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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

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

Introduced By: Senators Paiva Weed, Goodwin, and Ruggerio

Date Introduced: October 18, 2011

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Legislative intent and findings.

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

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

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

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

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

18 (5) The largest portion of the retirement system, the Employees Retirement System of

1 Rhode Island (ERSRI) fund for teachers and state employees, is funded at a level of 48% which is
2 well below benchmarks for a viable, sustainable and adequately funded system.

3 (6) Annual government contributions to ERSRI more than doubled between fiscal years
4 2005 and 2011 and those contributions are estimated to double again in fiscal year 2013 to exceed
5 over \$600 million. Without immediate and comprehensive legislative action future contributions
6 will continue to grow dramatically and exceed \$1 billion dollars in necessary annual
7 contributions.

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

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

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

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

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

33 (12) Future downgrades in the public debt markets related to the rising costs and
34 expenses of the currently existing state pension system will substantially increase Rhode Island's

1 capital cost structure and adversely affect and greatly diminish the state's ability to address
2 critical infrastructure needs for education, transportation and other crucial public projects.

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

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

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

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

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

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

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

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

33 (4) The general assembly expressly finds and declares that the situation currently
34 confronting the State of Rhode Island's publicly financed pension systems has reached an

1 emergency stage and must be addressed without delay and the enactment of the Rhode Island
2 Retirement Security Act of 2011 is reasonable and necessary to achieve and protect the
3 compelling public interests listed herein. The general assembly further finds and declares that the
4 achievement of those compelling public interests, on balance, far outweigh any impact that such
5 enactment might have upon the expectations of active and retired members of the affected
6 pension systems as to potential future pension benefits.

7 SECTION 2. Section 36-8-1 of the General Laws in Chapter 36-8 entitled "Retirement
8 System - Administration" is hereby amended to read as follows:

9 **36-8-1. Definition of terms.** -- The following words and phrases as used in chapters 8 to
10 10 of this title unless a different meaning is plainly required by the context, shall have the
11 following meanings:

12 (1) "Accumulated contributions" shall mean the sum of all the amounts deducted from
13 the compensation of a member and credited to his or her individual pension account ~~together with~~
14 ~~regular interest thereon.~~

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

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

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

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

31 (b) For members who become eligible to retire on or after July 1, 2012, if more than one
32 half (1/2) of the member's total years of service consist of years of service during which the
33 member devoted less than thirty-five (35) business hours per week to the service of the state, such
34 member's average compensation shall mean the average of the highest ten (10) consecutive years

1 of compensation within the total service when the average compensation was the highest.

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

4 (7) "Casual employee" shall mean those persons hired for a temporary period, a period of
5 emergency or an occasional period ~~to perform special jobs or functions not necessarily related to~~
6 ~~the work of regular employees.~~

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

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

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

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

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

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

23 (9) "Employee" shall mean any officer or employee of the State of Rhode Island whose
24 business time is devoted exclusively to the services of the state, but shall not include one whose
25 duties are of a casual or seasonal nature. The retirement board shall determine who are employees
26 within the meaning of this chapter. The governor of the state, the lieutenant governor, the
27 secretary of state, the attorney general, the general treasurer, and the members of the general
28 assembly, ex officio, shall not be deemed to be employees within the meaning of that term unless
29 and until they elect to become members of the system as provided in section 36-9-6, but in no
30 case shall it deem as an employee, for the purposes of this chapter, (i) any individual hired prior
31 to July 1, 2012, who devotes less than twenty (20) business hours per week to the service of the
32 state and who receives less than the equivalent of minimum wage compensation on an hourly
33 basis for his or her services, except as provided in section 36-9-24 or (ii) any individual hired on
34 or after July 1, 2012, who devotes less than thirty-five (35) hours per week to the service of the

1 state. Any commissioner of a municipal housing authority, any member of a part-time state,
2 municipal or local board, commission, committee or other public authority shall not be deemed to
3 be an employee within the meaning of this chapter.

4 (10) "Full actuarial costs" or "full actuarial value" shall mean the lump sum payable by a
5 member claiming service credit for certain employment for which that payment is required which
6 is determined according to the age of the member and the employee's annual rate of compensation
7 at the time he or she applies for service credit and which is expressed as a rate percent of the
8 employee's annual rate of compensation to be multiplied by the number of years for which he or
9 she claims service credit as prescribed in a schedule adopted by the retirement board from time to
10 time on the basis of computation by the actuary. Except as provided in sections 16-16-7.1, 36-5-3,
11 36-9-31, 36-10-10.4, 45-21-53, 36-10-8, 45-21-29, and subsections 8-3-16(b), 8-8-10.1(b), 42-28-
12 22.1 (b) and 28-30-18.1(b),

13 (i) all AH service credit purchases requested after June 16, 2009 and prior to July 1, 2012,
14 ~~except military credit as provided by section 36-9-31 and 16-16-7.1,~~ shall be at full actuarial
15 value-; and

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

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

21 (12) ~~Member~~ Members shall mean any person included in the membership of the
22 retirement system as provided in sections 36-9-1 -- 36-9-7.

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

25 (14) "Regular interest" shall mean interest ~~at the rate of two percent (2%) per annum,~~
26 ~~compounded annually, or at such other rate determined from the actual experience of the system~~
27 ~~as may be prescribed from time to time by the board.~~ at the assumed investment rate of return,
28 compounded annually, as may be prescribed from time to time by the retirement board.

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

1 (16) "Retirement board" or "board" shall mean the board provided in section 36-8-3 to
2 administer the retirement system.

3 (17) "Retirement system" shall mean the employees' retirement system of the State of
4 Rhode Island as defined in section 36-8-2.

5 (18) "Service" shall mean service as an employee of the State of Rhode Island as
6 described in subdivision ~~(8)~~ (9) of this section.

7 (19) "Social Security retirement age" means a member's full retirement age as
8 determined in accordance with the federal Old Age, Survivors and Disability Insurance Act as in
9 effect from time to time.

10 (20) ~~(19)~~ "Total service" shall mean prior service as defined above, plus service rendered
11 as a member on or after July 1, 1936.

12 SECTION 3. Chapter 36-8 of the General Laws entitled "Retirement System -
13 Administration" is hereby amended by adding thereto the following section:

14 **36-8-4.1. Fiduciary and continuing education requirements.** -- (a) A member of the
15 board shall discharge duties with respect to the retirement system:

16 (1) Solely in the interest of the participants and beneficiaries;

17 (2) For the exclusive purpose of providing benefits to participants and beneficiaries and
18 paying reasonable expenses of administering the system;

19 (3) With the care, skill, and caution under the circumstances then prevailing which a
20 prudent person acting in a like capacity and familiar with those matters would use in the conduct
21 of an activity of like character and purpose;

22 (4) Impartially, taking into account any differing interests of participants and
23 beneficiaries;

24 (5) Incurring only costs that are appropriate and reasonable; and

25 (6) In accordance with a good-faith interpretation of the law governing the retirement
26 system.

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

29 (c) In the event the retirement board takes any action(s) contrary to the recommendation
30 of the plan actuary, the executive director shall within thirty (30) days, provide notice of such
31 action(s) to all plan members, the governor, the speaker of the house of representatives and the
32 president of the senate.

33 SECTION 4. Section 36-8-8.1 of the General Laws in Chapter 36-8 entitled "Retirement
34 System - Administration" is hereby repealed.

1 ~~**36-8-8.1. Disclosure of special pension benefits.**~~ ~~--- (a) (1) The retirement board is~~
2 ~~directed to conduct an audit of all special pension benefits conferred on or after January 1, 1970,~~
3 ~~to date by statute, by the retirement board, or by other public officials or agencies, and report its~~
4 ~~findings to the governor and to the general assembly no later than March 15, 1993. The report~~
5 ~~shall disclose all beneficiaries of special pension benefits and shall describe in detail, by~~
6 ~~beneficiary, the nature of the special pension benefits received, including pension credits or~~
7 ~~retirement benefits that were purchased by, awarded to, conferred on, or obtained by individuals~~
8 ~~other than for full time service as a paid employee of the state of Rhode Island. In addition, the~~
9 ~~report shall describe the manner and method by which those special pension benefits were~~
10 ~~conferred. For each beneficiary of special pension benefits, the report will calculate the~~
11 ~~contribution actuarially required to support the special pension benefits conferred and the actual~~
12 ~~contribution of the beneficiary, adjusted for the ordinary contribution of the state to the retirement~~
13 ~~system under section 36-10-2 and the investment return of the fund. The report will:~~
14 ~~(i) Disclose for each beneficiary the difference between the actual contribution of the~~
15 ~~member and the contribution actuarially required to fund the special pension benefit;~~
16 ~~(ii) Render a judgment as to whether the conferral of each benefit, by legislation or~~
17 ~~otherwise, was correct, lawful and appropriate; and~~
18 ~~(iii) Recommend appropriate remedial legislation and/or administrative action including,~~
19 ~~where warranted, the repeal of specific legislation conferring inappropriate and/or unwarranted~~
20 ~~retirement benefits upon individuals.~~
21 ~~(2) The report will include a description by the actuary of the effect on the retirement~~
22 ~~fund of the special pension benefits described and quantified in the report, and will be certified as~~
23 ~~true and accurate.~~
24 ~~(3) The cost of the audit and the report shall not exceed the sum of five hundred~~
25 ~~thousand dollars (\$500,000).~~
26 ~~(b) In each subsequent annual report filed pursuant to section 36-8-8, the retirement~~
27 ~~board will disclose all special pension benefits awarded to any individual or group during the~~
28 ~~reporting period and disclose for each member receiving the special pension benefits the~~
29 ~~difference between the actual contribution of the member and the contribution actuarially~~
30 ~~required to fund the special pension benefits awarded. The report will include a description by the~~
31 ~~actuary of the effect on the retirement fund of the special pension benefits described and~~
32 ~~quantified in the report.~~
33 ~~(c) The retirement board shall take all steps necessary and proper to timely implement~~
34 ~~the provisions of this section, and shall, through March 15, 1993, report to the governor and the~~

1 ~~general assembly on a continuing basis its progress towards and means of effectuating these~~
2 ~~legislative purposes.~~

3 SECTION 5. Section 36-8-9 of the General Laws in Chapter 36-8 entitled "Retirement
4 System - Administration" is hereby amended to read as follows:

5 **36-8-9. Legal adviser – Treasurer – Executive officers and secretary.** – (a) There shall
6 be a legal counsel to the board who shall be appointed by the general treasurer. The general
7 treasurer shall be ex-officio chairperson [and treasurer](#) of the retirement board and he or she shall
8 be [responsible for appointing](#) the custodian of the funds ~~and the treasurer thereof~~. There shall also
9 be an executive director who shall be appointed by the retirement board. The executive director
10 shall be in charge of administration of the retirement system and shall serve as secretary to the
11 retirement board. In addition, the retirement board shall appoint an assistant director who shall
12 serve as director and/or secretary in the absence of the director.

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

18 SECTION 6. Sections 36-9-2.1, 36-9-5, 36-9-20, 36-9-21 and 36-9-24 of the General
19 Laws in Chapter 36-9 entitled "Retirement System-Membership and Service Credits" are hereby
20 amended to read as follows:

21 **36-9-2. Membership of persons employed after establishment of system.** – All
22 employees as defined in chapter 8 of this title who became employees on or after July 1, 1936,
23 shall, under contract of their employment become members of the retirement system and shall
24 receive no pension or retirement allowance from any other pension or retirement system
25 supported wholly or in part by the State of Rhode Island, except as provided in [chapter 10.3 of](#)
26 [title 36 and](#) section 36-9-3, nor shall they be required to make contributions under any other
27 pension or retirement system of the state [except as provided in chapter 10.3 of title 36](#), anything
28 to the contrary notwithstanding; provided, however, that this section shall not apply to those
29 employees who may be required or elect to participate in a retirement program existing by virtue
30 of chapter 17.1 of title 16 or section 36-10-9.1.

31 **36-9-5. Officers and employees exempt – Former court judges and clerks.** – (a) The
32 members of the general assembly and the general officers of the state, except to the extent herein
33 provided, the judges of the supreme, superior, family, district courts, the traffic tribunal, judges of
34 the workers' compensation court except to the extent herein provided, school teachers as defined

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

11 (b) Any justice, associate justice, or judge who shall have retired in accordance with the
12 provisions of this section and who shall be recalled to service shall be recalled in accordance with
13 the provisions of section 8-3-7~~(b)~~(c), section 28-30-15(b), or section 28-30-16, or section 28-30-
14 16.1.

15 **36-9-20. Credit for service as a teacher, municipal employee, or legislator.** – (a) Any
16 state employee who shall have rendered service as a teacher as defined under the provisions of
17 chapters 16 and 17 of title 16 shall be entitled to credit for that service for the various purposes of
18 this system, provided the member shall have been a contributing member of this system for that
19 period. Any state employee who shall have been a contributing member of the municipal system
20 as defined under the provisions of chapter 21 of title 45 shall be given credit for that service for
21 the various purposes of this system, provided the member's contributions are transferred to this
22 system. All contributions made by the member shall be transferred into this system for the periods
23 of service and the retirement system shall calculate the full actuarial value of the accrued benefit
24 with the former employer. If the full actuarial value of the accrued benefit with the former
25 employer is greater than the total employee contributions transferred, the retirement system shall
26 also transfer the difference between the full actuarial value of the accrued benefit with the former
27 employer and the employee's contributions from the account of the former employer to the
28 account of the current employer. In any case in which a member shall have received a refund or
29 refunds of contributions made to the system, the allowance of the aforesaid credit for service shall
30 be conditioned upon the payment of the full actuarial cost as defined in subsection 36-8-1(910).
31 Any service as defined herein for which no contributions were made may be granted provided the
32 member pays to the retirement system the full actuarial cost as defined in section 36-8-1(910).
33 Any state employee or teacher as defined under the provisions of chapters 16 and 17 of title 16
34 who shall have been employed by a municipality which did not elect to accept chapter 21 of title

1 45 as provided in section 45-21-4 shall be given credit for that service for the various purposes of
2 this system, provided that the employee shall have met the definitional requirements of
3 "employee" as stated in section 45-21-2(5) and provided the member pays to the retirement
4 system an amount equal to the full actuarial value of the credit as certified by the retirement
5 board; provided, however, that any state employee who shall have been employed by a
6 municipality which did not elect to accept chapter 21 of title 45 as provided in section 45-21-4
7 shall be given credit for that service for the various purposes of this system, to a maximum period
8 of four (4) years, provided the member pays to the retirement system the full actuarial cost as
9 defined in subsection 36-8-1(910). Nothing in this section shall be deemed to allow the purchase
10 of four (4) years of service for credit in more than one retirement system.

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

13 **36-9-21. Service information submitted by department heads.** – It shall be the duty of
14 the head of each department and agency to ~~submit~~ furnish at the times and in the manner that the
15 retirement board and/or the retirement system may direct, ~~to the retirement board a statement~~
16 ~~showing~~ information concerning the name, title, compensation, duties, date of birth, and length of
17 service of each member employed, and ~~such~~ any other information which the retirement board or
18 retirement system considers necessary for the proper execution of this chapter, and to give prompt
19 notice of all appointments, removals, deaths, resignations, leaves of absence and changes in pay
20 of members ~~as the retirement board may require.~~

21 **36-9-24. Part-time school lunch employees.** – (a) Whenever any state school lunch
22 employee, who is a member of the system as a full-time employee is involuntarily transferred to a
23 position of less than twenty (20) hours per week, the employee shall remain a contributing
24 member of the retirement system and receive full credit for that part-time service, provided the
25 service shall be at least fifteen (15) hours per week.

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

30 (c) This section shall not apply to any part-time school lunch employee hired on or after
31 July 1, 2012.

32 SECTION 7. Sections 36-10-1, 36-10-2, 36-10-2.1, 36-10-8, 36-10-9, 36-10-9.1, 36-10-
33 9.2, 36-10-9.3, 36-10-9.6, 36-10-10, 36-10-10.2, 36-10-10.4, 36-10-11, 36-10-14, 36-10-15, 36-
34 10-17, 36-10-18, 36-10-19.1, 36-10-33, 36-10-35 and 36-10-37 of the General Laws in Chapter

1 36-10 entitled "Retirement System-Contributions and Benefits" are hereby amended to read as
2 follows:

3 **36-10-1. Member contributions – Deduction from compensation.** – (a) Prior to July 1,
4 2012, each ~~Each~~ member of the retirement system shall contribute an amount equal to eight and
5 ~~one-half~~ three-quarters percent ~~(8.75%)~~(8.5%) of his or her compensation as his or her share of
6 the cost of annuities, benefits, and allowances. Effective July 1, 2012, each member of the
7 retirement system shall contribute an amount equal to three and three quarters percent (3.75%) of
8 his or her compensation, except for correctional officers as defined in section 36-10-9.2 who shall
9 contribute an amount equal to eight and three quarters percent (8.75%) of his or her compensation
10 ~~;provided, however, that each member will also initially contribute one-eighth of one percent~~
11 ~~(0.125%) in the fiscal year beginning July 1, 1989, and one-eighth of one percent (0.125%) in the~~
12 ~~fiscal year beginning July 1, 1990. Any contributions made by employees prior to July 1, 1990,~~
13 ~~for the purpose of providing health benefits to retirees as provided in section 36-12-4 shall be~~
14 ~~transferred to each employee's retirement annuity account. Every person being a member of the~~
15 ~~general assembly and electing to participate in the benefits provided by chapters 8–10 of this~~
16 ~~title, in accordance with the provisions of section 36-9-6, shall contribute an amount equal to~~
17 ~~thirty percent (30%) of his or her compensation. The contributions shall be made in the form of~~
18 ~~deductions from compensation.~~

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

26 **36-10-2. State contributions.** – (a) The State of Rhode Island shall make its contribution
27 for the maintenance of the system, including the proper and timely payment of benefits in
28 accordance with the provisions of this chapter and chapters 8, 16, 28, 31 and 42 of this title, by
29 annually appropriating an amount equal to a percentage of the total compensation paid to the
30 active membership. The percentage shall be computed by the actuary employed by the retirement
31 system and shall be certified by the retirement board to the director of administration on or before
32 the fifteenth day of October in each year. In arriving at the yearly employer contribution the
33 actuary shall determine the value of:

34 (1) The contributions made by the members;

1 (2) Income on investments; and

2 (3) Other income of the system.

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

4 (1) Pay the actuarial estimate of the normal cost for the next succeeding fiscal year;

5 (2) Amortize the unfunded liability of the system as of June 30, 1999 utilizing a time
6 period not to exceed thirty (30) years.

7 ~~(3) Provided, that the employer contribution shall be deferred from the effective date of~~
8 ~~this act until June 15, 2010. The amounts that would have been contributed shall be deposited in a~~
9 ~~special fund and not used for any purpose.~~

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

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

16 (i) By June 30, 1995, an amount equal to the sum of the benefits paid to state legislators
17 pursuant to section 36-10-10.1 in excess of ten thousand dollars (\$10,000) per member (plus
18 accrued interest on such amount at eight percent (8%)) for all fiscal years beginning July 1, 1991,
19 and ending June 30, 1995, but this amount shall be paid only if section 36-10-10.1(e) becomes
20 effective January 1, 1995; and

21 (ii) By December 31, 1994, twenty million seven hundred eighty eight thousand eight
22 hundred twelve dollars and nineteen cents (\$20,788,812.19) plus accrued interest on that amount
23 at eight percent (8%) compounded monthly beginning March 1, 1991, and ending on the date this
24 payment is completed (reduced by amortized amounts already repaid to the retirement system
25 with respect to the amounts withdrawn by the state during the fiscal year July 1, 1990 – June 30,
26 1991); and

27 (iii) By June 30, 1995, the sum of the amounts paid by the retirement system for retiree
28 health benefits described in section 36-12-4 for all fiscal years beginning July 1, 1989, and ending
29 June 30, 1994, to the extent that the amounts were not paid from the restricted fund described in
30 subsection (c).

31 (2) Any and all amounts paid to the retirement system under this subsection shall not
32 increase the amount otherwise payable to the system by the State of Rhode Island under
33 subsection (a) for the applicable fiscal year. The actuary shall make such adjustments in the
34 amortization bases and other accounts of the retirement system as he or she deems appropriate to

1 carry out the provisions and intent of this subsection.

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

5 (1) Except for fiscal year 2009, fiscal year 2010 and fiscal year 2011, for each fiscal year
6 in which the actuarially determined state contribution rate for state employees is lower than that
7 for the prior fiscal year, the governor shall include an appropriation to that system equivalent to
8 twenty percent (20%) of the rate reduction for the state's contribution rate for state employees to
9 be applied to the actuarial accrued liability of the state employees' retirement system for state
10 employees for each fiscal year;

11 (2) Except for fiscal year 2009, fiscal year 2010 and fiscal year 2011, for each fiscal year
12 in which the actuarially determined state contribution rate for teachers is lower than that for the
13 prior fiscal year, the governor shall include an appropriation to that system equivalent to twenty
14 percent (20%) of the rate reduction for the state's share of the contribution rate for teachers to be
15 applied to the actuarial accrued liability of the state employees' retirement system for teachers for
16 each fiscal year;

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

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

23 **36-10-2.1. Actuarial cost method.** – (a) To determine the employer contribution rate for
24 the State of Rhode Island for fiscal year 2002 and for all fiscal years subsequent, the actuary shall
25 compute the costs under chapter 10 of title 36 using the entry age normal cost method. [Effective](#)
26 [July 1, 2012, the entry age normal cost method shall be as defined in Accounting Standard No. 27](#)
27 [of the Governmental Accounting Standards Board as in effect from time to time.](#)

28 (b) The determination of the employer contribution rate for fiscal year ~~2013~~ [2002 and](#)
29 ~~thereafter~~ shall include a reamortization of the [current](#) Unfunded Actuarial Accrued Liability
30 (UAAL) over a [closed twenty-five \(25\) year period. After an initial period of five \(5\) years, future](#)
31 [actuarial gains and losses occurring within a plan year will be amortized over individual new](#)
32 [twenty \(20\) year closed periods](#) ~~period not to exceed thirty (30) years.~~

33 **36-10-8. Refund of contributions – Repayment and restoration of credits.** – A
34 member who withdraws from service or ceases to be a member for any reason other than death or

1 retirement shall be paid on demand a refund consisting of the accumulated contributions standing
2 to his or her credit in his or her individual account ~~in the annuity savings account~~, without
3 interest. Any member receiving a refund shall thereby forfeit and relinquish all accrued rights as a
4 member of the system together with credits for total service previously granted to the member;
5 provided, however, that if any member who has received a refund shall subsequently reenter the
6 service and again become a member of the system, he or she shall have the privilege of restoring
7 all money previously received or disbursed to his or her credit as a refund of contributions, plus
8 regular interest for the period from the date of refund to the date of the restoration. Upon the
9 repayment of such refund including accrued interest as herein provided, the member shall again
10 receive credit for the amount of total service which he or she had previously forfeited by the
11 acceptance of the refund. The restoration of that credit shall be permitted only after the member
12 shall have rendered at least one year of continuous service following his or her latest reentry into
13 service for which he or she shall have made contributions to this system.

14 **36-10-9. Retirement on service allowance – In general.** – Retirement of a member on a
15 service retirement allowance shall be made by the retirement board as follows:

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

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

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

1 sixty-two (62).

2 (2) The formula shall then take the member's total service credit as of September 30,
3 2009 as the numerator and the years of service credit determined under (1) as the denominator.

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

6 (b)(i) Any member, who has not completed at least ten (10) years of contributory service
7 on or before July 1, 2005 [and who retires prior to October 1, 2009](#), may retire upon his or her
8 written application to the retirement board as of the first day of the calendar month in which the
9 application was filed; provided, the member was separated from service prior thereto; and further
10 provided, however, that if separation from service occurs during the month in which application
11 is filed, the effective date shall be the first day following that separation from service; provided,
12 the member or his or her retirement date had attained the age of fifty-nine (59) and had completed
13 at least twenty-nine (29) years of total service or provided that the member on his or her
14 retirement date had attained the age of sixty-five (65) and had completed at least ten (10) years of
15 contributory service; or provided, that the member on his or her retirement date had attained the
16 age of fifty-five (55) and had completed twenty (20) years of total service provided, that the
17 retirement allowance, as determined according to the formula in section 36-10-10 is reduced
18 actuarially for each month that the age of the member is less than sixty-five (65) years, and who
19 retire before October 1, 2009 or are eligible to retire as of September 30, 2009.

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

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

31 (2) The formula shall then take the member's total service credit as of September 30,
32 2009 as the numerator and the years of service credit determined under (1) as the denominator.

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

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

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

6 (ii) If a member had ten (10) or more years of contributory service and attained age fifty-
7 two (52) as of June 30, 2012 and would have been eligible to retire at or prior to age sixty-two
8 (62) in accordance with paragraphs (1)(a) and (1)(b) above, the member may retire upon
9 attainment of age sixty-two (62).

10 (iii) A member who has completed twenty (20) or more years of total service and who
11 has attained an age within five (5) years of the eligible retirement age under subparagraphs (c)(i)
12 or (c)(ii) above, may elect to retire provided that the retirement allowance shall be reduced
13 actuarially for each month that the age of the member is less than the eligible retirement age
14 under subparagraphs (c)(i) or (c)(ii) above.

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

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

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

31 (ii) Provided, however, a person who has ten (10) years service credit on or before June
32 16, 1991, shall be vested.

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

1 (iv) Any person who becomes a member of the employees' retirement system pursuant to
2 section 45-21-4 shall be considered a contributing member for the purpose of chapter 21 of title
3 45 and this chapter.

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

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

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

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

30 (6) A member who seeks to purchase or receive service credit in this retirement system
31 shall have the affirmative duty to disclose to the retirement board whether or not he or she is a
32 vested member in any other retirement system and/or is receiving a pension, retirement
33 allowance, or any annual payment for life. The retirement board shall have the right to investigate
34 as to whether or not the member has utilized the same time of service for credit in any other

1 retirement system. The member has an affirmative duty to cooperate with the retirement board
2 including, by way of illustration and not by way of limitations the duty to furnish or have
3 furnished to the retirement board any relevant information which is protected by any privacy act.

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

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

11 **36-10-9.2. Retirement on service allowance – Correctional officers.** – (a) This section
12 shall apply to the retirement of members employed as assistant director (adult services), assistant
13 deputy director, chief of inspection, and associate directors, correctional officer, chief of security,
14 work rehabilitation program supervisor, supervisor of custodial records and reports, and
15 classification counselor within the department of corrections.

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

20 (ii) For members who become eligible to retire on or after October 1, 2009 benefits are
21 available to members who have attained the age of fifty-five (55) and have completed at least
22 twenty-five (25) years of total contributory service within the department of corrections. For
23 members in service as of October 1, 2009 who were not eligible to retire as of September 30,
24 2009 but who are eligible to retire on or prior to June 30, 2012, the minimum retirement age of
25 fifty-five (55) will be adjusted downward in proportion to the amount of service the member has
26 earned as of September 30, 2009. The proportional formula shall work as follows:

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

30 (2) The formula shall then take the member's total service credit as of September 30,
31 2009 as the numerator and the years of service credit determined under (1) as the denominator.

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

34 (c) Any member with contributory service on or after July 1, 2012, who has completed at

1 [least five \(5\) years of contributory service but who has not completed twenty-five \(25\) years of](#)
2 [contributory service, shall be eligible to retire upon the attainment of the member's Social](#)
3 [Security retirement age.](#)

4 **36-10-9.3. Retirement on service allowance -- Registered nurses.** -- (a) This section
5 shall apply to the retirement of members employed as registered nurses within the department of
6 behavioral healthcare, developmental disabilities and hospitals.

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

12 (c) For members who become eligible to retire on or after October 1, 2009, benefits are
13 available to members who have attained the age of fifty-five (55) and have completed at least
14 twenty-five (25) years of total service within the department of behavioral healthcare,
15 developmental disabilities and hospitals. For members in service as of October 1, 2009 who were
16 not eligible to retire as of September 30, 2009 [but who are eligible to retire on or prior to June 30,](#)
17 [2012](#), the minimum retirement age of fifty-five (55), the retirement age will be adjusted
18 downward in proportion to the amount of service the member has earned as of September 30,
19 2009. The proportional formula shall work as follows:

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

23 (2) The formula shall then take the member's total service credit as of September 30,
24 2009 as the numerator and the years of service credit determined under (1) as the denominator.

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

27 **36-10-9.6. Aeronautics inspectors – Retirement.** – (a) This section shall only apply to
28 the retirement of members employed as aeronautics inspectors.

29 (b) In determining the [creditable](#) ~~credible~~ service of any aeronautics inspector employed
30 by the State of Rhode Island for the purpose of retirement of a service retirement allowance, not
31 including a deferred retirement allowance, there may be added to, and included in, total service as
32 defined in this chapter, not more than four (4) years of applied work experience, the experience to
33 be defined as a pilot or aeronautics inspector. The service shall not be counted as credible service
34 unless the member shall pay into the retirement system the contribution equal to ten percent

1 (10%) of the member's first year earnings as an aeronautics inspector for the first year purchased,
2 ten percent (10%) of the member's second year earnings as an aeronautics inspector for the
3 second year purchased, ten percent (10%) of the member's third year earnings as an aeronautics
4 inspector for the third year purchased, and ten percent (10%) of the member's fourth year
5 earnings as an aeronautics inspector for the fourth year purchased. Application to purchase credit
6 and payment for each year of the year for which he or she claims credit shall be made on or
7 before December 31, 1987. Thereafter, a member applying for credits shall pay full actuarial
8 costs.

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

14 Schedule A

15 Years of Service Percentage Allowance

16 1st through 10th inclusive 1.7%

17 11th through 20th inclusive 1.9%

18 21st through 34th inclusive 3.0%

19 35th 2.0%

20 (ii) For employees eligible to retire on or after October 1, 2009, who were not eligible to
21 retire on or before September 30, 2009, upon retirement from service under section 36-10-9, a
22 member whose membership commenced before July 1, 2005 and who has completed at least ten
23 (10) years of contributory service on or before July 1, 2005 shall receive a retirement allowance
24 which shall be determined in accordance with schedule A above for service on before September
25 30, 2009, and shall be determined in accordance with schedule B in subsection (a)(2) below for
26 service on or after October 1, 2009 [and prior to July 1, 2012](#).

