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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- RE-EMPLOYMENT OF WORKERS  
WHO BECOME DISABLED

Introduced By: Representatives Winfield, and Keable

Date Introduced: February 27, 2013

Referred To: House Labor

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 16-16-14, 16-16-16 and 16-16-19 of the General Laws in Chapter  
2 16-16 entitled "Teachers' Retirement" are hereby amended to read as follows:

3           **16-16-14. Retirement for ordinary disability.** -- (a) Application for ordinary disability  
4 may be made by a teacher, his or her department head, or a person acting in the teacher's behalf,  
5 while in active service or on leave of absence for illness, provided that the teacher has had five  
6 (5) or more years of total service of which at least three (3) consecutive years shall have been as a  
7 teacher, and the teacher is not entitled to a regular service retirement allowance. A statement from  
8 a physician shall accompany the application stating that the teacher is physically or mentally  
9 incapacitated for the performance of ~~duty~~ duties of the position, with or without reasonable  
10 accommodations, and that he or she should be retired.

11           (b) A medical examination of the teacher shall be made by three (3) physicians engaged  
12 by the retirement board for this purpose, and should the medical examination show that the  
13 teacher is physically or mentally incapacitated for the performance of ~~duty~~ duties of the position,  
14 with or without reasonable accommodations, and ought to be retired, the physicians shall so  
15 report and certify to the retirement board and the retirement board, may retire the teacher for  
16 ordinary disability.

17           (c) The retirement board shall establish uniform eligibility requirements, standards, and  
18 criteria for ordinary disability which shall apply to all members who make application for

1 retirement for ordinary disability.

2 [\(d\) The provisions of this section are subject to the provisions of section 28-33-18.2,](#)  
3 [suitable alternative employment, and section 28-33-47, reinstatement of injured worker.](#)

4 **16-16-16. Retirement for accidental disability.** -- (a) Medical examination of an active  
5 teacher for accidental disability, and investigation of all statements and certificates by him or her  
6 or in his or her behalf in connection with the accidental disability, shall be made upon the  
7 application of the head of the department in which the teacher is employed or upon application of  
8 the teacher, or of a person acting in his or her behalf, stating that the teacher is physically or  
9 mentally incapacitated for the performance of service as a natural and proximate result of an  
10 accident, while in the performance of duty, and certify the definite time, place, and conditions of  
11 the duty performed by the teacher resulting in the alleged disability, and that the alleged disability  
12 is not the result of willful negligence or misconduct on the part of the teacher, and is not the result  
13 of age or length of service, and that the teacher ~~should~~, [is physically or mentally incapacitated for](#)  
14 [the performance of duties of the position, with or without reasonable accommodations, and](#)  
15 therefore, be retired.

16 (b) The application shall be made within five (5) years of the alleged accident from  
17 which the injury has resulted in the teacher's present disability, and shall be accompanied by an  
18 accident report and a physician's report certifying to the disability; provided, that, if the teacher  
19 was able to return to his or her employment and subsequently reinjures or aggravates the same  
20 injury, the application shall be made within the later of five (5) years of the alleged accident or  
21 three (3) years of the reinjury or aggravation. The application may also state that the teacher is  
22 permanently and totally disabled, [with or without reasonable accommodations](#), from any  
23 employment.

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

34 (d) The retirement board shall establish uniform eligibility requirements, standards, and

1 criteria for accidental disability which shall apply to all members who make application for  
2 accidental disability benefits.

3 [\(e\) The provisions of this section are subject to the provisions of section 28-33-18.2,](#)  
4 [suitable alternative employment, and section 28-33-47, reinstatement of injured worker.](#)

5 **16-16-19. Reexamination of disability beneficiaries -- Reduction of benefit --**

