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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO TOWNS AND CITIES - RETIREMENT OF MUNICIPAL EMPLOYEES

Introduced By: Senator Elizabeth A. Crowley

Date Introduced: May 10, 2012

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 45 of the General Laws entitled "Towns and cities" is hereby amended
2 by adding thereto the following chapter:

3 CHAPTER 21.4

4 THE TRANSITION OF LOCALLY-ADMINISTERED MUNICIPAL EMPLOYEE

5 RETIREMENT PLANS OF MUNICIPALITIES PLACED UNDER STATE OVERSIGHT

6 PURSUANT TO THE FISCAL STABILITY ACT TO THE STATE-ADMINISTERED

7 MUNICIPAL EMPLOYEES RETIREMENT SYSTEM

8 **45-21.4-1. Purpose of chapter.** – (a) It is the purpose of this chapter to provide a process
9 for municipalities which have been placed under state oversight pursuant to the fiscal stability act
10 as set forth in R.I. General Laws section 45-9-1 et seq., which have locally-administered
11 municipal employee retirement plans, to transition existing retirees, and at their option active
12 employees, to a state-administered municipal employees retirement system to be administered in
13 accordance with chapter 21 of this title, in order to secure the fiscal stability and proper
14 administration of said pension plans, which fiscal stability is a matter of statewide concern in
15 light of the substantial unfunded liabilities in many locally administered plans.

16 (b) It is further the intent of this chapter to provide the existing retirees of the city of
17 Central Falls with security for the funding of their retirement plan, the majority of whose
18 members are firefighters and police officers, to be administered in accordance with chapter 21 of
19 this title. The intent of this chapter is to codify a restructured and sustainable retirement plan for

1 the city of Central Falls for existing retirees, especially in light of the financial circumstances of
2 the August 1, 2011 bankruptcy filing by the city which have resulted in severe cuts to such
3 retirees. It is further the purpose of this chapter to implement the terms of a certain settlement and
4 release agreement approved by ninety-one percent (91%) of the existing retirees of the city of
5 Central Falls, as defined herein, and approved by the United States bankruptcy court for the
6 district of Rhode Island by Order dated January 9, 2012 and filed with the retirement board.
7 Further, in consideration and acknowledgement of the drastic and unprecedented reductions in
8 pension benefits of up to fifty-five percent (55%) of the benefits to which they were entitled
9 under the previous Central Falls pension plan, and dramatically increased health benefit
10 contributions required of the existing retirees, it is the express intent of this chapter to exempt the
11 existing retirees from certain provisions of chapter 21 of this title in order that the effect on
12 existing retirees of these severe reductions to which they have agreed under the terms of the
13 settlement agreement may be ameliorated.

14 **45-21.4-2. Acceptance by municipalities – Effective date.** – (a) Any municipality that
15 has been placed under the state oversight pursuant to the “Fiscal Stability Act” as set forth in R.I.
16 General Laws section 45-9-1 et seq., may transfer retirees or active employees into the plan
17 created by this chapter by an ordinance or resolution of its governing body stating the group or
18 groups of employees or retirees to be included as provided in section 45-21-8. When the
19 ordinance or resolution has been approved, a certified copy of it shall be forwarded to the
20 retirement board by the city or town clerk. After the system has begun operations, the effective
21 date of participation of any municipality shall be the first day of July at least ninety (90) days
22 following the receipt by the retirement board of the certified copy of the ordinance or resolution
23 as provided in this section.

24 **45-21.4-3. Transfer of pension assets.** – A municipality shall take all necessary
25 measures to facilitate the transfer of all of the members’ available pension assets to the retirement
26 system established pursuant to this chapter as soon as practicable after the date of enactment
27 hereof.

28 **45-21.4-4. General definitions and mode of administration.** – (a) The definitions stated
29 in section 45-21-2 shall apply to this chapter, unless otherwise provided herein.

30 (b) The retirement system established by this chapter shall be administered in the same
31 manner as provided for in chapter 21 of this title; provided, however, that where the provisions of
32 chapter 21 conflict with the provisions of this chapter, then the provisions of this chapter shall
33 control. The general assembly hereby authorizes the director of revenue to approve any
34 settlement agreement with municipal employee unions or employees entered into in furtherance

1 of the purposes of this chapter. The director of the department of revenue is authorized to ratify
2 and confirm any settlement agreement entered into prior to the effective date of this statute and
3 where the provisions of chapter 21 or of this chapter conflict with such a settlement agreement,
4 the settlement agreement shall control. The municipality shall provide a complete list of
5 members participating in the system and beneficiaries of the system, as well as all data necessary
6 to administer the retirement system pursuant to this chapter, including but not limited to: names,
7 addresses, titles, compensation, duties, dates of birth, length of service, and beneficiary
8 designations of each member, and any other information that the retirement board shall require.

