficient to pay an additional annual retirement grant of four hundred dollars (\$400) per year for a payment of a pension of not more than two thousand dollars (\$2,000) annually to every retired teacher who qualified for either a pension or retirement benefits under the provisions of this chapter.

(b) It shall also annually appropriate a sum sufficient to pay an additional pension grant which when added to the existing pension will provide a maximum annual pension of two thousand dollars (\$2,000) to any retired teacher on an ordinary disability pension who has twenty (20) or more years of teaching service credit in the retirement system and to any retired teacher under the maximum plan who has twenty (20) or more years of teaching service credit in the retirement system who retired after July 1, 1949, and whose present annual pension under the provisions of chapter 16 of this title is less than two thousand dollars (\$2,000).

(c) This grant shall be an annual state grant and shall be in addition to any and all amounts being paid from any state pension or retirement system and in addition to any payments from a retirement or pension system of any city or town.

(d) All money appropriated in accordance with the amended provisions of this chapter for the retired teachers shall be administered by the department of elementary and secondary education, and all money appropriated in accordance with the amended provisions of chapter 16 of this title for the retired teachers shall be administered by the retirement division in the department of treasury.

History of Section.

(P.L. 1959, ch. 124, § 2; P.L. 1966, ch. 274, § 2.)

§ 16-15-14.1 Additional retirement grants for state college and school teachers –

Payment. – (a) The general assembly shall also annually appropriate a sum sufficient to pay an additional retirement grant which when added to the existing pension will provide for the payment of a pension of not more than two thousand dollars (\$2,000) annually to every retired teacher who qualified for and is receiving retirement benefits for teaching at

Rhode Island College, the University of Rhode Island, or other state schools whose present annual pension is less than two thousand dollars (\$2,000). This additional grant shall be an annual state grant and shall be in addition to any and all amounts being paid from the state pension or retirement system and shall be administered by the retirement division in the department of treasury. (b) These grants shall be apportioned into monthly benefits and shall be disbursed monthly.

History of Section.

(P.L. 1966, ch. 274, § 3.)

§ 16-15-15 Payment of grants for teachers retiring after July 1, 1949. – (a) Upon the passage of §§ 16-15-13 – 16-15-15 the department of elementary and secondary education and the retirement division in the department of treasury shall apportion the retirement grant into monthly benefits and shall disburse monthly the benefits to all eligible retired teachers under this law.

(b) The state controller is authorized and directed to draw his or her orders upon the general treasurer for the payment of those sums that may be required from time to time upon receipt by him or her of proper vouchers approved by the department of elementary and secondary education and the retirement division in the department of treasury.

History of Section.

(P.L. 1959, ch. 124, § 3.)

§ 16-15-16 Annual grant for teachers retiring prior to July 1, 1949. – (a) The general assembly shall annually appropriate a sum sufficient to pay an additional annual retirement grant of two thousand dollars (\$2,000) for a payment of a pension of not more than five thousand dollars (\$5,000) annually to every retired teacher who qualified for either a pension or retirement benefits under the provisions of this chapter, and who retired prior to July 1, 1949.

(b) This grant shall be an annual state grant and shall be in addition to any and all amounts being paid from any state pension or retirement system and in addition to any payments from a retirement or pension system of any city or town.

(c) All money appropriated in accordance with the amended provisions of this chapter for the retired teachers shall be administered by the department of elementary and secondary education.

History of Section.

(P.L. 1970, ch. 114, § 2; P.L. 1972, ch. 168, § 1; P.L. 1973, ch. 227, § 1.)

§ 16-15-17 Payment of grants for teachers retiring prior to July 1, 1949. – (a) Upon the passage of this chapter the department of elementary and secondary education shall apportion the retirement grant into monthly benefits and shall disburse monthly benefits to all eligible retired teachers under this law.

(b) The state controller is authorized and directed to draw his or her orders upon the general treasurer for the payment of those sums that may be required from time to time upon receipt by the controller of proper vouchers approved by the department of elementary and secondary education and the retirement division in the department of treasury.

History of Section.

(P.L. 1970, ch. 114, § 3.)

CHAPTER 16-16

Teachers' Retirement

§ 16-16-1 Definitions. –(a) The following words and phrases used in this chapter, unless a different meaning is plainly required by the context, have the following meanings:

(1) “Active member” means any teacher as defined in this section for whom the retirement system is currently receiving regular contributions pursuant to §§ 16-16-22 and 16-16-22.1.

Except as otherwise provided in this section, the words and phrases used in this chapter, so far as applicable, have the same meanings as they have in chapters 8 to 10 of title 36.

(2) “Beneficiary” means any person in receipt of annuity, benefit, or retirement allowance from the retirement system as provided in this chapter.

(3) “Child” includes a stepchild of a deceased member who has been a stepchild for at least one year immediately preceding the date on which the member died or an adopted child of a deceased member without regard to the length of time the child has been adopted.

(4) “Former spouse divorced” means a person divorced from a deceased member, but only if the person meets one of the following conditions:

(i) Is the mother or father of the deceased member's child(ren);

(ii) Legally adopted the deceased member's child(ren) while married to the deceased member and while the child(ren) was under the age of eighteen (18) years; or

(iii) Was married to the deceased member at the time both of them legally adopted a child(ren) under the age of eighteen (18) years.

(5) “Member” means any person included in the membership of the retirement system under the provisions of this chapter.

(6) “Prior service” means service as a teacher rendered prior to the first day of July, 1949, certified on his or her prior service certificate and allowable as prior service under the provisions of this chapter.

(7) “Retired teacher” means any teacher who retired prior to July 1, 1949, pursuant to the provisions of G.L. 1938, ch. 195, as amended, and who on June 30, 1949, was in receipt of a pension under the provisions of that chapter.

(8) “Retirement system” and “system” means the employees' retirement system of the State of Rhode Island created by chapter 8 of title 36, and “retirement board” means the board established under that chapter.

(9) “Salary” or “compensation” includes any and all salary paid for teaching services regardless of whether any part of the salary or compensation is derived from any state or federal grant or appropriation for teachers' salaries, as the term is defined in § 36-8-1(8). “Average compensation” shall be defined in accordance with § 36-8-1(5)(a).

(10) “Service” means service as a teacher as described in subdivision (12) of this section. Periods of employment as teacher, principal, assistant principal, supervisor, superintendent, or assistant superintendent shall be combined in computing periods of service and employment.

(11) “Spouse” means the surviving person who was married to a deceased member, but only if the surviving person meets one of the following conditions:

(i) Was married to the deceased member for not less than one year immediately prior to the date on which the member died;

(ii) Is the mother or father of the deceased member's child(ren);

(iii) Legally adopted the deceased member's child(ren) while married to the deceased member and while the child(ren) was under the age of eighteen (18) years; or

(iv) Was married to the deceased member at the time both of them legally adopted a child(ren) under the age of eighteen (18) years.

(12) "Teacher" means a person required to hold a certificate of qualification issued by or under the authority of the board of regents for elementary and secondary education and who is engaged in teaching as his or her principal occupation and is regularly employed as a teacher in the public schools of any city or town in the state, or any formalized, commissioner approved, cooperative service arrangement. The term includes a person employed as a teacher, supervisor, principal, assistant principal, superintendent, or assistant superintendent of schools, director, assistant director, coordinator, consultant, dean, assistant dean, educational administrator, nurse teacher, and attendance officer or any person who has worked in the field of education or is working in the field of education that holds a teaching or administrative certificate. In determining the number of days served by a teacher the total number of days served in any public school of any city or town in the state may be combined for any one school year. The term also includes a school business administrator whether or not the administrator holds a teaching or administrative certificate, and also includes occupational therapists and physical therapists licensed by the department of health and employed by a school committee in the state, or by any formalized, commissioner approved, cooperative service arrangement.

(13) "Teaching" includes teaching, supervising, and superintending or assistant superintending of schools.

(14) "Total service" means prior service as defined in subdivision (6) of this section, plus service rendered as a member of the system on or after the first day of July, 1949.

(15) For purposes of this chapter, "domestic partner" shall be defined as a person who, prior to the decedent's death, was in an exclusive, intimate and committed relationship with the decedent, and who certifies by affidavit that their relationship met the following qualifications:

(i) Both partners were at least eighteen (18) years of age and were mentally competent to contract;

(ii) Neither partner was married to anyone else;

(iii) Partners were not related by blood to a degree which would prohibit marriage in the State of Rhode Island;

(iv) Partners resided together and had resided together for at least one year at the time of death; and

(v) Partners were financially interdependent as evidenced by at least two (2) of the following:

(A) Domestic partnership agreement or relationship contract;

(B) Joint mortgage or joint ownership of primary residence;

(C) Two (2) of: (I) joint ownership of motor vehicle; (II) joint checking account; (III) joint credit account; (IV) joint lease; and/or

(D) The domestic partner had been designated as a beneficiary for the decedent's will, retirement contract or life insurance.

(b) The masculine pronoun wherever used shall also include the feminine pronoun.

(c) Any term not specifically defined in this chapter and specifically defined in chapters 36-8 through 36-10 shall have the same definition as set forth in chapters 36-8 through 36-10.

History of Section.

P.L. 1948, ch. 2101, § 1; P.L. 1951, ch. 2752, § 21; P.L. 1951, ch. 2830, § 5; P.L. 1962, ch. 212, § 2; P.L. 1972, ch. 139, § 1; P.L. 1976, ch. 236, § 2; P.L. 1979, ch. 211, § 1; P.L. 1981, ch. 162, § 2; P.L. 1983, ch. 217, § 1; P.L. 1985, ch. 258, § 1; P.L. 1995, ch. 370,

art. 15, § 1; P.L. 1996, ch. 384, § 1; P.L. 1998, ch. 411, § 2; P.L. 2001, ch. 86, § 36; P.L. 2002, ch. 383, § 1; P.L. 2007, ch. 510, § 6, eff. Oct. 30, 2007; P.L. 2011, ch. 408, § 10, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 10, eff. Nov. 18, 2011.

§ 16-16-2 Membership in system. – Membership in the retirement system for teachers began on July 1, 1949, and shall consist of:

- (1) All teachers as defined in this chapter who were in service on that date, and
- (2) All persons who become teachers on or after that date, which teachers shall become members of the system as a condition of their employment as teachers.

History of Section.

(P.L. 1948, ch. 2101, § 2; G.L. 1956, § 16-16-2.)

§ 16-16-3 Repealed.

§ 16-16-4 Membership of school nurses. – Every certified nurse teacher employed in the respective public schools of the several cities and towns of this state and every person who, prior to any certification as a nurse teacher, has been regularly employed by any city or town as a school nurse in the respective public schools shall be entitled to all the rights and benefits contained in this chapter and in chapters 8 – 10 of title 36.

History of Section.

(P.L. 1949, ch. 2192, § 1; G.L. 1956, § 16-16-4; P.L. 2001, ch. 86, § 36.)

§ 16-16-5 Service creditable. – (a) In calculating “service”, “prior service”, or “total service” as defined in § 16-16-1, every teacher shall be given credit for a year of service for each year in which he or she shall have served as a teacher; provided, that any teacher who through illness or leave of absence without pay does not serve a full school year may receive credit for a full school year of service by paying the full actuarial cost as defined in § 36-8-1(9). Credit for leaves of absence shall be limited, in the aggregate, during the total service of a teacher to a period of four (4) years; provided, however, every teacher who had been required to resign for maternity reasons may receive credit for maternity reasons by making contribution to the system upon her return to teaching the amount she would have contributed to the retirement system, with regular interest, based upon her expected compensation but for her absence due to maternity reasons.

(b) The retirement board shall fix and determine the time when and the conditions under which the payments shall be made.

(c) Any teacher who serves or who has served during a school year the number of days that the public schools are required by law to be in session during the year shall be given credit for a year of service for that year. In determining the number of days served by a substitute teacher the total number of days served in any public school of any city or town in the state may be combined for any one school year. Any teacher shall be entitled to “prior service” credit for service prior to July 1, 1949, provided the teacher shall have been in service during the school year 1949-1950. The teacher shall be entitled to service credit for any year subsequent to July 1, 1949 in accordance with this chapter, by making contribution to the retirement system of the full actuarial cost for any such service credit.

(d) Any teacher employed in at least a half (1/2) program including a job share program, or working at least half the number of days that the public schools are required to be in session, shall remain a contributing member and shall receive credit for that part-time

service on a proportional basis. The purchase of any remaining program or job share time in which the teacher did not work shall not be permitted.

(e) In computing service or in computing compensation, the retirement board shall credit no more than one year of service on account of all service in one calendar year.

(f) Notwithstanding any other section of law, no member of the retirement system shall be permitted to purchase service credit for any portion of a year for which he or she is already receiving service credit in this retirement system.

History of Section.

P.L. 1948, ch. 2101, § 3; P.L. 1951, ch. 2830, § 6; R.P.L. 1957, ch. 70, § 1; P.L. 1966, ch. 111, § 1; P.L. 1979, ch. 211, § 1; P.L. 1980, ch. 174, § 2; P.L. 1981, ch. 175, § 1; P.L. 1987, ch. 584, § 1; P.L. 1994, ch. 139, § 6; P.L. 1994, ch. 142, § 7; P.L. 1997, ch. 169, § 1; P.L. 2001, ch. 86, § 36; P.L. 2009, ch. 68, art. 7, § 4, eff. July 1, 2009; P.L. 2011, ch. 408, § 10, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 10, eff. Nov. 18, 2011.

§ 16-16-6 Credit for service in private schools or as federal employee –

Contributions. – In determining the creditable service of any teacher employed in any city or town for the purposes of retirement there may be added to, and included in, total service as defined in this chapter not more than five (5) years of service as a teacher or in a capacity essentially similar or equivalent to that of a teacher in any private school or institution, in any charter school not subject to subdivision 16-77-4(b)(12), and in public schools in which the teacher was paid by funds of the United States government except schools or institutions that are operated for profit; provided, however, that this service shall not be counted as creditable service unless the member shall pay into the retirement system a contribution equal to the full actuarial value of each year of credit for which application is made based on the salary of the member in effect at the date of application for the credit as determined by the retirement board. The retirement board shall fix and determine the time when and the conditions under which the payments shall be made.

History of Section.

(P.L. 1948, ch. 2101, § 3; P.L. 1951, ch. 2830, § 6; G.L. 1956, § 16-16-6; P.L. 1963, ch. 189, § 1; P.L. 1967, ch. 158, § 1; P.L. 1970, ch. 112, art. 8, § 1; P.L. 1972, ch. 92, § 1; P.L. 1981, ch. 14, § 1; P.L. 1982, ch. 288, § 1; P.L. 1983, ch. 288, § 1; P.L. 1999, ch. 487, § 1; P.L. 2008, ch. 100, art. 38, § 3.)

§ 16-16-6.1 Credit for service outside state. – (a) In determining the creditable service of any teacher employed in any city or town for the purpose of retirement, there may be added to, and included in, total service as defined in this chapter not more than five (5) years of service as a teacher in the public school outside this state; provided, however, this service shall not be counted as creditable service unless the member shall pay into the retirement system a contribution equal to the full actuarial value of each year of credit for which application is made based upon the teacher's compensation at the time he or she makes application to purchase credit for each year of service for which he or she claims credit.

(b) Credit for service outside the state which is purchased under paragraph (a) above may also be used for retirement purposes under the provisions of subsection (a) for teachers who retire on ordinary disability under § 16-16-14 provided these teachers have at least ten (10) years creditable service within the state.

(c) The term “outside this state” means service in any state college, university, school, or public school in any other state of the United States, or in any territory or possession of the United States, including the Philippine Islands, or in any school under the jurisdiction of the United States government.

(d) The retirement board shall fix and determine by rules and regulations the time when and the conditions under which payments shall be made.

History of Section.

P.L. 1970, ch. 112, art. 8, § 3; P.L. 1972, ch. 92, § 1; P.L. 1979, ch. 346, §§ 1, 2; P.L. 1981, ch. 14, § 1; P.L. 1982, ch. 288, § 1; P.L. 1999, ch. 487, § 1; P.L. 2001, ch. 86, § 36; P.L. 2011, ch. 408, § 10, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 10, eff. Nov. 18, 2011.

§ 16-16-6.2 Service credit for appropriate work experience – Contributions. – (a) In determining the creditable service of any vocational education teacher employed in any city or town or by the state for the purpose of retirement or a service retirement allowance (not including a deferred retirement allowance), there may be added to, and included in, total service as defined in this chapter not more than five (5) years of “appropriate work experience” pursuant to § 16-60-4(9)(ii). This service shall not be counted as creditable service unless the member shall pay into the retirement system a contribution equal to the full actuarial costs for each year of service for which he or she claims credit.

(b) Credit for “appropriate work experience” which is purchased under paragraph (a) above may also be used for retirement purposes under the provisions of subsection (a) for teachers who retire on ordinary disability under § 16-16-14, provided those teachers have at least ten (10) years' creditable service.

(c) The term “appropriate work experience” means service in any industry, business, or other appropriate enterprise for which certification credit has been given pursuant to the “standards and qualifications for certification of teachers” as provided in § 16-60-4(9)(ii).

History of Section.

P.L. 1982, ch. 102, § 1; P.L. 1985, ch. 435, § 1; P.L. 1986, ch. 497, § 1; P.L. 1987, ch. 434, § 1; P.L. 1987, ch. 599, § 1; P.L. 2001, ch. 86, § 36; P.L. 2011, ch. 408, § 10, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 10, eff. Nov. 18, 2011.

§ 16-16-6.3 Repealed.

§ 16-16-6.4 Service credit for appropriate work experience – Certified nurse teachers – Contributions. – (a) In determining the creditable service of any certified nurse teacher employed by the state or by any city or town for the purpose of retirement or a service retirement allowance (not including a deferred retirement allowance), there may be added to, and included in, total service as defined in this chapter not more than four (4) years of “appropriate work experience.” The service shall not be counted as creditable service unless the member shall pay into the retirement system a contribution equal to the full actuarial costs for each year of the service for which the member claims credit.

(b) Credit for “appropriate work experience” which is purchased under paragraph (a) above may also be used for retirement purposes under the provisions of subsection (a) for

certified nurse teachers who retire on ordinary disability under § 36-10-13 or § 16-16-14, provided the certified nurse teachers have at least ten (10) years' creditable service.

(c) The term "appropriate work experience" for the purposes of a certified nurse teacher means service in any industry, business, or other appropriate enterprise where a member has worked as a registered nurse and for which no credit for the purposes of retirement has been granted for either teaching in a school of nursing or for any other appropriate work experience; provided, however, that no member shall be allowed credit for more than a total of four (4) years of service credit.

History of Section.

P.L. 1987, ch. 591, § 1; P.L. 1989, ch. 538, § 1; P.L. 2001, ch. 86, § 36; P.L. 2011, ch. 408, § 10, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 10, eff. Nov. 18, 2011.

§ 16-16-7 Credit for military leave. – Any teacher who has been granted or shall be granted an official leave of absence by his or her superiors to enter the armed services of the United States shall have his or her service counted in his or her years of teaching, and his or her leave of absence shall in no way interrupt the continuity of his or her teaching service which for the purpose of computing retirement benefits under the state retirement system shall be deemed to be continuous service, provided the teacher was teaching for a minimum of six (6) months immediately prior to entry into the armed services and returned or returns to active teaching within one year following the date of his or her honorable discharge from the armed services, but in no event shall the credit exceed a maximum of four (4) years.

History of Section.

(P.L. 1948, ch. 2101, § 3; P.L. 1951, ch. 2830, § 6; G.L. 1956, § 16-16-7; P.L. 1972, ch. 252, § 1; P.L. 1981, ch. 348, § 2.)

§ 16-16-7.1 Armed service credit. – (a) Any active teacher who served on active duty in the armed service of the United States or in the merchant marine service of the United States as defined in § 2 of Chapter 1721 of the Public Laws, 1946, may purchase credit for that service up to a maximum of four (4) years; provided that he or she has received an honorable discharge; provided further, that any teacher on an official leave of absence for illness or injury shall be eligible to purchase military credits as defined herein while on that leave of absence.

(b) The cost to purchase these credits shall be ten percent (10%) of the member's first year's earnings as a teacher as defined in § 16-16-1 of this title, multiplied by the number of years and fraction of the years of the armed service up to a maximum of four (4) years.

(c) There will be no interest charged provided the teacher makes that purchase during his or her first five (5) years of membership in the retirement system, but will be charged regular interest to date of purchase from date of enrollment into membership, if purchased after completing five (5) years of membership; provided, however, any teacher who was in the retirement system prior to July 1, 1980, would not be charged interest whenever he or she purchases the armed services credit.

History of Section.

(P.L. 1980, ch. 173, § 4; P.L. 1981, ch. 344, § 1; P.L. 1984, ch. 425, § 2; P.L. 1986, ch. 463, § 2; P.L. 1988, ch. 510, § 2; P.L. 1992, ch. 306, art. 2, § 3; P.L. 1997, ch. 169, § 1.)

§ 16-16-7.2 Peace corps, teacher corps, and volunteers in service to America –

Credit. – (a) Any active teacher who served in the peace corps, teacher corps, or in volunteers in service to America may purchase credit for that service, up to a maximum

of four (4) years. Any teacher on an official leave of absence for illness or injury shall be eligible to purchase the credits while on the leave of absence.

(b) The cost to purchase these credits shall be the full actuarial cost as defined in § 36-8-1(10).

History of Section.

P.L. 1985, ch. 423, § 1; P.L. 1988, ch. 524, § 1; P.L. 1989, ch. 473, § 2; P.L. 1992, ch. 306, art. 2, § 3; P.L. 2009, ch. 68, art. 7, § 4, eff. July 1, 2009; P.L. 2011, ch. 408, § 10, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 10, eff. Nov. 18, 2011.

§ 16-16-8 Credit for service as a state or municipal employee. – Any member who shall have rendered service as a state employee as defined by the provisions of chapter 17 of this title and chapters 8 -- 10 of title 36 or who shall have rendered service as an employee of a participating municipality, as defined by chapter 21 of title 45, shall be entitled to credit for his or her service for the various purposes of this system, provided the member shall have been a contributing member for that period. All contributions made by the member shall be transferred into this system for the periods of service and the retirement system shall calculate the full actuarial value of the accrued benefit with the former employer. If the full actuarial value of the accrued benefit with the former employer is greater than the total employee contributions transferred, the retirement system shall also transfer the difference between full actuarial value of the accrued benefit with the former employer and the employee's contributions from the account of the former employer to the account of the current employer. In any case in which a member shall have received a refund or refunds of contributions made to the system, the allowance of the credit for service shall be conditioned upon the repayment of the full actuarial cost as defined in § 36-8-1(10). Any service as defined in this section for which no contributions were made may be granted provided the member pays to the retirement system the full actuarial cost as defined in § 36-8-1(10). The retirement board shall fix and determine the rules and regulations needed to govern the provisions of this section.

History of Section.

P.L. 1948, ch. 2101, § 3; P.L. 1951, ch. 2830, § 6; P.L. 1970, ch. 112, art. 9, § 2; P.L. 1996, ch. 435, § 2; P.L. 1998, ch. 70, § 3; P.L. 1998, ch. 291, § 3; P.L. 2009, ch. 68, art. 7, § 4, eff. July 1, 2009; P.L. 2011, ch. 408, § 10, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 10, eff. Nov. 18, 2011.

§ 16-16-8.1 Purchase of service credits payable by installment. – Notwithstanding any other provisions of this chapter or of any other public or general law to the contrary, the retirement board shall permit individuals who purchase service credit to do so in installments. The retirement board shall create, by rule and regulation, provisions allowing that individuals purchasing service credit may do so on an installment plan by payroll deduction not to exceed five (5) years, provided that all purchases must be made prior to retirement. The retirement board shall charge interest at the actuarial assumed rate of return adopted by the board for purchases made on an installment plan.

History of Section.

(P.L. 2001, ch. 193, § 1; P.L. 2001, ch. 269, § 1.)

§ 16-16-9, 16-16-10. Repealed.

§ 16-16-11 Benefits payable – Survivor's benefits. – (a) The benefits payable to teachers under this chapter shall be those benefits provided in chapter 10 of title 36 and as provided in this chapter with and subject, however, to the conditions and modifications set forth in §§ 16-16-12 through 16-16-14, and also the benefits provided in subsection (b) of this section.

(b) If the teacher member of the retirement system dies, either prior to or after his or her effective date of retirement, any amounts credited to him or her in the teachers' survivors benefit fund, as provided in this chapter, with regular accumulated interest on the amount, shall be applied toward the financing of those benefits for dependents and survivors of the member as defined in this chapter, and in amounts provided in this chapter.

History of Section.

(P.L. 1948, ch. 2101, § 4; G.L. 1956, § 16-16-11; P.L. 1962, ch. 212, § 1.)

§ 16-16-12 Procedure for service retirement. – Retirement of a member on a service retirement allowance shall be made by the retirement board as follows:

(a)(i) Any member may retire upon his or her written application to the retirement board as of the first day of the calendar month in which the application was filed, provided the member was separated from service prior to filing the application, and further provided however, that if separation from service occurs during the month in which the application is filed, the effective date shall be the first day following the separation from service, and provided further that the member on retirement date has attained the age of sixty (60) years and has completed at least ten (10) years of contributory service on or before July 1, 2005, or regardless of age has completed twenty-eight (28) years of total service and has completed at least ten (10) years of contributory service on or before July 1, 2005, and who retire before October 1, 2009, or are eligible to retire as of September 30, 2009.

(ii) For teachers who become eligible to retire on or after October 1, 2009, and prior to July 1, 2012, benefits are available to teachers who have attained the age of sixty-two (62) and completed at least ten (10) years of contributory service. For teachers in service as of October 1, 2009, who were not eligible to retire as of September 30, 2009, but became eligible to retire prior to July 1, 2012, the minimum retirement age of sixty-two (62) will be adjusted downward in proportion to the amount of service the member has earned as of September 30, 2009. The proportional formula shall work as follows:

(A) The formula shall determine the first age of retirement eligibility under the laws in effect on September 30, 2009, which shall then be subtracted from the minimum retirement age of sixty-two (62).

(B) The formula shall then take the teacher's total service credit as of September 30, 2009, as the numerator and the years of service credit determined under (A) as the denominator.

(C) The fraction determined in (B) shall then be multiplied by the age difference in (1) to apply a reduction in years from age sixty-two (62).

(b)(i) Any member, who has not completed at least ten (10) years of contributory service on or before July 1, 2005, may retire upon his or her written application to the retirement board as of the first day of the calendar month in which the application was filed; provided, the member was separated from service prior thereto; and further provided, however, that if separation from service occurs during the month in which application is filed, the effective date shall be the first day following that separation from service; provided, the member on his or her retirement date had attained the age of fifty-nine (59) and had completed at least twenty-nine (29) years of total service; or provided, that the member on his or her retirement date had attained the age of sixty-five (65) and had completed at least ten (10) years of contributory service; or provided, that the member on his or her retirement date had attained the age of fifty-five (55) and had completed twenty (20) years of total service and provided, that the retirement allowance, as determined according to the formula in § 16-16-13 is reduced actuarially for each month that the age of the member is less than sixty-five (65) years and who retire before October 1, 2009, or are eligible to retire as of September 30, 2009.

(ii) For teachers who become eligible to retire on or after October 1, 2009, and prior to July 1, 2012, benefits are available to teachers who have attained the age of sixty-two (62) and have completed at least twenty-nine (29) years of total service or have attained the age of sixty-five (65) and completed at least ten (10) years of contributory service. For teachers in service as of October 1, 2009, who were not eligible to retire as of September 30, 2009, but become eligible to retire prior to July 1, 2012, who have a minimum retirement age of sixty-two (62), the retirement age will be adjusted downward in proportion to the amount of service the member has earned as of September 30, 2009. The proportional formula shall work as follows:

(A) The formula shall determine the first age of retirement eligibility under the laws in effect on September 30, 2009, which shall then be subtracted from the minimum retirement age of sixty-two (62).

(B) The formula shall then take the teacher's total service credit as of September 30, 2009, as the numerator and the years of service credit determined under (A) as the denominator.

(C) The fraction determined in (B) shall then be multiplied by the age difference determined in (A) to apply a reduction in years from age sixty-two (62).

(c) Effective July 1, 2012, the following shall apply to all teachers not eligible to retire prior to July 1, 2012:

(i) A teacher with contributory service on or after July 1, 2012, shall be eligible to retire upon the completion of at least five (5) years of contributory service and attainment of the teacher's Social Security retirement age.

(ii) For teachers with five (5) or more years of contributory service as of June 30, 2012, with contributory service on and after July 1, 2012, who have a retirement age of Social

Security Retirement Age, the retirement age will be adjusted downward in proportion to the amount of service the teacher has earned as of June 30, 2012, but in no event shall a teacher's retirement age under this subparagraph (ii) be prior to the attainment of age fifty-nine (59) or prior to the teacher's retirement age determined under the laws in effect on June 30, 2012. The proportional formula shall work as follows:

(1) The formula shall determine the first age of retirement eligibility under the laws in effect on June 30, 2012, which shall then be subtracted from Social Security retirement age;

(2) The formula shall then take the teacher's total service credit as of June 30, 2012, as the numerator and the projected service at retirement age in effect on June 30, 2012, as the denominator;

(3) The fraction determined in (2) shall then be multiplied by the age difference determined in (1) to apply a reduction in years from Social Security retirement age.

(iii) Effective July 1, 2015, a teacher who has completed twenty (20) or more years of total service and who has attained an age within five (5) years of the eligible retirement age under subdivisions (c)(i) or (c)(ii) above or subsection (d) below, may elect to retire provided that the retirement allowance shall be reduced actuarially for each month that the age of the teacher is less than the eligible retirement age under subdivisions (c)(i) or (c)(ii) above or subsection (d) below in accordance with the following table:

SEE THE BOOK FOR THE PROPER TABLE.

(iv) Notwithstanding any other provisions of section § 16-16-12(c), a teacher who has completed ten (10) or more years of contributory service as of June 30, 2012, may elect to retire at his or her eligible retirement date as determined under subsections (a) and (b) above provided that a teacher making an election under this paragraph shall receive the teacher's retirement benefit determined and calculated based on the teacher's service and average compensation as of June 30, 2012. This provision shall be interpreted and administered in a manner to protect a teacher's accrued benefit on June 30, 2012.

(d) Notwithstanding any other provisions of subsection (c) above, effective July 1, 2015, teachers in active service shall be eligible to retire upon the earlier of:

(A) The attainment of at least age sixty-five (65) and the completion of at least thirty (30) years of total service, or the attainment of at least age sixty-four (64) and the completion of at least thirty-one (31) years of total service, or the attainment of at least age sixty-three (63) and the completion of at least thirty-two (32) years of total service, or the attainment of at least age sixty-two (62) and the completion of at least thirty-three (33) years of total service; or

(B) The teacher's retirement eligibility date under subsections (c)(i) or (c)(ii) above.

(e) Except as specifically provided in §§ 36-10-9.1, 36-10-12 through 36-10-15, and 45-21-19 through 45-21-22, no member shall be eligible for pension benefits under this chapter unless

(i) The member shall have been a contributing member of the employees' retirement system for at least ten (10) years; or

(ii) For teachers in active contributory service on or after July 1, 2012, the teacher shall have been a contributing member of the employees' retirement system for at least five (5) years.

(2) Provided, however, a person who has ten (10) years service credit shall be vested; provided that for teachers in active contributory service on or after July 1, 2012, a teacher who has five (5) years of contributory service shall be vested.

(3) Furthermore, any past service credits purchased in accordance with § 36-9-38 shall be counted towards vesting.

(4) Any person who becomes a member of the employees' retirement system pursuant to § 45-21-8 shall be considered a contributing member for the purpose of chapter 21 of title 45 and this chapter.

(5) Notwithstanding any other provision of law, no more than five (5) years of service credit may be purchased by a member of the system. The five (5) year limit shall not apply to any purchases made prior to January 1, 1995. A member who has purchased more than five (5) years of service credit before January 1, 1995, shall be permitted to apply the purchases towards the member's service retirement. However, no further purchase will be permitted.

(6) Notwithstanding any other provision of law, effective July 1, 2012, except for purchases under §§ 16-16-7.1, 36-5-3, 36-9-31, 36-10-10.4, and 45-21-53:

(i) For service purchases for time periods prior to a teacher's initial date of hire, the purchase must be made within three (3) years of the teacher's initial date of hire; and

(ii) For service purchases for time periods for official periods of leave as authorized by law, the purchase must be made within three (3) years of the time the official leave was concluded by the teacher. Notwithstanding paragraphs (i) and (ii) above, service purchases from time periods prior to June 30, 2012, may be made on or prior to June 30, 2015.

(f) No member of the teachers' retirement system shall be permitted to purchase service credits for casual or seasonal employment, for employment as a temporary or emergency employee, a page in the general assembly, or for employment at any state college or university while the employee is a student or graduate of the college or university.

(g) Except as specifically provided in §§ 16-16-6.2 and 16-16-6.4, a member shall not receive service credit in this retirement system for any year or portion of a year which counts as service credit in any other retirement system in which the member is vested or from which the member is receiving a pension and/or any annual payment for life. This subsection shall not apply to any payments received pursuant to the federal Social Security Act, 42 U.S.C. § 301 et seq.

(h) A member who seeks to purchase or receive service credit in this retirement system shall have the affirmative duty to disclose to the retirement board whether or not he or she is a vested member in any other retirement system and/or is receiving a pension, retirement allowance, or any annual payment for life. The retirement board shall have the right to investigate as to whether or not the member has utilized the same time of service for credit in any other retirement system. The member has an affirmative duty to cooperate with the retirement board including, by way of illustration and not by way of limitation, the duty to furnish or have furnished to the retirement board any relevant information that is protected by any privacy act.

(i) A member who fails to cooperate with the retirement board shall not have the time of service credit counted toward total service credit until the time the member cooperates with the retirement board and until the time the retirement board determines the validity of the service credit.

(j) A member who knowingly makes a false statement to the retirement board regarding service time or credit shall not be entitled to a retirement allowance and is entitled only to the return of his or her contributions without interest.

History of Section.

(P.L. 1948, ch. 2101, § 4; P.L. 1951, ch. 2830, § 7; P.L. 1955, ch. 3609, § 1; G.L. 1956, § 16-16-12; P.L. 1962, ch. 141, § 1; P.L. 1962, ch. 143, § 3; P.L. 1963, ch. 65, § 1; P.L. 1970, ch. 112, art. 2, § 2; P.L. 1970, ch. 112, art. 4, § 2; P.L. 1972, ch. 81, § 1; P.L. 1973, ch. 145, § 2; P.L. 1982, ch. 457, § 1; P.L. 1984, ch. 331, § 1; P.L. 1987, ch. 520, § 1; P.L. 1989, ch. 126, art. 55, § 1; P.L. 1992, ch. 306, art. 2, § 3; P.L. 1993, ch. 231, § 3; P.L. 1994, ch. 139, § 3; P.L. 2005, ch. 117, art. 7, § 1; P.L. 2009, ch. 68, art. 7, § 4; P.L. 2010, ch. 239, § 1; P.L. 2011, ch. 408, § 10; P.L. 2011, ch. 409, § 10; P.L. 2015, ch. 141, art. 21, § 11.)

§ 16-16-12.1 Repealed.

§ 16-16-13 Amount of service retirement allowance. – (a)(1)(i) For teachers eligible to retire on or before September 30, 2009, upon retirement from service under § 16-16-12 a teacher whose membership commenced before July 1, 2005, and who has completed at least ten (10) years of contributory service on or before July 1, 2005, shall, receive a retirement allowance which shall be determined in accordance with schedule A for service prior to July 1, 2012.

SCHEDULE A

YEARS OF SERVICE PERCENTAGE ALLOWANCE

1st through 10th inclusive 1.7%

11th through 20th inclusive 1.9%

21st through 34th inclusive 3.0%

35th 2.0%

(ii) For teachers eligible to retire on or after October 1, 2009, who were not eligible to retire on or before September 30, 2009, upon retirement for service under § 16-16-12, a teacher whose membership commenced before July 1, 2005, and who has completed at least ten (10) years of contributory service on or before July 1, 2005, shall receive a retirement allowance which shall be determined in accordance with schedule A above for service on before September 30, 2009, and shall be determined in accordance with schedule B in subsection (a)(2) below for service on or after October 1, 2009, and prior to July 1, 2012:

(2) Upon retirement from service under § 16-16-12 a teacher whose membership commenced after July 1, 2005, or who has not completed at least ten (10) years of contributory service as of July 1, 2005, shall receive a retirement allowance which shall be determined in accordance with Schedule B for service prior to July 1, 2012.

SCHEDULE B

YEARS OF SERVICE PERCENTAGE ALLOWANCE

1st through 10th inclusive 1.60%

11th through 20th inclusive 1.80%

21st through 25th inclusive 2.0%

26th through 30th inclusive 2.25%

31st through 37th inclusive 2.50%

38th 2.25%

(b) The retirement allowance of any teacher whose membership commenced before July 1, 2005, and who has completed at least ten (10) years of contributory service on or before July 1, 2005, shall be in an amount equal to the percentage allowance specified in subsection (a)(1) of his or her average highest three (3) consecutive years of compensation multiplied by the number of years of total service, but in no case to exceed eighty percent (80%) of the compensation, payable at completion of thirty-five (35) years of service; provided, however, for teachers retiring on or after October 1, 2009, who were not eligible to retire as of September 30, 2009, the calculation shall be based on the average highest five (5) consecutive years of compensation.

The retirement allowance of any teacher whose membership commenced after July 1, 2005, or who has not completed at least ten (10) years of contributory service as of July 1, 2005, shall be in an amount equal to the percentage allowance specified in Schedule B of his or her average highest three (3) consecutive years of compensation multiplied by the number of years of total service, but in no case to exceed seventy-five percent (75%)

of the compensation, payable at completion of thirty-eight (38) years of service; provided, however, for teachers retiring on or after October 1, 2009, who were not eligible to retire as of September 30, 2009 the calculation shall be based on the average highest five (5) consecutive years of compensation.

Any teacher who has in excess of thirty-five (35) years on or before June 2, 1985, shall not be entitled to any refund, and any teacher with thirty-five (35) years or more on or after June 2, 1985, shall contribute from July 1, 1985, until his or her retirement.

(c) For service prior to July 2012, the retirement allowance of a teacher shall be determined in accordance with subsections (a)(1) and (a)(2) above. For service on and after July 1, 2012:

(i) For teachers with fewer than twenty (20) years of total service as of June 30, 2012, a teacher's retirement allowance shall be equal to one percent (1%) of the teacher's average compensation multiplied by the teacher's years of total service on and after July 1, 2012; and

(ii) For teachers with twenty (20) or more years of total service as of June 30, 2012, a teacher's retirement allowance shall be equal to one percent (1%) of the teacher's average compensation multiplied by the teacher's years of total service between July 1, 2012, and June 30, 2015, and two percent (2%) of the teacher's average compensation multiplied by the teacher's years of total service on and after July 1, 2015. For purposes of computing a teacher's total service under the preceding sentence, service purchases shall be included in total service only with respect to those service purchases approved prior to June 30, 2012, and those applications for service purchases received by the retirement system on or before June 30, 2012. In no event shall a teacher's retirement allowance exceed the maximum limitations set forth in subsection (b) above.

History of Section.

(P.L. 1948, ch. 2101, § 4; P.L. 1950, ch. 2607, § 2; P.L. 1951, ch. 2830, § 7; G.L. 1956, § 16-16-13; P.L. 1970, ch. 112, art. 1, § 2; P.L. 1985, ch. 331, § 1; P.L. 1989, ch. 476, § 1; P.L. 1992, ch. 306, art. 2, § 3; P.L. 2005, ch. 117, art. 7, § 1; P.L. 2009, ch. 68, art. 7, § 4; P.L. 2011, ch. 408, § 10; P.L. 2011, ch. 409, § 10; P.L. 2015, ch. 141, art. 21, § 12.)

§ 16-16-13.1 Teachers with more than 30 years of service – Amount of service retirement allowance – Minimum and maximum limitations. – In the case of any teacher who is a member of the employees' retirement system of the state created by chapter 8 of title 36 who, at the time of retirement, has had at least thirty (30) years or more of total service, the teacher shall receive an annual retirement allowance of not less than thirty-four hundred dollars (\$3,400) per year with an additional increment of two hundred dollars (\$200) for each additional year of service up through a total of thirty-eight (38) years to a maximum of five thousand dollars (\$5,000); provided that this section shall not apply in the case of any teacher who has elected an option for payment of pension and has thereby reduced the amount received to less than the amounts set forth in this section.

History of Section.

(P.L. 1978, ch. 390, § 1.)

§ 16-16-14 Retirement for ordinary disability. – (a) Application for ordinary disability may be made by a teacher, his or her department head, or a person acting in the teacher's behalf, while in active service or on leave of absence for illness, provided that the teacher has had five (5) or more years of total service of which at least three (3) consecutive years shall have been as a teacher, and the teacher is not entitled to a regular service retirement allowance. A statement from a physician shall accompany the application stating that the teacher is physically or mentally incapacitated for the performance of duty and that he or she should be retired.

(b) A medical examination of the teacher shall be made by three (3) physicians engaged by the retirement board for this purpose, and should the medical examination show that the teacher is physically or mentally incapacitated for the performance of duty and ought to be retired, the physicians shall so report and certify to the retirement board and the retirement board, may retire the teacher for ordinary disability.

(c) The retirement board shall establish uniform eligibility requirements, standards, and criteria for ordinary disability which shall apply to all members who make application for retirement for ordinary disability.

History of Section.

(P.L. 1992, ch. 306, art. 2, § 4.)

§ 16-16-15 Amount of ordinary disability benefit. – Upon retirement for ordinary disability under § 16-16-14, a teacher shall receive a benefit equal to the rate prescribed for service retirement under § 16-16-13 subject to the provisions of § 16-16-20; provided, however, that no teacher retiring with less than ten (10) years of total service shall receive a benefit less than he or she would have received if he or she had ten (10) years of total service.

History of Section.

(P.L. 1992, ch. 306, art. 2, § 4; P.L. 1993, ch. 360, § 2.)

§ 16-16-16 Retirement for accidental disability. – (a) Medical examination of an active teacher for accidental disability, and investigation of all statements and certificates by him or her or in his or her behalf in connection with the accidental disability, shall be made upon the application of the head of the department in which the teacher is employed or upon application of the teacher, or of a person acting in his or her behalf, stating that the teacher is physically or mentally incapacitated for the performance of service as a natural and proximate result of an accident, while in the performance of duty, and certify the definite time, place, and conditions of the duty performed by the teacher resulting in the alleged disability, and that the alleged disability is not the result of willful negligence or misconduct on the part of the teacher, and is not the result of age or length of service, and that the teacher should, therefore, be retired.

(b) The application shall be made within five (5) years of the alleged accident from which the injury has resulted in the teacher's present disability, and shall be accompanied by an accident report and a physician's report certifying to the disability; provided, that, if the teacher was able to return to his or her employment and subsequently reinjures or aggravates the same injury, the application shall be made within the later of five (5) years of the alleged accident or three (3) years of the reinjury or aggravation. The application may also state that the teacher is permanently and totally disabled from any employment.

(c) If a medical examination conducted by three (3) physicians engaged by the retirement board, and any investigation that the retirement board may desire to make, shall show that the teacher is physically or mentally incapacitated for the performance of service as a natural and proximate result of an accident, while in the performance of duty, and that the disability is not

the result of willful negligence or misconduct on the part of the teacher, and is not the result of age or length of service, and that the teacher has not attained the age of sixty-five (65) years, and that the teacher should be retired, the physicians who conducted the examination shall so certify to the retirement board stating the time, place, and conditions of service performed by the teacher resulting in the disability, and the retirement board may grant the teacher an accidental disability benefit.

(d) The retirement board shall establish uniform eligibility requirements, standards, and criteria for accidental disability which shall apply to all members who make application for accidental disability benefits.

History of Section.

(P.L. 1992, ch. 306, art. 2, § 4; P.L. 2009, ch. 68, art. 7, § 4. Effective July 1, 2009)

§ 16-16-17 Amount of accidental disability benefit. – (a) For disability applications submitted on or before September 30, 2009, upon retirement for accidental disability under § 16-16-16 a teacher shall receive a benefit that shall be equal to sixty-six and two-thirds percent (66 2/3%) of his or her annual compensation at the time of his or her retirement, subject to the provisions of § 16-16-20.

(b) Upon any application for accidental disability submitted after October 1, 2009, if the teacher has been found to be permanently and totally disabled from service but has not been found by the board to be permanently and totally disabled from any employment as a result of his/her accidental disability, a teacher shall receive a retirement allowance equal to fifty percent (50%) of the rate of the teacher's compensation at the date of the teacher's retirement subject to the provisions of § 16-16-20. The retiree shall, as a condition of continued receipt of a disability retirement allowance, on or before a date fixed by the retirement board, annually under penalties of perjury provide the board with such affidavits and accurate evidence of earnings, employment and gainful activity as the board may require, including, but not limited to, joint and/or individual tax returns. Payment of the disability retirement allowance shall continue as long as the individual remains disabled, and regardless of service or age. Upon retirement for accidental disability that has been found by the board to be permanently and totally disabling from any employment, a teacher shall receive a retirement allowance equal to sixty-six and two-thirds percent (66 2/3%) of the rate of the teacher's compensation at the date of the teacher's retirement subject to the provisions of § 16-16-20. The retirement board shall apply the terms of subsection 28-33-17(b) in determining total disability.

History of Section.

(P.L. 1992, ch. 306, art. 2, § 4; P.L. 2009, ch. 68, art. 7, § 4. Effective July 1, 2009)

§28-33-17(b) In the following cases, it shall for the purpose of this section be that the injury resulted in permanent total disability:

- (i) The total and irrecoverable loss of sight in both eyes or the reduction to one-tenth (1/10th) or less of normal vision with glasses;
- (ii) The loss of both feet at or above the ankle;
- (iii) The loss of both hands at or above the wrist;
- (iv) The loss of one hand and one foot;
- (v) An injury to the spine resulting in permanent and complete paralysis of the legs or arms; and
- (vi) An injury to the skull resulting in incurable imbecility or insanity.

(2) In all other cases, total disability shall be determined only if, as a result of the injury, the employee is physically unable to earn any wages in any employment; provided, that in cases where manifest injustice would otherwise result, total disability

shall be determined when an employee proves, taking into account the employee's age, education, background, abilities, and training, that he or she is unable on account of his or her compensable injury to perform his or her regular job and is unable to perform any alternative employment. The court may deny total disability under this subsection without requiring the employer to identify particular alternative employment.

§ 16-16-18 Disability benefits pending final decision on application. – Notwithstanding any of the provisions of chapters 3 and 4 of title 36, and/or any existing regulations of the director of administration or the state retirement board, the state retirement board shall accord to a teacher, so entitled under present existing regulations, the minimum retirement benefits pending a decision upon any disability retirement of the teacher; provided, however, the granting of the minimum retirement shall not estop the teacher, so claiming disability, from any disability retirement consideration by the board.

History of Section.

(P.L. 1992, ch. 306, art. 2, § 4.)

§ 16-16-19 Reexamination of disability beneficiaries – Reduction of benefit – Reinstatement to active service. – Once each year the retirement board may, and upon his or her application shall, require any disability beneficiary under the minimum age of service retirement to undergo a medical examination, the examination to be made at the place of residence of the beneficiary, or other place mutually agreed upon, by a physician or physicians engaged by the retirement board. If the examination indicates that the beneficiary is able to engage in a gainful occupation, his or her name shall be placed on appropriate lists of candidates prepared for appointment to positions in his or her department or agency for which he or she is stated to be qualified, of a salary grade not exceeding that from which he or she was last retired. Should the beneficiary be engaged in a gainful occupation or should he or she be offered service as a result of the placing of his or her name on a list of candidates, the retirement board shall adjust, and, from time to time readjust, the amount of his or her disability benefit to an amount which shall not exceed the rate of benefit upon which he or she was originally retired, and which, when added to the amount then earnable by him or her, shall not exceed his or her rate of annual compensation currently for the classification that the disability annuitant held prior to retirement. Should any disability beneficiary under the minimum age of service retirement refuse to submit to one medical examination in any year by a physician or physicians designated by the retirement board, his or her benefit shall be discontinued until his or her withdrawal of the refusal, and should his or her refusal continue for one year, all his or her rights in and to the benefit shall be revoked by the retirement board. A disability beneficiary, reinstated to active service, shall be reinstated as a member and participate in the rights of the retirement system, to the same extent as any other teacher.

History of Section.

(P.L. 1992, ch. 306, art. 2, § 4.)

§ 16-16-20 Deduction of amounts received from workers' compensation or as damages. – Any amount paid or payable under the provisions of any workers' compensation law, or as the result of any action for damages for personal injuries against the state, on account of the death or disability of a teacher, shall be offset against and payable in lieu of any benefits payable out of funds provided by the state under the provisions of this chapter on account of the death or disability of the teacher. If the value of the total commuted benefits under any workers' compensation law or action is less than the present value on an actuarial basis of the benefits otherwise payable under this chapter, the value of the commuted payments shall be deducted

from the present value of the benefits, and the balance thereof shall be payable under the provisions of this chapter.

History of Section.

(P.L. 1992, ch. 306, art. 2, § 4.)

§ 16-16-21 Repealed.

§ 16-16-22 Contributions to state system. – (a) Prior to July 1, 2012, each teacher shall contribute into the system nine and one-half percent (9.5%) of compensation as his or her share of the cost of annuities, benefits, and allowances. Effective July 1, 2012, each teacher shall contribute an amount equal to three and three quarters percent (3.75%) of his or her compensation. Effective July 1, 2015, each teacher with twenty (20) or more years of total service as of June 30, 2012, shall contribute an amount equal to eleven percent (11%) of his or her compensation. The employer contribution on behalf of teacher members of the system shall be in an amount that will pay a rate percent of the compensation paid to the members, according to the method of financing prescribed in the State Retirement Act in chapters 8 – 10 and 10.3 of title 36. This amount shall be paid forty percent (40%) by the state, and sixty percent (60%) by the city, town, local educational agency, or any formalized commissioner approved cooperative service arrangement by whom the teacher members are employed, with the exception of teachers who work in federally funded projects and further with the exception of any supplemental contributions by a local municipality employer under chapter 36-10.3 which supplemental employer contributions shall be made wholly by the local municipality. Provided, however, that the rate percent paid shall be rounded to the nearest hundredth of one percent (.01%).

(b) The employer contribution on behalf of teacher members of the system who work in fully or partially federally funded programs shall be prorated in accordance with the share of the contribution paid from the funds of the federal, city, town, or local educational agency, or any formalized commissioner approved cooperative service arrangement by whom the teacher members are approved.

(c) In case of the failure of any city, town, or local educational agency, or any formalized commissioner approved cooperative service arrangement to pay to the state retirement system the amounts due from it under this section within the time prescribed, the general treasurer is authorized to deduct the amount from any money due the city, town, or local educational agency from the state.

(d) The employer's contribution shared by the state shall be paid in the amounts prescribed in this section for the city, town, or local educational agency and under the same payment schedule. Notwithstanding any other provisions of this chapter, the city, town, or local educational agency or any formalized commissioner approved cooperative service arrangement shall remit to the general treasurer of the state the local employer's share of the teacher's retirement payments on a monthly basis, payable by the fifteenth (15th) of the following month. The amounts that would have been contributed shall be deposited by the state in a special fund and not used for any purpose. The general treasurer, upon receipt of the local employer's share, shall effect transfer of a matching

amount of money from the state funds appropriated for this purpose by the general assembly into the retirement fund.