6 **Reinstatement to active service.** -- (a) Once each year the retirement board may, and upon his or  
7 her application shall, require any disability beneficiary under the minimum age of service  
8 retirement to undergo a medical examination, the examination to be made at the place of  
9 residence of the beneficiary, or other place mutually agreed upon, by a physician or physicians  
10 engaged by the retirement board. If the examination indicates that the beneficiary is able to  
11 engage in a gainful occupation, his or her name shall be placed on appropriate lists of candidates  
12 prepared for appointment to positions in his or her department or agency for which he or she is  
13 stated to be qualified, of a salary grade not exceeding that from which he or she was last retired.  
14 Should the beneficiary be engaged in a gainful occupation, [with or without reasonable](#)  
15 [accommodations](#), or should he or she be offered service as a result of the placing of his or her  
16 name on a list of candidates, the retirement board shall adjust, and, from time to time readjust, the  
17 amount of his or her disability benefit to an amount which shall not exceed the rate of benefit  
18 upon which he or she was originally retired, and which, when added to the amount then earnable  
19 by him or her, shall not exceed his or her rate of annual compensation currently for the  
20 classification that the disability annuitant held prior to retirement. Should any disability  
21 beneficiary under the minimum age of service retirement refuse to submit to one medical  
22 examination in any year by a physician or physicians designated by the retirement board, his or  
23 her benefit shall be discontinued until his or her withdrawal of the refusal, and should his or her  
24 refusal continue for one year, all his or her rights in and to the benefit shall be revoked by the  
25 retirement board. A disability beneficiary, reinstated to active service, shall be reinstated as a  
26 member and participate in the rights of the retirement system, to the same extent as any other  
27 teacher.

28 [\(b\) The provisions of this section are subject to the provisions of section 28-33-18.2,](#)  
29 [suitable alternative employment, and section 28-33-47, reinstatement of injured worker.](#)

30 SECTION 2. Chapter 16-16 of the General Laws entitled "Teachers' Retirement" is  
31 hereby amended by adding thereto the following section:

32 **16-16-44. Reinstatement of disabled teacher.** -- (a) [A teacher who is absent as a result](#)  
33 [of the ordinary or accidental disability shall be reinstated by the teacher's employer to the](#)  
34 [teacher's former position of employment upon written demand for reinstatement, if the position](#)

1 exists and is available and the teacher is not disabled from performing the duties of the position  
2 with reasonable accommodation made by the employer in the manner in which the work is to be  
3 performed. A teacher's former position is "available" even if that position has been filled by a  
4 replacement while the teacher was absent as a result of the ordinary or accidental disability. If the  
5 former position is not available, the teacher shall be reinstated in any other existing position that  
6 is vacant and suitable. A certificate by the treating physician that the physician approves the  
7 teacher's return to the teacher's regular employment or other suitable employment shall be prima  
8 facie evidence that the teacher is able to perform the duties.

9 (b) The right of reinstatement shall be subject to the provisions for seniority rights and  
10 other employment restrictions contained in a valid collective bargaining agreement between the  
11 employer and a representative of the employer's employees, and nothing shall exempt any  
12 employer from or excuse full compliance with any applicable provisions of the Americans with  
13 Disabilities Act 42 USC section 12101 et seq., and chapter 87 of title 42.

14 SECTION 3. Sections 28-31-5 and 28-31-6 of the General Laws in Chapter 28-31  
15 entitled "Workers' Compensation - State and Municipal Employees" are hereby amended to read  
16 as follows:

17 **28-31-5. Payment of benefits for state employees. --** (a) The expenses incurred for and  
18 in behalf of the state under the provisions of sections 28-31-3, 28-33-5, 28-33-12, 28-33-16, 28-  
19 33-17, 28-33-18, 28-33-19, 28-33-34, 28-33-35, 28-33-36, 28-33-37, and 28-33-39 and for  
20 benefits similar to the benefits provided for employees of employers other than the state under the  
21 provisions of section 28-37-8 as determined by a prior agreement or settled as provided by  
22 section 28-31-4 or by the department's preliminary determination or decree of the workers'  
23 compensation court, shall be paid out of any money in the state treasury not otherwise  
24 appropriated and the state controller shall draw his or her order or orders upon the general  
25 treasurer for the payment of the claim in accordance with the provisions of the agreement,  
26 preliminary determination, or decree upon receipt by the controller of a copy of the agreement or  
27 preliminary determination certified by the director or of a copy of the decree certified by the  
28 administrator of the workers' compensation court.

29 (b) Payments for continuing total incapacity until the employee's total incapacity has  
30 ended or until his or her death similar to the payments which are provided for employees of  
31 employers other than the state by section 28-37-8 shall in the case of an employee of the state be  
32 paid out of any money in the state treasury not otherwise appropriated.