9 (c) The municipality shall give prompt notice of all appointments, removals, deaths,
10 resignations, leaves of absence, and changes in pay of members.

11 **45-21.4-5. [Reserved]**

12 **45-21.4-6. Liability of the municipality - Enforcement.** – (a) A municipality is liable to
13 the retirement system for the cost of funding a retirement system for its existing retirees and
14 active employees who are members of the system under this chapter.

15 (b) The liability of the municipality under this chapter is enforceable by the retirement
16 board against the municipality through appropriate action in the superior court.

17 (c) The state is further empowered to withhold from the municipality that amount of the
18 municipality’s portion of any shared taxes or state aid which is sufficient to satisfy its liability
19 hereunder.

20 **45-21.4-7. Severability.** – If any word, phrase, clause or section of this chapter shall be
21 declared unconstitutional, invalid, or unenforceable, such unconstitutionality or invalidity shall in
22 no way affect the validity or enforceability of any other portion of this chapter which can be
23 given reasonable effect without the part so declared unconstitutional or invalid.

24 SECTION 2. Chapter 21.4 of Title 45 of the General Laws entitled “The Transition of
25 Locally-Administered Municipal Employee Retirement Plans of Municipalities Placed Under
26 State Oversight Pursuant to the Fiscal Stability Act to the Municipal Employees Retirement
27 System” is hereby amended by adding thereto the following sections:

28 **45-21.4-5.1. Definitions – Central Falls retirement plan.** – (1) “Base retirement
29 allowance” is such amount as is set forth in Appendix A, Appendix D-A and Appendix E-A
30 under the column labeled “annualized final base pension” attached to the settlement agreement, as
31 defined herein, including as the same may be amended.

32 (2) “City” in sections 5.1 through 5.9 of chapter 21.4 means the city of Central Falls,
33 Rhode Island.

34 (3) “Existing retirees” in sections 5.1 through 5.9 of chapter 21.4 means:

1 (i) All retirees of the city who participated in a locally administered city pension plan and
2 who were receiving pension benefits from the city by virtue of said plan as of July 31, 2011 and,
3 where the context requires, shall also mean and include the beneficiaries of such retirees where
4 such beneficiaries were receiving such benefits as of such date or where they become entitled to
5 benefits thereafter; and

6 (ii) All employees of the city who were participating in a locally administered city
7 pension plan and who had submitted their notice of intent to retire under the provisions of said
8 plan by July 31, 2011.

9 Excluded from this definition are those retirees of the city who receive city pension
10 benefits guaranteed by John Hancock Life Insurance Company, which as of July 31, 2011,
11 constituted a class consisting of fewer than eleven (11) individuals. Further excluded from this
12 definition are those retirees and employees of the city who, as of July 31, 2011, were participating
13 in or receiving pension benefits from the city's pension plan governed by the provisions of
14 chapter 21 of this title.

15 (4) "Member" as referenced in chapter 21 of this title, for purposes of this chapter, shall
16 include existing retirees of the city of Central Falls, except as may otherwise be provided in this
17 chapter 21.4.

18 (5) "Settlement agreement" in this chapter shall mean that certain settlement and release
19 agreement approved by ninety-one percent (91%) of the existing retirees of the city of Central
20 Falls and approved by the United States Bankruptcy Court for the District of Rhode Island by
21 order dated January 9, 2012 which, upon satisfaction of the conditions in section 15(i)-(iv) of the
22 settlement agreement, shall be placed on file with the retirement board and the secretary of state
23 and available for reference in applying the provisions of this chapter.

24 **45-21.4-5.2. Transfer of pension assets - Central Falls retirement plan. – The city of**
25 **Central Falls shall take all necessary measures to facilitate the transfer of all of the existing**
26 **retirees' available pension assets to the city of Central Falls retirement system established**
27 **pursuant to this chapter as soon as practicable after the date of enactment hereof. For the**
28 **purposes of this section, "available pension assets" shall mean and consist of all city pension**
29 **assets currently held by John Hancock Life Insurance Company, or any of its affiliates, in excess**
30 **of those assets which are required to be reserved for those city pensions previously guaranteed by**
31 **John Hancock Life Insurance Company, which as of July 31, 2011 consisted of fewer than eleven**
32 **(11) individual pensions. Upon the death of the last remaining beneficiary of said guaranteed**
33 **pensions, the city shall take all necessary measures to facilitate the transfer of the remaining**
34 **reserved assets, if any, to the city of Central Falls retirement system established pursuant to this**

1 chapter as soon as practicable after the date that notice of said death is provided by the city. For
2 the purposes of this section, “available pension assets” shall not include those assets currently
3 held by John Hancock Life Insurance Company for the benefit of active employees of the city of
4 Central Falls.