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

31 Schedule B

32 Years of Service Percentage Allowance

33 1st through 10th inclusive 1.60%

34 11th through 20th inclusive 1.80%

1 21st through 25th inclusive 2.0%
2 26th through 30th inclusive 2.25%
3 31st through 37th inclusive 2.50%
4 38th 2.25%

5 (b) The retirement allowance of any member whose membership commenced before July
6 1, 2005 and who has completed at least ten (10) years of contributory service on or before July 1,
7 2005 shall be in an amount equal to the percentage allowance specified in subsection (a)(1) of his
8 or her average highest three (3) consecutive years of compensation multiplied by the number of
9 years of total service, but in no case to exceed eighty percent (80%) of the compensation payable
10 at completion of thirty-five (35) years of service; provided, however, for employees retiring on or
11 after October 1, 2009 who were not eligible to retire as of September 30, 2009 the calculation
12 shall be based on the average highest five (5) consecutive years of compensation. Any member
13 who has in excess of thirty-five (35) years on or before June 2, 1985, shall not be entitled to any
14 refund, and any member with thirty-five (35) years or more on or after June 2, 1985, shall
15 contribute from July 1, 1985, until his or her retirement. The retirement allowance of any member
16 whose membership commenced after July 1, 2005 or who had not completed at least ten (10)
17 years of contributory service as of July 1, 2005, shall, be in an amount equal to the percentage
18 allowance specified in Schedule B of his or her average highest three (3) consecutive years of
19 compensation multiplied by the number of years of total service, but in no case to exceed
20 seventy-five percent (75%) of the compensation payable at the completion of thirty-eight (38)
21 years of service; provided, however, for employees retiring on or after October 1, 2009 who were
22 not eligible to retire as of September 30, 2009 the calculation shall be based on the average
23 highest five (5) consecutive years of compensation.

24 (c) Any member with thirty-eight (38) years or more of service prior to December 31,
25 1985, shall not be required to make additional contributions. Contributions made between
26 December 31, 1985, and July 1, 1987, by members with thirty-eight (38) or more years of service
27 prior to December 31, 1985, shall be refunded by the retirement board to the persons, their heirs,
28 administrators, or legal representatives.

29 (d) For service prior to July 1, 2012, the retirement allowance of a member shall be
30 determined in accordance with subsections (a)(1) and (a)(2) above. For service on and after July
31 1, 2012, a member's retirement allowance shall be equal to one percent (1%) of the member's
32 average compensation multiplied by the member's years of service on and after July 1, 2012.

33 **36-10-10.2. Amount of service retirement allowance – Correctional officers.** – (a)
34 Upon retirement for service under section 36-10-9.2, a member with twenty-five (25) or more

1 years of service as of June 30, 2012 shall receive a retirement allowance of an amount determined
2 under (i) below. All other members shall receive a retirement allowance of an amount equal to the
3 sum of (i) below for service prior to July 1, 2012, plus (ii) below for service on and after July 1,
4 2012.

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

10 Schedule A

11 Years of Service Percentage Allowance

12	1 st through 30 th inclusive	2%
13	31 st	6%
14	32 nd	5%
15	33 rd	4%
16	34 th	3%
17	35 th	2%,

18 (ii) Two percent (2%) of his or her average compensation multiplied by his or her years
19 of total service within the department of corrections.

20 (b) In no case shall a retirement percentage allowance exceed ~~eighty percent (80%)~~
21 seventy-five percent (75%). Any member who has in excess of thirty-five (35) years on or before
22 July 1, 1987, shall not be entitled to any refund. Any member with thirty-five (35) years or more
23 on or after July 1, 1987, shall contribute from July 1, 1987, until his or her retirement, provided,
24 however, that any member with thirty-eight (38) years of service prior to July 1, 1987, shall not
25 be required to contribute.

26 **36-10-10.4. Effect of deferral and/or reduction of salary.** – (a) If subsequent to January
27 1, 1991, a member sustains a loss of salary due to a deferral of salary or a reduction in salary in
28 order to avoid shutdowns, layoffs, or because of a retrenchment of state or local finances, then in
29 calculating the service retirement allowance of the member, the amount of salary deferred and/or
30 the amount of the reduction of salary shall not reduce the amount of annual compensation of the
31 member for the purpose of establishing his or her highest three (3) consecutive years of
32 compensation for members eligible to retire on or before September 30, 2009, or his or her
33 highest five (5) consecutive years of compensation for members who are not eligible to retire on
34 or before September 30, 2009. This provision is subject to subsection (c) of this section.

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

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

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

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

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

15 **36-10-11. Service allowance to member withdrawing from service before retirement**

16 **age.** – ~~(a)~~ The right of a service retirement allowance under the provisions of this chapter shall
17 vest in a member who shall withdraw from service prior to his or her attainment of the minimum
18 age of retirement specified in section 36-10-9 – 36-10-9.3 who shall not have received a refund,
19 provided the member shall have completed at least ten (10) years of contributory service on or
20 before ~~July 1, 2005~~ June 30, 2012, for members terminating service or retiring on or before June
21 30, 2012, or at least five (5) years of contributory service for members terminating service or
22 retiring on or after July 1, 2012. The member shall become entitled to a service retirement
23 allowance upon his or her attainment of the age established in section 36-10-9 or at his or her
24 option at any date subsequent thereto. The rate of service retirement allowance payable in the
25 case of any member shall be that provided in section 36-10-10, for the period of total service
26 earned and accrued at the date of withdrawal from service of the member.

27 ~~(b) For a member who shall not have completed at least ten (10) years of contributory~~
28 ~~service on or before July 1, 2005, the right of a service retirement allowance under the provisions~~
29 ~~of this chapter shall vest in a member who shall withdraw from service prior to his or her~~
30 ~~attainment of the minimum age of retirement specified in section 36-10-9 – 36-10-9.3 who shall~~
31 ~~not have received a refund, provided, the member shall have completed at least ten (10) years of~~
32 ~~contributory service. The member shall become entitled to a service retirement allowance upon~~
33 ~~his or her attainment of the age of sixty five (65) years or at his or her option at any date~~
34 ~~subsequent thereto. The rate of service retirement allowance payable in the case of any member~~

1 ~~shall be that provided in section 36-10-10, Schedule B, for the period of total service earned and~~
2 ~~accrued at the date of withdrawal from service of the member.~~

3 **36-10-14. Retirement for accidental disability.** – (a) Medical examination of an active
4 member or a member on leave of absence for illness or injury for accidental disability and
5 investigation of all statements and certificates by him or her or in his or her behalf in connection
6 therewith shall be made upon the application of the head of the department in which the member
7 is employed or upon application of the member, or of a person acting in his or her behalf, stating
8 that the member is physically or mentally incapacitated for the performance of service as a
9 natural and proximate result of an accident while in the performance of duty, and certify the
10 definite time, place, and conditions of the duty performed by the member resulting in the alleged
11 disability, and that the alleged disability is not the result of willful negligence or misconduct on
12 the part of the member, and is not the result of age or length of service, and that the member
13 should, therefore, be retired.

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

21 (c) If a medical examination conducted by three (3) physicians engaged by the retirement
22 board and such investigation as the retirement board may desire to make shall show that the
23 member is physically or mentally incapacitated for the performance of service as a natural and
24 proximate result of an accident, while in the performance of duty, and that the disability is not the
25 result of willful negligence or misconduct on the part of the member, and is not the result of age
26 or length of service, and that the member has not attained the age of sixty-five (65) or effective
27 July 1, 2012, Social Security retirement age, and that the member should be retired, the
28 physicians who conducted the examination shall so certify to the retirement board stating the
29 time, place, and conditions of service performed by the member resulting in the disability and the
30 retirement board may grant the member an accidental disability benefit.

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

34 **36-10-15. Amount of accidental disability benefit.** -- (a) For disability applications

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

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

17 (c) Upon retirement for accidental disability that has been found by the board to be
18 permanently and totally disabling from any employment, a member shall receive a retirement
19 allowance equal to sixty-six and two-thirds percent (66 2/3%) of the rate of the member's
20 compensation at the date of the member's retirement subject to the provisions of section 36-10-31.

21 (d) The retirement board shall apply the terms of subsection 28-33-17(b) in determining
22 total disability.

23 (e) All members who apply for accidental disability on or after July 1, 2012, who have
24 not been found to be permanently and totally disabled from any employment by the retirement
25 board, shall have their disability pension cease upon reaching the minimum retirement age at
26 which the member would have been entitled to an unreduced service retirement allowance if the
27 member had continued in active service. Upon reaching such minimum retirement age, a service
28 pension under sections 36-10-9, 36-10-9.2, or 36-10-9.3 shall begin in the amount of the
29 disability pension (inclusive of any cost of living adjustment that the member previously received
30 prior to attaining the minimum age of retirement).

31 **36-10-17. Reexamination of disability beneficiaries – Reduction of benefit –**
32 **Reinstatement to active service.** – Once each year the retirement board may, and upon his or her
33 application shall, require any disability beneficiary under the minimum age of service retirement
34 to undergo a medical examination. The examination to be made at the office of ~~place of residence~~

1 ~~of the beneficiary or other place mutually agreed upon by~~ a physician or physicians engaged by
2 the retirement board. If the examination indicates that the beneficiary is able to engage in a
3 gainful occupation, his or her name shall be placed on such appropriate lists of candidates as are
4 prepared for appointment to positions in his or her department or agency for which he or she is
5 stated to be qualified and for a salary grade not exceeding that from which he or she was last
6 retired. Should the beneficiary be engaged in a gainful occupation or should he or she be offered
7 service as a result of the placing of his or her name on a list of candidates, the retirement board
8 shall adjust and from time to time readjust, the amount of his or her disability benefit to an
9 amount which shall not exceed the rate of benefit upon which he or she was originally retired, and
10 which, when added to the amount then earnable by him or her, shall not exceed his or her rate of
11 annual compensation currently for the classification that the disability annuitant held prior to
12 retirement. Should any disability beneficiary under the minimum age of service retirement refuse
13 to submit to one medical examination in any year by a physician or physicians designated by the
14 retirement board, his or her benefit shall be discontinued until his or her withdrawal of the refusal
15 and should his or her refusal continue for one year, all his or her rights in and to disability benefit
16 shall be revoked by the retirement board. A disability beneficiary, reinstated to active service,
17 shall be reinstated as a member and participate in the rights of the retirement system to the same
18 extent as any other member.

19 **36-10-18. Optional benefits.** – (a) A beneficiary, or, if the beneficiary be an
20 incompetent, then the beneficiary's spouse or domestic partner or if there is no spouse or domestic
21 partner, a guardian of the beneficiary's estate, may elect to receive the benefit in a retirement
22 allowance, payable throughout life, or the beneficiary may then elect to receive the actuarial
23 equivalent, at that time, of the beneficiary's retirement allowance in a lesser retirement allowance
24 as determined by actuarial calculation, which shall be payable throughout life with the provision
25 that:

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

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

1 acknowledged and filed with the retirement board at the time of the beneficiary's retirement.

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

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

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

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

14 **36-10-19.1. Optional annuity protection – In service.** – (a) Upon the death of a
15 member having: (1) ~~At~~ At least ten (10) years of membership service on or before June 30, 2012;
16 or (2) For active contributing members on or after July 1, 2012, at least five (5) years of
17 membership service, the spouse or domestic partner of the member shall have the option to elect
18 to receive option one as provided in section 36-10-18(a) in lieu of a return of contributions,
19 provided the spouse or domestic partner is the designated beneficiary of the member's retirement
20 account. The election shall be based upon the amount of retirement allowance or actuarial
21 equivalent that may accrue at the date of death of the member.

22 (b) The election under option one of section 36-10-18(a) for a person other than the
23 spouse or domestic partner of the member may be made by the member, while in service,
24 provided the member has (1) ~~At~~ At least ten (10) years of membership service on or before June
25 30, 2012 and before retirement; or (2) For active contributing members on or after July 1, 2012, at
26 least five (5) years of membership service and before retirement, on a form prescribed by the
27 retirement board. The election shall be based upon the amount of retirement allowances or
28 actuarial equivalents that may accrue at the date of death of the member, provided that the
29 election form is executed and filed with the retirement board prior to the date of death. The
30 election may be revoked or modified by the member at any time prior to the date of retirement on
31 a form prescribed by the retirement board.

32 (c) Upon the death of a member, the option shall become effective thirty (30) days after
33 the first day of the calendar month next following the date of death of the member if death occurs
34 while in an employee status. Should death occur while in an inactive member status, the option

1 under this section shall become payable on the first of the month next succeeding that in which
2 the designated beneficiary attains the age of sixty (60) years.

3 **36-10-33. Penalty for fraudulent claim or statement.** – Every person who knowingly
4 or willfully makes, presents, or in anyway procures the making or presentation of any false or
5 fraudulent affidavit or affirmation concerning any claim for pension or payment thereof, shall, in
6 every case, forfeit a sum not exceeding ten thousand dollars (\$10,000) ~~one thousand dollars~~
7 ~~(\$1,000)~~, in addition to the repayment of any and all money received from the retirement system
8 because of a false or fraudulent claim or statement, with interest, at the rate of twelve percent
9 (12%) per annum, to be sued and recovered by and in the name of the retirement board of the
10 retirement system, and when recovered, paid over to and thereupon become a part of the funds of
11 the retirement system.

12 **36-10-35. Additional benefits payable to retired employees.** – (a) All state employees
13 and all beneficiaries of state employees receiving any service retirement or ordinary or accidental
14 disability retirement allowance pursuant to the provisions of this title on or before December 31,
15 1967, shall receive a cost of living retirement adjustment equal to one and one-half percent
16 (1.5%) per year of the original retirement allowance, not compounded, for each calendar year the
17 retirement allowance has been in effect. For the purposes of computation, credit shall be given for
18 a full calendar year regardless of the effective date of the retirement allowance. This cost of living
19 adjustment shall be added to the amount of the retirement allowance as of January 1, 1968, and an
20 additional one and one-half percent (1.5%) shall be added to the original retirement allowance in
21 each succeeding year during the month of January, and provided further, that this additional cost
22 of living increase shall be three percent (3%) for the year beginning January 1, 1971, and each
23 year thereafter, through December 31, 1980. Notwithstanding any of the above provisions, no
24 employee receiving any service retirement allowance pursuant to the provisions of this title on or
25 before December 31, 1967, or the employee's beneficiary, shall receive any additional benefit
26 hereunder in an amount less than two hundred dollars (\$200) per year over the service retirement
27 allowance where the employee retired prior to January 1, 1958.

28 (b) All state employees and all beneficiaries of state employees retired on or after January
29 1, 1968, who are receiving any service retirement or ordinary or accidental disability retirement
30 allowance pursuant to the provisions of this title shall, on the first day of January next following
31 the third anniversary date of the retirement, receive a cost of living retirement adjustment, in
32 addition to his or her retirement allowance, in an amount equal to three percent (3%) of the
33 original retirement allowance. In each succeeding year thereafter through December 31, 1980,
34 during the month of January, the retirement allowance shall be increased an additional three

1 percent (3%) of the original retirement allowance, not compounded, to be continued during the
2 lifetime of the employee or beneficiary. For the purposes of computation, credit shall be given for
3 a full calendar year regardless of the effective date of the service retirement allowance.

4 (c) Beginning on January 1, 1981, for all state employees and beneficiaries of the state
5 employees receiving any service retirement and all state employees, and all beneficiaries of state
6 employees, who have completed at least ten (10) years of contributory service on or before July 1,
7 2005 pursuant to the provisions of this chapter, and for all state employees, and all beneficiaries
8 of state employees who receive a disability retirement allowance pursuant to section 36-10-12 –
9 36-10-15, the cost of living adjustment shall be computed and paid at the rate of three percent
10 (3%) of the original retirement allowance or the retirement allowance as computed in accordance
11 with section 36-10-35.1, compounded annually from the year for which the cost of living
12 adjustment was determined to be payable by the retirement board pursuant to the provisions of
13 subsection (a) or (b) of this section. Such cost of living adjustments are available to members who
14 retire before October 1, 2009 or are eligible to retire as of September 30, 2009.

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

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

29 (d) For state employees not eligible to retire in accordance with this chapter as of
30 September 30, 2009 and not eligible upon passage of this article, and for their beneficiaries, the
31 cost of living adjustment described in subsection (3) above shall only apply to the first thirty-five
32 thousand dollars (\$35,000) of retirement allowance, indexed annually, and shall commence upon
33 the third (3rd) anniversary of the date of retirement or when the retiree reaches age sixty-five
34 (65), whichever is later. The thirty-five thousand dollar (\$35,000) limit shall increase annually by

1 the percentage increase in the Consumer Price Index for all Urban Consumers (CPI-U) as
2 published by the United States Department of Labor Statistics determined as of September 30 of
3 the prior calendar year or three percent (3%), whichever is less. The first thirty-five thousand
4 dollars (\$35,000) of retirement allowance, as indexed, shall be multiplied by the percentage of
5 increase in the Consumer Price Index for all Urban Consumers (CPI-U) as published by the
6 United States Department of Labor Statistics determined as of September 30 of the prior calendar
7 year or three percent (3%), whichever is less, on the month following the anniversary date of each
8 succeeding year. For state employees eligible to retire as of September 30, 2009 or eligible upon
9 passage of this article, and for their beneficiaries, the provisions of this subsection (d) shall not
10 apply.

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

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

21 (g)(1) Notwithstanding the prior paragraphs of this section, and subject to paragraph (g)
22 (2) below, for all present and former employees, active and retired members, and beneficiaries
23 receiving any retirement, disability or death allowance or benefit of any kind, the annual benefit
24 adjustment provided in any calendar year under this section shall be equal to (A) multiplied by
25 (B) where (A) is equal to the percentage determined by subtracting five and one-half percent
26 (5.5%) (the “subtrahend”) from the Five-Year Average Investment Return of the retirement
27 system determined as of the last day of the plan year preceding the calendar year in which the
28 adjustment is granted, said percentage not to exceed four percent (4%) and not to be less than
29 zero percent (0%), and (B) is equal to the lesser of the member’s retirement allowance or the first
30 thirty-five thousand dollars (\$35,000) of retirement allowance, such thirty-five thousand dollars
31 (\$35,000) amount to be indexed annually in the same percentage as determined under (g)(1)(A)
32 above. The “Five-Year Average Investment Return” shall mean the average of the investment
33 returns of the most recent five (5) plan years as determined by the retirement board. Subject to
34 paragraph (g)(2) below, the benefit adjustment provided by this paragraph shall commence upon

1 the third (3rd) anniversary of the date of retirement or the date on which the retiree reaches his or
2 her Social Security retirement age, whichever is later. In the event the retirement board adjusts
3 the actuarially assumed rate of return for the system, either upward or downward, the subtrahend
4 shall be adjusted either upward or downward in the same amount.

5 (2) The benefit adjustments provided under this section for any calendar year shall be
6 suspended in their entirety unless:

7 (i) The retirement system for state employees is determined to be funded at a GASB
8 Funded Ratio equal to or greater than eighty percent (80%) as of the end of the immediately
9 preceding plan year in accordance with the retirement system's actuarial valuation report as
10 prepared by the system's actuary, in which event the benefit adjustment will be reinstated for all
11 members for such plan year; or

12 (ii) The retirement system for state employees is determined to be funded at a GASB
13 Funded Ratio equal to or greater than seventy percent (70%) as of the end of the immediately
14 preceding plan year in accordance with the retirement system's actuarial valuation report as
15 prepared by the system's actuary, in which event a benefit adjustment will be reinstated for such
16 plan year for members who received an accumulated retirement allowance in the prior plan year
17 of less than twenty thousand dollars (\$20,000); the amount of the benefit adjustment under this
18 paragraph (g)(2)(ii) shall be equal to (A) multiplied by (B) where (A) is determined under
19 (g)(1)(A) above and (B) is equal to the member's years of service, up to a maximum of thirty-five
20 (35) years of service, multiplied by the lesser of the member's retirement allowance or the first
21 five hundred dollars (\$500) of retirement allowance. The twenty thousand dollars (\$20,000) and
22 the five hundred dollars (\$500) amounts in the preceding sentence shall be indexed annually in
23 the same percentage amount as determined under (g)(1)(A) above.

24 In determining whether a funding level under this paragraph (g)(2) has been achieved, the
25 actuary shall calculate the funding percentage after taking into account the reinstatement of any
26 current or future benefit adjustment provided under this section. "GASB Funded Ratio" shall
27 mean the ratio of the actuarial value of assets to the actuarial accrued liability.

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

31 **36-10-37. Retirement benefits for certain general state officers.** – Any person who has
32 served as governor, lieutenant governor, attorney general, secretary of state, or general treasurer
33 for a period of twenty (20) consecutive years shall be entitled, upon his or her resignation or
34 retirement, to receive annually during his or her life a sum equal to three quarters (3/4) of the

1 salary he or she was receiving at the time of his or her resignation or retirement. This section shall
2 not apply to any person initially elected as governor, lieutenant governor, attorney general,
3 secretary of state, or general treasurer on or after July 1, 2012.

4 SECTION 8. Section 36-10.1-2 of the General Laws in Chapter 36-10.1 entitled "Rhode
5 Island Public Employee Pension Revocation and Reduction Act" is hereby amended to read as
6 follows:

7 **36-10.1-2. Definitions.** – (a) "Crime related to public office or public employment" shall
8 mean any of the following criminal offenses:

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

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

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

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

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

- 1 (2) Neither partner was married to anyone else;
- 2 (3) Partners were not related by blood to a degree which would prohibit marriage in the
3 State of Rhode Island;
- 4 (4) Partners resided together and had resided together for at least one year at the time of
5 death; and
- 6 (5) Partners were financially interdependent as evidenced by at least two (2) of the
7 following:
- 8 (i) Domestic partnership agreement or relationship contract;
- 9 (ii) Joint mortgage or joint ownership of primary residence;
- 10 (iii) Two (2) of: (A) joint ownership of motor vehicle; (B) joint checking account; (C)
11 joint credit account; (D) joint lease; and/or
- 12 (iv) The domestic partner had been designated as a beneficiary for the decedent's will,
13 retirement contract or life insurance.

14 SECTION 9. Title 36 of the General Laws entitled "PUBLIC OFFICERS AND
15 EMPLOYEES" is hereby amended by adding thereto the following chapter:

16 CHAPTER 10.2

17 PENSION PROTECTION ACT

18 **36-10.2-1. Short title.** – This chapter shall be known and may be cited as the "Rhode
19 Island Pension Protection Act".

20 **36-10.2-2. Purpose.** – The purpose of the Rhode Island Pension Protection Act is to
21 provide current, retired and future public employees financial retirement security by codifying
22 procedures that will promote the sustainability and longevity of the state's retirement systems.
23 The act will implement a fair process to be used to facilitate needed changes in times of fiscal
24 distress.

25 **36-10.2-3. Definitions.** – As used in this chapter, the following terms, unless the context
26 requires a different interpretation, have the following meanings:

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

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

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

1 (JRBT).

2 (4) “Funded percentage” means the percentage equal to a fraction— the numerator of
3 which is the actuarial value of the plan’s assets, as determined by the actuary, and the
4 denominator of which is the accrued liability of the plan, determined by the actuary using
5 actuarial assumptions approved by the board.

6 **36-10.2.4. Actuarial valuation methodology.** – Actuarial accounting methods used by
7 the actuary in determining the funded percentage shall be determined by the board in compliance
8 with all applicable public pension accounting laws, rules and regulations. The actuary or the
9 board shall not, year to year, change actuarial methods for the sole purpose of achieving a more
10 favorable funding or fiscal result. Any actuarial assumptions not determined by the board shall
11 be made by the actuary in good faith and in accordance with accepted actuarial standards.

12 **36-10.2.5. Determination of endangered status.** – A plan is in endangered status for a
13 plan year if the retirement board determines, in consultation with the plan actuary, that the plan:

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

16 **36-10.2.6. Annual certification and notice requirements.** – (1) Not later than
17 November 1st of each plan year of a plan, the actuary shall certify to the board and the executive
18 director of the retirement system whether or not a plan is in endangered status for such a plan
19 year.

20 (2) In any case in which the actuary certifies that a plan is in endangered status for a plan
21 year, the executive director of the retirement system shall, not later than thirty (30) business days
22 following the certification, provide notification of the endangered status to the members,
23 beneficiaries, the general assembly, the governor, the general treasurer and any local or municipal
24 employer of a MERS plan determined to be in endangered status.

25 **36-10.2.7. Funding improvement strategy procedure.** – (1) In any case in which a plan
26 is in endangered status for a plan year, except for a plan year where a plan is already in a funding
27 improvement period and meeting its scheduled funding targets for the three (3) consecutive prior
28 plan years, a funding improvement strategy shall be implemented not later than June 30th
29 following the date the plan was certified as being in endangered status under section 36-10.2-6.
30 The plan actuary shall submit preliminary funding improvement strategies including a default
31 strategy as described in subparagraphs (3) and (4) to the board for review not later than January
32 1st following the date the plan was certified as being in endangered status under section 36-10.2-
33 6.

34 (2) The funding improvement strategy shall be formulated to achieve, based on

1 reasonably anticipated experience and reasonable actuarial assumptions, the following
2 requirements:

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

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

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

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

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

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

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

29 (4) In addition to any funding improvement strategies provided by the board in
30 subparagraph (3), the board shall include a default funding improvement strategy ("Default A")
31 that shall show increases in employer and employee contributions under the plan necessary to
32 achieve the applicable requirements found in subsection (b), assuming no amendments to reduce
33 future benefit accruals under the plan.

34 (5) Not later than April 1st following the date the plan was certified as being in

1 endangered status under section 36-10.2-6, the board shall submit the “Default A” strategy as
2 described in subparagraph (4) and one additional funding improvement strategy, as selected by
3 the board, to the general assembly.

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

13 **36-10.2-8. Funding improvement period.** – (1) The funding improvement period for
14 any funding improvement strategy adopted pursuant to this chapter shall begin on the first day of
15 July immediately after the adoption date of the funding improvement strategy.

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

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

21 **36-10.2-9. Transition period.** – Effective for plan years beginning July 1, 2012 any new
22 legislation enacted contemporaneously with this chapter that is expected to improve the funding
23 percentage of such a plan to eighty percent (80%) or greater within a reasonable funding
24 improvement period not to exceed twenty (20) years shall be considered to constitute a funding
25 improvement strategy. The funding improvement period shall be governed by such enacted
26 legislation and shall begin July 1, 2012.

27 **36-10.2-10. Severability.** – The holding of any section or sections or parts hereof to be
28 void, ineffective, or unconstitutional for any cause shall not be deemed to affect any other section
29 or part hereof.

30 **36-10.11. Effective date.** – This chapter shall take effect immediately upon passage.

31 SECTION 10. Title 36 of the General Laws entitled "PUBLIC OFFICERS AND
32 EMPLOYEES" is hereby amended by adding thereto the following chapter:

33 CHAPTER 10.3

34 DEFINED CONTRIBUTION RETIREMENT PLAN

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

3 (1) “Compensation” means compensation as defined in section 36-8-1(8).

4 (2) “Employee” means an employee as defined in section 36-8-1(9) effective July 1,
5 2012.

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

10 (4) “Plan” means the retirement plan established by this chapter.

11 (5) “Public safety member” means a member of MERS who is a municipal fire fighter or
12 a municipal police officer as defined in section 45-21.2-2 who does not participate in Social
13 Security under the Federal Old Age, Survivors, and Disability Income program.

14 (6) “Regular member” means: (i) An employee who is a member of ERS other than
15 correctional officers as defined in section 36-10-9.2; or (ii) A member of MERS other than a
16 public safety member.

17 (7) “Retirement board” or “board” means the retirement board of the Employees
18 Retirement System of Rhode Island as defined in Chapter 36-8. The retirement board shall be the
19 plan administrator and plan trustee.

20 (8) “State investment commission” or “commission” means the state investment
21 commission as defined in section 35-10-1.

22 (9) “Supplemental employer” includes any employer that provides supplemental
23 contributions to the defined contribution retirement plan as provided in section 36-10.3-3.

24 (10) “Supplemental member” is defined in section 36-10.3-3.

25 **36-10.3-2. Establishment.** – (1) A defined contribution retirement plan is established for
26 members of the of the Employees’ Retirement System of Rhode Island (ERS) and the Municipal
27 Employees’ Retirement System of Rhode Island (MERS).

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

32 (3) The defined contribution plan established by this chapter is intended to qualify under
33 26 U.S.C. 401(a), 414(d), and 414(k) (Internal Revenue Code) in effect from time to time as a
34 qualified governmental retirement plan established and maintained by the state for its employees,

1 for the employees of participating political subdivisions, public corporations, and public
2 organizations of the state, and for the employees of other employers whose participation is
3 authorized by this chapter.

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

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

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

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

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

26 (f) *Limitation on compensation.* Benefits and contributions shall not be computed with
27 reference to any compensation that exceeds the maximum dollar amount permitted by section
28 401(a)(17) of the Internal Revenue Code as adjusted for increases in the cost-of-living.

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

33 (a) The commission shall select a firm or company to provide retirement plan investment,
34 plan administration, and communication services to employees who participate in the defined

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

5 (i) The financial stability of the company or firm.

6 (ii) The cost of the investments, plan administration, and services to the members.

7 (iii) The experience of the company or firm in providing defined contribution retirement
8 plans.

9 (iv) The experience of the company or firm in providing plan education, counseling, and
10 advice to participants of defined contribution plans.

11 (b) The defined contribution retirement plan shall include an option that any
12 disbursement of the accumulated assets in a participant's defined contribution plan account or
13 accounts may be made as a life annuity. The defined contribution retirement plan may offer
14 participants a menu of lifetime annuity options, either fixed or variable, or a combination of both.

15 (c) Accumulations in the defined contribution plan are intended to be for retirement
16 purposes and loans or hardship distribution options permitted under the plan, if any, shall be
17 structured for the primary purpose of this plan to support members in their retirement.

18 (d) The plan shall provide education, counseling and objective employee-specific plan
19 advice to employees.

20 (e) The plan shall include a limited number of investment options which shall include
21 either: (i) Investment portfolio options that are constructed to reflect different risk profiles such as
22 conservative, moderate and aggressive; and/or (ii) Options constructed to reflect different risk
23 profiles that automatically reallocate and rebalance contributions as an employee ages.

24 **36-10.3-3. Supplemental participation for local public employers.** – Employers that
25 include job positions, other than public safety positions, that do not participate in Social Security
26 under the Federal Old Age, Survivors and Disability Income program, but which currently
27 contribute to ERS or MERS on behalf of such positions, shall make supplemental contributions to
28 the plan on behalf of regular members in such positions as a supplemental employer in
29 accordance with subsection 36-10.3-6(a). A supplemental employer may request a different level
30 of supplemental contributions in accordance with subsection 36-10.3-6(b) by an ordinance or
31 resolution of its governing body. A regular member in such positions shall be referred to as a
32 “supplemental member” in section 36-10.3-6.

