

2023 -- H 5038

LC000441

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO RETIREMENT SYSTEM -- CONTRIBUTIONS AND BENEFITS

Introduced By: Representatives Bennett, Solomon, Kazarian, Casimiro, Tanzi, Ajello,  
Hull, J Lombardi, Noret, and Fogarty

Date Introduced: January 11, 2023

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 36-10-35 of the General Laws in Chapter 36-10 entitled "Retirement  
2 System — Contributions and Benefits" is hereby amended to read as follows:

3 **36-10-35. Additional benefits payable to retired employees.**

4 (a) All state employees and all beneficiaries of state employees receiving any service  
5 retirement or ordinary or accidental disability retirement allowance pursuant to the provisions of  
6 this title on or before December 31, 1967, shall receive a cost of living retirement adjustment equal  
7 to one and one-half percent (1.5%) per year of the original retirement allowance, not compounded,  
8 for each calendar year the retirement allowance has been in effect. For the purposes of computation,  
9 credit shall be given for a full calendar year regardless of the effective date of the retirement  
10 allowance. This cost of living adjustment shall be added to the amount of the retirement allowance  
11 as of January 1, 1968, and an additional one and one-half percent (1.5%) shall be added to the  
12 original retirement allowance in each succeeding year during the month of January, and provided  
13 further, that this additional cost of living increase shall be three percent (3%) for the year beginning  
14 January 1, 1971, and each year thereafter, through December 31, 1980. Notwithstanding any of the  
15 above provisions, no employee receiving any service retirement allowance pursuant to the  
16 provisions of this title on or before December 31, 1967, or the employee's beneficiary, shall receive  
17 any additional benefit hereunder in an amount less than two hundred dollars (\$200) per year over  
18 the service retirement allowance where the employee retired prior to January 1, 1958.

19 (b) All state employees and all beneficiaries of state employees retired on or after January

1 1, 1968, who are receiving any service retirement or ordinary or accidental disability retirement  
2 allowance pursuant to the provisions of this title shall, on the first day of January next following  
3 the third anniversary date of the retirement, receive a cost of living retirement adjustment, in  
4 addition to his or her retirement allowance, in an amount equal to three percent (3%) of the original  
5 retirement allowance. In each succeeding year thereafter through December 31, 1980, during the  
6 month of January, the retirement allowance shall be increased an additional three percent (3%) of  
7 the original retirement allowance, not compounded, to be continued during the lifetime of the  
8 employee or beneficiary. For the purposes of computation, credit shall be given for a full calendar  
9 year regardless of the effective date of the service retirement allowance.

10 (c)(1) Beginning on January 1, 1981, for all state employees and beneficiaries of the state  
11 employees receiving any service retirement and all state employees, and all beneficiaries of state  
12 employees, who have completed at least ten (10) years of contributory service on or before July 1,  
13 2005, pursuant to the provisions of this chapter, and for all state employees, and all beneficiaries  
14 of state employees who receive a disability retirement allowance pursuant to §§ 36-10-12 — 36-  
15 10-15, the cost of living adjustment shall be computed and paid at the rate of three percent (3%) of  
16 the original retirement allowance or the retirement allowance as computed in accordance with §  
17 36-10-35.1, compounded annually from the year for which the cost of living adjustment was  
18 determined to be payable by the retirement board pursuant to the provisions of subsection (a) or (b)  
19 of this section. Such cost of living adjustments are available to members who retire before October  
20 1, 2009, or are eligible to retire as of September 30, 2009.

21 (2) The provisions of this subsection shall be deemed to apply prospectively only and no  
22 retroactive payment shall be made.

23 (3) The retirement allowance of all state employees and all beneficiaries of state employees  
24 who have not completed at least ten (10) years of contributory service on or before July 1, 2005, or  
25 were not eligible to retire as of September 30, 2009, shall, on the month following the third  
26 anniversary date of retirement, and on the month following the anniversary date of each succeeding  
27 year be adjusted and computed by multiplying the retirement allowance by three percent (3%) or  
28 the percentage of increase in the Consumer Price Index for all Urban Consumers (CPI-U) as  
29 published by the United States Department of Labor Statistics determined as of September 30 of  
30 the prior calendar year, whichever is less; the cost of living adjustment shall be compounded  
31 annually from the year for which the cost of living adjustment was determined payable by the  
32 retirement board; provided, that no adjustment shall cause any retirement allowance to be decreased  
33 from the retirement allowance provided immediately before such adjustment.

