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

Introduced By: Representatives Ehrhardt, Naughton, Savage, Martin, and Morgan

Date Introduced: February 16, 2012

Referred To: House Labor

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 28-31-5 of the General Laws in Chapter 28-31 entitled "Workers'  
2 Compensation - State and Municipal Employees" is hereby amended to read as follows:

3           **28-31-5. Payment of benefits for state employees.** -- (a) The expenses incurred for and  
4 in behalf of the state under the provisions of sections 28-31-3, 28-33-5, 28-33-12, 28-33-16, 28-  
5 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  
6 benefits similar to the benefits provided for employees of employers other than the state under the  
7 provisions of section 28-37-8 as determined by a prior agreement or settled as provided by  
8 section 28-31-4 or by the department's preliminary determination or decree of the workers'  
9 compensation court, shall be paid out of any money in the state treasury not otherwise  
10 appropriated and the state controller shall draw his or her order or orders upon the general  
11 treasurer for the payment of the claim in accordance with the provisions of the agreement,  
12 preliminary determination, or decree upon receipt by the controller of a copy of the agreement or  
13 preliminary determination certified by the director or of a copy of the decree certified by the  
14 administrator of the workers' compensation court.

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

1 (c) Benefits similar to the provisions of section 28-37-8 shall be paid to employees of the  
2 state whose final payment attaining the maximum limit for compensation for total incapacity as  
3 provided by section 28-33-17 is paid subsequent to January 1, 1969 and who continue to be  
4 totally incapacitated for work due to an injury sustained while employed by the state.

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

7 SECTION 2. Sections 36-4-23.1, 36-4-25 and 36-4-39 of the General Laws in Chapter  
8 36-4 entitled "Merit System" are hereby amended to read as follows:

9 **36-4-23.1. Reemployment lists.** – (a) Any person who holds full status in the classified  
10 service and resigns in good standing shall be entitled to have his or her name placed on an  
11 appropriate reemployment list, provided that the person so requests in writing within three (3)  
12 years of the date of his or her termination from the state service.

13 (b) Any person with full status who has resigned and whose appointing authority has  
14 failed to certify that he or she has resigned in good standing or any person with full status who  
15 has been dismissed from the classified service may request in writing within three (3) years of the  
16 date of his or her termination that his or her name be placed on the appropriate reemployment list  
17 and the request may be granted at the discretion of the personnel administrator. Each name placed  
18 on a reemployment list shall be stricken therefrom at the expiration of three (3) years from the  
19 official termination date.

20 (c) [Any person who holds full status in the classified service and who has sustained a](#)  
21 [compensable injury under the provisions of chapter 28-31 and/or sections 16-16-14, 16-16-16,](#)  
22 [16-16-17, 36-10-12, 36-10-14, 36-10-15, 45-21-20, 45-21-21, 45-21.2-7, and/or 45-21.2-9, upon](#)  
23 [written demand for reinstatement pursuant to section 28-33-47 shall be entitled to have his or her](#)  
24 [name placed on an appropriate reemployment list.](#)

25 **36-4-25. Designation of appropriate list for filling of vacancies.** -- The preferred  
26 reemployment list shall have precedence over all other lists for the filling of vacancies of  
27 comparable or less comparable positions in state service until the list is exhausted. ~~Vacancies in~~  
28 ~~positions in the classified service shall be filled as far as practicable by promotional~~  
29 ~~appointments.~~ Whenever a vacancy does exist in any position in the classified service, the  
30 appointing authority ~~may choose to~~ shall use ~~either~~ the ~~employment, promotion, or~~ reemployment  
31 list to fill the vacancy and shall request the personnel administrator to certify the names of  
32 persons eligible for appointment from the ~~designated~~ [reemployment](#) list; provided, however, that  
33 in the event of the reorganization of a department or division, or the abolishment of a position or  
34 positions in state service, any classified employee with permanent status affected thereby shall be

1 placed in a comparable position within the department or division. If, however, placement within  
2 the department or division is not possible, then the affected employee shall be placed in a  
3 comparable position elsewhere in state service. Whenever a position is allocated or reallocated  
4 upward, the classified employee with permanent status holding that position shall be given an  
5 opportunity to qualify for the allocated or reallocated position by taking a qualifying examination  
6 and shall be placed on leave of absence from the old position until the employee has gained status  
7 or failed to qualify for the position.

