

2012 -- H 7946

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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 STATE AFFAIRS AND GOVERNMENT - STATE POLICE

Introduced By: Representatives Petrarca, O'Neill, Carnevale, Winfield, and Ucci

Date Introduced: March 14, 2012

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-28-22 of the General Laws in Chapter 42-28 entitled "State  
2 Police" is hereby amended to read as follows:

3 **42-28-22. Retirement of members.** -- (a) Whenever any member of the state police  
4 hired prior to July 1, 2007 has served for twenty (20) years, he or she may retire therefrom or he  
5 or she may be retired by the superintendent with the approval of the governor, and in either event  
6 a sum equal to one-half (1/2) of the whole salary for the position from which he or she retired  
7 determined on the date he or she receives his or her first retirement payment shall be paid him or  
8 her during life.

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

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

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

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

1 (c) (1) Any member who retired prior to July 1, 1977 shall receive a benefits payment  
2 adjustment equal to three percent (3%) of his or her original retirement, as determined in  
3 subsection (b) of this section, in addition to his or her original retirement allowance. In each  
4 succeeding year thereafter during the month of January, the retirement allowance shall be  
5 increased an additional three percent (3%) of the original retirement allowance, not compounded,  
6 to be continued until January 1, 1991. For the purposes of the computation, credit shall be given  
7 for a full calendar year regardless of the effective date of the service retirement allowance. For  
8 purposes of this subsection, the benefits payment adjustment shall be computed from January 1,  
9 1971 or the date of retirement, whichever is later in time.

10 (2) Any member of the state police who retires pursuant to the provisions of this chapter  
11 on or after January 1, 1977, shall on the first day of January, next following the third anniversary  
12 date of the retirement receive a benefits payment adjustment, in addition to his or her retirement  
13 allowance, in an amount equal to three percent (3%) of the 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.

18 (3) Any retired member of the state police who is receiving a benefit payment  
19 adjustment pursuant to subdivisions (1) and (2) of this section shall beginning January 1, 1991  
20 and ending June 30, 2012, receive a benefits payment adjustment equal to fifteen hundred dollars  
21 (\$1,500).

22 (d) The benefits payment adjustment as provided in this section shall apply to and be in  
23 addition to the retirement benefits under the provisions of section 42-28-5, and to the injury and  
24 death benefits under the provisions of section 42-28-21.

25 (e) (1) Any member who retires after July 1, 1972 and is eligible to retire prior to July 1,  
26 2012 and who has served beyond twenty (20) years shall be allowed an additional amount equal  
27 to three percent (3%) for each completed year served after twenty (20) years, but in no event shall  
28 the original retirement allowance exceed sixty-five percent (65%) of his or her whole salary as  
29 defined in subsection (b) hereof or sixty-five percent (65%) of his or her salary as defined in  
30 subsection (b) hereof in his or her twenty-fifth (25th) year whichever is less.

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

1 (f) (1) Any member who retires, has served as a member for twenty (20) years or more,  
2 and who served for a period of six (6) months or more of active duty in the armed service of the  
3 United States or in the merchant marine service of the United States as defined in section 2 of  
4 chapter 1721 of the Public Laws, 1946, may purchase credit for such service up to a maximum of  
5 ~~two (2)~~ four (4) years; provided that any member who has served at least six (6) months or more  
6 in any one year shall be allowed to purchase one year for such service and any member who has  
7 served a fraction of less than six (6) months in his or her total service shall be allowed to purchase  
8 six (6) months' credit for such service.

9 (i) Any member who is granted a leave of absence without pay for illness, injury or any  
10 other reason may receive credit therefor by making the full actuarial cost as defined in  
11 subdivision 36-8-1(9); provided the employee returns to state service for at least one year upon  
12 completion of the leave. Credit for leaves of absence shall be limited in the aggregate during the  
13 total service of an employee to a period of four (4) years.

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

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

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

28 (g) The provisions of this section shall not apply to civilian employees in the Rhode  
29 Island state police; and, further, from and after April 28, 1937, chapters 8 -- 10, inclusive, of title  
30 36 shall not be construed to apply to the members of the Rhode Island state police, except as  
31 provided by sections 36-8-3, 36-10-1.1, 42-28-22.1, and 42-28-22.2, and section 36-8-1(5) and  
32 (8)(a) effective July 1, 2012.

33 (h) Any member of the state police other than the superintendent of state police, who is  
34 hired prior to July 1, 2007 and who has served for twenty-five (25) years or who has attained the

1 age of sixty-two (62) years, whichever shall first occur, shall retire therefrom.

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

7 (2) Any member of the state police who is hired on or after July 1, 2007 may serve up to  
8 a maximum of thirty (30) years, and shall be allowed an additional amount equal to three percent  
9 (3.0%) for each completed year served after twenty-five (25) years, but in no event shall the  
10 original retirement allowance exceed sixty-five percent (65%) of his or her "whole salary" as  
11 defined in subsection (b) hereof.

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

13 (j) (1) Any member of the state police, other than the superintendent of state police, who  
14 is not eligible to retire on or prior to June 30, 2012 may retire at any time subsequent to the date  
15 the member's retirement allowance equals or exceeds fifty percent (50%) of average  
16 compensation as defined in section 36-8-1(5)(a), provided that a member shall retire upon the  
17 first to occur of:

18 (i) The date the member's retirement allowance equals sixty-five percent (65%); or

19 (ii) The later of the attainment of age sixty-two (62) or completion of five (5) years of  
20 service; provided however, any current member as of June 30, 2012 who has not accrued fifty  
21 percent (50%) upon attaining the age of sixty-two (62) shall retire upon accruing fifty percent  
22 (50%); and upon retirement a member shall receive a retirement allowance which shall equal:

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

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

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

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

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

1 (C) Any member of the state police who is eligible to retire on or prior to June 30, 2012  
2 shall retire with a retirement allowance calculated in accordance with paragraph (a) and (e) above  
3 except that whole salary shall be defined as final compensation where compensation for purposes  
4 of this section and section 42-28-22.1 includes base salary, longevity and holiday pay.