33 (c) Benefits similar to the provisions of section 28-37-8 shall be paid to employees of the  
34 state whose final payment attaining the maximum limit for compensation for total incapacity as

1 provided by section 28-33-17 is paid subsequent to January 1, 1969 and who continue to be  
2 totally incapacitated for work due to an injury sustained while employed by the state.

3 (d) The provisions of this section are subject to the provisions of section 28-33-18.2,  
4 [suitable alternative employment, and section 28-33-47, reinstatement of injured worker.](#)

5 **28-31-6. Payment of benefits for municipal employees -- Action for collection. --** (a)

6 (1) The expenses incurred for and in behalf of any town or city under the provisions of sections  
7 28-31-3 and 28-33-5 -- 28-33-11, and the amount of compensation due an employee of a town or  
8 city as determined by an agreement with or paid by that town or city, or by the department's  
9 preliminary determination or decree of the workers' compensation court, shall be paid by the  
10 treasurer of that town or city out of any money of the town or city in its hands.

11 (2) The payment shall be made by the treasurer upon receipt by him or her of a  
12 certificate of those expenses satisfactory to him or her, or of a certified copy of the agreement,  
13 preliminary determination, or decree under which the compensation is to be paid; provided, that  
14 he or she shall not make any payment until the payment has been approved by the auditor of the  
15 city or town if there is any such officer, and if there is not any such officer, then payment shall  
16 first be approved by the mayor of the city or the president of the town council of the town.

17 (3) If more than one payment of money is made or required by any agreement,  
18 preliminary determination, or decree, the payments shall be made in the manner provided in this  
19 section as they become due.

20 (4) If any expenses or compensation required to be paid by a town or city under the  
21 provisions of chapters 29 -- 38 of this title or any installment of them is not paid within twenty  
22 (20) days after the certificate or certified copy is filed with the treasurer of the town or city, the  
23 expenses or compensation may be collected in the manner in which a judgment against a town or  
24 city may be collected under the provisions of sections 45-15-5 -- 45-15-7.

25 (b) The provisions of this section are subject to the provisions of section 28-33-18.2,  
26 [suitable alternative employment, and section 28-33-47, reinstatement of injured worker.](#)

27 SECTION 4. Chapter 28-31 of the General Laws entitled "Workers' Compensation - State  
28 and Municipal Employees" is hereby amended by adding thereto the following section:

29 **28-31-16. Reinstatement of disabled employee. --** [\(a\) An employee who has sustained a  
30 compensable injury shall be reinstated by the employee's employer to the employee's former  
31 position of employment upon written demand for reinstatement, if the position exists and is  
32 available and the employee is not disabled from performing the duties of the position with  
33 reasonable accommodation made by the employer in the manner in which the work is to be  
34 performed. A employee's former position is "available" even if that position has been filled by a](#)

1 replacement while the employee was absent as a result of the ordinary or accidental disability. If  
2 the former position is not available, the employee shall be reinstated in any other existing position  
3 that is vacant and suitable. A certificate by the treating physician that the physician approves the  
4 employee's return to the employee's regular employment or other suitable employment shall be  
5 prima facie evidence that the employee is able to perform the duties.

6 (b) The right of reinstatement shall be subject to the provisions for seniority rights and  
7 other employment restrictions contained in a valid collective bargaining agreement between the  
8 employer and a representative of the employer's employees, and nothing shall exempt any  
9 employer from or excuse full compliance with any applicable provisions of the Americans with  
10 Disabilities Act, 42 USC section 12101 et seq., and chapter 87 of title 42.

11 SECTION 5. Section 36-4-39 of the General Laws in Chapter 36-4 entitled "Merit  
12 System" is hereby amended to read as follows:

13 **36-4-39. Retirement or transfer to light duty. --** (a) When an employee has become  
14 physically or mentally incapable of or unfit for the efficient performance of the duties of his or  
15 her position, with or without reasonable accommodation, by reason of infirmities due to advanced  
16 age or other disability, it shall be the duty of the appointing authority to transfer the employee to  
17 less arduous duties or to order his or her retirement. The appeal procedure established for  
18 dismissals shall apply to retirements ordered under authority of this section.