33 **36-10.3-4. Member contributions.** – (1) Each regular member shall contribute to the
34 member's individual account in the plan an amount equal to five percent (5%) of the member's

1 compensation from July 1 to the following June 30.

2 (2) Each public safety member not participating in Social Security under the Federal Old
3 Age, Survivors and Disability Income program, shall contribute to the member's individual
4 account an amount equal to three percent (3%) of the member's compensation from July 1 to the
5 following June 30.

6 (3) Contributions by supplemental members shall be governed by section 36-10.3-6.

7 (4) The employer shall deduct the contribution from the member's compensation at the
8 end of each payroll period, and the contribution shall be credited by the plan to the member's
9 individual account. The contributions shall be deducted from the member's compensation before
10 the computation of applicable federal taxes and shall be treated as employer contributions under
11 26 U.S.C. 414(h)(2). A member may not have the option of making the payroll deduction directly
12 in cash instead of having the contribution picked up by the employer.

13 (5) Contributions of employees shall be made by payroll deductions. Every member shall
14 be considered to consent to payroll deductions. It is of no consequence that a payroll deduction
15 may cause the compensation paid in cash to an employee to be reduced below the minimum
16 required by law. Payment of an employee's compensation, less payroll deductions, is a full and
17 complete discharge and satisfaction of all claims and demands by the employee relating to
18 remuneration of services during the period covered by the payment, except with respect to the
19 benefits provided under the plan.

20 (6) Additional voluntary member contributions may be permitted in accordance with this
21 section in such manner as determined in the discretion of the commission.

22 **36-10.3-5. Employer contributions.** – (1) An employer shall contribute to each regular
23 member's individual account an amount equal to one percent (1%) of the member's compensation
24 from July 1 to the following June 30.

25 (2) An employer shall contribute to the individual account of each public safety member,
26 not participating in Social Security under the Federal Old Age, Survivors and Disability Income
27 program, an amount equal to three percent (3%) of the member's compensation from July 1 to the
28 following June 30.

29 (3) Contributions by supplemental employers shall be governed by section 36-10.3-6.

30 **36-10.3-6. Supplemental employer and member contributions.** – (a) A supplemental
31 member shall contribute to the member's individual account an amount equal to two percent (2%)
32 of the member's compensation from July 1 to the following June 30 in addition to the
33 requirements of section 36-10.3-4. For such members, a supplemental employer shall contribute
34 to the member's individual account an amount equal to two percent (2%) of the member's

1 compensation from July 1 to the following June 30 in addition to the requirements of section 36-
2 10.3-5.

3 (b) A supplemental employer may request a different level of supplemental member
4 contributions and supplemental employer contributions subject to the approval of the state
5 investment commission.

6 **36-10.3-7. Vesting of contributions.** – (1) The total amount contributed by the member,
7 including associated investment gains and losses, shall immediately vest in the member and is
8 non-forfeitable.

9 (2) The total amount contributed by the employer, including associated investment gains
10 and losses, vests with the member and is nonforfeitable upon completion of three (3) years of
11 contributory service. Service credited under ERS or MERS prior to the effective date of this plan
12 shall be credited to members for vesting purposes.

13 **36-10.3-8. Investments.** – The state investment commission shall determine from time to
14 time the investment options available under the plan and a member may direct his or her account
15 among the investment options offered under the plan pursuant to the plan documents.

16 **36-10.3-9. Distributions.** – The plan documents shall specify the distribution options
17 available under the plan which shall include a lump sum and rollover distribution option, and may
18 include such installment, annuity, hardship, loan or death benefit options as determined by the
19 state investment commission in its discretion subject to section 36-10.3-2(5).

20 **36-10.3-10. Rollover contributions and distributions.** – (1) An employee entering the
21 plan may elect, at the time and in the manner prescribed by the administrator, to have all or part
22 of a direct rollover distribution from an eligible retirement plan owned by the member paid
23 directly into the member's individual account.

24 (2) Rollover contributions do not count as a purchase of membership service for the
25 purpose of determining years of service.

26 (3) A distributee may elect, at the time and in the manner prescribed by the administrator,
27 to have all or part of an eligible rollover distribution paid directly to an eligible retirement plan
28 specified by the distributee in the direct rollover.

29 (4) In this section:

30 (a) "Direct rollover" means the payment of an eligible rollover distribution by the plan to
31 an eligible retirement plan specified by a distributee who is eligible to elect a direct rollover;

32 (b) "Distributee" means a member, or a beneficiary who is the surviving spouse of the
33 member, or an alternate payee;

34 (c) "Eligible retirement plan" means:

- 1 (i) An individual retirement account described in 26 U.S.C. 408(d)(3)(A);
- 2 (ii) An annuity plan described in 26 U.S.C. 403(a);
- 3 (iii) A qualified trust described in 26 U.S.C. 401(a);
- 4 (iv) An annuity plan described in 26 U.S.C. 403(b);
- 5 (v) A governmental plan described in 26 U.S.C. 457(b);
- 6 (vi) An individual retirement annuity defined in 26 U.S.C. 408(b); or
- 7 (vii) On or after January 1, 2008, a Roth IRA described in 26 U.S.C. 408A;
- 8 (d) "Eligible rollover distribution" means a distribution of all or part of a total account to
- 9 a distributee, except for:

10 (i) A distribution that is one of a series of substantially equal installments payable not less
11 frequently than annually over the life expectancy of the distributee or the joint and last survivor
12 life expectancy of the distributee and the distributee's designated beneficiary, as defined in 26
13 U.S.C. 401(a)(9);

14 (ii) A distribution that is one of a series of substantially equal installments payable not
15 less frequently than annually over a specified period of ten (10) years or more;

16 (iii) A distribution that is required under 26 U.S.C. 401(a)(9);

17 (iv) The portion of any distribution that is not includable in gross income; however, a
18 portion under this paragraph may be transferred only to an individual retirement account or
19 annuity described in 26 U.S.C. 408(a) or (b), to a qualified plan described in 26 U.S.C. 401(a) or
20 403(a), or to an annuity contract described in 26 U.S.C. 403(b), that agrees to separately account
21 for amounts transferred, including separately accounting for the portion of the distribution that is
22 includable in gross income and the portion of the distribution that is not includable in gross
23 income; and

24 (v) Other distributions that are reasonably expected to total less than two hundred dollars
25 (\$200) during a year.

26 **36-10.3-11. Annual report and statement.** – The retirement board shall submit to the
27 governor, the general treasurer, the auditor general, the speaker of the house of representatives
28 and the president of the senate, on or before the first day of December of each fiscal year, an
29 annual report including a financial statement of the plan for the fiscal year of the state next
30 preceding said date. The retirement board shall cause to be published for distribution among the
31 members of the system a financial statement summarizing the results of operations for the fiscal
32 year.

33 **36-10.3-12. Severability.** – The holding of any section or sections or parts hereof to be
34 void, ineffective, or unconstitutional for any cause shall not be deemed to affect any other section

1 [or part hereof.](#)

2 **36-10.3-13. Effective date.** – [This chapter shall take effect immediately upon passage.](#)

3 SECTION 11. Sections 16-16-1, 16-16-5, 16-16-6.1, 16-16-6.2, 16-16-6.4, 16-16-7.2, 16-
4 16-8, 16-16-12, 16-16-13, 16-16-16, 16-16-17, 16-16-19, 16-16-22, 16-16-22.1 and 16-16-40 of
5 the General Laws in Chapter 16-16 entitled "Teachers' Retirement" are hereby amended to read as
6 follows:

7 **16-16-1. Definitions.** – (a) The following words and phrases used in this chapter, unless a
8 different meaning is plainly required by the context, have the following meanings:

9 (1) "Active member" means any teacher as defined in this section for whom the
10 retirement system is currently receiving regular contributions pursuant to section 16-16-22 and
11 16-16-22.1.

12 Except as otherwise provided in this section, the words and phrases used in this chapter,
13 so far as applicable, have the same meanings as they have in chapters 8 to 10 of title 36.

14 (2) "Beneficiary" means any person in receipt of annuity, benefit, or retirement allowance
15 from the retirement system as provided in this chapter.

16 (3) "Child" includes a stepchild of a deceased member who has been a stepchild for at
17 least one year immediately preceding the date on which the member died or an adopted child of a
18 deceased member without regard to the length of time the child has been adopted.

19 (4) "Former spouse divorced" means a person divorced from a deceased member,
20 but only if the person meets one of the following conditions:

21 (i) Is the mother or father of the deceased member's child(ren);

22 (ii) Legally adopted the deceased member's child(ren) while married to the deceased
23 member and while the child(ren) was under the age of eighteen (18) years; or

24 (iii) Was married to the deceased member at the time both of them legally adopted a
25 child(ren) under the age of eighteen (18) years.

26 (5) "Member" means any person included in the membership of the retirement system
27 under the provisions of this chapter.

28 (6) "Prior service" means service as a teacher rendered prior to the first day of July, 1949,
29 certified on his or her prior service certificate and allowable as prior service under the provisions
30 of this chapter.

31 (7) "Retired teacher" means any teacher who retired prior to July 1, 1949, pursuant to the
32 provisions of G.L. 1938, ch. 195, as amended, and who on June 30, 1949, was in receipt of a
33 pension under the provisions of that chapter.

34 (8) "Retirement system" and "system" means the employees' retirement system of the

1 State of Rhode Island created by chapter 8 of title 36, and "retirement board" means the board
2 established under that chapter.

3 (9) "Salary" or "compensation" includes any and all salary paid for teaching services
4 regardless of whether any part of the salary or compensation is derived from any state or federal
5 grant or appropriation for teachers' salaries, as the term is defined in section 36-8-1~~(7)~~(8).
6 "Average compensation" shall be defined in accordance with section 36-8-1(5)(a).

7 (10) "Service" means service as a teacher as described in subdivision (12) of this section.
8 Periods of employment as teacher, principal, assistant principal, supervisor, superintendent, or
9 assistant superintendent shall be combined in computing periods of service and employment.

10 (11) "Spouse" means the surviving person who was married to a deceased member, but
11 only if the surviving person meets one of the following conditions:

12 (i) Was married to the deceased member for not less than one year immediately prior to
13 the date on which the member died;

14 (ii) Is the mother or father of the deceased member's child(ren);

15 (iii) Legally adopted the deceased member's child(ren) while married to the deceased
16 member and while the child(ren) was under the age of eighteen (18) years; or

17 (iv) Was married to the deceased member at the time both of them legally adopted a
18 child(ren) under the age of eighteen (18) years.

19 (12) "Teacher" means a person required to hold a certificate of qualification issued by or
20 under the authority of the board of regents for elementary and secondary education and who is
21 engaged in teaching as his or her principal occupation and is regularly employed as a teacher in
22 the public schools of any city or town in the state, or any formalized, commissioner approved,
23 cooperative service arrangement. The term includes a person employed as a teacher, supervisor,
24 principal, assistant principal, superintendent, or assistant superintendent of schools, director,
25 assistant director, coordinator, consultant, dean, assistant dean, educational administrator, nurse
26 teacher, and attendance officer or any person who has worked in the field of education or is
27 working in the field of education that holds a teaching or administrative certificate and any
28 teacher who serves during a school year at least three-quarters (3/4) of the number of days that
29 the public schools are required by law to be in session during the year, provided that for teachers
30 hired on or after July 1, 2012, a teacher for purposes of this paragraph shall only include any
31 teacher who serves during a school year the total number of days that the public school is
32 required by law to be in session during the year in accordance with section 16-2-2 subject to
33 section 16-16-5(d). In determining the number of days served by a teacher the total number of
34 days served in any public school of any city or town in the state may be combined for any one

1 school year. The term also includes a school business administrator whether or not the
2 administrator holds a teaching or administrative certificate, and also includes occupational
3 therapists and physical therapists licensed by the department of health and employed by a school
4 committee in the state, or by any formalized, commissioner approved, cooperative service
5 arrangement.

6 (13) "Teaching" includes teaching, supervising, and superintending or assistant
7 superintending of schools.

8 (14) "Total service" means prior service as defined in subdivision (6) of this section, plus
9 service rendered as a member of the system on or after the first day of July, 1949.

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

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

15 (ii) Neither partner was married to anyone else;

16 (iii) Partners were not related by blood to a degree which would prohibit marriage in the
17 State of Rhode Island;

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

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

22 (A) Domestic partnership agreement or relationship contract;

23 (B) Joint mortgage or joint ownership of primary residence;

24 (C) Two (2) of: (I) joint ownership of motor vehicle; (II) joint checking account; (III)
25 joint credit account; (IV) joint lease; and/or

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

28 (b) The masculine pronoun wherever used shall also include the feminine pronoun.

29 (c) Any term not specifically defined in this chapter and specifically defined in chapters
30 36-8 through 36-10 shall have the same definition as set forth in chapters 36-8 through 36-10.

31 **16-16-5. Service creditable.** – (a) In calculating "service", "prior service", or "total
32 service" as defined in section 16-16-1, every teacher shall be given credit for a year of service for
33 each year in which he or she shall have served as a teacher; provided, that any teacher who
34 through illness or leave of absence without pay does not serve a full school year may receive

1 credit for a full school year of service by paying the full actuarial cost as defined in section 36-8-
2 1(9). Credit for leaves of absence shall be limited, in the aggregate, during the total service of a
3 teacher to a period of four (4) years; provided, however, every teacher who had been required to
4 resign for maternity reasons may receive credit for maternity reasons by making contribution to
5 the system upon her return to teaching the amount she would have contributed to the retirement
6 system, with regular interest, based upon her expected compensation but for her absence due to
7 maternity reasons.

8 (b) The retirement board shall fix and determine the time when and the conditions under
9 which the payments shall be made.

10 (c) For teachers hired prior to July 1, 2012, any ~~Any~~ teacher who serves or who has
11 served during a school year at least three-quarters (3/4) of the number of days that the public
12 schools are required by law to be in session during the year shall be given credit for a year of
13 service for that year. For teachers hired on or after July 1, 2012, any teacher who serves or who
14 has served during a school year the number of days that the public school is required to be in
15 session during the year shall be given credit for a year of service for that year. In determining the
16 number of days served by a substitute teacher the total number of days served in any public
17 school of any city or town in the state may be combined for any one school year. Any teacher
18 shall be entitled to "prior service" credit for service prior to July 1, 1949, provided the teacher
19 shall have been in service during the school year 1949-1950. The teacher shall be entitled to
20 service credit for any year subsequent to July 1, 1949 in accordance with this chapter, by making
21 contribution to the retirement system of the full actuarial cost for any such service credit. ~~amount~~
22 ~~he or she would have contributed to the retirement system had he or she been a member, plus~~
23 ~~regular interest compounded annually to date of payment, payable at a time or in any manner that~~
24 ~~may be provided by the rules of the retirement board.~~

25 (d) Any teacher employed in at least a half (1/2) program including a job share program
26 shall remain a contributing member and shall receive credit for that part-time service. The
27 purchase of any remaining program or job share time in which the teacher did not work shall not
28 be permitted.

29 (e) In computing service or in computing compensation, the retirement board shall credit
30 no more than one year of service on account of all service in one calendar year.

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

34 **16-16-6.1. Credit for service outside state.** – (a) In determining the creditable service of

1 any teacher employed in any city or town for the purpose of retirement, there may be added to,
2 and included in, total service as defined in this chapter not more than five (5) years of service as a
3 teacher in the public school outside this state; provided, however, this service shall not be counted
4 as creditable service unless the member shall pay into the retirement system a contribution equal
5 to the full actuarial value of each year of credit for which application is made based upon the
6 teacher's compensation at the time he or she makes application to purchase credit for each year of
7 service for which he or she claims credit.

8 (b) Credit for service outside the state [which is purchased under paragraph \(a\) above](#) may
9 also be used for retirement purposes under the provisions of subsection (a) for teachers who retire
10 on ordinary disability under ~~section 36-10-13~~ [section 16-16-14](#) provided these teachers have at
11 least ten (10) years creditable service within the state.

12 (c) The term "outside this state" means service in any state college, university, school, or
13 public school in any other state of the United States, or in any territory or possession of the
14 United States, including the Philippine Islands, or in any school under the jurisdiction of the
15 United States government.

16 (d) The retirement board shall fix and determine by rules and regulations the time when
17 and the conditions under which payments shall be made.

18 **16-16-6.2. Service credit for appropriate work experience – Contributions.** – (a) In
19 determining the creditable service of any vocational education teacher employed in any city or
20 town or by the state for the purpose of retirement or a service retirement allowance (not including
21 a deferred retirement allowance), there may be added to, and included in, total service as defined
22 in this chapter not more than five (5) years of "appropriate work experience" pursuant to section
23 16-60-4(9)(ii). This service shall not be counted as creditable service unless the member shall pay
24 into the retirement system a contribution equal to the full actuarial costs for each year of service
25 for which he or she claims credit.

26 (b) Credit for "appropriate work experience" [which is purchased under paragraph \(a\)](#)
27 [above](#) may also be used for retirement purposes under the provisions of subsection (a) for
28 teachers who retire on ordinary disability under section 36-10-13 [or section 16-16-14](#), provided
29 those teachers have at least ten (10) years' creditable service.

30 (c) The term "appropriate work experience" means service in any industry, business, or
31 other appropriate enterprise for which certification credit has been given pursuant to the
32 "standards and qualifications for certification of teachers" as provided in section 16-60-4(9)(ii).

33 **16-16-6.4. Service credit for appropriate work experience – Certified nurse teachers**
34 **– Contributions.** – (a) In determining the creditable service of any certified nurse teacher

1 employed by the state or by any city or town for the purpose of retirement or a service retirement
2 allowance (not including a deferred retirement allowance), there may be added to, and included
3 in, total service as defined in this chapter not more than four (4) years of "appropriate work
4 experience." The service shall not be counted as creditable service unless the member shall pay
5 into the retirement system a contribution equal to the full actuarial costs for each year of the
6 service for which the member claims credit.

7 (b) Credit for "appropriate work experience" [which is purchased under paragraph \(a\)](#)
8 [above](#) may also be used for retirement purposes under the provisions of subsection (a) for
9 certified nurse teachers who retire on ordinary disability under section 36-10-13 [or section 16-16-](#)
10 [14](#), provided the certified nurse teachers have at least ten (10) years' creditable service.

11 (c) The term "appropriate work experience" for the purposes of a certified nurse teacher
12 means service in any industry, business, or other appropriate enterprise where a member has
13 worked as a registered nurse and for which no credit for the purposes of retirement has been
14 granted for either teaching in a school of nursing or for any other appropriate work experience;
15 provided, however, that no member shall be allowed credit for more than a total of four (4) years
16 of service credit.

17 **16-16-7.2. Peace corps, teacher corps , and volunteers in service to America – Credit.**

18 = (a) Any active teacher who served in the peace corps, teacher corps, or in volunteers in service
19 to America may purchase credit for that service, up to a maximum of four (4) years. Any teacher
20 on an official leave of absence for illness or injury shall be eligible to purchase the credits while
21 on the leave of absence.

22 (b) The cost to purchase these credits shall be the full actuarial cost as defined in section
23 36-8-1~~(9)~~(10).

24 **16-16-8. Credit for service as a state or municipal employee.** – Any member who shall
25 have rendered service as a state employee as defined by the provisions of chapter 17 of this title
26 and chapters 8 – 10 of title 36 or who shall have rendered service as an employee of a
27 participating municipality, as defined by chapter 21 of title 45, shall be entitled to credit for his or
28 her service for the various purposes of this system, provided the member shall have been a
29 contributing member for that period. All contributions made by the member shall be transferred
30 into this system for the periods of service and the retirement system shall calculate the full
31 actuarial value of the accrued benefit with the former employer. If the full actuarial value of the
32 accrued benefit with the former employer is greater than the total employee contributions
33 transferred, the retirement system shall also transfer the difference between full actuarial value of
34 the accrued benefit with the former employer and the employee's contributions from the account

1 of the former employer to the account of the current employer. In any case in which a member
2 shall have received a refund or refunds of contributions made to the system, the allowance of the
3 credit for service shall be conditioned upon the repayment of the full actuarial cost as defined in
4 section 36-8-1~~(9)~~(10). Any service as defined in this section for which no contributions were
5 made may be granted provided the member pays to the retirement system the full actuarial cost as
6 defined in section 36-8-1~~(9)~~(10). The retirement board shall fix and determine the rules and
7 regulations needed to govern the provisions of this section.

8 **16-16-12. Procedure for service retirement.** – Retirement of a member on a service
9 retirement allowance shall be made by the retirement board as follows:

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

20 (ii) For teachers who become eligible to retire on or after October 1, 2009 and prior to
21 July 1, 2012, benefits are available to teachers who have attained the age of sixty-two (62) and
22 completed at least ten (10) years of contributory service. For teachers in service as of October 1,
23 2009 who were not eligible to retire as of September 30, 2009 but became eligible to retire prior
24 to July 1, 2012, the minimum retirement age of sixty-two (62) will be adjusted downward in
25 proportion to the amount of service the member has earned as of September 30, 2009. The
26 proportional formula shall work as follows:

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

30 (B) The formula shall then take the teacher's total service credit as of September 30, 2009
31 as the numerator and the years of service credit determined under (A) as the denominator.

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

34 (b) Any member, who has not completed at least ten (10) years of contributory service on

1 or before July 1, 2005 [and who retires prior to October 1, 2009](#), may retire upon his or her written
2 application to the retirement board as of the first day of the calendar month in which the
3 application was filed; provided, the member was separated from service prior thereto; and further
4 provided, however, that if separation from service occurs during the month in which application
5 is filed, the effective date shall be the first day following that separation from service; provided,
6 the member on his or her retirement date had attained the age of fifty-nine (59) and had
7 completed at least twenty-nine (29) years of total service; or provided, that the member on his or
8 her retirement date had attained the age of sixty-five (65) and had completed at least ten (10)
9 years of contributory service; or provided, that the member on his or her retirement date had
10 attained the age of fifty-five (55) and had completed twenty (20) years of total service and
11 provided, that the retirement allowance, as determined according to the formula in section 16-16-
12 13 is reduced actuarially for each month that the age of the member is less than sixty-five (65)
13 years and who retire before October 1, 2009 or are eligible to retire as of September 30, 2009.

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

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

25 (B) The formula shall then take the teacher's total service credit as of September 30, 2009
26 as the numerator and the years of service credit determined under (A) as the denominator.

27 (C) The fraction determined in (B) shall then be multiplied by the age difference
28 determined in (A) to apply a reduction in years from age sixty-two (62).

29 [\(c\) Effective July 1, 2012, the following shall apply to all teachers not eligible to retire](#)
30 [prior to July 1, 2012:](#)

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

34 [\(ii\) If a teacher had ten \(10\) or more years of contributory service and attained age fifty-](#)

1 two (52) as of June 30, 2012 and would have been eligible to retire at or prior to age sixty-two
2 (62) in accordance with subsections (a) and (b) above, the teacher may retire upon attainment of
3 age sixty-two (62).

4 (iii) A teacher who has completed twenty (20) or more years of total service and who has
5 attained an age within five (5) years of the eligible retirement age under subdivisions (c)(i) or
6 (c)(ii) above, may elect to retire provided that the retirement allowance shall be reduced
7 actuarially for each month that the age of the teacher is less than the eligible retirement age under
8 subdivisions (c)(i) or (c)(ii) above.

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

16 ~~(e) Any member also paying into the retirement system under the provisions of chapter 9~~
17 ~~of title 36 shall not be disqualified from receiving benefits provided by that chapter and the~~
18 ~~provisions of this chapter simultaneously.~~

19 (d) Except as specifically provided in section 36-10-9.1, 36-10-12 through 36-10-15, and
20 45-21-19 through 45-21-22, no member shall be eligible for pension benefits under this chapter
21 unless

22 (i) ~~the~~ The member shall have been a contributing member of the employees' retirement
23 system for at least ten (10) years; ~~or~~

24 (ii) For teachers in active contributory service on or after July 1, 2012, the teacher shall
25 have been a contributing member of the employees' retirement system for at least five (5) years.

26 (2) Provided, however, a person who has ten (10) years service credit shall be vested;
27 provided that for teachers in active contributory service on or after July 1, 2012, a teacher who
28 has five years of contributory service shall be vested.

29 (3) Furthermore, any past service credits purchased in accordance with section 36-9-38
30 shall be counted towards vesting.

31 (4) Any person who becomes a member of the employees' retirement system pursuant to
32 section 45-21-8 shall be considered a contributing member for the purpose of chapter 21 of title
33 45 and this chapter.

34 (5) Notwithstanding any other provision of law, no more than five (5) years of service

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

7 (6) Notwithstanding any other provision of law, effective July 1, 2012, except for
8 purchases under sections 16-16-7.1, 36-5-3, 36-9-31, 36-10-10.4, and 45-21-53:

9 (i) For service purchases for time periods prior to a teacher's initial date of hire, the
10 purchase must be made within three (3) years of the teacher's initial date of hire; and

11 (ii) For service purchases for time periods for official periods of leave as authorized by
12 law, the purchase must be made within three (3) years of the time the official leave was
13 concluded by the teacher. Notwithstanding paragraphs (i) and (ii) above, service purchases from
14 time periods prior to June 30, 2012 may be made on or prior to June 30, 2015.

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

19 (f) Except as specifically provided in section 16-16-6.2 and 16-16-6.4, a member shall
20 not receive service credit in this retirement system for any year or portion of a year which counts
21 as service credit in any other retirement system in which the member is vested or from which the
22 member is receiving a pension and/or any annual payment for life. This subsection shall not apply
23 to any payments received pursuant to the federal Social Security Act, 42 U.S.C. section 301 et
24 seq.

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

33 (h) A member who fails to cooperate with the retirement board shall not have the time of
34 service credit counted toward total service credit until the time the member cooperates with the

1 retirement board and until the time the retirement board determines the validity of the service
2 credit.

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

6 **16-16-13. Amount of service retirement allowance.** – (a)(1)(i) For teachers eligible to
7 retire on or before September 30, 2009, upon retirement from service under section 16-16-12 a
8 teacher whose membership commenced before July 1, 2005 and who has completed at least ten
9 (10) years of contributory service on or before July 1, 2005, shall, receive a retirement allowance
10 which shall be determined in accordance with schedule A [for service prior to July 1, 2012.](#)

11 SCHEDULE A

12 YEARS OF SERVICE PERCENTAGE ALLOWANCE

13	1 st through 10 th inclusive	1.7%
14	11 th through 20 th inclusive	1.9%
15	21 st through 34 th inclusive	3.0%
16	5 th	2.0%

17 (ii) For teachers eligible to retire on or after October 1, 2009 who were not eligible to
18 retire on or before September 30, 2009, upon retirement for service under section 16-16-12, a
19 teacher whose membership commenced before July 1, 2005 and who has completed at least ten
20 (10) years of contributory service on or before July 1, 2005 shall receive a retirement allowance
21 which shall be determined in accordance with schedule A above for service on before September
22 30, 2009, and shall be determined in accordance with schedule B in subsection (a)(2) below for
23 service on or after October 1, 2009 [and prior to July 1, 2012:](#)

24 (2) Upon retirement from service under section 16-16-12 a teacher whose membership
25 commenced after July 1, 2005 or who has not completed at least ten (10) years of contributory
26 service as of July 1, 2005 shall receive a retirement allowance which shall be determined in
27 accordance with Schedule B [for service prior to July 1, 2012.](#)

28 SCHEDULE B

29 YEARS OF SERVICE PERCENTAGE ALLOWANCE

30	1 st through 10 th inclusive	1.60%
31	11 th through 20 th inclusive	1.80%
32	21 st through 25 th inclusive	2.0%
33	26 th through 30 th inclusive	2.25%
34	31 st through 37 th inclusive	2.50%

1 38th 2.25%

2 (b) The retirement allowance of any teacher whose membership commenced before July
3 1, 2005 and who has completed at least ten (10) years of contributory service on or before July 1,
4 2005 shall be in an amount equal to the percentage allowance specified in subsection (a)(1) of his
5 or her average highest three (3) consecutive years of compensation multiplied by the number of
6 years of total service, but in no case to exceed eighty percent (80%) of the compensation, payable
7 at completion of thirty-five (35) years of service; provided, however, for teachers retiring on or
8 after October 1, 2009 who were not eligible to retire as of September 30, 2009 the calculation
9 shall be based on the average highest five (5) consecutive years of compensation.

10 The retirement allowance of any teacher whose membership commenced after July 1,
11 2005 or who has not completed at least ten (10) years of contributory service as of July 1, 2005
12 shall be in an amount equal to the percentage allowance specified in Schedule B of his or her
13 average highest three (3) consecutive years of compensation multiplied by the number of years of
14 total service, but in no case to exceed seventy-five percent (75%) of the compensation, payable at
15 completion of thirty-eight (38) years of service; provided, however, for teachers retiring on or
16 after October 1, 2009 who were not eligible to retire as of September 30, 2009 the calculation
17 shall be based on the average highest five (5) consecutive years of compensation.

18 Any teacher who has in excess of thirty-five (35) years on or before June 2, 1985 shall
19 not be entitled to any refund, and any teacher with thirty-five (35) years or more on or after June
20 2, 1985 shall contribute from July 1, 1985 until his or her retirement.

21 (c) For service prior to July 1, 2012, the retirement allowance of a teacher shall be
22 determined in accordance with subsections (a)(1) and (a)(2) above. For service on and after July
23 1, 2012, a teacher's retirement allowance shall be equal to one percent (1%) of the teacher's
24 average compensation multiplied by the teacher's years of service on and after July 1, 2012.

25 **16-16-16. Retirement for accidental disability.** – (a) Medical examination of an active
26 teacher or a teacher on leave of absence for illness or injury for accidental disability, and
27 investigation of all statements and certificates by him or her or in his or her behalf in connection
28 with the accidental disability, shall be made upon the application of the head of the department in
29 which the teacher is employed or upon application of the teacher, or of a person acting in his or
30 her behalf, stating that the teacher is physically or mentally incapacitated for the performance of
31 service as a natural and proximate result of an accident, while in the performance of duty, and
32 certify the definite time, place, and conditions of the duty performed by the teacher resulting in
33 the alleged disability, and that the alleged disability is not the result of willful negligence or
34 misconduct on the part of the teacher, and is not the result of age or length of service, and that the

1 teacher should, therefore, be retired.