5 (D) Notwithstanding the preceding provisions, in no event shall a member's final  
6 compensation be lower than his or her final compensation determined as of June 30, 2012.

7 (2) In no event shall a member's original retirement allowance under any provisions of  
8 this section exceed sixty-five percent (65%) of his or her average compensation.

9 (3) For each member who retires on or after July 1, 2012, except as provided in  
10 paragraph (j)(1)(C) above, compensation and average compensation shall be defined in  
11 accordance with section 36-8-1(5)(a) and (8), provided that for a member whose regular work  
12 period exceeds one hundred forty-seven (147) hours over a twenty-four (24) day period at any  
13 time during the four (4) year period immediately prior to his/her retirement that member shall  
14 have up to four hundred (400) hours of his/her pay for regularly scheduled work earned during  
15 this period shall be included as "compensation" and/or "average compensation" for purposes of  
16 this section and section 42-28-22.1.

17 (4) (i) Notwithstanding the prior paragraphs of this section, and subject to paragraph  
18 (4)(ii) below, for all present and former members, active and retired members, and beneficiaries  
19 receiving any retirement, disability or death allowance or benefit of any kind, whether for or on  
20 behalf of a non-contributory member or contributory member, the annual benefit adjustment  
21 provided in any calendar year under this section shall be equal to (A) multiplied by (B) where (A)  
22 is equal to the percentage determined by subtracting five and one-half percent (5.5%) (the  
23 "subtrahend") from the Five-Year Average Investment Return of the retirement system  
24 determined as of the last day of the plan year preceding the calendar year in which the adjustment  
25 is granted, said percentage not to exceed four percent (4%) and not to be less than zero percent  
26 (0%), and (B) is equal to the lesser of the member's retirement allowance or the first twenty-five  
27 thousand dollars (\$25,000) of retirement allowance, such twenty-five thousand dollars (\$25,000)  
28 amount to be indexed annually in the same percentage as determined under (4)(i)(A) above. The  
29 "Five-Year Average Investment Return" shall mean the average of the investment returns for the  
30 most recent five (5) plan years as determined by the retirement board. Subject to paragraph (4)(ii)  
31 below, the benefit adjustment provided by this paragraph shall commence upon the third (3rd)  
32 anniversary of the date of retirement or the date on which the retiree reaches age fifty-five (55),  
33 whichever is later. In the event the retirement board adjusts the actuarially assumed rate of return  
34 for the system, either upward or downward, the subtrahend shall be adjusted either upward or

1 downward in the same amount.

2 (ii) Except as provided in paragraph (4)(iii), the benefit adjustments under this section  
3 for any plan year shall be suspended in their entirety unless the GASB Funded Ratio of the  
4 Employees' Retirement System of Rhode Island, the Judicial Retirement Benefits Trust and the  
5 State Police Retirement Benefits Trust, calculated by the system's actuary on an aggregate basis,  
6 exceeds eighty percent (80%) in which event the benefit adjustment will be reinstated for all  
7 members for such plan year.

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

12 (iii) Notwithstanding paragraph (4)(ii), in each fifth plan year commencing after June 30,  
13 2012 commencing with the plan year ending June 30, 2017, and subsequently at intervals of five  
14 (5) plan years, a benefit adjustment shall be calculated and made in accordance with paragraph  
15 (4)(i) above until the GASB Funded Ratio of the Employees' Retirement System of Rhode Island,  
16 the Judicial Retirement Benefits Trust and the State Police Retirement Benefits Trust, calculated  
17 by the system's actuary on an aggregate basis, exceeds eighty percent (80%).

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

20 (v) The cost-of-living adjustment as provided in this paragraph (j)(4) shall apply to and  
21 be in addition to the retirement benefits under the provisions of section 42-28-5 and to the injury  
22 and death benefits under the provisions of section 42-28-21.

23 (5) Any member with contributory service on or after July 1, 2012, who has completed at  
24 least five (5) years of contributory service but who has not retired in accordance with (j)(1)  
25 above, shall be eligible to retire upon the attainment of member's Security retirement age as  
26 defined in 36-8-1(19).

27 (6) In no event shall a member's retirement allowance be less than the member's  
28 retirement allowance calculated as of June 30, 2012 based on the member's years of total service  
29 and whole salary as of June 30, 2012.

30 (k) In calculating the retirement benefit for any member, the term base salary as used in  
31 subdivision (b)(3) or average compensation as used in paragraph (j) shall not be affected by a  
32 deferral of salary plan or a reduced salary plan implemented to avoid shutdowns or layoffs or to  
33 effect cost savings. Basic salary shall remain for retirement calculation that which it would have  
34 been but for the salary deferral or salary reduction due to a plan implemented to avoid shutdowns

1 or layoffs or to effect cost savings.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - STATE POLICE

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1           This act would increase the amount of service credit time a member of the state police  
2 may purchase for active military service from two (2) years to four (4) years and would allow  
3 credit for certain leaves of absence.

4           This act would take effect upon passage.

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