Upon reconciliation of the final amount owed to the retirement fund for the employer share, the state shall ensure that any local education aid reduction assumed for the FY 2010 revised budget in excess of the actual savings is restored to the respective local entities.

(e) This section is not subject to §§ 45-13-7 through 45-13-10.

History of Section.

(P.L. 1948, ch. 2101, § 6; P.L. 1949, ch. 2375, § 1; P.L. 1951, ch. 2830, § 8; G.L. 1956, § 16-16-22; P.L. 1958, ch. 79, § 1; P.L. 1976, ch. 289, § 4; P.L. 1978, ch. 168, § 2; P.L. 1979, ch. 332, § 1; P.L. 1980, ch. 146, § 1; P.L. 1980, ch. 175, § 1; P.L. 1981, ch. 16, § 1; P.L. 1982, ch. 97, § 1; P.L. 1985, ch. 331, § 1; P.L. 1988, ch. 509, § 2; P.L. 1989, ch. 126, art. 29, § 1; P.L. 1991, ch. 6, art. 7, § 4; P.L. 1995, ch. 370, art. 15, § 1; P.L. 2001, ch. 86, § 36; P.L. 2009, ch. 5, art. 10, § 3; P.L. 2009, ch. 68, art. 7, § 9; P.L. 2010, ch. 9, § 2; P.L. 2010, ch. 10, § 2; P.L. 2011, ch. 408, § 10; P.L. 2011, ch. 409, § 10; P.L. 2015, ch. 141, art. 21, § 13.)

§ 16-16-22.1 City or town payment of teacher member contributions. – (a) Each city or town, pursuant to the provisions of § 414(h)(2) of the United States Internal Revenue Code, 26 U.S.C. § 414(h)(2), may, pursuant to appropriate local action by the city or town, pick up and pay the contributions which would be payable by the employees as teacher members under § 16-16-22. The contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code. Employee contributions picked up pursuant to this section shall be treated and identified as teacher member contributions for all purposes of the retirement system except as specifically provided to the contrary in this section.

(b) Teacher member contributions picked up by a city or town shall be paid from the same source of funds used for the payment of compensation to a teacher member. A deduction shall be made from a teacher member's compensation equal to the amount of his or her contributions picked up by his or her city or town employer. This deduction, however, shall not reduce his or her compensation for purposes of computing benefits under the retirement system pursuant to this chapter or chapter 10 of title 36. Picked up contributions shall be transmitted to the retirement system in accordance with the provisions of § 16-16-22 and § 36-10-1.

History of Section.

P.L. 1983, ch. 37, § 3; P.L. 2011, ch. 408, § 10, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 10, eff. Nov. 18, 2011.

§ 16-16-23 Applicability of public employees' retirement law. – Except as specifically provided otherwise in this chapter, all provisions of chapters 8 – 10 of title 36 shall extend and apply to the persons made members of the retirement system by the provisions of this chapter.

History of Section.

(P.L. 1948, ch. 2101, § 7; G.L. 1956, § 16-16-23.)

§ 16-16-24 Substitute teaching and employment after retirement. – (a) Any teacher or athletic coach certified pursuant to chapter 11.1 of this title who has retired under the provisions of any law of this state may substitute as a teacher at state schools and in the public schools of this state for a period of no more than ninety (90) days in any one school year without any forfeiture of or reduction in the retirement benefits and allowances the teacher is receiving or may receive as a retired teacher. Notice of the employment shall be sent monthly to the state retirement board by the school committee employing the teacher and by the employer and by the retired teacher at the end of each teaching assignment.

(b) Any teacher or athletic coach certified pursuant to chapter 11.1 of this title who has retired under the provisions of any law of this state may be employed to fill a vacant position (including, but not limited to, employment as a tutor, mentor principal or mentor assistant principal) by any state school or public school of this state for a period of no more than ninety (90) days in any one school year without any forfeiture of or reduction in the retirement benefits and allowances he or she is receiving or may receive as a retiree. Notice of the employment shall be sent monthly to the state retirement board by the employer and by the retired teacher. Provided, however, that no employment may be offered to a retiree subject to this section after July 1, 2002, unless the employer has made a good faith effort each school year to fill the position with a nonretired employee without success, and certifies in writing that it has done so to the employees' retirement system, and to the bargaining agents of all education unions with whom the employer has collective bargaining agreements.

(c) Any retired teacher or athletic coach may be employed pursuant to subsections (a) and (b) of this section, but in no event shall employment exceed ninety (90) days.

(d) The calculation of the ninety (90) day period in any one school year shall be determined by either of the following methods:

(1) Three (3) hours shall constitute a half day and the number of half days shall be limited to one hundred eighty (180) half days which shall be the equivalent of ninety (90) full days; or

(2) Each period per day shall constitute one-fifth (1/5) of a teaching day. Any teacher hired to teach two (2) periods per day shall be deemed to have worked seventy-two (72) full days per year. The computation is two-fifths times one hundred eighty (2/5 x 180) school days per year which shall be equivalent to seventy-two (72) full days per year.

History of Section.

(R.P.L. 1957, ch. 71, § 1; P.L. 1967, ch. 193, § 1; P.L. 1985, ch. 257, § 1; P.L. 1988, ch. 84, § 48; P.L. 2000, ch. 334, § 1; P.L. 2000, ch. 458, § 1; P.L. 2001, ch. 199, § 1; P.L. 2001, ch. 289, § 1; P.L. 2002, ch. 383, § 1; P.L. 2003, ch. 155, § 1; P.L. 2003, ch. 156, § 1.)

§ 16-16-25 Eligibility for survivor's benefits – Payment. – A member's dependents or survivors shall be eligible to receive the benefits provided in §§ 16-16-25 through 16-16-38 if the member shall have made regular contributions to the teachers' survivors benefit fund as provided in § 16-16-34 for a period of at least six (6) consecutive calendar months prior to his or her death or retirement, as the case may be. These benefits shall be payable the first of the month following that month in which eligibility for the benefits occurs and shall be paid at the same time as the regular retirement allowance payments are made. No payment shall be due for the month in which ineligibility occurs. No widow's or mother's or domestic partner's benefit payable under §§ 16-16-25 through 16-16-38 shall be reduced because of benefits payable to other dependents of the deceased member under the provisions of §§ 16-16-25 through 16-16-38.

History of Section.

(P.L. 1962, ch. 212, § 3; P.L. 1963, ch. 59, § 1; P.L. 1964, ch. 215, § 1; P.L. 1974, ch. 254, § 1; P.L. 2007, ch. 510, § 6.)

§ 16-16-26 Spouse's or domestic partner's benefits. – (a) Spouse's and domestic partner's benefits are payable following the decease of a member as provided in §16-16-25 through 16-16-38.

(b) The spouse or domestic partner shall be entitled to benefits upon attaining the age of sixty (60) years.

(c) The spouse or domestic partner was living with the deceased member at the time of the member's death. A spouse or domestic partner is deemed to have been living with the deceased member if they were both members of the same household on the date of the deceased member's death, or the spouse or domestic partner was receiving regular contributions from the deceased member toward support on that date, or the deceased member had been ordered by a court to contribute to the spouse's or domestic partner's support.

(d) Remarriage of the spouse or domestic partner or establishment of a domestic partnership shall render him or her ineligible to receive current or future benefits under this section.

(e) The spouse or domestic partner of a member, as defined in this section, shall be entitled to monthly benefits payable in accordance with the following table:

Highest Spouse's or Domestic Partner's Annual Monthly Salary Minimum Benefit

\$17,000 or less \$750

\$17,001 to \$25,000 875

\$25,001 to \$33,000 1,000

\$33,001 to \$40,000 1,125

\$40,001 and over 1,250

(f) A yearly cost-of-living adjustment for spouse's or domestic partners's benefits shall be based on the annual social security adjustment.

History of Section.

P.L. 1962, ch. 212, § 3; P.L. 1974, ch. 254, § 1; P.L. 1983, ch. 217, § 1; P.L. 1985, ch. 248, § 1; P.L. 1987, ch. 590, § 1; P.L. 1996, ch. 295, § 1; P.L. 2004, ch. 547, § 1; P.L. 2007, ch. 510, § 6, eff. Oct. 30, 2007.

§ 16-16-27 Family benefits. – (a) Family benefits shall be payable upon the decease of the member as provided in §16-16-25 through 16-16-38 if at the time of the member's death the surviving spouse or domestic partner:

(1) Has in his or her care a child of the deceased member entitled to child benefits;

(2) Is not entitled to a spouse's or domestic partner's benefit as provided in this chapter; and

(3) Was living with the deceased member at the time of his or her death.

(b) Family benefits shall be payable in accordance with the following table. The monthly benefit shall be equal to the benefit that would be available to a spouse or domestic partner under § 16-16-26 multiplied by the following percentages:

Parent and 1 Child	Parent and 2 Children	Parent and more than 2	One Child Alone	Two Children Alone	Three or more Children
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		Children			Alone
150%	175%	175%	75%	150%	175%

(c) Family benefits as set forth in this section are payable to the former spouse or to a former domestic partner divorced of a deceased member, if the former spouse or to a former domestic partner divorced:

(1) Has in his or her care a child of the deceased member who is his or her son, daughter, or legally adopted child entitled to child benefits payable on the basis of the deceased member's salary;

(2) Was receiving from the deceased member, pursuant to agreement or court order, at least one-half (1/2) of his or her support at the time of the deceased member's death;

(3) Is not entitled to a spouse's or domestic partner's benefit as provided in §16-16-25 through 16-16-38.

(d) The family monthly benefit shall be payable in accordance with the table set forth in this section. A spouse or domestic partner who no longer qualifies for benefits under this section because his or her child or children have attained the age of eighteen (18) years or twenty-three (23) years and a full time student shall be entitled to receive monthly benefits upon attaining sixty (60) years of age in accordance with the benefits set forth in § 16-16-26. The family benefits provided under this section shall cease upon the

remarriage of the surviving spouse or domestic partner or establishment of a domestic partnership.

History of Section.

P.L. 1962, ch. 212, § 3; P.L. 1974, ch. 254, § 1; P.L. 1983, ch. 217, § 1; P.L. 1986, ch. 498, § 1; P.L. 1989, ch. 485, § 1; P.L. 1996, ch. 295, § 1; P.L. 2007, ch. 510, § 6, eff. Oct. 30, 2007.

§ 16-16-28 Children's benefits. – (a) Children's benefits are payable to the child, including a stepchild or adopted child of a deceased member, if:

(1) The child is unmarried and under the age of eighteen (18) years or twenty-three (23) years and a full time student, and was dependent upon the member at the time of the member's death; or

(2) The dependent child regardless of age was under a disability which began before the child attained the age of eighteen (18) years. A child shall not be considered disabled unless proof is furnished to the retirement board.

(b)(1) A child is considered dependent if living with the member at the time of the member's death and he or she was contributing to the support of the child. If the member at the time of the member's death was not living with the child or contributing to the child's support, the child, if legitimate, is considered dependent upon the member unless the child:

(i) Was adopted by some other individual; or

(ii) Was living with and receiving more than one-half (1/2) of his or her support from either one or both stepparents.

(2) An adopted child is considered dependent upon his or her adopting parents under the same conditions as those that apply to parents and their natural children.

(c) A child is considered dependent upon either one or both stepparents at the time of the death if the child was:

- (1) Living with his or her stepparent(s); or
- (2) Receiving at least one-half (1/2) of his or her support from either one or both of the stepparents.

History of Section.

P.L. 1962, ch. 212, § 3; P.L. 1974, ch. 254, § 1; P.L. 1983, ch. 217, § 1; P.L. 1986, ch. 498, § 1.

§ 16-16-29 [Repealed.]

§ 16-16-30 Parent's benefits. – (a) Parent's benefits are payable to the parent or parents of a deceased member if the member did not leave a widow, widower, or child who could ever qualify for monthly benefits on the member's wages and the parent:

- (1) Has reached the age of sixty (60) years;
- (2) Has not remarried or entered into a domestic partnership after the death of the member;
- (3) Was receiving at least one-half (1/2) of his or her support from the member at the time of the member's death and filed proof of his or her support within two (2) years of the date of death; and
- (4) Is not entitled to a federal or state old age benefit based on his or her own earnings equal to or greater than the amount he or she would be entitled to as the dependent parent of the deceased member.

(b) A parent's benefit shall be payable monthly in accordance with the benefits set forth in § 16-16-26.

History of Section.

P.L. 1962, ch. 212, § 3; P.L. 1974, ch. 254, § 1; P.L. 1996, ch. 295, § 1; P.L. 2007, ch. 510, § 6, eff. Oct. 30, 2007.

§ 16-16-31 Refund on termination prior to retirement. – A member withdrawing from service prior to retirement shall be entitled to a refund equal to the total amount contributed by him or her to the teachers' survivors benefit fund, without interest.

History of Section.

(P.L. 1962, ch. 212, § 3; P.L. 1974, ch. 254, § 1.)

§ 16-16-32 Refund on retirement. – A member at the date of retirement in lieu of the survivors benefits provided in §§ 16-16-25 – 16-16-38 may elect to receive a lump sum payment equal to his or her contributions to the teachers' survivors benefit fund, plus interest. Any member who retired prior to the effective date of this legislation shall have one hundred twenty (120) days from the effective date of this legislation to elect to receive a lump sum payment equal to his or her contributions to the teachers' survivors benefit fund, plus interest. Interest is to be calculated and payable only up to the date of retirement.

History of Section.

(P.L. 1962, ch. 212, § 3; P.L. 1974, ch. 254, § 1; P.L. 1996, ch. 295, § 1; P.L. 2004, ch. 551, § 1.)

§ 16-16-33 Repealed.

§ 16-16-34 Member leaving no survivors – Reversion. – (a) In the case of any member who dies while in service leaving no dependents or survivors as defined in §§ 16-16-1, 16-16-11, and 16-16-25 through 16-16-38, his or her accumulated contributions to the teachers' survivors benefit fund plus interest shall be payable to the person or persons that he or she may designate to the retirement board or in the absence of a designation to his or her estate.

(b) Contributions made by a member who at the date of retirement did not exercise the election provided in § 16-16-32 and who dies without leaving survivors as defined in this chapter shall become part of the reserve of the fund.

History of Section.

(P.L. 1962, ch. 212, § 3; P.L. 1966, ch. 80, § 1; P.L. 1974, ch. 254, § 1.)

§ 16-16-35 Contributions. – (a) The cost of the benefits provided in §§ 16-16-25 – 16-16-38 shall be two percent (2%) of the member's annual salary up to but not exceeding an annual salary of ninety-six hundred dollars (\$9,600); one-half (1/2) of the cost shall be contributed by the member by deductions from his or her salary, and the other half (1/2) shall be contributed and paid by the respective city, town, or school district by which the member is employed. These contributions shall be in addition to the contributions provided in § 16-16-22 and shall be paid into the teachers' survivors benefit fund created by §§ 16-16-25 – 16-16-38 in the same manner as contributions are made under the provisions of § 16-16-22.

(b) In the event the market value of the Teachers' Survivor Benefit Plan assets shall decrease below one hundred and twenty (120%) percent of the Teachers' Survivor Benefit Plan liabilities as reported by a qualified actuary pursuant to § 16-16-37, the retirement board shall determine and fix the amount of contributions necessary to maintain a funding level of not less than one hundred and twenty (120%) percent of assets to liabilities ratio. Any adjusted cost of the benefits provided in §§ 16-16-25 – 16-16-38 shall be paid for by the member by deduction from his or her salary. These contributions shall be in addition to the contributions provided in

§ 16-16-22 and shall be paid into the teachers' survivors benefit fund created by §§ 16-16-25 – 16-16-38 in the same manner as contributions are made under the provisions of § 16-16-22.

History of Section.

(P.L. 1962, ch. 212, § 3; P.L. 1974, ch. 254, § 1; P.L. 1996, ch. 295, § 1; P.L. 2004, ch. 547, § 1.)

§ 16-16-36 Teachers' survivors benefit fund. – There shall be established by the retirement board a special reserve account to be designated as the "teachers' survivors benefit fund" and all contributions made and other money received under §§ 16-16-25 through 16-16-38 shall be credited to and all payments for benefits shall be charged to this reserve account.

History of Section.

(P.L. 1962, ch. 212, § 3; P.L. 1974, ch. 254, § 1; P.L. 1996, ch. 295, § 1.)

§ 16-16-37 Administration. – (a) The retirement board shall administer and carry out the provisions of §§ 16-16-25 – 16-16-38, and shall fix the rate of regular interest payable under §§ 16-16-25 – 16-16-38 to be changed from time to time, based upon the amount of interest earned by the teachers' survivors benefit fund. The retirement board shall also cause a study and review to be made of the financial condition of the teachers' survivors benefit fund at least once every two (2) years by a qualified actuary who shall report his or her findings and make recommendations to the board.

(b) Any negotiated agreement entered into between any state or municipal agency or department and an employee or employees, whose conditions are contrary to the general laws or the rules and regulations and policies as adopted and promulgated by the retirement board,

shall be null and void unless and until approved by formal action of the retirement board, for good cause shown.

History of Section.

(P.L. 1962, ch. 212, § 3; P.L. 1974, ch. 254, § 1; P.L. 1992, ch. 306, art. 2, § 3; P.L. 1996, ch. 295, § 1; P.L. 2001, ch. 86, § 36; P.L. 2004, ch. 547, § 1.)

§ 16-16-38 Social security. – Sections 16-16-25 through 16-16-38 shall not apply to teachers of any city, town, or regional school district who have elected coverage under the federal Social Security Act, 42 U.S.C. § 301 et seq., under the provisions of chapter 7 of title 36.

History of Section.

(P.L. 1962, ch. 212, § 4; P.L. 1974, ch. 254, § 1; P.L. 1996, ch. 295, § 1.)

§ 16-16-39 Severability. – The provisions of this chapter are severable and if any of its provisions are adjudged to be invalid or unconstitutional this shall not affect or impair any of the remaining provisions.

History of Section.

(P.L. 1962, ch. 212, § 5; P.L. 1974, ch. 254, § 1.)

§ 16-16-40 Additional benefits payable to retired teachers. – (a) All teachers and all beneficiaries of teachers receiving any service retirement or ordinary or accidental disability retirement allowance pursuant to the provisions of this chapter and chapter 17 of this title, on or before December 31, 1967, shall receive a cost of living retirement adjustment equal to one and one-half percent (1.5%) per year of the original retirement allowance, not compounded, for each year the retirement allowance has been in effect. For purposes of computation credit shall be given for a full calendar year regardless of the effective date of the retirement allowance. This cost of living retirement adjustment shall be added to the amount of the service retirement allowance as of January 1, 1970, and payment shall begin as of July 1, 1970. An additional cost of living retirement adjustment shall be added to the original retirement allowance equal to three percent (3%) of the original retirement allowance on the first day of January, 1971, and each year thereafter through December 31, 1980.

(b) All teachers and beneficiaries of teachers receiving any service retirement or ordinary disability retirement allowance pursuant to the provisions of this title who retired on or after January 1, 1968, shall, on the first day of January, next following the third (3rd) year on retirement, receive a cost of living adjustment, in addition to his or her retirement allowance, an amount equal to three percent (3%) of the original retirement allowance. In each succeeding year thereafter, on the first day of January, the retirement allowance shall be increased an additional three percent (3%) of the original retirement allowance, not compounded, to be continued through December 31, 1980.

(c)(1) Beginning on January 1, 1981, for all teachers and beneficiaries of teachers receiving any service retirement and all teachers and all beneficiaries of teachers who have completed at least ten (10) years of contributory service on or before July 1, 2005, pursuant to the provisions of this chapter, and for all teachers and beneficiaries of teachers who receive a disability retirement allowance pursuant to §§ 16-16-14 – 16-16-17, the cost of living adjustment shall be computed and paid at the rate of three percent (3%) of the original retirement allowance or the retirement allowance as computed in accordance with § 16-16-40.1, compounded annually from the year for which the cost of

living adjustment was determined to be payable by the retirement board pursuant to the provisions of subsection (a) or (b) of this section. Such cost of living adjustments are available to teachers who retire before October 1, 2009, or are eligible to retire as of September 30, 2009.

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

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

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

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

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

percent (4%) and not to be less than zero percent (0%), and (B) is equal to the lesser of the teacher's retirement allowance or the first twenty-five thousand dollars (\$25,000) of retirement allowance, such twenty-five thousand dollars (\$25,000) amount to be indexed annually in the same percentage as determined under paragraph (e)(1)(A) above. The "Five-Year Average Investment Return" shall mean the average of the investment returns of the most recent five (5) plan years as determined by the retirement board. Subject to paragraph (e)(2) below, the benefit adjustment provided by this paragraph shall commence upon the third (3rd) anniversary of the date of retirement or the date on which the retiree reaches his or her Social Security retirement age, whichever is later. In the event the retirement board adjusts the actuarially assumed rate of return for the system, either upward or downward, the subtrahend shall be adjusted either upward or downward in the same amount.

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

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

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

(4) Notwithstanding any other provisions of this chapter, the provisions of this paragraph (e) of § 16-16-40 shall become effective July 1, 2012, and shall apply to any benefit adjustments not granted on or prior to June 30, 2012.

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

(1)(A) As soon as administratively reasonable following the enactment into law of this subsection (f)(1)(A), a one-time benefit adjustment shall be provided to teachers and/or beneficiaries of teachers who retired on or before June 30, 2012, in the amount of two percent (2%) of the lesser of either the teacher's retirement allowance or the first twenty-five thousand dollars (\$25,000) of the teacher's retirement allowance. This one-time benefit adjustment shall be provided without regard to the retiree's age or number of years since retirement.

(B) Notwithstanding the prior subsections of this section, for all present and former teachers, active and retired teachers, and beneficiaries receiving any retirement, disability or death allowance or benefit of any kind, the annual benefit adjustment provided in any

calendar year under this section for adjustments on and after January 1, 2016, and subject to subsection (f)(2) below, shall be equal to (I) multiplied by (II):

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

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

(ii) Is equal to the lesser of three percent (3%) or the percentage increase in the Consumer Price Index for all Urban Consumers (CPI-U) as published by the U.S. Department of Labor Statistics determined as of September 30 of the prior calendar year.

In no event shall the sum of (i) plus (ii) exceed three and one-half percent (3.5%) or be less than (0%) percent.

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

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

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

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

(3) Notwithstanding subsection (f)(2), in each fourth plan year commencing after June 30, 2012, commencing with the plan year ending June 30, 2016, and subsequently at intervals of four plan years: (i) A benefit adjustment shall be calculated and made in accordance with subsection (f)(1)(B) above; and (ii) Effective for teachers and/or

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

(4) Effective for teachers and or beneficiaries of teachers who have retired on or before July 1, 2015, a one-time stipend of five hundred dollars (\$500) shall be payable within sixty (60) days following the enactment of the legislation implementing this provision, and a second one-time stipend of five hundred dollars (\$500) in the same month of the following year. These stipends shall be payable to all retired teachers or beneficiaries receiving a benefit as of the applicable payment date and shall not be considered cost of living adjustments under the prior provisions of this § 16-16-40.

History of Section.

(P.L. 1970, ch. 112, art. 10, § 2; P.L. 1980, ch. 237, §§ 1, 3; P.L. 1981, ch. 120, § 1; P.L. 1986, ch. 482, § 1; P.L. 2005, ch. 117, art. 7, § 1; P.L. 2009, ch. 68, art. 7, § 4; P.L. 2010, ch. 23, art. 16, § 2; P.L. 2011, ch. 408, § 10; P.L. 2011, ch. 409, § 10; P.L. 2015, ch. 141, art. 21, § 14.)

§ 16-16-40.1 One-time adjustment to original retirement allowance. – (a) All teachers and the beneficiaries of teachers who retired during the calendar year 1979 shall receive an additional eight percent (8%) to their original retirement allowance.

(b) All teachers and the beneficiaries of teachers who retired during calendar year 1978 shall receive an additional two percent (2%) added to the base eight percent (8%) paid to the 1979 retirees. Provided, further that an additional two percent (2%) of the retirement allowance shall be paid for each year to a maximum of twenty percent (20%) to those retirees and beneficiaries who retired in calendar year 1973 and prior to 1973 as indicated in the following schedule:

SEE THE BOOK FOR THE PROPER TABLE.

(c) The additional percentage shall be incorporated into the recipient's monthly benefit starting with the payment due on or after July 31, 1986.

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

History of Section.

(P.L. 1986, ch. 482, § 3.)

§ 16-16-41 Repealed.

§ 16-16-42 Life insurance benefits. – Notwithstanding any other provision of law to the contrary, any member who, at the time of retirement from service, has in effect life insurance provided for as a benefit of his or her employment shall, after retirement, be entitled to keep the policy of life insurance in effect by paying to the city or town an amount equal to the annual cost of the policy for the individual at the time of the individual's retirement. The policy of insurance shall remain in effect for so long as the member continues to make annual payments.

History of Section.

(P.L. 1986, ch. 492, § 2; P.L. 1987, ch. 580, § 2.)

§ 16-16-43 Purchase of credit while serving a prison sentence prohibited. –

Notwithstanding any other provisions of the retirement law or rulings of the retirement board in accordance with the powers vested in the board, no teacher shall be allowed to purchase service credits for time while incarcerated in prison, including, but not limited to, work release programs or home confinement programs.

History of Section.

(P.L. 1992, ch. 306, art. 2, § 5.)

CHAPTER 16-17
Retirement of Teachers in State Schools

§ 16-17-1 State retirement system extended to teachers in state schools. – Teachers in state universities, colleges, or schools shall be covered under the provisions of chapters 8, 9, and 10 of title 36 and chapters 16 and 17.1 of this title.

History of Section.

(P.L. 1948, ch. 2102, § 1; impl. am. P.L. 1951, ch. 2686, § 3; G.L. 1956, § 16-17-1; impl. am. P.L. 1959, ch. 44, § 2; P.L. 1981, ch. 126, § 1.)

CHAPTER 16-17.1

Alternate Provisions for Retirement of Teachers in State Colleges

§ 16-17.1-1 Definitions. – The following words and phrases as used in this chapter, unless a different meaning is plainly required by the context, have the following meanings:

(1) "Average compensation" means the average of the annual contractual or yearly salary of an employee during the five (5) consecutive years of employment when average compensation was the highest either: (i) as an employee under the program, or (ii) as a member of the state employees retirement system.

(2) "Board" means the board of regents for higher education.

(3) "Employees" means presidents, professors, instructors, or other employees of the board who are eligible to participate in any retirement program by virtue of the terms of the program and who are exempt from the merit system; except as provided in this chapter, if an employee of the board who participates in the program shall change classifications, he or she shall have the option to remain with the program.

(4) "Retirement program" and "program" means any retirement program adopted by the board of regents for higher education for any of its employees as defined in this section.

(5) "State colleges" means the University of Rhode Island, Rhode Island College, Community College of Rhode Island, and any other universities, colleges, or schools under the jurisdiction of the board.

(6) "State employees retirement system" means the retirement system existing by virtue of chapters 8 – 10 of title 36 and made applicable to employees by chapter 17 of this title.

History of Section.

(P.L. 1967, ch. 152, § 3; P.L. 1987, ch. 547, § 1.)

§ 16-17.1-2 Membership in a program. – (a) All employees including those so employed on May 24, 1967, who have not been active members of the state employees retirement system, upon becoming eligible for membership in a program, shall be required to participate in the program.

(b) All employees including those so employed on May 24, 1967, who become eligible for membership in a program, and who are active members of the state employees retirement system, are extended the option of continuing their active membership in the state employees retirement system or joining the program and retaining a limited membership in the state employees retirement system as set forth in this chapter and be eligible for a vested pension only as contained in this chapter. These limited members shall not be entitled to any other benefits or provisions.

(2) All employees who become eligible for membership in the program after July 1, 1967, shall make their election within sixty (60) days after they become eligible for participation in the program. All employees not exercising the option to join a program shall be deemed to have chosen to continue active membership in the state employees retirement system in lieu of exercising the option to participate under the program.

(c) Any employee who was a member of the program as an employee of the board, who subsequently enters the employees retirement system as a member by virtue of his or her employment, may have the option to purchase credit for any prior service with the board under the program, provided that he or she pays into the retirement system in a lump sum:

(1) The amount he or she would have contributed to the system had he or she been a member during his or her service, plus regular interest; and

(2) The amount of the state's contribution to the program for his or her service, plus regular interest; and

(3) Provided further that these payments shall be made within the employee's first year of membership in the retirement system.

History of Section.

(P.L. 1967, ch. 152, § 3; P.L. 1973, ch. 20, § 1; P.L. 1973, ch. 246, § 1; P.L. 1975, ch. 106, § 1; P.L. 1987, ch. 547, § 1; P.L. 2001, ch. 86, § 37.)

§ 16-17.1-3 Optional withdrawal of contributions to retirement system upon

participation in another program – Notice. – An employee who elects to participate in a program as provided under § 16-17.1-2(b) may further elect to withdraw the total amount of all contributions he or she has made to the state employees retirement system, provided that the state retirement board shall be notified in writing of the employee's intent to withdraw his or her contributions within ninety (90) days of the date upon which the employee becomes eligible to participate in a program. Upon the withdrawal of funds, which shall be effected within ninety (90) days following the state retirement board's receipt of notice that the employee is participating under a program, the employee shall thereby forfeit and relinquish all accrued rights as a member of the state employees retirement system.

History of Section.

(P.L. 1967, ch. 152, § 3.)

§ 16-17.1-4 Continuing membership in retirement system upon participation in another

program. – An employee who has elected to participate in a program in accordance with the provisions of § 16-17.1-2(b) and who has not withdrawn his or her contribution as provided in § 16-17.1-3 shall continue to be a member of the state employees retirement system and service with the state colleges while participating in the program shall be considered as service under the system; provided, however, that the employee shall be required to make no further contributions to the system and provided further that should the employee leave the employ of the state or become employed by the state in a capacity which does not qualify him or her for membership in the state employees retirement system before he or she has completed ten (10) years of service as an employee under a program or as a member of the state employees retirement system, he or she shall have the right pursuant to § 36-10-8 to obtain a refund of his or her own contributions made under the state employees retirement system from the state retirement board without interest.

History of Section.

(P.L. 1967, ch. 152, § 3.)

§ 16-17.1-5 Method of computing benefits under state employees retirement system for

employees in a program. – Where an employee has elected to participate in a program in accordance with the provisions of § 16-17.1-2(b), only the years of the employee's service prior to making the election to participate under the program shall be considered as years of service for the purposes of computing the benefits available under the state employees retirement system pursuant to chapter 10 of title 36, provided that for the purpose of determining an employee's service retirement allowance pursuant to § 36-10-10, average compensation shall be determined in accordance with § 16-17.1-1(1) notwithstanding anything contained in the general laws to the contrary.

History of Section.

(P.L. 1967, ch. 152, § 3; P.L. 1988, ch. 84, § 49.)

§ 16-17.1-6 Retirement age. – An employee, notwithstanding the program he or she elects to participate in, shall not be required to retire at any age less than the maximum age as established in § 36-10-9(b).

History of Section.

(P.L. 1978, ch. 292, § 1; P.L. 1987, ch. 520, § 3.)

CHAPTER 16-17.2

Compact for Pension Portability for Educators

§ 16-17.2-1 Compact. – The interstate compact with respect to pension portability for educators is enacted into law and entered into by this state with all states legally joining therein in the form substantially as follows:

Article I. Findings.

The parties to this compact find as follows:

(A) Interstate mobility of professional employees of public schools, colleges and universities serves the public interest by providing for a more flexible workforce that is better able to match jobs to employees, thereby helping to avoid shortages in particular geographic areas.

(B) Interstate mobility of professional employees of public schools and colleges and universities is impeded by the fact that, under the pension plans in which most of them participate, such employees who move from one state to another generally suffer a substantial forfeiture of earned pension benefits.

(C) An agreement among the states to provide increased pension portability for the professional employees of public schools; colleges and universities will reduce one of the major barriers to the interstate mobility of such employees.

Article II. Definitions.

As used in this compact, unless the context clearly indicates otherwise:

(A) A pension plan is "associated" with a state if the pension plan is maintained by the state or a political subdivision thereof;

(B) "Educator" means an individual who is employed as a teacher or in another professional position by a public school, college or university.

(C) "Eligible educator" means an educator who (1) accrues pensionable service in a pension plan associated with a state by reason of his or her employment by a public school, college or university in such state after this compact becomes effective; and (2) accrued at least one year of pensionable services in a pension plan associated with another state by reason of his or her employment by a public school, college, or university in such state;

(D) "Exporting plan" means a pension plan in which an eligible educator previously accrued, but is no longer accruing pensionable service, and from which the eligible educator has not received any pension benefits;

(E) "Importing plan" means the pension plan in which an eligible educator presently is accruing pensionable service;

(F) "Pensionable service" means a period of employment of an eligible education by a public school, college, or university which is included by a pension plan in calculating the pension benefits to which the eligible educator is entitled;

(G) "Pension plan" means a plan, program, system, fund, or other operation that provides pension benefits to educators;

(H) "State" means a state of the United States, the District of Columbia, or any territory or possession of the United States that is a party to this compact;

(I) "Stipulated rate" means:

(1) For an exporting plan, the average annual yield on pension plan assets, net of administrative costs, experienced by the pension plan during the period from the first day of the fiscal year to which the contribution in question applies through the end of the fiscal year immediately preceding the date on which the money is either transferred from the exporting plan to the importing plan, or paid to the eligible educator, as the case may be; and

(2) For an importing plan, the average annual yield on pension plan assets experienced by the pension plan during the period from the first day of the fiscal year to which the contribution would have applied through the end of the fiscal year immediately preceding the date on which the money is transferred from the exporting plan to the importing plan.

Article III. Procedures.

Each state that is a party to this compact shall establish and maintain procedures adequate to effectuate the transfer of money and pensionable service from an exporting plan to an importing plan in accordance with the following provisions:

(A) At the request of an eligible educator who has complied with the application procedures of the states with which the exporting plan and importing plan are associated, the exporting plan shall transfer to the importing plan an amount of money that is equal to the lesser of the following two (2) sums:

(1) The local contributions made to the exporting plan by or on behalf of the eligible educator, plus interest calculated at the stipulated rate for the exporting plan; or

(2) The total contributions that would have been made to the importing plan by or on behalf of the eligible educator if the eligible educator had been accruing pensionable service in the importing plan for the entire period during which he or she was accruing pensionable service in the exporting plan, assuming employment at the same salary, plus interest calculated at the stipulated rate for the importing plan.

(B) Upon receipt of the money transferred pursuant to Article III (A), the importing plan shall credit the eligible educator with pensionable service in the importing plan as follows:

(1) When the amount of money transferred is the sum calculated pursuant to Article III (A)(1), the importing plan shall, for purposes of vesting and date of eligibility to begin receiving pension benefits, credit the eligible educator with the amount of pensionable service that he or she accrued in the exporting plan. For purposes of the amount of the pension benefits to be received by the eligible educator, the importing plan shall credit the eligible educator with an amount of pensionable service calculated as follows:

(a) The amount of pensionable service that the eligible educator accrued in the exporting plan multiplied by

(b) A fraction, the numerator of which is the amount of money calculated under Article III (A)(1), plus any supplementary payments made pursuant to Article III (B)(2), and the denominator of which is the amount of money calculated under Article III (A)(2);

(2) When the amount of money transferred to the importing plan on behalf of an eligible educator is the sum calculated under Article III (A)(1), the eligible educator may elect to make supplementary payments to the importing plan up to the amount of the difference between the sum transferred and the sum calculated under Article III (A)(2). Such supplementary payments may be made by the eligible educator in conjunction with the transfer of money from the exporting plan to the importing plan, or at any time thereafter before the eligible educator receives any pension benefits from the importing plan, in such minimum amounts as may be required by the importing plan, provided that the monetary value of any supplementary payments made subsequent to the transfer of money from the exporting plan to the importing plan shall be adjusted, as determined by the actuary of the importing plan, to reflect the period

elapsed between the date the money is transferred from the exporting plan and the date the supplementary payment is made;

(C) When the amount of money transferred from the exporting plan to the importing is the sum calculated pursuant to Article III (A)(2), any money remaining to the credit of the eligible educator in the exporting plan shall be retained in the exporting plan and used as follows:

(1) For transfer to another importing plan at the request of the eligible educator in accordance with the terms of this compact;

(2) To pay pension benefits to the eligible educator if he or she again becomes a participant in the exporting plan; or

(3) If not used for purpose (1) or (2) above, for payment to the eligible educator, plus interest calculated at the stipulated rate for the exporting plan, when notification has been received from the eligible educator that he or she has begun to receive pension benefits from the importing plan.

(D) There shall be no limit on the number of transfers of money and pensionable service that an eligible educator may take from an exporting plan to an importing plan under this compact. In the case of a subsequent transfer, money previously transferred to an importing plan from an exporting plan shall for purposes of such subsequent transfer be considered "contributions made to the exporting plan by or on behalf of the eligible educator" within the meaning of Article III (A)(1).

Article IV. Effective Date of Compact; Withdrawal from Compact.

(A) When two or more states enact statutes adopting this compact, it shall become effective in those states on the dates specified in such statutes. Any other state may thereafter become a party to this compact by enacting a statute adopting it, and the compact shall become effective in that state on the date specified in such statute.

(B) A party state may withdraw from this compact by repealing the statute adopting this compact, provided that no such withdrawal shall be effective until at least one (1) year after the governor of the withdrawing state has given written notice of the repeal of the statute adopting this compact to the governors of all other party states. The withdrawal of a party state shall not relieve any pension plan associated with such state of its obligation to pay to an eligible educator on whose behalf has been transferred under this compact prior to the effective date of such withdrawal the pension benefits to which he or she is entitled under this compact.

Article V. Other Arrangements Unaffected.

Nothing contained in this compact shall be construed to prevent or inhibit states that are parties to this compact from entering into other arrangements, not inconsistent with the terms of this compact, to effectuate the purpose set forth in Article I.

Article VI. Construction and Severability.

(A) This compact shall be liberally construed so as to effectuate the purpose set forth in Article I.

(B) If any provision of this compact, or application thereof, is held by a state or federal court to be invalid with respect to a particular party state, said holding shall not affect the validity of such provision, or application thereof, in any other party state. The provisions of this compact shall be severable, and, as to the party state subject to the court holding, this compact shall in all other respects remain in full force and effect. If the party states that are not subject to the court holding believe that the provision of this compact, or application thereof, that has been declared invalid is not severable, they may, by majority vote, require the party state that is subject to the court holding to withdraw from this compact, in which event the withdrawal shall be effective immediately upon such vote, provided that the withdrawal shall not relieve any pension plan associated with such party state of its obligation to pay to an eligible educator on whose behalf money has been or is in the process of being transferred under this compact

prior to the effective date of such withdrawal the pension benefits to which he or she is entitled under this compact.

History of Section.

(P.L. 1989, ch. 546, § 1

**Title 45 Chapters 19, 19.1, 21, 21.1,
21.2, 21.3 Municipal
Employees/Police and
Firefighters**

CHAPTER 45-21

Retirement of Municipal Employees

§ 45-21-1 Purpose of chapter. – It is the express intention of the legislature by the passage of this chapter to provide an actuarially financed retirement system for municipal employees, properly integrated with the federal Social Security Act, 42 U.S.C. § 301 et seq., to the end that adequate benefits may be established for the employees of any municipality who become superannuated or otherwise incapacitated while in service, and whereby the employees may be assisted in accumulating reserves for themselves and their dependents to satisfactorily meet the conditions incident to old age, death, disability, and termination of the employees, in the interest of maintaining and promoting efficiency and economy in the administration of government.

History of Section.

(P.L. 1951, ch. 2784, § 1; G.L. 1956, § 45-21-1.)

§ 45-21-2 Definitions. – The following words and phrases as used in this chapter have the following meanings unless a different meaning is plainly required by the context:

(1) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his or her individual account in the members' contribution reserve account.

(2) "Active member" means any employee of a participating municipality as defined in this section for whom the retirement system is currently receiving regular contributions pursuant to §§ 45-21-41, 45-21-41.1 or 45-21.2-14.

(3) "Actuarial reserve" means the present value of all payments to be made on account of any annuity, retirement allowance, or benefit, computed upon the basis of mortality tables adopted by the retirement board with regular interest.

(4) "Beneficiary" means any person in receipt of a retirement allowance, annuity, or other benefit as provided by this chapter.

(5) For purposes of this chapter, "domestic partner" shall be defined as a person who, prior to the decedent's death, was in an exclusive, intimate and committed relationship with the decedent, and who certifies by affidavit that their relationship met the following qualifications:

(i) Both partners were at least eighteen (18) years of age and were mentally competent to contract;

(ii) Neither partner was married to anyone else;

(iii) Partners were not related by blood to a degree which would prohibit marriage in the state of Rhode Island;

(iv) Partners resided together and had resided together for at least one year at the time of death; and

(v) Partners were financially interdependent as evidenced by at least two (2) of the following:

(A) Domestic partnership agreement or relationship contract;

(B) Joint mortgage or joint ownership of primary residence;

(C) Two (2) of: (I) Joint ownership of motor vehicle; (II) Joint checking account; (III) Joint credit account; (IV) Joint lease; and/or

(D) The domestic partner had been designated as a beneficiary for the decedent's will, retirement contract or life insurance.

(6) "Effective date of participation" means the date on which the provisions of this chapter have become applicable to a municipality accepting the provisions of the chapter in the manner stated in § 45-21-4.

(7) "Employee" means any regular and permanent employee or officer of any municipality, whose business time at a minimum of twenty (20) hours a week is devoted to the service of the municipality, including elective officials and officials and employees of city and town housing authorities. Notwithstanding the previous sentence, the term "employee", for the purposes of this chapter, does not include any person whose duties are of a casual or seasonal nature. The retirement board shall decide who are employees within the meaning of this chapter, but in no case shall it deem as an employee any individual who annually devotes less than twenty (20) business hours per week to the service of the municipality and who receives less than the equivalent of minimum wage compensation on an hourly basis for his or her services, except as provided in § 45-21-14.1. Casual employees mean those persons hired for an occasional period or a period of emergency to perform special jobs or functions not necessarily related to the work of regular employees. Any commissioner of a municipal housing authority, or any member of a part-time state board commission, committee or other authority is not deemed to be an employee within the meaning of this chapter.

(8)(a) "Final compensation" for members who are eligible to retire on or prior to June 30, 2012 means the average annual compensation, pay, or salary of a member for services rendered during the period of three (3) consecutive years within the total service of the member when the average was highest, and as the term average annual compensation is further defined in subdivision 36-8-1(5)(a). For members eligible to retire on or after July 1, 2012, "final compensation" means the average of the highest five (5) consecutive years of compensation within the total service when the final compensation was the highest.

(b) For members who become eligible to retire on or after July 1, 2012, if more than one half (1/2) of the member's total years of service consist of years of service during which the member devoted less than thirty (30) business hours per week to the service of the municipality, but the member's average compensation consists of three (3) or more years during which the member

devoted more than thirty (30) business hours per week to the service of a municipality, such member's average compensation shall mean the average of the highest ten (10) consecutive years of compensation within the total service when the average compensation was the highest; provided however, effective July 1, 2015, if such member's average compensation as defined in subsection (a) above is equal to or less than thirty-five thousand dollars (\$35,000), such amount to be indexed annually in accordance with § 45-21-52(d)(1)(B), such member's average compensation shall mean the greater of: (i) The average of the highest ten (10) consecutive years of compensation within the total service when the average compensation was the highest; or (ii) The member's average compensation as defined in subsection (a) above. To protect a member's accrued benefit on June 30, 2012 under this § 45-21-2(8)(b), in no event shall a member's average compensation be lower than his or her average compensation determined as of June 30, 2012.

Notwithstanding the preceding provisions, in no event shall a member's final compensation be lower than his or her final compensation determined as of June 30, 2012.

(9) "Fiscal year" means the period beginning on July 1 in any year and ending on June 30 of the next succeeding year.

(10) "Full actuarial costs" or "full actuarial value" mean the lump sum payable by a member claiming service credit for certain employment for which payment is required, which is determined according to the age of the member and his or her annual rate of compensation at the time he or she applies for service credit, and which is expressed as a rate percent of the annual rate of compensation to be multiplied by the number of years for which he or she claims the service credit, as prescribed in a schedule adopted by the retirement board, from time to time, on the basis of computation by the actuary. Except as provided in §§ 16-16-7.1, 36-5-3, 36-9-31, 36-10-10.4, and subdivision 45-21-53: (i) All service credit purchases requested after June 16, 2009 and prior to July 1, 2012, shall be at full actuarial value; and (ii) All service credit purchases requested after June 30, 2012 shall be at full actuarial value which shall be determined using the system's assumed investment rate of return minus one percent (1%).

(11) "Governing body" means any and all bodies empowered to appropriate monies for, and administer the operation of, the units as defined in subdivision (1) of this section.

(12) "Member" means any person included in the membership of the retirement system as provided in § 45-21-8.

(13) "Municipality" means any town or city in the state of Rhode Island, any city or town housing authority, fire, water, sewer district, regional school district, public building authority as established by chapter 14 of title 37, or any other municipal financed agency to which the retirement board has approved admission in the retirement system.

(14) "Participating municipality" means any municipality which has accepted this chapter, as provided in § 45-21-4.

(15) "Prior service" means service as a member rendered before the effective date of participation as defined in this section, certified on his or her prior service certificate, and allowable as provided in § 45-21-15.

(16) "Regular interest" means interest at the assumed investment rate of return, compounded annually, as may be prescribed from time to time by the retirement board.

(17) "Retirement allowance" or "annuity" means the amounts paid to any member of the municipal employees' retirement system of the state of Rhode Island, or a survivor of the member, as provided in this chapter. All retirement allowances or annuities shall be paid in equal monthly installments for life, unless otherwise specifically provided.

(18) "Retirement board" or "board" means the state retirement board created by chapter 8 of title 36.

(19) "Retirement system" means the "municipal employees' retirement system of the state of Rhode Island" as defined in § 45-21-32.

(20) "Service" means service as an employee of a municipality of the state of Rhode Island as defined in subdivision (7).

(21) "Total service" means prior service as defined in subdivision (15) plus service rendered as a member on or after the effective date of participation.

(22) Any term not specifically defined in this chapter and specifically defined in chapters 36-8 through 36-10 shall have the same definition as set forth in chapters 36-8 through 36-10.

History of Section.

(P.L. 1951, ch. 2784, § 2; G.L. 1956, § 45-21-2; R.P.L. 1957, ch. 135, § 1; P.L. 1966, ch. 283, § 1; P.L. 1967, ch. 121, § 3; P.L. 1967, ch. 143, § 1; P.L. 1967, ch. 164, § 1; P.L. 1971, ch. 50, § 2; P.L. 1973, ch. 177, § 1; P.L. 1973, ch. 202, § 1; P.L. 1980, ch. 117, § 1; P.L. 1980, ch. 178, § 1; P.L. 1980, ch. 259, § 1; P.L. 1980, ch. 367, § 1; P.L. 1982, ch. 202, § 1; P.L. 1992, ch. 306, art. 3, § 2; P.L. 1994, ch. 142, § 5; P.L. 1998, ch. 411, § 3; P.L. 2007, ch. 510, § 16; P.L. 2009, ch. 310, § 49; P.L. 2011, ch. 408, § 11; P.L. 2011, ch. 409, § 11; P.L. 2015, ch. 141, art. 21, § 15.)

§ 45-21-3 Effective date of operations. – The retirement system created in this chapter begins operations when at least five (5) municipalities, having a combined number of eligible employees for participation in the system of not less than one hundred fifty (150), have accepted the provisions of this chapter, and the effective date of operations shall be the first day of July following the date when these conditions have been fulfilled.

History of Section.

(P.L. 1951, ch. 2784, § 3; G.L. 1956, § 45-21-3.)

§ 45-21-4 Acceptance by municipalities – Effective date. – (a) Any municipality may accept this chapter by an ordinance or resolution of its governing body stating the group or groups of employees

to be included as provided in § 45-21-7. When the ordinance or resolution has been approved, a certified copy of it shall be forwarded to the retirement board by the city clerk or the moderator of the financial town meeting. After the system has begun operations, the effective date of participation of any municipality shall be the first day of July at least ninety (90) days following the receipt by the retirement board of the certified copy of the ordinance or resolution as provided in this section.

(b) The Smithfield Town Council may by resolution provide that regular police officers hired after July 2, 1999 and/or regular firefighters who are members of Smithfield's private pension system may become members of the Municipal Employees' Retirement System of the State of Rhode Island in accordance with chapters 21 or 21.2 of this title. No resolution may be adopted by the Town of Smithfield pursuant to this subsection until an actuary study has been completed to determine the potential cost of the resolution. The cost of the actuary study shall be paid by the Town of Smithfield.

History of Section.

(P.L. 1951, ch. 2784, § 3; G.L. 1956, § 45-21-4; P.L. 1999, ch. 353, § 1; P.L. 2004, ch. 513, § 1; P.L. 2004, ch. 569, § 1; P.L. 2006, ch. 300, § 1.)

§ 45-21-5 Procedure for withdrawal of municipality. – A municipality may withdraw from the retirement system established by this chapter or may withdraw any of its departments or agencies by the same procedure provided in § 45-21-4 for acceptance of the chapter; provided, that the withdrawal does not relieve the municipality from the liabilities arising from retirement allowances, annuities, or other benefits already granted or determined, or rights and expectatives relative thereto that have become vested in employees of that municipality or in the survivors of those employees, which are discharged by the payment by the retirement system to the employees or beneficiaries concerned, computed according to the actuarial tables in use by the system; and provided, further, that the withdrawal is conditioned upon the written approval of a majority of the employees in the department or agency.

History of Section.

(P.L. 1951, ch. 2784, § 4; G.L. 1956, § 45-21-5; P.L. 1973, ch. 13, § 1.)

§ 45-21-6 Settlement on withdrawal from system. – (a) Upon withdrawal from the system, the retirement board retains in the system from contributions made by the members from the municipality and by the municipality the following amounts:

- (1) An amount equal to the actuarial value, determined in accordance with the actuarial tables in use by the system, of the retirement and disability allowances in force, being paid to former employees of the municipality who were granted allowances as members of the system or to the beneficiaries of those members;
- (2) An amount equal to the actuarial value of deferred annuities to members who have not retired but who have acquired a vested right to a retirement allowance who may desire to maintain that vested right; and
- (3) An amount equal to the accumulated contributions of the members who have not acquired a vested right which shall be refunded to those members.

(b) Any remainder in the system after providing for the foregoing amounts shall be paid over to the municipality in such amount as the retirement board shall in its sole discretion determine to be prudent and legally permissible; provided, that if no remainder exists and a deficiency to pay those amounts has accumulated, the municipality is liable to the system for the amount of the deficiency as provided in this section.

History of Section.

P.L. 1951, ch. 2784, § 4; P.L. 2011, ch. 408, § 11, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 11, eff. Nov. 18, 2011.

§ 45-21-7 Liability of municipalities – Enforcement. – (a) Each participating municipality is liable to the retirement system for the cost of funding a retirement system for its employees who are members of the system, including all contributions collected from employees, including any contributions pursuant to chapter 36-10.3.

(b) The liability of a municipality, including the liability under any formalized, commissioner approved, cooperative service arrangement under this chapter is enforceable by the retirement board against the municipality through appropriate action in the superior court.