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

9 (c) If a medical examination conducted by three (3) physicians engaged by the retirement
10 board, and any investigation that the retirement board may desire to make, shall show that the
11 teacher is physically or mentally incapacitated for the performance of service as a natural and
12 proximate result of an accident, while in the performance of duty, and that the disability is not the
13 result of willful negligence or misconduct on the part of the teacher, and is not the result of age or
14 length of service, and that the teacher has not attained the age of sixty-five (65) years or effective
15 July 1, 2012, Social Security retirement age, and that the teacher should be retired, the physicians
16 who conducted the examination shall so certify to the retirement board stating the time, place, and
17 conditions of service performed by the teacher resulting in the disability, and the retirement board
18 may grant the teacher an accidental disability benefit.

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

22 **16-16-17. Amount of accidental disability benefit.** – (a) For disability applications
23 submitted on or before September 30, 2009, upon retirement for accidental disability under
24 section 16-16-16 a teacher shall receive a benefit that shall be equal to sixty-six and two-thirds
25 percent (66 2/3%) of his or her annual compensation at the time of his or her retirement, subject
26 to the provisions of section 16-16-20.

27 (b) Upon any application for accidental disability submitted after October 1, 2009, if the
28 teacher has been found to be permanently and totally disabled from service but has not been
29 found by the board to be permanently and totally disabled from any employment as a result of
30 his/her accidental disability, a teacher shall receive a retirement allowance equal to fifty percent
31 (50%) of the rate of the teacher's compensation at the date of the teacher's retirement subject to
32 the provisions of section 16-16-20. The retiree shall, as a condition of continued receipt of a
33 disability retirement allowance, on or before a date fixed by the retirement board, annually under
34 penalties of perjury provide the board with such affidavits and accurate evidence of earnings,

1 employment and gainful activity as the board may require, including, but not limited to, joint
2 and/or individual tax returns. Subject to paragraph (c) below, payment ~~Payment~~ of the disability
3 retirement allowance shall continue as long as the individual remains disabled, and regardless of
4 service or age. Upon retirement for accidental disability that has been found by the board to be
5 permanently and totally disabling from any employment, a teacher shall receive a retirement
6 allowance equal to sixty-six and two-thirds percent (66 2/3%) of the rate of the teacher's
7 compensation at the date of the teacher's retirement subject to the provisions of section 16-16-20.
8 The retirement board shall apply the terms of subsection 28-33-17(b) in determining total
9 disability.

10 (c) All teachers who apply for accidental disability on or after July 1, 2012, who have not
11 been found to be permanently and totally disabled from any employment by the retirement board,
12 shall have their disability pension cease upon reaching the minimum retirement age at which the
13 teacher would have been entitled to an unreduced service retirement allowance if the teacher had
14 continued in active service. Upon reaching such minimum retirement age, a service pension under
15 section 16-16-12 shall begin in the amount of the disability pension (inclusive of any cost of
16 living adjustment that the teacher previously received prior to attaining the minimum age of
17 retirement).

18 **16-16-19. Reexamination of disability beneficiaries – Reduction of benefit –**
19 **Reinstatement to active service.** – Once each year the retirement board may, and upon his or her
20 application shall, require any disability beneficiary under the minimum age of service retirement
21 to undergo a medical examination, the examination to be made at the office of ~~place of residence~~
22 ~~of the beneficiary, or other place mutually agreed upon, by~~ a physician or physicians engaged by
23 the retirement board. If the examination indicates that the beneficiary is able to engage in a
24 gainful occupation, his or her name shall be placed on appropriate lists of candidates prepared for
25 appointment to positions in his or her department or agency for which he or she is stated to be
26 qualified, of a salary grade not exceeding that from which he or she was last retired. Should the
27 beneficiary be engaged in a gainful occupation or should he or she be offered service as a result
28 of the placing of his or her name on a list of candidates, the retirement board shall adjust, and,
29 from time to time readjust, the amount of his or her disability benefit to an amount which shall
30 not exceed the rate of benefit upon which he or she was originally retired, and which, when added
31 to the amount then earnable by him or her, shall not exceed his or her rate of annual
32 compensation currently for the classification that the disability annuitant held prior to retirement.
33 Should any disability beneficiary under the minimum age of service retirement refuse to submit to
34 one medical examination in any year by a physician or physicians designated by the retirement

1 board, his or her benefit shall be discontinued until his or her withdrawal of the refusal, and
2 should his or her refusal continue for one year, all his or her rights in and to the benefit shall be
3 revoked by the retirement board. A disability beneficiary, reinstated to active service, shall be
4 reinstated as a member and participate in the rights of the retirement system, to the same extent as
5 any other teacher.

6 **16-16-22. Contributions to state system.** – (a) Prior to July 1, 2012, each ~~Each~~ teacher
7 ~~member~~ shall contribute into the system nine and one-half percent (9.5%) of compensation as his
8 or her share of the cost of annuities, benefits, and allowances. Effective July 1, 2012, each teacher
9 shall contribute an amount equal to three and three quarters percent (3.75%) of his or her
10 compensation. The employer contribution on behalf of teacher members of the system shall be in
11 an amount that will pay a rate percent of the compensation paid to the members, according to the
12 method of financing prescribed in the State Retirement Act in chapters 8 – 10 and 10.3 of title 36.
13 This amount shall be paid forty percent (40%) by the state, and sixty percent (60%) by the city,
14 town, local educational agency, or any formalized commissioner approved cooperative service
15 arrangement by whom the teacher members are employed, with the exception of teachers who
16 work in federally funded projects and further with the exception of any supplemental
17 contributions by a local municipality employer under chapter 36-10.3 which supplemental
18 employer contributions shall be made wholly by the local municipality. Provided, however, that
19 the rate percent paid shall be rounded to the nearest hundredth of one percent (.01%).

20 (b) The employer contribution on behalf of teacher members of the system who work in
21 fully or partially federally funded programs shall be prorated in accordance with the share of the
22 contribution paid from the funds of the federal, city, town, or local educational agency, or any
23 formalized commissioner approved cooperative service arrangement by whom the teacher
24 members are approved.

25 (c) In case of the failure of any city, town, or local educational agency, or any formalized
26 commissioner approved cooperative service arrangement to pay to the state retirement system the
27 amounts due from it under this section within the time prescribed, the general treasurer is
28 authorized to deduct the amount from any money due the city, town, or local educational agency
29 from the state.

30 (d) The employer's contribution shared by the state shall be paid in the amounts
31 prescribed in this section for the city, town, or local educational agency and under the same
32 payment schedule. Notwithstanding any other provisions of this chapter, the city, town, or local
33 educational agency or any formalized commissioner approved cooperative service arrangement
34 shall remit to the general treasurer of the state the local employer's share of the teacher's

1 retirement payments on a monthly basis, payable by the fifteenth (15th) of the following month,
2 ~~provided that the employer contribution shall be deferred from the effective date of this act until~~
3 ~~June 15, 2010.~~ The amounts that would have been contributed shall be deposited by the state in a
4 special fund and not used for any purpose. The general treasurer, upon receipt of the local
5 employer's share, shall effect transfer of a matching amount of money from the state funds
6 appropriated for this purpose by the general assembly into the retirement fund, ~~provided that for~~
7 ~~the period from the effective date of this act until June 15, 2010, the general treasurer shall not~~
8 ~~make such transfer.~~

9 Upon reconciliation of the final amount owed to the retirement fund for the employer
10 share, the state shall ensure that any local education aid reduction assumed for the FY 2010
11 revised budget in excess of the actual savings is restored to the respective local entities.

12 **16-16-22.1. City or town payment of teacher member contributions.** – (a) Each city or
13 town, pursuant to the provisions of section 414(h)(2) of the United States Internal Revenue Code,
14 26 U.S.C. section 414(h)(2), may, pursuant to appropriate local action by the city or town, pick up
15 and pay the contributions which would be payable by the employees as teacher members under
16 section 16-16-22. The contributions so picked up shall be treated as employer contributions in
17 determining tax treatment under the United States Internal Revenue Code; ~~however, each city or~~
18 ~~town shall continue to withhold federal and state income taxes based upon these contributions~~
19 ~~until the internal revenue service rules that pursuant to 26 U.S.C. section 414(h)(2) these~~
20 ~~contributions shall not be included as gross income of the employee until the time they are~~
21 ~~distributed.~~ Employee contributions picked up pursuant to this section shall be treated and
22 identified as teacher member contributions for all purposes of the retirement system except as
23 specifically provided to the contrary in this section.

24 (b) Teacher member contributions picked up by a city or town shall be paid from the
25 same source of funds used for the payment of compensation to a teacher member. A deduction
26 shall be made from a teacher member's compensation equal to the amount of his or her
27 contributions picked up by his or her city or town employer. This deduction, however, shall not
28 reduce his or her compensation for purposes of computing benefits under the retirement system
29 pursuant to this chapter or chapter 10 of title 36. Picked up contributions shall be transmitted to
30 the retirement system in accordance with the provisions of section 16-16-22 and section 36-10-1.

31 **16-16-40. Additional benefits payable to retired teachers.** – (a) All teachers and all
32 beneficiaries of teachers receiving any service retirement or ordinary or accidental disability
33 retirement allowance pursuant to the provisions of this chapter and chapter 17 of this title, on or
34 before December 31, 1967, shall receive a cost of living retirement adjustment equal to one and

1 one-half percent (1.5%) per year of the original retirement allowance, not compounded, for each
2 year the retirement allowance has been in effect. For purposes of computation credit shall be
3 given for a full calendar year regardless of the effective date of the retirement allowance. This
4 cost of living retirement adjustment shall be added to the amount of the service retirement
5 allowance as of January 1, 1970, and payment shall begin as of July 1, 1970. An additional cost
6 of living retirement adjustment shall be added to the original retirement allowance equal to three
7 percent (3%) of the original retirement allowance on the first day of January, 1971, and each year
8 thereafter through December 31, 1980.

9 (b) All teachers and beneficiaries of teachers receiving any service retirement or ordinary
10 disability retirement allowance pursuant to the provisions of this title who retired on or after
11 January 1, 1968, shall, on the first day of January, next following the third (3rd) year on
12 retirement, receive a cost of living adjustment, in addition to his or her retirement allowance, an
13 amount equal to three percent (3%) of the original retirement allowance. In each succeeding year
14 thereafter, on the first day of January, the retirement allowance shall be increased an additional
15 three percent (3%) of the original retirement allowance, not compounded, to be continued through
16 December 31, 1980.

17 (c) Beginning on January 1, 1981, for all teachers and beneficiaries of teachers receiving
18 any service retirement and all teachers and all beneficiaries of teachers who have completed at
19 least ten (10) years of contributory service on or before July 1, 2005, pursuant to the provisions of
20 this chapter, and for all teachers and beneficiaries of teachers who receive a disability retirement
21 allowance pursuant to section 16-16-14 – 16-16-17, the cost of living adjustment shall be
22 computed and paid at the rate of three percent (3%) of the original retirement allowance or the
23 retirement allowance as computed in accordance with section 16-16-40.1, compounded annually
24 from the year for which the cost of living adjustment was determined to be payable by the
25 retirement board pursuant to the provisions of subsection (a) or (b) of this section. Such cost of
26 living adjustments are available to teachers who retire before October 1, 2009 or are eligible to
27 retire as of September 30, 2009.

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

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

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

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

22 (e)(1) Notwithstanding the prior paragraphs of this section, and subject to paragraph (e)
23 (2) below, for all present and former teachers, active and retired teachers, and beneficiaries
24 receiving any retirement, disability or death allowance or benefit of any kind, the annual benefit
25 adjustment provided in any calendar year under this section shall be equal to (A) multiplied by
26 (B) where (A) is equal to the percentage determined by subtracting five and one-half percent
27 (5.5%) (the “subtrahend”) from the Five-Year Average Investment Return of the retirement
28 system determined as of the last day of the plan year preceding the calendar year in which the
29 adjustment is granted, said percentage not to exceed four percent (4%) and not to be less than
30 zero percent (0%), and (B) is equal to the lesser of the teacher’s retirement allowance or the first
31 thirty-five thousand dollars (\$35,000) of retirement allowance, such thirty-five thousand dollars
32 (\$35,000) amount to be indexed annually in the same percentage as determined under paragraph
33 (e)(1)(A) above. The “Five-Year Average Investment Return” shall mean the average of the
34 investment returns of the most recent five (5) plan years as determined by the retirement board.

1 Subject to paragraph (e)(2) below, the benefit adjustment provided by this paragraph shall
2 commence upon the third (3rd) anniversary of the date of retirement or the date on which the
3 retiree reaches his or her Social Security retirement age, whichever is later. In the event the
4 retirement board adjusts the actuarially assumed rate of return for the system, either upward or
5 downward, the subtrahend shall be adjusted either upward or downward in the same amount.

6 (2) The benefit adjustments provided under this section for any calendar year shall be
7 suspended in their entirety unless:

8 (i) The retirement system for teachers is determined to be funded at a GASB Funded
9 Ratio equal to or greater than eighty percent (80%) as of the end of the immediately preceding
10 plan year in accordance with the retirement system's actuarial valuation report as prepared by the
11 system's actuary, in which event the benefit adjustment will be reinstated for all teachers for such
12 plan year; or

13 (ii) The retirement system for teachers is determined to be funded at a GASB Funded
14 Ratio equal to or greater than seventy percent (70%) as of the end of the immediately preceding
15 plan year in accordance with the retirement system's actuarial valuation report as prepared by the
16 system's actuary, in which event a benefit adjustment will be reinstated for such plan year for
17 teachers who received an accumulated retirement allowance in the prior plan year of less than
18 twenty thousand dollars (\$20,000); the amount of the benefit adjustment under this paragraph
19 (e)(2)(ii) shall be equal to (A) multiplied by (B) where (A) is determined under (e)(1)(A) above
20 and (B) is equal to the member's years of service, up to a maximum of thirty-five (35) years of
21 service, multiplied by the lesser of the member's retirement allowance or the first five hundred
22 dollars (\$500) of retirement allowance. The twenty thousand dollars (\$20,000) and the five
23 hundred dollars (\$500) amounts in the preceding sentence shall be indexed annually in the same
24 percentage amount as determined under (e)(1)(A) above.

25 In determining whether a funding level under this paragraph (e)(2) has been achieved, the
26 actuary shall calculate the funding percentage after taking into account the reinstatement of any
27 current or future benefit adjustment provided under this section. "GASB Funded Ratio" shall
28 mean the ratio of the actuarial value of assets to the actuarial accrued liability under the rules
29 established by the Government Accounting Standards Board.

30 (3) Notwithstanding any other provisions of this chapter, the provisions of this paragraph
31 (e) of section 16-16-40 shall become effective July 1, 2012, and shall apply to any benefit
32 adjustments not granted on or prior to June 30, 2012.

33 SECTION 12. Section 45-19-19 of the General Laws in Chapter 45-19 entitled "Relief
34 of Injured and Deceased Fire Fighters and Police Officers" is hereby amended to read as follows:

1 **45-19-19. City and town ordinances providing for retirement of sick or injured**
2 **police officers or fire fighters.** -- The city or town councils of the various cities and towns may
3 provide, by ordinance or through collective bargaining, for the retirement of the personnel of their
4 police and fire departments who have been on leave of absence from their employment due to
5 sickness contracted or injuries sustained in the performance of their duties; provided, that no
6 ordinance is contrary to any pension cost of living increase or escalator clause in a collective
7 bargaining agreement, and provided, further, that no ordinance provides for a disability retirement
8 allowance of less than ~~sixty-six and two thirds percent (66 2/3%)~~ fifty percent (50%) of a retiree's
9 annual salary at the time of retirement nor more than ~~one hundred percent (100%)~~ sixty-six and
10 two thirds percent (66 2/3 %) of a retiree's annual salary.

11 SECTION 13. Sections 45-21-2, 45-21-8, 45-21-8.1, 45-21-9, 45-21-12.1, 45-21-14.2,
12 45-21-16, 45-21-17, 45-21-17.2, 45-21-18, 45-21-21, 45-21-22, 45-21-23, 45-21-41, 45-21-46,
13 45-21-51.1, 45-21-52, 45-21-58 and 45-21-66 of the General Laws in Chapter 45-21 entitled
14 "Retirement of Municipal Employees are hereby amended to read as follows:

15 **45-21-2. Definitions.** -- The following words and phrases as used in this chapter have the
16 following meanings unless a different meaning is plainly required by the context:

17 (1) "Accumulated contributions" means the sum of all amounts deducted from the
18 compensation of a member and credited to his or her individual account in the members'
19 contribution reserve account.

20 (2) "Active member" means any employee of a participating municipality as defined in
21 this section for whom the retirement system is currently receiving regular contributions pursuant
22 to sections 45-21-41, 45-21-41.1 or 45-21.2-14.

23 (3) "Actuarial reserve" means the present value of all payments to be made on account
24 of any annuity, retirement allowance, or benefit, computed upon the basis of mortality tables
25 adopted by the retirement board with regular interest.

26 (4) "Beneficiary" means any person in receipt of a retirement allowance, annuity, or
27 other benefit as provided by this chapter.

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

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

33 (ii) Neither partner was married to anyone else;

34 (iii) Partners were not related by blood to a degree which would prohibit marriage in

1 the state of Rhode Island;

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

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

6 (A) Domestic partnership agreement or relationship contract;

7 (B) Joint mortgage or joint ownership of primary residence;

8 (C) Two (2) of: (I) Joint ownership of motor vehicle; (II) Joint checking account; (III)
9 Joint credit account; (IV) Joint lease; and/or

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

12 (6) "Effective date of participation" means the date on which the provisions of this
13 chapter have become applicable to a municipality accepting the provisions of the chapter in the
14 manner stated in § 45-21-4.

15 (7) "Employee" means any regular and permanent employee or officer of any
16 municipality, whose business time at a minimum of twenty (20) hours a week is devoted to the
17 service of the municipality, including elective officials and officials and employees of city and
18 town housing authorities. Notwithstanding the previous sentence, the term "employee", for the
19 purposes of this chapter, does not include any person whose duties are of a casual or seasonal
20 nature. The retirement board shall decide who are employees within the meaning of this chapter,
21 but in no case shall it deem as an employee (i) any individual hired prior to July 1, 2012 who
22 annually devotes less than twenty (20) business hours per week to the service of the municipality
23 and who receives less than the equivalent of minimum wage compensation on an hourly basis for
24 his or her services, except as provided in § 45-21-14.1 or (ii) any individual hired on or after July
25 1, 2012, who devotes less than thirty-five (35) business hours per week to the service of the
26 municipality. Casual employees mean those persons hired for an occasional period or a period of
27 emergency to perform special jobs or functions not necessarily related to the work of regular
28 employees. Any commissioner of a municipal housing authority, or any member of a part-time
29 state board commission, committee or other authority is not deemed to be an employee within the
30 meaning of this chapter.

31 (8) "Final compensation" for members who retire on or prior to June 30, 2012 means
32 ~~means~~ the average annual compensation, pay, or salary of a member for services rendered during
33 the period of three (3) consecutive years within the total service of the member when the average
34 was highest, and as the term average annual compensation is further defined in subdivision 36-8-

1 1(5)(a)(4). For members eligible to retire on or after July 1, 2012, "final compensation" means the
2 average of the highest five (5) consecutive years of compensation within the total service when
3 the final compensation was the highest. For members who become eligible to retire on or after
4 July 1, 2012, if more than one half (1/2) of the member's total years of service consist of years of
5 service during which the member devoted less than thirty-five (35) business hours per week to the
6 service of the municipality, such member's final compensation shall mean the average of the
7 highest ten (10) consecutive years of compensation within the total service when the final
8 compensation was the highest. Notwithstanding the preceding provisions, in no event shall a
9 member's final compensation be lower than his or her final compensation determined as of June
10 30, 2012.

11 (9) "Fiscal year" means the period beginning on July 1 in any year and ending on June
12 30 of the next succeeding year.

13 (10) "Full actuarial costs" or "full actuarial value" mean the lump sum payable by a
14 member claiming service credit for certain employment for which payment is required, which is
15 determined according to the age of the member and his or her annual rate of compensation at the
16 time he or she applies for service credit, and which is expressed as a rate percent of the annual
17 rate of compensation to be multiplied by the number of years for which he or she claims the
18 service credit, as prescribed in a schedule adopted by the retirement board, from time to time, on
19 the basis of computation by the actuary. Except as provided in sections 16-16-7.1, 36-5-3, 36-9-
20 31, 36-10-10.4, and subdivision 45-21-53: (i) All service credit purchases requested after June 16,
21 2009 and prior to July 1, 2012, shall be at full actuarial value; and (ii) All service credit purchases
22 requested after June 30, 2012 shall be at full actuarial value which shall be determined using the
23 system's assumed investment rate of return minus one percent (1%).

24 (11) "Governing body" means any and all bodies empowered to appropriate monies for,
25 and administer the operation of, the units as defined in subdivision (1) of this section.

26 (12) "Member" means any person included in the membership of the retirement system
27 as provided in § 45-21-8.

28 (13) "Municipality" means any town or city in the state of Rhode Island, any city or
29 town housing authority, fire, water, sewer district, regional school district, public building
30 authority as established by chapter 14 of title 37, or any other municipal financed agency to
31 which the retirement board has approved admission in the retirement system.

32 (14) "Participating municipality" means any municipality which has accepted this
33 chapter, as provided in § 45-21-4.

34 (15) "Prior service" means service as a member rendered before the effective date of

1 participation as defined in this section, certified on his or her prior service certificate, and
2 allowable as provided in § 45-21-15.

3 (16) "Regular interest" means interest ~~compounded annually as determined by the~~
4 ~~retirement board based upon the experience of the system.~~ at the assumed investment rate of
5 return, compounded annually, as may be prescribed from time to time by the retirement board.

6 (17) "Retirement allowance" or "annuity" means the amounts paid to any member of
7 the municipal employees' retirement system of the state of Rhode Island, or a survivor of the
8 member, as provided in this chapter. All retirement allowances or annuities shall be paid in equal
9 monthly installments for life, unless otherwise specifically provided.

10 (18) "Retirement board" or "board" means the state retirement board created by chapter
11 8 of title 36.

12 (19) "Retirement system" means the "municipal employees' retirement system of the
13 state of Rhode Island" as defined in § 45-21-32.

14 (20) "Service" means service as an employee of a municipality of the state of Rhode
15 Island as defined in subdivision (7).

16 (21) "Total service" means prior service as defined in subdivision (15) plus service
17 rendered as a member on or after the effective date of participation.

18 (22) Any term not specifically defined in this chapter and specifically defined in chapters
19 36-8 through 36-10 shall have the same definition as set forth in chapters 36-8 through 36-10.

20 **45-21-6. Settlement on withdrawal from system.** -- (a) Upon withdrawal from the
21 system, the retirement board retains in the system from contributions made by the members from
22 the municipality and by the municipality the following amounts:

23 (1) An amount equal to the actuarial value, determined in accordance with the actuarial
24 tables in use by the system, of the retirement and disability allowances in force, being paid to
25 former employees of the municipality who were granted allowances as members of the system or
26 to the beneficiaries of those members;

27 (2) An amount equal to the actuarial value of deferred annuities to members who have
28 not retired but who have acquired a vested right to a retirement allowance who may desire to
29 maintain that vested right; and

30 (3) An amount equal to the accumulated contributions of the members who have not
31 acquired a vested right which shall be refunded to those members.

32 (b) Any remainder in the system after providing for the foregoing amounts shall be paid
33 over to the municipality in such amount as the retirement board shall in its sole discretion
34 determine to be prudent and legally permissible; provided, that if no remainder exists and a

1 deficiency to pay those amounts has accumulated, the municipality is liable to the system for the
2 amount of the deficiency as provided in this section.

3 **45-21-8. Membership in system.** -- Membership in the retirement system does not begin
4 before the effective date of participation in the system as provided in § 45-21-4, and consists of
5 the following:

6 (a) Any employee of a participating municipality as defined in this chapter, who
7 becomes an employee on and after the effective date of participation, shall, under contract of his
8 or her employment, become a member of the retirement system; provided, that the employee is
9 not receiving any pension or retirement allowance from any other pension or retirement system
10 supported wholly or in part by a participating municipality, and is not a contributor to any other
11 pension or retirement system of a participating municipality. Any employee who is elected to an
12 office in the service of a municipality after the effective date and prior to July 1, 2012, has the
13 option of becoming a member of the system, which option must be exercised within sixty (60)
14 days following the date the employee assumes the duties of his or her office, otherwise that
15 person is not entitled to participate under the provisions of this section;

16 (b) Any employee or elected official of a participating municipality in service prior to
17 the effective date of participation, who is not a member of any other pension or retirement system
18 supported wholly or in part by a participating municipality, and who does not notify the
19 retirement board in writing before the expiration of sixty (60) days from the effective date of
20 participation that he or she does not wish to join the system, shall automatically become a
21 member; and

22 (c) Any employee of a participating municipality in service prior to the effective date of
23 participation, who is a member of any other pension or retirement system supported wholly or in
24 part by a participating municipality on the effective date of participation of their municipality,
25 who then or thereafter makes written application to join this system, and waives and renounces all
26 accrued rights and benefits of any other pension or retirement system supported wholly or in part
27 by a participating municipality, becomes a member of this retirement system and shall not be
28 required to make contribution under any other pension or retirement system of a participating
29 municipality, any thing to the contrary notwithstanding.

30 (d) Notwithstanding the provisions of this section, present firefighters employed by the
31 town of Johnston shall establish a pension plan separate from the state of Rhode Island retirement
32 system. If the town of Johnston is thirty (30) days or more late on employer or employee
33 contributions to the pension plan, the auditor general is authorized to redirect any Johnston funds
34 to cover the shortfall or to deduct that amount from any moneys due the town from the state for

1 any purpose other than for education. Disability determinations of present firefighters shall be
2 made by the state retirement board, subject to the provisions of § 45-21-19 at the town of
3 Johnston's expense. All new firefighters hired by the town of Johnston shall become members of
4 the state retirement system.

5 (e) Notwithstanding the provisions of this section, any City of Cranston employees,
6 who are presently members of Teamsters Local Union No. 251, hired between the dates of July 1,
7 2005 and June 30, 2010 inclusive and who are currently members of the retirement system
8 established by this chapter, may opt out of said retirement system and choose to enroll in a
9 defined contribution plan (i.e., a 403 (b) plan or equivalent thereof) established by the City of
10 Cranston.

11 (f) Notwithstanding the provisions of this section, any City of Cranston employees,
12 who will be members of Teamsters Local Union No. 251, hired after June 30, 2010 shall be
13 enrolled in a defined contribution plan (i.e., a 403 (b) plan or equivalent thereof) established by
14 the City of Cranston and shall not be a member of the retirement system established by this
15 chapter.

16 (g) Notwithstanding the provisions of this section, any City of Cranston employees
17 defined in (e) and (f) of this section shall be precluded from purchase of service credit for time
18 served on or after July 1, 2010 while participating in the defined contribution plan (i.e., a 403 (b)
19 plan or equivalent thereof) established by the City of Cranston should the member cease
20 employment with the City of Cranston or Teamsters Local Union No. 251 and re-enter the system
21 with another participating employer who has accepted the provisions, as defined, in § 45-21-4.

22 **45-21-8.1. ~~Exclusion of elected city, or town council members.~~Exclusion of elected**
23 **city, town council or other elected members.** --Notwithstanding any provision of this chapter or
24 any provision of the general or public laws to the contrary, no city or town council members,
25 school committee members or other local elected officials elected for the first time after
26 ~~November 6~~ June 30, 2012, shall be allowed membership into the municipal employees'
27 retirement system, as a result of that elective service.

28 **45-21-9. Prior service credit of members joining by election – Purchase of credit for**
29 **prior service.** -- (a) No employee of a participating municipality whose membership in the
30 retirement system is contingent on his or her own election to join under § 45-21-8(c), shall
31 receive prior service credit unless the employee makes application for membership within one
32 year from the effective date of participation of the municipality by which the employee is
33 employed. Any employee who elects not to join this retirement system, as provided in § 45-21-
34 8(b), may thereafter be admitted to membership, but no employee shall receive credit for prior

1 service unless the employee applies for membership within one year from the effective date of
2 participation of the municipality by which the employee is employed.

3 (b) Any member who becomes an employee after the effective date of participation by
4 a municipality into the system, has the privilege of purchasing credit for prior service with the
5 city or town of which the employee is now employed. This privilege does not become effective
6 until a member has had at least one year of service following his or her latest reentry into
7 membership with the system, and credit is granted only when the member makes a lump sum
8 payment of six percent (6%) of the rate of compensation in effect on the date of reentry, plus
9 regular interest, compounded annually from that date to the date of purchase. The maximum
10 period of service that may be purchased under this section is ten (10) years. Upon granting prior
11 service under the provisions of this section, the board shall bill the applicable city or town for its
12 share of the total liability for the prior service. [Effective July 1, 2012, any purchase requested](#)
13 [under this paragraph shall be made by a member at full actuarial cost.](#)

14 **45-21-12.1. Credit for service as a teacher or state employee.** -- Any member who
15 has rendered service as a teacher, as defined under the provisions of chapters 16 and 17 of title
16 16, or as a state employee, as defined by the provisions of chapters 8 to 10 of title 36, is entitled
17 to credit for that service for the various purposes of this system; provided, that the member was a
18 contributing member for that period. All contributions made by the member for those periods of
19 service shall be transferred in ~~total~~ [to](#) this system and the retirement system shall calculate the
20 full actuarial value of the accrued benefit with the former employer. If the full actuarial value of
21 the accrued benefit with the former employer is greater than the total employee contributions
22 transferred, the retirement system shall also transfer the difference between the full actuarial
23 value of the accrued benefit with the former employer and the employee's contributions from the
24 account of the former employer to the account of the current employing municipality. In any case
25 in which a member has received a refund or refunds of contributions made to the system, the
26 allowance of the previously stated credit for service is conditioned upon the repayment of the
27 refund or refunds, including regular interest from the date of refund to the date of repayment. Any
28 service as defined in this section for which no contributions were made, may be granted;
29 provided, that the member pays to the retirement system a lump sum payment equal to the
30 amount had he or she been a member during that period, plus interest as defined in this section.
31 [Effective July 1, 2012, any purchase requested under this paragraph shall be made by a member](#)
32 [at full actuarial cost.](#) The retirement board shall fix and determine rules and regulations that are
33 needed to govern the provisions of this section.