19 (b) The provisions of this section are subject to the provisions of section 28-33-18.2,  
20 suitable alternative employment, and section 28-33-47, reinstatement of injured worker.

21 SECTION 6. Chapter 36-4 of the General Laws entitled "Merit System" is hereby  
22 amended by adding thereto the following section:

23 **36-4-66. Reinstatement of disabled employee. --** (a) An employee who has sustained a  
24 compensable injury shall be reinstated by the employee's employer to the employee's former  
25 position of employment upon written demand for reinstatement, if the position exists and is  
26 available and the employee is not disabled from performing the duties of the position with  
27 reasonable accommodation made by the employer in the manner in which the work is to be  
28 performed. A employee's former position is "available" even if that position has been filled by a  
29 replacement while the employee was absent as a result of the ordinary or accidental disability. If  
30 the former position is not available, the employee shall be reinstated in any other existing position  
31 that is vacant and suitable. A certificate by the treating physician that the physician approves the  
32 employee's return to the employee's regular employment or other suitable employment shall be  
33 prima facie evidence that the employee is able to perform the duties.

34 (b) The right of reinstatement shall be subject to the provisions for seniority rights and

1 [other employment restrictions contained in a valid collective bargaining agreement between the](#)  
2 [employer and a representative of the employer's employees, and nothing shall exempt any](#)  
3 [employer from or excuse full compliance with any applicable provisions of the Americans with](#)  
4 [Disabilities Act, 42 USC section 12101 et seq., and chapter 87 of title 42.](#)

5 SECTION 7. Sections 36-10-12, 36-10-14 and 36-10-17 of the General Laws in Chapter  
6 36-10 entitled "Retirement System-Contributions and Benefits" are hereby amended to read as  
7 follows:

8 **36-10-12. Retirement for ordinary disability.** -- (a) Application for ordinary disability  
9 may be made by a member, his or her department head, or a person acting in the member's behalf,  
10 while in active service or on leave of absence for illness, provided that the member has had five  
11 (5) or more years of total service of which at least three (3) consecutive years shall have been as  
12 an employee of the state or as a teacher as defined in chapter 16 of title 16 and the member is not  
13 entitled to a regular service retirement allowance. A statement from a physician shall accompany  
14 the application stating that the member is physically or mentally incapacitated for the  
15 performance of duty and that he or she should be retired.

16 (b) A medical examination of the member shall be made by three (3) physicians engaged  
17 by the retirement board for this purpose, and should the medical examination show that the  
18 member is physically or mentally incapacitated for the performance of ~~duty~~ [duties of the position,](#)  
19 [with or without reasonable accommodations,](#) and ought to be retired, the physicians shall so  
20 report and certify to the retirement board, and the retirement board may retire the member for  
21 ordinary disability.

22 (c) The retirement board shall establish uniform eligibility requirement standards and  
23 criteria for ordinary disability which shall apply to all members who make application for  
24 retirement for ordinary disability.

25 [\(d\) The provisions of this section are subject to the provisions of section 28-33-18.2,](#)  
26 [suitable alternative employment, and section 28-33-47, reinstatement of injured worker.](#)

27 **36-10-14. Retirement for accidental disability.** -- (a) Medical examination of an active  
28 member for accidental disability and investigation of all statements and certificates by him or her  
29 or in his or her behalf in connection therewith shall be made upon the application of the head of  
30 the department in which the member is employed or upon application of the member, or of a  
31 person acting in his or her behalf, stating that the member is physically or mentally incapacitated  
32 for the performance of service as a natural and proximate result of an accident while in the  
33 performance of duty, and certify the definite time, place, and conditions of the duty performed by  
34 the member resulting in the alleged disability, and that the alleged disability is not the result of

1 willful negligence or misconduct on the part of the member, and is not the result of age or length  
2 of service, and that the member [is mentally or physically incapacitated for the performance of](#)  
3 [duties of the position, with or without reasonable accommodations, and](#) should, therefore, be  
4 retired.