5 **45-21.4-5.3. Mode of administration - Central Falls retirement plan.** – The city of
6 Central Falls retirement system established by sections 5.1 through 5.9 of chapter 21.4 shall be
7 administered in the same manner provided for in chapter 21 of this title; provided, however, that
8 where the provisions of chapter 21 conflict with the provisions of sections 5.1 through 5.9 of
9 chapter 21.4, then the provisions of sections 5.1 through 5.9 shall control. Where the provisions
10 of chapter 21 or of sections 5.1 through 5.9 of chapter 21.4 conflict with the settlement
11 agreement, the settlement agreement shall control. The city of Central Falls shall provide a
12 complete list of existing retirees who are current participants and beneficiaries of the city’s
13 retirement system as of the date of enactment hereof, as well as all data necessary to administer
14 the retirement system pursuant to sections 5.1 through 5.9 of this chapter, including, but not
15 limited to, names, addresses, titles, compensation, duties, dates of birth, length of service, and
16 beneficiary designations of each member, and any other information that the retirement board
17 shall require. The city shall give prompt notice of all appointments, removals, deaths,
18 resignations, leaves of absence, and changes in pay of members.

19 **45-21.4-5.4. Retirement allowances for existing retirees - Central Falls retirement**
20 **plan.** – All existing retirees shall receive a retirement allowance subject to the provisions of
21 sections 5.1 through 5.9 of this chapter, and as set forth in Appendix A, Appendix D-A and
22 Appendix E-A (including as the same may be amended) to the settlement agreement as follows:

23 (a) Maximum reduction of pension payments pursuant to this section. – No pension
24 benefit being paid to an existing retiree prior to the enactment of this chapter was reduced by
25 more than fifty-five percent (55%) as described in the settlement agreement, nor was any such
26 benefit reduced if the existing amount was already less than ten thousand dollars (\$10,000)
27 annually. In no event did a reduction as described in the settlement agreement result in a
28 retirement allowance of less than ten thousand dollars (\$10,000) annually.

29 (b) Spousal or dependent children benefits shall be provided pursuant to section 45-21.3-
30 1, as such statute provided on July 31, 2011, with spousal benefits being payable to the surviving
31 spouse of a deceased existing retiree until said spouse shall remarry, at the rate of sixty seven and
32 one-half percent (67.5%) of the amount of the existing retiree’s retirement allowance at the time
33 of his or her death, and if there is no surviving spouse or if the surviving spouse shall remarry,
34 then said benefit shall be paid to the dependent children of the deceased existing retiree until said

1 children shall attain the age of eighteen (18) years of age.

2 (c) Existing retirees shall be exempt from the provisions of section 45-21-54 and are
3 expressly permitted to obtain employment with the state or any municipality, whether or not said
4 municipality participates in this system, without the interruption of pension benefits.

5 (d) Existing retirees shall be exempt from the provisions of section 45-21-23.
6 Notwithstanding any other provision herein to the contrary, an existing retiree's disability
7 retirement allowance may be revoked by the retirement board in the event that, following
8 adherence to all procedural steps and processes provided under law, a court of competent
9 jurisdiction (or appropriate governing agency or body) enters a final order, decree or
10 determination, in accordance with applicable law, that is not then stayed, appealed or subject to
11 an appeal: i) Determining that the disability retirement allowance of such existing retiree was
12 awarded as a result of fraud or misrepresentation, the standard as provided in the settlement
13 agreement; and ii) Determining the amount to be forfeited. If any amounts are ordered to be
14 recovered as a result of this provision, said funds (net of reasonable attorney's fees, costs and
15 expenses incurred by the City as a result thereof) shall be deposited into the "Participating
16 Retirees' Wyatt Payments Account" as defined in the Settlement Agreement, and shall not be
17 forfeited in the manner specified in section 45-21-46.

