AN ACT
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:

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

CHAPTER 21.4
THE TRANSITION OF LOCALLY-ADMINISTERED MUNICIPAL EMPLOYEE RETIREMENT PLANS OF MUNICIPALITIES PLACED UNDER STATE OVERSIGHT PURSUANT TO THE FISCAL STABILITY ACT TO THE STATE-ADMINISTERED MUNICIPAL EMPLOYEES RETIREMENT SYSTEM

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

(b) It is further the intent of this chapter to provide the existing retirees of the city of Central Falls with security for the funding of their retirement plan, the majority of whose members are firefighters and police officers, to be administered in accordance with chapter 21 of this title. The intent of this chapter is to codify a restructured and sustainable retirement plan for
the city of Central Falls for existing retirees, especially in light of the financial circumstances of
the August 1, 2011 bankruptcy filing by the city which have resulted in severe cuts to such
retirees. It is further the purpose of this chapter to implement the terms of a certain settlement and
release agreement approved by ninety-one percent (91%) of the existing retirees of the city of
Central Falls, as defined herein, and approved by the United States bankruptcy court for the
district of Rhode Island by Order dated January 9, 2012 and filed with the retirement board.
Further, in consideration and acknowledgement of the drastic and unprecedented reductions in
pension benefits of up to fifty-five percent (55%) of the benefits to which they were entitled
under the previous Central Falls pension plan, and dramatically increased health benefit
collections required of the existing retirees, it is the express intent of this chapter to exempt the
existing retirees from certain provisions of chapter 21 of this title in order that the effect on
existing retirees of these severe reductions to which they have agreed under the terms of the
settlement agreement may be ameliorated.

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

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

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

(b) The retirement system established by this chapter shall be administered in the same
manner as provided for in chapter 21 of this title; provided, however, that where the provisions of
chapter 21 conflict with the provisions of this chapter, then the provisions of this chapter shall
control. The general assembly hereby authorizes the director of revenue to approve any
settlement agreement with municipal employee unions or employees entered into in furtherance
of the purposes of this chapter. The director of the department of revenue is authorized to ratify and confirm any settlement agreement entered into prior to the effective date of this statute and where the provisions of chapter 21 or of this chapter conflict with such a settlement agreement, the settlement agreement shall control. The municipality shall provide a complete list of members participating in the system and beneficiaries of the system, as well as all data necessary to administer the retirement system pursuant to this chapter, including but not limited to: names, addresses, titles, compensation, duties, dates of birth, length of service, and beneficiary designations of each member, and any other information that the retirement board shall require.

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

45-21.4-5. [Reserved]

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

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

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

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

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

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

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

(3) “Existing retirees” in sections 5.1 through 5.9 of chapter 21.4 means:
(i) All retirees of the city who participated in a locally administered city pension plan and
who were receiving pension benefits from the city by virtue of said plan as of July 31, 2011 and,
where the context requires, shall also mean and include the beneficiaries of such retirees where
such beneficiaries were receiving such benefits as of such date or where they become entitled to
benefits thereafter; and

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

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

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

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

45-21.4-5.2. Transfer of pension assets - Central Falls retirement plan. – The city of
Central Falls shall take all necessary measures to facilitate the transfer of all of the existing
retirees’ available pension assets to the city of Central Falls retirement system established
pursuant to this chapter as soon as practicable after the date of enactment hereof. For the
purposes of this section, “available pension assets” shall mean and consist of all city pension
assets currently held by John Hancock Life Insurance Company, or any of its affiliates, in excess
of those assets which are required to be reserved for those city pensions previously guaranteed by
John Hancock Life Insurance Company, which as of July 31, 2011 consisted of fewer than eleven
(11) individual pensions. Upon the death of the last remaining beneficiary of said guaranteed
pensions, the city shall take all necessary measures to facilitate the transfer of the remaining
reserved assets, if any, to the city of Central Falls retirement system established pursuant to this
chapter as soon as practicable after the date that notice of said death is provided by the city. For the purposes of this section, “available pension assets” shall not include those assets currently held by John Hancock Life Insurance Company for the benefit of active employees of the city of Central Falls.

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

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

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

(b) Spousal or dependent children benefits shall be provided pursuant to section 45-21.3-1, as such statute provided on July 31, 2011, with spousal benefits being payable to the surviving spouse of a deceased existing retiree until said spouse shall remarry, at the rate of sixty seven and one-half percent (67.5%) of the amount of the existing retiree’s retirement allowance at the time of his or her death, and if there is no surviving spouse or if the surviving spouse shall remarry, then said benefit shall be paid to the dependent children of the deceased existing retiree until said
children shall attain the age of eighteen (18) years of age.

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

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

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

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

45-21.4.5.5. Automatic increase in retirement allowances - Central Falls retirement plan. – Existing retirees subject to the provisions of section 5.1 through 5.9 of this chapter, shall receive an increase equal to up to two percent (2%) per year of the member’s base retirement allowance, not compounded, in each calendar year the retirement allowance has been in effect pursuant to this chapter. This increase shall be added to the base retirement allowance on the first day of July 2012 and in each succeeding calendar year starting on the first day of January, 2013, not compounded, but added to the preceding year’s retirement allowance. The amount of the increase shall equal the percentage of increase in the Consumer Price Index for all Urban Consumers (CPI-U) as published by the United States Department of Labor Statistics determined as of March 31 of the same calendar year, or two percent (2%), whichever is less, applied to the base retirement allowance.
45-21.4-5.6. Accidental disability retirements - Central Falls retirement plan. -

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

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

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

45-21.4-5.8. Settlement agreement controls - Central Falls retirement plan. – Except as otherwise provided herein, the provisions of the settlement agreement shall control as to existing retirees. Further, nothing herein shall be deemed to derogate from the full effect of the inclusion in the settlement agreement of various general law provisions (as in effect on July 31, 2011) that are incorporated or referenced therein, which provisions shall control over any provisions of this section, this chapter and of chapter 21 and over any general law provisions that may be incorporated or referenced herein.

45-21.4-5.9. Liability of the city of Central Falls - Enforcement. – (a) The city is liable to the retirement system for the cost of funding a retirement system for its existing retirees who are members of the system under this section and chapter.

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

(c) The state is further empowered to withhold from the city that amount of the city’s portion of any shared taxes or state aid which is sufficient to satisfy its liability hereunder.
SECTION 3. Sections 1 and 3 of this act shall take effect upon passage. Section 2 shall take effect upon satisfaction of the conditions in section 15(i) – (iv) of the settlement agreement, which shall be evidenced by the joint filing by the state-appointed receiver and counsel to the existing retirees of an attested copy of the settlement agreement with the retirement board and the secretary of state’s office.

========
LC02559
========
This act would provide a process for municipalities which have been placed under state oversight pursuant to the fiscal stability act, R.I. general laws section 45-9-1 et seq., which have locally-administered municipal employee retirement plans, to transition existing retirees, and at their option active employees, to a state-administered municipal employees retirement system in order to secure the fiscal stability and proper administration of said pension plans.

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