(c) The state is further empowered to withhold from any municipality that amount of the municipality's portion of any shared taxes which is sufficient to satisfy the liability, including any liability pursuant to chapter 36-10.3.

History of Section.

P.L. 1951, ch. 2784, § 5; P.L. 1976, ch. 236, § 1; P.L. 2011, ch. 408, § 11, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 11, eff. Nov. 18, 2011.

§ 45-21-8 Membership in system. – Membership in the retirement system does not begin before the effective date of participation in the system as provided in § 45-21-4, and consists of the following:

(a) Any employee of a participating municipality as defined in this chapter, who becomes an employee on and after the effective date of participation, shall, under contract of his or her employment, become a member of the retirement system; provided, that the employee is not receiving any pension or retirement allowance from any other pension or retirement system supported wholly or in part by a participating municipality, and is not a contributor to any other pension or retirement system of a participating municipality. Any employee who is elected to an office in the service of a municipality after the effective date and prior to July 1, 2012, has the option of becoming a member of the system, which option must be exercised within sixty (60) days following the date the employee assumes the duties of his or her office, otherwise that person is not entitled to participate under the provisions of this section;

(b) Any employee or elected official of a participating municipality in service prior to the effective date of participation, who is not a member of any other pension or retirement system supported wholly or in part by a participating municipality, and who does not notify the retirement board in writing before the expiration of sixty (60) days from the effective date of participation that he or she does not wish to join the system, shall automatically become a member; and

(c) Any employee of a participating municipality in service prior to the effective date of participation, who is a member of any other pension or retirement system supported wholly or in part by a participating municipality on the effective date of participation of their municipality, who then or thereafter makes written application to join this system, and waives and renounces all accrued rights and benefits of any other pension or retirement system supported wholly or in part by a participating municipality, becomes a member of this retirement system and shall not be required to make contribution under any other pension or retirement system of a participating municipality, anything to the contrary notwithstanding.

(d) Notwithstanding the provisions of this section, present firefighters employed by the town of Johnston shall establish a pension plan separate from the state of Rhode Island retirement system. If

the town of Johnston is thirty (30) days or more late on employer or employee contributions to the pension plan, the auditor general is authorized to redirect any Johnston funds to cover the shortfall or to deduct that amount from any moneys due the town from the state for any purpose other than for education. Disability determinations of present firefighters shall be made by the state retirement board, subject to the provisions of § 45-21-19, at the town of Johnston's expense. All new firefighters hired by the town of Johnston shall become members of the state retirement system.

(e) Notwithstanding the provisions of this section, any city of Cranston employees who are presently members of Teamsters Local Union No. 251, hired between the dates of July 1, 2005, and June 30, 2010, inclusive, and who are currently members of the retirement system established by this chapter may opt out of said retirement system and choose to enroll in a defined contribution plan (i.e., a 403 (b) plan or equivalent thereof) established by the city of Cranston.

(f) Notwithstanding the provisions of this section, any city of Cranston employees who are presently members of the Laborers International Union of North America Local 1322 hired between the dates of July 1, 2008, and June 30, 2013, inclusive, and who are currently members of the retirement system established by this chapter may opt out of said retirement system and choose to enroll in a defined contribution plan (i.e., a 403(b) plan or equivalent thereof) established by the city of Cranston.

(g) Notwithstanding the provisions of this section, any city of Cranston employees who will be members of Teamsters Local Union No. 251, hired after June 30, 2010, shall be enrolled in a defined contribution plan (i.e., a 403 (b) plan or equivalent thereof) established by the city of Cranston and shall not be a member of the retirement system established by this chapter.

(h) Notwithstanding the provisions of this section, any city of Cranston employees who are presently members of the Laborers International Union of North America Local 1322 hired after April 23, 2013, shall be enrolled in a defined contribution plan (i.e., 403(b) plan or equivalent thereof) established by the city of Cranston and shall not be a member of the retirement system established by this chapter.

(i) Notwithstanding the provisions of this section, any city of Cranston employees defined in (e) and (f) of this section shall be precluded from purchase of service credit for time served on or after July 1, 2010, while participating in the defined contribution plan (i.e., a 403 (b) plan or equivalent thereof) established by the city of Cranston should the member cease employment with the city of Cranston or Teamsters Local Union No. 251 and re-enter the system with another participating employer who has accepted the provisions as defined, in § 45-21-4.

(j) Notwithstanding the provisions of this section, any town of Middletown employees, who will be members of the Teamsters Local Union No. 251 bargaining unit, hired after June 30, 2012, and any town of Middletown employees who are employed as full-time civilian dispatchers, hired after June 30, 2012, and any town of Middletown employees who are not affiliated with any recognized collective bargaining representative or union hired after June 30, 2012, shall be enrolled in a defined contribution plan (i.e., a 403(b) plan or equivalent thereof) established by the town of Middletown and shall not be members of the retirement system established by this chapter. Said town of Middletown employees defined herein shall be precluded from the purchase of service credit for time served on or after July 1, 2012 while participating in the defined contribution plan (i.e., a 403(b) plan or equivalent thereof) established by the town of Middletown should the member cease employment with the town of Middletown or in the Teamsters Local Union No. 251 bargaining unit and re-enter the system with any participating employer who has accepted the provisions as defined in § 45-21-4.

(k) Notwithstanding the provisions of this section, any town of Middletown employees, who will be members of the Middletown Municipal Employees Association NEARI Local 869 bargaining unit hired after June 30, 2012, shall be enrolled in a defined contribution plan (i.e., a 403(b) plan or equivalent thereof) established by the town of Middletown and shall not be members of the retirement

system established by this chapter. Said town of Middletown employees defined herein shall be precluded from the purchase of service credit for time served on or after July 1, 2012, while participating in the defined contribution plan (i.e., a 403(b) plan or equivalent thereof) established by the town of Middletown should the member cease employment with the town of Middletown or in the Middletown Municipal Employees Association NEARI Local 869 bargaining unit and re-enter the system with any participating employer who has accepted the provisions as defined in § 45-21-4.

(l) Notwithstanding the provisions of this section, any Cranston public school employees who will be members of National Association of Government Employees (NAGE), Local RI-153, hired after June 30, 2012, shall be enrolled in a defined contribution plan (i.e., a 401(a) plan or equivalent thereof) established by the Cranston school department and shall not be a member of the retirement system established by this chapter.

(m) Notwithstanding the provisions of this section, any Cranston public school employees defined in subsection (h) shall be precluded from the purchase of service credit for time served on or after July 1, 2012, while participating in the defined contribution plan (i.e., a 401(a) plan or equivalent thereof) established by the Cranston public schools should the member cease employment with the Cranston public schools or National Association of Government Employees (NAGE), Local RI-153 and re-enter the system with another participating employer who has accepted the provisions as defined in § 45-21-4.

History of Section.

(P.L. 1951, ch. 2784, § 6; G.L. 1956, § 45-21-8; P.L. 1989, ch. 54, § 2; P.L. 1991, ch. 377, § 1; P.L. 1999, ch. 490, § 1; P.L. 1999, ch. 513, § 1; P.L. 2009, ch. 310, § 49; P.L. 2010, ch. 275, § 1; P.L. 2010, ch. 286, § 1; P.L. 2011, ch. 408, § 11; P.L. 2011, ch. 409, § 11; P.L. 2012, ch. 437, § 1; P.L. 2012, ch. 440, § 1; P.L. 2012, ch. 472, § 1; P.L. 2012, ch. 475, § 1; P.L. 2013, ch. 444, § 1; P.L. 2013, ch. 472, § 1; P.L. 2014, ch. 503, § 1; P.L. 2014, ch. 545, § 1.)

§45-21-8.1.– Exclusion of elected city, town council or other elected members --

Notwithstanding any provision of this chapter or any provision of the general or public laws to the contrary, no city or town council members, school committee members or other local elected officials, other than elected officials who are compensated for devoting thirty-five (35) or more hours per week to their elected position, elected for the first time after June 30, 2012, shall be allowed membership into the municipal employees' retirement system, as a result of that elective service.

History of Section.

P.L. 2011, ch. 349, § 2, eff. July 13, 2011; P.L. 2011, ch. 365, § 2, eff. July 13, 2011; P.L. 2011, ch. 408, § 11, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 11, eff. Nov. 18, 2011.

§ 45-21-9 Prior service credit of members joining by election – Purchase of credit for prior service.

– (a) No employee of a participating municipality whose membership in the retirement system is contingent on his or her own election to join under § 45-21-8(c), shall receive prior service credit unless the employee makes application for membership within one year from the effective date of participation of the municipality by which the employee is employed. Any employee who elects not to join this retirement system, as provided in § 45-21-8(b), may thereafter be admitted to membership, but no employee shall receive credit for prior service

unless the employee applies for membership within one year from the effective date of participation of the municipality by which the employee is employed.

(b) Any member who becomes an employee after the effective date of participation by a municipality into the system, has the privilege of purchasing credit for prior service with the city or town of which the employee is now employed. This privilege does not become effective until a member has had at least one year of service following his or her latest reentry into membership with the system, and credit is granted only when the member makes a lump sum payment of six percent (6%) of the rate of compensation in effect on the date of reentry, plus regular interest, compounded annually from that date to the date of purchase. The maximum period of service that may be purchased under this section is ten (10) years. Upon granting prior service under the provisions of this section, the board shall bill the applicable city or town for its share of the total liability for the prior service. Effective July 1, 2012, any purchase requested under this paragraph shall be made by a member at full actuarial cost.

History of Section.

P.L. 1951, ch. 2784, § 6; P.L. 1966, ch. 166, § 1; P.L. 1981, ch. 133, § 2; P.L. 2011, ch. 408, § 11, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 11, eff. Nov. 18, 2011.

§ 45-21-10 Information furnished as to members – Classification. – It is the duty of each participating municipality to submit to the retirement board a statement showing the name, title, compensation, duties, date of birth, and length of service of each member, and any other information that the retirement board requires. The retirement board shall then classify each member in one of the following groups:

(1) *Group 1.* Laborers, mechanics, and workers engaged in duties requiring principally physical exertion; and clerical, administrative, professional, and technical workers engaged in duties requiring principally mental exertion;

(2) *Group 2.* Members of the fire department of the participating municipality and members of the police department of the participating municipality;

(3) Or in any other group which may be recommended by the actuary on the basis of the service and mortality experience and approved by the retirement board.

History of Section.

(P.L. 1951, ch. 2784, § 6; G.L. 1956, § 45-21-10.)

§ 45-21-11 Cessation of membership. – Should the service of any member in any period of six (6) consecutive years after last becoming a member amount to a total of less than three (3) years, or should the member withdraw his or her deposited contributions, or should the member become a beneficiary or die, he or she shall then cease to be a member.

History of Section.

(P.L. 1951, ch. 2784, § 6; G.L. 1956, § 45-21-11.)

§ 45-21-12 Statements as to prior service. – Under the rules and regulations that the retirement board adopts, each member who was an employee on or prior to the effective date of participation of the municipality by which the member is employed, and who became a member within the first year following that date, shall file a detailed statement of all service rendered by him or her as an employee prior to that date, whether the service is in an appointive or elective capacity, for which the employee

claims credit, and of any other facts that the retirement board requires for the proper operation of the retirement system.

History of Section.

(P.L. 1951, ch. 2784, § 7; G.L. 1956, § 45-21-12.)

§ 45-21-12.1 Credit for service as a teacher or state employee. – Any member who has rendered service as a teacher, as defined under the provisions of chapters 16 and 17 of title 16, or as a state employee, as defined by the provisions of chapters 8 to 10 of title 36, is entitled to credit for that service for the various purposes of this system; provided, that the member was a contributing member for that period. All contributions made by the member for those periods of service shall be transferred in to this system and the retirement system shall calculate the full actuarial value of the accrued benefit with the former employer. If the full actuarial value of the accrued benefit with the former employer is greater than the total employee contributions transferred, the retirement system shall also transfer the difference between the full actuarial value of the accrued benefit with the former employer and the employee's contributions from the account of the former employer to the account of the current employing municipality. In any case in which a member has received a refund or refunds of contributions made to the system, the allowance of the previously stated credit for service is conditioned upon the repayment of the refund or refunds, including regular interest from the date of refund to the date of repayment. Any service as defined in this section for which no contributions were made, may be granted; provided, that the member pays to the retirement system a lump sum payment equal to the amount had he or she been a member during that period, plus interest as defined in this section. Effective July 1, 2012, any purchase requested under this paragraph shall be made by a member at full actuarial cost. The retirement board shall fix and determine rules and regulations that are needed to govern the provisions of this section.

History of Section.

P.L. 1970, ch. 112, art. 9, § 3; P.L. 1996, ch. 435, § 3; P.L. 1998, ch. 70, § 1; P.L. 1998, ch. 291, § 1; P.L. 2011, ch. 408, § 11, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 11, eff. Nov. 18, 2011.

§ 45-21-13 Verification of prior service. – Subject to the previously stated restrictions, and to any other rules and regulations that the retirement board adopts, the retirement board shall verify as soon as practicable after the establishment of the system the statement of service submitted.

History of Section.

(P.L. 1951, ch. 2784, § 7; G.L. 1956, § 45-21-13.)

§ 45-21-14 Computation of years of service. – (a) The retirement board fixes and determines, by appropriate rules and regulations, how much service in any year is equivalent to a year of service, but in computing the service or in computing the compensation it shall credit no period of more than a month's duration during which a member was absent without pay, nor shall more than one year of service be credited on account of all service in one calendar year.

(b) Notwithstanding any other section of law, no member of the retirement system is permitted to purchase service credit for any portion of a year for which he or she is already receiving service credit in this retirement system.

History of Section.

(P.L. 1951, ch. 2784, § 7; G.L. 1956, § 45-21-14; P.L. 1997, ch. 169, § 3.)

~~§ 45-21-14.1 City or town council service. — Service as a member of any city or town council in excess of six (6) months in any one year constitutes one full retirement credit year; provided, that any person who was elected to membership on a city or town council at a special election or was appointed to a city or town council to fill an unexpired term, is entitled to receive service credit for the full year during which that person was elected or appointed if the person has served as a member of the council during any part of the year.~~

History of Section.

§ 45-21-14.1 Repealed by P.L. 2011, ch. 349, § 1, eff. July 13, 2011; P.L. 2011, ch. 365, § 1, eff. July 13, 2011

§ 45-21-14.2 Leave of absence credits. —(a) Members with at least one year of membership credits who have been granted an official leave of absence without pay for illness, injury, educational or, any other reason, may receive credit for the leave by making contributions to the retirement system, in a lump sum, in an amount equal to the contribution the member would have made to the retirement system based upon the member's expected compensation but for the granting of leave without pay, plus regular interest compounded annually to date of payment; provided, that the member returns to service for at least one year immediately upon completion of that leave. Credit for leaves of absence under this section are limited, in the aggregate, during the total service of a member to a period of four (4) years maximum. Effective July 1, 2012, any purchase requested under this paragraph shall be made by a member at full actuarial cost.

(b) The retirement board fixes the time when and the conditions under which payments are made under this section.

(c) This section is exempt from the provisions of §§ 45-13-6 -- 45-13-10.

History of Section.

P.L. 1981, ch. 190, § 1; P.L. 1994, ch. 139, § 7; P.L. 2011, ch. 408, § 11, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 11, eff. Nov. 18, 2011.

§ 45-21-15 Prior service certificate. — (a) Upon verification of the statement of service submitted, the retirement board shall issue to the member a prior service certificate certifying to the aggregate length of prior service as an employee. So long as membership continues, a prior service certificate is final and conclusive for retirement purposes as to that service, unless modified by the retirement board upon application made by the member within one year after date of issuance or modification of the prior service certificate or upon discovery by the retirement board of an error or fraud.

(b) When membership ceases, the certificate is void.

(c) Should membership be resumed by the employee, the employee will enter the system as an employee not entitled to prior service credit.

History of Section.

(P.L. 1951, ch. 2784, § 7; G.L. 1956, § 45-21-15.)

§ 45-21-16 Retirement on service allowance. – Retirement of a member on a service retirement allowance shall be made by the retirement board as follows:

(1)(i) Any member who is eligible to retire on or before June 30, 2012, may retire upon the member's written application to the retirement board as of the first day of the calendar month in which the application was filed, provided the member was separated from service prior to the application, and provided, further, that if separation from service occurs during the month in which application is filed, the effective date is the first day following the separation from service, provided that the member at the time so specified for the member's retirement has attained the applicable minimum retirement age and has completed at least ten (10) years of total service or who, regardless of age, completed thirty (30) years of total service, and notwithstanding that during the period of notification the member has separated from service. The minimum ages for service retirement (except for employees completing thirty (30) years of service) is fifty-eight (58) years.

(ii) Effective July 1, 2012, the following shall apply to all members not eligible to retire prior to July 1, 2012:

(A) A member with contributory service on or after July 1, 2012, shall be eligible to retire upon the completion of at least five (5) years of contributory service and attainment of the member's Social Security retirement age.

(B) For members with five (5) or more years of contributory service as of June 30, 2012, with contributory service on and after July 1, 2012, who have a retirement age of Social Security Retirement Age, the retirement age will be adjusted downward in proportion to the amount of service the member has earned as of June 30, 2012, but in no event shall a member's retirement age under this subparagraph (B) be prior to the attainment of age fifty-nine (59) or prior to the member's retirement age determined under the laws in effect on June 30, 2012. The proportional formula shall work as follows:

(1) The formula shall determine the first age of retirement eligibility under the laws in effect on June 30, 2012 which shall then be subtracted from Social Security retirement age;

(2) The formula shall then take the member's total service credit as of June 30, 2012 as the numerator and the projected service at retirement age in effect on June 30, 2012 as the denominator;

(3) The fraction determined in (2) shall then be multiplied by the age difference determined in (1) to apply a reduction in years from Social Security retirement age.

(C) Effective July 1, 2015, a member who has completed twenty (20) or more years of total service and who has attained an age within five (5) years of the eligible retirement age under subparagraphs (ii)(A) or (ii)(B) above or subsection (iii) below, may elect to retire provided that the retirement allowance shall be reduced actuarially for each month that the age of the member is less than the eligible retirement age under subparagraphs (ii)(A) or (ii)(B) above or subsection (iii) below in accordance with the following table:

SEE THE BOOK FOR THE PROPER TABLE.

(D)(1) Notwithstanding any other provisions of section 42-21-16(1)(ii), a member who has completed ten (10) or more years of contributory service as of June 30, 2012, may elect to retire at his or her eligible retirement date as determined under paragraph (i) above provided that a member making an election under this paragraph shall receive the member's retirement benefit determined and calculated based on the member's service and average compensation as of June 30, 2012. This provision shall be interpreted and administered in a manner to protect a member's accrued benefit on June 30, 2012.

(iii) Notwithstanding any other provisions of subsection (ii) above, effective July 1, 2015, members in active service shall be eligible to retire upon the earlier of: (I) The attainment of at least age sixty-five (65) and the completion of at least thirty (30) years of total service, or the attainment of at least age sixty-four (64) and the completion of at least thirty-one (31) years of total service, or the attainment of at least age sixty-three (63) and the completion of at least thirty-two (32) years of total service, or the attainment of at least age sixty-two (62) and the completion of at least thirty-three (33) years of total service; or (II) The member's retirement eligibility date under subsections (ii)(A) or (ii)(B) above.

(2) Except as specifically provided in §§ 45-21-19 – 45-21-22, no member is eligible for pension benefits under this chapter unless:

(I) On or prior to June 30, 2012 the member has been a contributing member of the employees' retirement system for at least ten (10) years; or

(II) For members in active contributory service on or after July 1, 2012, the member shall have been a contributing member of the employees' retirement system for at least five (5) years.

(i) Provided, however, a person who has ten (10) years service credit on or before June 16, 1991 is vested.

(ii) Furthermore, any past service credits purchased in accordance with § 45-21-62 are counted towards vesting.

(iii) Any person who becomes a member of the employees' retirement system pursuant to § 45-21-4 shall be considered a contributing member for the purpose of this chapter.

(iv) Notwithstanding any other provision of law, no more than five (5) years of service credit may be purchased by a member of the System. The five (5)-year limit does not apply to any purchases made prior to the effective date of this provision. A member who has purchased more than five (5) years of service credit maximum, before January 1, 1995, shall be permitted to apply the purchases towards the member's service retirement. However, no further purchase will be permitted. Repayment, in accordance with applicable law and regulation, of any contribution previously withdrawn from the System is not deemed a purchase of service credit.

(v) Notwithstanding any other provision of law, effective July 1, 2012, except for purchases under §§ 16-16-7.1, 36-5-3, 36-9-31, 36-10-10.4, and 45-21-53:

(I) For service purchases for time periods prior to a member's initial date of hire; the purchase must be made within three (3) years of the member's initial date of hire; and

(II) For service purchases for time periods for official periods of leave as authorized by law, the purchase must be made within three (3) years of the time the official leave was concluded by the member.

Notwithstanding (I) and (II) above, service purchases from time periods prior to June 30, 2012 may be made on or prior to June 30, 2015.

(3) No member of the municipal employees' retirement system is permitted to purchase service credits for casual, temporary, emergency or seasonal employment, for employment as a page in the general assembly, or for employment at any state college or university while the employee is a student or graduate assistant of the college or university.

(4) A member does not receive service credit in this retirement system for any year or portion of a year, which counts as service credit in any other retirement system in which the member is vested or from which the member is receiving a pension and/or any annual payment for life. This subsection does not apply to any payments received pursuant to the Federal Social Security Act or to payments from a military pension earned prior to participation in state or municipal employment, or to military service credits earned prior to participation in state or municipal employment.

(5) A member who seeks to purchase or receive service credit in this retirement system has the affirmative duty to disclose to the retirement board whether or not he or she is a vested member in any other retirement system and/or is receiving a pension retirement allowance or any annual payment for life. The retirement board has the right to investigate whether or not the member has utilized the same time of service for credit in any other retirement system. The member has an affirmative duty to cooperate with the retirement board including, by way of illustration and not by way of limitation, the duty to furnish or have furnished to the retirement board any relevant information which is protected by any privacy act.

(6) A member who fails to cooperate with the retirement board shall not have the time of service counted toward total service credit until a time that the member cooperates with the retirement board and until a time that the retirement board determines the validity of the service credit.

(7) A member who knowingly makes a false statement to the retirement board regarding service time or credit is not entitled to a retirement allowance and is entitled only to the return of his or her contributions without interest.

History of Section.

(P.L. 1951, ch. 2784, § 8; G.L. 1956, § 45-21-16; P.L. 1959, ch. 23, § 1; P.L. 1962, ch. 143, § 4;

P.L. 1968, ch. 116, § 1; P.L. 1970, ch. 204, § 1; P.L. 1970, ch. 224, § 1; P.L. 1990, ch. 373, § 1; P.L. 1992, ch. 306, art. 3, § 2; P.L. 1993, ch. 231, § 5; P.L. 1994, ch. 139, § 2; P.L. 2003, ch. 245, § 1; P.L. 2003, ch. 302, § 1; P.L. 2011, ch. 408, § 11; P.L. 2011, ch. 409, § 11; P.L. 2015, ch. 141, art. 21, § 16.)

§ 45-21-16.1 Repealed.

§ 45-21-16.2 Electronic funds transfer. – All members of the municipal employees retirement system retiring under the provisions of this title on or after July 1, 1998, are required to participate in electronic funds transfer and to supply the municipal employees retirement system with a bank routing number to effectuate a monthly transfer of benefits.

History of Section.

(P.L. 1998, ch. 81, § 2.)

§ 45-21-17 Service retirement allowance. – (a) Upon retirement from service after January 1, 1969, a member shall receive a retirement allowance which is a life annuity terminable upon death of the annuitant and is an amount is equal to two percent (2%) of final compensation multiplied by the number of years of total service, not to exceed thirty-seven and one-half (37 1/2) years for services on and prior to June 30, 2012. For service on and after July 1, 2012: (i) For members with fewer than twenty (20) years of total service as of June 30, 2012, a member's retirement allowance shall be equal to one percent (1%) of the member's final compensation multiplied by the member's years of total service on and after July 1, 2012; and (ii) For members with twenty (20) or more years of total service as of June 30, 2012, a member's retirement allowance shall be equal to one percent (1%) of the member's average compensation multiplied by the member's years of total service between July 1, 2012 and June 30, 2015, and two percent (2%) of the member's average compensation multiplied by the member's years of total service on and after July 1, 2015. For purposes of computing a member's total service under the preceding sentence, service purchases shall be included in total service only with respect to those service purchases approved prior to June 30, 2012 and those applications for service purchases received by the retirement system on or before June 30, 2012. In no event shall a member's retirement allowance exceed seventy-five percent (75%) of the member's final compensation. Provided, however, that every person elected prior to July 1, 2012 who has served as a part time elected official of the city of Cranston for a period of ten (10) years, is entitled to receive, upon retirement from that part time service, and not being otherwise regularly employed by the city of Cranston in which that person has served, a service retirement allowance equivalent to fifty percent (50%) of the salary received at the time of retirement by that part time elected official; and, provided, further, that if that person retires after a period of service greater than ten (10) years, the person is entitled to receive an additional service retirement allowance equivalent to five percent (5%) of the salary received at the time of retirement for each whole year of service, in excess of ten (10) years up to a maximum additional allowance equivalent to fifty percent (50%) of the salary received.

(b) This section also applies to any former part time elected official of the city of Cranston who is presently receiving retirement benefits from the municipal retirement system.

(c) Every person elected prior to July 1, 2012 who serves or has served at least four (4) years as a part time elected official of the city of Cranston may include that person's years of service as a member of the general assembly, and any other credits acquired while serving as a legislator, when computing the person's period of service to the city of Cranston pursuant to the provisions of this section.

History of Section.

(P.L. 1951, ch. 2784, § 8; G.L. 1956, § 45-21-17; P.L. 1959, ch. 23, § 2; P.L. 1960, ch. 15, § 1; P.L. 1963, ch. 212, § 1; P.L. 1964, ch. 232, § 1; P.L. 1965, ch. 230, § 1; P.L. 1966, ch. 135, § 1; P.L. 1966, ch. 207, § 1; P.L. 1969, ch. 79, § 1; P.L. 1970, ch. 286, § 1; P.L. 1976, ch. 153, § 1; P.L. 2011, ch. 408, § 11; P.L. 2011, ch. 409, § 11; P.L. 2015, ch. 141, art. 21, § 17.)

§ 45-21-17.1 Optional service retirement benefits – Applicability to members of city or town legislative bodies.

– (a) Every city or town may by ordinance provide that every person who has served as a member of the legislative body of the city or town for a period of ten (10) years and has attained the age of sixty (60), or who has served for a period of twenty (20) years, is entitled to receive upon retirement from the legislative body, and not being otherwise regularly employed by the city or town in which that person has served, a service retirement allowance equivalent to fifty percent (50%) of the salary received at the time of retirement by the legislative official; however, not less than a sum of two hundred dollars (\$200) for each year served; provided, further, that if the person retires after a period of service greater than ten (10) years, that person is entitled to receive an additional service retirement allowance equivalent to five percent (5%) of the salary received at the time of retirement for each whole year of service in excess of ten (10) years up to a maximum additional allowance equivalent to fifty percent (50%) of the salary received. Service in excess of six (6) months in any one year constitutes one full retirement credit year. Every person qualified under this section can purchase up to four (4) years of armed service credits in accordance with the provisions of § 36-9-31.

(b) The provisions of this section only apply to those persons presently serving on city or town legislative bodies as of May 15, 1973.

History of Section.

(P.L. 1973, ch. 239, § 1; P.L. 1974, ch. 261, § 1.)

§ 45-21-17.2 Social security supplemental option. – (a) In lieu of the retirement on service allowance, a vested member who retires in accordance with § 45-21-16 may choose an optional form of retirement benefit known as the social security supplemental option.

(b) This option provides for the payment of a larger benefit before the attainment of age sixty-two (62) and a reduced benefit thereafter. The reduced amount is equal to the benefit before age sixty-two (62), including cost of living increases, reduced by the member's estimated social security benefit payable at age sixty-two (62). Benefits payable under this option before and after the attainment of age sixty-two (62) are actuarially determined to be equivalent to the lifetime service retirement allowance as determined in § 45-21-17.

(c) Election of this social security supplemental option is available only to members with ten (10) or more years of contributing service on or before June 30, 2012 who elect the service retirement allowance set forth in § 45-21-17.

History of Section.

P.L. 1987, ch. 594, § 2; P.L. 2011, ch. 408, § 11, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 11, eff. Nov. 18, 2011.

§ 45-21-18 Deferred allowance on service retirement before minimum age. – The right to a service retirement allowance under the provisions of this chapter is vested in a member who withdraws from service prior to the attainment of the applicable minimum age of retirement as prescribed in this section, who has not received a refund; provided, that the member has completed at least ten (10) years of total service, or for members in active service on or after July 1, 2012, at least five (5) years of total service. The member becomes entitled to a service retirement allowance upon the member's attainment of the applicable minimum retirement age or at the member's option at any date subsequent to attaining that age. The rate of service retirement allowance payable in the case of any member is that provided in § 45-21-17 for the period of total service earned and accrued at the date of withdrawal from service of the member.

History of Section.

P.L. 1951, ch. 2784, § 8; P.L. 2011, ch. 408, § 11, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 11, eff. Nov. 18, 2011.

§ 45-21-19 Retirement for ordinary disability. – (a) Any member who has had five (5) or more years of total service, may, upon the member's own application or upon application of the employer, or some person acting in the member's behalf, while in active service or on leave of absence for illness, apply for ordinary disability retirement; provided, that the member is not entitled to a regular service retirement allowance and; provided, that the member has at least three (3) consecutive years of service as an employee of a participating municipality within the five (5) years needed to be eligible under this section.

(b) A statement from a physician shall accompany the application stating that the member is physically or mentally incapacitated for the performance of duty and that the member ought to be retired.

(c) A medical examination of the member shall be made by three (3) physicians engaged by the retirement board for this purpose, and should the medical examination show that the member is physically or mentally incapacitated for the performance of duty and ought to be retired, the physicians shall so report and certify to the retirement board and the retirement board may retire the member for ordinary disability.

(d) The retirement board shall establish uniform eligibility requirement standards and criteria for ordinary disability which apply to all members who make application for retirement for ordinary disability.

History of Section.

(P.L. 1951, ch. 2784, § 8; G.L. 1956, § 45-21-19; P.L. 1967, ch. 201, § 1; P.L. 1968, ch. 262, § 1; P.L. 1980, ch. 29, § 1; P.L. 1981, ch. 28, § 2; P.L. 1982, ch. 192, § 3; P.L. 1992, ch. 306, art. 3, § 2.)

§ 45-21-20 Ordinary disability allowance. – Upon retirement for ordinary disability, a member receives a retirement allowance equal to the rate prescribed for service retirement subject to the provisions of § 45-21-31; provided that no member retiring with less than ten (10) years of total service receives a benefit less than the member would have received if the member had ten (10) years of total service.

History of Section.

(P.L. 1951, ch. 2784, § 8; G.L. 1956, § 45-21-20; P.L. 1959, ch. 23, § 2; P.L. 1964, ch. 86, § 1; P.L. 1971, ch. 66, § 1; P.L. 1980, ch. 29, § 1; P.L. 1993, ch. 360, § 3.)

§ 45-21-21 Retirement for accidental disability. – (a) Any member in active service, regardless of length of service, is entitled to an accidental disability retirement allowance. Application for the allowance shall be made by the member or on the member's behalf, stating that the member is physically or mentally incapacitated for further service as the result of an injury sustained while in the performance of duty and certifying the time, place, and conditions of the duty performed by the member which resulted in the alleged disability, and that the alleged disability was not the result of the willful negligence or misconduct on the part of the member, and was not the result of age or length of service, and that the member has not attained the age of sixty-five (65). The application shall be made within five (5) years of the alleged accident from which the injury has resulted in the member's present disability and shall be accompanied by an accident report and a physician's report certifying the disability. If a medical examination made by three (3) physicians engaged by the retirement board, and other investigations as the board may make, confirm the statements made by the member, the board may grant the member an accidental disability retirement allowance.

(b) The retirement board shall establish uniform eligibility requirements, standards and criteria for accidental disability which apply to all members who make application for accidental disability benefits.

History of Section.

(P.L. 1951, ch. 2784, § 8; G.L. 1956, § 45-21-21; R.P.L. 1957, ch. 135, § 2; P.L. 1980, ch. 59, § 1; P.L. 1987, ch. 594, § 1; P.L. 1992, ch. 306, art. 3, § 2.)

§ 45-21-22 Accidental disability allowance. – Upon retirement for accidental disability, a member receives a retirement allowance equal to sixty-six and two-thirds percent (66 2/3%) of the rate of the member's compensation at the date of the member's retirement subject to the provisions of § 45-21-31.

History of Section.

(P.L. 1951, ch. 2784, § 8; G.L. 1956, § 45-21-22; R.P.L. 1957, ch. 135, § 2; P.L. 1959, ch. 23, § 3; P.L. 1980, ch. 59, § 1.)

§ 45-21-23 Periodical examination of disability annuitants – Placement on employment lists. –

(a) At least once each year the retirement board may, and upon application shall, require any disability annuitant under the minimum age for service retirement, whether in receipt of an ordinary disability retirement allowance or an accidental disability retirement allowance, to undergo a medical examination, the examination to be made at the place of residence of the annuitant, or other place mutually agreed upon, by a physician or physicians engaged by the retirement board.

(b) If the examination indicates that the annuitant is able to engage in a gainful occupation, the annuitant's name shall be placed on appropriate lists of candidates that are prepared for appointment to positions in the annuitant's department for which the annuitant is stated to be qualified, of a salary grade not less than that from which the annuitant was last retired.

History of Section.

(P.L. 1951, ch. 2784, § 8; G.L. 1956, § 45-21-23.)

§ 45-21-24 Adjustment of disability allowances on return to work – Discontinuance for refusal to submit to examination. – (a) Should the beneficiary be engaged in a gainful occupation or should the beneficiary be offered service as a result of the placing of his or her name on a list of candidates, the retirement board shall adjust, and from time to time readjust, the amount of his or her disability allowance to an amount which, when added to the amount of compensation then earnable by the beneficiary, shall not exceed the rate of earnable compensation currently in force for the classification that the disability annuitant held prior to retirement.

(b) Should any disability annuitant under the minimum age of retirement refuse to submit to a medical examination in any year by a physician or physicians designated by the retirement board, the annuitant's retirement allowance may be discontinued until the annuitant's withdrawal of the refusal, and should the annuitant's refusal continue for one year after a request has been made, all the annuitant's rights in and to the retirement allowance may be revoked by the retirement board. A disability annuitant, reinstated to active service, shall be reinstated as a member and participate in the benefits of the retirement system to the same extent as any other member.

History of Section.

(P.L. 1951, ch. 2784, § 8; G.L. 1956, § 45-21-24; P.L. 1989, ch. 403, § 1.)

§ 45-21-25 Accidental death benefits. – Upon the accidental death of a member before retirement; provided, that evidence is submitted to the retirement board proving that the death of the member was the natural and proximate result of an accident while in the performance of duty at some definite time and place, and that the death was not the result of willful negligence on the member's part, the member's accumulated contributions shall be paid to the member's estate, or to the person having an insurable interest in the member's life that the member has nominated by written designation, duly executed and filed with the retirement board, and, upon application by or on behalf of the dependents of the deceased member, the retirement board shall grant a benefit equal to one-half (1/2) the rate of compensation of the member in effect at the date of death:

(1) To his or her widow or widower or domestic partner, to continue for life unless he or she remarries or enters into a domestic partnership; or

(2) If there is no widow or widower or domestic partner, or if the widow or widower or domestic partner dies or remarries or enters into a domestic partnership before any child of the deceased member has attained the age of eighteen (18) years, then to his or her child or children under that age, divided in any manner that the retirement board in its discretion determines, to continue as a joint and survivor annuity of one-half (1/2) of that compensation until every child dies or attains that age; or

(3) If there is no widow, widower, or domestic partner or child under the age of eighteen (18) years surviving the deceased member, then to his or her dependent father or mother, as the deceased member has nominated by written designation, duly acknowledged and filed with the retirement board; or if there is no nomination, then to his or her dependent father or to his or her dependent mother, as the retirement board in its discretion directs, to continue for life.

History of Section.

(P.L. 1951, ch. 2784, § 8; G.L. 1956, § 45-21-25; R.P.L. 1957, ch. 135, § 2; P.L. 1959, ch. 23, § 4; P.L. 1984, ch. 42, § 1; P.L. 2007, ch. 510, § 16.)

§ 45-21-26 Ordinary death benefits. – Upon the death of a member while in service, prior to retirement, from any cause other than accidental death arising directly out of and in the course of employment, a payment is made of the contributions of the member without interest. In addition, if the death of the member occurred while in an employee status, or while on an official leave of absence for illness from his or her position, which was not extended at the date of death for a continuous period in excess of one year, a death benefit is paid which equals eight hundred dollars (\$800) for each completed year of total service, subject to a minimum payment of four thousand dollars (\$4,000) and a maximum payment of sixteen thousand dollars (\$16,000). The payment of the accumulated contributions of the member and the death benefit shall be made to the person that the member has nominated by written designation duly executed and filed with the retirement board or, if the member has filed no nomination, or if the person so nominated has died, then to the estate of the deceased member.

History of Section.

(P.L. 1951, ch. 2784, § 8; G.L. 1956, § 45-21-26; R.P.L. 1957, ch. 135, § 2; P.L. 1963, ch. 212, § 2; P.L. 1969, ch. 186, § 2; P.L. 1971, ch. 125, § 1; P.L. 1987, ch. 594, § 1; P.L. 1989, ch. 475, § 1.)

§ 45-21-27 Benefit on death of retired employee. – (a) Upon the death of a member after retirement, unless the member has selected any of the options provided in § 45-21-30, a benefit is payable consisting of the excess, if any, of the total contributions of the member at the date of retirement, without interest, over the aggregate amount of all retirement allowance payments received by the member prior to the member's death.

(b) In addition, a benefit is payable upon the death of any retired member, regardless of the date of retirement, consisting of the continuation of the ordinary death benefit provisions of the retirement act into retirement in the full amount, accrued at the date of retirement, for the first year subsequent to the date of retirement; provided, that in each succeeding year, this amount is reduced on each retirement anniversary date by twenty-five percent (25%) until twenty-five percent (25%) of the total amount accumulated as of the date of retirement has been reached; provided, that the amount is not reduced to less than four thousand dollars (\$4,000). This sum shall be continued thereafter as the sum payable on death after retirement.

History of Section.

(P.L. 1972, ch. 109, § 4; P.L. 1982, ch. 193, § 2; P.L. 1987, ch. 594, § 1.)

§ 45-21-28 Refund of contributions on cessation of membership. – Any member who withdraws from service or who ceases to be a member for any reason other than death or retirement, shall be paid on demand the contributions which were standing to the member's credit in the member's individual account in the members' contribution reserve, without interest. Any member who is not eligible for the receipt of a service retirement allowance or any other benefit is entitled to a refund. The acceptance of a refund by a member effects a forfeiture by the member of all rights in the system and all accrued service credits. No member shall be deemed to have forfeited any of the member's accrued service credits or other rights in the system because of a change in employment from one participating municipality to another unless the member accepts a refund of the member's contributions.

History of Section.

(P.L. 1951, ch. 2784, § 8; G.L. 1956, § 45-21-28; R.P.L. 1957, ch. 135, § 2; P.L. 1959, ch. 23, § 5; P.L. 1966, ch. 101, § 1.)

§ 45-21-29 Repayment of refunded contributions – Reinstatement of service credit. – (a) Any member who has received a refund upon withdrawal from service has the privilege of making a repayment to the system of the amount that the member received as a refund, including regular interest from the date of receipt of the refund to the date of repayment of the refund to the system.

(b) The privilege of repayment of any refund under the provisions of this section is not operative until a member has rendered at least one year of service following the member's latest reentry into the service of the municipality occurring subsequent to the date of the receipt of the refund.

(c) Upon the restoration of the refund, the service credits previously forfeited by the receipt of the refund are reinstated to the account of the member.

(d) The privilege of repayment extends and applies to all refunds received by a member prior to the filing of an application under the provisions of this section and not to any individual amount, and all refunds are repayable at the same time and in a single sum.

History of Section.

(P.L. 1951, ch. 2784, § 8; G.L. 1956, § 45-21-29; R.P.L. 1957, ch. 135, § 2; P.L. 1981, ch. 192, § 1.)

§ 45-21-30 Optional benefits on service retirement. – (a) A beneficiary, or, if the beneficiary is an incompetent, then his or her spouse or domestic partner, or if he or she has no spouse or domestic partner, a guardian of the beneficiary's estate, may elect to receive a benefit in a retirement allowance, payable throughout life, or the beneficiary may then elect to receive the actuarial equivalent, at that time, of the beneficiary's retirement allowance in a lesser retirement allowance as determined by actuarial calculation, which shall be payable throughout life with the provision that:

(1) **Option 1.** A reduced retirement allowance payable during the beneficiary's life, with the provisions that after the beneficiary's death, it shall continue during the life of and be paid to the person that the beneficiary has nominated by written designation duly acknowledged and filed with the retirement board at the time of retirement; or

(2) **Option 2.** A reduced retirement allowance payable during the beneficiary's life, with the provision that after the beneficiary's death an allowance equal to one-half (1/2) of the beneficiary's reduced allowance shall continue during the life of and be paid to the person that the beneficiary has nominated by written designation duly acknowledged and filed with the board at the time of retirement.

(b) This section does not apply to any person who elects the social security supplemental option related in § 45-21-17.2.

(c) This section is exempt from the provisions of §§ 45-13-6 -- 45-13-10.

(d) If prior to July 1, 2012, a member elected an optional form of benefit other than a life annuity in accordance with paragraph (a)(1) or (2) above, the member may elect to change his or her form of benefit to a life annuity by filing an election with the retirement board on or before June 30, 2013, provided that the member's beneficiary is still alive at the time the election is filed.

History of Section.

P.L. 1951, ch. 2784, § 9; P.L. 1980, ch. 55, §§ 1, 2; P.L. 1987, ch. 594, § 1; P.L. 2007, ch. 510, § 16, eff. Oct. 30, 2007; P.L. 2011, ch. 408, § 11, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 11, eff. Nov. 18, 2011.

§ 45-21-31 Offset of workers' compensation or personal injury recovery. – Any amounts paid or payable under the provisions of any workers' compensation law, exclusive of Medicare set aside allocation, specific compensation benefits or any benefits due pursuant to the terms of a collective bargaining agreement or as the result of any action for damages for personal injuries against the municipality by which the member was employed, on account of death or disability of a member occurring while in the performance of duty, are offset against and payable in lieu of any benefits payable out of funds provided by the municipality under the provisions of this chapter on account of the death or disability of the member. If the value of the total commuted benefits under any workers' compensation law or action is less than the actuarial reserve on the benefits otherwise payable from funds provided by the municipality under this chapter, the value of the commuted payments is deducted from the actuarial reserve, and the benefits that may be provided by the actuarial reserve so reduced are payable under the provisions of this chapter.

History of Section.

(P.L. 1951, ch. 2784, § 10; G.L. 1956, § 45-21-31; P.L. 2010, ch. 95, § 6; P.L. 2010, ch. 121, § 6. Effective June 22, 2010)

§ 45-21-32 Retirement system established as corporation – Management. – A retirement system is hereby established and placed under the management of the retirement board created by chapter 8 of title 36, for the purpose of providing retirement allowances for employees of participating municipalities of the state of Rhode Island under the provisions of this chapter and benefits to the survivors of those employees. It has the powers and privileges of a corporation, and is known as the "municipal employees' retirement system of the state of Rhode Island," and by that name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held. The administration of the retirement system established by this chapter is entrusted to the retirement board, which has power to make reasonable rules and regulations for carrying out the provisions of this chapter including the time at, and manner in which, the participating municipalities make the several payments required by this chapter.

History of Section.

(P.L. 1951, ch. 2784, § 11; G.L. 1956, § 45-21-32; P.L. 1959, ch. 23, § 6; P.L. 1981, ch. 11, § 1.)

§ 45-21-33 Information furnished by municipalities. – It is the duty of each participating municipality to furnish at the times and in the manner that the retirement board may direct, information concerning the names, ages, length of service, and pay of members employed by a municipality and any other data which the retirement board finds necessary for the proper execution of this chapter, and to give prompt notice of all appointments, removals, deaths, resignations, leaves of absence, and changes in pay of members.

History of Section.

(P.L. 1951, ch. 2784, § 11; G.L. 1956, § 45-21-33.)

§ 45-21-34 Annual report and statement. – The retirement board shall submit to the governor for transmittal to the general assembly, on or before the first day of December in each year, an annual report showing the financial transactions of the system for the fiscal year next preceding that date. The report shall contain among other things, a financial balance sheet as of the end of that year, a statement of income and expenditures, a valuation balance sheet as prepared by the actuary, a detailed statement of investments acquired and disposed of during the year, and any other statistical data that are deemed necessary for a proper interpretation of the condition of the system and the results of its operations.

The report shall also embody any other data that may be of use in the advancement of knowledge concerning employee pensions of the participating municipalities, and any recommendations of the board for changes in the laws pertaining to the system.

History of Section.

(P.L. 1951, ch. 2784, § 11; G.L. 1956, § 45-21-34; R.P.L. 1957, ch. 135, § 3.)

§ 45-21-35 Legal adviser – General treasurer – Executive director – Assistant director. –

There shall be a legal counsel to the board appointed by the general treasurer. The general treasurer is the ex-officio chairperson of the retirement board and the treasurer of the retirement board and he or she shall be responsible for appointing the custodian. There shall be an executive director appointed by the retirement board in charge of the administration of the retirement system and who shall serve as secretary to the retirement board. In addition, the retirement board shall appoint an assistant director to serve as director and/or secretary in the absence of the director.

History of Section.

P.L. 1951, ch. 2784, § 11; P.L. 1981, ch. 11, § 1; P.L. 1991, ch. 354, § 7; P.L. 2011, ch. 408, § 11, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 11, eff. Nov. 18, 2011.

§ 45-21-36 Clerical and professional assistance – Appropriations and disbursements. – (a) The general treasurer, under the direction and supervision of the retirement board, is charged with the establishment and maintenance of any accounts and statistical records that the retirement board may require, and he or she shall employ any clerical assistance necessary to carry out properly the provisions of chapters 21 and 21.2 of this title. The retirement board shall secure the services of an actuary to be the actuarial advisor of the board and who shall make the actuarial computations and valuations required by chapters 21 and 21.2 of this title. The retirement board shall secure the services of any physicians that are necessary to make the medical examinations required by chapters 21 and 21.2 of this title. The state controller is hereby authorized and directed to draw his or her orders upon the general treasurer for the payment of a sum or sums that may from time to time be necessary, upon receipt by him or her of vouchers prepared and duly authenticated by the chief of the retirement system.

(b) Any negotiated agreement entered into after June 1, 1992 between any state or municipal agency or department and an employee or employees, whose conditions are contrary to the general laws or the rules and regulations and policies as adopted and promulgated by the retirement board, are null and void unless and until approved by formal action of the retirement board, for good cause shown.

History of Section.

(P.L. 1951, ch. 2784, § 11; G.L. 1956, § 45-21-36; P.L. 1981, ch. 11, § 1; P.L. 1991, ch. 354, § 7; P.L. 1992, ch. 306, art. 3, § 2.)

§ 45-21-37 Vouchers for payment of benefits. – All benefits, allowances and other payments authorized by this chapter shall be made upon vouchers duly approved by the chairperson of the retirement board and countersigned by the chief of the retirement system.

History of Section.

(P.L. 1951, ch. 2784, § 11; G.L. 1956, § 45-21-37.)

§ 45-21-38 Receipt of contributions – Investment of funds. – All contributions received by the retirement system from members and participating municipalities shall be paid periodically to the general treasurer and shall be deposited by the treasurer to the credit of the retirement system. All moneys not immediately required for the payment of retirement allowances or other benefits under the provisions of this chapter may be invested by the state investment commission under the provisions of chapter 10 of title 35. The retirement board has full power with respect to the disposition of the proceeds of the investments and of any moneys belonging to the retirement system.

History of Section.

(P.L. 1951, ch. 2784, § 12; G.L. 1956, § 45-21-38.)

§ 45-21-39 Credit of interest. – The retirement board shall annually allow regular interest, as may be prescribed by the retirement board, on the various reserves of the retirement system from the interest and dividends earned from investments.

History of Section.

(P.L. 1951, ch. 2784, § 12; G.L. 1956, § 45-21-39; P.L. 1966, ch. 81, § 1.)

§ 45-21-40 Improper interest in investments of board. – Except as provided in this section, no member of the board and no employee of the board shall have any interest, direct or indirect, in the gains or profits of any investment made by the retirement board, nor, as a member or employee of the board, directly or indirectly receive any pay or emolument for his or her services. No member of the board or employee of the board shall, directly or indirectly, for himself or herself or as an agent, in any manner use the investment gains or profits, except to make current and necessary payments that are authorized by the retirement board. No member or employee of the board may become an endorser or surety or become in any manner an obligor for moneys loaned or borrowed from the retirement board.

History of Section.

(P.L. 1951, ch. 2784, § 12; G.L. 1956, § 45-21-40; P.L. 1981, ch. 11, § 1; P.L. 1991, ch. 354, § 7.)

§ 45-21-41 Members' contributions – Payroll deductions – Certification to board. – (a) Prior to July 1, 2012, each member shall contribute an amount equal to six percent (6%) of salary or compensation earned and accruing to the member; provided, that contributions by any member cease when the member has completed the maximum amount of service credit attainable. Special compensation for additional fees shall not be considered as compensation for contribution purposes. Effective July 1, 2012, each member shall contribute an amount equal to one percent (1%) of his or her compensation as his or her share of the cost. Effective July 1, 2015, each member with twenty (20) or more years of total service as of June 30, 2012 shall contribute an amount equal to eight and one-quarter percent (8.25%) of compensation.

(b) Each municipality shall deduct the previously stated rate from the compensation of each member on each and every payroll of the municipality, and the deduction made during the entire time a member is in service subject to termination as stated in the foregoing paragraph.

(c) The deductions provided for in this section shall be made notwithstanding that the minimum compensation provided for by law for any member is reduced by the compensation. Every member is deemed to consent and agree to the deductions made and provided for in this

section, and shall receipt for his or her full salary or compensation; and payment of salary or compensation less those deductions are a full and complete discharge and acquittance of all claims and demands for the services rendered by the person during the period covered by the payment except as to the benefits provided under this chapter. Each participating municipality shall certify to the retirement board the amounts deducted from the compensation of members. Each of the amounts, when deducted, shall be credited to an individual account of the member from whose compensation the deduction was made.

History of Section.

(P.L. 1951, ch. 2784, § 13; G.L. 1956, § 45-21-41; R.P.L. 1957, ch. 135, § 4; P.L. 1959, ch. 23, § 7; P.L. 1963, ch. 212, § 3; P.L. 1965, ch. 230, § 1; P.L. 1971, ch. 244, § 1; P.L. 2011, ch. 408, § 11; P.L. 2011, ch. 409, § 11; P.L. 2015, ch. 141, art. 21, § 18.)