18 (e) Existing retirees shall be exempt from the provisions of section 45-21-24. No income
19 offset shall reduce the benefits payable to an existing retiree who engages in gainful employment,
20 or has received, or in the future shall receive, income from another source.

21 (f) Existing retirees shall be exempt from the provisions of section 45-21-31 and shall not
22 be subject to any offset of benefits hereunder for workers' compensation or personal injury
23 recovery for injuries sustained while in the performance of their duties.

24 **45-21.4-5.5. Automatic increase in retirement allowances - Central Falls retirement**
25 **plan.** – Existing retirees subject to the provisions of section 5.1 through 5.9 of this chapter, shall
26 receive an increase equal to up to two percent (2%) per year of the member's base retirement
27 allowance, not compounded, in each calendar year the retirement allowance has been in effect
28 pursuant to this chapter. This increase shall be added to the base retirement allowance on the first
29 day of July 2012 and in each succeeding calendar year starting on the first day of January, 2013,
30 not compounded, but added to the preceding year's retirement allowance. The amount of the
31 increase shall equal the percentage of increase in the Consumer Price Index for all Urban
32 Consumers (CPI-U) as published by the United States Department of Labor Statistics determined
33 as of March 31 of the same calendar year, or two percent (2%), whichever is less, applied to the
34 base retirement allowance.

1 **45-21.4-5.6. Accidental disability retirements - Central Falls retirement plan. -**

2 Existing retirees who have been receiving accidental disability benefits on account of becoming
3 physically or mentally incapacitated from the performance of their job duties as a result of an
4 illness or injury sustained while, or resulting from, the performance of their job duties, and not as
5 a result of age or length of service, are listed on Appendix A and Appendix D-A (including as the
6 same may be amended) of the settlement agreement and were placed on accidental disability
7 retirement after medical examinations and certification that the retiree is physically or mentally
8 incapacitated as a result of injuries or illness sustained while, or resulting from the performance
9 of their job duties, which prevented them from performing their duties as police officers or
10 firefighters.

11 **45-21.4-5.7. Tax exemption – Fraudulent claims - Central Falls retirement plan. -**

12 The provisions of section 45-21-45 (but subject to exclusions from income for disability pensions,
13 45-21-46 (but subject to sections 45-21.4-5.4(d)), and 45-21-47 are expressly made applicable to
14 and controlling over this chapter.

15 **45-21.4-5.8. Settlement agreement controls - Central Falls retirement plan. – Except**

16 as otherwise provided herein, the provisions of the settlement agreement shall control as to
17 existing retirees. Further, nothing herein shall be deemed to derogate from the full effect of the
18 inclusion in the settlement agreement of various general law provisions (as in effect on July 31,
19 2011) that are incorporated or referenced therein, which provisions shall control over any
20 provisions of this section, this chapter and of chapter 21 and over any general law provisions that
21 may be incorporated or referenced herein.

22 **45-21.4-5.9. Liability of the city of Central Falls - Enforcement. – (a) The city is liable**

23 to the retirement system for the cost of funding a retirement system for its existing retirees who
24 are members of the system under this section and chapter.

25 (b) The liability of the city under this section and chapter is enforceable by the retirement
26 board against the city through appropriate action in the superior court.

27 (c) The state is further empowered to withhold from the city that amount of the city’s
28 portion of any shared taxes or state aid which is sufficient to satisfy its liability hereunder.

1 SECTION 3. Sections 1 and 3 of this act shall take effect upon passage. Section 2 shall
2 take effect upon satisfaction of the conditions in section 15(i) – (iv) of the settlement agreement,
3 which shall be evidenced by the joint filing by the state-appointed receiver and counsel to the
4 existing retirees of an attested copy of the settlement agreement with the retirement board and the
5 secretary of state’s office.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES - RETIREMENT OF MUNICIPAL EMPLOYEES

1 This act would provide a process for municipalities which have been placed under state
2 oversight pursuant to the fiscal stability act, R.I. general laws section 45-9-1 et seq., which have
3 locally-administered municipal employee retirement plans, to transition existing retirees, and at
4 their option active employees, to a state-administered municipal employees retirement system in
5 order to secure the fiscal stability and proper administration of said pension plans.

6 Sections 1 and 3 of this act would take effect upon passage. Section 2 would take effect
7 upon satisfaction of the conditions in section 15(i) – (iv) of the settlement agreement which
8 would be evidenced by the joint filing by the state-appointed receiver and counsel to the existing
9 retirees of an attested copy of the settlement agreement with the retirement board and the
10 secretary of state’s office.

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