34 (d) For state employees not eligible to retire in accordance with this chapter as of

1 September 30, 2009, and not eligible upon passage of this article, and for their beneficiaries, the  
2 cost of living adjustment described in subsection (c)(3) of this section shall only apply to the first  
3 thirty-five thousand dollars (\$35,000) of retirement allowance, indexed annually, and shall  
4 commence upon the third (3rd) anniversary of the date of retirement or when the retiree reaches  
5 age sixty-five (65), whichever is later. The thirty-five thousand dollar (\$35,000) limit shall increase  
6 annually by the percentage increase in the Consumer Price Index for all Urban Consumers (CPI-  
7 U) as published by the United States Department of Labor Statistics determined as of September  
8 30 of the prior calendar year or three percent (3%), whichever is less. The first thirty-five thousand  
9 dollars (\$35,000) of retirement allowance, as indexed, shall be multiplied by the percentage of  
10 increase in the Consumer Price Index for all Urban Consumers (CPI-U) as published by the United  
11 States Department of Labor Statistics determined as of September 30 of the prior calendar year or  
12 three percent (3%), whichever is less, on the month following the anniversary date of each  
13 succeeding year. For state employees eligible to retire as of September 30, 2009, or eligible upon  
14 passage of this article, and for their beneficiaries, the provisions of this subsection (d) shall not  
15 apply.

16 (e) All legislators and all beneficiaries of legislators who are receiving a retirement  
17 allowance pursuant to the provisions of § 36-10-9.1 for a period of three (3) or more years, shall,  
18 commencing January 1, 1982, receive a cost of living retirement adjustment, in addition to a  
19 retirement allowance, in an amount equal to three percent (3%) of the original retirement allowance.  
20 In each succeeding year thereafter during the month of January, the retirement allowance shall be  
21 increased an additional three percent (3%) of the original retirement allowance, compounded  
22 annually, to be continued during the lifetime of the legislator or beneficiary. For the purposes of  
23 computation, credit shall be given for a full calendar year regardless of the effective date of the  
24 service retirement allowance.

25 (f) The provisions of §§ 45-13-7 — 45-13-10 shall not apply to this section.

26 (g) This subsection (g) shall be effective for the period July 1, 2012, through June 30, 2015.

27 (1) Notwithstanding the prior paragraphs of this section, and subject to paragraph (g)(2)  
28 below, for all present and former employees, active and retired members, and beneficiaries  
29 receiving any retirement, disability or death allowance or benefit of any kind, the annual benefit  
30 adjustment provided in any calendar year under this section shall be equal to (A) multiplied by (B)  
31 where (A) is equal to the percentage determined by subtracting five and one-half percent (5.5%)  
32 (the “subtrahend”) from the Five-Year Average Investment Return of the retirement system  
33 determined as of the last day of the plan year preceding the calendar year in which the adjustment  
34 is granted, said percentage not to exceed four percent (4%) and not to be less than zero percent

1 (0%), and (B) is equal to the lesser of the member's retirement allowance or the first twenty-five  
2 thousand dollars (\$25,000) of retirement allowance, such twenty-five thousand dollars (\$25,000)  
3 amount to be indexed annually in the same percentage as determined under (g)(1)(A) above. The  
4 "Five-Year Average Investment Return" shall mean the average of the investment returns of the  
5 most recent five (5) plan years as determined by the retirement board. Subject to paragraph (g)(2)  
6 below, the benefit adjustment provided by this paragraph shall commence upon the third (3rd)  
7 anniversary of the date of retirement or the date on which the retiree reaches his or her Social  
8 Security retirement age, whichever is later. In the event the retirement board adjusts the actuarially  
9 assumed rate of return for the system, either upward or downward, the subtrahend shall be adjusted  
10 either upward or downward in the same amount.

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

17 In determining whether a funding level under this paragraph (g)(2) has been achieved, the  
18 actuary shall calculate the funding percentage after taking into account the reinstatement of any  
19 current or future benefit adjustment provided under this section.

20 (3) Notwithstanding paragraph (g)(2), in each fifth plan year commencing after June 30,  
21 2012, commencing with the plan year ending June 30, 2017, and subsequently at intervals of five  
22 plan years, a benefit adjustment shall be calculated and made in accordance with paragraph (g)(1)  
23 above until the Funded Ratio of the Employees' Retirement System of Rhode Island, the Judicial  
24 Retirement Benefits Trust and the State Police Retirement Benefits Trust, calculated by the  
25 system's actuary on an aggregate basis, exceeds eighty percent (80%).

26 (4) Notwithstanding any other provision of this chapter, the provisions of this paragraph  
27 (g) shall become effective July 1, 2012, and shall apply to any benefit adjustment not granted on or  
28 prior to June 30, 2012.

29 (h) This subsection (h) shall become effective July 1, 2015.

30 (1)(A) As soon as administratively reasonable following the enactment into law of this  
31 subsection (h)(1)(A), a one-time benefit adjustment shall be provided to members and/or  
32 beneficiaries of members who retired on or before June 30, 2012, in the amount of 2% of the lesser  
33 of either the member's retirement allowance or the first twenty-five thousand dollars (\$25,000) of  
34 the member's retirement allowance. This one-time benefit adjustment shall be provided without

1 regard to the retiree's age or number of years since retirement.