§ 45-21-41.1 Municipality payment of member contributions. – (a) Each municipality, pursuant to the provisions of 26 U.S.C. § 414(h)(2) of the United States Internal Revenue Code, may, pursuant to appropriate legal action by the municipality, pick up and pay the contributions which would be payable by the employees as members under § 45-21-41. The contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code; however, each municipality shall continue to withhold federal and state income taxes based upon these contributions until the internal revenue service rules that pursuant to 26 U.S.C. § 414(h)(2) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until the time they are distributed. Employee contributions which are picked up pursuant to this section shall be treated and identified as member contributions for all purposes of the retirement system except as specifically provided to the contrary in this section.

(b) Member contributions picked up by a municipality shall be paid from the same source of funds used for the payment of compensation to a member. A deduction shall be made from a member's compensation equal to the amount of the employee's contributions picked up by the employee's municipal employer. This deduction, however, shall not reduce the employee's compensation for purposes of computing benefits under the retirement system pursuant to this chapter. Picked up contributions shall be submitted to the retirement system in accordance with the provisions of § 45-21-41.

History of Section.

(P.L. 1983, ch. 137, § 4.)

§ 45-21-42 Contributions by municipalities. – (a) Each municipality shall make contributions to the system to provide for the remainder of the obligation for retirement allowances, annuities, and other benefits provided in this chapter, after applying the accumulated contributions of the members, interest income on investments of the system, and other income accruing to the system. These contributions shall, in any event, be sufficient to establish and maintain a reserve equal to the sum of:

(1) The full credits for accumulated contributions in the "members' contribution reserve" described in § 45-21-43,

(2) The present value, determined in accordance with the actuarial tables in use by the system, of the retirement allowances, disability allowances, accidental death benefits, and other benefits in force, chargeable to the "retirement reserve" described in § 45-21-43, and

(3) The present value of deferred annuities to members who have acquired a vested right under the provisions of § 45-21-18.

(b) The rate of contribution on the part of each municipality, to meet its obligations under this chapter, is the rate certified by the retirement board at the date of participation of the municipality. The rate is redetermined at least once every five (5) years and certified by the retirement board, upon recommendation of the actuary, following an evaluation and analysis of the operating experience of the system and of the assets, liabilities, and reserves of the system. Nothing contained in this chapter is deemed to impose any obligation upon any municipality for service which may have been rendered by an employee of one municipality in behalf of another municipality.

(c) In case of failure of any city or town to pay to the state the amounts due from it under this title within the time prescribed, the general treasurer is hereby authorized to deduct that amount from any moneys due the city or town from the state for any purpose other than for education.

(d) Notwithstanding any other provisions of the general laws, the payment of the contributions for the employers' share shall be remitted to the retirement board on a monthly basis, payable by the 15th of the following month.

(e) This section is not subject to §§ 45-13-7 – 45-13-10, as amended.

History of Section.

(P.L. 1951, ch. 2784, § 13; G.L. 1956, § 45-21-42; R.P.L. 1957, ch. 135, § 4; P.L. 1959, ch. 23, § 7; P.L. 1965, ch. 236, § 1; P.L. 1981, ch. 337, § 1; P.L. 1988, ch. 509, § 3.)

§ 45-21-42.1 Payment of administrative expenses of the retirement board and maintaining the retirement system – Restricted receipt account. – There is transferred to the restricted receipt account established in § 36-8-10.1 up to a maximum of seventeen and one-half (17.5) basis points (0.175%), where one hundred (100.0) basis points equals one percent (1.0%), of the average total investments before lending activities of the municipal employees' retirement system of the state of Rhode Island as reported in the annual report of the auditor general for the next preceding five fiscal years.

History of Section.

(P.L. 1985, ch. 181, art. 7, § 2; P.L. 1986, ch. 287, art. 10, § 2; P.L. 2003, ch. 376, art. 25, § 2.)

§ 45-21-42.2 Fiscal impact of proposed legislation impacting the retirement system. – Proposed legislation which directly impacts the retirement system can potentially affect the benefits of all plan participants and beneficiaries. Since it is in the best interests of plan participants and beneficiaries to determine the financial consequences of any proposed legislation which would directly impact the liability to the retirement system of participating municipalities, such legislation shall not be approved by the general assembly unless an explanatory statement or note, prepared and paid for by the retirement system, is appended to the proposed legislation which actuarially calculates, based upon approved retirement board assumptions, the projected twenty (20) year cost of the proposed legislation. These statements or notes shall be known as "pension impact notes," and they shall accompany each such bill or resolution prior to consideration by the chamber in which the bill or resolution originated. The reasonable cost of preparing pension impact notes shall be charged as an administrative expense and paid from the retirement system's restricted receipts account established pursuant to § 36-8-10.1. Only the chair of the senate committee on finance with the approval of the president of the senate can request a pension impact note on proposed legislation that originates in the senate. Only the chair of the house committee on finance with the approval of the speaker of the house can request a pension impact note on proposed legislation that originates in the house. The governor

can request a pension impact note on proposed legislation recommended in the appropriation acts required by §§ 35-3-7 or 35-3-8. This section shall be in addition to the requirements of chapter 12 of title 22. If one or more participating municipalities requests an actuarial study or other study that impacts only the liability of the participating municipality making the request, the participating municipality making the request shall pay any and all costs associated with the preparation of the study or report.

History of Section.

(P.L. 2008, ch. 100, art. 23, § 3.)

§ 45-21-43 Accounts and records – Reserve accounts. – (a) An adequate system of accounts and records is established and maintained for the system that fully reflects the requirements of this chapter. All assets of the system are credited according to the purposes for which they are held in the following designated reserve accounts:

(1) *Members' contribution reserve.* (i) The amounts contributed by the members are credited to this reserve. An individual account is maintained for each member. Member contributions made pursuant to § 45-21-41.1 are credited to a separate fund within a member's individual account so that the amounts contributed prior to the effective date for the pickup of member contributions may be distinguished from the amount contributed on or after the date on which the municipality begins to pick up member contributions.

(ii) Upon the granting of a retirement allowance, the total accumulated contributions of the member concerned are transferred from this reserve to the retirement reserve. Refunds and death benefit payments representing members' contributions are charged to this reserve.

(2) *Employer's accumulation reserve.* (i) The amounts contributed by the municipalities for the various purposes of this section are credited to this reserve. Upon the granting of a retirement allowance, annuity, or benefit, an amount representing the excess of the actuarial value over the total contributions of the member is transferred from this reserve to the retirement reserve. That portion of the death benefit provided from municipality contributions is charged to this reserve.

(ii) Upon request by a municipality, to transfer monies from this reserve to any one or more of the municipality's other retirement units within the municipal employee retirement system which has unfunded liability, the retirement board shall request a private letter ruling from the Internal Revenue Service and upon receipt of a favorable ruling, shall transfer the funds consistent with the private letter ruling.

(3) *Retirement reserve.* Upon the granting of a retirement allowance, the accumulated contributions of the member and an amount representing the excess of the actuarial value of the allowance over the accumulated contributions, are transferred to this reserve from the members' contribution reserve and the employer's accumulation reserve, respectively.

(b) All payments on account of any retirement allowance or any benefit to a beneficiary of a member are charged to this reserve.

(c) Any excess amount in this reserve, over the actuarial liabilities of the reserve, as determined by actuarial valuation, is transferred at the close of each year to the employer's accumulation reserve to be used to reduce the municipality's contribution upon a rate redetermination as established by the periodic actuarial valuation provided in this section. Any deficiency in this reserve is removed by a transfer from the employer's accumulation reserve.

(d) All income from investments, including gains from investment transactions, is credited to this reserve. All losses on investments are charged to this reserve.

History of Section.

(P.L. 1951, ch. 2784, § 14; G.L. 1956, § 45-21-43; R.P.L. 1957, ch. 135, § 5; P.L. 1959, ch. 23, § 7; P.L. 1983, ch. 137, § 5; P.L. 2000, ch. 454, § 1.)

§ 45-21-43.1 Actuarial cost method. – (a) To determine the employer contribution rate for any participating municipality, the actuary shall compute the costs under chapters 21 and 21.2 of title 45 using the entry age normal cost method.

(b) The determination of the employer contribution rate for fiscal year 2013 shall include a re-amortization of the unfunded actuarial accrued liability (UAAL) over a closed twenty-five (25) year period. After an initial period of five (5) years, future actuarial gains and losses occurring within a plan year will be amortized over individual new twenty (20) year closed periods.

(c) The determination of the employer contribution rate commencing with fiscal year 2017 shall include a re-amortization of the current unfunded actuarial accrued liability as of June 30, 2014 over a closed twenty-five (25) year period. Future actuarial gains and losses occurring within a plan year will be amortized over individual new twenty (20) year closed periods. Employers shall have the one-time option before August 1, 2015 to remain under the amortization schedule set forth in subsection (b) above.

History of Section.

(P.L. 2015, ch. 141, art. 21, § 20.)

§ 45-21-44 Guaranties by municipalities – Adjustment of contribution rates. – Regular interest requirements, and the maintenance of reserves in accordance with the provisions of this chapter, are guaranteed by the respective participating municipalities, which guaranty extends only to their proportionate interests in the retirement system as determined upon the basis of the liabilities for the several benefits on account of the participating members from each municipality. Adjustment shall be made at least once every five (5) years, as provided in this chapter, in the applicable contribution rates for the municipalities for any regular interest or reserve requirements, or for any amounts above statutory requirements, as determined by actuarial valuation, in accordance with the provisions of this chapter.

History of Section.

(P.L. 1951, ch. 2784, § 15; G.L. 1956, § 45-21-44.)

§ 45-21-45 Tax exemption. – The right of a member or beneficiary to a pension, an annuity, a retirement allowance, to the return of contributions, any benefit or right accrued or accruing to any person under the provisions of this chapter, and the moneys of the retirement system created under this chapter, are exempt from any municipal tax or state tax except for the personal income tax imposed under the provisions of chapter 30 of title 44.

History of Section.

(P.L. 1951, ch. 2784, § 16; G.L. 1956, § 45-21-45; P.L. 1985, ch. 496, art. 4, § 1.)

§ 45-21-46 Forfeiture for fraudulent claims. – Every person who knowingly or willfully makes or presents or in any way procures the making or presentation of any false or fraudulent affidavit or affirmation concerning any claim for retirement allowance or payment of retirement allowance, shall, in every case, forfeit a sum not exceeding ten thousand dollars (\$10,000), to be

sued and recovered by and in the name of the retirement board, and when recovered paid over to and become a part of the funds of the retirement system.

History of Section.

P.L. 1951, ch. 2784, § 17; P.L. 1989, ch. 474, § 2; P.L. 2009, ch. 310, § 49, eff. Nov. 13, 2009; P.L. 2011, ch. 408, § 11, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 11, eff. Nov. 18, 2011.

§ 45-21-47 Reserved power to amend or repeal – Vested rights. – The right to amend, alter, or repeal this chapter at any time or from time to time is expressly reserved, and in that event the liability of the municipal employees' retirement system is limited in the case of a member or a person claiming through the member to the contributions made by the member, without interest, and in the case of a municipality, to contributions made by the municipality without interest, subject to deductions prescribed in the case of withdrawal by a municipality as provided in § 45-21-6. All retirement allowances or other benefits granted by the retirement of members, and in force prior to a repeal or amendment, are vested in the beneficiaries of the retirement allowances and shall be paid in full in accordance with the terms of this chapter, and the rights of the retirement board to compel the payment by any municipality of the sum or sums necessary to provide the retirement allowances granted to members formerly employed by the municipality shall not be affected by the repeal or amendment.

History of Section.

(P.L. 1951, ch. 2784, § 18; G.L. 1956, § 45-21-47.)

§ 45-21-48 – 45-21-50. Repealed.

§ 45-21-51 Persons eligible for optional benefits – Time of election – Modification or revocation – Effective date. – (a) The optional provisions of § 45-21-30 are applicable only to a member applying for a service retirement allowance and an accidental disability retirement allowance and an ordinary disability retirement allowance or any inactive member applying for retirement under vested rights. The election under option 1 or 2 is made at the time of retirement of the member as part of his or her application for a retirement allowance. The election is based upon the amount of retirement allowances that may accrue at the date of death of the member, and may be revoked or modified by the member at any time after retirement on a form prescribed by the retirement board, provided that during this time, the named beneficiary has not been divorced from the member or entered into a domestic partnership. The option in the case of death of a retired member becomes effective on the next day following the death of the member and payment of benefits made in accordance with the provisions of this section, subject to the limitations prescribed in § 45-21-30; provided, further, that this section does not apply to anyone who elects the social security supplemental option as provided by § 45-21-17.2.

(b) This section is exempt from the provisions of §§ 45-13-6 – 45-13-10.

History of Section.

(G.L. 1956, § 45-21-51; P.L. 1967, ch. 204, § 1; P.L. 1980, ch. 55, §§ 1, 2; P.L. 1982, ch. 98, § 1; P.L. 1986, ch. 495, § 1; P.L. 1987, ch. 597, § 1; P.L. 1988, ch. 511, § 3; P.L. 1996, ch. 233, § 2; P.L. 2007, ch. 510, § 16.)

§ 45-21-51.1 Optional annuity protection – Election of option by member. –(a) Upon death of a member having (1) at least ten (10) years of membership service on or before June 30, 2012 or (2) for active contributing members on or after July 1, 2012, at least five (5) years of membership service, the spouse or domestic partner of the member has the option to elect to receive option one as provided in § 45-21-30 in lieu of a return of contributions, provided the

spouse or domestic partner is the designated beneficiary of the member's retirement account. The election is based upon the amount of retirement allowance or actuarial equivalent that may accrue at the date of death of the member.

(b) The election under option one for a person other than the spouse or domestic partner of the member may be made by the member, while in service; provided, that the member has (i) at least ten (10) years of membership service on or before June 30, 2012 and before retirement or (ii) for active contributing members on or after July 1, 2012, at least five (5) years of membership service and before retirement, on a form prescribed by the retirement board. The election is based upon the amount of retirement allowances or actuarial equivalents that may accrue at the date of death of the member; provided, that the election form is executed and filed with the retirement board prior to the date of death. The election may be revoked or modified by the member at any time prior to the date of retirement, on a form prescribed by the retirement board.

(c) Upon the death of a member, the option becomes effective thirty (30) days after the first day of the next calendar month following the date of death of the member if death occurs while in an employee status. Should death occur while in an inactive member status, the option under this section becomes payable on the first day of the next succeeding month that in which the designated beneficiary attains the age of sixty (60) years.

History of Section.

P.L. 1988, ch. 511, § 4; P.L. 1989, ch. 547, § 2; P.L. 2007, ch. 510, § 16, eff. Oct. 30, 2007; P.L. 2011, ch. 408, § 11, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 11, eff. Nov. 18, 2011.

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

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

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

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

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

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

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

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

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

(3) Notwithstanding paragraph (c)(2), for each municipal plan that has a Funded Ratio of less than eighty percent (80%) as of June 30, 2012, in each fifth plan year commencing after June 30, 2012 commencing with the plan year ending June 30, 2017, and subsequently at intervals of five (5) plan years, a benefit adjustment shall be calculated and made in accordance with paragraph (c)(1) above until the municipal plan's Funded Ratio exceeds eighty percent (80%).

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

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

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

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

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

(ii) Is equal to the lesser of three percent (3%) or the percentage increase in the Consumer Price Index for all Urban Consumers (CPI-U) as published by the U.S. Department of Labor Statistics determined as of September 30 of the prior calendar year.

In no event shall the sum of (i) plus (ii) exceed three and one-half percent (3.5%) or be less than zero percent (0%).

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

The benefit adjustments provided by this subsection (d)(1)(B) shall be provided to all retirees entitled to receive a benefit adjustment as of June 30, 2012 under the law then in effect, and for

all other retirees the benefit adjustments shall commence upon the third anniversary of the date of retirement or the date on which the retiree reaches his or her Social Security retirement age, whichever is later; or for municipal police and fire retiring under the provisions of § 45-21.2-5(b)(1)(A), the benefit adjustment provided by this paragraph shall commence on the later of the third anniversary of the date of retirement or the date on which the retiree reaches age fifty-five (55); or for municipal police and fire retiring under the provisions of § 45-21.2-5(b)(1)(B), the benefit adjustment provided by this paragraph shall commence on the later of the third anniversary of the date of retirement or the date on which the retiree reaches age fifty (50).

(2) Except as provided in subsection (d)(3), the benefit adjustments under subsection (d)(1)(B) for any plan year shall be suspended in their entirety for each municipal plan within the municipal employees retirement system unless the municipal plan is determined to be funded at a funded ratio equal to or greater than eighty percent (80%) as of the end of the immediately preceding plan year in accordance with the retirement system's actuarial valuation report as prepared by the system's actuary, in which event the benefit adjustment will be reinstated for all members for such plan year.

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

(3) Notwithstanding subsection (d)(2), in each fourth plan year commencing after June 30, 2012 commencing with the plan year ending June 30, 2016, and subsequently at intervals of four plan years: (i) A benefit adjustment shall be calculated and made in accordance with subsection (d)(1)(B) above; and (ii) Effective for members and/or beneficiaries of members who retired on or before June 30, 2015, the dollar amount in subsection (d)(1)(B)(II) of twenty-five thousand eight hundred and fifty-five dollars (\$25,855) shall be replaced with thirty-one thousand and twenty-six dollars (\$31,026) until the municipal plan's funded ratio exceeds eighty percent (80%).

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

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

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

(h) Effective for members and or beneficiaries of members who have retired on or before July 1, 2015, and without regard to whether the retired member or beneficiary is receiving a benefit adjustment under this § 45-21-52, a one-time stipend of five hundred dollars (\$500) shall be payable within sixty (60) days following the enactment of the legislation implementing this provision, and a second one-time stipend of five hundred dollars (\$500) in the same month of the following year. These stipends shall not be considered cost of living adjustments under the prior provisions of this § 45-21-52.

History of Section.

(P.L. 1980, ch. 172, § 2; P.L. 1981, ch. 120, § 3; P.L. 1982, ch. 298, § 1; P.L. 1988, ch. 512, § 1; P.L. 2001, ch. 101, § 1; P.L. 2011, ch. 408, § 11; P.L. 2011, ch. 409, § 11; P.L. 2015, ch. 141, art. 21, § 19.)

§ 45-21-53 Armed service credit. – (a) Any active municipal employee who served on active duty in the armed service of the United States or in the merchant marine service of the United States as defined in § 2 of chapter 1721 of the public laws, 1946, may purchase credit for that service up to a maximum of four (4) years, provided that he or she received an honorable discharge; provided, further, that any employee on an official leave of absence for illness or injury is eligible to purchase military credits as defined in this section while on that leave of absence.

(b) The cost to purchase these credits is ten percent (10%) of the member's first year's earnings as a municipal employee, as defined in this chapter, multiplied by the number of years and fraction of years of armed service up to a maximum for four (4) years.

(c) There will be no interest charge; provided, the member makes that purchase during his or her first five (5) years of membership in the retirement system, but will be charged regular interest to date of purchase from date of enrollment into membership, if purchased after completing five (5) years of membership; provided, that any member who was in the retirement system prior to July 1, 1980, would not be charged interest whenever he or she purchases the armed services credit.

History of Section.

(P.L. 1980, ch. 173, § 6; P.L. 1981, ch. 344, § 3; P.L. 1984, ch. 425, § 3; P.L. 1986, ch. 463, § 3; P.L. 1988, ch. 510, § 3; P.L. 1992, ch. 306, art. 3, § 2; P.L. 1997, ch. 169, § 3.)

§ 45-21-54 Reemployment of retired members. – Any retired member of the system is permitted to reenter the service of the system for not more than seventy-five (75) working days in a calendar year without interruption of pension benefits. Pension payments, however, are suspended when that period is exceeded. If the retired member continues in service beyond the seventy-five (75) day period (with his annuity temporarily suspended) the member is not eligible for pension credit for the additional service, nor is the member required to make pension contributions for this service; provided, that any retired member of the system is permitted to serve as an elected city or town council member or school committee member and continues to be eligible for and receive the retirement allowance for service other than that as a council member or school committee member.

History of Section.

(P.L. 1971, ch. 65, § 1; P.L. 1980, ch. 17, § 1.)

§ 45-21-55 Retired members of the town of Warren. – Every person, who was an employee of the town of Warren receiving retirement benefits prior to July 1, 1974, shall be paid benefits at a rate

equivalent to that in effect for retirees on and after July 1, 1974; provided, that the town of Warren shall annually contribute to the system those sums in accordance with the provisions of § 45-21-42 that are deemed necessary to carry out the purpose of this section.

History of Section.

(P.L. 1975, ch. 254, § 1.)

§ 45-21-56 Credit for other municipal service. – (a) Any member who was employed by a municipality, as defined in § 45-21-2, which did not elect to accept this chapter, as provided in § 45-21-4, shall be given credit for that service for the various purposes of this system; provided, that the member pays to the retirement system a lump sum amount equal to the full actuarial cost of that credit as certified by the retirement board.

(b) The retirement board shall fix and determine rules and regulations to govern the provisions of this section.

(c) If any member who was employed by a participating municipality is subsequently hired by a different participating municipality, his or her service credits from the former employer shall transfer in to the current employer. The retirement system shall transfer all prior employee contributions to the account of the current employing municipality and calculate the full actuarial value of the accrued benefit with the former employing municipality. If the full actuarial value of the accrued benefit with the former employer is greater than the total employee contributions transferred, the retirement system shall also transfer the difference between the full actuarial value of the accrued benefit with the former employer and the employee's contributions from the account of the former employing municipality to the account of the current employing municipality.

History of Section.

(P.L. 1982, ch. 99, § 1; P.L. 1998, ch. 70, § 1; P.L. 1998, ch. 291, § 1.)

§ 45-21-57 Life insurance benefits. – Notwithstanding any other provision of law to the contrary, any member who, at the time of retirement from service, has in effect life insurance provided for as a benefit of his or her employment, shall, after retirement, be entitled to keep the policy of life insurance in effect by paying to the municipality the annual premium. The policy of insurance shall remain in effect so long as the member continues to make annual payments.

History of Section.

(P.L. 1986, ch. 492, § 1; P.L. 1987, ch. 580, § 1; P.L. 1988, ch. 109, § 1.)

§ 45-21-58 Credits for layoffs. – (a) Members who are laid off for any reason and are not on leave without pay may purchase up to one year's credit for retirement purposes; provided, that the member did not withdraw his or her retirement contributions while on layoff, and returns to active membership; provided, further, that the member purchases the credit upon his or her return to service from being laid off and pays into the retirement system, in a lump sum, the amount he or she would have contributed to the system but for the layoff plus regular interest. Effective July 1, 2012 any purchase under this paragraph shall be at full actuarial cost.

(b) The retirement board shall fix and determine rules and regulations to govern the provisions of this section.

History of Section.

P.L. 1989, ch. 474, § 3; P.L. 2011, ch. 408, § 11, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 11, eff. Nov. 18, 2011.

§ 45-21-59 Effect of deferral and/or reduction of salary. – (a) If subsequent to January 1, 1991, a member sustains a loss of salary due to a deferral of salary or a reduction of salary in order to avoid shutdowns or layoffs, or because of a retrenchment of state or local finances, then in calculating the service retirement allowance of the member, the amount of salary deferred and/or the amount of the reduction of salary shall not reduce the amount of annual compensation of the member for the purpose of establishing his or her highest three (3) consecutive years of compensation. This provision is subject to subsection (c).

(b) For purposes of subsection (a), reduction of salary means:

- (i) The actual dollar amount which represents the difference between the employee's salary prior to the voluntary reduction of salary and the employee's salary after the voluntary reduction of salary; or
- (ii) The actual dollar amount which represents the difference between the employee's salary prior to the renegotiation and/or alteration of an existing collective bargaining agreement and the employee's salary after the renegotiation and/or alteration of an existing collective bargaining agreement.

(2) Reduction of salary also means the voluntary or negotiated reduction in the number of hours that an employee works in a pay period and for which he or she is paid.

(c) An employee who has sustained a reduction in salary in accordance with subsection (a) shall pay, prior to retirement, to the retirement board an amount equal to the difference between the amount of contribution the employee would have paid on his or her salary prior to the reduction in salary and the amount that the employee actually contributed plus interest.

History of Section.

(P.L. 1991, ch. 129, § 2; P.L. 1991, ch. 174, § 2; P.L. 2009, ch. 5, art. 10, § 7.)

§ 45-21-60 Pensioners and beneficiaries of Plan No. 3023 – Town of North Kingstown. – (a) All municipal retirees of the town of North Kingstown and the beneficiaries of municipal retirees of the town of North Kingstown are given a one-time percentage increase to their original retirement benefit in multiples of two percent (2%) as follows up to a maximum of twenty percent (20%).

YEAR OF RETIREMENT % OF INCREASE

1989	2%
1988	4%
1987	6%
1986	8%
1985	10%
1984	12%
1983	14%
1982	16%
1981	18%
1980	20%

YEARS PRIOR TO 1980 20%

(b) The additional percentage is incorporated into the recipients' monthly benefit retroactive to July 1, 1990.

(c) The provisions of this section are not applicable to any employees who retired under the provisions of chapter 21.2 of this title.

History of Section.

(P.L. 1991, ch. 406, § 1; P.L. 1991, ch. 407, § 1.)

§ 45-21-61 Purchase of credit while serving a prison sentence – Prohibited. – Notwithstanding any other provisions of the retirement law or rulings of the retirement board in accordance with the powers vested in this chapter, no member is allowed to purchase service credits for time while incarcerated in prison, including but not limited to work release programs or home confinement programs.

History of Section.

(P.L. 1992, ch. 306, art. 3, § 3.)

§ 45-21-62 Purchase of credits for continuous municipal service. – Notwithstanding any other provision of the retirement laws of this state, any active member of the municipal employees' retirement system who was 60 years of age or greater when their employment commenced, and commenced employment before June 22, 1989, and was ineligible by state law from joining the retirement system, is allowed to purchase service credits for actual past employment. The number of years for which credits may be purchased is limited to the difference between the date upon which they commenced employment at 60 years of age or greater and June 22, 1989, when they were required by law to join the retirement system. Purchase of past service credits shall be at the rate that contributions would have been calculated at the time of past service, plus interest.

History of Section.

(P.L. 1993, ch. 231, § 4.)

§ 45-21-63 Health insurance coverage of retired municipal employees. – Any retired member of the municipal employees retirement system with a pension sufficient to pay premiums is entitled to purchase individual health insurance benefits out of the retiree's pension payroll, as long as the health insurance is from a company either subject to chapters 19 and 20 of title 27, or licensed pursuant to chapter 41 of title 27. If the municipal retiree desires, the retiree is also permitted to purchase coverage for his or her dependents. In any case, it is the responsibility of the retiree to obtain health insurance and present proof of insurance to the retirement system, which shall establish rules and regulations that are reasonably necessary to carry out this section of law. Retirees purchasing health insurance under this section shall pay the full cost for health insurance.

History of Section.

(P.L. 1998, ch. 45, § 1; P.L. 1998, ch. 292, § 1.)

§ 45-21-64 Purchase of service credits payable by installment. – Notwithstanding any other provisions of this chapter or of any other public or general law to the contrary, the retirement board shall permit individuals who purchase service credit to do so in installments. The retirement board shall create, by rule and regulation, provisions allowing that individuals purchasing service credit may do so on an installment plan by payroll deduction not to exceed five (5) years, provided that all purchases must be made prior to retirement. The retirement board shall charge interest at the actuarial assumed rate of return adopted by the board for purchases made on an installment plan.

History of Section.

(P.L. 2001, ch. 193, § 3; P.L. 2001, ch. 269, § 3.)

§ 45-21-65 Other post-employment benefits – OPEB trusts. – (a) Notwithstanding the provisions of any general or special law, or the provisions of any municipality's home rule charter, to the contrary, for purposes of funding any unfunded liability for other post-employment benefits including, but not limited to, health care and dental care benefits hereinafter referred to as ("OPEB") in accordance with government accounting standards board statements 43 and 45, a municipality, acting by its treasurer or

director of finance, upon an approving resolution of the city or town council or agency board as applicable, may enter into a trust agreement between the municipality and a corporate trustee which shall be a bank or trust company doing business in the state. This trust agreement shall be in any form deemed proper by the treasurer or director of finance of the municipality, and shall be executed by its treasurer or director of finance and countersigned by its mayor or president of the town council. It shall be lawful for any bank or trust company doing business in the state to act as a depository or trustee under this trust agreement, and to furnish indemnification and pledge securities that may be required by any municipality.

(b) OPEB trust funds shall be credited with all amounts appropriated or otherwise made available by the municipality for the purposes of meeting the current and future OPEB costs payable by the municipality. OPEB trust funds shall also be credited with all amounts contributed or otherwise made available by employees of the municipality for the purpose of meeting future OPEB costs payable by the municipality. Amounts in an OPEB trust fund, including any earnings or interest accruing from the investment of these amounts, shall be expended only for the payment of the costs payable by the municipality for OPEB or as otherwise permitted by the terms of the trust and applicable law. The director of finance or treasurer, as applicable, shall invest and reinvest the amounts in the OPEB trust fund not needed for current disbursement in any investment permitted for the municipality's pension funds consistent with the prudent person rule and investment policies of the municipality, if any.

(c) Municipalities are hereby authorized to enter into agreements, trusts, contracts, and other arrangements with the state and any of its departments, agencies, boards or commissions relating to the execution, management or operation of the OPEB trust funds, including, but not limited to, investments, and the state and its departments, agencies, boards and commissions are hereby authorized to enter into such agreements, contracts and other arrangements with municipalities. Notwithstanding any provisions of any general or special law or principle of equity to the contrary, the state shall have no liability to any municipality for entering into such agreements. A municipality may employ any qualified bank, trust company, corporation, firm or person to advise it on the investment of the OPEB trust fund and may pay from the OPEB trust fund for this advice and other services. Procurement for these services shall be subject to the procurement procedures and rules governing municipalities in the state.

(d) Any OPEB trusts that have been created by municipalities and are in effect on the date hereof are hereby ratified and confirmed.

(e) Nothing herein shall be construed to exempt OPEB trusts from the Rhode Island Access to Public Records Act, RIGL 38-2-1 et seq.

History of Section.

(P.L. 2008, ch. 92, § 1; P.L. 2008, ch. 134, § 1.)

§ 45-21-66 Severability. – The holding of any section or sections or parts of this chapter to be void, ineffective, or unconstitutional for any cause shall not be deemed to affect any other section or part hereof.

History of Section.

P.L. 2011, ch. 408, § 11, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 11, eff. Nov. 18, 2011.

§ 45-21-67 Central Falls retirees – Settlement agreement. – (a) *Definitions.* As used in this section:

(1) "Base pension benefit" is the amount listed on Appendix A, Appendix D-A and Appendix E-A attached to the settlement agreement, under the column labeled "annualized final base pension" which is the amount each Central Falls retiree was receiving as of July 31, 2011.

(2) "Central Falls retirees" are the retirees or the beneficiaries of retirees of the city of Central Falls listed on Appendix A to the settlement agreement, as amended from time to time when a retiree or beneficiary dies.

(3) "Settlement agreement" shall mean that settlement and release agreement, as set forth in Article 22 of the public laws of 2012, Chapter 241, signed by and between the receiver of the city of Central Falls, the director of revenue and the participating retirees, approved by the bankruptcy court by order dated January 9, 2012.

(b) Legislative findings and purpose.

(1) Pursuant to Article 22 of the public laws of 2012, chapter 241, which defined the terms of the initial appropriation, the state made an appropriation of two million six hundred thirty-six thousand nine hundred thirty-two dollars (\$2,636,932), which was deposited into a restricted account held by the city of Central Falls, for the purpose of supplementing the reduced pensions of the Central Falls retirees, to enable the city to pay the Central Falls retirees seventy-five percent (75%) of their base pension benefit as of July 31, 2011 for a five-year (5) period, with the last supplemental appropriation to be paid on July 1, 2016.

(2) The drastic pension reductions experienced by the Central Falls retirees provided a harsh example of the risks of unfunded pension liabilities, which, in turn, provided the primary incentive toward successful pension negotiations with other municipal, police and fire retirees, saving the state more than sixty million dollars (\$60,000,000);

(3) If said appropriation is not made, as of July 2, 2016, the Central Falls retirees, many of whom sustained serious and permanent injuries in service to the city, will have their pensions reduced yet again, in some instances to less than sixty percent (60%) of the pension they were receiving on July 11, 2011;

(4) It is fair and just that the state appropriate sufficient funds to the city to supplement the city's funding of the pension benefits to the Central Falls retirees to ensure that the Central Falls retirees continue to receive seventy-five percent (75%) of the base pension benefit, after taking into account all applicable cost-of-living adjustments, for their lifetime, and to the extent applicable, for the life of their beneficiaries,

(c) Appropriation payment.

(1) Appropriation payment and restrictions on use. In accordance with the terms set forth in Article 22 and the settlement agreement, the state shall annually appropriate sufficient funds to the restricted account for the city of Central Falls to supplement the city's funding for payments to Central Falls retirees in order that they continue to receive seventy-five percent (75%) of their base pension benefit as of July 31, 2011, after taking into account all applicable cost-of-living adjustments, for their lifetime, and to the extent applicable, for the life of their beneficiaries. Such appropriation shall be determined annually by an actuarial valuation ("appropriation amount"), and it is expected over the life of the existing retirees to total four million eight hundred seventeen thousand seven hundred eight dollars (\$4,817,708).

(2) *Deposit of appropriation payment and payments to Central Falls retirees.* The appropriation payment shall be immediately deposited by the city into the previously established "participating retirees restricted five-year (5) account" which shall be redesignated as the "participating retirees restricted account." The participating retirees account shall be administered by the city and not by any third-party pension fund manager.

(d) Any and all withdrawals, transfers, and payments from the participating retirees account shall be made as set forth in the settlement agreement and accompanying appendices and said Article 22 (c) until the payments are made on July 1, 2016.

(e) Beginning on July 1, 2017, and bi-annually thereafter, with payments to be paid each retiree or beneficiary as applicable on July 1 and January 1 of each year they are eligible for benefits under the Central Falls pension plan, the city shall distribute to each participating retiree or beneficiary one half (1/2) the annual amount listed on the actuarial spreadsheets prepared by Sherman Actuarial Services, which shall supplement the pension payments paid by the city in order that each retiree will receive seventy-five percent (75%) of his or her base pension benefit, after taking into account all applicable cost-of-living adjustments, for his or her lifetime, and to the extent applicable, sixty-seven and one-half percent (67.5%) of the base pension benefit, after taking into account all applicable cost-of-living adjustments, to his or her beneficiaries for their lifetime.

(f) *Relationship to base pension payments.* The supplemental payments to the Central Falls retirees from the participating retirees' restricted account shall not be included in the calculation of base pension benefits for the purposes of determining a retiree's or beneficiaries' cost-of-living adjustment.

(g) The cost-of-living adjustments as set forth in the settlement agreement are to be paid by the city of Central Falls to the Central Falls retirees, and to the extent applicable, their beneficiaries.

(h) The following provision shall amend and supersede Article 22 (c)(4) regarding the balance in the participating retirees restricted account as of July 2, 2016:

(1) *Distribution of balance.* As of July 2, 2016, no further supplemental payments shall be distributed to the Central Falls retirees under the terms of the settlement agreement. The balance of monies in the participating retirees restricted account shall be distributed in accordance with this Article, in the amounts and to those retirees and beneficiaries listed on the actuarial spreadsheets prepared by Sherman Actuarial Services, LLC and maintained and administered by the city. The amounts set forth on the actuarial spreadsheets will supplement the pension payments being made by the city in order that each retiree will receive seventy-five percent (75%) of their base pension benefit, after taking into account all applicable cost-of-living adjustments, for their lifetime, and to the extent applicable, sixty-seven and one-half percent (67.5%) of the base pension benefit, after taking into account all applicable cost-of-living adjustments, to their beneficiaries for their lifetime.

(2) Any monies remaining in the participating retirees restricted account after the last living retiree attains seventy-five percent (75%) of the base pension benefit, after taking into account

all applicable cost-of-living adjustments, or last living beneficiary attains sixty-seven and one-half percent (67.5%) of the base pension benefit, after taking into account all applicable cost-of-living adjustments, shall be returned to the state under state law.

(i) Access to account information and records. The city shall maintain appropriate account information and records relating to all receipts into, maintenance of, and distributions from, the participating retirees' restricted account, and shall allow at all reasonable times for the full inspection and copying and sharing of information about such account and any and all payments therefrom with any participating retiree and the state.

(j) Unclaimed payments. Any monies distributed to a participating retiree or beneficiary from the participating retirees' restricted account and not claimed by a participating retiree or beneficiary after the city has exercised good faith attempts over a six-month (6) period to deliver it to the best last known address of such participating retiree or beneficiary, shall not escheat under state law, but shall remain in the participating retirees' restricted account until the conditions of subsection (h) herein have been satisfied.

(k) Liabilities and penalties for inappropriate use of appropriation payment. Any person, whether in his/her individual capacity, who uses, appropriates, or takes or instructs another to use, appropriate, or take, the appropriation payment, or any portion thereof, that is not specifically used for making payments to participating retirees or their beneficiaries as required hereunder and under the terms of the settlement agreement, shall be personally liable for repayment of said funds and further shall be subject to any and all applicable civil and criminal sanctions and/or penalties for such act(s).

History of Section.

(P.L. 2014, ch. 358, § 1; P.L. 2014, ch. 394, § 1.)

CHAPTER 45-21.2

Optional Retirement for Members of Police Force and Fire Fighters

§ 45-21.2-1 Purpose. – It is the intent of this chapter to provide municipalities with an alternate retirement plan for police and fire fighters to be administered in accordance with chapter 21 of this title.

History of Section.

(P.L. 1968, ch. 230, § 1.)

§ 45-21.2-2 Definitions. As used in this chapter, the words defined in § 45-21-2 have the same meanings stated in that section except that “employee” means any regular and permanent police official or officer and any regular and permanent fire fighter. The retirement board shall determine who are employees within the meaning of this chapter; and “final compensation” means for members who retire on or prior to June 30, 2012, the average annual compensation, pay or salary of a member for services rendered during the period of three (3) consecutive years within the total service of the member when that average was highest. Effective on and after July 1, 2012, “final compensation” means the average annual compensation of a member for services rendered during the period of the highest five (5) consecutive years within the total service of the member, and compensation shall be defined in accordance with § 36-8-1(8). Notwithstanding the prior sentence, in no event shall a member's final compensation be less than the member's final compensation on or before June 30, 2012.

History of Section.

P.L. 1968, ch. 230, § 1; P.L. 2011, ch. 408, § 12, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 12, eff. Nov. 18, 2011.

§ 45-21.2-3 Optional retirement for police and fire fighters. – In addition to the retirement system established under the provisions of chapter 21 of this title, any municipality may accept this chapter in the manner stated in § 45-21-4. Withdrawal from the system is in the same manner as stated in § 45-21-5.

History of Section.

(P.L. 1968, ch. 230, § 1.)

§ 45-21.2-4 Mode of administration. – The optional retirement system established in this chapter is administered in the same manner provided in chapter 21 of this title; credits for prior service and collection of contributions are determined through reference to that chapter; provided, that where the provisions of that chapter conflict with this chapter, then the provision of this chapter control. Liability of contributions is enforced in the same manner as stated in chapter 21 of this title.

History of Section.

(P.L. 1968, ch. 230, § 1.)

§ 45-21.2-5 Retirement on service allowance. – (a) Retirement of a member on a service retirement allowance for members eligible to retire on or before June 30, 2012 shall be made, subject to paragraph (a)(11) below, by the retirement board as follows:

(1) Any member who has attained or attains age seventy (70) shall be retired as stated in § 45-21-16 subject to the discretions contained in that section; provided, that any member who is a member of the Woonsocket fire department who has attained or attains an age of sixty-five (65) years shall be retired. Retirement occurs on the first day of the next succeeding calendar month in which the member has attained the age of sixty-five (65) years.

(2) Any member may retire pursuant to this subdivision upon written application to the board stating at what time the member desires to retire; provided, that the member at the specified time for retirement has attained an age of fifty-five (55) years and has completed at least ten (10) years of total service, and notwithstanding that the member may have separated from service.

(3) Any member may retire pursuant to this subdivision upon written application to the board stating at what time the member desires to retire; provided, that the member at the specified time for retirement has completed at least twenty-five (25) years of total service, and notwithstanding that the member may have separated from service.

(4) Any member may retire pursuant to this subdivision upon written application to the board stating at what time the member desires to retire; provided, that the member at the specified time for retirement has attained an age of fifty (50) years and has completed at least twenty (20) years of total service, notwithstanding that the member may have separated from service; provided, that the service retirement allowance, as determined according to the formula provided in § 45-21.2-6, is reduced one-half of one percent (1/2%) for each month that the age of the member is less than fifty-five (55) years.

(5) Any member of the South Kingstown police department may retire pursuant to this subdivision upon written application to the board stating at what time the member desires to retire; provided, that the member at the specified time for retirement has earned a service retirement allowance of fifty percent (50%) of final compensation pursuant to § 45-21.2-6.1.

(6) Any member of the Johnston police department may retire pursuant to this subdivision upon written application to the board stating at what time the member desires to retire; provided, that the member at the specified time for retirement has earned a service retirement allowance of fifty percent (50%) of final compensation pursuant to § 45-21.2-6.2.

(7) Any member of the Cranston fire department hired after July 1, 1995, or any member of the Cranston fire department with five (5) years or less of service effective July 1, 1995, may retire pursuant to this subdivision upon written application to the board stating at what time the member desires to retire; provided, that the member at the specified time for retirement has earned a service retirement allowance of fifty percent (50%) of final compensation for at least twenty (20) years service; final compensation for Cranston fire department members is based on

the compensation components of weekly salary, longevity and holidays with longevity of the members highest year of earnings and members shall receive a three percent (3%) escalation of their pension payment compounded each year on January 1st following the year of retirement and continuing on an annual basis on that date; further, any illness or injury not covered in title 45 of the general laws relating to the presumption of disability is governed by the collective bargaining agreement between the City of Cranston and members of the Cranston fire department.

(8) Any member of the Cranston police department hired after July 1, 1995, or any member of the Cranston police department with five (5) years or less of service effective July 1, 1995, may retire pursuant to this subdivision upon written application to the board stating at what time the member desires to retire; provided, that the member at the specified time for retirement has earned a service retirement allowance of fifty percent (50%) of final compensation for at least twenty (20) years service; final compensation for Cranston police department members is based on the compensation components of weekly salary, longevity and holidays with longevity of the members highest year of earnings and members shall receive a three percent (3%) escalation of their pension payment compounded each year on January 1st following the year of retirement and continuing on an annual basis on that date; further, any illness or injury not covered in title 45 of the general laws relating to the presumption of disability is governed by the collective bargaining agreement between the City of Cranston and members of the Cranston police department.

(9) Any member of the Hopkinton police department may retire pursuant to this subdivision upon written application to the board stating at what time the member desires to retire; provided, that the member at the specified time for retirement has earned a service retirement allowance of fifty percent (50%) of final compensation for at least twenty (20) years service; final compensation for Hopkinton police department members is based on the compensation components of weekly salary, longevity and holidays with longevity of the members highest year of earnings and members shall receive a three percent (3%) escalation of their pension payment compounded each year on January 1st following the year of retirement and continuing on an annual basis on that date.

(10) Any member of the Richmond police department may retire pursuant to this subdivision upon written application to the board stating at what time the member desires to retire; provided, that the member at the specified time for retirement has earned a service retirement allowance of fifty percent (50%) of final compensation for at least twenty-two (22) years' service pursuant to § 45-21.2-6.3.

(11) Notwithstanding any provision in this section to the contrary, for any service on or after July 1, 2012, final compensation shall be defined in accordance with § 45-21.2-2, and no benefit adjustments shall be provided except as set forth in subsection 45-21-52(c).

(12) Notwithstanding any provisions of this section to the contrary, with respect to police officers employed by the town of Johnston, only those police officers hired on or after July 1, 2010 shall be eligible to be members of the Municipal Employees' Retirement System of the state of Rhode Island in accordance with this chapter.

(b) Retirement of a member on a service retirement allowance eligible to retire on and after July 1, 2012 shall be made by the retirement board as follows:

(1) Any member may retire pursuant to this subdivision upon written application to the board stating at what time the member desires to retire; provided, that the member at the specified time for retirement attained the age of at least fifty-five (55) years and has completed at least twenty-five (25) years of total service, and notwithstanding that the member may have separated from service; or

(2) Effective July 1, 2015, the member makes contributions to the plan effective July 1, 2015 in accordance with § 45-21.2-14, and (i) The member at the specified time for retirement attained the age of at least fifty (50) years and has completed at least twenty-five (25) years of total service; or (ii) The member has completed at least twenty-seven (27) years of total service regardless of the member's attained age, and notwithstanding that the member may have separated from service.

(3) Any member with contributory service on or after July 1, 2012, who has completed at least five (5) years of contributory service but who has not completed twenty-five (25) years of service, shall be eligible to retire upon the attainment of the member's Social Security retirement age.

(4) If a member had ten (10) or more years of contributory service and attained age forty-five (45) prior to July 1, 2012 and would have been eligible to retire at or prior to age fifty-two (52) in accordance with the rules in effect prior to July 1, 2012, the member may retire upon attainment of age fifty-two (52).

(5) Effective July 1, 2015, a member who has completed twenty (20) or more years of total service who has attained an age within five (5) years of the eligible retirement age under subparagraphs (b)(1) or (b)(2) or (b)(3) or (b)(4) above, may elect to retire provided that the retirement allowance shall be reduced actuarially for each month that the age of the member is less than the eligible retirement age under subparagraphs (b)(1) or (b)(2) or (b)(3) or (b)(4) above in accordance with the following table:

SEE THE BOOK FOR THE PROPER TABLE.

(6) Notwithstanding any other provisions of this section, a member on June 30, 2012, may elect to retire at his or her eligible retirement date as determined under the rules in effect on June 30, 2012 provided that a member making an election under this paragraph shall receive the member's retirement benefit determined and calculated based on the member's service and final compensation as of June 30, 2012. This provision shall be interpreted and administered in a manner to protect a member's accrued benefit on June 30, 2012.

History of Section.

(P.L. 1968, ch. 230, § 1; P.L. 1975, ch. 153, § 1; P.L. 1983, ch. 330, § 1; P.L. 1984, ch. 13, § 1; P.L. 1986, ch. 40, § 1; P.L. 1987, ch. 402, § 1; P.L. 1996, ch. 374, § 1; P.L. 2000, ch. 110, § 1;

P.L. 2000, ch. 416, § 1; P.L. 2007, ch. 482, § 2; P.L. 2011, ch. 408, § 12; P.L. 2011, ch. 409, § 12; P.L. 2012, ch. 15, § 1; P.L. 2012, ch. 16, § 1; P.L. 2015, ch. 141, art. 21, § 25.)

§ 45-21.2-5.1 Retirement credits for layoffs. – (a) Members who are laid off for any reason, and not on leave without pay, may purchase layoff time up to one year service credit for retirement purposes, provided the member did not withdraw his or her retirement contributions while on the layoff, and returns to active service.

(b) Provided, further, that the member purchases the credit within one year of the member's return to service from the layoff and (1) for purchases on or prior to June 30, 2012, the member pays into the retirement system in a lump sum the amount the member would have contributed to the system but for the layoff plus regular interest and (2) for purchases on or after July 1, 2012, the member pays into the retirement system in a lump sum the full actuarial cost of the time being purchased.

(c) The retirement board shall fix and determine rules and regulations to govern the provisions of this section.

History of Section.

P.L. 1984, ch. 428, § 1; P.L. 2011, ch. 408, § 12, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 12, eff. Nov. 18, 2011.

§ 45-21.2-6 Service retirement allowance. – (a) Upon retirement from service pursuant to § 45-21.2-5, a member receives a retirement allowance which is a life annuity terminable at the death of the annuitant and shall be an amount equal to two percent (2%) of final compensation multiplied by the years of total service, provided that a member who retires upon the attainment of age of fifty-seven (57) years and has completed at least thirty (30) years of total service shall receive a retirement allowance which is a life annuity terminable at the death of the annuitant and shall be an amount equal to the greater of: (i) Two and one quarter percent (2.25%) of final compensation multiplied by total years of service; or (ii) The member's accrued benefit determined as of June 30, 2012 plus two and one quarter percent (2.25%) of final compensation multiplied by member's years of service after June 30, 2012; provided further that the life annuity under this subsection (a) shall not exceed seventy-five percent (75%) of final compensation.

(b) Upon retirement, the member may elect to receive the actuarial equivalent of his or her retirement allowance in a lesser retirement allowance as determined by actuarial calculation, which is payable throughout life with the provision that:

(1) *Option 1.* A reduced retirement allowance payable during the member's life with the provisions that after his or her death it shall continue during the life of and be paid to the person that he or she nominated by written designation duly acknowledged and filed with the retirement board at the time of retirement; or

(2) *Option 2.* A reduced retirement allowance payable during the member's life with the provision that after his or her death an allowance equal to one-half (1/2) of his or her reduced

allowance shall continue during the life of and be paid to the person that he or she nominated by written designation duly acknowledged and filed with the board at the time of retirement.

(c) If prior to July 1, 2012, a member elected an optional form of benefit other than a life annuity in accordance with paragraph (b)(1) or (2) above, the member may elect to change his or her form of benefit to a life annuity by filing an election with the retirement board on or before June 30, 2013 provided that the member's beneficiary is still alive at the time the election is filed.

History of Section.

(P.L. 1968, ch. 230, § 1; P.L. 1988, ch. 513, § 1; P.L. 2011, ch. 408, § 12; P.L. 2011, ch. 409, § 12; P.L. 2015, ch. 141, art. 21, § 26.)

§ 45-21.2-6.1 South Kingstown police department – Retirement allowance. –

Upon retirement from service pursuant to subdivision (1), (2), or (5) of § 45-21.2-5, a member of the South Kingstown police department receives a retirement allowance which is a life annuity terminable at the death of the annuitant, and is an amount equal to the sum of two and one-half percent (2.5%) of final compensation multiplied by the years of service accrued after July 1, 1993 and until June 30, 2012 and two percent (2%) of final compensation multiplied by the years of service accrued prior to July 1, 1993. For service on and after July 1, 2012, a member's service retirement allowance shall be determined in accordance with §45-21.2-6. The annual retirement allowance in no event shall exceed seventy-five percent (75%) of final compensation.

History of Section.

P.L. 1983, ch. 330, § 2; P.L. 1993, ch. 335, § 1; P.L. 2011, ch. 408, § 12, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 12, eff. Nov. 18, 2011.

§ 45-21.2-6.2 Johnston police department retirement allowance. – Upon retirement from service pursuant to subdivision (1), (2), or (6) of § 45-21.2-5, a member of the Johnston police department receives a retirement allowance which is a life annuity terminable at the death of the annuitant, and is an amount equal to the sum of two percent (2%) of final compensation multiplied by the first twenty-five (25) years of service and four percent (4%) of final compensation multiplied by the years of service in excess of twenty-five (25) years for service on and prior to June 30, 2012. For service on and after July 1, 2012, a member's service retirement allowance shall be determined in accordance with §45-21.2-6. The annual retirement allowance in no event shall exceed seventy-five percent (75%) of final compensation.

History of Section.

P.L. 1987, ch. 402, § 2; P.L. 2011, ch. 408, § 12, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 12, eff. Nov. 18, 2011.

