

2019 -- H 5856

=====
LC002132
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

—————
A N A C T

RELATING TO TOWNS AND CITIES -- RELIEF OF INJURED AND DECEASED
FIREFIGHTERS AND POLICE OFFICERS

Introduced By: Representatives O'Brien, Ucci, Millea, Morin, and Slater

Date Introduced: March 14, 2019

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-19-1 of the General Laws in Chapter 45-19 entitled "Relief of
2 Injured and Deceased Fire Fighters and Police Officers" is hereby amended to read as follows:

3 ~~45-19-1. Salary payment during line of duty illness or injury~~ **Injured on-duty and**
4 **disability retirement.**

5 (a) Whenever any police officer of the Rhode Island Airport Corporation or whenever
6 any police officer, fire fighter, crash rescue crewperson, fire marshal, chief deputy fire marshal,
7 or deputy fire marshal of any city, town, fire district, or the state of Rhode Island is wholly or
8 partially incapacitated by reason of injuries received or sickness contracted in the performance of
9 his or her duties or due to their rendering of emergency assistance within the physical boundaries
10 of the state of Rhode Island at any occurrence involving the protection or rescue of human life
11 which necessitates that they respond in a professional capacity when they would normally be
12 considered by their employer to be officially off-duty, the respective city, town, fire district, state
13 of Rhode Island or Rhode Island Airport Corporation by which the police officer, fire fighter,
14 crash rescue crewperson, fire marshal, chief deputy fire marshal, or deputy fire marshal, is
15 employed, shall, during the period of the incapacity, pay the police officer, fire fighter, crash
16 rescue crewperson, fire marshal, chief deputy fire marshal, or deputy fire marshal, the salary or
17 wage and benefits to which the police officer, fire fighter, crash rescue crewperson, fire marshal,
18 chief deputy fire marshal, or deputy fire marshal, would be entitled had he or she not been

1 incapacitated, and shall pay the medical, surgical, dental, optical, or other attendance, or
2 treatment, nurses, and hospital services, medicines, crutches, and apparatus for the necessary
3 period, except that if any city, town, fire district, the state of Rhode Island or Rhode Island
4 Airport Corporation provides the police officer, fire fighter, crash rescue crewperson, fire
5 marshal, chief deputy fire marshal, or deputy fire marshal, with insurance coverage for the related
6 treatment, services, or equipment, then the city, town, fire district, the state of Rhode Island or
7 Rhode Island Airport Corporation is only obligated to pay the difference between the maximum
8 amount allowable under the insurance coverage and the actual cost of the treatment, service, or
9 equipment. In addition, the cities, towns, fire districts, the state of Rhode Island or Rhode Island
10 Airport Corporation shall pay all similar expenses incurred by a member who has been placed on
11 a disability pension and suffers a recurrence of the injury or illness that dictated his or her
12 disability retirement, subject to the provisions of subsection (j) herein.

13 (b) As used in this section, "police officer" means and includes any chief or other
14 member of the police department of any city or town regularly employed at a fixed salary or wage
15 and any deputy sheriff, member of the fugitive task force, or capitol police officer, permanent
16 environmental police officer or criminal investigator of the department of environmental
17 management, or airport police officer.

18 (c) As used in this section, "fire fighter" means and includes any chief or other member of
19 the fire department or rescue personnel of any city, town, or fire district, and any person
20 employed as a member of the fire department of the town of North Smithfield, or fire department
21 or district in any city or town.

22 (d) As used in this section, "crash rescue crewperson" means and includes any chief or
23 other member of the emergency crash rescue section, division of airports, or department of
24 transportation of the state of Rhode Island regularly employed at a fixed salary or wage.

25 (e) As used in this section, "fire marshal," "chief deputy fire marshal", and "deputy fire
26 marshal" mean and include the fire marshal, chief deputy fire marshal, and deputy fire marshals
27 regularly employed by the state of Rhode Island pursuant to the provisions of chapter 28.2 of title
28 23.

29 (f) Any person employed by the state of Rhode Island, except for sworn employees of the
30 Rhode Island State Police, who is otherwise entitled to the benefits of chapter 19 of this title shall
31 be subject to the provisions of chapters 29 -- 38 of title 28 for all case management procedures
32 and dispute resolution for all benefits.

33 (g) In order to receive the benefits provided for under this section, a police officer or
34 firefighter must prove to their employer that he or she had reasonable grounds to believe that

1 there was an emergency which required an immediate need for their assistance for the protection
2 or rescue of human life.

3 (h) Any claims to the benefits provided for under this section resulting from the rendering
4 of emergency assistance in the state of Rhode Island at any occurrence involving the protection or
5 rescue of human life while off-duty, shall first require those covered by this section to submit a
6 sworn declaration to their employer attesting to the date, time, place and nature of the event
7 involving the protection or rescue of human life causing the professional assistance to be rendered
8 and the cause and nature of any injuries sustained in the protection or rescue of human life. Sworn
9 declarations shall also be required from any available witness to the alleged emergency involving
10 the protection or rescue of human life.

11 (i) All declarations required under this section shall contain the following language:

12 "Under penalty of perjury, I declare and affirm that I have examined this declaration,
13 including any accompanying schedules and statements, and that all statements contained herein
14 are true and correct."