2 (B) Notwithstanding the prior subsections of this section, for all present and former  
3 employees, active and retired members, and beneficiaries receiving any retirement, disability or  
4 death allowance or benefit of any kind, the annual benefit adjustment provided in any calendar year  
5 under this section for adjustments on and after January 1, 2016, and subject to subsection (h)(2)  
6 below, shall be equal to (I) multiplied by (II):

7 (I) Shall equal the sum of fifty percent (50%) of (i) plus fifty percent (50%) of (ii) where:

8 (i) Is equal to the percentage determined by subtracting five and one-half percent (5.5%)  
9 (the "subtrahend") from the five-year average investment return of the retirement system  
10 determined as of the last day of the plan year preceding the calendar year in which the adjustment  
11 is granted, said percentage not to exceed four percent (4%) and not to be less than zero percent  
12 (0%). The "five-year average investment return" shall mean the average of the investment returns  
13 of the most recent five (5) plan years as determined by the retirement board. In the event the  
14 retirement board adjusts the actuarially assumed rate of return for the system, either upward or  
15 downward, the subtrahend shall be adjusted either upward or downward in the same amount.

16 (ii) Is equal to the lesser of three percent (3%) or the percentage increase in the Consumer  
17 Price Index for all Urban Consumers (CPI-U) as published by the U.S. Department of Labor  
18 Statistics determined as of September 30 of the prior calendar year. In no event shall the sum of (i)  
19 plus (ii) exceed three and one-half percent (3.5%) or be less than zero percent (0%).

20 (II) Is equal to the lesser of either the member's retirement allowance or the first twenty-  
21 five thousand eight hundred and fifty-five dollars (\$25,855) of retirement allowance, such amount  
22 to be indexed annually in the same percentage as determined under subsection (h)(1)(B)(I) above.

23 The benefit adjustments provided by this subsection (h)(1)(B) shall be provided to all  
24 retirees entitled to receive a benefit adjustment as of June 30, 2012, under the law then in effect,  
25 and for all other retirees the benefit adjustments shall commence upon the third anniversary of the  
26 date of retirement or the date on which the retiree reaches his or her Social Security retirement age,  
27 whichever is later.

28 (2) Except as provided in subsection (h)(3) of this section, the benefit adjustments under  
29 subsection (h)(1)(B) for any plan year shall be suspended in their entirety unless the funded ratio  
30 of the employees' retirement system of Rhode Island, the judicial retirement benefits trust and the  
31 state police retirement benefits trust, calculated by the system's actuary on an aggregate basis,  
32 exceeds eighty percent (80%) in which event the benefit adjustment will be reinstated for all  
33 members for such plan year.

34 In determining whether a funding level under this subsection (h)(2) has been achieved, the

1 actuary shall calculate the funding percentage after taking into account the reinstatement of any  
2 current or future benefit adjustment provided under this section.

3 (3) Notwithstanding subsection (h)(2), in each fourth plan year commencing after June 30,  
4 2012, commencing with the plan year ending June 30, 2016, and subsequently at intervals of four  
5 plan years:

6 (i) A benefit adjustment shall be calculated and made in accordance with subsection  
7 (h)(1)(B) above; and

8 (ii) Effective for members and/or beneficiaries of members who retired on or before June  
9 30, 2015, the dollar amount in subsection (h)(1)(B)(II) of twenty-five thousand eight hundred and  
10 fifty-five dollars (\$25,855) shall be replaced with thirty-one thousand and twenty-six dollars  
11 (\$31,026) until the funded ratio of the employees' retirement system of Rhode Island, the judicial  
12 retirement benefits trust and the state police retirement benefits trust, calculated by the system's  
13 actuary on an aggregate basis, exceeds eighty percent (80%).

14 (i) Effective for members and/or beneficiaries of members who have retired on or before  
15 July 1, 2015, a one-time stipend of five hundred dollars (\$500) shall be payable within sixty (60)  
16 days following the enactment of the legislation implementing this provision, and a second one-time  
17 stipend of five hundred dollars (\$500) in the same month of the following year. These stipends  
18 shall be payable to all retired members or beneficiaries receiving a benefit as of the applicable  
19 payment date and shall not be considered cost of living adjustments under the prior provisions of  
20 this section.

21 (j) Notwithstanding the provisions of this section, subsections (g) and (h) of this section,  
22 shall not apply to members and/or beneficiaries of members who retired prior to July 1, 2012.

23 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 RETIREMENT SYSTEM -- CONTRIBUTIONS AND BENEFITS

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1           This act would restore the cost of living allowance (COLA) to state employees, and/or their  
2 beneficiaries, who retired prior to July 1, 2012.

3           This act would take effect upon passage.

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