

2012 -- H 7247

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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 TOWNS AND CITIES - STATE AFFAIRS AND GOVERNMENT - LAW
ENFORCEMENT OFFICERS - INJURED AND DECEASED FIREFIGHTERS AND POLICE

Introduced By: Representatives San Bento, DaSilva, Lally, Hull, and Savage

Date Introduced: January 25, 2012

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-28.6-1 of the General Laws in Chapter 42-28.6 entitled "Law
2 Enforcement Officers' Bill of Rights" is hereby amended to read as follows:

3 **42-28.6-1. Definitions -- Payment of legal fees. --** As used in this chapter, the following
4 words have the meanings indicated:

5 (1) "Law enforcement officer" means any permanently employed city or town police
6 officer, state police officer, permanent law enforcement officer of the department of
7 environmental management, [campus police officer appointed by the board of governors for](#)
8 [higher education](#), or those employees of the airport corporation of Rhode Island who have been
9 granted the authority to arrest by the director of said corporation. However this shall not include
10 the chief of police and/or the highest ranking sworn officer of any of the departments including
11 the director and deputy director of the airport corporation of Rhode Island.

12 (2) (i) "Hearing committee" means a committee which is authorized to hold a hearing on
13 a complaint against a law enforcement officer and which consists of three (3) active or retired law
14 enforcement officers from within the state of Rhode Island, other than chiefs of police, who have
15 had no part in the investigation or interrogation of the law enforcement officer. The committee
16 shall be composed of three (3) members; one member selected by the chief or the highest ranking
17 officer of the law enforcement agency, one member selected by the aggrieved law enforcement
18 officer and the third member shall be selected by the other two (2) members. In the event that the

1 other two (2) members are unable to agree within five (5) days, then either member will make
2 application to the presiding justice of the superior court and the presiding justice shall appoint the
3 third member who shall be an active law enforcement officer. Upon written application by a
4 majority of the hearing committee, the presiding justice, in his or her discretion, may also appoint
5 legal counsel to assist the hearing committee.

6 (ii) The law enforcement agency and the law enforcement officer under investigation
7 shall each be responsible to pay fifty percent (50%) of the legal fee of the appointed legal counsel
8 for the hearing committee; provided, however, that on motion made by either party, the presiding
9 justice shall have the authority to make a different disposition as to what each party is required to
10 pay toward the appointed legal counsel's legal fee.

11 (3) "Hearing" means any meeting in the course of an investigatory proceeding, other than
12 an interrogation at which no testimony is taken under oath, conducted by a hearing committee for
13 the purpose of taking or adducing testimony or receiving evidence.

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

16 **45-19-1. Salary payment during line of duty illness or injury.** -- (a) Whenever any
17 police officer of the Rhode Island Airport Corporation or whenever any police officer, fire
18 fighter, crash rescue crewperson, fire marshal, chief deputy fire marshal, or deputy fire marshal of
19 any city, town, fire district, or the state of Rhode Island is wholly or partially incapacitated by
20 reason of injuries received or sickness contracted in the performance of his or her duties or due to
21 their rendering of emergency assistance within the physical boundaries of the state of Rhode
22 Island at any occurrence involving the protection or rescue of human life which necessitates that
23 they respond in a professional capacity when they would normally be considered by their
24 employer to be officially off-duty, the respective city, town, fire district, state of Rhode Island or
25 Rhode Island Airport Corporation by which the police officer, fire fighter, crash rescue
26 crewperson, fire marshal, chief deputy fire marshal, or deputy fire marshal, is employed, shall,
27 during the period of the incapacity, pay the police officer, fire fighter, crash rescue crewperson,
28 fire marshal, chief deputy fire marshal, or deputy fire marshal, the salary or wage and benefits to
29 which the police officer, fire fighter, crash rescue crewperson, fire marshal, chief deputy fire
30 marshal, or deputy fire marshal, would be entitled had he or she not been incapacitated, and shall
31 pay the medical, surgical, dental, optical, or other attendance, or treatment, nurses, and hospital
32 services, medicines, crutches, and apparatus for the necessary period, except that if any city,
33 town, fire district, the state of Rhode Island or Rhode Island Airport Corporation provides the
34 police officer, fire fighter, crash rescue crewperson, fire marshal, chief deputy fire marshal, or

1 deputy fire marshal, with insurance coverage for the related treatment, services, or equipment,
2 then the city, town, fire district, the state of Rhode Island or Rhode Island Airport Corporation is
3 only obligated to pay the difference between the maximum amount allowable under the insurance
4 coverage and the actual cost of the treatment, service, or equipment. In addition, the cities, towns,
5 fire districts, the state of Rhode Island or Rhode Island Airport Corporation shall pay all similar
6 expenses incurred by a member who has been placed on a disability pension and suffers a
7 recurrence of the injury or illness that dictated his or her disability retirement, subject to the
8 provisions of subsection (j) herein.

9 (b) As used in this section, "police officer" means and includes any chief or other
10 member of the police department of any city or town regularly employed at a fixed salary or wage
11 and any executive high sheriff, sheriff, deputy sheriff, member of the fugitive task force, or
12 capitol police officer, permanent environmental police officer or criminal investigator of the
13 department of environmental management, ~~or~~ airport police officer or campus police officer
14 appointed by the board of governors for higher education.

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

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

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

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

30 (g) In order to receive the benefits provided for under this section, a police officer or
31 firefighter must prove to their employer that he or she had reasonable grounds to believe that
32 there was an emergency which required an immediate need for their assistance for the protection
33 or rescue of human life.

34 (h) Any claims to the benefits provided for under this section resulting from the

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

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

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

12 (j) Any person receiving injured on-duty benefits pursuant to this section, and subject to
13 the jurisdiction of the state retirement board for accidental retirement disability, for an injury
14 occurring on or after July 1, 2011, shall be eligible to receive such benefits for a total period of
15 eighteen (18) months after the date of the person's injury that resulted in said person's injured on
16 duty status, except as provided for in subdivision 45-19-1(j)(2).

17 (1) Within eighteen (18) months of being injured, the person shall apply for an accidental
18 disability retirement allowance from the state retirement board. A person who so applies shall
19 continue to receive injured on duty payments until the person's application for an accidental
20 disability retirement allowance has been allowed or denied, and if denied initially, then upon the
21 expiration of the appeal period from such decision to the workers' compensation court pursuant to
22 section 45-21.2-9 of the general laws, or, if appealed, then upon a decision from the workers'
23 compensation court denying said appeal, whichever is applicable.

24 (2) If a person with injured on duty status fails to apply for an accidental disability
25 retirement allowance from the state retirement board within the eighteen (18) month period set
26 forth in this subsection, that person's injured on duty payments shall terminate, unless said person
27 provides to the applicable municipality a written opinion from a physician that states that it is the
28 physician's opinion, to a reasonable degree of medical certainty, that the person will be able to
29 return to work within six (6) months. In such event, the injured person may continue to receive
30 injured on duty payments for a period, not to exceed six (6) months, after the initial eighteen (18)
31 month period expires.

32 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO TOWNS AND CITIES - STATE AFFAIRS AND GOVERNMENT - LAW
ENFORCEMENT OFFICERS - INJURED AND DECEASED FIREFIGHTERS AND POLICE

- 1 This act would amend the definition of “police officer” or “law enforcement officer” to
- 2 include campus police officers.
- 3 This act would take effect upon passage.

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