34 **45-21-14.2. Leave of absence credits.** -- (a) Members with at least one year of

1 membership credits who have been granted an official leave of absence without pay for illness,
2 injury, educational or, any other reason, may receive credit for the leave by making contributions
3 to the retirement system, in a lump sum, in an amount equal to the contribution the member
4 would have made to the retirement system based upon the member's expected compensation but
5 for the granting of leave without pay, plus regular interest compounded annually to date of
6 payment; provided, that the member returns to service for at least one year immediately upon
7 completion of that leave. Credit for leaves of absence under this section are limited, in the
8 aggregate, during the total service of a member to a period of four (4) years maximum. Effective
9 July 1, 2012, any purchase requested under this paragraph shall be made by a member at full
10 actuarial cost.

11 (b) The retirement board fixes the time when and the conditions under which payments
12 are made under this section.

13 (c) This section is exempt from the provisions of §§ 45-13-6 – 45-13-10.

14 **45-21-16. Retirement on service allowance.** -- Retirement of a member on a service
15 retirement allowance shall be made by the retirement board as follows:

16 (1) (i) Any member who is eligible to retire on or before June 30, 2012, may retire upon
17 the member's written application to the retirement board as of the first day of the calendar month
18 in which the application was filed, provided the member was separated from service prior to the
19 application, and provided, further, that if separation from service occurs during the month in
20 which application is filed, the effective date is the first day following the separation from service,
21 provided that the member at the time so specified for the member's retirement has attained the
22 applicable minimum retirement age and has completed at least ten (10) years of total service or
23 who, regardless of age, completed thirty (30) years of total service, and notwithstanding that
24 during the period of notification the member has separated from service. The minimum ages for
25 service retirement (except for employees completing thirty (30) years of service) is fifty-eight
26 (58) years.

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

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

32 (B) If a member had ten (10) or more years of contributory service and attained age fifty-
33 two (52) as of June 30, 2012 and would have been eligible to retire at or prior to age sixty-two
34 (62) in accordance with paragraph (a) above, the member may retire upon attainment of age sixty-

1 two (62).

2 (C) A member who has completed twenty (20) or more years of total service who has
3 attained an age within five (5) years of the eligible retirement age under subparagraphs or above,
4 may elect to retire provided that the retirement allowance shall be reduced actuarially for each
5 month that the age of the member is less than the eligible retirement age under subparagraphs
6 (ii)(A) or (ii)(B) above.

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

14 (2) Except as specifically provided in §§ 45-21-19 through 45-21-22, no member is
15 eligible for pension benefits under this chapter unless:

16 (I) On or prior to June 30, 2012 the member has been a contributing member of the
17 employees' retirement system for at least ten (10) years; or

18 (II) For members in active contributory service on or after July 1, 2012, the member
19 shall have been a contributing member of the employees' retirement system for at least five (5)
20 years.

21 (i) Provided, however, a person who has ten (10) years service credit on or before June
22 16, 1991 is vested.

23 (ii) Furthermore, any past service credits purchased in accordance with § 45-21-62 are
24 counted towards vesting.

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

27 (iv) Notwithstanding any other provision of law, no more than five (5) years of service
28 credit may be purchased by a member of the System. The five (5)-year limit does not apply to any
29 purchases made prior to the effective date of this provision. A member who has purchased more
30 than five (5) years of service credit maximum, before January 1, 1995, shall be permitted to apply
31 the purchases towards the member's service retirement. However, no further purchase will be
32 permitted. Repayment, in accordance with applicable law and regulation, of any contribution
33 previously withdrawn from the System is not deemed a purchase of service credit.

34 (v) Notwithstanding any other provision of law, effective July 1, 2012, except for

1 purchases under sections 16-16-7.1, 36-5-3, 36-9-31, 36-10-10.4, and 45-21-53:

2 (I) For service purchases for time periods prior to a member's initial date of hire; the
3 purchase must be made within three (3) years of the member's initial date of hire; and

4 (II) For service purchases for time periods for official periods of leave as authorized by
5 law, the purchase must be made within three (3) years of the time the official leave was
6 concluded by the member.

7 Notwithstanding (I) and (II) above, service purchases from time periods prior to June 30,
8 2012 may be made on or prior to June 30, 2015.

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

13 (4) A member does not receive service credit in this retirement system for any year or
14 portion of a year, which counts as service credit in any other retirement system in which the
15 member is vested or from which the member is receiving a pension and/or any annual payment
16 for life. This subsection does not apply to any payments received pursuant to the Federal Social
17 Security Act or to payments from a military pension earned prior to participation in state or
18 municipal employment, or to military service credits earned prior to participation in state or
19 municipal employment.

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

28 (6) A member who fails to cooperate with the retirement board shall not have the time of
29 service counted toward total service credit until a time that the member cooperates with the
30 retirement board and until a time that the retirement board determines the validity of the service
31 credit.

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

1 **45-21-17. Service retirement allowance.** -- (a) Upon retirement from service after
2 January 1, 1969, a member shall receive a retirement allowance which is a life annuity terminable
3 upon death of the annuitant and is an amount is equal to two percent (2%) of final compensation
4 multiplied by the number of years of total service, not to exceed thirty-seven and one-half (37
5 1/2) years for service on and prior to June 30, 2012. For service on and after July 1, 2012, a
6 member's retirement allowance shall be equal to one percent (1%) of the member's final
7 compensation multiplied by the member's years of service on and after July 1, 2012. ~~;~~ ~~provided,~~
8 Provided, however, that every person elected prior to July 1, 2012 who has served as a part time
9 elected official of the city of Cranston for a period of ten (10) years, is entitled to receive, upon
10 retirement from that part time service, and not being otherwise regularly employed by the city of
11 Cranston in which that person has served, a service retirement allowance equivalent to fifty
12 percent (50%) of the salary received at the time of retirement by that part time elected official;
13 and, provided, further, that if that person retires after a period of service greater than ten (10)
14 years, the person is entitled to receive an additional service retirement allowance equivalent to
15 five percent (5%) of the salary received at the time of retirement for each whole year of service,
16 in excess of ten (10) years up to a maximum additional allowance equivalent to fifty percent
17 (50%) of the salary received.

18 (b) This section also applies to any former part time elected official of the city of
19 Cranston who is presently receiving retirement benefits from the municipal retirement system.

20 (c) Every person elected prior to July 1, 2012 who serves or has served at least four (4)
21 years as a part time elected official of the city of Cranston may include that person's years of
22 service as a member of the general assembly, and any other credits acquired while serving as a
23 legislator, when computing the person's period of service to the city of Cranston pursuant to the
24 provisions of this section.

25 **45-21-17.2. Social security supplemental option.** -- (a) In lieu of the retirement on
26 service allowance, a vested member who retires in accordance with § 45-21-16 may choose an
27 optional form of retirement benefit known as the social security supplemental option.

28 (b) This option provides for the payment of a larger benefit before the attainment of age
29 sixty-two (62) and a reduced benefit thereafter. The reduced amount is equal to the benefit before
30 age sixty-two (62), including cost of living increases, reduced by the member's estimated social
31 security benefit payable at age sixty-two (62). Benefits payable under this option before and after
32 the attainment of age sixty-two (62) are actuarially determined to be equivalent to the lifetime
33 service retirement allowance as determined in § 45-21-17.

34 (c) Election of this social security supplemental option is available only to members with

1 ten (10) or more years of contributing service on or before June 30, 2012 ~~those~~ who elect the
2 service retirement allowance set forth in § 45-21-17.

3 **45-21-18. Deferred allowance on service retirement before minimum age.** – The right
4 to a service retirement allowance under the provisions of this chapter is vested in a member who
5 withdraws from service prior to the attainment of the applicable minimum age of retirement as
6 prescribed in this section, who has not received a refund; provided, that the member has
7 completed at least ten (10) years of total service, or for members in active service on or after July
8 1, 2012, at least five (5) years of total service. The member becomes entitled to a service
9 retirement allowance upon the member's attainment of the applicable minimum retirement age or
10 at the member's option at any date subsequent to attaining that age. The rate of service retirement
11 allowance payable in the case of any member is that provided in § 45-21-17 for the period of total
12 service earned and accrued at the date of withdrawal from service of the member.

13 **45-21-21. Retirement for accidental disability.** -- (a) Any member in active service,
14 regardless of length of service, is entitled to an accidental disability retirement allowance.
15 Application for the allowance shall be made by the member or on the member's behalf, stating
16 that the member is physically or mentally incapacitated for further service as the result of an
17 injury sustained while in the performance of duty and certifying the time, place, and conditions of
18 the duty performed by the member which resulted in the alleged disability, and that the alleged
19 disability was not the result of the willful negligence or misconduct on the part of the member,
20 and was not the result of age or length of service, and that the member has not attained the age of
21 sixty-five (65), or effective July 1, 2012, Social Security retirement age. The application shall be
22 made within five (5) years of the alleged accident from which the injury has resulted in the
23 member's present disability and shall be accompanied by an accident report and a physician's
24 report certifying the disability. If a medical examination made by three (3) physicians engaged by
25 the retirement board, and other investigations as the board may make, confirm the statements
26 made by the member, the board may grant the member an accidental disability retirement
27 allowance.

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

31 **45-21-22. Accidental disability allowance.** -- (a) Upon any application ~~retirement~~ for
32 accidental disability submitted on or before June 30, 2102, a member receives a retirement
33 allowance equal to sixty-six and two-thirds percent (66 2/3%) of the rate of the member's
34 compensation at the date of the member's retirement subject to the provisions of § 45-21-31.

1 **(b) Upon any application for accidental disability submitted after June 30, 2012, if the**
2 **member has been found to be permanently and totally disabled from service, but has not been**
3 **found by the board to be permanently and totally disabled from any employment as a result of**
4 **his/her accidental disability, a member shall receive a retirement allowance equal to fifty percent**
5 **(50%) of the rate of the member's compensation at the date of the member's retirement subject to**
6 **the provisions of section 45-21-31. The retiree shall, as a condition of continued receipt of a**
7 **disability retirement allowance, on or before a date fixed by the retirement board, annually under**
8 **penalties of perjury provide the board with such affidavits and accurate evidence of earnings,**
9 **employment and gainful activity as the board may require, including, but not limited to, joint**
10 **and/or individual tax returns. Subject to paragraph (c) below, payment of the disability retirement**
11 **allowance shall continue as long as the individual remains disabled, and regardless of service or**
12 **age. Upon retirement for accidental disability that has been found by the board to be permanently**
13 **and totally disabling from any employment, a member shall receive a retirement allowance equal**
14 **to sixty-six and two-thirds percent (66 2/3%) of the rate of the member's compensation at the date**
15 **of the member's retirement subject to the provisions of section 45-21-31. The retirement board**
16 **shall apply the terms of subsection 28-33-17(b) in determining total disability.**

17 **(c) All members who apply for accidental disability on or after July 1, 2012, who have**
18 **not been found to be permanently and totally disabled from any employment by the retirement**
19 **board, shall have their disability pension cease upon reaching the minimum retirement age at**
20 **which the member would have been entitled to an unreduced service pension allowance if the**
21 **member had continued in active service. Upon reaching such minimum retirement age, a service**
22 **pension under Rhode Island General Laws section 45-21-16 shall begin in the amount of the**
23 **disability pension (inclusive of any cost of living adjustment that the member previously received**
24 **prior to attaining the minimum age of retirement).**

25 **45-21-23. Periodical examination of disability annuitants – Placement on**
26 **employment lists. --** (a) At least once each year the retirement board may, and upon application
27 shall, require any disability annuitant under the minimum age for service retirement, whether in
28 receipt of an ordinary disability retirement allowance or an accidental disability retirement
29 allowance, to undergo a medical examination, the examination to be made at the ~~place of~~
30 ~~residence of the annuitant, or other place mutually agreed upon, by~~ office of a physician or
31 physicians engaged by the retirement board.

32 (b) If the examination indicates that the annuitant is able to engage in a gainful
33 occupation, the annuitant's name shall be placed on appropriate lists of candidates that are
34 prepared for appointment to positions in the annuitant's department for which the annuitant is

1 stated to be qualified, of a salary grade not less than that from which the annuitant was last
2 retired.

3 **45-21-41. Members' contributions – Payroll deductions – Certification to board. –**

4 (a) Prior to July 1, 2012, each ~~Each~~ member shall contribute an amount equal to six
5 percent (6%) of salary or compensation earned and accruing to the member; provided, that
6 contributions by any member cease when the member has completed the maximum amount of
7 service credit attainable. Special compensation for additional fees shall not be considered as
8 compensation for contribution purposes. Effective July 1, 2012, each member shall contribute an
9 amount equal to one percent (1%) of his or her compensation as his or her share of the cost.

10 (b) Each municipality shall deduct the previously stated rate from the compensation of
11 each member on each and every payroll of the municipality, and the deduction made during the
12 entire time a member is in service subject to termination as stated in the foregoing paragraph.

13 (c) The deductions provided for in this section shall be made notwithstanding that the
14 minimum compensation provided for by law for any member is reduced by the compensation.
15 Every member is deemed to consent and agree to the deductions made and provided for in this
16 section, and shall receipt for his or her full salary or compensation; and payment of salary or
17 compensation less those deductions are a full and complete discharge and acquittance of all
18 claims and demands for the services rendered by the person during the period covered by the
19 payment except as to the benefits provided under this chapter. Each participating municipality
20 shall certify to the retirement board the amounts deducted from the compensation of members.
21 Each of the amounts, when deducted, shall be credited to an individual account of the member
22 from whose compensation the deduction was made.

23 **45-21-46. Forfeiture for fraudulent claims. --** Every person who knowingly or willfully
24 makes or presents or in any way procures the making or presentation of any false or fraudulent
25 affidavit or affirmation concerning any claim for retirement allowance or payment of retirement
26 allowance, shall, in every case, forfeit a sum not exceeding ~~one ten~~ thousand dollars (\$10,000)
27 ~~(\$1,000)~~, to be sued and recovered by and in the name of the retirement board, and when
28 recovered paid over to and become a part of the funds of the retirement system.

29 **45-21-51.1. Optional annuity protection – Election of option by member. --** (a) Upon
30 death of a member having (1) at least ten (10) years of membership service on or before June 30,
31 2012 or (2) for active contributing members on or after July 1, 2012, at least five (5) years of
32 membership service, the spouse or domestic partner of the member has the option to elect to
33 receive option one as provided in § 45-21-30 in lieu of a return of contributions, provided the
34 spouse or domestic partner is the designated beneficiary of the member's retirement account. The

1 election is based upon the amount of retirement allowance or actuarial equivalent that may accrue
2 at the date of death of the member.

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

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

17 **45-21-52. Automatic increase in service retirement allowance.** -- (a) The local
18 legislative bodies of the cities and towns may extend to their respective employees automatic
19 adjustment increases in their service retirement allowances, by a resolution accepting any of the
20 plans described in this section:

21 (1) *Plan A.* All employees and beneficiaries of those employees receiving a service
22 retirement or disability retirement allowance under the provisions of this chapter on December 31
23 of the year their city or town accepts this section, receive a cost of living adjustment equal to one
24 and one-half percent (1 1/2%) per year of the original retirement allowance, not compounded, for
25 each calendar year the retirement allowance has been in effect. This cost of living adjustment is
26 added to the amount of the retirement allowance as of January 1 following acceptance of this
27 provision, and an additional one and one-half percent (1 1/2%) is added to the original retirement
28 allowance in each succeeding year during the month of January, and provided, further, that this
29 additional cost of living increase is three percent (3%) for the year beginning January 1 of the
30 year the plan is accepted and each succeeding year.

31 (2) *Plan B.* All employees and beneficiaries of those employees receiving a retirement
32 allowance under the provisions of this chapter on December 31 of the year their municipality
33 accepts this section, receive a cost of living adjustment equal to three percent (3%) of their
34 original retirement allowance. This adjustment is added to the amount of the retirement allowance

1 as of January 1 following acceptance of this provision, and an additional three percent (3%) of the
2 original retirement allowance, not compounded, is payable in each succeeding year in the month
3 of January.

4 (3) *Plan C.* All employees and beneficiaries of those employees who retire on or after
5 January 1 of the year following acceptance of this section, on the first day of January next
6 following the date of the retirement, receive a cost of living adjustment in an amount equal to
7 three percent (3%) of the original retirement allowance.

8 (b) In each succeeding year in the month of January, the retirement allowance is
9 increased an additional three percent (3%) of the original retirement allowance, not compounded.

10 (c)(1) Notwithstanding any other paragraphs of this section, and subject to paragraph (c)
11 (2) below, for all present and former employees, active and retired members, and beneficiaries
12 receiving any retirement, disability or death allowance or benefit of any kind by reason of
13 adoption of this section by their employer, the annual benefit adjustment provided in any calendar
14 year under this section shall be equal to (A) multiplied by (B) where (A) is equal to the
15 percentage determined by subtracting five and one-half percent (5.5%) (the “subtrahend”) from
16 the Five-Year Average Investment Return of the retirement system determined as of the last day
17 of the plan year preceding the calendar year in which the adjustment is granted, said percentage
18 not to exceed four percent (4%) and not to be less than zero percent (0%), and (B) is equal to the
19 lesser of the member’s retirement allowance or the first thirty-five thousand dollars (\$35,000) of
20 retirement allowance, such thirty-five thousand dollars (\$35,000) amount to be indexed annually
21 in the same percentage as determined under (c)(1)(A) above. The “Five-Year Average Investment
22 Return” shall mean the average of the investment returns of the most recent five (5) plan years as
23 determined by the retirement board. Subject to paragraph (c)(2) below, the benefit adjustment
24 provided by this paragraph shall commence upon the third (3^d) anniversary of the date of
25 retirement or the date on which the retiree reaches his or her Social Security retirement age,
26 whichever is later; or for municipal police and fire retiring under the provisions of chapter 45-
27 21.2, the benefit adjustment provided by this paragraph shall commence on the later of the third
28 (3^d) anniversary of the date of retirement or the date on which the retiree reaches age fifty- five
29 (55). In the event the retirement board adjusts the actuarially assumed rate of return for the
30 system, either upward or downward, the subtrahend shall be adjusted either upward or downward
31 in the same amount.

32 (2) The benefit adjustments provided under this section for any calendar year shall be
33 suspended in their entirety for each municipal plan within the municipal employees retirement
34 system unless:

1 (i) The municipal plan is determined to be funded at a GASB Funded Ratio equal to or
2 greater than eighty percent (80%) as of the end of the immediately preceding plan year in
3 accordance with the retirement system’s actuarial valuation report as prepared by the system’s
4 actuary, in which event the benefit adjustment will be reinstated for all members for such plan
5 year; or

6 (ii) The municipal plan is determined to be funded at a GASB Funded Ratio equal to or
7 greater than seventy percent (70%) as of the end of the immediately preceding plan year in
8 accordance with the retirement system’s actuarial valuation report as prepared by the system’s
9 actuary, in which event a benefit adjustment will be reinstated for such plan year for members of
10 such municipal plan who received an accumulated retirement allowance in the prior plan year of
11 less than twenty thousand dollars (\$20,000); the amount of the benefit adjustment under this
12 paragraph (c)(2)(ii) shall be equal to (A) multiplied by (B) where (A) is determined under
13 (c)(1)(A) above and (B) is equal to the member’s years of service, up to a maximum of thirty-five
14 (35) years of service, multiplied by the lesser of the member’s retirement allowance or the first
15 five hundred dollars (\$500) of retirement allowance. The twenty thousand dollars (\$20,000) and
16 five hundred dollars (\$500) amounts in the preceding sentence shall be indexed annually in the
17 same percentage amount as determined under (c)(1)(A) above.

18 In determining whether a funding level under this paragraph (c)(2) has been achieved, the
19 actuary shall calculate the funding percentage after taking into account the reinstatement of any
20 current or future benefit adjustment provided under this section. “GASB Funded Ratio” shall
21 mean the ratio of the actuarial value of assets to the actuarial accrued liability under the rules
22 established by the Government Accounting Standards Board.

23 (3) Notwithstanding any other provision of this chapter or chapter 45-21.2, the provisions
24 of this paragraph (c) of Section 45-21-52 shall become effective July 1, 2012 and shall apply to
25 any benefit adjustment not granted on or prior to June 20, 2012.

26 ~~(e)~~(d) Upon acceptance of any of the plans in this section, each employee shall on
27 January 1 next succeeding the acceptance, contribute by means of salary deductions, pursuant to §
28 45-21-41, one percent (1%) of the employee's compensation concurrently with and in addition to
29 contributions otherwise being made to the retirement system.

30 ~~(+)~~(e) The city or town shall make any additional contributions to the system, pursuant to
31 the terms of § 45-21-42, for the payment of any benefits provided by this section.

32 ~~(e)~~(f) The East Greenwich town council shall be allowed to accept Plan C of § 45-21-
33 52(a)(3) for all employees of the town of East Greenwich who either, pursuant to contract
34 negotiations, bargain for Plan C, or who are non-union employees who are provided with Plan C

1 and who shall all collectively be referred to as the "MunicipalCOLA Group" and shall be
2 separate from all other employees of the town and school department, union or non-union, who
3 are in the same pension group but have not been granted Plan C benefits. Upon acceptance by the
4 town council, benefits in accordance with this section shall be available to all such employees
5 who retire on or after January 1, 2003.

6 **45-21-58. Credits for layoffs.** -- (a) Members who are laid off for any reason and are not
7 on leave without pay may purchase up to one year's credit for retirement purposes; provided, that
8 the member did not withdraw his or her retirement contributions while on layoff, and returns to
9 active membership; provided, further, that the member purchases the credit upon his or her return
10 to service from being laid off and pays into the retirement system, in a lump sum, the amount he
11 or she would have contributed to the system but for the layoff plus regular interest. Effective July
12 1, 2012 any purchase under this paragraph shall be at full actuarial cost.

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

15 **45-21-66. Severability.**-- The holding of any section or sections or parts of this chapter
16 to be void, ineffective, or unconstitutional for any cause shall not be deemed to affect any other
17 section or part hereof.

18 SECTION 14. Sections 45-21.2-2, 45-21.2-5, 45-21.5-5.1, 45-21.5-6, 45-21.5-6.1, 45-
19 21.2-6.2, 45-21.2-6.3, 45-21.2-9, 45-21.2-14, 45-21.2-16, 45-21.2-18, 45-21.2-19, 45-21.2-20,
20 45-21.2-21, 45-21.2-22, 45-21.2-22.1 and 45-21.2-25 of the General Laws in Chapter 45-21.2
21 entitled "Optional Retirement for Members of Police Force and Fire Fighters" are hereby
22 amended to read as follows:

23 **45-21.2-2. Definitions.** -- As used in this chapter, the words defined in § 45-21-2 have
24 the same meanings stated in that section except that "employee" means any regular and
25 permanent police official or officer and any regular and permanent fire fighter. The retirement
26 board shall determine who are employees within the meaning of this chapter; and "final
27 compensation" means for members who retire on or prior to June 30, 2012, the average annual
28 compensation, pay or salary of a member for services rendered during the period of three (3)
29 consecutive years within the total service of the member when that average was highest.
30 Effective on and after July 1, 2012, "final compensation" means the average annual compensation
31 of a member for services rendered during the period of the highest five (5) consecutive years
32 within the total service of the member, and compensation shall be defined in accordance with §
33 36-8-1 (8). Notwithstanding the prior sentence, in no event shall a member's final compensation
34 be less than the member's final compensation on or before June 30, 2012.

1 **45-21.2-5. Retirement on service allowance.** -- (a) Retirement of a member on a service
2 retirement allowance [for members eligible to retire on or before June 30, 2012](#) shall be made,
3 [subject to paragraph \(a\) \(11\) below](#), by the retirement board as follows:

4 (1) Any member who has attained or attains age seventy (70) shall be retired as stated in
5 § 45-21-16 subject to the discretions contained in that section; provided, that any member who is
6 a member of the Woonsocket fire department who has attained or attains an age of sixty-five (65)
7 years shall be retired. Retirement occurs on the first day of the next succeeding calendar month in
8 which the member has attained the age of sixty-five (65) years.

9 (2) Any member may retire pursuant to this subdivision upon written application to the
10 board stating at what time the member desires to retire; provided, that the member at the specified
11 time for retirement has attained an age of fifty-five (55) years and has completed at least ten (10)
12 years of total service, and notwithstanding that the member may have separated from service.

13 (3) Any member may retire pursuant to this subdivision upon written application to the
14 board stating at what time the member desires to retire; provided, that the member at the specified
15 time for retirement has completed at least twenty-five (25) years of total service, and
16 notwithstanding that the member may have separated from service.

17 (4) Any member may retire pursuant to this subdivision upon written application to the
18 board stating at what time the member desires to retire; provided, that the member at the specified
19 time for retirement has attained an age of fifty (50) years and has completed at least twenty (20)
20 years of total service, notwithstanding that the member may have separated from service;
21 provided, that the service retirement allowance, as determined according to the formula provided
22 in § 45-21.2-6, is reduced one-half of one percent (1/2%) for each month that the age of the
23 member is less than fifty-five (55) years.

24 (5) Any member of the South Kingstown police department may retire pursuant to this
25 subdivision upon written application to the board stating at what time the member desires to
26 retire; provided, that the member at the specified time for retirement has earned a service
27 retirement allowance of fifty percent (50%) of final compensation pursuant to § 45-21.2-6.1.

28 (6) Any member of the Johnston police department may retire pursuant to this
29 subdivision upon written application to the board stating at what time the member desires to
30 retire; provided, that the member at the specified time for retirement has earned a service
31 retirement allowance of fifty percent (50%) of final compensation pursuant to § 45-21.2-6.2.

32 (7) Any member of the Cranston fire department hired after July 1, 1995, or any member
33 of the Cranston fire department with five (5) years or less of service effective July 1, 1995, may
34 retire pursuant to this subdivision upon written application to the board stating at what time the

1 member desires to retire; provided, that the member at the specified time for retirement has
2 earned a service retirement allowance of fifty percent (50%) of final compensation for at least
3 twenty (20) years service; final compensation for Cranston fire department members is based on
4 the compensation components of weekly salary, longevity and holidays with longevity of the
5 members highest year of earnings and members shall receive a three percent (3%) escalation of
6 their pension payment compounded each year on January 1st following the year of retirement and
7 continuing on an annual basis on that date; further, any illness or injury not covered in title 45 of
8 the general laws relating to the presumption of disability is governed by the collective bargaining
9 agreement between the City of Cranston and members of the Cranston fire department.

10 (8) Any member of the Cranston police department hired after July 1, 1995, or any
11 member of the Cranston police department with five (5) years or less of service effective July 1,
12 1995, may retire pursuant to this subdivision upon written application to the board stating at what
13 time the member desires to retire; provided, that the member at the specified time for retirement
14 has earned a service retirement allowance of fifty percent (50%) of final compensation for at least
15 twenty (20) years service; final compensation for Cranston police department members is based
16 on the compensation components of weekly salary, longevity and holidays with longevity of the
17 members highest year of earnings and members shall receive a three percent (3%) escalation of
18 their pension payment compounded each year on January 1st following the year of retirement and
19 continuing on an annual basis on that date; further, any illness or injury not covered in title 45 of
20 the general laws relating to the presumption of disability is governed by the collective bargaining
21 agreement between the City of Cranston and members of the Cranston police department.

22 (9) Any member of the Hopkinton police department may retire pursuant to this
23 subdivision upon written application to the board stating at what time the member desires to
24 retire; provided, that the member at the specified time for retirement has earned a service
25 retirement allowance of fifty percent (50%) of final compensation for at least twenty (20) years
26 service; final compensation for Hopkinton police department members is based on the
27 compensation components of weekly salary, longevity and holidays with longevity of the
28 members highest year of earnings and members shall receive a three percent (3%) escalation of
29 their pension payment compounded each year on January 1st following the year of retirement and
30 continuing on an annual basis on that date.

31 (10) Any member of the Richmond police department may retire pursuant to this
32 subdivision upon written application to the board stating at what time the member desires to
33 retire; provided, that the member at the specified time for retirement has earned a service
34 retirement allowance of fifty percent (50%) of final compensation for at least twenty-two (22)

1 years' service pursuant to § 45-21.2-6.3.

2 (11) Notwithstanding any provision in this section to the contrary, for any service on or
3 after July 1, 2012, final compensation shall be defined in accordance with section 45-21.2-2, and
4 no benefit adjustments shall be provided except as set forth in subsection 45-21-52(c).

5 (b) Retirement of a member on a service retirement allowance eligible to retire on and
6 after July 1, 2012 shall be made by the retirement board as follows:

7 (1) Any member may retire pursuant to this subdivision upon written application to the
8 board stating at what time the member desires to retire; provided, that the member at the specified
9 time for retirement attained the age of at least fifty-five (55) years and has completed at least
10 twenty-five (25) years of total service, and notwithstanding that the member may have separated
11 from service.

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

16 (3) If a member had ten (10) or more years of contributory service and attained age forty-
17 five (45) prior to July 1, 2012 and would have been eligible to retire at or prior to age fifty-two
18 (52) in accordance with the rules in effect prior to July 1, 2012, the member may retire upon
19 attainment of age fifty-two (52).

20 (4) A member who has completed twenty (20) or more years of total service who has
21 attained an age within five (5) years of the eligible retirement age under subparagraphs (b)(1) or
22 (b)(2) above, may elect to retire provided that the retirement allowance shall be reduced
23 actuarially for each month that the age of the member is less than the eligible retirement age
24 under subparagraphs (b)(1) or (b)(2) above.

25 (5) Notwithstanding any other provisions of this section, a member on June 30, 2012,
26 may elect to retire at his or her eligible retirement date as determined under the rules in effect on
27 June 30, 2012 provided that a member making an election under this paragraph shall receive the
28 member's retirement benefit determined and calculated based on the member's service and final
29 compensation as of June 30, 2012. This provision shall be interpreted and administered in a
30 manner to protect a member's accrued benefit on June 30, 2012.

31 **45-21.2-5.1. Retirement credits for layoffs.** -- (a) Members who are laid off for any
32 reason, and not on leave without pay, may purchase layoff time up to one year service credit for
33 retirement purposes, provided the member did not withdraw his or her retirement contributions
34 while on the layoff, and returns to active service.

1 (b) Provided, further, that the member purchases the credit within one year of the
2 member's return to service from the layoff and (1) for purchases on or prior to June 30, 2012, the
3 member pays into the retirement system in a lump sum the amount the member would have
4 contributed to the system but for the layoff plus regular interest and (2) for purchases on or after
5 July 1, 2012, the member pays into the retirement system in a lump sum the full actuarial cost of
6 the time being purchased.