5 (b) The application shall be made within five (5) years of the alleged accident from  
6 which the injury has resulted in the members present disability and shall be accompanied by an  
7 accident report and a physicians report certifying to the disability; provided that if the member  
8 was able to return to his or her employment and subsequently reinjures or aggravates the same  
9 injury, the application shall be made within the later of five (5) years of the alleged accident or  
10 three (3) years of the reinjury or aggravation. The application may also state the member is  
11 permanently and totally disabled from any employment, [with or without reasonable](#)  
12 [accommodations](#).

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

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

26 [\(e\) The provisions of this section are subject to the provisions of section 28-33-18.2,](#)  
27 [suitable alternative employment, and section 28-33-47, reinstatement of injured worker.](#)

28 **36-10-17. Reexamination of disability beneficiaries -- Reduction of benefit --**  
29 **Reinstatement to active service.** -- (a) Once each year the retirement board may, and upon his or  
30 her application shall, require any disability beneficiary under the minimum age of service  
31 retirement to undergo a medical examination. The examination to be made at the place of  
32 residence of the beneficiary or other place mutually agreed upon by a physician or physicians  
33 engaged by the retirement board. If the examination indicates that the beneficiary is able to  
34 engage in a gainful occupation, [with or without reasonable accommodations](#), his or her name



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

17 [\(b\) The provisions of this section are subject to the provisions of section 28-33-18.2,](#)  
18 [suitable alternative employment, and section 28-33-47, reinstatement of injured worker.](#)

19 SECTION 8. Chapter 36-10 of the General Laws entitled "Retirement System-  
20 Contributions and Benefits" is hereby amended by adding thereto the following section:

21 **36-10-41. Reinstatement of disabled member.** -- [\(a\) A member who is absent as a result](#)  
22 [of the ordinary or accidental disability shall be reinstated by the member's employer to the](#)  
23 [member's former position of employment upon written demand for reinstatement, if the position](#)  
24 [exists and is available and the member is not disabled from performing the duties of the position](#)  
25 [with reasonable accommodation made by the employer in the manner in which the work is to be](#)  
26 [performed. A member's former position is "available" even if that position has been filled by a](#)  
27 [replacement while the member was absent as a result of the ordinary or accidental disability. If](#)  
28 [the former position is not available, the member shall be reinstated in any other existing position](#)  
29 [that is vacant and suitable. A certificate by the treating physician that the physician approves the](#)  
30 [member's return to the member's regular employment or other suitable employment shall be](#)  
31 [prima facie evidence that the member is able to perform the duties.](#)

32 [\(b\) The right of reinstatement shall be subject to the provisions for seniority rights and](#)  
33 [other employment restrictions contained in a valid collective bargaining agreement between the](#)  
34 [employer and a representative of the employer's employees, and nothing shall exempt any](#)

1 [employer from or excuse full compliance with any applicable provisions of the Americans with](#)  
2 [Disabilities Act, 42 USC section 12101 et seq., and chapter 87 of title 42.](#)

3 SECTION 9. Sections 45-21-19, 45-21-21 and 45-21-23 of the General Laws in Chapter  
4 45-21 entitled "Retirement of Municipal Employees" are hereby amended to read as follows:

5 **45-21-19. Retirement for ordinary disability.** -- (a) Any member who has had five (5)  
6 or more years of total service, may, upon the member's own application or upon application of the  
7 employer, or some person acting in the member's behalf, while in active service or on leave of  
8 absence for illness, apply for ordinary disability retirement; provided, that the member is not  
9 entitled to a regular service retirement allowance and; provided, that the member has at least three  
10 (3) consecutive years of service as an employee of a participating municipality within the five (5)  
11 years needed to be eligible under this section.

12 (b) A statement from a physician shall accompany the application stating that the  
13 member is physically or mentally incapacitated for the performance of ~~duty~~ [duties of the position,](#)  
14 [with or without reasonable accommodations,](#) and that the member ought to be retired.

15 (c) A medical examination of the member shall be made by three (3) physicians engaged  
16 by the retirement board for this purpose, and should the medical examination show that the  
17 member is physically or mentally incapacitated for the performance of duty and ought to be  
18 retired, the physicians shall so report and certify to the retirement board and the retirement board  
19 may retire the member for ordinary disability.

20 (d) The retirement board shall establish uniform eligibility requirement standards and  
21 criteria for ordinary disability which apply to all members who make application for retirement  
22 for ordinary disability.