§ 45-21.2-6.3 Richmond police department – Retirement allowance. – Upon retirement from service pursuant to chapter 45-21.2-5, a member of the Richmond police department shall receive a retirement allowance which shall be terminable at the death of the annuitant, and shall be an amount equal to the sum of two and two thousand seven hundred twenty-seven ten thousandths of a percent (2.2727%) of final compensation (average of final three years' salary)

multiplied by the years of service on and prior to June 30, 2012. For service on and after July 1, 2012, a member's service retirement allowance shall be determined in accordance with §45-21.2-6. The annual retirement allowance in no event shall exceed seventy-five percent (75%) of final compensation.

History of Section.

P.L. 2007, ch. 482, § 1, eff. July 1, 2008; P.L. 2011, ch. 408, § 12, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 12, eff. Nov. 18, 2011.

§ 45-21.2-7 Retirement for ordinary disability. – Any member in active service who has five (5) years or more of total service and who is not otherwise eligible for retirement may, upon the member's application or upon application of the employer, be retired on an ordinary disability retirement allowance, subject to the restrictions set forth in §§ 45-21-19, 45-21-20, 45-21-23, and 45-21-24.

History of Section.

(P.L. 1968, ch. 230, § 1; P.L. 1980, ch. 29, § 2.)

§ 45-21.2-8 Ordinary disability allowance. – Upon retirement for ordinary disability, a member receives a retirement allowance equal to the rate prescribed for service retirement; provided, that no member retiring with less than ten (10) years of total service receives a benefit less than the member would have received if the member had ten (10) years of service.

History of Section.

(P.L. 1968, ch. 230, § 1; P.L. 1980, ch. 29, § 2.)

§ 45-21.2-9 Retirement for accidental disability. – (a) Any member in active service, regardless of length of service, is entitled to an accidental disability retirement allowance. Application for the allowance is made by the member or on the member's behalf, stating that the member is physically or mentally incapacitated for further service as the result of an injury sustained while in the performance of duty and certifying to the time, place, and conditions of the duty performed by the member which resulted in the alleged disability and that the alleged disability was not the result of the willful negligence or misconduct on the part of the member, and was not the result of age or length of service, and that the member has not attained the age of sixty-five (65). The application shall be made within eighteen (18) months of the alleged accident from which the injury has resulted in the member's present disability and shall be accompanied by an accident report and a physician's report certifying to the disability. If the member was able to return to his or her employment and subsequently reinjures or aggravates the same injury, the member shall make another application within eighteen (18) months of the reinjury or aggravation which shall be accompanied by a physician's report certifying to the reinjury or aggravation causing the disability. If a medical examination made by three (3) physicians engaged by the retirement board, and other investigations as the board may make, confirms the statements made by the member, the board may grant the member an accidental disability retirement allowance.

(b) For the purposes of subsection (a), "aggravation" shall mean an intervening work-related trauma that independently contributes to a member's original injury that amounts to more than the natural progression of the preexisting disease or condition and is not the result of age or length of service. The intervening independent trauma causing the aggravation must be an identifiable event or series of work-related events that are the proximate cause of the member's present condition of disability.

(c) "Occupational cancer", as used in this section, means a cancer arising out of employment as a fire fighter, due to injury due to exposures to smoke, fumes, or carcinogenic, poisonous, toxic, or chemical substances while in the performance of active duty in the fire department.

(d) For purposes of subsection (a), "reinjury" shall mean a recurrence of the original work-related injury from a specific ascertainable event. The specific event must be the proximate cause of the member's present condition of disability.

(e) Any fire fighter, including one employed by the state, or a municipal firefighter employed by a municipality that participates in the optional retirement for police officers and fire fighters as provided in this chapter, who is unable to perform his or her duties in the fire department by reason of a disabling occupational cancer which develops or manifests itself during a period while the fire fighter is in the service of the department, and any retired member of the fire force of any city or town who develops occupational cancer, is entitled to receive an occupational cancer disability and he or she is entitled to all of the benefits provided for in this chapter, chapters 19, 19.1, and 21 of this title and chapter 10 of title 36 if the fire fighter is employed by the state.

(f) In the event that any party is aggrieved by the determination of the retirement board pursuant to § 45-19-1, for an injury occurring on or after July 1, 2011, the party may submit an appeal to the Rhode Island workers' compensation court. The appellant shall file a notice of appeal with the retirement board and with the workers' compensation court within twenty (20) days of the entry of the retirement board's decision and shall serve a copy of the notice of appeal upon the opposing party.

(g) Within twenty (20) days of the receipt of the notice of appeal, the retirement board shall transmit the entire record of proceedings before it, together with its order, to the workers' compensation court.

(h) In the event that a party files a notice of appeal to the workers' compensation court, the order of the retirement board shall be stayed pending further action by the court pursuant to the provisions of Rhode Island general law § 28-35-20.

(i) Upon receipt of the notice of appeal, the court shall assign the matter to a judge and shall issue a notice at the time advising the parties of the judge to whom the case has been assigned and the date for pretrial conference in accordance with Rhode Island general law § 28-35-20.

(j) All proceedings filed with the workers' compensation court pursuant to this section shall be de novo and shall be subject to the provisions of chapters 29 to 38 of Title 28 for all case management procedures and dispute resolution processes, as provided under the rules of workers' compensation court. The workers' compensation court shall enter a pretrial order in accordance with subsection 28-35-20(c) which grants or denies, in whole or in part, the relief sought by the petitioner. The pretrial order shall be effective upon entry and any payments ordered by it shall be paid within fourteen (14) days of the entry of the order. Provided, however, that in the event that the retirement board files a claim for trial of the pretrial order entered by the court, the order of the court shall be stayed until a final order or decree is entered by the court. If after trial and the entry of a final decree, the court sustains the findings and orders entered in the pretrial order, the retirement board shall reimburse the municipality all benefits paid by it from the time the pretrial order was entered until the time the final decree is entered by the court. Where the matter has been heard and decided by the workers' compensation court, the court shall retain jurisdiction to review any prior orders or decrees entered by it. Such petitions to review shall be filed directly with the workers' compensation court and shall be subject to the case management and dispute resolution procedures set forth in chapters 29 through 38 of title 28 ("Labor and Labor Relations").

(k) If the court determines that a member qualifies for accidental disability retirement, the member shall receive a retirement allowance equal to sixty-six and two-thirds percent (66 2/3%) of the rate of the member's compensation at the date of the member's retirement, subject to the provisions of § 45-

21-31.

History of Section.

(P.L. 1968, ch. 230, § 1; P.L. 1980, ch. 59, § 2; P.L. 1991, ch. 255, § 1; P.L. 2007, ch. 331, § 1; P.L. 2007, ch. 473, § 1; P.L. 2009, ch. 310, § 50; P.L. 2011, ch. 151, art. 12, § 8; P.L. 2013, ch. 283, § 1; P.L. 2013, ch. 397, § 1; P.L. 2013, ch. 445, § 9; P.L. 2013, ch. 475, § 9.)

§ 45-21.2-10 Accidental disability allowance. – The amount of retirement allowance for accidental disability is that as prescribed in § 45-21-22

History of Section.

(P.L. 1968, ch. 230, § 1; P.L. 1980, ch. 59, § 2.)

§ 45-21.2-11 Accidental death benefits. – Upon the accidental death of a member before retirement; provided, that evidence shall be submitted to the retirement board proving that the death of the member was a natural and proximate result of an accident while in the performance of duty at some definite time and place, and that the death was not the result of willful negligence on the member's part, that member's accumulated contribution shall be paid to that member's estate, or to the person having an insurable interest in the member's life as the member nominated by written designation, duly executed and filed with the retirement board, and upon application by or on behalf of the dependents of the deceased member, the retirement board shall grant a benefit equal to one-half (1/2) of the rate of compensation of the member in effect at the date of death:

(1) To his or her widow or widower or domestic partner to continue for life unless he or she remarries or enters into a domestic partnership, together with an amount equal to ten percent (10%) of the rate of compensation for each child of the member under the age of eighteen (18), subject to a total family benefit of sixty-six and two-thirds percent (66 2/3%) of salary; or

(2) If there is no widow or widower or domestic partner or if the widow or widower or domestic partner dies or remarries or enters into a domestic partnership before any child of the deceased member has attained the age of eighteen (18), then to the member's child or children under that age, a benefit for each of fifteen percent (15%) of the rate of compensation of the member subject to a total family benefit of fifty percent (50%) of salary.

History of Section.

(P.L. 1968, ch. 230, § 1; P.L. 1984, ch. 42, § 2; P.L. 2007, ch. 510, § 18.)

§ 45-21.2-12 Ordinary death benefit. – Upon death of a member occurring while in service and prior to retirement from any cause other than accidental death arising directly out of and in the course of employment, a payment shall be made consisting of:

(1) The sum of eight hundred dollars (\$800) for each year of service subject to a minimum payment of four thousand dollars (\$4,000) and a maximum payment of sixteen thousand dollars (\$16,000); and

(2) An annuity to his or her widow or widower or domestic partner to continue for life unless he or she remarries or enters into a domestic partnership equal to thirty percent (30%) of the rate of compensation plus an allowance of ten percent (10%) of the compensation on account of each child of the member under age eighteen (18), subject to a total family benefit of fifty percent (50%) of final compensation; or if there is no widow or widower or domestic partner, or if the widow or widower or domestic partner dies or remarries or enters into a domestic partnership before any child of the deceased member has attained the age of eighteen (18) years, then an annuity with respect to each child of fifteen percent (15%) of the member's final compensation subject to a maximum family benefit of fifty percent (50%) of final compensation.

(3) The benefit under subsection (2) of this section is not payable if the member elected the provisions of § 45-21.2-21.

History of Section.

(P.L. 1968, ch. 230, § 1; P.L. 1973, ch. 137, § 1; P.L. 1984, ch. 42, § 2; P.L. 1988, ch. 513, § 1; P.L. 2007, ch. 510, § 18.)

§ 45-21.2-13 Benefit on death of retired member. – (a) Upon death of a member after retirement, unless the member has selected any of the options provided in § 45-21.2-6(c), a benefit is payable consisting of the excess, if any, of the total contributions of the member at date of retirement, without interest, over the aggregate amount of all retirement allowance payments received by the member prior to his or her death. This benefit is payable whether retirement occurs on account of service or ordinary disability.

(b) In addition, a benefit is payable upon the death of any retired member, regardless of the date of retirement, consisting of the continuation of the ordinary death benefit provisions of the retirement act into retirement in the full amount, accrued at the date of retirement, for the first year following the date of retirement; provided, that in each succeeding year this amount is reduced on each retirement anniversary date by twenty-five percent (25%) until twenty-five percent (25%) of the total amount accumulated as of the date of retirement is reached; provided, that the amount is not reduced to less than four thousand dollars (\$4,000). This sum shall continue thereafter as the sum payable on death after retirement.

(c) The benefit as provided by § 45-21.2-12(2) is payable provided the member has not elected the provisions of § 45-21.2-6(c).

History of Section.

(P.L. 1968, ch. 230, § 1; P.L. 1973, ch. 129, § 1; P.L. 1988, ch. 513, § 1.)

seven percent (7%) of the salary or compensation earned or accruing to the member provided that 34 Art21 RELATING TO PENSIONS (Page -70-)

§ 45-21.2-14 Contributions. – (a) Each member shall contribute an amount equal to seven percent (7%) of the salary or compensation earned or accruing to the member provided that effective July 1, 2015 each member shall contribute an amount equal to nine percent (9%) of the salary or compensation earned or accruing to the member. Special compensation or additional fees shall not be considered as compensation for contribution purposes.

(b) Deductions are made in accordance with § 45-21-14 and credited in accordance with § 45-21-43.

(c) Each municipality shall make contributions to the system to provide the remainder of the obligation for retirement allowances, annuities, and other benefits provided in this section, after applying the accumulated contribution of members, interest income on investments, and other accrued income. The contribution shall be compiled in accordance with §§ 45-21-42 – 45-21-44, except that contributions for the first five (5) years of the system shall likewise be determined by the board.

(d) Provided, that members of the South Kingstown police department, beginning July 1, 1985 and until June 30, 2012, contribute an amount equal to eight percent (8%) of salary or

compensation or additional fees are not considered as compensation for retirement purposes. For service on and after July 1, 2012, a member of the South Kingstown police department shall make contributions in accordance with paragraph (a) above.

(e) Provided, further, that for service on or prior to June 30, 2012, members of the City of Cranston fire department hired after July 1, 1995, beginning July 1, 1995, contribute an amount equal to ten percent (10%) of their weekly salary; and those members of the City of Cranston fire department with five (5) years or less of service effective July 1, 1995, have the option to either remain in the City of Cranston pension plan to which they belonged prior to the adoption of local ordinance by the Cranston city council as stated in § 45-21.2-22 or contribute to the State of Rhode Island optional twenty (20) year retirement on service allowance an amount equal to ten percent (10%) of their weekly salary commencing July 1, 1995. The City of Cranston may request and the retirement board may authorize additional members of the City of Cranston fire department hired after July 1, 1987, the option to either remain in the City of Cranston pension plan to which they belonged prior to the adoption of local ordinance by the Cranston city council as stated in § 45-21.2-22 or contribute to the State of Rhode Island optional twenty (20) year retirement on service allowance an amount equal to ten percent (10%) of their weekly salary beginning on a date specified by the retirement board. For service on and after July 1, 2012, a member of the City of Cranston fire department shall make contributions in accordance with paragraph (a) above and a member's benefit shall be calculated in accordance with subsection 45-21.2-22(b).

(f) Further, provided, that for service on and prior to June 30, 2012, members of the City of Cranston police department hired after July 1, 1995, beginning July 1, 1995, contribute an amount equal to ten percent (10%) of their weekly salary; and those members of the City of Cranston police department with five (5) years or less of service effective July 1, 1995, have the option to either remain in the City of Cranston pension plan to which they belonged prior to the adoption of local ordinance by the Cranston city council as stated in § 45-21.2-22 or contribute to the State of Rhode Island optional twenty (20) year retirement on service allowance an amount equal to ten percent (10%) of their weekly salary commencing July 1, 1995. The City of Cranston may request and the retirement board may authorize additional members of the City of Cranston police department hired after July 1, 1987, the option to either remain in the City of Cranston pension plan to which they belonged prior to the adoption of local ordinance by the Cranston city council as stated in § 45-21.2-22 or contribute to the State of Rhode Island optional twenty (20) year retirement on service allowance an amount equal to ten percent (10%) of their weekly salary beginning on a date specified by the retirement board. For service on and after July 1, 2012, a member of the City of Cranston police department shall make contributions in accordance with paragraph (a) above and a member's benefit shall be calculated in accordance with subsection 45-21.2-22(b).

History of Section.

(P.L. 1968, ch. 230, § 1; P.L. 1983, ch. 330, § 1; P.L. 1996, ch. 374, § 1; P.L. 2000, ch. 454, § 2; P.L. 2011, ch. 408, § 12; P.L. 2011, ch. 409, § 12; P.L. 2015, ch. 141, art. 21, § 27.)

§ 45-21.2-15 Tax exemption – Fraudulent claims – Amendment. – The provisions of §§ 45-21-45, 45-21-46, and 45-21-47 are expressly made a part of this chapter.

History of Section.

(P.L. 1968, ch. 230, § 1.)

§ 45-21.2-16 Call system credit – North Providence fire department. – Any person who, from January 1, 1960 and thereafter, was a member of the call system of the North Providence fire department, is entitled to credit as service for the various purposes of the retirement system for one year for every three (3) years served as a member of the call system; provided, that the person pays into the retirement system in the manner, at the times and in an amount that the retirement board may prescribe, (1) for purchases requested on or before June 30, 2012, an amount based upon his or her compensation for the last year of each three (3) year period at the time of purchase of the credit and regular interest as defined in chapter 8 of title 36; and (2) for purchases requested on or after July 1, 2012, the full actuarial cost of the time being purchased.

History of Section.

P.L. 1979, ch. 32, § 1; P.L. 2011, ch. 408, § 12, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 12, eff. Nov. 18, 2011.

§ 45-21.2-17 Woonsocket police department. – All persons appointed police officers to the Woonsocket police department, after July 1, 1980, are a group under this retirement system. Upon the effective date of participation of the city of Woonsocket in this retirement system any police officer appointed after July 1, 1980, waives and renounces all accrued rights and benefits of any other pension or retirement system supported wholly or in part by a participating municipality, becomes a member of this retirement system, and is not be required to make a contribution under any other pension or retirement system of a participating municipality, anything to the contrary notwithstanding.

History of Section.

(P.L. 1982, ch. 430, § 1.)

§ 45-21.2-17.1 Woonsocket fire department. – All persons appointed fire fighters to the Woonsocket fire department after July 1, 1985, are a group under this retirement system. Upon the effective date of participation of the city of Woonsocket in this retirement system any fire fighter appointed after July 1, 1985, waives and renounces all accrued rights and benefits of any other pension or retirement system supported wholly or in part by a participating municipality, becomes a member of this retirement system and is not required to make a contribution under any other pension or retirement system of a participating municipality, anything to the contrary notwithstanding; provided, that for each fire fighter appointed after July 1, 1985 and prior to July 1, 1989, the city of Woonsocket contributes both the employee's and the employer's share of the cost of the service credit, plus interest as determined by the board. The city of Woonsocket may from time to time by notice to the board add any fire fighter appointed to the Woonsocket fire department on or before July 1, 1985 to the group, and the fire fighter becomes a member of the group in the same manner as provided in this section for fire fighters appointed after July 1, 1985 and prior to July 1, 1989.

History of Section.

(P.L. 1989, ch. 266, § 1; P.L. 1997, ch. 256, § 1.)

§ 45-21.2-17.2 Cranston Fire Department. – All persons becoming members under this retirement system by either method stated in § 45-21.2-14(e) waives and renounces all accrued rights and benefits of any other pension or retirement system supported wholly or in part by a municipality if the pension or retirement system was in existence prior to July 1, 1995.

History of Section.

(P.L. 1996, ch. 374, § 2.)

§ 45-21.2-17.3 Cranston Police Department. – All persons becoming members under this retirement system by either method stated in § 45-21.2-14(f) waive and renounce all accrued rights and benefits of any other pension or retirement system supported wholly or in part by a municipality if the pension or retirement system was in existence prior to July 1, 1995.

History of Section.

(P.L. 1996, ch. 374, § 2.)

§ 45-21.2-18 Call system credit – North Kingstown fire department. – Any person who, from January 1, 1950 and thereafter, was a member of the call system of the North Kingstown fire department, is entitled to credit as service for the various purposes of the retirement system for one year for every three (3) years served as a member of the call system; provided, that the person pays into the retirement system in the manner, at the times and in an amount that the retirement board may prescribe, (1) for purchases requested on or before June 30, 2012, an amount based upon his or her compensation for the last year of each three (3) year period at the time of purchase of the credit and regular interest as defined in chapter 8 of title 36; and (2) for purchases requested on or after July 1, 2012, the full actuarial cost of the time being purchased.

History of Section.

P.L. 1985, ch. 217, § 1; P.L. 2011, ch. 408, § 12, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 12, eff. Nov. 18, 2011.

§ 45-21.2-19 Volunteer time and call system credit – East Greenwich fire district. – Any person who, from January 1, 1943 and thereafter, was a volunteer member and/or a member of the call system of the East Greenwich fire district, is entitled to credit as service for the various purposes of the retirement system for one year for every three (3) years served as a volunteer and/or call fire fighter of the district; provided, that the person pays into the retirement system in the manner, at the times and in an amount that the retirement board may prescribe, (1) for purchases requested on or before June 30, 2012, an amount based upon his or her compensation, which for the purposes of this section is deemed to be in an amount of not less than three hundred dollars (\$300) annually, for the last year of each three (3) year period at the time of purchase of the credit, and regular interest as defined in chapter 8 of title 36; and (2) for purchases requested on or after July 1, 2012, the full actuarial cost of the time being purchased.

History of Section.

P.L. 1986, ch. 114, § 1; P.L. 1987, ch. 71, § 1; P.L. 2011, ch. 408, § 12, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 12, eff. Nov. 18, 2011.

§ 45-21.2-20 Persons eligible for optional benefits – Time of election – Modification or revocation – Effective date. – (a) The optional provisions of § 45-21.2-6(b) are applicable only to a member applying for a service retirement allowance, an accidental disability retirement allowance, an ordinary disability retirement allowance or any inactive member applying for retirement under vested rights. The election under option 1 or 2 is made at the time of retirement of the member as part of his or her application for a retirement allowance.

(b) The election is based upon the amount of retirement allowances that may accrue at the date of death of the member, and may be revoked or modified by the member at any time after retirement on a form prescribed by the retirement board; and, provided, further, that, during this time, the named beneficiary has not been divorced from the member.

(c) The option in the case of death of a retired member becomes effective on the day following the death of the member, and payment of benefits are made in accordance with the provisions of this section, subject to the limitations prescribed in § 45-21.2-6.

History of Section.

P.L. 1988, ch. 513, § 2; P.L. 1996, ch. 233, § 3; P.L. 2011, ch. 408, § 12, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 12, eff. Nov. 18, 2011.

§ 45-21.2-21 Optional annuity protection – Death while employee or inactive member status. –

The election under option 1 may be made by the member while in service; provided, that the member has at least ten (10) years of membership service for members terminating on or before June 30, 2012, or at least five (5) years of membership service for members terminating on or after July 1, 2012, and before retirement, on a form prescribed by the retirement board. The election is based upon the amount of retirement allowances or actuarial equivalents that may accrue at the date of death of the member; provided, that the election form is executed and filed with the retirement board prior to the date of death. The election may be revoked or modified by the member at any time prior to the date of retirement, on a form prescribed by the retirement board; provided, that, during this time, the named beneficiary has not been divorced from the member. Upon death of a member making this election, the option selected becomes effective thirty (30) days after the first day of the calendar month following the date of death of the member if death occurs while in an employee status. Should death occur while in an inactive member status, the option selected under this section becomes payable on the first of the month succeeding that in which the designated beneficiary attains the age of sixty (60) years.

History of Section.

P.L. 1988, ch. 513, § 2; P.L. 2009, ch. 310, § 50, eff. Nov. 13, 2009; P.L. 2011, ch. 408, § 12, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 12, eff. Nov. 18, 2011.

§ 45-21.2-22 Optional twenty year retirement on service allowance. –

(a) The local legislative bodies of the cities and towns may, by ordinance adopted, permit the retirement of a member on a service retirement allowance for members eligible to retire on or before June 30, 2012 as follows:

(1) Any member may retire pursuant to this section upon his or her written application to the board stating at what time he or she desires to retire; provided, that the member, at the specified time for his or her retirement, has completed at least twenty (20) years of total service, and, notwithstanding that the member may have separated from service;

(2) Upon retirement from service pursuant to subdivision (1), a member receives a retirement allowance which is a life annuity terminable at the death of the annuitant, and is equal to two and one-half percent (2 1/2 %) of final compensation multiplied by the years of total service, but not to exceed seventy-five percent (75%) of final compensation;

(3) Upon the adoption of a service retirement allowance, pursuant to this subdivision, each member contributes an amount equal to one percent (1%) more than that contribution required under § 45-21.2-14;

(4) This section is exempt from the provisions of chapter 13 of this title.

(b) For members retiring on or after July 1, 2012, the member's retirement allowance shall equal the sum of (i) and (ii) where (i) is the member's benefit calculated under (a)(1)-(4) above or § 45-21.2-5 for service on and before June 30, 2012 and (ii) is the member's benefit determined under § 45-21.2-6 for service on and after July 1, 2012. For service on and after July 1, 2012, the provisions of (a)(3) above shall no longer apply.

History of Section.

P.L. 1988, ch. 538, § 1; P.L. 2009, ch. 310, § 50, eff. Nov. 13, 2009; P.L. 2011, ch. 408, § 12, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 12, eff. Nov. 18, 2011; P.L. 2012, ch. 486, § 1, eff. June 28, 2012.

§ 45-21.2-22.1 Burrillville police – Optional twenty-year retirement on service allowance. –

(a) Notwithstanding § 45-21.2-22, the town council of the town of Burrillville, may by ordinance adopted, permit the retirement of a member on a service retirement allowance for members eligible to retire on or before June 30, 2012, as follows:

(1) Any member may retire pursuant to this section upon his or her written application to the board stating at what time he or she desires to retire; provided, that the member, at the specified time of his or her retirement, has completed at least twenty (20) years of total service;

(2) Upon retirement from service, pursuant to subdivision (1), a member receives a retirement allowance that is a life annuity terminable at the death of the annuitant, and is equal to three percent (3%) of final compensation multiplied by the years of total service, but not to exceed sixty percent (60%) of final compensation;

(3) Upon retirement from service where member has in excess of twenty (20) years of service, a member receives a retirement allowance that is a life annuity terminable at the death of the annuitant, and is an amount equal to the sum of three percent (3%) of final compensation multiplied by the first twenty (20) years of service and one and one-half percent (1.5%) of final compensation multiplied by the years of service in excess of twenty (20) years. The annual retirement allowance in no event shall exceed seventy-five percent (75%) of final compensation;

(4) Upon the adoption of a service retirement allowance, pursuant to this section, each member shall contribute an amount equal to ten and two-tenths percent (10.2%) of the salary or compensation earned or accrued to the member;

(5) Notwithstanding anything to the contrary hereinabove, any member who retires with less than twenty (20) years of service shall be subject to § 45-21.2-6 for purposes of determining any service retirement allowance;

(6) This section is exempt from the provisions of chapter 13 of this title;

(7) Except as specifically set forth hereinabove, all other provisions of chapter 21.2 of this title shall be applicable to Burrillville police officers who make application to retire.

(b) For members retiring on or after July 1, 2012, the member's retirement allowance shall equal the sum of (i) and (ii) where (i) is the member's benefit calculated under (a)(1) through (a)(7)

above for service on and before June 30, 2012 and (ii) is the member's benefit determined under § 45-21.2-6 for service on and after July 1, 2012. For service on and after July 1, 2012, the provisions of (a)(4) above shall no longer apply.

History of Section.

P.L. 2004, ch. 226, § 2; P.L. 2004, ch. 242, § 2; P.L. 2011, ch. 408, § 12, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 12, eff. Nov. 18, 2011; P.L. 2012, ch. 486, § 1, eff. June 28, 2012.

§ 45-21.2-23 North Smithfield volunteer fire department. – All persons who are full time members of the North Smithfield volunteer fire department as of July 1, 1990, and thereafter, are considered a group pursuant to this chapter, upon enactment of an ordinance by the town of North Smithfield adopting the provisions of this chapter for this group. Credit for prior service and collection of contributions are pursuant to the provisions of this chapter.

History of Section.

(P.L. 1990, ch. 304, § 1.)

§ 45-21.2-24 Actuarial studies of retirement allowances. – The bargaining agent for all members of any city or town fire department, as provided for in § 28-9.1-5, may make a request to the retirement board, and is entitled to receive upon that request to the retirement board, an actuarial study as to the potential costs and benefits of any retirement allowances as may be provided for in this chapter; provided, that the bargaining agent pays any and all costs associated with the preparation of the actuarial study or report. Payment for the actuarial study or report shall be remitted by the bargaining agent to the retirement board within ten (10) days of receipt.

History of Section.

(P.L. 1991, ch. 230, § 1.)

§ 45-21.2-25 Severability. – The holding of any section or sections or parts of this chapter to be void, ineffective, or unconstitutional for any cause shall not be deemed to affect any other section or part hereof.

History of Section.

P.L. 2011, ch. 408, § 12, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 12, eff. Nov. 18, 2011.

CHAPTER 45-19

Relief of Injured and Deceased Fire Fighters and Police Officers

§ 45-19-1 Salary payment during line of duty illness or injury. – (a) Whenever any police officer of the Rhode Island Airport Corporation or whenever any police officer, fire fighter, crash rescue crewperson, fire marshal, chief deputy fire marshal, or deputy fire marshal of any city, town, fire district, or the state of Rhode Island is wholly or partially incapacitated by reason of injuries received or sickness contracted in the performance of his or her duties or due to their rendering of emergency assistance within the physical boundaries of the state of Rhode Island at any occurrence involving the protection or rescue of human life which necessitates that they respond in a professional capacity when they would normally be considered by their employer to be officially off-duty, the respective city, town, fire district, state of Rhode Island or Rhode Island Airport Corporation by which the police officer, fire fighter, crash rescue crewperson, fire marshal, chief deputy fire marshal, or deputy fire marshal, is employed, shall, during the period of the incapacity, pay the police officer, fire fighter, crash rescue crewperson, fire marshal, chief deputy fire marshal, or deputy fire marshal, the salary or wage and benefits to which the police officer, fire fighter, crash rescue crewperson, fire marshal, chief deputy fire marshal, or deputy fire marshal, would be entitled had he or she not been incapacitated, and shall pay the medical, surgical, dental, optical, or other attendance, or treatment, nurses, and hospital services, medicines, crutches, and apparatus for the necessary period, except that if any city, town, fire district, the state of Rhode Island or Rhode Island Airport Corporation provides the police officer, fire fighter, crash rescue crewperson, fire marshal, chief deputy fire marshal, or deputy fire marshal, with insurance coverage for the related treatment, services, or equipment, then the city, town, fire district, the state of Rhode Island or Rhode Island Airport Corporation is only obligated to pay the difference between the maximum amount allowable under the insurance coverage and the actual cost of the treatment, service, or equipment. In addition, the cities, towns, fire districts, the state of Rhode Island or Rhode Island Airport Corporation shall pay all similar expenses incurred by a member who has been placed on a disability pension and suffers a recurrence of the injury or illness that dictated his or her disability retirement, subject to the provisions of subsection (j) herein.

(b) As used in this section, "police officer" means and includes any chief or other member of the police department of any city or town regularly employed at a fixed salary or wage and any deputy sheriff, member of the fugitive task force, or capitol police officer, permanent environmental police officer or criminal investigator of the department of environmental management, or airport police officer.

(c) As used in this section, "fire fighter" means and includes any chief or other member of the fire department or rescue personnel of any city, town, or fire district, and any person employed as a member of the fire department of the town of North Smithfield, or fire department or district in any city or town.

(d) As used in this section, "crash rescue crewperson" means and includes any chief or other member of the emergency crash rescue section, division of airports, or department of transportation of the state of Rhode Island regularly employed at a fixed salary or wage.

(e) As used in this section, "fire marshal," "chief deputy fire marshal", and "deputy fire marshal" mean and include the fire marshal, chief deputy fire marshal, and deputy fire marshals regularly employed by the state of Rhode Island pursuant to the provisions of chapter 28.2 of title 23.

(f) Any person employed by the state of Rhode Island, except for sworn employees of the Rhode Island State Police, who is otherwise entitled to the benefits of chapter 19 of this title shall be subject to the provisions of chapters 29 – 38 of title 28 for all case management procedures and dispute resolution for all benefits.

(g) In order to receive the benefits provided for under this section, a police officer or firefighter must prove to their employer that he or she had reasonable grounds to believe that there was an emergency which required an immediate need for their assistance for the protection or rescue of human life.

(h) Any claims to the benefits provided for under this section resulting from the rendering of emergency assistance in the state of Rhode Island at any occurrence involving the protection or rescue of human life while off-duty, shall first require those covered by this section to submit a sworn declaration to their employer attesting to the date, time, place and nature of the event involving the protection or rescue of human life causing the professional assistance to be rendered and the cause and nature of any injuries sustained in the protection or rescue of human life. Sworn declarations shall also be required from any available witness to the alleged emergency involving the protection or rescue of human life.

(i) All declarations required under this section shall contain the following language:

"Under penalty of perjury, I declare and affirm that I have examined this declaration, including any accompanying schedules and statements, and that all statements contained herein are true and correct."

(j) Any person receiving injured on-duty benefits pursuant to this section, and subject to the jurisdiction of the state retirement board for accidental retirement disability, for an injury occurring on or after July 1, 2011, shall apply for an accidental disability retirement allowance from the state retirement board not later than the later of eighteen (18) months after the date of the person's injury that resulted in said person's injured on duty status or sixty (60) days from the date on which the treating physician certifies that the person has reached maximum medical improvement. Nothing herein shall be construed to limit or alter any and all rights of the parties with respect to independent medical examination or otherwise, as set forth in the applicable collective bargaining agreement. Notwithstanding the forgoing, any person receiving injured on duty benefits as the result of a static and incapacitating injury whose permanent nature is readily obvious and ascertainable shall be required to apply for an accidental disability retirement allowance within sixty (60) days from the date on which the treating physician certifies that the person's injury is permanent, or sixty (60) days from the date on which such determination of permanency is made in accordance with the independent medical examination procedures as set forth in the applicable collective bargaining agreement.

(1) If a person with injured on duty status fails to apply for an accidental disability retirement allowance from the state retirement board within the time frame set forth above, that person's injured on duty payment shall terminate. Further, any person suffering a static and incapacitating injury as set forth in subsection (j) above and who fails to apply for an accidental disability

benefit allowance as set forth in subsection (j) shall have his or her injured on duty payment terminated.

(2) A person who so applies shall continue to receive injured on duty payments, and the right to continue to receive IOD payments of a person who so applies shall terminate in the event of a final ruling of the workers compensation court allowing accidental disability benefits. Nothing herein shall be construed to limit or alter any and all rights of the parties with respect to independent medical examination or otherwise, as set forth in the applicable collective bargaining agreement.

History of Section.

(P.L. 1944, ch. 1479, §§ 1, 2; P.L. 1944, ch. 1479, §§ 1-3; P.L. 1952, ch. 2915, § 1; G.L. 1956, § 45-19-1; P.L. 1960, ch. 126, § 1; P.L. 1972, ch. 212, § 1; P.L. 1973, ch. 245, § 1; P.L. 1975, ch. 154, § 1; P.L. 1976, ch. 167, § 1; P.L. 1984, ch. 333, § 1; P.L. 1986, ch. 371, § 1; P.L. 1987, ch. 527, § 1; P.L. 1988, ch. 64, § 1; P.L. 1988, ch. 329, § 1; P.L. 1990, ch. 419, § 1; P.L. 2001, ch. 77, art. 29, § 6; P.L. 2002, ch. 65, art. 14, § 2; P.L. 2007, ch. 243, § 1; P.L. 2007, ch. 284, § 1; P.L. 2007, ch. 329, § 1; P.L. 2007, ch. 497, § 3; P.L. 2007, ch. 519, § 3; P.L. 2011, ch. 151, art. 12, § 7; P.L. 2012, ch. 324, § 6; P.L. 2013, ch. 445, § 8; P.L. 2013, ch. 475, § 8.)

§ 45-19-4.1 Tuition to children of police officers dying or disabled as a result of service. –

(a) If an active member of the police force of a city or town is killed, dies, or becomes totally and permanently disabled from injuries received while in the performance of his or her duty as a member, or dies of a heart condition or any condition derived from hypertension while still a member, there shall be paid out of the general fund of the state of Rhode Island the charges for the tuition of children of the deceased or totally and permanently disabled police officer and/or the spouse of a police officer killed in the line of duty. The benefits are extended to the children and/or spouse who are attending or may attend the University of Rhode Island, Rhode Island College, or any other college or university operated by the state; provided, that the child has entered the institution while between the ages of sixteen (16) and twenty-one (21); and provided, further, that the aid granted is available to the child and/or spouse for the period of time that may equal the normal time for completing the courses regularly offered by the institution, but in no case more than four (4) years.

(b) For the purpose of this section, the words "police officer" mean and include any member of the state police, any correctional officer within the department of corrections, or the police of any city or town regularly employed at a fixed salary or wage. Furthermore, this excludes auxiliary and volunteer police officers of city, town, or state police. For the purpose of this section, the words "totally and permanently disabled" mean any impairment of mind or body making it impossible for one to follow continuously a gainful occupation.

History of Section.

(P.L. 1979, ch. 267, § 1; P.L. 1984, ch. 333, § 1; P.L. 1987, ch. 277, § 1; P.L. 1988, ch. 622, § 1; P.L. 1989, ch. 112, § 1; P.L. 1999, ch. 140, § 1.)

§ 45-19-4.2 Tuition to police officers disabled as a result of service. – (a) If an active member of the police force of a city or town becomes totally and permanently disabled from injuries received while in the performance of his or her duty as a member, or if any member of the police force of a city or town becomes totally and permanently disabled from injuries received while in the performance of his or her duty, there shall be paid out of the general fund of the state of

Rhode Island the charges for the tuition of the totally and permanently disabled police officer. The benefits are extended to members who are attending or may attend the university of Rhode Island, Rhode Island college, or any other college or university operated by the state; provided, that the aid granted in this section is available for the period of time that may equal the normal time for completing the courses regularly offered by the institution, but in no case more than four (4) years.

(b) For the purpose of this section the words "police officer" mean and include any member of the state police or the police of any city or town regularly employed at a fixed salary or wage. Furthermore, this excludes auxiliary and volunteer police officers of city, town, or state police.

History of Section.

(P.L. 1989, ch. 465, § 1.)

§ 45-19-4.3 One time death benefit – Death benefits to family of deceased police officers, correctional officers, and firefighters.

– (a) If an active or retired police officer, capitol police officer, correctional officer, firefighter, crash rescue crew person, fire marshal, or deputy fire marshal of any city, town, fire district, or the state of Rhode Island or deputy sheriff or a correctional officer or member of a volunteer auxiliary fire force or volunteer crash rescue or ambulance corps is killed or dies from injuries received while in the performance of his or her duties, there shall be paid a killed-in-line-of-duty benefit to be administered by the board of police officer's and firefighter's relief. The benefit shall be in the sum of forty percent (40%) of the federal death benefits for law enforcement officers and firefighters killed in the line of duty. The benefit shall be paid as follows:

(1) If there is no surviving child of such officer, to the surviving spouse or domestic partner of such officer;

(2) If there is a surviving child or children and a surviving spouse or domestic partner, one-half (1/2) to the surviving child or children of such officer in equal shares and one-half (1/2) to the surviving spouse or domestic partner;

(3) If there is no surviving spouse or domestic partner, to the child or children of said officer in equal shares;

(4) If there is no surviving spouse, domestic partner, or surviving child, to the individual designated by such officer as beneficiary under such officer's most recently executed life insurance policy; provided, that such individual survived such officer; or

(5) If none of the above, to the parent or parents of such officer in equal shares.

(b) Domestic partners shall certify by affidavit to the board of police officer's and firefighter's relief that the: (1) partners are at least eighteen (18) years of age and mentally competent to contract; (2) partners are not married to anyone; (3) partners are not related by blood to a degree which would prohibit marriage in the state of Rhode Island; (4) partners reside together and have resided together for at least one year; (5) partners are financially interdependent as evidenced by at least two (2) of the following: (i) domestic partnership agreement or relationship contract; (ii) joint mortgage or joint ownership of primary residence; (iii) two (2) of: (A) joint ownership of motor vehicle; (B) joint checking account; (C) joint credit account; (D) joint lease; and/or (iv) the domestic partner has been designated as a beneficiary for the deceased's will, retirement contract or life insurance.

History of Section.

(P.L. 2002, ch. 193, § 1; P.L. 2002, ch. 194, § 1; P.L. 2003, ch. 186, § 1; P.L. 2003, ch. 190, § 1; P.L. 2006, ch. 644, § 1; P.L. 2006, ch. 645, § 1.)

§ 45-19-12.1 Tuition to children of deceased or disabled fire fighters. – (a) If an active member of the fire force of a city or town or crash rescue crew persons of the state of Rhode Island is killed or dies or becomes totally and permanently disabled from injuries received while in the performance of his or her duty as a member, or dies of a performance related heart condition, or dies of performance related respiratory ailments, or dies of any conditions derived from performance related hypertension, there shall be paid, out of the general fund of the state of Rhode Island, the charges for the tuition of children of the deceased or totally and permanently disabled fire fighters. The benefits shall be extended to the children who are attending or may attend the University of Rhode Island, Rhode Island College, or any other college or university operated by the state; provided, that the child has entered the institution while between the ages of sixteen (16) and twenty-one (21); and provided, further, that the aid granted in this section is available to the child for a period of time that equals the normal time for completing the courses regularly offered by the institution, but in no case more than four (4) years.

(b) For the purposes of this section, the words "members of fire force" mean and include any member of a fire force or crash rescue crew persons of any city or town regularly employed at a fixed salary or wage; this includes auxiliary and volunteer fire fighters and crash rescue crew persons of any city, town, or state fire fighting department.

History of Section.

(P.L. 1979, ch. 267, § 1; P.L. 1981, ch. 202, § 1; P.L. 1984, ch. 333, § 1; P.L. 1987, ch. 277, § 1.)

§ 45-19-12.3 Tuition to disabled fire fighters. – (a) If an active member of the fire force of a city or town or crash rescue crew persons of the state of Rhode Island becomes totally and permanently disabled from injuries received while in the performance of his or her duty as a member, or if any member of the fire force of a city or town or crash rescue crew persons of the state of Rhode Island becomes totally and permanently disabled from injuries received while in the performance of his or her duty, there shall be paid, out of the general fund of the state of Rhode Island, the charges for the tuition of totally and permanently disabled fire fighters. The benefits are extended to members who are attending or may attend the University of Rhode Island, Rhode Island College, or any other college or university operated by the state; provided, that the aid granted in this section is available for a period of time that equals the normal time for completing the courses regularly offered by the institution, but in no case more than four (4) years.

(b) For the purposes of this section, the words "members of fire force" mean and include any member of a fire force or crash rescue crew persons of any city or town regularly employed at a fixed salary or wage; this includes auxiliary and volunteer fire fighters and crash rescue crew persons of any city, town or state fire fighting department.

History of Section.

(P.L. 1989, ch. 465, § 1.)

§ 45-19-14 Appropriations by towns to dependents of deceased police officers and fire fighters. – The several cities and towns are authorized and empowered to make a special appropriation to surviving widows or widowers or domestic partners, or other surviving dependents, of a deceased fire fighter or police officer who has been in the service of a city or town for a period of at least two (2) years and has lost his or her life, or received injuries resulting in permanent disability, or incurred illness resulting in death, while in the line of duty as a fire fighter or police officer. This appropriation

may be in addition to any service pension granted to the widows or widowers or domestic partners of any fire fighters or police officers under the provisions of any law or any ordinance of any city or town; provided, that the appropriation does not exceed the sum of five thousand dollars (\$5,000) for any one person.

History of Section.

(G.L. 1909, ch. 47, § 91/2; P.L. 1933, ch. 2039, § 1; G.L. 1938, ch. 351, § 8; G.L. 1956, § 45-19-14; P.L. 1984, ch. 333, § 1; P.L. 2007, ch. 510, § 15.)

§ 45-19-15 Extension of provisions to widows or widowers or domestic partners of other deceased police officers and fire fighters. – The legislative body of any city or town may, by ordinance, provide that the provisions of §§ 45-19-4 and 45-19-12 apply in the case of any unremarried widow or widower or domestic partner, of any police officer or fire fighter which police officer or fire fighter died while in service or was retired from the police or fire force of a city or town on pensions prior to his or her death. The annuities shall be paid to the widow or widower or domestic partner by the proper authority of the city or town in which the police officer or fire fighter was employed at the time of his or her retirement.

History of Section.

(P.L. 1956, ch. 3767, § 1; G.L. 1956, § 45-19-15; P.L. 1984, ch. 333, § 1; P.L. 2007, ch. 510, § 15.)

§ 45-19-16 Presumption of disability in the line of fire fighting duty. – Notwithstanding the provisions of any general or special law or to any state or municipal retirement system, any city or town may, by ordinance, provide that every condition of impairment of health caused by smoke inhalation of the lungs or respiratory tract, resulting in total disability or death to a uniformed member of a paid fire department, is presumed to have been suffered in the line of duty as a result of the inhalation of noxious fumes or poisonous gases, unless the contrary is shown by competent evidence; provided, that the person benefiting by the presumption passes a physical examination upon entry into service or subsequent to entry an examination failed to reveal any evidence of the condition.

History of Section.

(P.L. 1963, ch. 202, § 1.)

§ 45-19-17 Operation of emergency vehicles – Accidents. – Whenever the operator of an authorized emergency vehicle, as defined in § 31-1-3, or the operator of an authorized emergency vehicle for a nonprofit volunteer organization who is operating the vehicle in compliance with § 31-12-1 et seq., is involved in an accident while responding to an order from his or her department to render emergency assistance, or returning from an emergency or en route to or from official business his or her right to operate a motor vehicle shall not be affected by reason of any civil negligence attendant upon the operation of the emergency vehicle, in the scope of their duties nor shall the rate, chargeable to the operator for liability insurance coverage for the occurrence, be increased or the coverage cancelled because of the negligence.

History of Section.

(P.L. 1968, ch. 143, § 1; P.L. 1984, ch. 333, § 1; P.L. 2003, ch. 406, § 1.)

§ 45-19-18 Pensions for certain police officers and fire fighters. – Every police officer and fire fighter of any city or town who served the city or town for at least twenty-five (25) years, or is now or hereafter receiving a retirement allowance from a city or town retirement system after at least twenty-

five (25) years' membership in a system prior to retirement, or who was retired by a city or town retirement system because of a disability incurred as the result of an accident while in the performance of duty, may receive from the city or town an additional sum of money, assuring to the employee the sum of two hundred and fifty dollars (\$250) per month.

History of Section.

(P.L. 1969, ch. 97, § 1.)

§ 45-19-19 City and town ordinances providing for retirement of sick or injured police officers or fire fighters. – The city or town councils of the various cities and towns may provide, by ordinance or through collective bargaining, for the retirement of the personnel of their police and fire departments who have been on leave of absence from their employment due to sickness contracted or injuries sustained in the performance of their duties; provided, that no ordinance is contrary to any pension cost of living increase or escalator clause in a collective bargaining agreement, and provided, further, that no ordinance provides for a disability retirement allowance of less than sixty-six and two-thirds percent (66 2/3%) of a retiree's annual salary at the time of retirement nor more than one hundred percent (100%) of a retiree's annual salary.

History of Section.

(P.L. 1990, ch. 189, § 1; P.L. 1994, ch. 245, § 1.)

CHAPTER 45-19.1

Cancer Benefits For Fire Fighters

§ 45-19.1-1 Legislative findings. – (a) The general assembly finds and declares that by reason of their employment:

(1) Fire fighters are required to work in the midst of, and are subject to, smoke, fumes, or carcinogenic, poisonous, toxic, or chemical substances;

(2) Fire fighters are continually exposed to a vast and expanding field of hazardous substances through hazardous waste sites and the transportation of those substances;

(3) Fire fighters are constantly entering uncontrolled environments to save lives and reduce property damage and are frequently not aware of potential toxic and carcinogenic substances that they may be exposed to;

(4) Fire fighters, unlike other workers, are often exposed simultaneously to multiple carcinogens, and the rise in occupational cancer among fire fighters can be related to the rapid proliferation of thousands of toxic substances in our every day environment; and

(5) The onset of cancers in fire fighters can develop very slowly, usually manifesting themselves from five (5) years to forty (40) years after exposure to the cancer-causing agent.

(b) The general assembly further finds and declares that all of the previously stated conditions exist and arise out of or in the course of that employment.

History of Section.

(P.L. 1986, ch. 68, § 1.)

§ 45-19.1-2 Definitions. – The following terms when used in this chapter have the following meanings:

(a) "Disability" means a condition of physical incapacity to perform any assigned duty or duties in the fire department.

(b) "Fire department" means service groups (paid or volunteer) that are organized and trained for the prevention and control of loss of life and property from any fire or disaster.

(c) "Fire fighter" means an individual, paid or volunteer, who is assigned to a fire department and is required to respond to alarms and performs emergency action.

(d) "Occupational cancer" means a cancer arising out of his or her employment as a fire fighter, due to injury from exposures to smoke, fumes, or carcinogenic, poisonous, toxic, or chemical substances while in the performance of active duty in the fire department.

History of Section.

(P.L. 1986, ch. 68, § 1.)

§ 45-19.1-3 Occupational cancer disability for fire fighters. – (a) Any fire fighter, including one employed by the state, or a municipal fire fighter employed by a municipality that participates in the optional retirement for police officers and fire fighters, as provided in chapter 21.2 of this title, who is unable to perform his or her duties in the fire department by reason of a disabling occupational cancer which develops or manifests itself during a period while the fire fighter is in the service of the department, and any retired member of the fire department of any city or town who develops occupational cancer, is entitled to receive an occupational cancer disability, and he or she is entitled to all of the benefits provided for in chapters 19, 21 and 21.2 of this title and chapter 10 of title 36 if the fire fighter is employed by the state.

(b) The provisions of this section apply retroactively in the case of any retired member of the fire department of any city or town.

History of Section.

(P.L. 1986, ch. 68, § 1; P.L. 1988, ch. 154, § 1; P.L. 1988, ch. 252, § 1.)

CHAPTER 45-21.1

Municipal Fire Fighters' Pensions

§ 45-21.1-1 Benefits. – (a) Whenever, under any general law or special act, any town or city has established a pension system for the fire fighters of the town or city, funded in whole or in part by contributions from those fire fighters, then upon the death of a fire fighter, whether before or after his or her retirement, there is due from the fire fighter's pension fund of the town or city to the person or persons as he or she has nominated by written designation, and, if no designation was made, to the widow or widower or domestic partner of the fire fighter, if any, an amount equal to the total contributions made to the pension fund by the deceased fire fighter less any benefits received by the fire fighter from the fund. If there is no designation and no widow or widower or domestic partner surviving the fire fighter, payments under the provisions of this section are paid to the estate of the deceased fire fighter in an amount equal to the total contributions made to the pension fund by the deceased fire fighter less any benefits received by the fire fighter from the fund; provided, that if the amount due to the estate of a deceased fire fighter under the provisions of this section is one thousand dollars (\$1,000) or less, then, in lieu of making the payment due under the provisions of this section to the estate, the payment may be made to the widow or widower or domestic partner (for his or her sole use) of the deceased fire fighter; and provided, further, that this section does not apply in the case of any pension fund which provides benefits for the dependents or survivors of a deceased fire fighter.

(b) The term "domestic partner" shall have the same meaning as that provided for in § 45-21-2.

History of Section.

(P.L. 1964, ch. 178, § 1; P.L. 1970, ch. 125, § 1; P.L. 1988, ch. 84, § 103; P.L. 2007, ch. 510, § 17.)

CHAPTER 45-21.3

Death of Other Retired Police Officers and Fire Fighters

§ 45-21.3-1 Surviving spouse and surviving dependent children. – Upon the death of any regular and permanent police official, police chief, or police officer, or any regular and permanent fire fighter, fire chief, or fire official who has retired from the service of any city or town which has not accepted chapter 21 or 21.2 of this title, sixty-seven and one-half percent (67 1/2%) of the benefits paid to the retired police officer or fire fighter shall be paid to his or her dependent spouse, for his or her lifetime until he or she remarries, or if there is no spouse or the spouse remarries, then to his or her dependent children until they attain the age of eighteen (18).

History of Section.

(P.L. 1975, ch. 81, § 1; P.L. 1976, ch. 185, § 1.)

§ 45-21.3-2 Benefits upon death of active police officers or fire fighters who were eligible to retire at time of death. – Upon the death of any regular and permanent police official, police chief, or police officer, or any regular and permanent fire fighter, fire chief, or fire fighting official who, at the time of his or her death, was eligible to retire from the service of any city or town which has not accepted the provisions of chapter 21 or 21.2 of this title, then sixty-seven and one-half percent (67 1/2%) of the benefits that would have been paid to the retired police officer or fire fighter had he or she retired shall be paid to his or her dependent spouse for his or her lifetime until he or she remarries, or if there is no spouse or the spouse remarries, then to his or her dependent children until they attain eighteen (18) years of age.

History of Section.

(P.L. 1976, ch. 185, § 2.)