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

9 **45-21.2-6. Service retirement allowance.** -- (a) Upon retirement from service pursuant
10 to ~~subdivision (1), (2), or (3) of~~ § 45-21.2-5, a member receives a retirement allowance which is a
11 life annuity terminable at the death of the annuitant and shall be an amount equal to two percent
12 (2%) of final compensation multiplied by the years of total service, but not to exceed seventy-five
13 percent (75%) of final compensation.

14 ~~(b) Upon retirement from service pursuant to subdivision (4) of § 45-21.2-5, a member~~
15 ~~receives a retirement allowance which is a life annuity terminable at the death of the annuitant~~
16 ~~computed in accordance with subsection (a) of this section, reduced by one half of one percent (~~
17 ~~1/2%) for each month that the member was under age fifty five (55) at his or her retirement.~~

18 ~~(e)~~(b) Upon retirement, the member may elect to receive the actuarial equivalent of his or
19 her retirement allowance in a lesser retirement allowance as determined by actuarial calculation,
20 which is payable throughout life with the provision that:

21 (1) *Option 1.* A reduced retirement allowance payable during the member's life with the
22 provisions that after his or her death it shall continue during the life of and be paid to the person
23 that he or she nominated by written designation duly acknowledged and filed with the retirement
24 board at the time of retirement; or

25 (2) *Option 2.* A reduced retirement allowance payable during the member's life with the
26 provision that after his or her death an allowance equal to one-half (1/2) of his or her reduced
27 allowance shall continue during the life of and be paid to the person that he or she nominated by
28 written designation duly acknowledged and filed with the board at the time of retirement.

29 **45-21.2-6.1. South Kingstown police department – Retirement allowance.** -- Upon
30 retirement from service pursuant to subdivision (1), (2), or (5) of § 45-21.2-5, a member of the
31 South Kingstown police department receives a retirement allowance which is a life annuity
32 terminable at the death of the annuitant, and is an amount equal to the sum of two and one-half
33 percent (2.5%) of final compensation multiplied by the years of service accrued after July 1, 1993
34 and until June 30, 2012 and two percent (2%) of final compensation multiplied by the years of

1 service accrued prior to July 1, 1993. [For service on and after July 1, 2012, a member's service](#)
2 [retirement allowance shall be determined in accordance with § 45-21.2-6.](#) The annual retirement
3 allowance in no event shall exceed seventy-five percent (75%) of final compensation.

4 **45-21.2-6.2. Johnston police department retirement allowance.** -- Upon retirement
5 from service pursuant to subdivision (1), (2), or (6) of § 45-21.2-5, a member of the Johnston
6 police department receives a retirement allowance which is a life annuity terminable at the death
7 of the annuitant, and is an amount equal to the sum of two percent (2%) of final compensation
8 multiplied by the first twenty-five (25) years of service and four percent (4%) of final
9 compensation multiplied by the years of service in excess of twenty-five (25) years [for service on](#)
10 [and prior to June 30, 2012. For service on and after July 1, 2012, a member's service retirement](#)
11 [allowance shall be determined in accordance with § 45-21.2-6.](#) The annual retirement allowance
12 in no event shall exceed seventy-five percent (75%) of final compensation.

13 **45-21.2-6.3. Richmond police department – Retirement allowance.** -- Upon retirement
14 from service pursuant to chapter 45-21.2-5, a member of the Richmond police department shall
15 receive a retirement allowance which shall be terminable at the death of the annuitant, and shall
16 be an amount equal to the sum of two and two thousand seven hundred twenty-seven ten
17 thousandths of a percent (2.2727%) of final compensation (average of final three years' salary)
18 multiplied by the years of service [on and prior to June 30, 2012. For service on and after July 1,](#)
19 [2012, a member's service retirement allowance shall be determined in accordance with section](#)
20 [45-21.2-6.](#) The annual retirement allowance in no event shall exceed seventy-five percent (75%)
21 of final compensation.

22 **45-21.2-9. Retirement for accidental disability.** -- (a) Any member in active service [or](#)
23 [on leave of absence due to injury or illness](#), regardless of length of service, is entitled to an
24 accidental disability retirement allowance. Application for the allowance is made by the member
25 or on the member's behalf, stating that the member is physically or mentally incapacitated for
26 further service as the result of an injury sustained while in the performance of duty and certifying
27 to the time, place, and conditions of the duty performed by the member which resulted in the
28 alleged disability and that the alleged disability was not the result of the willful negligence or
29 misconduct on the part of the member, and was not the result of age or length of service, and that
30 the member has not attained the age of sixty-five (65), [or effective July 1, 2012, Social Security](#)
31 [retirement age.](#) The application shall be made within eighteen (18) months of the alleged accident
32 from which the injury has resulted in the member's present disability and shall be accompanied by
33 an accident report and a physician's report certifying to the disability. If the member was able to
34 return to his or her employment and subsequently reinjures or aggravates the same injury, the

1 member shall make another application within eighteen (18) months of the reinjury or
2 aggravation which shall be accompanied by a physician's report certifying to the reinjury or
3 aggravation causing the disability. If a medical examination made by three (3) physicians
4 engaged by the retirement board, and other investigations as the board may make, confirms the
5 statements made by the member, the board may grant the member an accidental disability
6 retirement allowance.

7 (b) For the purposes of subsection (a), "aggravation" shall mean an intervening work-
8 related trauma that independently contributes to a member's original injury that amounts to more
9 than the natural progression of the preexisting disease or condition and is not the result of age or
10 length of service. The intervening independent trauma causing the aggravation must be an
11 identifiable event or series of work-related events that are the proximate cause of the member's
12 present condition of disability.

13 (c) "Occupational cancer", as used in this section, means a cancer arising out of
14 employment as a fire fighter, due to injury due to exposures to smoke, fumes, or carcinogenic,
15 poisonous, toxic, or chemical substances while in the performance of active duty in the fire
16 department.

17 (d) For purposes of subsection (a), "reinjury" shall mean a recurrence of the original
18 work-related injury from a specific ascertainable event. The specific event must be the proximate
19 cause of the member's present condition of disability.

20 (e) Any fire fighter, including one employed by the state, or a municipal firefighter
21 employed by a municipality that participates in the optional retirement for police officers and fire
22 fighters as provided in this chapter, who is unable to perform his or her duties in the fire
23 department by reason of a disabling occupational cancer which develops or manifests itself
24 during a period while the fire fighter is in the service of the department, and any retired member
25 of the fire force of any city or town who develops occupational cancer, is entitled to receive an
26 occupational cancer disability and he or she is entitled to all of the benefits provided for in this
27 chapter, chapters 19, 19.1, and 21 of this title and chapter 10 of title 36 if the fire fighter is
28 employed by the state.

29 (f) In the event that any party is aggrieved by the determination of the retirement
30 board pursuant to section 45-19-1, for an injury occurring on or after July 1, 2011, the party
31 may submit an appeal to the Rhode Island workers' compensation court. The appellant shall
32 file a notice of appeal with the retirement board and shall serve a copy of the notice of appeal
33 upon the opposing party.

34 (g) Within twenty (20) days of the receipt of the notice of appeal, the retirement

1 board shall transmit the entire record of proceedings before it, together with its order, to the
2 workers' compensation court.

3 (h) In the event that a party files a notice of appeal to the workers' compensation
4 court, the order of the retirement board shall be stayed pending further action by the court
5 pursuant to the provisions of Rhode Island general law section 28-35-20.

6 (i) Upon receipt of the record of proceedings before the retirement board, the court
7 shall assign the matter to a judge and shall issue a notice at the time advising the parties of
8 the judge to whom the case has been assigned and the date for pretrial conference in
9 accordance with Rhode Island general law section 28-35-20.

10 (j) All proceedings filed with the workers' compensation court pursuant to this section
11 shall be de novo and shall be subject to the provisions of chapters 29 to 38 of title 28 for all case
12 management procedures and dispute resolution processes, as provided under the rules of workers'
13 compensation court. Where the matter has been heard and decided by the workers' compensation
14 court, the court shall retain jurisdiction to review any prior orders or decrees entered by it. Such
15 petitions to review shall be filed directly with the workers' compensation court and shall be
16 subject to the case management and dispute resolution procedures set forth in chapters 29 through
17 38 of title 28 ("Labor and Labor Relations").

18 (k) If the court determines that a member qualifies for accidental disability retirement, the
19 member shall receive a retirement allowance equal to sixty-six and two-thirds percent (66 2/3%)
20 of the rate of the member's compensation at the date of the member's retirement, subject to the
21 provisions of section 45-21-31.

22 **45-21.2-14. Contributions.** -- (a) Each member shall contribute an amount equal to
23 seven percent (7%) of the salary or compensation earned or accruing to the member. Special
24 compensation or additional fees shall not be considered as compensation for contribution
25 purposes.

26 (b) Deductions are made in accordance with § 45-21-14 and credited in accordance with
27 § 45-21-43.

28 (c) Each municipality shall make contributions to the system to provide the remainder of
29 the obligation for retirement allowances, annuities, and other benefits provided in this section,
30 after applying the accumulated contribution of members, interest income on investments, and
31 other accrued income. The contribution shall be compiled in accordance with §§ 45-21-42 – 45-
32 21-44, except that contributions for the first five (5) years of the system shall likewise be
33 determined by the board.

34 (d) Provided, that members of the South Kingstown police department, beginning July 1,

1 1985 and until June 30, 2012, contribute an amount equal to eight percent (8%) of salary or
2 compensation or additional fees are not considered as compensation for retirement purposes. For
3 service on and after July 1, 2012, a member of the South Kingstown police department shall make
4 contributions in accordance with paragraph (a) above.

5 (e) Provided, further, that for service on or prior to June 30, 2012, members of the City of
6 Cranston fire department hired after July 1, 1995, beginning July 1, 1995, contribute an amount
7 equal to ten percent (10%) of their weekly salary; and those members of the City of Cranston fire
8 department with five (5) years or less of service effective July 1, 1995, have the option to either
9 remain in the City of Cranston pension plan to which they belonged prior to the adoption of local
10 ordinance by the Cranston city council as stated in § 45-21.2-22 or contribute to the State of
11 Rhode Island optional twenty (20) year retirement on service allowance an amount equal to ten
12 percent (10%) of their weekly salary commencing July 1, 1995. The City of Cranston may
13 request and the retirement board may authorize additional members of the City of Cranston fire
14 department hired after July 1, 1987, the option to either remain in the City of Cranston pension
15 plan to which they belonged prior to the adoption of local ordinance by the Cranston city council
16 as stated in § 45-21.2-22 or contribute to the State of Rhode Island optional twenty (20) year
17 retirement on service allowance an amount equal to ten percent (10%) of their weekly salary
18 beginning on a date specified by the retirement board. For service on and after July 1, 2012, a
19 member of the City of Cranston fire department shall make contributions in accordance with
20 paragraph (a) above and a member's benefit shall be calculated in accordance with subsection 45-
21 21.2-22(b).

22 (f) Further, provided, that for service on and prior to June 30, 2012, members of the City
23 of Cranston police department hired after July 1, 1995, beginning July 1, 1995, contribute an
24 amount equal to ten percent (10%) of their weekly salary; and those members of the City of
25 Cranston police department with five (5) years or less of service effective July 1, 1995, have the
26 option to either remain in the City of Cranston pension plan to which they belonged prior to the
27 adoption of local ordinance by the Cranston city council as stated in § 45-21.2-22 or contribute to
28 the State of Rhode Island optional twenty (20) year retirement on service allowance an amount
29 equal to ten percent (10%) of their weekly salary commencing July 1, 1995. The City of Cranston
30 may request and the retirement board may authorize additional members of the City of Cranston
31 police department hired after July 1, 1987, the option to either remain in the City of Cranston
32 pension plan to which they belonged prior to the adoption of local ordinance by the Cranston city
33 council as stated in § 45-21.2-22 or contribute to the State of Rhode Island optional twenty (20)
34 year retirement on service allowance an amount equal to ten percent (10%) of their weekly salary

1 beginning on a date specified by the retirement board. [For service on and after July 1, 2012, a](#)
2 [member of the City of Cranston police department shall make contributions in accordance with](#)
3 [paragraph \(a\) above and a member's benefit shall be calculated in accordance with subsection 45-](#)
4 [21.2-22\(b\).](#)

5 **45-21.2-16. Call system credit – North Providence fire department.** -- Any person
6 who, from January 1, 1960 and thereafter, was a member of the call system of the North
7 Providence fire department, is entitled to credit as service for the various purposes of the
8 retirement system for one year for every three (3) years served as a member of the call system;
9 provided, that the person pays into the retirement system in the manner, at the times and in an
10 amount that the retirement board may prescribe, [\(1\) for purchases requested on or before June 30,](#)
11 [2012,](#) an amount based upon his or her compensation for the last year of each three (3) year
12 period at the time of purchase of the credit and regular interest as defined in chapter 8 of title 36;
13 [and \(2\) for purchases requested on or after July 1, 2012, the full actuarial cost of the time being](#)
14 [purchased.](#)

15 **45-21.2-18. Call system credit – North Kingstown fire department.** -- Any person
16 who, from January 1, 1950 and thereafter, was a member of the call system of the North
17 Kingstown fire department, is entitled to credit as service for the various purposes of the
18 retirement system for one year for every three (3) years served as a member of the call system;
19 provided, that the person pays into the retirement system in the manner, at the times and in an
20 amount that the retirement board may prescribe, [\(1\) for purchases requested on or before June 30,](#)
21 [2012,](#) an amount based upon his or her compensation for the last year of each three (3) year
22 period at the time of purchase of the credit and regular interest as defined in chapter 8 of title 36;
23 [and \(2\) for purchases requested on or after July 1, 2012, the full actuarial cost of the time being](#)
24 [purchased.](#)

25 **45-21.2-19. Volunteer time and call system credit – East Greenwich fire district.** --
26 Any person who, from January 1, 1943 and thereafter, was a volunteer member and/or a member
27 of the call system of the East Greenwich fire district, is entitled to credit as service for the various
28 purposes of the retirement system for one year for every three (3) years served as a volunteer
29 and/or call fire fighter of the district; provided, that the person pays into the retirement system in
30 the manner, at the times and in an amount that the retirement board may prescribe, [\(1\) for](#)
31 [purchases requested on or before June 30, 2012,](#) an amount based upon his or her compensation,
32 which for the purposes of this section is deemed to be in an amount of not less than three hundred
33 dollars (\$300) annually, for the last year of each three (3) year period at the time of purchase of
34 the credit, and regular interest as defined in chapter 8 of title 36; [and \(2\) for purchases requested](#)

1 [on or after July 1, 2012, the full actuarial cost of the time being purchased.](#)

2 **45-21.2-20. Persons eligible for optional benefits – Time of election – Modification or**
3 **revocation – Effective date.** -- (a) The optional provisions of § 45-21.2-6~~(e)~~(b) are applicable

4 only to a member applying for a service retirement allowance, an accidental disability retirement
5 allowance, an ordinary disability retirement allowance or any inactive member applying for
6 retirement under vested rights. The election under option 1 or 2 is made at the time of retirement
7 of the member as part of his or her application for a retirement allowance.

8 (b) The election is based upon the amount of retirement allowances that may accrue at the
9 date of death of the member, and may be revoked or modified by the member at any time after
10 retirement on a form prescribed by the retirement board; and, provided, further, that, during this
11 time, the named beneficiary has not been divorced from the member.

12 (c) The option in the case of death of a retired member becomes effective on the day
13 following the death of the member, and payment of benefits are made in accordance with the
14 provisions of this section, subject to the limitations prescribed in § 45-21.2-6.

15 **45-21.2-21. Optional annuity protection – Death while employee or inactive member**

16 **status.** -- The election under option 1 may be made by the member while in service; provided,
17 that the member has at least ten (10) years of membership service [for members terminating on or](#)
18 [before June 30, 2012, or at least five \(5\) years of membership service for members terminating on](#)
19 [or after July 1, 2012,](#) and before retirement, on a form prescribed by the retirement board. The
20 election is based upon the amount of retirement allowances or actuarial equivalents that may
21 accrue at the date of death of the member; provided, that the election form is executed and filed
22 with the retirement board prior to the date of death. The election may be revoked or modified by
23 the member at any time prior to the date of retirement, on a form prescribed by the retirement
24 board; provided, that, during this time, the named beneficiary has not been divorced from the
25 member. Upon death of a member making this election, the option selected becomes effective
26 thirty (30) days after the first day of the calendar month following the date of death of the
27 member if death occurs while in an employee status. Should death occur while in an inactive
28 member status, the option selected under this section becomes payable on the first of the month
29 succeeding that in which the designated beneficiary attains the age of sixty (60) years.

30 **45-21.2-22. Optional twenty year retirement on service allowance.** -- (a) The local

31 legislative bodies of the cities and towns may, by ordinance adopted, permit the retirement of a
32 member on a service retirement allowance [for members retiring on or before June 30, 2012](#) as
33 follows:

34 (1) Any member may retire pursuant to this section upon his or her written application to

1 the board stating at what time he or she desires to retire; provided, that the member, at the
2 specified time for his or her retirement, has completed at least twenty (20) years of total service,
3 and, notwithstanding that the member may have separated from service;

4 (2) Upon retirement from service pursuant to subdivision (1), a member receives a
5 retirement allowance which is a life annuity terminable at the death of the annuitant, and is equal
6 to two and one-half percent (2 1/2%) of final compensation multiplied by the years of total
7 service, but not to exceed seventy-five percent (75%) of final compensation;

8 (3) Upon the adoption of a service retirement allowance, pursuant to this subdivision,
9 each member contributes an amount equal to one percent (1%) more than that contribution
10 required under § 45-21.2-14;

11 (4) This section is exempt from the provisions of chapter 13 of this title.

12 (b) For members retiring on or after July 1, 2012, the member's retirement allowance
13 shall equal the sum of (i) and (ii) where (i) is the member's benefit calculated under (a)(1)-(4)
14 above or section 45-21.2-5 for service on and before June 30, 2012 and (ii) is the member's
15 benefit determined under section 45-21.2-6 for service on and after July 1, 2012. For service on
16 and after July 1, 2012, the provisions of (a)(3) above shall no longer apply.

17 **45-21.2-22.1. Burrillville police – Optional twenty-year retirement on service**
18 **allowance.** -- (a) Notwithstanding § 45-21.2-22, the town council of the town of Burrillville, may
19 by ordinance adopted, permit the retirement of a member on a service retirement allowance for
20 members retiring on or before June 30, 2012, as follows:

21 (1) Any member may retire pursuant to this section upon his or her written application to
22 the board stating at what time he or she desires to retire; provided, that the member, at the
23 specified time of his or her retirement, has completed at least twenty (20) years of total service;

24 (2) Upon retirement from service, pursuant to subdivision (1), a member receives a
25 retirement allowance that is a life annuity terminable at the death of the annuitant, and is equal to
26 three percent (3%) of final compensation multiplied by the years of total service, but not to
27 exceed sixty percent (60%) of final compensation;

28 (3) Upon retirement from service where member has in excess of twenty (20) years of
29 service, a member receives a retirement allowance that is a life annuity terminable at the death of
30 the annuitant, and is an amount equal to the sum of three percent (3%) of final compensation
31 multiplied by the first twenty (20) years of service and one and one-half percent (1.5%) of final
32 compensation multiplied by the years of service in excess of twenty (20) years. The annual
33 retirement allowance in no event shall exceed seventy-five percent (75%) of final compensation;

34 (4) Upon the adoption of a service retirement allowance, pursuant to this section, each

1 member shall contribute an amount equal to ten and two-tenths percent (10.2%) of the salary or
2 compensation earned or accrued to the member;

3 (5) Notwithstanding anything to the contrary hereinabove, any member who retires with
4 less than twenty (20) years of service shall be subject to § 45-21.2-6 for purposes of determining
5 any service retirement allowance;

6 (6) This section is exempt from the provisions of chapter 13 of this title;

7 (7) Except as specifically set forth hereinabove, all other provisions of chapter 21.2 of
8 this title shall be applicable to Burrillville police officers who make application to retire.

9 (b) For members retiring on or after July 1, 2012, the member's retirement allowance
10 shall equal the sum of (i) and (ii) where (i) is the member's benefit calculated under (a)(1)
11 through (a)(7) above for service on and before June 30, 2012 and (ii) is the member's benefit
12 determined under section 45-21.2-6 for service on and after July 1, 2012. For service on and after
13 July 1, 2012, the provisions of (a)(4) above shall no longer apply.

14 **45-21.2-25. Severability.--** The holding of any section or sections or parts of this chapter
15 to be void, ineffective, or unconstitutional for any cause shall not be deemed to affect any other
16 section or part hereof.

17 SECTION 15. Sections 42-28-5, 42-28-21, 42-28-22, 42-28-22.1, 42-28-22.2, 42-28-
18 22.3, 42-28-23 and 42-28-50 of the General Laws in Chapter 42-28 entitled "State Police" are
19 hereby amended to read as follows:

20 **42-28-5. Superintendent – Appointment, tenure, duties, and retirement.** -- (a) The
21 governor shall appoint the superintendent of state police, who shall serve at the pleasure of the
22 governor and shall perform the duties prescribed by this chapter.

23 (b) Any superintendent who has served for at least ten (10) years and has reached the age
24 of sixty (60) years, may resign his or her office, and thereafter shall receive annually during his or
25 her life a sum equal to fifty percent (50%) of the salary he or she was receiving at the time of his
26 or her resignation, or for any superintendant hired on or after July 1, 2012 a sum equal to fifty
27 percent (50%) of the average compensation as defined in 36-8-1(5)(a) he or she was receiving at
28 the time of his or her resignation.

29 (c) In no event shall the retirement allowance granted to a superintendent in accordance
30 with subsection (b) plus any other retirement allowance received by the superintendent from any
31 state or municipal retirement system exceed seventy-five percent (75%) of the average
32 compensation as defined in 36-8-1(5)(a) he or she was receiving at the time of his or her
33 resignation. This subsection (c) shall only apply to superintendents hired on or after July 1, 2012.

34 **42-28-8. Clerk of division.** -- The superintendent may employ a clerk who shall be a

1 competent stenographer, and the general assembly shall annually appropriate such sum as it may
2 deem necessary for the payment of the salary of the clerk. The clerk shall be numbered among the
3 personnel of the division within the meaning of §§ 42-28-21 and 42-28-22. [Any clerk hired on or](#)
4 [after July 1, 2012 shall be considered a civilian employee in accordance with the provisions of](#)
5 [42-28-22\(g\).](#)

6 **42-28-21. Injury and death benefits.** -- (a) If any member of the division whose service
7 is terminated on or after January 1, 1960 shall have in the course of performance of his or her
8 duties suffered injury causing disability or causing death, that member or his or her surviving
9 dependent relatives, whose dependence shall be determined from time to time by the
10 superintendent subject to confirmation by the governor, shall be entitled to an annual pension of
11 seventy-five percent (75%) of the annual salary paid to that member at the time of his or her
12 termination of service by reason of injury or death. In the event that the member thus disabled or
13 killed in the performance of his or her official duties is the superintendent, then confirmation and
14 determination provided by this section shall be made by the governor. The provisions of chapters
15 29 – 38, inclusive, of title 28, shall not apply to members of the division.

16 (b) Upon the death of a member due to any cause other than that incurred while in the
17 course of performance of his or her duties, occurring while in service or after retirement, if that
18 member shall have rendered at least ten (10) years of service as a member of the Rhode Island
19 state police, his or her surviving widow or domestic partner shall be entitled to a pension equal to
20 two percent (2%) of his or her last annual salary as determined by the provision of § 42-28-22 as
21 amended herein for each year of service as a member of the state police, subject to a minimum
22 pension of twenty-five percent (25%) of salary, and subject to the following conditions:

23 (1) The widow or widower or domestic partner shall have been married to or a domestic
24 partner of the member at least one year on the date of death of the member or on the date of
25 retirement, whichever first occurs, and in any event while the member was in active service;

26 (2) the widow shall be at least forty (40) years of age, otherwise payment of the annuity
27 shall be deferred until she attains such age;

28 (3) the annuity shall terminate in any event when he or she remarries or enters into a
29 domestic partnership or dies.

30 (c) If a widow or widower or domestic partner shall have minor children in his or her
31 care, payment of the annuity shall commence immediately regardless of whether the widow or
32 widower or domestic partner shall have attained age forty (40) years or not. In such a case, the
33 payment to the widow or widower or domestic partner shall be increased one-third (1/3) on
34 account of each minor child, provided that the maximum payment shall be fifty percent (50%) of

1 annual salary.

2 (d) Allowances on account of minor children shall terminate upon their attainment of age
3 eighteen (18) and if unemancipated and a full-time student to age twenty-two (22) years, death, or
4 marriage, whichever first occurs. In the event a widow or widower or domestic partner remarries
5 or enters into a domestic partnership or dies, payment on account of minor children shall be
6 increased to twice the amounts previously payable on account of the children, subject to a
7 combined payment to all children equal to fifty percent (50%) of the final salary of the member.

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

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

13 (2) Neither partner was married to anyone else;

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

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

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

20 (i) Domestic partnership agreement or relationship contract;

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

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

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

26 (f) Effective July 1, 2012, any reference in this section to "salary" or "annual salary"
27 shall be changed to "average compensation" as defined in 36-8-1(5)(a).

28 **42-28-22. Retirement of members.** -- (a) Whenever any member of the state police
29 hired prior to July 1, 2007 has served for twenty (20) years, he or she may retire therefrom or he
30 or she may be retired by the superintendent with the approval of the governor, and in either event
31 a sum equal to one-half (1/2) of the whole salary for the position from which he or she retired
32 determined on the date he or she receives his or her first retirement payment shall be paid him or
33 her during life.

34 (b) For purposes of this section, the term "whole salary" means:

1 (1) For each member who retired prior to July 1, 1966, "whole salary" means the base
2 salary for the position from which he or she retired as the base salary for that position was
3 determined on July 31, 1972;

4 (2) For each member who retired between July 1, 1966 and June 30, 1973, "whole salary"
5 means the base salary for the position from which he or she retired as the base salary,
6 implemented by the longevity increment, for that position was determined on July 31, 1972 or on
7 the date of his or her retirement, whichever is greater;

8 (3) For each member who retired or who retires after July 1, 1973 "whole salary" means
9 the base salary, implemented by the longevity increment, holiday pay, and clothing allowance, for
10 the position from which he or she retired or retires.

11 (c)(1) Any member who retired prior to July 1, 1977 shall receive a benefits payment
12 adjustment equal to three percent (3%) of his or her original retirement, as determined in
13 subsection (b) of this section, in addition to his or her original retirement allowance. In each
14 succeeding year thereafter during the month of January, the retirement allowance shall be
15 increased an additional three percent (3%) of the original retirement allowance, not compounded,
16 to be continued until January 1, 1991. For the purposes of the computation, credit shall be given
17 for a full calendar year regardless of the effective date of the service retirement allowance. For
18 purposes of this subsection, the benefits payment adjustment shall be computed from January 1,
19 1971 or the date of retirement, whichever is later in time.

20 (2) Any member of the state police who retires pursuant to the provisions of this chapter
21 on or after January 1, 1977, shall on the first day of January, next following the third anniversary
22 date of the retirement receive a benefits payment adjustment, in addition to his or her retirement
23 allowance, in an amount equal to three percent (3%) of the original retirement allowance. In each
24 succeeding year thereafter during the month of January, the retirement allowance shall be
25 increased an additional three percent (3%) of the original retirement allowance, not compounded,
26 to be continued until January 1, 1991. For the purposes of the computation, credit shall be given
27 for a full calendar year regardless of the effective date of the service retirement allowance.

28 (3) Any retired member of the state police who is receiving a benefit payment adjustment
29 pursuant to subdivisions (1) and (2) of this section shall beginning January 1, 1991 and ending
30 June 30, 2012, receive a benefits payment adjustment equal to fifteen hundred dollars (\$1,500). ~~In~~
31 ~~each succeeding year thereafter during the month of January, the retirement allowance shall be~~
32 ~~increased by fifteen hundred dollars (\$1,500) to be continued during the lifetime of the member.~~

33 (d) The benefits payment adjustment as provided in this section shall apply to and be in
34 addition to the retirement benefits under the provisions of § 42-28-5, and to the injury and death

1 benefits under the provisions of § 42-28-21, ~~and to the death and disability payments as provided~~
2 ~~in § 42-28-36.~~

3 (e)(1) Any member who retires after July 1, 1972 and prior to July 1, 2012 and who has
4 served beyond twenty (20) years shall be allowed an additional amount equal to three percent
5 (3%) for each completed year served after twenty (20) years, but in no event shall the original
6 retirement allowance exceed sixty-five percent (65%) of his or her whole salary as defined in
7 subsection (b) hereof or sixty-five percent (65%) of his or her salary as defined in subsection (b)
8 hereof in his or her twenty-fifth (25th) year whichever is less.

9 (2) Each member who retired prior to July 1, 1975, shall be entitled to all retirement
10 benefits as set forth above or shall be paid benefits as set forth in subdivision (b)(1) with "whole
11 salary" meaning the base salary for the position from which he or she retired as the base salary for
12 the position was determined on July 1, 1975, whichever is greater.

13 (f)(1) Any member who retires, has served as a member for twenty (20) years or more,
14 and who served for a period of six (6) months or more of active duty in the armed service of the
15 United States or in the merchant marine service of the United States as defined in § 2 of chapter
16 1721 of the Public Laws, 1946, may purchase credit for such service up to a maximum of two (2)
17 years; provided that any member who has served at least six (6) months or more in any one year
18 shall be allowed to purchase one year for such service and any member who has served a fraction
19 of less than six (6) months in his or her total service shall be allowed to purchase six (6) months'
20 credit for such service.

21 (2) The cost to purchase these credits shall be ten percent (10%) of the member's first
22 year salary as a state policeman multiplied by the number of years and/or fraction thereof of such
23 armed service up to a maximum of two (2) years. The purchase price shall be paid into the
24 general fund. For members hired on or after July 1, 1989, the purchase price shall be paid into a
25 restricted revenue account entitled "state police retirement benefits" and shall be held in trust.

26 (3) There will be no interest charge provided the member makes such purchase during his
27 or her twentieth (20th) year or within five (5) years from May 18, 1981, whichever is later, but
28 will be charged regular rate of interest as defined in § 36-8-1 as amended to date of purchase from
29 the date of his or her twentieth (20th) year of state service or five (5) years from May 18, 1981,
30 whichever is later.

31 (4) In no event shall the original retirement allowance exceed sixty-five percent (65%) of
32 his or her whole salary as defined in subsection (b) hereof or sixty-five percent (65%) of his or
33 her salary as defined in subsection (b) hereof in his or her twenty-fifth (25th) year, whichever is
34 less.