23 [\(e\) The provisions of this section are subject to the provisions of section 28-33-18.2,](#)  
24 [suitable alternative employment, and section 28-33-47, reinstatement of injured worker.](#)

25 **45-21-21. Retirement for accidental disability.** -- (a) Any member in active service,  
26 regardless of length of service, is entitled to an accidental disability retirement allowance.  
27 Application for the allowance shall be made by the member or on the member's behalf, stating  
28 that the member is physically or mentally incapacitated for further service, [with or without](#)  
29 [reasonable accommodations,](#) as the result of an injury sustained while in the performance of duty  
30 and certifying the time, place, and conditions of the duty performed by the member which  
31 resulted in the alleged disability, and that the alleged disability was not the result of the willful  
32 negligence or misconduct on the part of the member, and was not the result of age or length of  
33 service, and that the member has not attained the age of sixty-five (65). The application shall be  
34 made within five (5) years of the alleged accident from which the injury has resulted in the

1 member's present disability and shall be accompanied by an accident report and a physician's  
2 report certifying the disability. If a medical examination made by three (3) physicians engaged by  
3 the retirement board, and other investigations as the board may make, confirm the statements  
4 made by the member, the board may grant the member an accidental disability retirement  
5 allowance.

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

9 [\(c\) The provisions of this section are subject to the provisions of section 28-33-18.2,](#)  
10 [suitable alternative employment, and section 28-33-47, reinstatement of injured worker.](#)

11 **45-21-23. Periodical examination of disability annuitants -- Placement on**  
12 **employment lists.** -- (a) At least once each year the retirement board may, and upon application  
13 shall, require any disability annuitant under the minimum age for service retirement, whether in  
14 receipt of an ordinary disability retirement allowance or an accidental disability retirement  
15 allowance, to undergo a medical examination, the examination to be made at the place of  
16 residence of the annuitant, or other place mutually agreed upon, by a physician or physicians  
17 engaged by the retirement board.

18 (b) If the examination indicates that the annuitant is able to engage in a gainful  
19 occupation, [with or without reasonable accommodations](#), the annuitant's name shall be placed on  
20 appropriate lists of candidates that are prepared for appointment to positions in the annuitant's  
21 department for which the annuitant is stated to be qualified, of a salary grade not less than that  
22 from which the annuitant was last retired.

23 [\(c\) The provisions of this section are subject to the provisions of section 28-33-18.2,](#)  
24 [suitable alternative employment, and section 28-33-47, reinstatement of injured worker.](#)

25 SECTION 10. Chapter 45-21 of the General Laws entitled "Retirement of Municipal  
26 Employees" is hereby amended by adding thereto the following section:

27 **45-21-67. Reinstatement of disabled member.** -- (a) [A member who is absent as a result](#)  
28 [of the ordinary or accidental disability shall be reinstated by the member's employer to the](#)  
29 [member's former position of employment upon written demand for reinstatement, if the position](#)  
30 [exists and is available and the member is not disabled from performing the duties of the position](#)  
31 [with reasonable accommodation made by the employer in the manner in which the work is to be](#)  
32 [performed. A member's former position is "available" even if that position has been filled by a](#)  
33 [replacement while the member was absent as a result of the ordinary or accidental disability. If](#)  
34 [the former position is not available, the member shall be reinstated in any other existing position](#)

1 that is vacant and suitable. A certificate by the treating physician that the physician approves the  
2 member's return to the member's regular employment or other suitable employment shall be  
3 prima facie evidence that the member is able to perform the duties.

4 (b) The right of reinstatement shall be subject to the provisions for seniority rights and  
5 other employment restrictions contained in a valid collective bargaining agreement between the  
6 employer and a representative of the employer's employees, and nothing shall exempt any  
7 employer from or excuse full compliance with any applicable provisions of the Americans with  
8 Disabilities Act, 42 USC section 12101 et seq., and chapter 87 of title 42.

9 SECTION 11. This act shall take effect on January 1, 2014.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- RE-EMPLOYMENT OF WORKERS  
WHO BECOME DISABLED

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- 1           This act would promote the re-employment of employees who become disabled while in
- 2   government service.
- 3           This act would take effect on January 1, 2014.

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LC01248  
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