**Title 8 Chapters 3, 8, 8.2, 16, Justices and Judges Supreme Court,
Superior Court, Family Court, Traffic Tribunal and District Courts**

CHAPTER 8-3

Justices of Supreme, Superior, and Family Courts

§ 8-3-7 Retirement of justices on reduced pay – Assignment as associate justices. – (a)

Whenever any person engaged as a judge:

(1) On or before July 2, 1997 has served as a justice of the supreme court, the superior court, the family court, the district court, or any combination thereof for twenty (20) years, or has so served for ten (10) years and has reached the age of sixty-five (65) years, that justice may retire from active service and thereafter the justice shall receive annually during life a sum equal to three-fourths ($\frac{3}{4}$) of the annual salary that the justice was receiving at the time of retirement;

(2) Subsequent to July 2, 1997 and prior to January 1, 2009, has served as a justice of the supreme court, the superior court, the family court, the district court or any combination thereof, for twenty (20) years, or has so served for ten (10) years and has reached the age of sixty-five (65) years, said justice may retire from active service and thereafter said justice shall receive annually during life a sum equal to three-fourths ($\frac{3}{4}$) of his or her average highest three (3) consecutive years of compensation;

(3) On or after January 1, 2009, has served as a justice of the supreme court, the superior court, the family court, the district court or any combination thereof, for twenty (20) years, or has so served for ten (10) years and has reached the age of sixty-five (65) years, said justice may retire from active service and thereafter said justice shall receive annually during life a sum equal to seventy percent (70%) of his or her average highest three (3) consecutive years of compensation.

(4) On or after July 1, 2009, shall have served as a justice of the supreme court, the superior court, the family court, the district court, or any of them for twenty (20) years, or has served for ten (10) years, and reached the age of sixty-five (65) years, said justice may retire from regular active service and thereafter said justice shall receive annually during his or her life a sum equal to sixty-five percent (65%) of his or her average highest five (5) consecutive years of compensation.

(b) Whenever a justice or magistrate shall be granted a leave of absence without pay, such absence shall not be credited towards active service time for the purposes of retirement.

(c) Any justice in any of the courts who shall retire in accordance with the provisions of this section or § 36-9-5 may, at his or her own request and at the direction of the chief justice of the supreme court, subject to the retiree's physical and mental competence, be assigned to perform such services as an associate justice of the superior court, or the family court, or the district court as the presiding justice of the superior court, or the chief judge of the family court, or the district shall prescribe. When so assigned and performing such service, the justice shall have all the powers and authority of an associate justice of the superior court, the family court, or the district court but otherwise shall have no powers nor be authorized to perform any judicial duties. Such a retired justice shall not be counted in the number of judges provided by law for the superior court, the family court, or the district court.

(d) Any justice of the supreme court who shall retire in accordance with the provisions of this section shall at the direction of the chief justice of the supreme court, subject to the retiree's physical and mental competence, be assigned to perform such services as an associate justice of the supreme court as the chief justice of the supreme court shall prescribe. When so assigned and performing such services, the retiree shall have all the powers and authority of an associate justice of the supreme court, but otherwise he or she shall have no powers nor be authorized to

perform any judicial duties relating to the supreme court, except as authorized under § 8-1-1. Such a retired justice shall not be counted in the number of justices provided by law for the supreme court.

CREDIT(S)

P.L. 1917, ch. 1475, § 2; P.L. 1922, ch. 2229, § 1; P.L. 1926, ch. 771, § 2; P.L. 1948, ch. 2084, § 1; P.L. 1956, ch. 3832, § 1; P.L. 1959, ch. 2, § 1; P.L. 1970, ch. 300, § 1; P.L. 1973, ch. 163, § 1; P.L. 1979, ch. 256, § 2; P.L. 1983, ch. 76, § 1; P.L. 1997, ch. 93, § 1; P.L. 2005, ch. 165, § 1; P.L. 2007, ch. 126, § 1, eff. June 27, 2007; P.L. 2007, ch. 179, § 1, eff. July 2, 2007; P.L. 2008, ch. 100, art. 35, § 1, eff. June 26, 2008; P.L. 2009, ch. 68, art. 7, § 5, eff. July 1, 2009; P.L. 2012, ch. 415, § 10, eff. June 22, 2012.

§ 8-3-7.1 [Repealed]. –

§ 8-3-7.2 No incremental retirement benefit for temporary service as chief justice, presiding justice or chief judge. – No increment in salary resulting from any rule or regulation providing for an increment in salary for temporary service as chief justice, presiding justice or chief judge shall be construed to add to the annual salary of a judicial officer for purposes of retirement under §8-3-7.

History of Section.

P.L. 1997, ch. 93, § 2; P.L. 2011, ch. 63, § 1, eff. June 8, 2011; P.L. 2011, ch. 95, § 1, eff. June 21, 2011.

§ 8-3-8 Retirement of justices on full pay – Assignment as associate justices. – (a) Whenever any person engaged as a judge:

- (1) On or before July 2, 1997 shall have served as a justice of the supreme court, the superior court, the family court, the district court, or any of them for twenty (20) years and has reached the age of sixty-five (65) years, or has served for fifteen (15) years, and reached the age of seventy (70) years, that justice may retire from regular active service and thereafter the justice shall receive annually during his or her life a sum equal to the annual salary the justice was receiving at the time of his or her retirement;
- (2) Subsequent to July 2, 1997 and prior to January 1, 2009, shall have served as a justice of the supreme court, the superior court, the family court, the district court, or any of them for twenty (20) years and has reached the age of sixty-five (65) years, or has served for fifteen (15) years, and reached the age of seventy (70) years, said justice may retire from regular active service and thereafter said justice shall receive annually during his or her life a sum equal to his or her average highest three (3) consecutive years of compensation.
- (3) On or after January 1, 2009, shall have served as a justice of the supreme court, the superior court, the family court, the district court, or any of them for twenty (20) years and has reached the age of sixty-five (65) years, or has served for fifteen (15) years, and reached the age of seventy (70) years, said justice may retire from regular active service and thereafter said justice shall receive annually during his or her life a sum equal to ninety percent (90%) of his or her average highest three consecutive years of compensation.
- (4) On or after July 1, 2009, shall have served as a justice of the supreme court, the superior court, the family court, the district court, or any of them for twenty (20) years and has reached the age of sixty-five (65) years, or has served for fifteen (15) years, and reached the age of

seventy (70) years, said justice may retire from regular active service and thereafter said justice shall receive annually during his or her life a sum equal to eighty percent (80%) of his or her average highest five (5) consecutive years of compensation.

(b) Whenever a justice or magistrate shall be granted a leave of absence without pay, such absence shall not be credited towards active service time for the purposes of retirement.

(c) Any justice of any of the courts who shall retire in accordance with the provisions of this section shall at the direction of the chief justice of the supreme court, subject to the retiree's physical and mental competence, be assigned to perform such services as an associate justice of the superior court, or the family court, or the district court as the presiding justice of the superior court, or the chief judge of the family court, or the district court shall prescribe. When so assigned and performing such service, the retiree shall have all the powers and authority of an associate justice of the superior court, the family court, or the district court but otherwise he or she shall have no powers nor be authorized to perform any judicial duties. Such a retired justice shall not be counted in the number of judges provided by law for the superior court, the family court, or the district court.

(d) Any justice of the supreme court who shall retire in accordance with the provisions of this section shall at the direction of the chief justice of the supreme court, subject to the retiree's physical and mental competence, be assigned to perform such services as an associate justice of the supreme court as the chief justice of the supreme court shall prescribe. When so assigned and performing such services, the retiree shall have all the powers and authority of an associate justice of the supreme court, but otherwise he or she shall have no powers nor be authorized to perform any judicial duties relating to the supreme court, except as authorized under § 8-1-1. Such a retired justice shall not be counted in the number of justices provided by law for the supreme court.

History of Section.

P.L. 1956, ch. 3633, §§ 1, 2; P.L. 1970, ch. 300, § 1; P.L. 1973, ch. 163, § 1; P.L. 1983, ch. 76, § 1; P.L. 1988, ch. 639, § 1; P.L. 1997, ch. 93, § 1; P.L. 2007, ch. 126, § 1, eff. June 27, 2007; P.L. 2007, ch. 179, § 1, eff. July 2, 2007; P.L. 2008, ch. 100, art. 35, § 1, eff. June 26, 2008; P.L. 2009, ch. 68, art. 7, § 5, eff. July 1, 2009; P.L. 2012, ch. 415, § 10, eff. June 22, 2012.

§ 8-3-8.1 [Repealed].

§ 8-3-8.2 No incremental retirement benefit for temporary service as chief justice, presiding justice or chief judge. – No increment in salary resulting from any rule or regulation providing for an increment in salary for temporary service as chief justice, presiding justice or chief judge shall be construed to add to the annual salary of a judicial officer for purposes of retirement under § 8-3-8 or 8-3-8.1.

History of Section.

(P.L. 1997, ch. 93, § 2; P.L. 2008, ch. 229, § 1; P.L. 2008, ch. 321, § 1.)

§ 8-3-9 Computation of service time as to former courts. – For purposes of determining eligibility for retirement under §§ 8-3-7 and 8-3-8, the years of service of any person who has served as an associate judge of the juvenile court prior to September 1, 1961, or who has served as a judge or clerk of a district court as constituted prior to September 15, 1969, or a judge of the workers' compensation court, shall be included as if the service had been on the court to which the person may have been subsequently appointed.

History of Section.

(P.L. 1978, ch. 340, § 2; P.L. 1999, ch. 216, § 2; P.L. 1999, ch. 384, § 2.)

§ 8-3-10 Service after retirement. – Any justice or judge of the supreme court, superior court, family court, or district court who shall retire in accordance with the provisions of § 8-3-7, 8-3-8, or 8-3-12 and who shall subsequently be assigned to perform service in accordance with § 8-3-7 or 8-3-8, when so assigned and performing such service, shall receive in addition to his or her retirement pension the difference in pay and fringe benefits between what he or she was entitled to receive under § 8-3-7, 8-3-8, or 8-3-12 prior to exercising his or her options available under § 8-3-11 and what a judge or justice with comparable state service time is receiving as a justice or judge of the court to which he/she is assigned, or a justice or judge of the court from which he/she retired, whichever is greater.

History of Section.

(P.L. 1979, ch. 19, § 3.)

§ 8-3-11 Allowances to surviving spouses, domestic partners or minor children of deceased justices. – (a) Whenever any justice of the supreme court, the superior court, the family court, or the district court who was engaged as a judge prior to January 1, 2009, dies after retirement or

during active service while eligible for retirement, or during active service after having served fifteen (15) years or more in office, his or her surviving spouse or domestic partner shall receive annually thereafter, during his or her lifetime and so long as he or she remains unmarried or not in a domestic partnership, an amount equal to one-half ($1/2$) of the annual payment that the justice was receiving by way of salary or retirement pay at the time of his or her death.

Whenever a justice of any of the courts shall die without having become eligible to retire either under § 8-3-7 or 8-3-8 and has served seven (7) years or more in office, his or her surviving spouse or domestic partner shall receive annually thereafter, during his or her lifetime and so long as he or she remains unmarried or not in a domestic partnership, one-third ($1/3$) of the annual salary that the justice was receiving at the time of his or her death. Whenever a justice of the courts shall die without having become eligible to retire either under § 8-3-7 or 8-3-8 and has not served seven (7) years in office, his or her surviving spouse or domestic partner shall receive annually thereafter, during his or her lifetime and so long as he or she remains unmarried or not in a domestic partnership, one-fourth ($1/4$) of the annual salary that the justice was receiving at the time of his or her death.

(b) Any justice of the courts who is engaged as a judge on or after January 1, 2009, and prior to July 1, 2009 may elect to receive retirement pay that is reduced by an additional ten percent (10%) of the average of the highest three (3) consecutive years annual compensation (i.e., ninety percent (90%) reduced to eighty percent (80%) or seventy percent (70) reduced to sixty percent (60%)), and where such option is exercised by giving the general treasurer notice in writing thereof within ninety (90) days after the date of his or her retirement his or her surviving spouse or domestic partner or minor children shall receive annually one-half ($1/2$) of his or her retirement pay during his or her lifetime so long as he or she remains unmarried or not in a domestic partnership, or the children are under twenty-one (21) years of age provided, however, for any justice engaged on or after July 1, 2009 but prior to July 1, 2012, the reduction shall be based on the average of the highest five (5) consecutive years annual compensation.

(c)(1) Any justice of the courts who is engaged as a judge on or after July 1, 2012 and who elects to receive a retirement pay that is reduced, shall receive a lesser retirement allowance as determined by actuarial calculation, which shall be payable throughout life with the provision that:

(i) **Option 1.** Upon the justice's death, the justice's lesser retirement allowance shall be continued throughout the life of and paid to such person having an insurable interest in the justice's life, as the justice shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his or her retirement.

(ii) **Option 2.** Upon the justice's death, one-half ($1/2$) of the justice's lesser retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in the justice's life, as the justice shall nominate by written designation duly acknowledged and filed with the retirement board at the time of the beneficiary's retirement.

(2) For purposes of any election under this section the justice may designate more than one person to receive benefits after his or her death, provided that the designation shall specify the portion of the actuarial equivalent of the justice's retirement allowance to be paid to each person, and provided further that the aggregate actuarial value of the portions shall not exceed the actuarial equivalent of the justice's retirement benefit determined in the case of an election under this section as of the date of the justice's retirement.

(3) A justice selecting more than one person to receive benefits under this section may only select beneficiaries from among his or her children, adopted children, step-children, and/or spouse or domestic partner.

(d) Whenever any justice of the supreme court, the superior court, the family court, or the district court who was engaged as a judge on or after January 1, 2009, dies during active service while eligible for retirement, or during active service after having served fifteen (15) years or more in office, his or her surviving spouse or domestic partner shall receive annually thereafter, during his or her lifetime and so long as he or she remains unmarried or not in a domestic partnership, an amount equal to one-half ($1/2$) of the annual payment that the justice was receiving by way of salary.

(e) Whenever a justice of any of the courts who was engaged as a judge on or after January 1, 2009, shall die without having become eligible to retire either under § 8-3-7 or 8-3-8 and has served seven (7) years or more in office, his or her surviving spouse or domestic partner shall receive annually thereafter, during his or her lifetime and so long as he or she remains unmarried or not in a domestic partnership, one-third ($1/3$) of the annual salary that the justice was receiving at the time of his or her death.

(f) Whenever a justice of the courts who was engaged as a judge on or after January 1, 2009, shall die without having become eligible to retire either under § 8-3-7 or 8-3-8 and has not served seven (7) years or more in office, his or her surviving spouse or domestic partner shall receive annually thereafter, during his or her lifetime and so long as he or she remains unmarried or not in a domestic partnership, one-fourth ($1/4$) of the annual salary that the justice was receiving at the time of his or her death.

(g) In the event the deceased justice shall have no surviving spouse or domestic partner, or the surviving spouse or domestic partner should predecease their minor children, then the benefits conferred by this section shall be received in equal shares by the minor children, if any, until each shall attain the age of twenty-one (21) years.

History of Section.

P.L. 1970, ch. 300, § 2; P.L. 1976, ch. 313, § 1; P.L. 1979, ch. 19, § 5; P.L. 1982, ch. 204, § 1; P.L. 1983, ch. 76, § 1; P.L. 1990, ch. 30, § 1; P.L. 2007, ch. 510, § 1, eff. Oct. 30, 2007; P.L. 2008, ch. 100, art. 35, § 1, eff. June 26, 2008; P.L. 2009, ch. 68, art. 7, § 13, eff. July 1, 2009; P.L. 2009, ch. 343, § 1, eff. Nov. 13, 2009; P.L. 2009, ch. 344, § 1, eff. Nov. 13, 2009; P.L. 2011, ch. 408, § 15, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 15, eff. Nov. 18, 2011.

§ 8-3-12 Retirement of judges with general assembly or office service. – Any person, who has served as a member of the general assembly, as a general officer, and as a justice of the supreme court, the superior court, the family court, or the district court, whose combined service as a member of the general assembly, a justice, and a general officer is twenty (20) years or more and who has retired, resigned, and completed such service prior to January 1, 2014, shall, upon reaching the age of sixty-two (62) years, receive during life a sum equal to three-fourths (3/4) of the highest annual salary that the person was receiving during such service.

History of Section.

(P.L. 1974, ch. 272, § 1; P.L. 1979, ch. 19, § 1; P.L. 1979, ch. 407, § 1; P.L. 1979, ch. 408, § 1; P.L. 1983, ch. 76, § 1; P.L. 2014, ch. 38, § 1; P.L. 2014, ch. 41, § 1.

§ 8-3-13 Pension for surviving spouses or domestic partners of judges dying prior to May 10, 1974. – Whenever any justice of the superior court, having served as a justice for at least seven (7) years who died prior to May 10, 1974 during active service, his or her surviving spouse or domestic partner shall receive annually thereafter, during his or her lifetime and so long as he or she remains unmarried or not in a domestic partnership, an amount equal to one-third (1/3) of the annual payment that the justice was receiving by way of salary or retirement pay at the time of his or her death.

History of Section.

(P.L. 1974, ch. 272, § 1; P.L. 1983, ch. 76, § 1; P.L. 2007, ch. 510, § 1.)

§ 8-3-14 Applicability of §§ 8-3-12 – 8-3-14. – Sections 8-3-12 – 8-3-14 shall be applicable to all justices of the supreme court whose retirement, resignation, or death occurred subsequent to January 1, 1963, and prior to May 10, 1974, and the surviving spouses of such justices so long as they remain unmarried. Any surviving spouses of justices eligible for benefits pursuant to this section shall receive benefits hereunder from the time of application therefor, and until their death or remarriage, and such benefits shall not be paid for any time between the death or resignation of such justice and May 10, 1974.

History of Section.

(P.L. 1974, ch. 272, § 1; P.L. 1983, ch. 76, § 1.)

§ 8-3-15 Cost of living allowance. – (a) All justices of the supreme court, superior court, family court, or district court, or their surviving spouses or domestic partners, who retire after January 1, 1970, and who receive a retirement allowance pursuant to the provisions of this title shall, on the first day of January next following the third anniversary date of retirement, receive a cost-of-living retirement adjustment in addition to his or her retirement allowance in an amount equal to three percent (3%) of the original retirement allowance. In each succeeding year thereafter during the month of January, the retirement allowance shall be increased an additional

three percent (3%) of the original allowance, not compounded, to be continued during the lifetime of the justice or his or her surviving spouse or domestic partner. For the purpose of such computation, credit shall be given for a full calendar year regardless of the effective date of the retirement allowance.

(b) Any justice who retired prior to January 31, 1977, shall be deemed for the purpose of this section to have retired on January 1, 1977.

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

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

(1) Notwithstanding the prior paragraphs of this section, and subject to paragraph (d)(2) below, for all present and former justices, active and retired justices, and beneficiaries receiving any retirement, disability, or death allowance or benefit of any kind, whether provided for or on behalf of justices engaged on or prior to December 31, 1989, as a non-contributory justice or engaged after December 31, 1989, as a contributory justice, the annual benefit adjustment provided in any calendar year under this section shall be equal to (A) multiplied by (B) where (A) is equal to the percentage determined by subtracting five and one-half percent (5.5%) (the "subtrahend") from the Five-Year Average Investment Return of the retirement system determined as of the last day of the plan year preceding the calendar year in which the adjustment is granted, said percentage not to exceed four percent (4%) and not to be less than zero percent (0%), and (B) is equal to the lesser of the justice's retirement allowance or the first twenty-five thousand dollars (\$25,000) of retirement allowance, such twenty-five thousand dollars (\$25,000) amount to be indexed annually in the same percentage as determined under (d)(1)(A) above. The "Five-Year Average Investment Return" shall mean the average of the investment return of the most recent five (5) plan years as determined by the retirement board. Subject to paragraph (d)(2) below, the benefit adjustment provided by this paragraph shall commence upon the third (3rd) anniversary of the date of retirement or the date on which the retiree reaches his or her Social Security retirement age, whichever is later. In the event the retirement board adjusts the actuarially assumed rate of return for the system, either upward or downward, the subtrahend shall be adjusted either upward or downward in the same amount.

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

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

(3) Notwithstanding paragraph (d)(2), in each fifth plan year commencing after June 30, 2012, commencing with the plan year ending June 30, 2017, and subsequently at intervals of five (5) plan years, a benefit adjustment shall be calculated and made in accordance with paragraph (d)(1) above until the Funded Ratio of the Employees' Retirement System of Rhode Island, the Judicial Retirement Benefits Trust, and the State Police Retirement Benefits Trust, calculated by the system's actuary on an aggregate basis, exceeds eighty percent (80%).

(4) Notwithstanding any other provision of this chapter, the provisions of this paragraph (d) of § 8-3-15 shall become effective July 1, 2012, and shall apply to any benefit adjustment not granted on or prior to June 30, 2012.

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

(1)(A) As soon as administratively reasonable following the enactment into law of this subsection (e)(1)(A), a one-time benefit adjustment shall be provided to justices and/or beneficiaries of justices who retired on or before June 30, 2012, in the amount of two percent (2%) of the lesser of either the justice's retirement allowance or the first twenty-five thousand dollars (\$25,000) of the justice's retirement allowance. This one-time benefit adjustment shall be provided without regard to the retiree's age or number of years since retirement.

(B) Notwithstanding the prior subsections of this section, for all present and former justices, active and retired justices, and beneficiaries receiving any retirement, disability or death allowance or benefit of any kind, whether provided for or on behalf of justices engaged on or prior to December 31, 1989, as a non-contributory justice or engaged after December 31, 1989, as a contributory justice, the annual benefit adjustment provided in any calendar year under this section for adjustments on and after January 1, 2016, and subject to subsection (e)(2) below, shall be equal to (I) multiplied by (II):

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

(i) Is equal to the percentage determined by subtracting five and one-half percent (5.5%) (the "subtrahend") from the five-year average investment return of the retirement system determined as of the last day of the plan year preceding the calendar year in which the adjustment is granted, said percentage not to exceed four percent (4%) and not to be less than zero percent (0%). The "five-year average investment return" shall mean the average of the investment returns of the

most recent five (5) plan years as determined by the retirement board. In the event the retirement board adjusts the actuarially assumed rate of return for the system, either upward or downward, the subtrahend shall be adjusted either upward or downward in the same amount.

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

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

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

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

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

(3) Notwithstanding subsection (e)(2), in each fourth plan year commencing after June 30, 2012, commencing with the plan year ending June 30, 2016, and subsequently at intervals of four plan years: (i) A benefit adjustment shall be calculated and made in accordance with paragraph (e)(1)(B) above; and (ii) Effective for members and/or beneficiaries of members who retired on or before June 30, 2015, the dollar amount in subsection (e)(1)(B)(II) of twenty-five thousand eight hundred and fifty-five dollars (\$25,855) shall be replaced with thirty-one thousand and twenty-six dollars (\$31,026) until the funded ratio of the employees' retirement system of Rhode Island, the judicial retirement benefits trust, and the state police retirement benefits trust, calculated by the system's actuary on an aggregate basis, exceeds eighty percent (80%).

(A) Effective for members and or beneficiaries of members who have retired on or before July 1, 2015, a one-time stipend of five hundred dollars (\$500) shall be payable within sixty (60) days following the enactment of the legislation implementing this provision, and a second one-time stipend of five hundred dollars (\$500) in the same month of the following year. These stipends shall be payable to all retired members or beneficiaries receiving a benefit as of the applicable payment date and shall not be considered cost of living adjustments under the prior provisions of

this § 8-3-15.

History of Section.

(P.L. 1979, ch. 19, § 4; P.L. 1983, ch. 76, § 1; P.L. 2007, ch. 510, § 1; P.L. 2010, ch. 23, art. 16, § 3; P.L. 2011, ch. 408, § 15; P.L. 2011, ch. 409, § 15; P.L. 2015, ch. 141, art. 21, § 22.)

§ 8-3-16 Retirement contribution. – (a) Judges engaged after December 31, 1989 shall have deducted from total salary beginning December 31, 1989 and ending June 30, 2012 an amount equal to a rate percent of compensation as specified in § 36-10-1 relating to member contributions to the state retirement system. Effective July 1, 2012, all active judges whether engaged before or after December 31, 1989 shall have deducted from compensation as defined in subsection 36-8-1(8) an amount equal to twelve percent (12%) of compensation, except active Supreme Court Judges as of June 30, 2012 who shall have deducted from compensation as defined in § 36-8-1(8) an amount equal to the percent of compensation in effect on June 30, 2012. Proceeds deposited shall be held in trust for the purpose of paying retirement benefits to participating judges or their beneficiaries. The retirement board shall establish rules and regulations to govern the provisions of this section.

(b) A member of the judiciary who withdraws from service or ceases to be a member for any reason other than retirement, shall be paid on demand a refund consisting of the accumulated contributions standing to his or her credit in his or her individual account in the judicial retirement benefits account. Any member receiving a refund shall thereby forfeit and relinquish all accrued rights as a member of the system together with credits for total service previously granted to the member; provided, however, that if any member who has received a refund shall subsequently reenter the service and again become a member of the system, he or she shall have the privilege of restoring all money previously received or disbursed to his or her credit as refund of contributions plus regular interest for the period from the date of refund to the date of restoration. Upon the repayment of the refund as herein provided, the member shall again receive credit for the amount of total service which he or she had previously forfeited by the acceptance of the refund.

(c) Whenever any judge dies from any cause before retirement and has no surviving spouse, domestic partner or minor child(ren), a payment shall be made of the accumulated contributions standing to his or her credit in his or her individual account in the judicial retirement benefits account. The payment of the accumulated contributions of the judge shall be made to such person as the judge shall have nominated by written designation duly executed and filed with the retirement board, or if the judge has filed no nomination, or if the person so nominated has died, then to the estate of the deceased judge.

History of Section.

P.L. 1987, ch. 118, art. 15, § 1; P.L. 1988, ch. 129, art. 22, § 2; P.L. 1989, ch. 494, § 1; P.L. 1990, ch. 507, § 1; P.L. 1995, ch. 370, art. 40, § 37; P.L. 2007, ch. 167, § 1, eff. June 30, 2007; P.L. 2007, ch. 274, § 1, eff. July 6, 2007; P.L. 2011, ch. 408, § 15, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 15, eff. Nov. 18, 2011.

§ 8-3-17 State contributions. – The state of Rhode Island shall make its contribution for the maintaining of the system established by § 8-3-16 and providing the annuities, benefits, and

retirement allowances in accordance with the provisions of this chapter by annually appropriating an amount which will pay a rate percent of the compensation paid after December 31, 1989 to judges engaged after December 31, 1989. Such rate percent shall be computed and certified in accordance with the procedures set forth in §§ 36-8-1 and 36-10-2 under rules and regulations promulgated by the retirement board pursuant to § 36-8-3. The amounts that would have been contributed shall be deposited in a special fund and not used for any purpose.

History of Section.

P.L. 1989, ch. 494, § 2; P.L. 1990, ch. 507, § 2; P.L. 2009, ch. 5, art. 10, § 4, eff. April 10, 2009; P.L. 2009, ch. 68, art. 7, § 10, eff. July 1, 2009; P.L. 2010, ch. 9, § 3, eff. May 1, 2010; P.L. 2010, ch. 10, § 3, eff. May 1, 2010; P.L. 2011, ch. 408, § 15, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 15, eff. Nov. 18, 2011.

§ 8-3-18 Calculation of retirement benefits. – For purposes of the calculation of retirement benefits, in the event that any justice or judge of the supreme court, the superior court, the family court, or the district court participates or acquiesces in a state shutdown or in a reduced salary or a salary deferral plan consistent with any such plan imposed upon or agreed to by other state employees, his or her annual salary shall be calculated as if he or she had not participated or acquiesced in any such shutdown or plan.

History of Section.

(P.L. 1991, ch. 129, § 4; P.L. 1991 ch. 174, § 4.)

§ 8-3-19 Domestic partner – Definition. – For purposes of this chapter, "domestic partner" shall be defined as a person who, prior to the decedent's death, was in an exclusive, intimate and committed relationship with the decedent, and who certifies by affidavit that their relationship met the following qualifications:

- (1) Both partners were at least eighteen (18) years of age and were mentally competent to contract;
- (2) Neither partner was married to anyone else;
- (3) Partners were not related by blood to a degree which would prohibit marriage in the state of Rhode Island;
- (4) Partners resided together and had resided together for at least one year at the time of death; and
- (5) Partners were financially interdependent as evidenced by at least two (2) of the following:
 - (i) Domestic partnership agreement or relationship contract;
 - (ii) Joint mortgage or joint ownership of primary residence;
 - (iii) Two (2) of: (A) joint ownership of motor vehicle; (B) joint checking account; (C) joint credit account; (D) joint lease; and/or
 - (iv) The domestic partner had been designated as a beneficiary for the decedent's will, retirement contract or life insurance.

History of Section.

(P.L. 2007, ch. 510, § 2.)

§ 8-3-20 Severability. – The holding of any section or sections or parts of this chapter to be void, ineffective, or unconstitutional for any cause shall not be deemed to affect any other section or part hereof.

History of Section.

P.L. 2011, ch. 408, § 15, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 15, eff. Nov. 18, 2011.

CHAPTER 8-8 District Court

§ 8-8-10 Retirement of judges. Repealed.

§ 8-8-10.1 Retirement contribution. – (a) Judges engaged after December 31, 1989 shall have deducted from total salary beginning December 31, 1989 and ending June 30, 2012 an amount equal to a rate percent of compensation as specified in § 36-10-1 relating to member contributions to the state retirement system. Effective July 1, 2012, all active judges whether engaged before or after December 31, 1989 shall have deducted from compensation as defined in subsection 36-8-1(8) an amount equal to twelve percent (12%) of compensation. The receipts collected under this provision shall be deposited in a restricted revenue account entitled “Judicial retirement benefits”. Proceeds deposited in this account shall be held in trust for the purpose of paying retirement benefits to participating judges or their beneficiaries. The retirement board shall establish rules and regulations to govern the provisions of this section.

(b) A member of the judiciary who withdraws from service or ceases to be a member for any reason other than retirement shall be paid on demand a refund consisting of the accumulated contributions standing to his or her credit in his or her individual account in the judicial retirement benefits account. Any member receiving a refund shall thereby forfeit and relinquish all accrued rights as a member of the system together with credits for total service previously granted to the member; provided, however, that if any member who has received a refund shall subsequently reenter the service and again become a member of the system, the member shall have the privilege of restoring all money previously received or disbursed to his or her credit as refund of contributions plus regular interest for the period from the date of refund to the date of restoration. Upon the repayment of the refund as herein provided, the member shall again receive credit for the amount of total service which he or she had previously forfeited by the acceptance of the refund.

(c) Whenever any judge dies from any cause before retirement and has no surviving spouse, domestic partner or minor child(ren), a payment shall be made of the accumulated contributions standing to his or her credit in his or her individual account in the judicial retirement benefits account. The payment of the accumulated contributions of the judge shall be made to such person as the judge shall have nominated by written designation duly executed and filed with the retirement board, or if the judge has filed no nomination, or if the person so nominated has died, then to the estate of the deceased judge.

History of Section.

P.L. 1987, ch. 118, art. 15, § 2; P.L. 1988, ch. 129, art. 22, § 3; P.L. 1989, ch. 494, § 3; P.L. 1990, ch. 507, § 3; P.L. 2007, ch. 167, § 2, eff. June 30, 2007; P.L. 2007, ch. 274, § 2, eff. July 6, 2007; P.L. 2011, ch. 408, § 16, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 16, eff. Nov. 18, 2011.

§ 8-8-10.2 State contributions. – The state of Rhode Island shall make its contribution for the maintaining of the system established by § 8-8-10.1 and providing the annuities, benefits, and retirement allowances in accordance with the provisions of this chapter by annually appropriating an amount which will pay a rate percent of the compensation paid after December 31, 1989 to judges engaged after December 31, 1989. The rate percent shall be computed and certified in accordance with

the procedures set forth in § 36-8-13 and § 36-10-2 under rules and regulations promulgated by the retirement board pursuant to § 36-8-3.

History of Section.

(P.L. 1989, ch. 494, § 4; P.L. 1990, ch. 507, § 4.)

§ 8-8-33 Severability. – The holding of any section or sections or parts of this chapter to be void, ineffective, or unconstitutional for any cause shall not be deemed to affect any other section or part hereof.

History of Section.

P.L. 2011, ch. 408, § 17, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 17, eff. Nov. 18, 2011.

CHAPTER 8-8.2 Traffic Tribunal

§ 8-8.2-6 Retirement of judges on reduced pay. – (a) Whenever any person engaged as a judge on or before July 2, 1997, has served as a judge of the administrative adjudication court or as a judge of the administrative adjudication court who is reassigned by this chapter to the traffic tribunal for twenty (20) years, or has so served for ten (10) years and has reached the age of sixty five (65) years, the judge may retire from active service and, thereafter, the judge shall receive annually during life a sum equal to three fourths (3/4) of the annual salary that the judge was receiving at the time of retirement; provided, however, any person who has served for twenty (20) years and has reached the age of sixty five (65) years, or has so served for fifteen (15) years and reached the age of seventy (70) years, may retire from active service and, thereafter, the judge shall receive annually during his or her life a sum equal to the annual salary he or she was receiving at the time of his or her retirement. In determining eligibility under this section, any judge who has served within the judiciary or as a hearing officer or administrative law judge, may include such service as if the service had been on the administrative adjudication court and shall be included under the provisions of § 36-9-5. Whenever a judge or magistrate shall be granted a leave of absence without pay, such absence shall not be credited towards active service time for the purposes of retirement.

(b) Any judge who shall retire in accordance with the provisions of this section may at his or her request, and at the direction of the chief justice of the supreme court subject to the retiree's physical and mental competence, be assigned to perform such services as a judge or magistrate in the traffic tribunal as the chief magistrate of the traffic tribunal or the chief justice shall prescribe. When so assigned and performing that service, he or she shall have all the powers and authority of a judge or magistrate. A retired judge shall not be counted in the number of magistrates provided by law for the traffic tribunal nor shall he or she receive any further emolument other than his or her retirement pay for the performance of the aforesaid services.

History of Section.

(P.L. 1999, ch. 218, art. 4, § 1; P.L. 2007, ch. 73, art. 3, § 8; P.L. 2007, ch. 126, § 2; P.L. 2007, ch. 179, § 2.)

§ 8-8.2-7 Retirement contribution. –(a) Judges of the administrative adjudication court engaged after December 31, 1989 who are reassigned by this chapter to the traffic tribunal shall have deducted from their total salary beginning December 31, 1989 and ending June 30, 2012, an amount equal to a rate percent of compensation as specified in § 36-10-1 relating to member contributions to the state retirement system. Effective July 1, 2012, all active judges whether engaged before or after December 31, 1989 shall have deducted from compensation as defined in § 36-8-1(8) an amount equal to twelve percent (12%) of compensation. The receipts collected under this provision shall be deposited in a restricted revenue account entitled “administrative adjudication retirement benefits”. Proceeds deposited in this account shall be used to pay judges' retirement costs. The retirement board shall establish rules and regulations to govern the provisions of this section.

(b) A judge of the administrative adjudication court reassigned by this chapter to the traffic tribunal who withdraws from service or ceases to be a member for any reason other than death or retirement, shall be paid on demand a refund consisting of the accumulated contributions standing to his or her credit in his or her individual account in the administrative adjudication retirement benefits account. Any member receiving a refund shall thereby forfeit and relinquish all accrued right as a member of the system together with credits for total service previously granted to the member; provided, however, that if any member who has received a refund shall subsequently reenter the service and again become a member of the system, he or she shall have the privilege of restoring all moneys previously received or disbursed to his or her credit as a refund of contributions plus regular interest for the period from the date of refund to the date of restoration. Upon the repayment of the refund as herein provided, such member shall again receive credit for the amount of total service which he or she had previously forfeited by the acceptance of the refund.

(c) Whenever any judge of the administrative adjudication court dies from any cause before retirement and has no surviving spouse or domestic partner or minor child(ren), a payment shall be made of the accumulated contributions standing to his or her credit in his or her individual account in the administrative adjudication court judges' retirement account. The payment of the accumulated contributions of the judge shall be made to such person as the judge shall have nominated by written designation duly executed and filed with the retirement board, or if the judge has no filed nomination, or if the person so nominated has died, then to the estate of the deceased judge.

History of Section.

P.L. 1999, ch. 218, art. 4, § 1; P.L. 2007, ch. 167, § 4, eff. June 30, 2007; P.L. 2007, ch. 274, § 4, eff. July 6, 2007; P.L. 2011, ch. 408, § 18, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 18, eff. Nov. 18, 2011.

§ 8-8.2-8 State contributions. – The state of Rhode Island shall make its contribution for maintaining the system established by § 8-8.2-7 and providing the annuities, benefits, and retirement allowances in accordance with the provisions of this chapter, by annually appropriating an amount which will pay a rate percent of the compensation paid after December 31, 1989 to judges of the administrative adjudication court engaged after December 31, 1989 who are reassigned by this chapter to the traffic tribunal. The rate percent shall be computed and certified in accordance with the procedures set forth in § 36-8-13 and § 36-10-2 under rules and regulations promulgated by the retirement board pursuant to § 36-8-3.

History of Section.

(P.L. 1999, ch. 218, art. 4, § 1.)

§ 8-8.2-9 Retirement of judges on reduced pay. – (a) Whenever any person first engaged as a judge subsequent to July 2, 1997, has served as a judge of the administrative adjudication court or as a judge of the administrative adjudication court who is reassigned by this chapter to the traffic tribunal for twenty (20) years, or has so served for ten (10) years and has reached the age of sixty five (65) years, the judge may retire from active service and, thereafter, the judge shall receive annually during life a sum equal to three fourths (3/4) of his or her average highest three (3) consecutive years of compensation; provided, however any such person who has served twenty (20) years and has reached the age sixty five (65) or has served fifteen (15) years and has reached the age of seventy (70) years, may retire from active service and, thereafter, the judge shall receive annually during life a sum equal

to his or her average highest three (3) consecutive years of compensation. In determining eligibility under this section, any judge who has served within the judiciary or as a hearing officer or administrative law judge, may include such service as if the service had been on the administrative adjudication court and shall be included under the provision of § 36-9-5. Whenever a justice or magistrate shall be granted a leave of absence without pay, such absence shall not be credited towards active service time for the purposes of retirement.

(b) Any judge who shall retire in accordance with the provisions of this section may at his or her own request, and at the direction of the chief justice of the supreme court subject to the retiree's physical and mental competence, be assigned to perform such services as a magistrate in the traffic tribunal as the chief magistrate or chief justice shall prescribe. When so assigned and performing that service, he or she shall have all the powers and authority of a magistrate. A retired judge shall not be counted in the number of magistrates provided by law for the division of traffic adjudication nor shall he or she receive any further emolument other than his or her retirement pay for the performance of the aforesaid services.

History of Section.

(P.L. 1999, ch. 218, art. 4, § 1; P.L. 2007, ch. 73, art. 3, § 8; P.L. 2007, ch. 126, § 2; P.L. 2007, ch. 179, § 2.)

§ 8-8.2-10 No incremental retirement benefit for temporary service as chief justice, presiding justice or chief judge or chief magistrate. -

No increment in salary resulting from any rule or regulation providing for an increment in salary for temporary service as chief justice, presiding justice or chief magistrate shall be construed to add to the annual salary of a judicial officer for purposes of retirement under § 8-8.2-6 or §8-8.2-9.

History of Section.

P.L. 1999, ch. 218, art. 4, § 1; P.L. 2007, ch. 73, art. 3, § 8, eff. Aug. 1, 2007; P.L. 2011, ch. 63, § 2, eff. June 8, 2011; P.L. 2011, ch. 95, § 2, eff. June 21, 2011.

§ 8-8.2-11 Allowance to surviving spouses or domestic partners of deceased judges. – (a)

Whenever any judge of the administrative adjudication court or any judge of the administrative adjudication court who is reassigned by this chapter to the traffic tribunal dies after retirement or during active service while eligible for retirement, the judge's surviving spouse or domestic partner shall receive annually thereafter during his or her lifetime and so long as he or she remains unmarried or not in a domestic partnership, an amount equal to one third (1/3) of the annual payment that the administrative judge was receiving by way of salary or retirement pay at the time of his or her death. Whenever a judge of the administrative adjudication court or any judge of the administrative adjudication court who is reassigned by this act to the traffic tribunal shall die without having become eligible to retire under § 8-8.2-6 and has served ten (10) years or more in office, his or her surviving spouse or domestic partner shall receive annually thereafter during the spouse's or domestic partner's lifetime and so long as he or she remains unmarried or not in a domestic partnership, one fourth (1/4) of the annual salary that the judge was receiving at the time of his or her death.

(b) Any judge who retires under the provisions of § 8-8.2-6 may at his or her option elect to receive three fourths ($\frac{3}{4}$) of his or her retirement pay, and where the option is exercised by giving the general treasurer notice in writing thereof within two (2) years after the date of his or her retirement, his or her surviving spouse or domestic partner shall receive annually one half ($\frac{1}{2}$) of his or her retirement pay during the spouse's or domestic partner's lifetime so long as he or she remains unmarried or not in a domestic partnership.

History of Section.

P.L. 1999, ch. 218, art. 4, § 1; P.L. 2007, ch. 510, § 3, eff. Oct. 30, 2007; P.L. 2012, ch. 415, § 13, eff. June 22, 2012.

§ 8-8.2-12 Additional benefits payable to retired judges and their surviving spouses or domestic partners. – (a) All judges of the administrative adjudication court and all judges of the administrative adjudication court who have been reassigned to the traffic tribunal, or their surviving spouses or domestic partners, who retire after January 1, 1970 and who receive a retirement allowance pursuant to the provisions of this title, shall, on the first day of January, next following the third anniversary of the retirement, receive a cost of living retirement adjustment in addition to his or her retirement allowance in an amount equal to three percent (3%) of the original retirement allowance. In each succeeding year thereafter during the month of January, the retirement allowance shall be increased an additional three percent (3%) of the original allowance, compounded annually from the year cost of living adjustment was first payable to be continued during the lifetime of the judge or his or her surviving spouse or domestic partner. For the purpose of such computation, credit shall be given for a full calendar year regardless of the effective date of the retirement allowance.

(b) Any judge who retired prior to January 31, 1980, shall be deemed for the purpose of this section to have retired on January 1, 1980.

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

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

(d)(1) Notwithstanding the prior paragraphs of this section, and subject to paragraph (d)(2) below, for all present and former justices, active and retired justices, and beneficiaries receiving any retirement, disability or death allowance or benefit of any kind, whether provided for or on behalf of justices engaged on or prior to December 31, 1989 as a non-contributory justice or engaged after December 31, 1989 as a contributory justice, the annual benefit adjustment provided in any calendar year under this section shall be equal to (A) multiplied by (B) where (A) is equal to the percentage determined by subtracting five and one-half percent (5.5%) (the "subtrahend") from the Five-Year Average Investment Return of the retirement system determined as of the last day of the plan year preceding the calendar year in which the adjustment is granted, said percentage not to exceed four percent (4%) and not to be less than zero percent (0%), and (B) is equal to the lesser of the justice's retirement allowance or the first twenty-five thousand dollars (\$25,000) of retirement allowance, such twenty-five thousand dollars (\$25,000) amount to be indexed annually in the same percentage as determined under (d)(1)(A) above. The "Five-Year Average Investment Return" shall mean the average of the investment return of the most recent five (5) plan years as determined by the retirement board. Subject to paragraph (d)(2) below, the benefit adjustment provided by this paragraph shall commence upon the third (3rd) anniversary of the date of retirement or the date on which the retiree reaches his or her Social Security retirement age, whichever is later. In the event the retirement board adjusts the actuarially assumed rate of return for the system, either upward or downward, the subtrahend shall be adjusted either upward or downward in the same amount.

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

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

(3) Notwithstanding paragraph (d)(2), in each fifth plan year commencing after June 30, 2012, commencing with the plan year ending June 30, 2017, and subsequently at intervals of five (5) plan years, a benefit adjustment shall be calculated and made in accordance with paragraph (d)(1) above until the Funded Ratio of the Employees' Retirement System of Rhode Island, the Judicial Retirement Benefits Trust, and the State Police Retirement Benefits Trust, calculated by the system's actuary on an aggregate basis, exceeds eighty percent (80%).

(4) Notwithstanding any other provision of this chapter, the provisions of this paragraph (d) of § 8-8.2-12 shall become effective July 1, 2012, and shall apply to any benefit adjustment not granted on or prior to June 30, 2012.

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

(1)(A) As soon as administratively reasonable following the enactment into law of this subsection (e)(1)(A), a one-time benefit adjustment shall be provided to justices and/or beneficiaries of justices who retired on or before June 30, 2012, in the amount of two percent (2%) of the lesser of either the justice's retirement allowance or the first twenty-five thousand dollars (\$25,000) of the justice's retirement allowance. This one-time benefit adjustment shall be provided without regard to the retiree's age or number of years since retirement.

(B) Notwithstanding the prior subsections of this section, for all present and former justices, active and retired justices, and beneficiaries receiving any retirement, disability or death allowance or benefit of any kind, whether provided for or on behalf of justices engaged on or prior to December 31, 1989 as a non-contributory justice or engaged after December 31, 1989 as a contributory justice, the annual benefit adjustment provided in any calendar year under this section for adjustments on and after January 1, 2016, and subject to subsection (e)(2) below, shall be equal to (I) multiplied by (II):

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

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

(ii) Is equal to the lesser of three percent (3%) or the percentage increase in the Consumer Price Index for all Urban Consumers (CPI-U) as published by the U.S. Department of Labor Statistics determined as of September 30 of the prior calendar year.

In no event shall the sum of (i) plus (ii) exceed three and one-half percent (3.5%) or be less than zero percent (0%).

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

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

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

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

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

(3) Notwithstanding subsection (e)(2), effective for members and/or beneficiaries of members who retired on or before June 30, 2015, in each fourth plan year commencing after June 30, 2012, commencing with the plan year ending June 30, 2016, and subsequently at intervals of four plan years: (i) A benefit adjustment shall be calculated and made in accordance with subsection (e)(1)(B) above; and (ii) The dollar amount in subsection (e)(1)(B)(II) of twenty-five thousand eight hundred and fifty-five dollars (\$25,855) shall be replaced with thirty-one thousand and twenty-six dollars (\$31,026) until the funded ratio of the employees' retirement system of Rhode Island, the judicial retirement benefits trust, and the state police retirement benefits trust, calculated by the system's actuary on an aggregate basis, exceeds eighty percent (80%).

(A) Effective for members and or beneficiaries of members who have retired on or before July 1, 2015, a one-time stipend of five hundred dollars (\$500) shall be payable within sixty (60) days following the enactment of the legislation implementing this provision, and a second one-time stipend of five hundred dollars (\$500) in the same month of the following year. These stipends shall be payable to all retired members or beneficiaries receiving a benefit as of the applicable payment date and shall not be considered cost of living adjustments under the prior provisions of this § 8-8.2-12.

History of Section.

(P.L. 1999, ch. 218, art. 4, § 1; P.L. 2007, ch. 510, § 3; P.L. 2010, ch. 23, art. 16, § 4; P.L. 2011, ch. 408, § 18; P.L. 2011, ch. 409, § 18; P.L. 2015, ch. 141, art. 21, § 23.)

§ 8-8.2-13 Calculation of retirement benefits. – For the purposes of the calculation of retirement benefits, in the event that any judge of the administrative adjudication court or any judge of the administrative adjudication court who has been reassigned to the traffic tribunal by this chapter participates or acquiesces in a state shutdown or in a reduced salary or salary deferral plan consistent with any plan imposed upon or agreed to by other state employees, his or her annual salary shall be calculated as if she or he had not participated or acquiesced in any shutdown or plan.

History of Section.

(P.L. 1999, ch. 218, art. 4, § 1.)

§ 8-8.2-20 Domestic partner – Definition. – For purposes of this chapter, "domestic partner" shall be defined as a person who, prior to the decedent's death, was in an exclusive, intimate and committed relationship with the decedent, and who certifies by affidavit that their relationship met the following qualifications:

- (1) Both partners were at least eighteen (18) years of age and were mentally competent to contract;
- (2) Neither partner was married to anyone else;

- (3) Partners were not related by blood to a degree which would prohibit marriage in the state of Rhode Island;
- (4) Partners resided together and had resided together for at least one year at the time of death; and
- (5) Partners were financially interdependent as evidenced by at least two (2) of the following:
 - (i) Domestic partnership agreement or relationship contract;
 - (ii) Joint mortgage or joint ownership of primary residence;
 - (iii) Two (2) of: (A) joint ownership of motor vehicle; (B) joint checking account; (C) joint credit account; (D) joint lease; and/or
 - (iv) The domestic partner had been designated as a beneficiary for the decedent's will, retirement contract or life insurance.

History of Section.

(P.L. 2007, ch. 510, § 4.)

§ 8-10-3.2 General magistrate of the family court. – (a) There is hereby created within the family court the position of general magistrate of the family court who shall be appointed by the chief judge of the family court with the advice and consent of the senate for a term of ten (10) years and until a successor is appointed and qualified. Nothing herein shall be construed to prohibit the assignment of the general magistrate to more than one such term, subject to the advice and consent of the senate.

(b) The general magistrate shall be an attorney at law and a member in good standing of the Rhode Island bar.

(c) The primary function of the general magistrate shall be the enforcement of child support decrees, orders, and law relative to child support. The general magistrate shall have all the authority and powers vested in magistrates by virtue of §§ 8-10-3, 8-10-3.1, 9-15-19, 9-15-21, 9-14-26, 9-18-8, 9-18-9, and 36-2-3, and any other authority conferred upon magistrates by any general or public law or by any rule of procedure or practice of any court within the state.

(d) The chief justice of the supreme court with the agreement of the chief judge of the family court may specially assign the general magistrate to any court of the unified judicial system; provided, however, that the general magistrate may be assigned to the superior court subject to the prior approval of the presiding justice of the superior court. When the general magistrate is so assigned he or she shall be vested, authorized, and empowered with all the powers belonging to the magistrates of the court to which he or she is specially assigned.

(e) The general magistrate shall:

(1) Receive all credits and retirement allowances as afforded justices under chapter 3 of this title and any other applicable law;

(2) Be governed by the commission on judicial tenure and discipline, chapter 16 of this title, in the same manner as justices and workers' compensation judges;

(3) Be entitled to a special license plate under § 31-3-47;

(4) Receive a salary equivalent to that of a district court judge;

(5) Be subject to all the provisions of the canons of judicial ethics; and

(6) Be subject to all criminal laws relative to judges by virtue of §§ 11-7-1 and 11-7-2.

(f) The general magistrate of the family court who shall at the time of passage of this section hold the position of general magistrate, shall upon retirement, at his or her own request and at the direction of the chief justice of the supreme court, subject to the retiree's physical and mental competence, be assigned to perform such services as general magistrate of the family court, as

the chief judge of the family court shall prescribe. When so assigned and performing such service, the general magistrate shall have all the powers and authority of general magistrate of the family court, but otherwise shall have no powers nor be authorized to perform any judicial duties. For any such service or assignments performed after retirement, the general magistrate shall receive no compensation whatsoever, either monetary or in kind. Such a retired general magistrate shall not be counted in the number of judicial officers provided by law for the family court.

(g) The provisions of this section shall be afforded liberal construction.

History of Section.