1 (g) The provisions of this section shall not apply to civilian employees in the Rhode
2 Island state police; and, further, from and after April 28, 1937, chapters 8 – 10, inclusive, of title
3 36 shall not be construed to apply to the members of the Rhode Island state police, except as
4 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)
5 effective July 1, 2012.

6 (h) Any other provision of this section notwithstanding, any member of the state police
7 other than the superintendent of state police, who is hired prior to July 1, 2007 and who has
8 served for twenty-five (25) years or who has attained the age of sixty-two (62) years, whichever
9 shall first occur, shall retire therefrom.

10 (i)(1) Any other provision of this section notwithstanding, any member of the state
11 police, other than the superintendent, who is hired on or after July 1, 2007 and who has served for
12 twenty-five (25) years, may retire therefrom or he or she may be retired by the superintendent
13 with the approval of the governor, and shall be entitled to a retirement allowance of fifty percent
14 (50%) of his or her "whole salary" as defined in subsection (b) hereof.

15 (2) Any member of the state police who is hired on or after July 1, 2007 may serve up to
16 a maximum of thirty (30) years, and shall be allowed an additional amount equal to three percent
17 (3.0%) for each completed year served after twenty-five (25) years, but in no event shall the
18 original retirement allowance exceed sixty-five percent (65%) of his or her "whole salary" as
19 defined in subsection (b) hereof.

20 (j) Effective July 1, 2012, any other provision of this section notwithstanding:

21 (1) Any member of the state police, other than the superintendent of state police, who is
22 not eligible to retire on or prior to June 30, 2012, and who has served for at least twenty-five (25)
23 years and attained an age of fifty-five (55) years, or who has served for at least five (5) years and
24 attained the age of sixty-two (62) years, whichever shall first occur, shall retire with a retirement
25 allowance which shall equal:

26 (A) For members hired prior to July 1, 2007 the sum of (i), (ii) and (iii) where

27 (i) is calculated as the member's years of total service before July 1, 2012 multiplied by
28 two and one half percent (2.5%) of average compensation for a member's first twenty (20) total
29 years,

30 (ii) is calculated as the member's years of total service before July 1, 2012 in excess of
31 twenty (20) years not to exceed twenty-five (25) years multiplied by three percent (3%) of
32 average compensation, and

33 (iii) is the member's years of total service on or after July 1, 2012 multiplied by two
34 percent (2%) of average compensation as defined in § 36-8-1(5)(a).

1 (B) For members hired on or after July 1, 2007, the member's retirement allowance shall
2 be calculated as the member's years of total contributory service multiplied by two percent (2%)
3 of average compensation.

4 (C) Any member of the state police who is eligible to retire on or prior to June 30, 2012
5 shall retire with a retirement allowance calculated in accordance with paragraph (a) and (e) above
6 except that whole salary shall be defined as final compensation where compensation includes
7 only base salary, longevity and holiday pay.

8 (D) Any member with contributory service on or after July 1, 2012, who has completed at
9 least five (5) years of contributory service but who has not completed twenty-five (25) years of
10 total service, shall be eligible to retire upon the attainment of the member's Social Security
11 retirement age as defined in § 36-8-1(19).

12 (E) If a member had ten (10) or more years of contributory service and attained age forty-
13 five (45) prior to July 1, 2012 and would have been eligible to retire at or prior to age fifty-two
14 (52) in accordance with the rules in effect prior to July 1, 2012, the member may retire upon
15 attainment of age fifty-two (52).

16 (2) Any member of the state police may serve until the later of attainment of age fifty-
17 five (55) or completion of a maximum of thirty-three (33) years, but in no event shall a member's
18 original retirement allowance under any provisions of this section exceed sixty-five percent
19 (65%) of his or her average compensation.

20 (3) For each member who retires on or after July 1, 2012, except as provided in paragraph
21 (j)(1)(C) above, compensation and average compensation shall be defined in accordance with §
22 36-8-1(5)(a) and (8).

23 (4)(i) Notwithstanding the prior paragraphs of this section, and subject to paragraph (4)
24 (ii) below, for all present and former members, active and retired members, and beneficiaries
25 receiving any retirement, disability or death allowance or benefit of any kind, whether for or on
26 behalf of a non-contributory member or contributory member, the annual benefit adjustment
27 provided in any calendar year under this section shall be equal to (A) multiplied by (B) where (A)
28 is equal to the percentage determined by subtracting five and one-half percent (5.5%) (the
29 "subtrahend") from the Five-Year Average Investment Return of the retirement system
30 determined as of the last day of the plan year preceding the calendar year in which the adjustment
31 is granted, said percentage not to exceed four percent (4%) and not to be less than zero percent
32 (0%), and (B) is equal to the lesser of the member's retirement allowance or the first thirty-five
33 thousand dollars (\$35,000) of retirement allowance, such thirty-five thousand dollars (\$35,000)
34 amount to be indexed annually in the same percentage as determined under (4)(i)(A) above. The

1 “Five-Year Average Investment Return” shall mean the average of the investment returns for the
2 most recent five plan years as determined by the retirement board. Subject to paragraph (4)(ii)
3 below, the benefit adjustment provided by this paragraph shall commence upon the third (3rd)
4 anniversary of the date of retirement or the date on which the retiree reaches age fifty-five (55),
5 whichever is later. In the event the retirement board adjusts the actuarially assumed rate of return
6 for the system, either upward or downward, the subtrahend shall be adjusted either upward or
7 downward in the same amount.

8 (ii) The benefit adjustments provided under this section for any calendar year shall be
9 suspended in their entirety unless:

10 (I) The state police retirement benefits trust is determined to be funded at a GASB
11 Funded Ratio equal to or greater than eighty percent (80%) as of the end of the immediately
12 preceding plan year in accordance with the retirement system’s actuarial valuation report as
13 prepared by the system’s actuary, in which event the benefit adjustment will be reinstated for all
14 members for such plan year; or

15 (II) The state police retirement benefits trust is determined to be funded at a GASB
16 Funded Ratio equal to or greater than seventy percent (70%) as of the end of the immediately
17 preceding plan year in accordance with the retirement system’s actuarial valuation report as
18 prepared by the system’s actuary, in which event a benefit adjustment will be reinstated for such
19 plan year for members who received an accumulated retirement allowance in the prior plan year
20 of less than twenty thousand dollars (\$20,000); the amount of the benefit adjustment under this
21 paragraph (4)(ii)(II) shall be equal to (A) multiplied by (B) where (A) is determined under
22 (4)(i)(A) above and (B) is equal to the member’s years of service, up to a maximum of thirty-five
23 (35) years of service, multiplied by the lesser of the member’s retirement allowance or the first
24 five hundred dollars (\$500) of retirement allowance. The twenty thousand dollars (\$20,000) and
25 five hundred dollars (\$500) amounts in the preceding sentence shall be indexed annually in the
26 same percentage amount as determined under (4)(i)(A) above.

27 In determining whether a funding level under this paragraph (4)(ii) has been achieved, the
28 actuary shall calculate the funding percentage after taking into account the reinstatement of any
29 current or future benefit adjustment provided under this section. “GASB Funded Ratio” shall
30 mean the ratio of the actuarial value of assets to the actuarial accrued liability.

31 (iii) The provisions of this paragraph (j)(4) of section 42-28-22 shall become effective
32 July 1, 2012 and shall apply to any benefit adjustment not granted on or prior to June 30, 2012.

33 (iv) The cost-of-living adjustment as provided in this paragraph (j)(4) shall apply to and
34 be in addition to the retirement benefits under the provisions of section 42-28-5 and to the injury

1 [and death benefits under the provisions of section 42-28-21.](#)

2 [\(5\) In no event shall a member's retirement allowance be less than the member's](#)
3 [retirement allowance calculated as of June 30, 2012 based on the member's years of total service](#)
4 [and whole salary as of June 30, 2012.](#)

5 ~~(j)~~ [\(k\)](#) In calculating the retirement benefit for any member, the term base salary as used
6 in subdivision (b)(3) [or average compensation as used in paragraph \(j\)](#) shall not be affected by a
7 deferral of salary plan or a reduced salary plan implemented to avoid shutdowns or layoffs or to
8 effect cost savings. Basic salary shall remain for retirement calculation that which it would have
9 been but for the salary deferral or salary reduction due to a plan implemented to avoid shutdowns
10 or layoffs or to effect cost savings.

11 **42-28-22.1. Retirement contribution.** -- (a) Each member of the state police initially
12 hired after July 1, 1987 shall have deducted from "compensation" as defined in § 36-8-1~~(11)~~[\(8\)](#)
13 beginning July 1, 1989, an amount equal to a rate percent of such compensation [of eight and three](#)
14 [quarters percent \(8.75%\)](#) ~~as specified in § 36-10-1 relating to member contributions to the state~~
15 ~~retirement system.~~ The receipts collected from members of the state police shall be deposited in a
16 restricted revenue account entitled "state police retirement benefits". The proceeds deposited in
17 this account shall be held in trust for the purpose of paying retirement benefits to participating
18 members of the state police or their beneficiaries. The retirement board shall establish rules and
19 regulations to govern the provisions of this section.

20 (b) A member of the state police who withdraws from service or ceases to be a member
21 for any reason other than death or retirement, ~~shall~~ [will, at the member's request,](#) be paid on
22 demand a refund consisting of the accumulated contributions standing to his or her credit in his or
23 her individual account in the state police retirement benefits account. Any member receiving a
24 refund shall thereby forfeit and relinquish all accrued rights as a member of the system together
25 with credits for total service previously granted to the member; provided, however, that if any
26 member who has received a refund shall subsequently reenter the service and again become a
27 member of the system, he or she shall have the privilege of restoring all moneys previously
28 received or disbursed to his or her credit as refund of contributions, [plus regular interest for the](#)
29 [period from the date of refund to the date of restoration.](#)

30 (c) Upon the repayment of the refund as herein provided, the member shall again
31 receive credit for the amount of total service which he or she had previously forfeited by the
32 acceptance of the refund.

33 **42-28-22.2. State contributions.** -- The state of Rhode Island shall make its contribution
34 for the maintaining of the system established by § 42-28-22.1 and providing the annuities,

1 benefits, and retirement allowances in accordance with the provisions of this chapter by annually
2 appropriating an amount which will pay a rate percent of the compensation paid after July 1, 1989
3 to members of the state police hired after July 1, 1987. This rate percent shall be computed and
4 certified in accordance with the procedures set forth in §§ 36-8-13 and 36-10-2 under rules and
5 regulations promulgated by the retirement board pursuant to § 36-8-3. ~~Provided, that the~~
6 ~~employer contribution shall be deferred from the effective date of this act until June 15, 2010.~~
7 ~~The amounts that would have been contributed shall be deposited in a special fund and not used~~
8 ~~for any purpose.~~

9 **42-28-22.3. Separate plan and trust for retirement program of state police.** -- (a) The
10 retirement program established by § 42-28-22.1 shall constitute a separate retirement program
11 known as the "State Police Retirement Program" which shall be deemed to be a separate plan for
12 purposes of § 401(a) of the Internal Revenue Code of 1986 [26 U.S.C. § 401(a)], as amended.
13 The provisions of § 36-8-20(a) – ~~(b)~~(i) shall be applicable to such program, shall be administered
14 and interpreted in a manner consistent with maintaining the tax qualification of such program,
15 and shall supercede any conflicting provision of law.

16 (b) Any trust established for the purpose of providing retirement benefits under the state
17 police retirement program, including the trust described in § 42-28-22.1, shall be maintained
18 pursuant to a written document which expressly provides that it shall be impossible at any time
19 prior to the satisfaction of all liabilities with respect to employees and their beneficiaries, for any
20 part of the corpus or income of the trust to be used for, or diverted to, purposes other than the
21 payment of retirement allowances and other pension benefits to employees and their
22 beneficiaries. However, this requirement shall not prohibit: (1) the return of a contribution made
23 by a mistake of fact within six (6) months, or (2) the payment of expenses in accordance with
24 applicable law; nor shall this provision restrict the collective investment of the funds of such trust
25 with the funds of the state and municipal retirement systems or other retirement programs
26 administered by the retirement board, as determined by the state investment commission.

27 **42-28-23. Military credit on retirement.** -- Whenever a member of the Rhode Island
28 state police, other than a civilian member, has been granted a leave of absence from the state
29 police to enable him or her to serve in the armed forces of the United States in time of war or
30 national emergency, the time during which he or she so serves while on leave of absence shall be
31 included in his or her ~~computed toward his or her twenty (20) years of~~ state police service for
32 retirement as provided in § 42-28-22, except when the member shall have been dishonorably
33 discharged from the armed forces.

34 **42-28-50. Severability.**-- The holding of any section or sections or parts of this chapter

1 [to be void, ineffective, or unconstitutional for any cause shall not be deemed to affect any other](#)
2 [section or part hereof.](#)

3 SECTION 16. Sections 8-3-11, 8-3-15, 8-3-16, 8-3-17 and 8-3-20 of the General Laws
4 in Chapter 8-3 entitled "Justices of Supreme, Superior and Family Courts" are hereby amended to
5 read as follows:

6 **8-3-11. Allowances to surviving spouses, domestic partners or minor children of**
7 **deceased justices.** -- (a) Whenever any justice of the supreme court, the superior court, the family

8 court, or the district court who was engaged as a judge prior to January 1, 2009, dies after
9 retirement or during active service while eligible for retirement, or during active service after
10 having served fifteen (15) years or more in office, his or her surviving spouse or domestic partner
11 shall receive annually thereafter, during his or her lifetime and so long as he or she remains
12 unmarried or not in a domestic partnership, an amount equal to one-half (1/2) of the annual
13 payment that the justice was receiving by way of salary or retirement pay at the time of his or her
14 death. Whenever a justice of any of the courts shall die without having become eligible to retire
15 either under § 8-3-7 or 8-3-8 and has served seven (7) years or more in office, his or her surviving
16 spouse or domestic partner shall receive annually thereafter, during his or her lifetime and so long
17 as he or she remains unmarried or not in a domestic partnership, one-third (1/3) of the annual
18 salary that the justice was receiving at the time of his or her death. Whenever a justice of the
19 courts shall die without having become eligible to retire either under § 8-3-7 or 8-3-8 and has not
20 served seven (7) years in office, his or her surviving spouse or domestic partner shall receive
21 annually thereafter, during his or her lifetime and so long as he or she remains unmarried or not in
22 a domestic partnership, one-fourth (1/4) of the annual salary that the justice was receiving at the
23 time of his or her death.

24 (b) Any justice of the courts who is engaged as a judge on or after January 1, 2009, and
25 prior to July 1, 2009 may elect to receive retirement pay that is reduced by an additional ten
26 percent (10%) of the average of the highest three (3) consecutive years annual compensation (i.e.,
27 ninety percent (90%) reduced to eighty percent (80%) or seventy percent (70) reduced to sixty
28 percent (60%)), and where such option is exercised by giving the general treasurer notice in
29 writing thereof within ninety (90) days after the date of his or her retirement his or her surviving
30 spouse or domestic partner or minor children shall receive annually one-half (1/2) of his or her
31 retirement pay during his or her lifetime so long as he or she remains unmarried or not in a
32 domestic partnership, or the children are under twenty-one (21) years of age provided, however,
33 for any justice engaged on or after July 1, 2009 [but prior to July 1, 2012](#), the reduction shall be
34 based on the average of the highest five (5) consecutive years annual compensation.

1 (c)(1) Any justice of the courts who is engaged as a judge on or after July 1, 2012 and
2 who elects to receive a retirement pay that is reduced, shall receive a lesser retirement allowance
3 as determined by actuarial calculation, which shall be payable throughout life with the provision
4 that:

5 (i) Option 1. Upon the justice's death, the justice's lesser retirement allowance shall be
6 continued throughout the life of and paid to such person having an insurable interest in the
7 justice's life, as the justice shall nominate by written designation duly acknowledged and filed
8 with the retirement board at the time of his or her retirement.

9 (ii) Option 2. Upon the justice's death, one-half (1/2) of the justice's lesser retirement
10 allowance shall be continued throughout the life of and paid to such person, having an insurable
11 interest in the justice's life, as the justice shall nominate by written designation duly
12 acknowledged and filed with the retirement board at the time of the beneficiary's retirement.

13 (2) For purposes of any election under this section the justice may designate more than
14 one person to receive benefits after his or her death, provided that the designation shall specify
15 the portion of the actuarial equivalent of the justice's retirement allowance to be paid to each
16 person, and provided further that the aggregate actuarial value of the portions shall not exceed the
17 actuarial equivalent of the justice's retirement benefit determined in the case of an election under
18 this section as of the date of the justice's retirement.

19 (3) A justice selecting more than one person to receive benefits under this section may
20 only select beneficiaries from among his or her children, adopted children, step-children, and/or
21 spouse or domestic partner.

22 ~~(e)~~(d) Whenever any justice of the supreme court, the superior court, the family court, or
23 the district court who was engaged as a judge on or after January 1, 2009, dies during active
24 service while eligible for retirement, or during active service after having served fifteen (15)
25 years or more in office, his or her surviving spouse or domestic partner shall receive annually
26 thereafter, during his or her lifetime and so long as he or she remains unmarried or not in a
27 domestic partnership, an amount equal to one-half (1/2) of the annual payment that the justice
28 was receiving by way of salary.

29 ~~(e)~~(e) Whenever a justice of any of the courts who was engaged as a judge on or after
30 January 1, 2009, shall die without having become eligible to retire either under § 8-3-7 or 8-3-8
31 and has served seven (7) years or more in office, his or her surviving spouse or domestic partner
32 shall receive annually thereafter, during his or her lifetime and so long as he or she remains
33 unmarried or not in a domestic partnership, one-third (1/3) of the annual salary that the justice
34 was receiving at the time of his or her death.

1 ~~(e)~~(f) Whenever a justice of the courts who was engaged as a judge on or after January 1,
2 2009, shall die without having become eligible to retire either under § 8-3-7 or 8-3-8 and has not
3 served seven (7) years or more in office, his or her surviving spouse or domestic partner shall
4 receive annually thereafter, during his or her lifetime and so long as he or she remains unmarried
5 or not in a domestic partnership, one-fourth (1/4) of the annual salary that the justice was
6 receiving at the time of his or her death.

7 ~~(f)~~(g) In the event the deceased justice shall have no surviving spouse or domestic
8 partner, or the surviving spouse or domestic partner should predecease their minor children, then
9 the benefits conferred by this section shall be received in equal shares by the minor children, if
10 any, until each shall attain the age of twenty-one (21) years.

11 **8-3-15. Cost of living allowance.** – (a) All justices of the supreme court, superior court,
12 family court, or district court, or their surviving spouses or domestic partners, who retire after
13 January 1, 1970 and who receive a retirement allowance pursuant to the provisions of this title
14 shall, on the first day of January next following the third anniversary date of retirement, receive a
15 cost-of-living retirement adjustment in addition to his or her retirement allowance in an amount
16 equal to three percent (3%) of the original retirement allowance. In each succeeding year
17 thereafter during the month of January, the retirement allowance shall be increased an additional
18 three percent (3%) of the original allowance, not compounded, to be continued during the lifetime
19 of the justice or his or her surviving spouse or domestic partner. For the purpose of such
20 computation, credit shall be given for a full calendar year regardless of the effective date of the
21 retirement allowance.

22 (b) Any justice who retired prior to January 31, 1977 shall be deemed for the purpose of
23 this section to have retired on January 1, 1977.

24 (c) For justices not eligible to retire as of September 30, 2009 and not eligible upon
25 passage of this article, and for their beneficiaries, the cost of living adjustment described in
26 subsection (3) above shall only apply to the first thirty-five thousand dollars (\$35,000) of
27 retirement allowance, indexed annually, and shall commence upon the third (3rd) anniversary of
28 the date of retirement or when the retiree reaches age sixty-five (65), whichever is later. The
29 thirty- five thousand dollar (\$35,000) limit shall increase annually by the percentage increase in
30 the Consumer Price Index for all Urban Consumer (CPI-U) as published by the United States
31 Department of Labor Statistics determined as of September 30 of the prior calendar year or three
32 percent (3%), whichever is less. The first thirty-five thousand dollars (\$35,000), as indexed, of
33 retirement allowance shall be multiplied by the percentage of increase in the Consumer Price
34 Index for all Urban Consumers (CPI-U) as published by the United States Department of Labor

1 Statistics determined as of September 30 of the prior calendar year or three percent (3%),
2 whichever is less, on the month following the anniversary date of each succeeding year. For
3 justices eligible to retire as of September 30, 2009 or eligible upon passage of this article, and for
4 their beneficiaries, the provisions of this subsection (c) shall not apply.

5 (d)(1) Notwithstanding the prior paragraphs of this section, and subject to paragraph (d)
6 (2) below, for all present and former justices, active and retired justices, and beneficiaries
7 receiving any retirement, disability or death allowance or benefit of any kind, whether provided
8 for or on behalf of justices engaged on or prior to December 31, 1989 as a non-contributory
9 justice or engaged after December 31, 1989 as a contributory justice, the annual benefit
10 adjustment provided in any calendar year under this section shall be equal to (A) multiplied by
11 (B) where (A) is equal to the percentage determined by subtracting five and one-half percent
12 (5.5%) (the “subtrahend”) from the Five-Year Average Investment Return of the retirement
13 system determined as of the last day of the plan year preceding the calendar year in which the
14 adjustment is granted, said percentage not to exceed four percent (4%) and not to be less than
15 zero percent (0%), and (B) is equal to the lesser of the justice’s retirement allowance or the first
16 thirty-five thousand dollars (\$35,000) of retirement allowance, such thirty-five thousand dollars
17 (\$35,000) amount to be indexed annually in the same percentage as determined under (d)(1)(A)
18 above. The “Five-Year Average Investment Return” shall mean the average of the investment
19 return of the most recent five plan years as determined by the retirement board. Subject to
20 paragraph (d)(2) below, the benefit adjustment provided by this paragraph shall commence upon
21 the third (3rd) anniversary of the date of retirement or the date on which the retiree reaches his or
22 her Social Security retirement age, whichever is later. In the event the retirement board adjusts
23 the actuarially assumed rate of return for the system, either upward or downward, the subtrahend
24 shall be adjusted either upward or downward in the same amount.

25 (2) The benefit adjustments provided under this section for any calendar year shall be
26 suspended in their entirety unless:

27 (i) The judicial retirement benefits trust is determined to be funded at a GASB Funded
28 Ratio equal to or greater than eighty percent (80%) as of the end of the immediately preceding
29 plan year in accordance with the retirement system’s actuarial valuation report as prepared by the
30 system’s actuary, in which event the benefit adjustment will be reinstated for all justices for such
31 plan year; or

32 (ii) The judicial retirement benefits trust is determined to be funded at a GASB Funded
33 Ratio equal to or greater than seventy percent (70%) as of the end of the immediately preceding
34 plan year in accordance with the retirement system’s actuarial valuation report as prepared by the

1 system's actuary, in which event a benefit adjustment will be reinstated for such plan year for
2 justices who received an accumulated retirement allowance in the prior plan year of less than
3 twenty thousand dollars (\$20,000); the amount of the benefit adjustment under this paragraph
4 (d)(2)(ii) shall be equal to (A) multiplied by (B) where (A) is determined under (d)(1)(A) above
5 and (B) is equal to the justice's years of service, up to a maximum of thirty-five (35) years of
6 service, multiplied by the lesser of the justice's retirement allowance or the first five hundred
7 dollars (\$500) of retirement allowance. The twenty thousand dollars (\$20,000) and five hundred
8 dollars (\$500) amounts in the preceding sentence shall be indexed annually in the same
9 percentage amount as determined under (d)(1)(A) above.

10 In determining whether a funding level under this paragraph (d)(2) has been achieved, the
11 actuary shall calculate the funding percentage after taking into account the reinstatement of any
12 current or future benefit adjustment provided under this section. "GASB Funded Ratio" shall
13 mean the ratio of the actuarial value of assets to the actuarial accrued liability.

14 (3) Notwithstanding any other provision of this chapter, the provisions of this paragraph
15 (d) of Section 8-3-15 shall become effective July 1, 2012 and shall apply to any benefit
16 adjustment not granted on or prior to June 30, 2012.

17 **8-3-16. Retirement contribution.** -- (a) Judges engaged after December 31, 1989 shall
18 have deducted from total salary beginning December 31, 1989 and ending June 30, 2012 an
19 amount equal to a rate percent of compensation as specified in § 36-10-1 relating to member
20 contributions to the state retirement system. Effective July 1, 2012, all active judges whether
21 engaged before or after December 31, 1989 shall have deducted from compensation as defined in
22 subsection 36-8-1(8) an amount equal to twelve percent (12%) of compensation. Proceeds
23 deposited shall be held in trust for the purpose of paying retirement benefits to participating
24 judges or their beneficiaries. The retirement board shall establish rules and regulations to govern
25 the provisions of this section.

26 (b) A member of the judiciary who withdraws from service or ceases to be a member for
27 any reason other than retirement, shall be paid on demand a refund consisting of the accumulated
28 contributions standing to his or her credit in his or her individual account in the judicial
29 retirement benefits account. Any member receiving a refund shall thereby forfeit and relinquish
30 all accrued rights as a member of the system together with credits for total service previously
31 granted to the member; provided, however, that if any member who has received a refund shall
32 subsequently reenter the service and again become a member of the system, he or she shall have
33 the privilege of restoring all money previously received or disbursed to his or her credit as refund
34 of contributions plus regular interest for the period from the date of refund to the date of

1 [restoration](#). Upon the repayment of the refund as herein provided, the member shall again receive
2 credit for the amount of total service which he or she had previously forfeited by the acceptance
3 of the refund.

4 (c) Whenever any judge dies from any cause before retirement and has no surviving
5 spouse, [domestic partner](#) or minor child(ren), a payment shall be made of the accumulated
6 contributions standing to his or her credit in his or her individual account in the judicial
7 retirement benefits account. The payment of the accumulated contributions of the judge shall be
8 made to such person as the judge shall have nominated by written designation duly executed and
9 filed with the retirement board, or if the judge has filed no nomination, or if the person so
10 nominated has died, then to the estate of the deceased judge.

11 **8-3-17. State contributions.** -- The state of Rhode Island shall make its contribution for
12 the maintaining of the system established by § 8-3-16 and providing the annuities, benefits, and
13 retirement allowances in accordance with the provisions of this chapter by annually appropriating
14 an amount which will pay a rate percent of the compensation paid after December 31, 1989 to
15 judges engaged after December 31, 1989. Such rate percent shall be computed and certified in
16 accordance with the procedures set forth in §§ 36-8-13 and 36-10-2 under rules and regulations
17 promulgated by the retirement board pursuant to § 36-8-3. ~~Provided, that the employer~~
18 ~~contribution shall be deferred from the effective date of this act until June 15, 2010.~~ The amounts
19 that would have been contributed shall be deposited in a special fund and not used for any
20 purpose.

21 **8-3-20. Severability.**-- [The holding of any section or sections or parts of this chapter to](#)
22 [be void, ineffective, or unconstitutional for any cause shall not be deemed to affect any other](#)
23 [section or part hereof.](#)

24 SECTION 17. Section 8-8-10.1 of the General Laws in Chapter 88 entitled "District
25 Court" is hereby amended to read as follows:

26 **8-8-10.1. Retirement contribution.** -- (a) Judges engaged after December 31, 1989 shall
27 have deducted from total salary beginning December 31, 1989 [and ending June 30, 2012](#) an
28 amount equal to a rate percent of compensation as specified in § 36-10-1 relating to member
29 contributions to the state retirement system. [Effective July 1, 2012, all active judges whether](#)
30 [engaged before or after December 31,1989 shall have deducted from compensation as defined in](#)
31 [subsection 36-8-1\(8\) an amount equal to twelve percent \(12%\) of compensation.](#) The receipts
32 collected under this provision shall be deposited in a restricted revenue account entitled "Judicial
33 retirement benefits". Proceeds deposited in this account shall be held in trust for the purpose of
34 paying retirement benefits to participating judges or their beneficiaries. The retirement board

1 shall establish rules and regulations to govern the provisions of this section.

2 (b) A member of the judiciary who withdraws from service or ceases to be a member
3 for any reason other than retirement shall be paid on demand a refund consisting of the
4 accumulated contributions standing to his or her credit in his or her individual account in the
5 judicial retirement benefits account. Any member receiving a refund shall thereby forfeit and
6 relinquish all accrued rights as a member of the system together with credits for total service
7 previously granted to the member; provided, however, that if any member who has received a
8 refund shall subsequently reenter the service and again become a member of the system, the
9 member shall have the privilege of restoring all money previously received or disbursed to his or
10 her credit as refund of contributions [plus regular interest for the period from the date of refund to](#)
11 [the date of restoration](#). Upon the repayment of the refund as herein provided, the member shall
12 again receive credit for the amount of total service which he or she had previously forfeited by
13 the acceptance of the refund.

14 (c) Whenever any judge dies from any cause before retirement and has no surviving
15 spouse, [domestic partner](#) or minor child(ren), a payment shall be made of the accumulated
16 contributions standing to his or her credit in his or her individual account in the judicial
17 retirement benefits account. The payment of the accumulated contributions of the judge shall be
18 made to such person as the judge shall have nominated by written designation duly executed and
19 filed with the retirement board, or if the judge has filed no nomination, or if the person so
20 nominated has died, then to the estate of the deceased judge.

21 SECTION 18. Chapter 88 of the General Laws entitled "District Court" is hereby
22 amended by adding the following section:

23 **8-8-33. Severability.--** [The holding of any section or sections or parts of this chapter to](#)
24 [be void, ineffective, or unconstitutional for any cause shall not be deemed to affect any other](#)
25 [section or part hereof.](#)

26 SECTION 19. Sections 88.2-7 and 8-8.2-12 of the General Laws in Chapter 88.2
27 entitled "Traffic Tribunal" are hereby amended to read as follows:

28 **8-8.2-7. Retirement contribution. --** (a) Judges of the administrative adjudication court
29 engaged after December 31, 1989 who are reassigned by this chapter to the traffic tribunal shall
30 have deducted from their total salary beginning December 31, 1989 [and ending June 30, 2012](#), an
31 amount equal to a rate percent of compensation as specified in § 36-10-1 relating to member
32 contributions to the state retirement system. [Effective July 1, 2012, all active judges whether](#)
33 [engaged before or after December 31,1989 shall have deducted from compensation as defined in](#)
34 [36-8-1\(8\) an amount equal to twelve percent \(12%\) of compensation.](#) The receipts collected under

1 this provision shall be deposited in a restricted revenue account entitled "administrative
2 adjudication retirement benefits". Proceeds deposited in this account shall be used to pay judges'
3 retirement costs. The retirement board shall establish rules and regulations to govern the
4 provisions of this section.