15 (j) Any person receiving injured on-duty benefits pursuant to this section, and subject to
16 the jurisdiction of the state retirement board for accidental retirement disability, for an injury
17 occurring on or after July 1, 2011, shall apply for an accidental disability retirement allowance
18 from the state retirement board not later than the later of eighteen (18) months after the date of the
19 person's injury that resulted in said person's injured on duty status or sixty (60) days from the date
20 on which ~~the treating physician~~ any judge of the workers' compensation court certifies that the
21 person has reached maximum medical improvement. Nothing herein shall be construed to limit or
22 alter any and all rights of the parties with respect to independent medical examination or
23 otherwise, as set forth in the applicable collective bargaining agreement. Notwithstanding the
24 forgoing, any person receiving injured on duty benefits as the result of a static and incapacitating
25 injury whose permanent nature is readily obvious and ascertainable shall be required to apply for
26 an accidental disability retirement allowance within sixty (60) days from the date on which the
27 treating physician certifies that the person's injury is permanent, or sixty (60) days from the date
28 on which such determination of permanency is made in accordance with the independent medical
29 examination procedures as set forth in the applicable collective bargaining agreement.

30 (1) If a person with injured on duty status fails to apply for an accidental disability
31 retirement allowance from the state retirement board within the time frame set forth above, that
32 person's injured on duty payment shall terminate. Further, any person suffering a static and
33 incapacitating injury as set forth in subsection (j) above and who fails to apply for an accidental
34 disability benefit allowance as set forth in subsection (j) shall have his or her injured on duty

1 payment terminated.

2 (2) A person who so applies shall continue to receive injured on duty payments, and the
3 right to continue to receive IOD payments of a person who so applies shall terminate in the event
4 of a final ruling of the workers compensation court or of an applicable retirement board allowing
5 accidental disability benefits. Nothing herein shall be construed to limit or alter any and all rights
6 of the parties with respect to independent medical examination or otherwise, as set forth in the
7 applicable collective bargaining agreement.

8 (3) In the event that any state employee receiving injured on-duty benefits pursuant to
9 this section, and subject to the jurisdiction of the state retirement board for accidental retirement
10 disability is aggrieved by the determination of the retirement board pursuant to § 45-19-1, for an
11 injury or illness occurring on or after July 1, 2011, the party may submit an appeal to the Rhode
12 Island workers' compensation court. The appellant shall file a notice of appeal with the retirement
13 board and with the workers' compensation court within twenty (20) days of the entry of the
14 retirement board's decision and shall serve a copy of the notice of appeal upon the opposing party.

15 (4) All proceedings filed with the workers' compensation court pursuant to this section
16 shall be de novo and shall be subject to the provisions of chapters 29 through 38 of title 28 for all
17 case management procedures and dispute resolution processes, as provided under the rules of the
18 workers' compensation court. The workers' compensation court shall enter a pretrial order in
19 accordance with § 28-35-20(c) that grants or denies, in whole or in part, the relief sought by the
20 petitioner. The pretrial order shall be effective upon entry and any payments ordered by it shall be
21 paid within fourteen (14) days of the entry of the order. Provided, however, that in the event that
22 the retirement board files a claim for trial of the pretrial order entered by the court, the order of
23 the court shall be stayed until a final order or decree is entered by the court. If after trial and the
24 entry of a final decree, the court sustains the findings and orders entered in the pretrial order, the
25 retirement board shall reimburse the state all benefits paid by it from the time the pretrial order
26 was entered until the time the final decree is entered by the court. Where the matter has been
27 heard and decided by the workers' compensation court, the court shall retain jurisdiction to review
28 any prior orders or decrees entered by it. Such petitions to review shall be filed directly with the
29 workers' compensation court and shall be subject to the case management and dispute resolution
30 procedures set forth in chapters 29 through 38 of title 28 ("labor and labor relations"). Any state
31 employee receiving injured on-duty benefits pursuant to this section, that submits an appeal to
32 contest the state retirement board's denial of an accidental disability pension shall have a
33 rebuttable presumption that the injury or illness was sustained in the performance of duty and not
34 the result of age or length of service.

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

5 (6) Notwithstanding the provisions of any law to the contrary, any state employee
6 receiving injured on-duty benefits pursuant to this section, and subject to the jurisdiction of the
7 state retirement board for accidental retirement disability, for an injury occurring before July 1,
8 2011, shall apply for an accidental disability pension, and if denied by the retirement board may
9 submit an appeal to the Rhode Island workers' compensation court which shall be heard de novo.

10 (k) Any state employee that received injured on-duty benefits, and qualified/approved for
11 accidental disability retirement shall be entitled, until attaining Medicare eligibility, to be covered
12 for insurance benefits pursuant to the provisions of §§ 36-12-1 through 36-12-5 for himself or
13 herself and, if he or she so desires, his or her non-Medicare-eligible dependents, upon agreeing to
14 pay the total cost of his or her contract at the group rate for active state employees. Payments of
15 any non-Medicare-eligible retired employee for coverage shall be deducted from his or her
16 retirement allowance and remitted from time to time in payment for such contract. In addition,
17 any state employee that received injured on-duty benefits and was approved for accidental
18 disability retirement shall be permitted to purchase coverage for his or her non-Medicare-eligible
19 dependents upon agreeing to pay the additional cost of the contract at the group rate for active
20 state employees. Payment for coverage for these dependents shall be deducted from his or her
21 retirement allowances and remitted as required in payment for the contract.

22 SECTION 2. This act shall take effect upon passage.

=====
LC002132
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO TOWNS AND CITIES -- RELIEF OF INJURED AND DECEASED
FIREFIGHTERS AND POLICE OFFICERS

1 This act would provide that a public safety officer/employee injured on-duty shall apply
2 for a disability pension no later than the later of eighteen (18) months following the injury or
3 sixty (60) days after a workers' compensation judge certifies the injured employee has reached
4 maximum medical improvement. It would also provide for the workers' compensation court to
5 conduct disability hearings and appeals.

6 This act would take effect upon passage.

=====
LC002132
=====