P.L. 1987, ch. 52, § 1; P.L. 1998, ch. 442, § 2; P.L. 2003, ch. 198, § 1; P.L. 2003, ch. 201, § 1; P.L. 2007, ch. 73, art. 3, § 9, eff. July 1, 2007; P.L. 2012, ch. 207, § 1, eff. June 12, 2012; P.L. 2012, ch. 236, § 1, eff. June 12, 2012.

CHAPTER 8-16

Commission on Judicial Tenure and Discipline

§ 8-16-9 Retirement of judges for incapacity or disability. – (a) Whenever the commission shall, after investigation and hearing, determine that a judge has a physical or mental disability that seriously interfered and will continue to interfere with the performance of his or her duties, it may recommend to the supreme court the retirement of the judge, saving to the judge all retirement benefits that have accrued to him or her, if any. The investigation, hearing, and recommendation shall be confidential. A justice of the supreme court may not be retired under this section without his or her consent, and where consent to the retirement is withheld, a further recommendation shall be made to the speaker of the house of representatives to initiate proceedings for the removal of the judge pursuant to the provisions of article X, § 4 of the constitution.

(b) Whenever any judge has served in judicial office without having reached the prescribed age that would entitle him or her to retirement benefits, the commission, proceeding pursuant to subsection (a) of this section, may recommend to the supreme court that the judge be retired and that his or her pension rights be accelerated to become effective as of the date of his or her retirement. The supreme court may endorse the recommendation and may forward the recommendation to the general assembly for appropriate legislative action in order that his or her pension rights be so accelerated. Judges retired under this section shall be deemed to have retired voluntarily. Any judge shall be disqualified and prohibited from acting in his or her judicial capacity while any recommendation for his or her retirement, based upon physical or mental disability, is pending before the supreme court; provided, however, that the disqualification shall be without loss of compensation.

History of Section.

(P.L. 1974, ch. 136, § 1; P.L. 1982, ch. 204, § 2; P.L. 1987, ch. 492, § 1; P.L. 1990, ch. 30, § 3.)

CHAPTER 23-4 Office of State Medical Examiners

§ 23-4-5 Chief medical examiner – Assistants and other staff. –(a) The office shall be under the immediate supervision of a chief, who shall be known as the “chief medical examiner” and who shall be a physician licensed under the provisions of chapter 37 of title 5 and a qualified pathologist, certified by the American Board of Pathology and who has had forensic training or experience. He or she shall be appointed by the director of health as shall the deputy chief medical examiner with the advice of the medical examiner's commission. The chief medical examiner shall be in the unclassified service and the deputy chief medical examiner shall be in the classified service.

(b) The chief medical examiner shall appoint, with the approval of the director of health, assistant medical examiners and shall hire other staff as necessary to carry out the provisions of this chapter.

(c) Persons employed full time at the time of enactment of this chapter within the division of medical examiners in the department of the attorney general shall be transferred to the office of state medical examiners with their former rights and privileges of employment. For members eligible to retire on or before June 30, 2012, such members shall be eligible for retirement benefits after the age of fifty (50) years and service of twenty (20) years, including service within the division of medical examiners. For members eligible to retire on or after July 1, 2012, such members shall be eligible for retirement benefits in accordance with chapters 8 through 10 of title 36.

History of Section.

P.L. 1973, ch. 169, § 1; P.L. 1992, ch. 400, § 1; P.L. 2011, ch. 408, § 21, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 21, eff. Nov. 18, 2011.

**Title 28 Chapters 30 & 33 Workers
Compensation Court Judges**

**CHAPTER 28-30
Workers' Compensation Court**

§ 28-30-15 Retirement of judges engaged on or before July 2, 1997, on reduced pay. – (a) Whenever any person engaged as a judge on or before July 2, 1997, has served as a workers' compensation judge for twenty (20) years, or has so served for ten (10) years and has reached the age of sixty-five (65) years, he or she may retire from active service and subsequently he or she shall receive annually during life a sum equal to three-fourths ($\frac{3}{4}$) of the annual salary that he or she was receiving at the time of retirement. In determining eligibility under this section, any judge who has served as a general officer may include that service as if that service had been on the workers' compensation court. Whenever a judge or magistrate shall be granted a leave of absence without pay, such absence shall not be credited towards active service time for the purposes of retirement.

(b) Any judge who retires in accordance with the provisions of this section may at his or her own request and at the direction of the chief justice of the supreme court, subject to the retiree's physical and mental competence, be assigned to perform any services that a judge on the workers' compensation court as the chief judge prescribes. When so assigned and performing those services, he or she shall have all the powers and authority of a judge. A retired judge shall not be counted in the number of judges provided by law for the workers' compensation court. Whenever a judge shall be granted a leave of absence without pay, such absence shall not be credited towards active service time for the purposes of retirement.

History of Section.

(P.L. 1971, ch. 146, § 1; P.L. 1982, ch. 203, § 1; P.L. 1987, ch. 415, § 1; P.L. 1997, ch. 93, § 3; P.L. 2007, ch. 126, § 3; P.L. 2007, ch. 179, § 3; P.L. 2013, ch. 30, § 1; P.L. 2013, ch. 40, § 1; P.L. 2014, ch. 78, § 2; P.L. 2014, ch. 87, § 2.)

§ 28-30-15.1 Retirement of judges engaged after July 2, 1997. – (a) Whenever any person first engaged as a judge:

(1) Subsequent to July 2, 1997 and prior to January 1, 2009, has served as a workers' compensation judge for twenty (20) years, or has so served for ten (10) years and has reached the age of sixty-five (65) years, he or she may retire from active service and subsequently he or she shall receive annually during life a sum equal to three-fourths ($\frac{3}{4}$) of his or her average highest three (3) consecutive years of compensation;

(2) On or after January 1, 2009 and prior to July 1, 2009, has served as a workers' compensation judge for twenty (20) years or has so served for ten (10) years and reached the age of sixty-five (65) years, he or she may retire from active service and subsequently he or she shall receive annually during life a sum equal to seventy percent (70%) of his or her average highest three (3) consecutive years or compensation.

(3) On or after July 1, 2009, has served as a workers' compensation judge for twenty (20) years, or has served for ten (10) years, and reached the age of sixty-five (65) years, he or she may retire from

regular active service and thereafter said justice shall receive annually during his or her life a sum equal to sixty-five (65%) percent of his or her average highest five (5) consecutive years of compensation.

(b) In determining eligibility under this section, any judge who has served as a general officer may include that service as if that service had been on the workers' compensation court. Whenever a judge shall be granted a leave of absence without pay, such absence shall not be credited towards active service time for the purposes of retirement.

(c) Any judge who retires in accordance with the provisions of this section may at his or her own request and at the direction of the chief justice of the supreme court subject to the retiree's physical and mental competence, be assigned to perform those services that a judge on the workers' compensation court as the chief judge prescribes. When so assigned and performing those services, he or she shall have all the powers and authority of a judge. A retired judge shall not be counted in the number of judges provided by law for the workers' compensation court.

History of Section.

(P.L. 1997, ch. 93, § 4; P.L. 2007, ch. 126, § 3; P.L. 2007, ch. 179, § 3; P.L. 2008, ch. 100, art. 35, § 3; P.L. 2009, ch. 68, art. 7, § 7; P.L. 2013, ch. 30, § 1; P.L. 2013, ch. 40, § 1; P.L. 2014, ch. 78, § 2; P.L. 2014, ch. 87, § 2.)

§ 28-30-15.2 No incremental retirement benefit for temporary service as chief justice, presiding justice or chief judge retired pursuant to § 28-30-15 or 28-30-15.1. – No increment in salary resulting from the temporary service as chief justice, presiding justice or chief judge shall be construed to add to the annual salary of a judicial officer for purposes of retirement under § 28-30-15 or 28-30-15.1.

History of Section.

(P.L. 1997, ch. 93, § 4; P.L. 2014, ch. 78, § 2; P.L. 2014, ch. 87, § 2.)

§ 28-30-16 Retirement of judges engaged on or before July 2, 1997, on full pay. – (a) Whenever any person engaged as a judge on or before July 2, 1997, has served as a workers' compensation judge for twenty (20) years and has reached the age of sixty-five (65) years, or has served for fifteen (15) years and reached the age of seventy (70) years, he or she may retire from regular active service and subsequently he or she shall receive annually during his or her life a sum equal to the annual salary he or she was receiving at the time of his or her retirement. Whenever a judge or magistrate shall be granted a leave of absence without pay, such absence shall not be credited towards active service time for the purposes of retirement.

(b) Any judge who retires in accordance with the provisions of this section shall at the direction of the chief justice of the supreme court, subject to the retiree's physical and mental competence, be assigned to perform those services that a judge as the chief judge prescribes. When so assigned and performing that service, the retiree shall have all the powers and authority of a judge. The retired judge shall not be counted in the number of judges provided by law for the workers' compensation court.

History of Section.

(P.L. 1971, ch. 146, § 1; P.L. 1987, ch. 415, § 1; P.L. 1997, ch. 93, § 3; P.L. 2007, ch. 126, § 3; P.L. 2007, ch. 179, § 3; P.L. 2013, ch. 30, § 1; P.L. 2013, ch. 40, § 1.)

§ 28-30-16.1 Salary for service after retirement. – Any workers' compensation judge who retires in accordance with the provisions of §§ 28-30-15 and 28-30-16, and who is subsequently assigned to perform services in accordance with §§ 28-30-15 and 28-30-16, and when so assigned and performing

that service, shall receive in addition to his or her retirement pension the difference in pay and fringe benefits between what he or she was entitled to receive under §§ 28-30-15 and 28-30-16 prior to exercising his or her options under § 28-30-17, and what a judge with comparable state service time is receiving as a judge of the workers' compensation court to which he or she is assigned.

History of Section.

(P.L. 1987, ch. 415, § 2.)

§ 28-30-16.2 Retirement of judges engaged after July 2, 1997, on full pay. – (a) Whenever any person first engaged as a judge:

(1) Subsequent to July 2, 1997 and prior to January 1, 2009, has served as a workers' compensation judge for twenty (20) years and has reached the age of sixty-five (65) years, or has served for fifteen (15) years and reached the age of seventy (70) years, he or she may retire from regular active service and subsequently he or she shall receive annually during his or her life a sum equal to his or her average highest three (3) consecutive years of compensation;

(2) On or after January 1, 2009 and prior to July 1, 2009 has served as a workers' compensation judge for twenty (20) years and has reached the age of sixty-five (65) years, or has served for fifteen (15) years and reached the age of seventy (70) years, he or she may retire from regular active service and subsequently he or she shall receive annually during his or her life a sum equal to ninety percent (90%) of his or her average highest three (3) consecutive years of compensation.

(3) On or after July 1, 2009 has served as a workers' compensation judge for twenty (20) years and has reached the age of sixty-five (65) years, or has served for fifteen (15) years and reached the age of seventy (70) years, he or she may retire from regular active service and subsequently he or she shall receive annually during his or her life a sum equal to eighty percent (80%) of his or her average highest five (5) consecutive years of compensation.

(b) Whenever a judge or magistrate shall be granted a leave of absence without pay, such absence shall not be credited towards active service time for the purposes of retirement.

(c) Any judge who retires in accordance with the provisions of this section shall at the direction of the chief justice of the supreme court, subject to the retiree's physical and mental competence be assigned to perform those services as a judge that the chief judge prescribes. When so assigned and performing that service, the retiree shall have all the powers and authority of a judge. The retired judge shall not be counted in the number of judges provided by law for the workers' compensation court.

History of Section.

(P.L. 1997, ch. 93, § 4; P.L. 2007, ch. 126, § 3; P.L. 2007, ch. 179, § 3; P.L. 2008, ch. 100, art. 35, § 3; P.L. 2009, ch. 68, art. 7, § 7; P.L. 2013, ch. 30, § 1; P.L. 2013, ch. 40, § 1.)

§ 28-30-16.3 No incremental retirement benefit for temporary service as chief justice, presiding justice or chief judge retired pursuant to § 28-30-16 or 28-30-16.2. – No increment in salary resulting from the temporary service as chief justice, presiding justice or chief judge shall be construed to add to the annual salary of a judicial officer for purposes of retirement under § 28-30-16 or 28-30-16.2.

History of Section.

(P.L. 1997, ch. 93, § 4; P.L. 2014, ch. 78, § 2; P.L. 2014, ch. 87, § 2.)

§ 28-30-17 Allowance to surviving spouses, domestic partners of deceased judges. – (a)

Whenever any judge of the workers' compensation court who was engaged as a judge prior to January 1, 2009 dies after retirement or during active service while eligible for retirement or during active service after having served fifteen (15) years or more in office, his or her surviving spouse or domestic partner shall receive annually thereafter during his or her lifetime and so long as he or she remains unmarried or not in a domestic partnership, an amount equal to one-half ($1/2$) of the annual payment that the judge was receiving by way of salary or retirement pay at the time of his or her death.

(b) For those engaged as a judge on or after January 1, 2009, and prior to July 1, 2009, the judge may elect to receive retirement pay that is reduced by an additional ten percent (10%) of the average of the highest three (3) consecutive years annual compensation (i.e., ninety percent (90%) reduced to eighty percent (80%) or seventy percent (70%) reduced to sixty percent (60%)) and where such option is exercised by giving the general treasurer notice in writing thereof within ninety (90) days after the date of his or her retirement his or her surviving spouse or domestic partner or minor children shall receive annually one-half ($1/2$) of his or her retirement pay during his or her lifetime so long as he or she remains unmarried or not in a domestic partnership, or the children are under twenty-one (21) years of age; provided, however, for any judge engaged on or after July 1, 2009, the reduction shall be based upon the average of the highest five (5) years consecutive annual compensation.

(c)(1) Any judge of the courts who is engaged as a judge on or after July 1, 2012 and who elects to receive a retirement pay that is reduced, shall receive a lesser retirement allowance as determined by actuarial calculation, which shall be payable throughout life with the provision that:

(i) **Option 1.** Upon the justice's death, the justice's lesser retirement allowance shall be continued throughout the life of and paid to such person having an insurable interest in the justice's life, as the judge shall nominate by written designation duly acknowledged and filed with the retirement board at the time of his or her retirement.

(ii) **Option 2.** Upon the justice's death, one-half ($1/2$) of the judge's lesser retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in the judge's life, as the judge shall nominate by written designation duly acknowledged and filed with the retirement board at the time of the beneficiary's retirement.

(2) For purposes of any election under this section the judge may designate more than one person to receive benefits after his or her death, provided that the designation shall specify the portion of the actuarial equivalent of the judge's retirement allowance to be paid to each person, and provided further that the aggregate actuarial value of the portions shall not exceed the actuarial equivalent of the judge's retirement benefit determined in the case of an election under this section as of the date of the judge's retirement.

(3) A judge selecting more than one person to receive benefits under this section may only select beneficiaries from among his or her children, adopted children, step-children, and/or spouse or domestic partner.

(d) Whenever a judge of the workers' compensation court dies without having become eligible to retire either under § 28-30-15 or 28-30-16 and has served seven (7) years or more in office, his or her surviving spouse or domestic partner shall receive annually thereafter during his or her lifetime and so long as he or she remains unmarried or not in a domestic partnership one-third ($1/3$) of the annual salary that the judge was receiving at the time of his or her death.

(e) Whenever any judge of the workers' compensation court who was engaged as a judge on or after January 1, 2009 dies during active service while eligible for retirement or during active service after having served fifteen (15) years or more in office, his or her surviving spouse or domestic partner shall receive annually thereafter during his or her lifetime and so long as he or she remains unmarried or not in a domestic partnership, an amount equal to one-half (1/2) of the annual payment that the judge was receiving by way of salary or retirement pay at the time of his or her death.

(f) Whenever a judge of the workers' compensation court dies without having become eligible to retire either under § 28-30-15 or 28-30-16 and has not served seven (7) years in office, his or her surviving spouse or domestic partner shall subsequently receive annually during his or her lifetime and so long as he or she remains unmarried or not in a domestic partnership, one fourth (1/4) of the annual salary that the judge was receiving at the time of his or her death.

(g) In the event the deceased judge has no surviving spouse or domestic partner or the surviving spouse or domestic partner predeceases their minor children, the benefits conferred by this section shall be received in equal shares by the minor children, if any, until each attains the age of twenty-one (21) years.

History of Section.

P.L. 1971, ch. 146, § 1; P.L. 1983, ch. 27, § 1; P.L. 1987, ch. 56, § 1; P.L. 1987, ch. 415, § 1; P.L. 1990, ch. 30, § 2; P.L. 2007, ch. 510, § 7, eff. Oct. 30, 2007; P.L. 2008, ch. 100, art. 35, § 3, eff. June 26, 2008; P.L. 2009, ch. 68, art. 7, § 14, eff. July 1, 2009; P.L. 2011, ch. 408, § 19, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 19, eff. Nov. 18, 2011.

§ 28-30-18 Additional benefits payable to retired judges and their surviving spouses or domestic partners. – (a) All judges of the workers' compensation court, or their surviving spouses or domestic partners, who retire after January 1, 1970 and who receive a retirement allowance pursuant to the provisions of this title, shall, on the first day of January next following the third anniversary date of their retirement, receive a cost of living retirement adjustment in addition to his or her retirement allowance in an amount equal to three percent (3%) of the original retirement allowance. In each succeeding subsequent year during the month of January the retirement allowance shall be increased an additional three percent (3%) of the original allowance, compounded annually from the year the cost of living adjustment was first payable to be continued during the lifetime of that judge or his or her surviving spouse or domestic partner. For the purpose of that computation, credit shall be given for a full calendar year regardless of the effective date of the retirement allowance.

(b) Any judge who retired prior to January 31, 1980, shall be deemed for the purpose of this section to have retired on January 1, 1980.

(c) For judges not eligible to retire as of September 30, 2009 and not eligible upon passage of this article, and for their beneficiaries, the cost of living adjustment described in subsection (a) above shall only apply to the first thirty-five thousand dollars (\$35,000) of retirement allowance, indexed annually, and shall commence upon the third (3rd) anniversary of the date of retirement or when the retiree reaches age sixty-five (65), whichever is later. The thirty-five thousand dollar

(\$35,000) limit shall increase annually by the percentage increase in the Consumer Price Index for all Urban Consumer (CPI-U) as published by the United States Department of Labor Statistics determined as of September 30 of the prior calendar year or three percent (3%), whichever is less. The first thirty-five thousand dollars (\$35,000), as indexed, of retirement allowance shall be multiplied by the percentage of increase in the Consumer Price Index for all Urban Consumers (CPI-U) as published by the United States Department of Labor Statistics determined as of September 30 of the prior calendar year or three percent (3%), whichever is less on the month following the anniversary date of each succeeding year. For judges eligible to retire as of September 30, 2009 or eligible upon passage of this article, and for their beneficiaries, the provisions of this subsection (c) shall not apply.

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

(1) Notwithstanding the prior paragraphs of this section, and subject to paragraph (d)(2) below, for all present and former justices, active and retired justices, and beneficiaries receiving any retirement, disability or death allowance or benefit of any kind, whether provided for or on behalf of justices engaged on or prior to December 31, 1989 as a non-contributory justice or engaged after December 31, 1989 as a contributory justice, the annual benefit adjustment provided in any calendar year under this section shall be equal to (A) multiplied by (B) where (A) is equal to the percentage determined by subtracting five and one-half percent (5.5%) (the "subtrahend") from the Five-Year Average Investment Return of the retirement system determined as of the last day of the plan year preceding the calendar year in which the adjustment is granted, said percentage not to exceed four percent (4%) and not to be less than zero percent (0%), and (B) is equal to the lesser of the justice's retirement allowance or the first twenty-five thousand dollars (\$25,000) of retirement allowance, such twenty-five thousand dollars (\$25,000) amount to be indexed annually in the same percentage as determined under (d)(1)(A) above. The "Five-Year Average Investment Return" shall mean the average of the investment return of the most recent five (5) plan years as determined by the retirement board. Subject to paragraph (d)(2) below, the benefit adjustment provided by this paragraph shall commence upon the third (3rd) anniversary of the date of retirement or the date on which the retiree reaches his or her Social Security retirement age, whichever is later. In the event the retirement board adjusts the actuarially assumed rate of return for the system, either upward or downward, the subtrahend shall be adjusted either upward or downward in the same amount.

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

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

(3) Notwithstanding paragraph (d)(2), in each fifth plan year commencing after June 30, 2012 commencing with the plan year ending June 30, 2017, and subsequently at intervals of five (5) plan years, a benefit adjustment shall be calculated and made in accordance with paragraph (d)(1) above until the Funded Ratio of the Employees' Retirement System of Rhode Island, the Judicial Retirement Benefits Trust and the State Police Retirement Benefits Trust, calculated by the system's actuary on an aggregate basis, exceeds eighty percent (80%).

(4) Notwithstanding any other provision of this chapter, the provisions of this paragraph (d) of § 28-30-18 shall become effective July 1, 2012 and shall apply to any benefit adjustment not granted on or prior to June 30, 2012.

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

(1)(A) As soon as administratively reasonable following the enactment into law of this subsection (e)(1)(A), a one-time benefit adjustment shall be provided to justices and/or beneficiaries of justices who retired on or before June 30, 2012, in the amount of two percent (2%) of the lesser of either the justice's retirement allowance or the first twenty-five thousand dollars (\$25,000) of the justice's retirement allowance. This one-time benefit adjustment shall be provided without regard to the retiree's age or number of years since retirement.

(B) Notwithstanding the prior subsections of this section, for all present and former justices, active and retired justices, and beneficiaries receiving any retirement, disability or death allowance or benefit of any kind, whether provided for or on behalf of justices engaged on or prior to December 31, 1989 as a non-contributory justice or engaged after December 31, 1989 as a contributory justice, the annual benefit adjustment provided in any calendar year under this section for adjustments on and after January 1, 2016, and subject to subsection (e)(2) below, shall be equal to (I) multiplied by (II):

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

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

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

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

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

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

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

(3) Notwithstanding subsection (e)(2), in each fourth plan year commencing after June 30, 2012 commencing with the plan year ending June 30, 2016, and subsequently at intervals of four plan years: (i) A benefit adjustment shall be calculated and made in accordance with subsection (e)(1)(B) above; and (ii) Effective for members and/or beneficiaries of members who retired on or before June 30, 2015, the dollar amount in subsection (e)(1)(B)(II) of twenty-five thousand eight hundred and fifty-five dollars (\$25,855) shall be replaced with thirty-one thousand and twenty-six dollars (\$31,026) until the funded ratio of the employees' retirement system of Rhode Island, the judicial retirement benefits trust and the state police retirement benefits trust, calculated by the system's actuary on an aggregate basis, exceeds eighty percent (80%).

(4) Effective for members and or beneficiaries of members who have retired on or before July 1, 2015, a one-time stipend of five hundred dollars (\$500) shall be payable within sixty (60) days following the enactment of the legislation implementing this provision, and a second one-time stipend of five hundred dollars (\$500) in the same month of the following year. These stipends shall be payable to all retired members or beneficiaries receiving a benefit as of the applicable payment date and shall not be considered cost of living adjustments under the prior provisions of this § 8-8.2-12.

History of Section.

(P.L. 1983, ch. 295, § 1; P.L. 2007, ch. 510, § 7; P.L. 2010, ch. 23, art. 16, § 5; P.L. 2011, ch. 408, § 19; P.L. 2011, ch. 409, § 19; P.L. 2015, ch. 141, art. 21, § 24.)

§ 28-30-18.1 Retirement contribution. –(a) Workers' compensation judges engaged after December 31, 1989, shall have deducted from total salary beginning December 31, 1989 and

ending on June 30, 2012, an amount equal to a rate percent of compensation as specified in § 36-10-1 relating to member contributions to the state retirement system. Effective July 1, 2012, all active workers' compensation judges whether engaged before or after December 31, 1989, shall have deducted from compensation as defined in § 36-8-1(8) an amount equal to twelve percent (12%) of compensation. The receipts collected under this provision shall be deposited in a restricted revenue account entitled "workers' compensation judges' retirement benefits". Proceeds deposited in this account shall be held in trust for the purpose of paying retirement benefits to participating judges or their beneficiaries. The retirement board shall establish rules and regulations to govern the provisions of this section.

(b) A judge of the court who withdraws from service or ceases to be a judge for any reason other than retirement shall be paid on demand a refund consisting of the accumulated contributions standing to his or her credit in his or her individual account in the workers' compensation judges' retirement benefits account. Any judge receiving a refund shall forfeit and relinquish all accrued rights as a member of the system together with credits for total service previously granted to the judge; provided, that if any judge who has received a refund subsequently reenters the service and again becomes a member of the system, he or she shall have the privilege of restoring all money previously received or disbursed to his or her credit as refund of contributions, together with regular interest for the time period from the date of refund to the date of restoration. Upon the repayment of the refund, the judge shall again receive credit for the amount of total service that he or she had previously forfeited by the acceptance of the refund.

(c) Whenever any judge of the workers' compensation court dies from any cause before retirement and has no surviving spouse, domestic partner or minor child(ren), a payment shall be made of the accumulated contributions standing to his or her credit in his or her individual account in the workers' compensation judges' retirement account. The payment of the accumulated contributions of the judge shall be made to such person as the judge shall have nominated by written designation duly executed and filed with the retirement board, or if the judge has filed no nomination, or if the person so nominated has died, then to the estate of the deceased judge.

History of Section.

P.L. 1987, ch. 118, art. 15, § 4; P.L. 1988, ch. 129, art. 22, § 4; P.L. 1989, ch. 494, § 7; P.L. 1990, ch. 507, § 5; P.L. 2007, ch. 167, § 3, eff. June 30, 2007; P.L. 2007, ch. 274, § 3, eff. July 6, 2007; P.L. 2011, ch. 408, § 19, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 19, eff. Nov. 18, 2011.

§ 28-30-18.2 State contributions. – The state of Rhode Island shall make its contribution for the maintaining of the system established by § 28-30-18.1 and providing the annuities, benefits, and retirement allowances in accordance with the provisions of this chapter by annually appropriating an amount which will pay a rate percent of the compensation paid after December 31, 1989, to judges engaged after December 31, 1989. The rate percent shall be computed and certified in accordance with the procedures set forth in §§ 36-8-13 and 36-10-2 under rules and regulations promulgated by the retirement board pursuant to § 36-8-3.

History of Section.

(P.L. 1989, ch. 494, § 8; P.L. 1990, ch. 507, § 6.)

§ 28-30-19 [Repealed].

§ 28-30-20 Calculation of retirement benefits. – For purposes of the calculation of retirement benefits, in the event that any judge of the workers' compensation court who participates or acquiesces in a state shutdown or in a reduced salary or a salary deferral plan consistent with any plan imposed upon or agreed to by other state employees, his or her annual salary shall be calculated as if he or she had not participated or acquiesced in any shutdown or plan.

History of Section.

(P.L. 1991, ch. 129, § 5; P.L. 1991, ch. 174, § 5.)

§ 28-30-24 Domestic partner – Definition. – For purposes of this chapter, "domestic partner" shall be defined as a person who, prior to the decedent's death, was in an exclusive, intimate and committed relationship with the decedent, and who certifies by affidavit that their relationship met the following qualifications:

- (1) Both partners were at least eighteen (18) years of age and were mentally competent to contract;
- (2) Neither partner was married to anyone else;
- (3) Partners were not related by blood to a degree which would prohibit marriage in the state of Rhode Island;
- (4) Partners resided together and had resided together for at least one year at the time of death; and
- (5) Partners were financially interdependent as evidenced by at least two (2) of the following:
 - (i) Domestic partnership agreement or relationship contract;
 - (ii) Joint mortgage or joint ownership of primary residence;
 - (iii) Two (2) of: (A) joint ownership of motor vehicle; (B) joint checking account; (C) joint credit account; (D) joint lease; and/or
 - (iv) The domestic partner had been designated as a beneficiary for the decedent's will, retirement contract or life insurance.

History of Section.

(P.L. 2007, ch. 510, § 8.)

§ 28-30-25 Severability. – The holding of any section or sections or parts of this chapter to be void, ineffective, or unconstitutional for any cause shall not be deemed to affect any other section or part hereof.

History of Section.

P.L. 2011, ch. 408, § 20, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 20, eff. Nov. 18, 2011.

CHAPTER 28-33

Workers' Compensation – Benefits

§ 28-33-45 Coordination of benefits. – (a) The department of labor and training shall immediately promulgate rules and regulations concerning the offset of workers' compensation benefits and retirement benefits. It is the intention of the general assembly that at retirement a person receiving benefits under chapters 29 – 38 of this title shall receive compensation and retirement benefits in a sum equal to the greater of the compensation or retirement benefits for which that person was otherwise eligible, however, not including retirement benefits to the extent derived exclusively from employee contributions.

(b) The offset provided for pursuant to this section shall not be applicable to those collecting retirement benefits while collecting compensation benefits for an injury sustained before the age of fifty-five (55) years and more than five (5) years prior to the date of retirement.

(c) An employee shall not collect any indemnity benefits after his or her retirement for any injury sustained less than two (2) years prior to his or her retirement.

History of Section.

(P.L. 1992, ch. 31, § 9.)

Title 42 Chapter 28 State Police

CHAPTER 42-28 State Police

§ 42-28-1 Definitions. – Whenever the word "division" is used in this chapter, it shall be deemed to mean the division of state police herein created, and whenever the word "superintendent" is used, it shall be deemed to mean the superintendent of the division of state police.

History of Section.

(P.L. 1925, ch. 588, § 16; G.L. 1938, ch. 8, § 17; G.L. 1956, § 42-28-1.)

§ 42-28-2 Establishment – Superintendent – General duties. – Within the department of public safety there shall be the Rhode Island state police. The head of the state police shall be the superintendent of state police who shall be a qualified police administrator and shall be appointed by the governor, shall serve at his or her pleasure and shall have the rank of full colonel. The state police shall perform the duties required by this chapter; and chapter 47 of title 11; and by all other provisions of the general laws and public laws, insofar as those powers and duties relate to the Rhode Island state police and the superintendent of state police. The superintendent shall appoint and supervise such officers as may be required by law.

History of Section.

(P.L. 1939, ch. 660, § 20; P.L. 1949, ch. 2346, § 2; G.L. 1956, § 42-28-2; P.L. 2008, ch. 100, art. 9, § 14.)

§ 42-28-3 Scope of responsibilities. – (a) The Rhode Island state police and the superintendent shall be charged with the responsibility of:

- (1) Providing a uniformed force for law enforcement;
 - (2) Preparing rules and regulations for law enforcement;
 - (3) Maintaining facilities for crime detection and suppression; and
 - (4) Controlling traffic and maintaining safety on the highways.
- (b) The superintendent shall be ex-officio state fire marshal.
- (c) The superintendent shall also serve as the director of the department of public safety.

History of Section.

(P.L. 1939, ch. 660, § 21; G.L. 1956, § 42-28-3; P.L. 2007, ch. 340, § 27; P.L. 2008, ch. 100, art. 9, § 14.)

§ 42-28-4 Composition of division. – There shall be a division of state police consisting of the following members: a superintendent who shall have the rank of full colonel; as many captains as the superintendent shall deem necessary, two lieutenant colonels, three majors; as many lieutenants as the superintendent shall deem necessary; and such other personnel, the number and rank of whom shall be designated by the superintendent, and the general assembly shall annually appropriate such sum as it may deem necessary for the payment of the salaries of the members of the division. The member of the Rhode Island state police who shall be assigned by the superintendent to execute the duties of deputy superintendent shall have the rank of lieutenant colonel.

History of Section.

(P.L. 1925, ch. 588, § 1; P.L. 1927, ch. 962, § 1; P.L. 1929, ch. 1369, § 1; P.L. 1930, ch. 1583, § 1; P.L. 1935, ch. 2250, § 149; P.L. 1935, ch. 2263, § 1; P.L. 1936, ch. 2384, § 1; G.L. 1938, ch. 8, § 1; P.L. 1949, ch. 2346, § 1; P.L. 1950, ch. 2435, § 1; G.L. 1956, § 42-28-4; P.L. 1991, ch. 87, § 1; P.L. 2008, ch. 100, art. 9, § 14.)

§ 42-28-5 Superintendent – Appointment, tenure, duties, and retirement. – (a) The governor shall appoint the superintendent of state police, who shall serve at the pleasure of the governor and shall perform the duties prescribed by this chapter.

(b) Any superintendent who has served for at least ten (10) years and has reached the age of sixty (60) years, may resign his or her office, and thereafter shall receive annually during his or her life a sum equal to fifty percent (50%) of the salary he or she was receiving at the time of his or her resignation, or for any superintendent hired on or after July 1, 2012 a sum equal to fifty percent (50%) of the average compensation as defined in 36-8-1(5)(a) he or she was receiving at the time of his or her resignation.

(c) In no event shall the retirement allowance granted to a superintendent in accordance with subsection (b) plus any other retirement allowance received by the superintendent from any state or municipal retirement system exceed seventy-five percent (75%) of the average compensation as defined in 36-8-1(5)(a) he or she was receiving at the time of his or her resignation. This subsection (c) shall only apply to superintendents hired on or after July 1, 2012.

History of Section.

P.L. 1925, ch. 588, § 2; P.L. 1949, ch. 2346, § 1; P.L. 1970, ch. 195, § 1; P.L. 1972, ch. 242, § 1; P.L. 2011, ch. 408, § 13, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 13, eff. Nov. 18, 2011.

§ 42-28-6 Superintendent's bond – Reports. – Before entering upon the duties of his or her office, the superintendent shall file with the secretary of state a bond to the state of Rhode Island in the sum of ten thousand dollars (\$10,000) with a surety or sureties to be approved by the general treasurer conditioned upon the faithful performance of his or her duties, and the premium on that bond shall be paid out of the appropriation for expenses of the division. The superintendent shall annually in the month of January make a report to the general assembly showing the activities of the division and shall also make such reports to the governor concerning the division as the governor shall request.

History of Section.

(P.L. 1925, ch. 588, § 3; G.L. 1938, ch. 8, § 3; G.L. 1956, § 42-28-6.)

§ 42-28-7 Deputy superintendent as acting superintendent. – The deputy superintendent shall, while there is a vacancy in the office of superintendent, be vested with all the powers and authority of superintendent.

History of Section.

(P.L. 1925, ch. 588, § 6; G.L. 1938, ch. 8, § 6; P.L. 1949, ch. 2346, § 1; G.L. 1956, § 42-28-7; P.L. 2008, ch. 100, art. 9, § 14.)

§ 42-28-8 Clerk of division. –

The superintendent may employ a clerk who shall be a competent stenographer, and the general assembly shall annually appropriate such sum as it may deem necessary for the payment of the salary of the clerk. The clerk shall be numbered among the personnel of the division within the meaning of §§ 42-28-21 and 42-28-22. Any clerk hired on or after July 1, 2012 shall be considered a civilian employee in accordance with the provisions of 42-28-22(g).

History of Section.

P.L. 1925, ch. 588, § 4; P.L. 1935, ch. 2250, § 149; P.L. 1961, ch. 117, § 1; P.L. 2011, ch. 408, § 13, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 13, eff. Nov. 18, 2011.

§ 42-28-9 Offices of superintendent. – The superintendent shall have suitable offices furnished and assigned to him or her by the department of administration.

History of Section.

(P.L. 1925, ch. 588, § 5; G.L. 1938, ch. 8, § 5; impl. am. P.L. 1951, ch. 2727, art. 1, § 2; G.L. 1956, § 42-28-9.)

§ 42-28-10 Appointment and removal of members. – The superintendent shall appoint the other members of the division authorized by this chapter for terms of three (3) years each, and may remove any member after a hearing, in accordance with the rules and regulations of the division, and no member so removed shall be eligible to reappointment. No person shall be eligible for appointment for the first time by the superintendent unless he or she shall be a citizen of the United States between the ages of eighteen (18) and thirty-five (35) years and shall have passed a physical and mental examination in accordance with the rules of the division.

History of Section.

(P.L. 1925, ch. 588, § 6; G.L. 1938, ch. 8, § 6; P.L. 1949, ch. 2346, § 1; G.L. 1956, § 42-28-10; P.L. 1984, ch. 81, § 23; P.L. 2008, ch. 100, art. 9, § 14.)

§ 42-28-11 Powers of superintendent – Rules and regulations. – The superintendent shall be the executive and administrative head of the state police, and he or she is hereby authorized, subject to the approval of the governor, to make rules and regulations not inconsistent with law for the examination and qualifications of applicants for appointment to the state police, for the discipline, control, and removal of the other members and relating to reimbursement for expenses properly incurred in the performance of their official duties, including an allowance for subsistence in an amount not less than six hundred dollars (\$600) per annum for members of the state police below the rank of lieutenant and in an amount not less than nine hundred dollars (\$900) per annum for members of the state police with the rank of lieutenant or higher than the rank of lieutenant.

History of Section.

(P.L. 1925, ch. 588, § 7; G.L. 1938, ch. 8, § 7; P.L. 1952, ch. 2906, § 1; P.L. 1952, ch. 3015, § 1; G.L. 1956, § 42-28-11; P.L. 1984, ch. 81, § 23.)

§42-28-11.1 Local police officers assigned to state police. – Local police officers assigned to the state police for the purposes of assignment on a statewide task force shall exercise the same powers of arrest exercised by a sworn member of the state police only when working on an investigation authorized under the authority of the superintendent of the state police and only when said arrest power is exercised in the local police officer's capacity as a member of the statewide task force. If a local police officer is assigned to a statewide task force for the purpose of investigation into criminal matters, generally, he or she shall exercise the same powers of arrest exercised by a sworn member of the state police only when working on an investigation authorized under the authority of the superintendent of the state police. The authorization for such local police officers acting under the authority of this statute shall be on file with the Rhode Island state police, and the police officer's local department. A local police officer's power of arrest obtained pursuant to this section shall be authorized only for as long as he or she is under the direct supervision of the superintendent of the state police. The officer's assignment shall be for the duration of the statewide task force or unless the superintendent of the state police

terminates the statewide task force prior to one year. The superintendent of the state police shall have the authority to reappoint a local police officer to an additional one year term.

History of Section.

P.L. 2012, ch. 114, § 1, eff. May 30, 2012; P.L. 2012, ch. 133, § 1, eff. May 30, 2012.

§ 42-28-12 Members assigned to towns. – Upon the request of the town council of any town, duly presented to the superintendent, that a member or members of the division be assigned to duty in that town, the superintendent, in his or her discretion, may assign a member or members of the division to duty in that town and thereupon the superintendent, in his or her judgment, may appoint a member or members of the division in addition to the number of members hereinabove provided for; provided, however, that upon making the request, the town shall agree to pay the salary and expenses of the member or members of the division during the period of such duty in the manner hereinafter specified. Each such additional member of the division shall thereupon become a member of the division of state police, and each member so assigned to duty as aforesaid shall during the period of such duty continue to be a member of the division of state police, but his or her salary and expenses shall be paid by the town requesting that he or she be assigned to duty therein. The superintendent shall have full power at all times to withdraw any member assigned to duty in that town and assign another member to his or her place or to discontinue such duty and to make no assignment to replace.

History of Section.

(P.L. 1925, ch. 588, § 20; P.L. 1926, ch. 833, § 1; P.L. 1927, ch. 998, § 1; P.L. 1925, ch. 588, § 1; P.L. 1929, ch. 1369, § 1; G.L. 1938, ch. 8, § 1; G.L. 1956, § 42-28-12.)

§ 42-28-13 Members assigned to department of environmental management. – Upon the request of the director of environmental management, duly presented to the superintendent, that a member or members of the division be assigned to duty with the department of environmental management, the superintendent, in his or her discretion, may assign a member or members of the division to duty with the department of environmental management, and thereupon the superintendent, in his or her judgment, may appoint a member or members of the division of state police in addition to the number of members hereinabove provided for; provided, however, that upon making the request, the director of environmental management shall agree to pay the salary and expenses of the member or members of the division of state police during the period of the duty in the manner hereinafter specified. Each such additional member of the division shall thereupon become a member of the division of state police, and each member so assigned to duty as aforesaid shall during the period of such duty continue to be a member of the division of state police, but his or her salary and expenses shall be paid by the director of environmental management. The superintendent shall have full power at all times to withdraw any member assigned to duty with the department of environmental management and assign another member to his or her place or to discontinue such duty and to make no assignment to replace.

History of Section.

(P.L. 1925, ch. 588, § 1; P.L. 1927, ch. 962, § 1; P.L. 1928, ch. 1140, § 1; P.L. 1929, ch. 1369, § 1; P.L. 1930, ch. 1512, § 1; G.L. 1938, ch. 8, § 1; G.L. 1956, § 42-28-13; impl. am. P.L. 1965, ch. 137.)

§ 42-28-14 Salary limits preserved – Honorable discharges. – Nothing in §§ 42-28-12 and 42-28-13 shall be construed to make it lawful for the superintendent or anyone acting for him or her to incur in behalf of the state any obligation for salaries in excess of the amount appropriated therefore, and the superintendent shall have the power to honorably discharge any member of the division of state police,

notwithstanding the provisions of § 42-28-10, and any member so discharged shall be eligible for reappointment.

History of Section.

(P.L. 1925, ch. 588, § 1; P.L. 1927, ch. 962, § 1; P.L. 1928, ch. 1140, § 1; P.L. 1929, ch. 1369, § 1; P.L. 1930, ch. 1512, § 1; G.L. 1938, ch. 8, § 1; G.L. 1956, § 42-28-14.)

§ 42-28-15 Buildings, stations, garages, and barracks. – The superintendent shall from time to time establish headquarters or substations in such localities as he or she shall deem most suitable for the protection of the rural and suburban portions of the state and for the efficient performance of police duty in all parts of the state, and for that purpose he or she may, with the approval of the governor, acquire the right to use lands and buildings for the accommodation of the division, but not for a period in excess of five (5) years. And the superintendent is hereby authorized and empowered to purchase land in the name and behalf of the state and to erect suitable buildings thereon for use as state police barracks and garages, whenever an appropriation shall become available for expenditure therefore.

History of Section.

(P.L. 1925, ch. 588, § 10; P.L. 1930, ch. 1579, § 1; G.L. 1938, ch. 8, § 10; G.L. 1956, § 42-28-15.)

§ 42-28-16 Statewide police telecommunications system. – The division of state police is hereby authorized and empowered to provide for the installation, operation, and maintenance of a computerized telecommunications system for the purpose of promptly collecting, exchanging, disseminating, and distributing information relating to police and divisional problems of the state and the several cities and towns. The system is to be installed, operated, and maintained in accordance with rules and regulations adopted from time to time by the superintendent of state police and units thereof located in such state departments and agencies and in such cities and towns as have organized police headquarters and are approved by the superintendent, and may connect directly or indirectly with similar systems in other states. The superintendent of state police is authorized to provide for the location of receiving system computer site and to employ the necessary personnel for its operation. The system shall be called the "Rhode Island Law Enforcement Telecommunications System" or "RILETS". The state departments and agencies and the cities and towns are authorized to provide at their own expense, within the appropriations provided by law, for the location of the terminal and telecommunications equipment and for the personnel and supplies for their proper operation. The character of communication sent and the time, place, and manner of sending messages and all matters in connection with the RILETS system shall be under the control and management of the superintendent of state police.

History of Section.

(P.L. 1935, ch. 2197, § 1; G.L. 1938, ch. 8, § 19; G.L. 1956, § 42-28-16; P.L. 1993, ch. 207, § 1.)

§ 42-28-17 Vehicles, equipment, and supplies. – The superintendent shall provide the Rhode Island state police with necessary motor vehicles, and other suitable equipment, uniforms, and supplies, all of which shall be and remain the property of the state. When any equipment shall become unfit for use, he or she shall have power to sell that equipment and shall pay all moneys received therefore to the general treasurer for the use of the state.

History of Section.

(P.L. 1925, ch. 588, § 11; G.L. 1938, ch. 8, § 11; P.L. 1944, ch. 1478, § 1; G.L. 1956, § 42-28-17.)

§ 42-28-18 Use of jails and places of detention. – Any jail, lockup, or other place of detention in charge of any officer of the state or of any county, city, or town thereof, shall at all reasonable hours be accessible to any member of the division for detention of prisoners; and a keeper thereof refusing to any member of the division the use of the jail, lockup, or other place of detention shall be punished by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100).

History of Section.

(P.L. 1925, ch. 588, § 13; G.L. 1938, ch. 8, § 14; G.L. 1956, § 42-28-18.)

§ 42-28-19 Police powers of members – Fees – Duties – Suppression of riots. – Members of the division shall have and may exercise in any part of the state, with regard to the enforcement of the criminal laws, all powers of sheriffs, deputy sheriffs, town sergeants, chiefs of police, police officers, and constables. Any person authorized to issue criminal process may direct that process to any member of the division. All fees received by members of the division in connection with the performance of their duties shall be paid to the general treasurer for the use of the state. It shall be the duty of its members to prevent and detect crime, to apprehend and assist in the prosecution of offenders, and to assist in the investigation and prosecution of any criminal matters within the state. The governor may command their services in the suppression of riots, but they shall not exercise their powers within the limits of any city to suppress rioting except by direction of the governor and upon the request of the mayor or chief of police of any city.

History of Section.

(P.L. 1925, ch. 588, § 8; G.L. 1938, ch. 8, § 8; G.L. 1956, § 42-28-19.)

§ 42-28-20 Attorney general as legal advisor. – The attorney general shall act as the legal advisor of the members of the division in all matters pertaining to their official duties, and shall prosecute all suits and proceedings which they may be authorized to commence, and shall appear for and defend them in all suits and proceedings which may be brought against any one of them in his or her official capacity, except at a hearing upon removal.

History of Section.

(P.L. 1925, ch. 588, § 9; G.L. 1938, ch. 8, § 9; G.L. 1956, § 42-28-20.)

§ 42-28-21 Injury and death benefits. – (a) If any member of the division whose service is terminated on or after January 1, 1960 shall have in the course of performance of his or her duties suffered injury causing disability or causing death, that member or his or her surviving dependent relatives, whose dependence shall be determined from time to time by the superintendent subject to confirmation by the governor, shall be entitled to an annual pension of seventy-five percent (75%) of the annual salary paid to that member at the time of his or her termination of service by reason of injury or death. In the event that the member thus disabled or killed in the performance of his or her official duties is the superintendent, then confirmation and determination provided by this section shall be made by the governor. The provisions of chapters 29 -- 38, inclusive, of title 28, shall not apply to members of the division.

(b) Upon the death of a member due to any cause other than that incurred while in the course of performance of his or her duties, occurring while in service or after retirement, if that member shall have rendered at least ten (10) years of service as a member of the Rhode Island state police, his or her surviving widow or domestic partner shall be entitled to a pension equal to two percent (2%) of his or her last annual salary as determined by the provision of § 42-28-22 as

amended herein for each year of service as a member of the state police, subject to a minimum pension of twenty-five percent (25%) of salary, and subject to the following conditions:

(1) The widow or widower or domestic partner shall have been married to or a domestic partner of the member at least one year on the date of death of the member or on the date of retirement, whichever first occurs, and in any event while the member was in active service;

(2) The widow or widower or domestic partner shall be at least forty (40) years of age, otherwise payment of the annuity shall be deferred until she attains such age;

(3) The annuity shall terminate in any event when he or she remarries or enters into a domestic partnership or dies.

(c) If a widow or widower or domestic partner shall have minor children in his or her care, payment of the annuity shall commence immediately regardless of whether the widow or widower or domestic partner shall have attained age forty (40) years or not. In such a case, the payment to the widow or widower or domestic partner shall be increased one-third (1/3) on account of each minor child, provided that the maximum payment shall be fifty percent (50%) of annual salary.

(d) Allowances on account of minor children shall terminate upon their attainment of age eighteen (18) and if unemancipated and a full-time student to age twenty-two (22) years, death, or marriage, whichever first occurs. In the event a widow or widower or domestic partner remarries or enters into a domestic partnership or dies, payment on account of minor children shall be increased to twice the amounts previously payable on account of the children, subject to a combined payment to all children equal to fifty percent (50%) of the final salary of the member.

(e) For purposes of this chapter, “domestic partner” shall be defined as a person who, prior to the decedent's death, was in an exclusive, intimate and committed relationship with the decedent, and who certifies by affidavit that their relationship met the following qualifications:

(1) Both partners were at least eighteen (18) years of age and were mentally competent to contract;

(2) Neither partner was married to anyone else;

(3) Partners were not related by blood to a degree which would prohibit marriage in the state of Rhode Island;

(4) Partners resided together and had resided together for at least one year at the time of death; and

(5) Partners were financially interdependent as evidenced by at least two (2) of the following:

(i) Domestic partnership agreement or relationship contract;

(ii) Joint mortgage or joint ownership of primary residence;

(iii) Two (2) of: (A) joint ownership of motor vehicle; (B) joint checking account; (C) joint credit account; (D) joint lease; and/or

(iv) The domestic partner had been designated as a beneficiary for the decedent's will, retirement contract or life insurance.

(f) Effective July 1, 2012, any reference in this section to “salary” or “annual salary” shall be changed to “average compensation” as defined in 36-8-1(5)(a).

History of Section.

P.L. 1925, ch. 588, § 12; P.L. 1950, ch. 2435, § 2; P.L. 1959, ch. 51, § 1; P.L. 1964, ch. 206, § 1; P.L. 1966, ch. 277, § 1; P.L. 1967, ch. 67, § 1; P.L. 1973, ch. 113, § 1; P.L. 1978, ch. 240, § 1; P.L. 1978, ch. 263, § 1; P.L. 1988, ch. 84, § 87; P.L. 2007, ch. 510, § 14, eff. Oct. 30, 2007; P.L. 2011, ch. 408, § 13, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 13, eff. Nov. 18, 2011.

§ 42-28-22 Retirement of members. – (a) Whenever any member of the state police hired prior to July 1, 2007 has served for twenty (20) years, he or she may retire therefrom or he or she may be retired by the superintendent with the approval of the governor, and in either event a sum equal to one-half (1/2) of the whole salary for the position from which he or she retired determined on the date he or she receives his or her first retirement payment shall be paid him or her during life.

(b) For purposes of this section, the term "whole salary" means:

(1) For each member who retired prior to July 1, 1966, "whole salary" means the base salary for the position from which he or she retired as the base salary for that position was determined on July 31, 1972;

(2) For each member who retired between July 1, 1966 and June 30, 1973, "whole salary" means the base salary for the position from which he or she retired as the base salary, implemented by the longevity increment, for that position was determined on July 31, 1972 or on the date of his or her retirement, whichever is greater;

(3) For each member who retired or who retires after July 1, 1973 "whole salary" means the base salary, implemented by the longevity increment, holiday pay, and clothing allowance, for the position from which he or she retired or retires.

(c)(1) Any member who retired prior to July 1, 1977 shall receive a benefits payment adjustment equal to three percent (3%) of his or her original retirement, as determined in subsection (b) of this section, in addition to his or her original retirement allowance. In each succeeding year thereafter during the month of January, the retirement allowance shall be increased an additional three percent (3%) of the original retirement allowance, not compounded, to be continued until January 1, 1991. For the purposes of the computation, credit shall be given for a full calendar year regardless of the effective date of the service retirement allowance. For purposes of this subsection, the benefits payment adjustment shall be computed from January 1, 1971 or the date of retirement, whichever is later in time.

(2) Any member of the state police who retires pursuant to the provisions of this chapter on or after January 1, 1977, shall on the first day of January, next following the third anniversary date of the retirement receive a benefits payment adjustment, in addition to his or her retirement allowance, in an amount equal to three percent (3%) of the original retirement allowance. In each succeeding year thereafter during the month of January, the retirement allowance shall be increased an additional three percent (3%) of the original retirement allowance, not compounded, to be continued until January 1, 1991. For the purposes of the computation, credit shall be given for a full calendar year regardless of the effective date of the service retirement allowance.