5 (b) A judge of the administrative adjudication court reassigned by this chapter to the
6 traffic tribunal who withdraws from service or ceases to be a member for any reason other than
7 death or retirement, shall be paid on demand a refund consisting of the accumulated contributions
8 standing to his or her credit in his or her individual account in the administrative adjudication
9 retirement benefits account. Any member receiving a refund shall thereby forfeit and relinquish
10 all accrued right as a member of the system together with credits for total service previously
11 granted to the member; provided, however, that if any member who has received a refund shall
12 subsequently reenter the service and again become a member of the system, he or she shall have
13 the privilege of restoring all moneys previously received or disbursed to his or her credit as a
14 refund of contributions plus regular interest for the period from the date of refund to the date of
15 restoration. Upon the repayment of the refund as herein provided, such member shall again
16 receive credit for the amount of total service which he or she had previously forfeited by the
17 acceptance of the refund.

18 ~~(b)~~(c) Whenever any judge of the administrative adjudication court dies from any cause
19 before retirement and has no surviving spouse or minor child(ren), a payment shall be made of
20 the accumulated contributions standing to his or her credit in his or her individual account in the
21 administrative adjudication court judges' retirement account. The payment of the accumulated
22 contributions of the judge shall be made to such person as the judge shall have nominated by
23 written designation duly executed and filed with the retirement board, or if the judge has no filed
24 nomination, or if the person so nominated has died, then to the estate of the deceased judge.

25 **8-8.2-12. Additional benefits payable to retired judges and their surviving spouses**
26 **or domestic partners.** -- (a) All judges of the administrative adjudication court and all judges of
27 the administrative adjudication court who have been reassigned to the traffic tribunal, or their
28 surviving spouses or domestic partners, who retire after January 1, 1970 and who receive a
29 retirement allowance pursuant to the provisions of this title, shall, on the first day of January, next
30 following the third anniversary of the retirement, receive a cost of living retirement adjustment in
31 addition to his or her retirement allowance in an amount equal to three percent (3%) of the
32 original retirement allowance. In each succeeding year thereafter during the month of January, the
33 retirement allowance shall be increased an additional three percent (3%) of the original
34 allowance, compounded annually from the year cost of living adjustment was first payable to be

1 continued during the lifetime of the judge or his or her surviving spouse or domestic partner. For
2 the purpose of such computation, credit shall be given for a full calendar year regardless of the
3 effective date of the retirement allowance.

4 (b) Any judge who retired prior to January 31, 1980, shall be deemed for the purpose of
5 this section to have retired on January 1, 1980.

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

21 (d)(1) Notwithstanding the prior paragraphs of this section, and subject to paragraph (d)
22 (2) below, for all present and former justices, active and retired justices, and beneficiaries
23 receiving any retirement, disability or death allowance or benefit of any kind, whether provided
24 for or on behalf of justices engaged on or prior to December 31, 1989 as a non-contributory
25 justice or engaged after December 31, 1989 as a contributory justice, the annual benefit
26 adjustment provided in any calendar year under this section shall be equal to (A) multiplied by
27 (B) where (A) is equal to the percentage determined by subtracting five and one-half percent
28 (5.5%) (the “subtrahend”) from the Five-Year Average Investment Return of the retirement
29 system determined as of the last day of the plan year preceding the calendar year in which the
30 adjustment is granted, said percentage not to exceed four percent (4%) and not to be less than
31 zero percent (0%), and (B) is equal to the lesser of the justice’s retirement allowance or the first
32 thirty-five thousand dollars (\$35,000) of retirement allowance, such thirty-five thousand dollars
33 (\$35,000) amount to be indexed annually in the same percentage as determined under (d)(1)(A)
34 above. The “Five-Year Average Investment Return” shall mean the average of the investment

1 return of the most recent five plan years as determined by the retirement board. Subject to
2 paragraph (d)(2) below, the benefit adjustment provided by this paragraph shall commence upon
3 the third (3rd) anniversary of the date of retirement or the date on which the retiree reaches his or
4 her Social Security retirement age, whichever is later. In the event the retirement board adjusts
5 the actuarially assumed rate of return for the system, either upward or downward, the subtrahend
6 shall be adjusted either upward or downward in the same amount.

7 (2) The benefit adjustments provided under this section for any calendar year shall be
8 suspended in their entirety unless:

9 (i) The judicial retirement benefits trust is determined to be funded at a GASB Funded
10 Ratio equal to or greater than eighty percent (80%) as of the end of the immediately preceding
11 plan year in accordance with the retirement system's actuarial valuation report as prepared by the
12 system's actuary, in which event the benefit adjustment will be reinstated for all justices for such
13 plan year; or

14 (ii) The judicial retirement benefits trust is determined to be funded at a GASB Funded
15 Ratio equal to or greater than seventy percent (70%) as of the end of the immediately preceding
16 plan year in accordance with the retirement system's actuarial valuation report as prepared by the
17 system's actuary, in which event a benefit adjustment will be reinstated for such plan year for
18 justices who received an accumulated retirement allowance in the prior plan year of less than
19 twenty thousand dollars (\$20,000); the amount of the benefit adjustment under this paragraph
20 (d)(2)(ii) shall be equal to (A) multiplied by (B) where (A) is determined under (d)(1)(A) above
21 and (B) is equal to the justice's years of service, up to a maximum of thirty-five (35) years of
22 service, multiplied by the lesser of the justice's retirement allowance or the first five hundred
23 dollars (\$500) of retirement allowance. The twenty thousand dollars (\$20,000) and five hundred
24 dollars (\$500) amounts shall be indexed annually in the same percentage amount as determined
25 under (d)(1)(A) above.

26 In determining whether a funding level under this paragraph (d)(2) has been achieved, the
27 actuary shall calculate the funding percentage after taking into account the reinstatement of any
28 current or future benefit adjustment provided under this section. "GASB Funded Ratio" shall
29 mean the ratio of the actuarial value of assets to the actuarial accrued liability.

30 (3) Notwithstanding any other provision of this chapter, the provisions of this paragraph
31 (d) of section 88.2-12 shall become effective July 1, 2012 and shall apply to any benefit
32 adjustment not granted on or prior to June 30, 2012.

33 SECTION 20. Sections 28-30-17, 28-30-18 and 28-30-18.1 of the General Laws in
34 Chapter 28-30 entitled "Workers' Compensation Court" are hereby amended to read as follows:

1 **28-30-17. Allowance to surviving spouses, domestic partners of deceased judges. –**

2 (a) Whenever any judge of the workers' compensation court who was engaged as a judge prior to
3 January 1, 2009 dies after retirement or during active service while eligible for retirement or
4 during active service after having served fifteen (15) years or more in office, his or her surviving
5 spouse or domestic partner shall receive annually thereafter during his or her lifetime and so long
6 as he or she remains unmarried or not in a domestic partnership, an amount equal to one-half (
7 1/2) of the annual payment that the judge was receiving by way of salary or retirement pay at the
8 time of his or her death.

9 (b) For those engaged as a judge on or after January 1, 2009, and prior to July 1, 2009,
10 the judge may elect to receive retirement pay that is reduced by an additional ten percent (10%)
11 of the average of the highest three (3) consecutive years annual compensation (i.e., ninety percent
12 (90%) reduced to eighty percent (80%) or seventy percent (70%) reduced to sixty percent (60%))
13 and where such option is exercised by giving the general treasurer notice in writing thereof within
14 ninety (90) days after the date of his or her retirement his or her surviving spouse or domestic
15 partner or minor children shall receive annually one-half (1/2) of his or her retirement pay during
16 his or her lifetime so long as he or she remains unmarried or not in a domestic partnership, or the
17 children are under twenty-one (21) years of age; provided, however, for any judge engaged on or
18 after July 1, 2009, the reduction shall be based upon the average of the highest five (5) years
19 consecutive annual compensation.

20 (c)(1) Any judge of the courts who is engaged as a judge on or after July 1, 2012 and who
21 elects to receive a retirement pay that is reduced, shall receive a lesser retirement allowance as
22 determined by actuarial calculation, which shall be payable throughout life with the provision
23 that:

24 (i) Option 1. Upon the justice's death, the justice's lesser retirement allowance shall be
25 continued throughout the life of and paid to such person having an insurable interest in the
26 justice's life, as the judge shall nominate by written designation duly acknowledged and filed with
27 the retirement board at the time of his or her retirement.

28 (ii) Option 2. Upon the justice's death, one-half (1/2) of the judge's lesser retirement
29 allowance shall be continued throughout the life of and paid to such person, having an insurable
30 interest in the judge's life, as the judge shall nominate by written designation duly acknowledged
31 and filed with the retirement board at the time of the beneficiary's retirement.

32 (2) For purposes of any election under this section the judge may designate more than
33 one person to receive benefits after his or her death, provided that the designation shall specify
34 the portion of the actuarial equivalent of the judge's retirement allowance to be paid to each

1 person, and provided further that the aggregate actuarial value of the portions shall not exceed the
2 actuarial equivalent of the judge's retirement benefit determined in the case of an election under
3 this section as of the date of the judge's retirement.

4 (3) A judge selecting more than one person to receive benefits under this section may
5 only select beneficiaries from among his or her children, adopted children, step-children, and/or
6 spouse or domestic partner.

7 ~~(e)~~(d) Whenever a judge of the workers' compensation court dies without having
8 become eligible to retire either under § 28-30-15 or 28-30-16 and has served seven (7) years or
9 more in office, his or her surviving spouse or domestic partner shall receive annually thereafter
10 during his or her lifetime and so long as he or she remains unmarried or not in a domestic
11 partnership one-third (1/3) of the annual salary that the judge was receiving at the time of his or
12 her death.

13 ~~(e)~~(e) Whenever any judge of the workers' compensation court who was engaged as a
14 judge on or after January 1, 2009 dies during active service while eligible for retirement or during
15 active service after having served fifteen (15) years or more in office, his or her surviving spouse
16 or domestic partner shall receive annually thereafter during his or her lifetime and so long as he
17 or she remains unmarried or not in a domestic partnership, an amount equal to one-half (1/2) of
18 the annual payment that the judge was receiving by way of salary or retirement pay at the time of
19 his or her death.

20 ~~(e)~~(f) Whenever a judge of the workers' compensation court dies without having
21 become eligible to retire either under § 28-30-15 or 28-30-16 and has not served seven (7) years
22 in office, his or her surviving spouse or domestic partner shall subsequently receive annually
23 during his or her lifetime and so long as he or she remains unmarried or not in a domestic
24 partnership, one fourth (1/4) of the annual salary that the judge was receiving at the time of his or
25 her death.

26 ~~(f)~~(g) In the event the deceased judge has no surviving spouse or domestic partner or
27 the surviving spouse or domestic partner predeceases their minor children, the benefits conferred
28 by this section shall be received in equal shares by the minor children, if any, until each attains
29 the age of twenty-one (21) years.

30 **28-30-18 Additional benefits payable to retired judges and their surviving spouses**
31 **or domestic partners.** -- (a) All judges of the workers' compensation court, or their surviving
32 spouses or domestic partners, who retire after January 1, 1970 and who receive a retirement
33 allowance pursuant to the provisions of this title, shall, on the first day of January next following
34 the third anniversary date of their retirement, receive a cost of living retirement adjustment in

1 addition to his or her retirement allowance in an amount equal to three percent (3%) of the
2 original retirement allowance. In each succeeding subsequent year during the month of January
3 the retirement allowance shall be increased an additional three percent (3%) of the original
4 allowance, compounded annually from the year the cost of living adjustment was first payable to
5 be continued during the lifetime of that judge or his or her surviving spouse or domestic partner.
6 For the purpose of that computation, credit shall be given for a full calendar year regardless of the
7 effective date of the retirement allowance.

8 (b) Any judge who retired prior to January 31, 1980, shall be deemed for the purpose of
9 this section to have retired on January 1, 1980.

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

25 (d)(1) Notwithstanding the prior paragraphs of this section, and subject to paragraph (d)
26 (2) below, for all present and former justices, active and retired justices, and beneficiaries
27 receiving any retirement, disability or death allowance or benefit of any kind, whether provided
28 for or on behalf of justices engaged on or prior to December 31, 1989 as a non-contributory
29 justice or engaged after December 31, 1989 as a contributory justice, the annual benefit
30 adjustment provided in any calendar year under this section shall be equal to (A) multiplied by
31 (B) where (A) is equal to the percentage determined by subtracting five and one-half percent
32 (5.5%) (the "subtrahend") from the Five-Year Average Investment Return of the retirement
33 system determined as of the last day of the plan year preceding the calendar year in which the
34 adjustment is granted, said percentage not to exceed four percent (4%) and not to be less than

1 zero percent (0%), and (B) is equal to the lesser of the justice’s retirement allowance or the first
2 thirty-five thousand dollars (\$35,000) of retirement allowance, such thirty-five thousand dollars
3 (\$35,000) amount to be indexed annually in the same percentage as determined under (d)(1)(A)
4 above. The “Five-Year Average Investment Return” shall mean the average of the investment
5 return of the most recent five plan years as determined by the retirement board. Subject to
6 paragraph (d)(2) below, the benefit adjustment provided by this paragraph shall commence upon
7 the third (3rd) anniversary of the date of retirement or the date on which the retiree reaches his or
8 her Social Security retirement age, whichever is later. In the event the retirement board adjusts
9 the actuarially assumed rate of return for the system, either upward or downward, the subtrahend
10 shall be adjusted either upward or downward in the same amount.

11 (2) The benefit adjustments provided under this section for any calendar year shall be
12 suspended in their entirety unless:

13 (i) The judicial retirement benefits trust is determined to be funded at a GASB Funded
14 Ratio equal to or greater than eighty percent (80%) as of the end of the immediately preceding
15 plan year in accordance with the retirement system’s actuarial valuation report as prepared by the
16 system’s actuary, in which event the benefit adjustment will be reinstated for all justices for such
17 plan year; or

18 (ii) The judicial retirement benefits trust is determined to be funded at a GASB Funded
19 Ratio equal to or greater than seventy percent (70%) as of the end of the immediately preceding
20 plan year in accordance with the retirement system’s actuarial valuation report as prepared by the
21 system’s actuary, in which event a benefit adjustment will be reinstated for such plan year for
22 justices who received an accumulated retirement allowance in the prior plan year of less than
23 twenty thousand dollars (\$20,000); the amount of the benefit adjustment under this paragraph
24 (d)(2)(ii) shall be equal to (A) multiplied by (B) where (A) is determined under (d)(1)(A) above
25 and (B) is equal to the justice’s years of service, up to a maximum of thirty-five (35) years of
26 service, multiplied by the lesser of the justice’s retirement allowance or the first five hundred
27 dollars (\$500) of retirement allowance. The twenty thousand dollars (\$20,000) and five hundred
28 dollars (\$500) amounts in the preceding sentence shall be indexed annually in the same
29 percentage amount as determined under (d)(1)(A) above.

30 In determining whether a funding level under this paragraph (d)(2) has been achieved, the
31 actuary shall calculate the funding percentage after taking into account the reinstatement of any
32 current or future benefit adjustment provided under this section. “GASB Funded Ratio” shall
33 mean the ratio of the actuarial value of assets to the actuarial accrued liability.

34 (3) Notwithstanding any other provision of this chapter, the provisions of this paragraph

1 [\(d\) of Section 28-30-18 shall become effective July 1, 2012 and shall apply to any benefit](#)
2 [adjustment not granted on or prior to June 30, 2012.](#)

3 **28-30-18.1. Retirement contribution.** -- (a) Workers' compensation judges engaged
4 after December 31, 1989, shall have deducted from total salary beginning December 31, 1989 [and](#)
5 [ending on June 30, 2012](#), an amount equal to a rate percent of compensation as specified in § 36-
6 10-1 relating to member contributions to the state retirement system. [Effective July 1, 2012, all](#)
7 [active workers' compensation judges whether engaged before or after December 31, 1989, shall](#)
8 [have deducted from compensation as defined in § 36-8-1\(8\) an amount equal to twelve percent](#)
9 [\(12%\) of compensation.](#) The receipts collected under this provision shall be deposited in a
10 restricted revenue account entitled "workers' compensation judges' retirement benefits". Proceeds
11 deposited in this account shall be held in trust for the purpose of paying retirement benefits to
12 participating judges or their beneficiaries. The retirement board shall establish rules and
13 regulations to govern the provisions of this section.

14 (b) A judge of the court who withdraws from service or ceases to be a judge for any
15 reason other than retirement shall be paid on demand a refund consisting of the accumulated
16 contributions standing to his or her credit in his or her individual account in the workers'
17 compensation judges' retirement benefits account. Any judge receiving a refund shall forfeit and
18 relinquish all accrued rights as a member of the system together with credits for total service
19 previously granted to the judge; provided, that if any judge who has received a refund
20 subsequently reenters the service and again becomes a member of the system, he or she shall have
21 the privilege of restoring all money previously received or disbursed to his or her credit as refund
22 of contributions, [together with regular interest for the time period from the date of refund to the](#)
23 [date of restoration.](#) Upon the repayment of the refund, the judge shall again receive credit for the
24 amount of total service that he or she had previously forfeited by the acceptance of the refund.

25 (c) Whenever any judge of the workers' compensation court dies from any cause before
26 retirement and has no surviving spouse, [domestic partner](#) or minor child(ren), a payment shall be
27 made of the accumulated contributions standing to his or her credit in his or her individual
28 account in the workers' compensation judges' retirement account. The payment of the
29 accumulated contributions of the judge shall be made to such person as the judge shall have
30 nominated by written designation duly executed and filed with the retirement board, or if the
31 judge has filed no nomination, or if the person so nominated has died, then to the estate of the
32 deceased judge.

33 SECTION 21. Chapter 28-30 of the General Laws entitled "Workers' Compensation
34 Court" is hereby amended by adding the following section:

1 sustainability of locally administered pension plans and to advance and maintain the long-term
2 stability of such plans. In thoroughly reviewing the condition of such locally administered
3 pension plans throughout the State of Rhode Island and assessing the need for comprehensive
4 reform thereof, the general assembly finds and declares that:

5 (1) Rhode Island law authorizes and empowers municipalities to administer their own
6 municipal pension plans; currently, there are thirty-six (36) such plans administered by twenty-
7 four (24) municipalities.

8 (2) According to a report by the Office of the Auditor General entitled *Pension and*
9 *OPEB Plans Administered by Rhode Island Municipalities* (September 2011): “Many municipal
10 pension plans are severely underfunded which presents the risk that sufficient funds will not be
11 available to meet promised benefits to retirees. It also undermines the overall fiscal health of the
12 plan’s sponsor.”

13 (3) It is in the best interests of individual employees, taxpayers, municipalities and the
14 state itself to maintain viable and sustainable municipal public pension plans. These interests
15 include:

16 Preserving a level of pension benefits that is, over the long term, reasonable for current
17 and retired municipal employees and affordable for taxpayers;

18 Avoiding significant and unanticipated retirement benefit reductions, which could cause
19 an increase in poverty among retired municipal employees and a resulting strain on state social
20 services;

21 Maintaining investments in infrastructure and education on the state and local levels in
22 lieu of diverting critical resources to satisfy pension obligations;

23 Preventing the financial downgrade of municipalities by rating agencies as a result of
24 unfunded pension obligations, which would make it more difficult to access the capital markets
25 and increase the costs of borrowing;

26 Encouraging rating agencies, in recognition of the state’s proactive approach toward
27 financial discipline, to take positive credit actions on Rhode Island municipal bonds; and

28 Creating a more stable and well-managed environment in Rhode Island to attract new
29 businesses and maintain and expand existing businesses, which will diminish the uncertainty and
30 fiscal instability that accompany uncontrolled pension obligations.

31 (4) The general assembly expressly finds and declares that the situation currently
32 confronting the State of Rhode Island’s locally administered pension systems has reached an
33 emergency stage and must be addressed without delay and the enactment of this chapter is
34 reasonable and necessary to achieve and protect the compelling public interests listed herein.

1 **45-64-4. Definitions.** -- As used in this chapter the following terms shall have the
2 following meanings:

3 (1) “Actuarial experience study” means a report provided by an actuary that includes a
4 recent discussion of plan experience, recommendations for actuarial assumptions and methods,
5 and information about the actuarial impact of these recommendations on the liabilities and other
6 key actuarial measures.

7 (2) “Actuary” means an actuary selected from time to time by the municipality from a list
8 of actuaries that have been approved by the solvency review board.

9 (3) “Annual actuarial valuation study” means a valuation of a locally administered plan
10 completed by an actuary, and a certification based on that valuation indicating whether such plan
11 is or is not in critical status, on an annual basis. The form of annual actuarial valuation study
12 shall be approved by the solvency review board.

13 (4) “Critical status” means that, as determined by its actuary, as of the beginning of the
14 plan year, a plan’s funded percentage for such plan year is less than sixty percent (60%).

15 (5) “Funded percentage” means the percentage equal to a fraction the numerator of
16 which is the actuarial value of the plan’s assets, as determined by the actuary, and the
17 denominator of which is the accrued liability of the plan, determined by the actuary using
18 actuarial assumptions and methodologies approved by the solvency review board in accordance
19 with section 45-64-5.

20 (6) “Locally administered plan” or “plan” means any defined benefit pension plan
21 established by a municipality for its employees, other than: (a) A plan that is part of the
22 Employees’ Retirement System of Rhode Island as defined in chapter 36-8 or the Municipal
23 Employees’ Retirement System of Rhode Island as defined in chapter 45-21; or (b) A plan
24 established by a municipality that has filed for bankruptcy protection pursuant to chapter 9 of title
25 11 of the United States Code, a plan established by a municipality for which a receiver has been
26 appointed pursuant to chapter 45-9 or a plan established by a municipality for which a fiscal
27 overseer has been appointed pursuant to chapter 45-9.

28 (7) “Municipality” means any town or city in the State of Rhode Island, any city or town
29 housing authority, fire, water, sewer district, regional school district or public building authority
30 as established by chapter 14 of title 37.

31 (8) “Solvency review board” means a board consisting of the following members: the
32 auditor general, the director of revenue and the general treasurer, or their designees. The director
33 of revenue shall serve as chairperson.

34 **45-64-5. Actuarial valuation methodology.** -- Actuarial methods used by the actuary in

1 preparing an actuarial experience study or annual actuarial valuation study shall be approved by
2 the solvency review board and shall be in compliance with accepted actuarial standards and
3 applicable public pension accounting laws, rules and regulations. The actuary or the solvency
4 review board shall not, year to year, change actuarial methods for the sole purpose of achieving a
5 more favorable funding or fiscal result. Any actuarial assumptions not recommended by the
6 solvency review board shall be made by the actuary in good faith and in accordance with
7 accepted actuarial standards.

8 **45-64-6. Minimum funding requirement. --** Every municipality that maintains a locally
9 administered plan shall make contributions to the plan to ensure that the plan maintains a funded
10 percentage greater than critical status or, if the plan is in critical status, in accordance with an
11 approved funding improvement plan (as determined under section 45-64-8). In no event shall
12 contributions to a plan be less than ninety-five percent (95%) of the amount of contributions to
13 the plan for the previous plan year, except as authorized by the solvency review board.

14 **45-64-7. Certification and notice requirements. --**

15 (1) Every municipality that maintains a locally administered plan shall submit its initial
16 annual actuarial valuation study to the solvency review board on or before April 1, 2012, and for
17 each plan year ending on or after December 31, 2012, within six (6) months of completing such
18 plan year. The initial actuarial experience study shall be submitted to the solvency review board
19 on or before April 1, 2012, and subsequent actuarial experience studies must be submitted to the
20 solvency review board no less frequently than once every three (3) years.

21 (2) In any case in which an actuary certifies that a locally administered plan is in critical
22 status for a plan year, the municipality administering such a plan shall, not later than thirty (30)
23 business days following the certification, provide notification of the critical status to the
24 participants and beneficiaries of the plan and to the general assembly, the governor, the general
25 treasurer, the director of revenue, and the auditor general.

26 (3) The state shall reimburse every municipality for fifty percent (50%) of the cost of
27 undertaking its annual actuarial valuation study.

28 **45-64-8. Funding improvement plan and critical status. --**

29 (1) In any case in which an actuary certifies that a locally administered plan is in critical
30 status for a plan year, the chief executive officer of the municipality and/or town manager or town
31 administrator, after consultation, discussion and/or negotiation with representatives of active,
32 inactive and retired employees who are covered by the plan, and with the approval of the city or
33 town council, shall develop a funding improvement plan for submission to the solvency review
34 board.

1 (2) Except for during a fiscal year where a plan is already in a funding improvement
2 period, the municipality shall submit its funding improvement plan to the solvency review board
3 (a) not later than December 1, 2012 (if a plan is in critical status as of April 1, 2012) and (b) for
4 each fiscal year ending on or after December 31, 2012, within five (5) months following the date
5 the plan was certified as being in critical status.

6 (3) The funding improvement plan shall be certified by the actuary for the plan and shall
7 be formulated to achieve, based on reasonably anticipated experience and reasonable actuarial
8 assumptions, the following requirements:

9 (i) The plan's funded percentage shall improve in accordance with sub-clause (I) or sub-
10 clause (II), applying the sub-clause that produces the greater funded percentage increase for the
11 plan in a ten (10) year period.

12 (I) As of the close of the funding improvement period, the plan's funded percentage shall
13 equal or exceed the sum of (A) the plan's funded percentage as of the beginning of the fiscal year
14 that the municipality initially certified the plan as in critical status, plus (B) fifty percent (50%) of
15 the difference between eighty percent (80%) and the plan's funded percentage under sub-clause
16 A, or

17 (II) The plan's funded percentage shall improve at the rate of one percent (1%) annually
18 until the plan's funded percentage equals or exceeds sixty percent (60%).

19 (ii) In the event that the actuary for the municipality determines that, based on reasonable
20 actuarial assumptions and upon exhaustion of all reasonable measures, the plan cannot reasonably
21 be expected to meet the guidelines of (i), then the municipality's legislative governing body shall
22 provide a report to the solvency review board, no later than sixty (60) days following the date the
23 plan was certified as being in critical status, explaining why the plan is not reasonably expected to
24 meet the guidelines of (i) and providing a reasonable alternative funding improvement plan to
25 emerge from critical status. The solvency review board may consider extenuating circumstances
26 when deciding whether to accept or reject the alternative funding improvement plan.

27 (4) Upon approval of a funding improvement plan by the solvency review board, the
28 municipality shall enact the funding improvement plan into municipal ordinance.

29 **45-64-9. Failure to submit and adopt an approved funding improvement plan. -- (1)**

30 With respect to any municipality that fails to comply with the requirements of this
31 chapter within the prescribed time, and until a funding improvement plan is adopted in
32 accordance with section 45-64-8, the general treasurer, upon the request of the solvency review
33 board, is authorized to withhold, or to deduct and apply to the obligation of the municipality
34 under this chapter by depositing the funds deducted or withheld with the trustee or custodian of

1 the plan for the benefit of the current, former and retired employees and beneficiaries covered by
2 the plan, moneys due to the municipality from the state for any purpose other than education,
3 including, but not limited to, municipal aid and other aid provided under sections 45-13-5.1, 45-
4 13-12, 44-34.1-2, 44-13-13, 44-18-81.1, 44- 18-36.1(b) and 42-63.1-3.

5 (2) If a plan is in critical status and a city or town council fails to submit and adopt a
6 funding improvement plan that is acceptable to the solvency review board in accordance with
7 section 45-64-8, until a funding improvement plan is adopted in accordance with section 45-64-8
8 any provision under the locally administered plan for an annual cost of living adjustment or other
9 benefit adjustment (“benefit adjustment”), for any present and former employees, active and
10 retired members and beneficiaries receiving any retirement, disability or death allowance or
11 benefit of any kind, shall be suspended for all benefit adjustments not granted prior to the failure
12 to timely submit and adopt an acceptable funding improvement plan, provided however that any
13 municipal employee whose employment is covered by a collective bargaining agreement with the
14 municipality shall not have his or her annual benefit adjustment suspended before the expiration
15 of the collective bargaining agreement that is in effect on the date of certification of critical
16 status.

17 **45-64-10. Funding improvement period.** -- (1) The funding improvement period for
18 any funding improvement plan adopted pursuant to this chapter shall begin on the first day of the
19 plan year that is on or immediately after the adoption date of the funding improvement plan.

20 (2) The funding improvement period shall be a ten (10) year period unless the actuary for
21 the plan certifies that the locally administered plan is no longer in critical status. In such a case,
22 the funding improvement period shall end as of the close of the preceding plan year.

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

25 **45-64-11. Duties of the solvency review board.** -- The solvency review board shall
26 certify actuaries for use by locally administered plans; conduct a periodic review of all locally
27 administered plans using reasonably consistent actuarial assumptions; make publicly available the
28 actuaries’ determinations regarding the funded percentage of each locally administered plan; and
29 from time to time adopt practices and methodologies for use by locally administered plans. The
30 solvency review board shall have the authority to require and/or conduct audits of locally
31 administered plans. The solvency review board shall be authorized and provided with sufficient
32 funding to hire a consulting actuary, an attorney and such additional resources as are necessary to
33 fulfill its purposes.

34 **45-64-12. Study commission.** -- A study commission for locally administered plans shall

1 be established to review existing legislation and pension plan administrative practices and to
2 make recommendations for the improved security and funding of locally administered plans and
3 other post-retirement benefit obligations of cities and towns. The commission shall consist of
4 eleven (11) members: the auditor general, one member each representing the department of
5 administration, the department of revenue, the general treasurer, the League of Cities and Towns
6 and the Rhode Island Public Expenditures Council, and one elected mayor, one appointed town
7 administrator, and three (3) members appointed by the governor representing municipal police,
8 fire and non-public safety employees.

9 **45-64-13. Severability; Indispensable Party. --** The holding of any section or sections
10 or parts hereof to be void, ineffective, or unconstitutional for any cause shall not be deemed to
11 affect any other section or part hereof. The state shall be an indispensable party in any action
12 contesting the validity of this chapter.

13 **45-64-14. Effective Date. --** This chapter shall take effect immediately upon passage.

14 SECTION 24. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PUBLIC OFFICERS AND EMPLOYEES--RETIREMENT SYSTEM --
CONTRIBUTION AND BENEFITS

- 1 This act would comprehensively amend the contribution and benefits' provisions of both
- 2 the state and municipal employees' retirements systems.
- 3 This act would take effect upon passage.

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LC03022
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