(3) Any retired member of the state police who is receiving a benefit payment adjustment pursuant to subdivisions (1) and (2) of this section shall beginning January 1, 1991 and ending June 30, 2012, receive a benefits payment adjustment equal to fifteen hundred dollars (\$1,500).

(d) The benefits payment adjustment as provided in this section shall apply to and be in addition to the retirement benefits under the provisions of § 42-28-5, and to the injury and death benefits under the provisions of § 42-28-21.

(e)(1) Any member who retires after July 1, 1972 and is eligible to retire prior to July 1, 2012 and who has served beyond twenty (20) years shall be allowed an additional amount equal to three percent (3%) for each completed year served after twenty (20) years, but in no event shall the original retirement allowance exceed sixty-five percent (65%) of his or her whole salary as defined in subsection (b) hereof or sixty-five percent (65%) of his or her salary as defined in subsection (b) hereof in his or her twenty-fifth (25th) year whichever is less.

(2) Each member who retired prior to July 1, 1975, shall be entitled to all retirement benefits as set forth above or shall be paid benefits as set forth in subdivision (b)(1) with "whole salary" meaning the base salary for the position from which he or she retired as the base salary for the position was determined on July 1, 1975, whichever is greater.

(f)(1) Any member who retires, has served as a member for twenty (20) years or more, and who served for a period of six (6) months or more of active duty in the armed service of the United States or in the merchant marine service of the United States as defined in § 2 of chapter 1721 of the Public Laws, 1946, may purchase credit for such service up to a maximum of two (2) years; provided that any member who has served at least six (6) months or more in any one year shall be allowed to purchase one year for such service and any member who has served a fraction of less than six (6) months in his or her total service shall be allowed to purchase six (6) months' credit for such service.

(2) The cost to purchase these credits shall be ten percent (10%) of the member's first year salary as a state policeman multiplied by the number of years and/or fraction thereof of such armed service up to a maximum of two (2) years. The purchase price shall be paid into the general fund. For members hired on or after July 1, 1989, the purchase price shall be paid into a restricted revenue account entitled "state police retirement benefits" and shall be held in trust.

(3) There will be no interest charge provided the member makes such purchase during his or her twentieth (20th) year or within five (5) years from May 18, 1981, whichever is later, but will be charged regular rate of interest as defined in § 36-8-1 as amended to date of purchase from the date of his or her twentieth (20th) year of state service or five (5) years from May 18, 1981, whichever is later.

(4) Any member who is granted a leave of absence without pay for illness, injury or any other reason may receive credit therefor by making the full actuarial cost as defined in subdivision 36-8-1(10); provided the employee returns to state service for at least one year upon completion of the leave.

(5) In no event shall the original retirement allowance exceed sixty-five percent (65%) of his or her whole salary as defined in subsection (b) hereof or sixty-five percent (65%) of his or her salary as defined in subsection (b) hereof in his or her twenty-fifth (25th) year, whichever is less.

(6) Notwithstanding any other provision of law, no more than five (5) years of service credit may be purchased by a member of the system. The five (5) year limit shall not apply to any purchases made prior to January 1, 1995. A member who has purchased more than five (5) years of service credits before January 1, 1995, shall be permitted to apply those purchases towards the member's service retirement. However, no further purchase will be permitted. Repayment in accordance with applicable law and regulation of any contribution previously withdrawn from the system shall not be deemed a purchase of service credit.

(g) The provisions of this section shall not apply to civilian employees in the Rhode Island state police; and, further, from and after April 28, 1937, chapters 8 – 10, inclusive, of title 36 shall not be construed to apply to the members of the Rhode Island state police, except as provided by §§ 36-8-3, 36-10-1.1, 42-28-22.1, and 42-28-22.2, and section 36-8-1(5) and (8)(a) effective July 1, 2012.

(h) Any member of the state police other than the superintendent of state police, who is hired prior to July 1, 2007 and who has served for twenty-five (25) years or who has attained the age of sixty-two (62) years, whichever shall first occur, shall retire therefrom.

(i)(1) Any member of the state police, other than the superintendent, who is hired on or after July 1, 2007 and who has served for twenty-five (25) years, may retire therefrom or he or she may be retired by the superintendent with the approval of the governor, and shall be entitled to a retirement allowance of fifty percent (50%) of his or her "whole salary" as defined in subsection (b) hereof.

(2) Any member of the state police who is hired on or after July 1, 2007 may serve up to a maximum of thirty (30) years, and shall be allowed an additional amount equal to three percent (3.0%) for each completed year served after twenty-five (25) years, but in no event shall the original retirement allowance exceed sixty-five percent (65%) of his or her "whole salary" as defined in subsection (b) hereof.

(j) Effective July 1, 2012, any other provision of this section notwithstanding:

(j)(1) Any member of the state police, other than the superintendent of state police, who is not eligible to retire on or prior to June 30, 2012 may retire at any time subsequent to the date the member's retirement allowance equals or exceeds fifty percent (50%) of average compensation as defined in section 36-8-1(5)(a), provided that a member shall retire upon the first to occur of:

(i) The date the member's retirement allowance equals sixty-five percent (65%); or

(ii) The later of the attainment of age sixty-two (62) or completion of five (5) years of service; provided however, any current member as of June 30, 2012 who has not accrued fifty percent (50%) upon attaining the age of sixty-two (62) shall retire upon accruing fifty percent (50%); and upon retirement a member shall receive a retirement allowance which shall equal:

(A) For members hired prior to July 1, 2007 the sum of (i), (ii) and (iii) where

(i) Is calculated as the member's years of total service before July 1, 2012 multiplied by two and one half percent (2.5%) of average compensation for a member's first twenty (20) total years,

(ii) Is calculated as the member's years of total service before July 1, 2012 in excess of twenty (20) years not to exceed twenty-five (25) years multiplied by three percent (3%) of average compensation, and

(iii) Is the member's years of total service on or after July 1, 2012 multiplied by two percent (2%) of average compensation as defined in § 36-8-1(5)(a).

(B) For members hired on or after July 1, 2007, the member's retirement allowance shall be calculated as the member's years of total contributory service multiplied by two percent (2%) of average compensation.

(C) Any member of the state police who is eligible to retire on or prior to June 30, 2012 shall retire with a retirement allowance calculated in accordance with paragraph (a) and (e) above except that whole salary shall be defined as final compensation where compensation for purposes of this section and § 42-28-22.1 includes base salary, longevity and holiday pay.

(D) Notwithstanding the preceding provisions, in no event shall a member's final compensation be lower than his or her final compensation determined as of June 30, 2012.

(2) In no event shall a member's original retirement allowance under any provisions of this section exceed sixty-five percent (65%) of his or her average compensation.

(3) For each member who retires on or after July 1, 2012, except as provided in paragraph (j)(1)(C) above, compensation and average compensation shall be defined in accordance with § 36-8-1(5)(a) and (8), provided that for a member whose regular work period exceeds one hundred forty-seven (147) hours over a twenty-four (24) day period at any time during the four (4) year period immediately prior to his/her retirement that member shall have up to four hundred (400) hours of his/her pay for regularly scheduled work earned during this period shall be included as "compensation" and/or "average compensation" for purposes of this section and § 42-28-22.1.

(4) This subsection (4) shall be effective for the period July 1, 2012 through June 30, 2015.

(i) Notwithstanding the prior paragraphs of this section, and subject to paragraph (4)(ii) below, for all present and former members, active and retired members, and beneficiaries receiving any retirement, disability or death allowance or benefit of any kind, whether for or on behalf of a non-contributory member or contributory member, the annual benefit adjustment provided in any calendar year under this section shall be equal to (A) multiplied by (B) where (A) is equal to the percentage determined by subtracting five and one-half percent (5.5%) (the "subtrahend") from the Five-Year Average Investment Return of the retirement system determined as of the last day of the plan year preceding the calendar year in which the adjustment is granted, said percentage not to exceed four percent (4%) and not to be less than zero percent (0%), and (B) is equal to the lesser of the member's retirement allowance or the first twenty-five thousand dollars (\$25,000) of

retirement allowance, such twenty-five thousand dollars (\$25,000) amount to be indexed annually in the same percentage as determined under (4)(i)(A) above. The "Five-Year Average Investment Return" shall mean the average of the investment returns for the most recent five (5) plan years as determined by the retirement board. Subject to paragraph (4)(ii) below, the benefit adjustment provided by this paragraph shall commence upon the third (3rd) anniversary of the date of retirement or the date on which the retiree reaches age fifty-five (55), whichever is later. In the event the retirement board adjusts the actuarially assumed rate of return for the system, either upward or downward, the subtrahend shall be adjusted either upward or downward in the same amount.

(ii) Except as provided in paragraph (4)(iii), the benefit adjustments under this section for any plan year shall be suspended in their entirety unless the Funded Ratio of the Employees' Retirement System of Rhode Island, the Judicial Retirement Benefits Trust and the State Police Retirement Benefits Trust, calculated by the system's actuary on an aggregate basis, exceeds eighty percent (80%) in which event the benefit adjustment will be reinstated for all members for such plan year.

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

(iii) Notwithstanding paragraph (4)(ii), in each fifth plan year commencing after June 30, 2012 commencing with the plan year ending June 30, 2017, and subsequently at intervals of five (5) plan years, a benefit adjustment shall be calculated and made in accordance with paragraph (4)(i) above until the Funded Ratio of the Employees' Retirement System of Rhode Island, the Judicial Retirement Benefits Trust and the State Police Retirement Benefits Trust, calculated by the system's actuary on an aggregate basis, exceeds eighty percent (80%).

(iv) The provisions of this paragraph (j)(4) of § 42-28-22 shall become effective July 1, 2012 and shall apply to any benefit adjustment not granted on or prior to June 30, 2012.

(v) The cost-of-living adjustment as provided in this paragraph (j)(4) shall apply to and be in addition to the retirement benefits under the provisions of § 42-28-5 and to the injury and death benefits under the provisions of § 42-28-21.

(5) This subsection (5) shall become effective July 1, 2015.

(i)(A) As soon as administratively reasonable following the enactment into law of this paragraph (5)(i)(A), a one-time benefit adjustment shall be provided to members and/or beneficiaries of members who retired on or before June 30, 2012, in the amount of two percent (2%) of the lesser of either the member's retirement allowance or the first twenty-five thousand dollars (\$25,000) of the member's retirement allowance. This one-time benefit adjustment shall be provided without regard to the retiree's age or number of years since retirement.

(B) Notwithstanding the prior subsections of this section, for all present and former members, active and retired members, and beneficiaries receiving any retirement, disability or death

allowance or benefit of any kind, the annual benefit adjustment provided in any calendar year under this section for adjustments on and after January 1, 2016, and subject to subsection (5)(ii) below, shall be equal to (I) multiplied by (II):

(I) Shall equal the sum of fifty percent (50%) of (1) plus fifty percent (50%) of (2) where:

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

(2) Is equal to the lesser of three percent (3%) or the percentage increase in the Consumer Price Index for all Urban Consumers (CPI-U) as published by the U.S. Department of Labor Statistics determined as of September 30 of the prior calendar year.

In no event shall the sum of (1) plus (2) exceed three and one-half percent (3.5%) or be less than zero percent (0%).

(II) Is equal to the lesser of either the member's retirement allowance or the first twenty-five thousand eight hundred and fifty-five dollars (\$25,855) of retirement allowance, such amount to be indexed annually in the same percentage as determined under subsection (5)(i)(B)(I) above. The benefit adjustments provided by this subsection (5)(i)(B) shall be provided to all retirees entitled to receive a benefit adjustment as of June 30, 2012 under the law then in effect, and for all other retirees the benefit adjustments shall commence upon the third anniversary of the date of retirement or the date on which the retiree reaches his or her Social Security retirement age, whichever is later.

(ii) Except as provided in subsection (5)(iii), the benefit adjustments under subsection (5)(i)(B) for any plan year shall be suspended in their entirety unless the funded ratio of the employees' retirement system of Rhode Island, the Judicial retirement benefits trust and the state police retirement benefits trust, calculated by the system's actuary on an aggregate basis, exceeds eighty percent (80%) in which event the benefit adjustment will be reinstated for all members for such plan year.

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

(iii) Notwithstanding subsection (5)(ii), in each fourth plan year commencing after June 30, 2012 commencing with the plan year ending June 30, 2016, and subsequently at intervals of four plan years: (i) A benefit adjustment shall be calculated and made in accordance with paragraph (5)(i)(B) above; and (ii) Effective for members and/or beneficiaries of members who retired on

or before June 30, 2015, the dollar amount in subsection (5)(i)(B)(II) of twenty-five thousand eight hundred and fifty-five dollars (\$25,855) shall be replaced with thirty-one thousand and twenty-six dollars (\$31,026) until the funded ratio of the employees' retirement system of Rhode Island, the judicial retirement benefits trust and the state police retirement benefits trust, calculated by the system's actuary on an aggregate basis, exceeds eighty percent (80%).

(iv) Effective for members and or beneficiaries of members who have retired on or before July 1, 2015, a one-time stipend of five hundred dollars (\$500) shall be payable within sixty (60) days following the enactment of the legislation implementing this provision, and a second one-time stipend of five hundred dollars (\$500) in the same month of the following year. These stipends shall be payable to all retired members or beneficiaries receiving a benefit as of the applicable payment date and shall not be considered cost of living adjustments under the prior provisions of this § 42-28-22.

(6) Any member with contributory service on or after July 1, 2012, who has completed at least five (5) years of contributory service but who has not retired in accordance with (j)(1) above, shall be eligible to retire upon the attainment of member's Security retirement age as defined in 36-8-1(19).

(7) In no event shall a member's retirement allowance be less than the member's retirement allowance calculated as of June 30, 2012 based on the member's years of total service and whole salary as of June 30, 2012.

(k) In calculating the retirement benefit for any member, the term base salary as used in subdivision (b)(3) or average compensation as used in paragraph (j) shall not be affected by a deferral of salary plan or a reduced salary plan implemented to avoid shutdowns or layoffs or to effect cost savings. Basic salary shall remain for retirement calculation that which it would have been but for the salary deferral or salary reduction due to a plan implemented to avoid shutdowns or layoffs or to effect cost savings.

History of Section.

(P.L. 1937, ch. 2526, § 1; G.L. 1938, ch. 8, § 13; P.L. 1952, ch. 3015, § 1; G.L. 1956, § 42-28-22; P.L. 1962, ch. 213, § 1; P.L. 1972, ch. 264, § 1; P.L. 1974, ch. 266, § 1; P.L. 1980, ch. 390, § 1; P.L. 1980, ch. 400, § 1; P.L. 1981, ch. 189, § 1; P.L. 1985, ch. 385, § 1; P.L. 1987, ch. 349, § 1; P.L. 1989, ch. 494, § 5; P.L. 1990, ch. 326, § 1; P.L. 1990, ch. 327, § 1; P.L. 1991, ch. 129, § 3; P.L. 1991, ch. 174, § 3; P.L. 2008, ch. 100, art. 22, § 1; P.L. 2011, ch. 408, § 13; P.L. 2011, ch. 409, § 13; P.L. 2012, ch. 222, § 1; P.L. 2012, ch. 253, § 1; P.L. 2015, ch. 141, art. 21, § 21.)

§ 42-28-22.1 Retirement contribution. –(a) Each member of the state police initially hired after July 1, 1987 shall have deducted from “compensation” as defined in § 36-8-1(8) beginning July 1, 1989, an amount equal to a rate percent of such compensation of eight and three quarters percent (8.75%). The receipts collected from members of the state police shall be deposited in a restricted revenue account entitled “state police retirement benefits”. The proceeds deposited in this account shall be held in trust for the purpose of paying retirement benefits to participating

members of the state police or their beneficiaries. The retirement board shall establish rules and regulations to govern the provisions of this section.

(b) A member of the state police who withdraws from service or ceases to be a member for any reason other than death or retirement, will, at the member's request, be paid on demand a refund consisting of the accumulated contributions standing to his or her credit in his or her individual account in the state police retirement benefits account. Any member receiving a refund shall thereby forfeit and relinquish all accrued rights as a member of the system together with credits for total service previously granted to the member; provided, however, that if any member who has received a refund shall subsequently reenter the service and again become a member of the system, he or she shall have the privilege of restoring all moneys previously received or disbursed to his or her credit as refund of contributions, plus regular interest for the period from the date of refund to the date of restoration.

(c) Upon the repayment of the refund as herein provided, the member shall again receive credit for the amount of total service which he or she had previously forfeited by the acceptance of the refund.

History of Section.

P.L. 1987, ch. 118, art. 15, § 3; P.L. 1988, ch. 129, art. 22, § 6; P.L. 1989, ch. 494, § 5; P.L. 2007, ch. 340, § 27, eff. July 7, 2007; P.L. 2011, ch. 408, § 13, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 13, eff. Nov. 18, 2011.

§ 42-28-22.2 State contributions. – The state of Rhode Island shall make its contribution for the maintaining of the system established by § 42-28-22.1 and providing the annuities, benefits, and retirement allowances in accordance with the provisions of this chapter by annually appropriating an amount which will pay a rate percent of the compensation paid after July 1, 1989 to members of the state police hired after July 1, 1987. This rate percent shall be computed and certified in accordance with the procedures set forth in §§ 36-8-13 and 36-10-2 under rules and regulations promulgated by the retirement board pursuant to § 36-8-3.

History of Section.

P.L. 1989, ch. 494, § 6; P.L. 2009, ch. 5, art. 10, § 5, eff. April 10, 2009; P.L. 2009, ch. 68, art. 7, § 11, eff. July 1, 2009; P.L. 2010, ch. 9, § 4, eff. May 1, 2010; P.L. 2010, ch. 10, § 4, eff. May 1, 2010; P.L. 2011, ch. 408, § 13, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 13, eff. Nov. 18, 2011.

§ 42-28-22.3 Separate plan and trust for retirement program of state police. –(a) The retirement program established by §42-28-22.1 shall constitute a separate retirement program known as the “State Police Retirement Program” which shall be deemed to be a separate plan for purposes of § 401(a) of the Internal Revenue Code of 1986 [26 U.S.C. § 401(a)], as amended. The provisions of § 36-8-20(a)-(i) shall be applicable to such program, shall be administered and interpreted in a manner consistent with maintaining the tax qualification of such program, and shall supercede any conflicting provision of law.

(b) Any trust established for the purpose of providing retirement benefits under the state police retirement program, including the trust described in §42-28-22.1, shall be maintained pursuant to a written document which expressly provides that it shall be impossible at any time prior to the satisfaction of all liabilities with respect to employees and their beneficiaries, for any part of the

corpus or income of the trust to be used for, or diverted to, purposes other than the payment of retirement allowances and other pension benefits to employees and their beneficiaries. However, this requirement shall not prohibit (1) the return of a contribution made by a mistake of fact within six (6) months, or (2) the payment of expenses in accordance with applicable law; nor shall this provision restrict the collective investment of the funds of such trust with the funds of the state and municipal retirement systems or other retirement programs administered by the retirement board, as determined by the state investment commission.

History of Section.

P.L. 1994, ch. 87, § 2; P.L. 2011, ch. 408, § 13, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 13, eff. Nov. 18, 2011.

§ 42-28-23 Military credit on retirement. – Whenever a member of the Rhode Island state police, other than a civilian member, has been granted a leave of absence from the state police to enable him or her to serve in the armed forces of the United States in time of war or national emergency, the time during which he or she so serves while on leave of absence shall be included in his or her state police service for retirement as provided in § 42-28-22, except when the member shall have been dishonorably discharged from the armed forces.

History of Section.

P.L. 1944, ch. 1477; P.L. 2011, ch. 408, § 13, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 13, eff. Nov. 18, 2011.

§ 42-28-24 Exemption from jury duty – Recognizance for costs – False impersonation. – (a) The provisions of §§ 9-9-3 and 12-6-6 shall also apply to all members of the division.

(b) Every person who, not being a member of the division, shall wear the uniform, badge, or other insignia of or otherwise falsely assume or pretend to be a member of the division, with the exception of honorary members appointed by the superintendent, shall be imprisoned not exceeding three (3) years and/or be fined not exceeding five thousand dollars (\$5,000).

History of Section.

(P.L. 1925, ch. 588, § 14; G.L. 1938, ch. 8, § 15; G.L. 1956, § 42-28-24; P.L. 1989, ch. 131, § 1.)

§ 42-28-25 State and municipal police training school established. – (a) Within the Rhode Island state police there is hereby created and established a state and municipal police training school.

(b) The superintendent of the state police shall have supervision of the state and municipal police training academy and shall establish standards for admission and a course of training. The superintendent shall report to the governor and general assembly a plan for a state and municipal police training academy on or before December 31, 1993. The superintendent shall, in consultation with the Police Chiefs' Association and the chairperson of the Rhode Island commission on standards and training make all necessary rules and regulations relative to the admission, education, physical standards and personal character of the trainees and such other rules and regulations as shall not be inconsistent with law.

(c) Applicants to the state and municipal police training academy shall pay an application fee in the amount of fifty dollars (\$50.00); provided, however, the superintendent may waive such application fee if payment thereof would be a hardship to the applicant.

(d) Trainees shall pay to the division an amount equal to the actual cost of meals consumed at the state police and municipal police training academy and the actual cost of such training uniforms which remain the personal property of the trainees.

(e) All fees and payments received by the division pursuant to this section shall be deposited as general revenues.

History of Section.

(G.L. 1938, ch. 8, § 21; P.L. 1955, ch. 3459, § 1; G.L. 1956, § 42-28-25; P.L. 1993, ch. 138, art. 44, § 3; P.L. 1995, ch. 370, art. 40, § 134; P.L. 2002, ch. 65, art. 13, § 27; P.L. 2007, ch. 340, § 27.)

§ 42-28-25.1 Trainee compensation for death, disability, or injury. – (a) All trainees of the state police training academy shall be compensated for death, disability, or injury incurred while in training under the provisions of this chapter as follows:

- (1) All medical expenses incurred as a result of such injury shall be paid by the state; and
- (2) Death and disability payments shall be paid in accordance with § 42-28-21 and § 45-19-1 relating to compensation for injuries causing disability or causing death to full-time members of the state police in the course of performance of their duties.

(b) In the computation of the benefits set forth in § 42-28-21(b), any member of the state police training academy suffering an injury causing disability or death, shall be construed to have been receiving the amount of salary to the lowest grade of full-time members of the state police at the time of injury or death unless the disability as a result of injury incurred in the state police training academy occurs subsequent to the trainee being sworn in as a member of the state police, in which case the benefits shall be computed based upon the highest rank attained by the individual at the time of disability.

History of Section.

(P.L. 2004, ch. 574, § 1.)

§ 42-28-26 Location of school. – The municipal police training school shall be maintained by the state and located on the premises of the University of Rhode Island and such other state-owned property as the superintendent of the state police, with the consent of the governor, may from time to time determine.

History of Section.

(G.L. 1938, ch. 8, § 22; P.L. 1955, ch. 3459, § 1; G.L. 1956, § 42-28-26.)

§ 42-28-27 Supervision of school. – The superintendent of the state police shall have supervision of the municipal police training school and shall establish a course of training and make all necessary rules and regulations relative to the education, physical standards, and personal character of the candidates and trainees and such other regulations as shall not be inconsistent with law.

History of Section.

(G.L. 1938, ch. 8, § 23; P.L. 1955, ch. 3459, § 1; G.L. 1956, § 42-28-27.)

§ 42-28-28 Persons admissible to school. – No person shall be admitted as a candidate to the municipal police training school unless he or she is a citizen of the United States and a resident of the state of Rhode Island and shall have reached the age of eighteen (18) years; nor shall any person be admitted who shall not have first been certified by a physician as being physically and mentally sound on an examination made within one month prior to the acceptance of his or her candidacy.

History of Section.

(G.L. 1938, ch. 8, § 24; P.L. 1955, ch. 3459, § 1; G.L. 1956, § 42-28-28; P.L. 1960, ch. 23, § 1; P.L. 1984, ch. 81, § 23.)

§ 42-28-29 Sponsorship of school candidates by city or town. – Candidates meeting the physical, mental, and educational requirements of this chapter shall be admitted to the municipal police training school only upon the request of the appointing authority in the city or town of which the prospective candidate is a resident, and every such application by the appointing authority shall be accompanied by a statement that the candidate has prospects, within the reasonable future, of a permanent appointment to the police force of the city or town sponsoring him or her; provided, however, that any member of any police department of any city or town accepting the provisions of §§ 42-28-25 – 42-28-31, inclusive, shall be eligible for training and retraining in the school.

History of Section.

(G.L. 1938, ch. 8, § 25; P.L. 1955, ch. 3459, § 1; P.L. 1958, ch. 157, § 1; G.L. 1956, § 42-28-29; P.L. 1960, ch. 122, § 1.)

§ 42-28-30 Certificate of completion of training course. – Upon the satisfactory completion of the prescribed course of training, the superintendent shall issue to each candidate a certificate of merit and shall forward to the appointing authority certification of the candidate's qualifications for appointment.

History of Section.

(G.L. 1938, ch. 8, § 26; P.L. 1955, ch. 3459, § 1; G.L. 1956, § 42-28-30.)

§ 42-28-31 Expenses of school – Compensation of candidates. – No tuition fee or any other charge shall be assessed against any city or town for the training of any candidate and the expense of that training shall be borne by the state of Rhode Island. The general assembly shall annually appropriate such sum or sums as may be necessary for the proper maintenance of the municipal police training school; provided, however, that any compensation to any candidate during the period of his or her training shall be fixed and determined by the proper authority within the city or town sponsoring the candidate and such compensation, if any, shall be paid directly to the candidate by the city or town of which he or she is a resident.

History of Section.

(G.L. 1938, ch. 8, § 27; P.L. 1955, ch. 3459, § 1; G.L. 1956, § 42-28-31.)

§ 42-28-32 Annual appropriations. – The general assembly shall annually appropriate such sum as it may deem necessary for the purpose of suitable equipment and for operating expenses, maintenance, and supplies.

History of Section.

(P.L. 1925, ch. 588, § 17; P.L. 1935, ch. 2250, § 149; G.L. 1938, ch. 8, § 18; G.L. 1956, § 42-28-32.)

§ 42-28-33 Exceeding appropriations. – It shall be unlawful for the superintendent or anyone acting for him or her or on behalf of the division to incur in behalf of the state any obligation or make any expenditure for any purpose in excess of the amount appropriated therefore.

History of Section.

(P.L. 1925, ch. 588, § 15; G.L. 1938, ch. 8, § 16; G.L. 1956, § 42-28-33.)

§ 42-28-34 – 42-28-36. [Repealed].

§ 42-28-50 Severability. – The holding of any section or sections or parts of this chapter to be void, ineffective, or unconstitutional for any cause shall not be deemed to affect any other section or part hereof.

History of Section.

P.L. 2011, ch. 408, § 14, eff. Nov. 18, 2011; P.L. 2011, ch. 409, § 14, eff. Nov. 18, 2011.

Incentives to Retire**Incentive to Retire Prior to 07/29/89 – Article 43****Section 1.**

A state employee member of the state employees retirement system who has attained the age of sixty (60) and completed at least ten (10) years of total service or who, regardless of age, has completed twenty-five (25) or more years of total service, may retire notwithstanding the provisions of 36-10-9, subsequent to the effective date of this article and prior to July 29, 1989 and shall be credited with an additional 10% of service credit, to be awarded without cost to the member; provided further, however, that in no event shall such additional credit, combined with other service credit, exceed thirty-five (35) years of total service credit, provided further, however, that if said additional credit of ten percent (10%) combined with other service credit shall exceed thirty-five (35) years of total service credit and a member has attained the age of sixty (60) years then, notwithstanding the provisions of sections 36-10-10, the member's retirement allowance shall be based on the member's prior twelve month's salary at the time of retirement.

Incentive to Retire 06/30/90 to 07/28/90 – Article 81**Section 1.**

An active employee in the state retirement system, whether employed as a teacher, state employee or municipal employee, including police and fire fighters covered by 45-21.2 of the General Laws and also by further approval pursuant to Section 3 and 4 of this Article, who has attained the age of sixty (60) or fifty-eight (58) for a municipal employee and completed at least ten (10) years of total service, or who, regardless of age, has completed twenty-three (23) or more years of total service, may during the period as specified in Section 2, retire notwithstanding any other provision of the General Laws, including Section 36-10-9, 16-16-12, and 45-21-16, at a benefit level to be computed using the highest 12 consecutive month salary of the member's last three years of service, and shall be credited with an additional 10% of service credit, to be awarded without cost to the member; provided further, however, that in no event shall such additional credit, combined with other service credit, exceed thirty-five (35) years of

total service credit for the state employees and teachers, and thirty-seven and one-half (37.5) years for municipal employees.

No school district shall be allowed to combine the retirement incentive created by this provision with any other retirement incentive currently allowed by law, including the provisions of Section 16-7-19.1.

Provided, however, a school district may grant no later than thirty (30) days following retirement a lump sum payment not to exceed one hundred fifty dollars (\$150) for each year of service in that community, up to a maximum of thirty (30) years of service. The lump sum payment shall be paid by the school district and shall not be reimbursable by the state in any manner nor shall such payment be included as compensation in the computation of retirement benefits.

Section 2.

The period when state employees may retire shall be from June 30, 1990 to July 28, 1990. the period when teachers and municipal employees may retire shall be from fourteen (14) days after the effective date of this article to thirty-five (35) days after the passage of this Article provided, however, the effective date of retirement for all employees may be retroactive to June 30, 1990.

Section 3.

The benefits provided by this Article shall not be available to members who are teachers in a particular community if, prior to fourteen (14) days after the passage of this act, the school committee of said community shall have passed and transmitted to the Director of Administration a resolution excluding said members from the benefits provided by this Article.

Section 4.

The benefits provided by this Article shall not be available to members who are municipal employees in a particular community if, prior to fourteen (14) days after the passage of this act, the municipal council or appropriate government authority of the community shall have passed and transmitted to the director of Administration a resolution excluding said members from the benefits provided by this Article.

Section 5.

The state actuary shall, in the event a school committee enacts a resolution pursuant to Section 3 of this Article, determine a separate rate for payment to be applied to those systems.

Section 6.

The provisions of sections 45-13-7 to 45-13-9 of the general laws relating to "State Mandated Costs" shall not apply to costs incurred as a result of this Article.

Section 7.

For teachers who are employed on a two hundred thirty (230) day contract basis, the window period for selection of this option shall be July 1, to July 28, 1990; however, the effective date for retirement shall be September 1, 1990.

Section 8.

State employees who retire subsequent to July 1, 1990, but before July 29, 1990 from active service of the state and who are employees of the state as determined by the retirement board under subsection 36-8-1 shall be entitled to receive for himself or herself a retiree health care insurance benefit as described in subsection 36-12-1 in accordance with the following formula:

YEARS OF SERVICE	AGE	STATE'S SHARE	EMPLOYEE'S SHARE
10-15	60	50%	50%
16-22	60	70%	30%
23-27	Any	80%	20%
28+	Any	90%	10%
28+	60	100%	0%
35	Any	100%	0%

When such retiree reaches that age which will qualify him or her for Medicare supplement for formula shall be:

YEARS OF SERVICE	STATE'S SHARE	EMPLOYEE'S SHARE
10-15	50%	50%
16-19	70%	30%
20-27	90%	10%
28+	100%	0%

If such retired employee desires, he or she shall be permitted to purchase coverage for his or her dependents upon agreeing to pay the additional cost of the contract at the group rate for active state employees. Payment for coverage for dependents shall be deducted from his or her retirement allowances and remitted as required in payment for such contract.

Section 9.

Positions in the departments and agencies of the state, including without limitation, the board of governors for higher education and the board of regents for elementary and secondary education which have otherwise been established but are unfilled or become vacant shall not be filled for the period July 1, 1990 to December 30, 1990. A position may be filled during the period July 1, 1990 to December 31, 1990 by the affirmative vote of the committee created in Executive Order 89-5. The Auditor General or his designee shall have access to all records, facts and information available to said committee. The Auditor General or his designee shall be given sufficient notice of each meeting of said committee and said committee shall promptly respond to any questions and/or request for information by the Auditor General or his designee.

Section 10.

This article shall take effect upon passage.

CITIES AND TOWNS – SAVINGS ON RETIREMENT CONTRIBUTIONS – ARTICLE 82
Section 1.

A city or town which realizes saving on employer contributions to the state retirement system due to the change in actuarial assumptions made by the Retirement board on June 15, 1990 shall

be entitled to such savings. The Article applies to such savings whether by reason of Title 16, Chapter 1, et seq. or Title 45, Chapter 1, et seq. Notwithstanding the provisions of any general or special law or the provision of municipal charter to the contrary, such savings shall revert to and be under the control of and/or remain under the control of the appropriating authority for the city or town.

The school committee for each city or town or regional school district and the local governing body or officer shall enact such statute, ordinance or resolution as is necessary to insure that the such savings shall revert to and be under the control of any/or remain under the control of the appropriating authority for the city or town.

ADDITIONAL LAWS WHICH REFERENCE THE RETIREMENT SYSTEM-EFFECTIVE 2011

MUNICIPAL EMPLOYEES

§ 28-54-1 Medicare enrollment. –Every municipality, participating or nonparticipating in the municipal employees' retirement system, may require its retirees, as a condition of receiving or continuing to receive retirement payments and health benefits, to enroll in Medicare as soon as he or she is eligible, notwithstanding the provisions of any other statute, ordinance, interest arbitration award, or collective bargaining agreement to the contrary. Municipalities that require said enrollment shall have the right to negotiate any Medicare supplement or gap coverage for Medicare-eligible retirees, but shall not be required to provide any other healthcare benefits to any Medicare-eligible retiree or his or her spouse who has reached sixty-five (65) years of age, notwithstanding the provisions of any other statute, ordinance, interest arbitration award, or collective bargaining agreement to the contrary. Municipality provided benefits that are provided to Medicare-eligible individuals shall be secondary to Medicare benefits. Nothing contained herein shall impair collectively bargained Medicare Supplement Insurance.

History of Section.

P.L. 2011, ch. 151, art. 12, § 2, eff. June 29, 2011.

WORKERS' COMPENSATION

§ 28-29-2 Definitions. – In chapters 29 -- 38 of this title, unless the context otherwise requires:

- (1) “Department” means the department of labor and training.
- (2) “Director” means the director of labor and training or his or her designee unless specifically stated otherwise.
- (3)(i) “Earnings capacity” means the weekly straight time earnings which an employee could receive if the employee accepted an actual offer of suitable alternative employment. Earnings capacity can also be established by the court based on evidence of ability to earn, including, but not limited to, a determination of the degree of functional impairment and/or disability, that an employee is capable of employment. The court may, in its discretion, take into consideration the performance of the employee's duty to actively seek employment in scheduling the implementation of the reduction. The employer need not identify particular employment before the court can direct an earnings capacity adjustment. In the event that an employee returns to light duty employment while partially disabled, an earnings capacity shall not be set based upon actual wages earned until the employee has successfully worked at light duty for a period of at least thirteen (13) weeks.
- (ii) As used under the provisions of this title, “functional impairment” means an anatomical or functional abnormality existing after the date of maximum medical improvement as determined by a medically or scientifically demonstrable finding and based upon the Sixth (6th) edition of the American Medical Association's Guide to the Evaluation of Permanent Impairment or comparable publications of the American Medical Association.

(iii) In the event that an employee returns to employment at an average weekly wage equal to the employee's pre-injury earnings exclusive of overtime, the employee will be presumed to have regained his/her earning capacity.

(4) "Employee" means any person who has entered into the employment of or works under contract of service or apprenticeship with any employer, except that in the case of a city or town other than the city of Providence it shall only mean that class or those classes of employees as may be designated by a city, town, or regional school district in a manner provided in this chapter to receive compensation under chapters 29 -- 38 of this title. Any person employed by the state of Rhode Island, except for sworn employees of the Rhode Island State Police, or by the Rhode Island Airport Corporation who is otherwise entitled to the benefits of chapter 19 of title 45 shall be subject to the provisions of chapters 29 -- 38 of this title for all case management procedures and dispute resolution for all benefits. The term "employee" does not include any individual who is a shareholder or director in a corporation, general or limited partners in a general partnership, a registered limited liability partnership, a limited partnership, or partners in a registered limited liability limited partnership, or any individual who is a member in a limited liability company. These exclusions do not apply to shareholders, directors and members who have entered into the employment of or who work under a contract of service or apprenticeship within a corporation or a limited liability company. The term "employee" also does not include a sole proprietor, independent contractor, or a person whose employment is of a casual nature, and who is employed other than for the purpose of the employer's trade or business, or a person whose services are voluntary or who performs charitable acts, nor shall it include the members of the regularly organized fire and police departments of any town or city except for appeals from an order of the retirement board filed pursuant to the provisions of Rhode Island general law § 45-21.2-9; provided, however, that it shall include the members of the police and aircraft rescue and firefighting (ARFF) units of the Rhode Island Airport Corporation. Whenever a contractor has contracted with the state, a city, town, or regional school district any person employed by that contractor in work under contract shall not be deemed an employee of the state, city, town, or regional school district as the case may be. Any person who on or after January 1, 1999, was an employee and became a corporate officer shall remain an employee, for purposes of these chapters, unless and until coverage under this act is waived pursuant to subsection 28-29-8(b) or § 28-29-17. Any person who is appointed a corporate officer between January 1, 1999 and December 31, 2001, and was not previously an employee of the corporation, will not be considered an employee, for purposes of these chapters, unless that corporate officer has filed a notice pursuant to subsection 28-29-19(b). In the case of a person whose services are voluntary or who performs charitable acts, any benefit received, in the form of monetary remuneration or otherwise, shall be reportable to the appropriate taxation authority but shall not be deemed to be wages earned under contract of hire for purposes of qualifying for benefits under chapters 29 -- 38 of this title. Any reference to an employee who had been injured shall, where the employee is dead, include a reference to his or her dependents as defined in this section, or to his or her legal representatives, or, where he or she is a minor or incompetent, to his or her conservator or guardian. A "seasonal occupation" means those occupations in which work is performed on a seasonal basis of not more than sixteen (16) weeks.

(5) "Employer" includes any person, partnership, corporation, or voluntary association, and the legal representative of a deceased employer; it includes the state, and the city of Providence. It also includes each city, town, and regional school district in the state that votes or accepts the provisions of chapters 29 -- 38 of this title in the manner provided in this chapter or is a party to

an appeal from an order of the retirement board filed pursuant to the provisions of Rhode Island general law § 45-21.2-9.

(6) “General or special employer”:

(i) “General employer” includes but is not limited to temporary help companies and employee leasing companies and means a person who for consideration and as the regular course of its business supplies an employee with or without vehicle to another person.

(ii) “Special employer” means a person who contracts for services with a general employer for the use of an employee, a vehicle, or both.

(iii) Whenever there is a general employer and special employer wherein the general employer supplies to the special employer an employee and the general employer pays or is obligated to pay the wages or salaries of the supplied employee, then, notwithstanding the fact that direction and control is in the special employer and not the general employer, the general employer, if it is subject to the provisions of the Workers' Compensation Act or has accepted that Act, shall be deemed to be the employer as set forth in subdivision (5) of this section and both the general and special employer shall be the employer for purposes of §§ 28-29-17 and 28-29-18.

(iv) Effective January 1, 2003, whenever a general employer enters into a contract or arrangement with a special employer to supply an employee or employees for work, the special employer shall require an insurer generated insurance coverage certification, on a form prescribed by the department, demonstrating Rhode Island workers' compensation and employer's liability coverage evidencing that the general employer carries workers' compensation insurance with that insurer with no indebtedness for its employees for the term of the contract or arrangement. In the event that the special employer fails to obtain and maintain at policy renewal and thereafter this insurer generated insurance coverage certification demonstrating Rhode Island workers' compensation and employer's liability coverage from the general employer, the special employer is deemed to be the employer pursuant to the provisions of this section. Upon the cancellation or failure to renew, the insurer having written the workers' compensation and employer's liability policy shall notify the certificate holders and the department of the cancellation or failure to renew and upon notice, the certificate holders shall be deemed to be the employer for the term of the contract or arrangement unless or until a new certification is obtained.

(7)(i) “Injury” means and refers to personal injury to an employee arising out of and in the course of his or her employment, connected and referable to the employment.

(ii) An injury to an employee while voluntarily participating in a private, group, or employer-sponsored carpool, vanpool, commuter bus service, or other rideshare program, having as its sole purpose the mass transportation of employees to and from work shall not be deemed to have arisen out of and in the course of employment. Nothing in the foregoing provision shall be held to deny benefits under chapters 29 -- 38 and chapter 47 of this title to employees such as drivers, mechanics, and others who receive remuneration for their participation in the rideshare program. Provided, that the foregoing provision shall not bar the right of an employee to recover against an employer and/or driver for tortious misconduct.

(8) “Maximum medical improvement” means a point in time when any medically determinable physical or mental impairment as a result of injury has become stable and when no further treatment is reasonably expected to materially improve the condition. Neither the need for future medical maintenance nor the possibility of improvement or deterioration resulting from the passage of time and not from the ordinary course of the disabling condition, nor the continuation of a pre-existing condition precludes a finding of maximum medical improvement. A finding of

maximum medical improvement by the workers' compensation court may be reviewed only where it is established that an employee's condition has substantially deteriorated or improved.

(9) "Physician" means medical doctor, surgeon, dentist, licensed psychologist, chiropractor, osteopath, podiatrist, or optometrist, as the case may be.

(10) "Suitable alternative employment" means employment or an actual offer of employment which the employee is physically able to perform and will not exacerbate the employee's health condition and which bears a reasonable relationship to the employee's qualifications, background, education, and training. The employee's age alone shall not be considered in determining the suitability of the alternative employment.

(11) "Independent contractor" means a person who has filed a notice of designation as independent contractor with the director pursuant to § 28-29-17.1 or as otherwise found by the workers' compensation court.

History of Section.

P.L. 1912, ch. 831, art. 5, § 1; P.L. 1917, ch. 1534, § 5; P.L. 1920, ch. 1900, § 1; P.L. 1950, ch. 2627, § 1; P.L. 1954, ch. 3297, § 1; P.L. 1960, ch. 182, § 1; P.L. 1970, ch. 277, § 2; P.L. 1980, ch. 277, § 3; P.L. 1982, ch. 32, art. 1, § 1; P.L. 1984, ch. 142, art. 5, § 7; P.L. 1984 Sp. Sess., ch. 450, § 3; P.L. 1985, ch. 365, § 4; P.L. 1986, ch. 507, § 1; P.L. 1990, ch. 332, art. 1, § 1; P.L. 1991, ch. 206, § 1; P.L. 1992, ch. 31, § 2; P.L. 1994, ch. 101, § 2; P.L. 1994, ch. 401, § 2; P.L. 1995, ch. 44, § 1; P.L. 1995, ch. 315, § 1; P.L. 1998, ch. 32, § 1; P.L. 1998, ch. 105, § 1; P.L. 1998, ch. 404, § 1; P.L. 1999, ch. 216, § 5; P.L. 1999, ch. 384, § 5; P.L. 2000, ch. 491, § 1; P.L. 2001, ch. 256, § 1; P.L. 2001, ch. 355, § 1; P.L. 2002, ch. 65, art. 14, § 1; P.L. 2002, ch. 119, § 2; P.L. 2002, ch. 280, § 2; P.L. 2004, ch. 273, § 1; P.L. 2004, ch. 293, § 1; P.L. 2005, ch. 342, § 1; P.L. 2005, ch. 403, § 1; P.L. 2008, ch. 377, § 1, eff. July 8, 2008; P.L. 2010, ch. 95, § 1, eff. June 19, 2010; P.L. 2010, ch. 121, § 1, eff. June 22, 2010; P.L. 2011, ch. 151, art. 12, § 3, eff. June 29, 2011.

§ 28-29-26 Supervision of enforcement. –

(a) **Department of labor and training.** The director as provided for in chapters 29 -- 38 of this title, and chapter 53 of this title and chapter 16.1 of title 42, shall have supervision over the enforcement of the provisions of those chapters, and the director shall have the power and authority to adopt and enforce all reasonable rules, regulations, and orders necessary and suitable to the administration of the department's responsibilities as described in those chapters.

(b)(1) **Workers' compensation court.** The workers' compensation court, as provided for in chapters 29 -- 38 of this title, shall have supervision over the enforcement of the provisions of the chapters, and shall have the power and authority to adopt and enforce all reasonable rules, regulations, and orders necessary and suitable to the administration of its responsibilities described in the chapters. In addition to the foregoing, the court shall have the power and authority to hear and decide appeals from the retirement board in accordance with Rhode Island general law § 45-21.2-9. The court shall remain judicially and administratively independent. The Workers' compensation court shall have original jurisdiction over all civil actions filed pursuant to §§ 28-36-15 and 28-37-28 and pursuant to the provisions of chapter 53 of this title.

(2) Any petition arising from any dispute regardless of date of injury, unless specifically excepted, shall be filed with the administrator of the workers' compensation court in accordance with chapter 35 of this title and any rules and regulations promulgated by the workers' compensation court.

(3) The enactment of this subsection shall not affect the rights of the parties established by any existing memorandum of agreement, suspension agreement and receipt, preliminary determination of the department of workers' compensation, order or decree, or any existing right to the payment of compensation acquired pursuant to § 28-29-6 or 28-35-9.

History of Section.

P.L. 1935, ch. 2250, § 92; P.L. 1941, ch. 1053, § 1; P.L. 1954, ch. 3297, § 1; P.L. 1985, ch. 365, § 4; P.L. 1986, ch. 1, § 2; P.L. 1986, ch. 507, § 1; P.L. 1990, ch. 332, art. 1, § 1; P.L. 1991, ch. 206, § 1; P.L. 1992, ch. 66, § 1; P.L. 1994, ch. 101, § 2; P.L. 1994, ch. 401, § 3; P.L. 2000, ch. 109, § 32; P.L. 2007, ch. 509, § 2, eff. July 1, 2007; P.L. 2011, ch. 151, art. 12, § 3, eff. June 29, 2011.

§ 28-30-1 Court established – General powers. – (a) There is established in the state of Rhode Island a workers' compensation court consisting of a chief judge and nine (9) associate judges having the jurisdiction that may be necessary to carry out its duties under the provisions of the Workers' Compensation Act, chapters 29 -- 38 of this title and the provisions of Rhode Island general law § 45-21.2-9, except those provisions of the act which establish violations of the act as crimes, offenses, or misdemeanors. The jurisdiction of those crimes, offenses, or misdemeanors shall remain in the district and superior courts as otherwise provided by law.

(b) The court shall be a court of record with the same authority and power to subpoena and also the same authority and power to cite and punish for civil contempt as exist in the superior court. The court shall have a seal, and the members, administrator, deputy administrator, and assistant clerks of the court shall have the authority and power to administer oaths and affirmations.

History of Section.

P.L. 1954, ch. 3297, § 1; P.L. 1965, ch. 93, § 1; P.L. 1983, ch. 28, § 1; P.L. 1986, ch. 507, § 3; P.L. 1991, ch. 132, § 3; P.L. 1991, ch. 205, § 3; P.L. 1994, ch. 42, § 6; P.L. 2011, ch. 151, art. 12, § 4, eff. June 29, 2011.

§ 28-30-13 Controversies submitted to court. – (a) Any controversy over which the workers' compensation court has jurisdiction in accordance with chapters 29 -- 38 and chapter 53 of this title, including compensation, reasonableness of medical and hospital bills, degree of functional impairment and/or disability, a dispute between an insurance carrier and an employer under a workers' compensation insurance contract, except disputes under the jurisdiction of the workers' compensation appeals board established pursuant to § 27-9-29, failure of an employer to secure the payment of compensation under chapters 29 -- 38 and chapter 53 of this title and any controversy in which the state or any of its political subdivisions is a party, and appeals from an order of the retirement board pursuant to Rhode Island general law § 45-21.2-9 shall be submitted to the court in the manner provided in chapters 33 and 35 of this title.(b) Disputes between an insurance carrier and an employer under a workers' compensation insurance contract shall not be subject to a pretrial conference in accordance with § 28-35-20, but shall be assigned consistent with the rules and regulations of the workers' compensation court.

History of Section.

P.L. 1954, ch. 3297, § 1; P.L. 1986, ch. 507, § 3; P.L. 1990, ch. 332, art. 1, § 2; P.L. 1992, ch. 31, § 3; P.L. 2000, ch. 491, § 2; P.L. 2003, ch. 388, § 2; P.L. 2003, ch. 395, § 2; P.L. 2007, ch. 509, § 3, eff. July 1, 2007; P.L. 2011, ch. 151, art. 12, § 4, eff. June 29, 2011.

§ 28-35-11 Questions determined by court. – All questions arising under chapters 29 -- 38 of this title and Rhode Island general law § 45-21.2-9 shall, except as otherwise provided, be determined by the workers' compensation court in accordance with the provisions of those chapters.

History of Section.

P.L. 1912, ch. 831, art. 3, § 20; P.L. 1954, ch. 3297, § 1; P.L. 1982, ch. 32, art. 1, § 10; P.L. 1986, ch. 507, § 9; P.L. 1990, ch. 332, art. 1, § 5; P.L. 2011, ch. 151, art. 12, § 5, eff. June 29, 2011.

§ 28-35-27 Decision of controversies – Decree. – (a) In any controversy over which the workers' compensation court has jurisdiction pursuant to this chapter and Rhode Island general law § 45-21.2-9, any judge of that court shall, pursuant to §§ 28-35-11 -- 28-35-28, and the procedural rules of the court, hear all questions of law and fact involved in the controversy and presented by any party in interest, and he or she shall within ten (10) days after the hearing, unless the parties otherwise agree, decide the merits of the controversy pursuant to the law and the fair preponderance of the evidence and notify the administrator of the court of the decision, who shall immediately notify the parties by mail.

(b) Within seventy-two (72) hours of the mailing of the notice, exclusive of Sundays and holidays, the judge shall enter a decree upon the decision, which shall contain findings of fact, but within that time any party may appear and present a form of decree for consideration.

History of Section.

P.L. 1928, ch. 1207, § 1; P.L. 1936, ch. 2290, § 10; P.L. 1942, ch. 1236, § 1; P.L. 1947, ch. 1870, § 1; P.L. 1949, ch. 2368, § 1; P.L. 1954, ch. 3297, § 1; P.L. 1982, ch. 32, art. 1, § 10; P.L. 1984, ch. 142, art. 4, § 5; P.L. 1984 Sp. Sess., ch. 450, § 3; P.L. 1990, ch. 332, art. 1, § 5; P.L. 2011, ch. 151, art. 12, § 5, eff. June 29, 2011.

§ 28-36-5 Policy provisions as to liability of employer and insurer. –Every policy shall cover the entire liability of the employer under chapters 29 -- 38 of this title, except for appeals from an order of the retirement board filed pursuant to the provisions of Rhode Island General Law § 45-21.2-9, and shall contain an agreement by the insurer to the effect that the insurer shall be directly and primarily liable to the employee and, in the event of his death, to his or her dependents, to pay to him, her, or them the compensation, if any, for which the employer is liable.

History of Section.

P.L. 1912, ch. 831, art. 5, § 3; P.L. 1915, ch. 1268, § 1; P.L. 1954, ch. 3297, § 1; P.L. 2011, ch. 151, art. 12, § 6, eff. June 29, 2011.