8 [Whenever a vacancy does exist in any position in the classified service, the appointing](#)  
9 [authority may choose to use either the employment or promotion list to fill the vacancy and shall](#)  
10 [request the personnel administrator to certify the names of persons eligible for appointment from](#)  
11 [the designated list provided there are no persons eligible for appointment on the reemployment](#)  
12 [list.](#)

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 3. Sections 16-16-14, 16-16-16 and 16-16-19 of the General Laws in Chapter  
22 16-16 entitled "Teachers' Retirement" are hereby amended to read as follows:

23 **16-16-14. Retirement for ordinary disability.** -- (a) Application for ordinary disability  
24 may be made by a teacher, his or her department head, or a person acting in the teacher's behalf,  
25 while in active service or on leave of absence for illness, provided that the teacher has had five  
26 (5) or more years of total service of which at least three (3) consecutive years shall have been as a  
27 teacher, and the teacher is not entitled to a regular service retirement allowance. A statement from  
28 a physician shall accompany the application stating that the teacher is physically or mentally  
29 incapacitated for the performance of duty and that he or she should be retired.

30 (b) A medical examination of the teacher shall be made by three (3) physicians engaged  
31 by the retirement board for this purpose, and should the medical examination show that the  
32 teacher is physically or mentally incapacitated for the performance of ~~duty~~ [duties of the position](#)  
33 [with or without reasonable accommodation](#) and ought to be retired, the physicians shall so report  
34 and certify to the retirement board and the retirement board, may retire the teacher for ordinary

1 disability.

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

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

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

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

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

1 resulting in the disability, and the retirement board may grant the teacher an accidental disability  
2 benefit.

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

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

8 **16-16-19. Reexamination of disability beneficiaries -- Reduction of benefit --**

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

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

33 SECTION 4. Sections 36-10-12, 36-10-14 and 36-10-17 of the General Laws in Chapter  
34 36-10 entitled "Retirement System-Contributions and Benefits" are hereby amended to read as

1 follows:

2 **36-10-12. Retirement for ordinary disability.** -- (a) Application for ordinary disability  
3 may be made by a member, his or her department head, or a person acting in the member's behalf,  
4 while in active service or on leave of absence for illness, provided that the member has had five  
5 (5) or more years of total service of which at least three (3) consecutive years shall have been as  
6 an employee of the state or as a teacher as defined in chapter 16 of title 16 and the member is not  
7 entitled to a regular service retirement allowance. A statement from a physician shall accompany  
8 the application stating that the member is physically or mentally incapacitated for the  
9 performance of ~~duty~~ [duties of the position with or without reasonable accommodations](#) and that  
10 he or she should be retired.

11 (b) A medical examination of the member 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 member is physically or mentally incapacitated for the performance of duty and ought to be  
14 retired, the physicians shall so report and certify to the retirement board, and the retirement board  
15 may retire the member for ordinary disability.

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

19 [\(d\) 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 **36-10-14. Retirement for accidental disability.** -- (a) Medical examination of an active  
22 member [or a member on leave of absence for illness or injury](#) for accidental disability and  
23 investigation of all statements and certificates by him or her or in his or her behalf in connection  
24 therewith shall be made upon the application of the head of the department in which the member  
25 is employed or upon application of the member, or of a person acting in his or her behalf, stating  
26 that the member is physically or mentally incapacitated for the performance of service as a  
27 natural and proximate result of an accident while in the performance of duty, and certify the  
28 definite time, place, and conditions of the duty performed by the member resulting in the alleged  
29 disability, and that the alleged disability is not the result of willful negligence or misconduct on  
30 the part of the member, and is not the result of age or length of service, and that the member [is](#)  
31 [mentally or physically incapacitated for the performance of duties of the position with or without](#)  
32 [reasonable accommodation and](#) should, therefore, be retired.

33 (b) The application shall be made within five (5) years of the alleged accident from  
34 which the injury has resulted in the members present disability and shall be accompanied by an

1 accident report and a physicians report certifying to the disability; provided that if the member  
2 was able to return to his or her employment and subsequently reinjures or aggravates the same  
3 injury, the application shall be made within the later of five (5) years of the alleged accident or  
4 three (3) years of the reinjury or aggravation. The application ~~may~~ shall also state the member is  
5 permanently and totally disabled from any employment with or without reasonable  
6 accommodation.

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

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

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

22 **36-10-17. Reexamination of disability beneficiaries -- Reduction of benefit --**

23 **Reinstatement to active service.** – (a) Once each year the retirement board may, and upon his or  
24 her application shall, require any disability beneficiary under the minimum age of service  
25 retirement to undergo a medical examination. The examination to be made at the place of  
26 residence of the beneficiary or other place mutually agreed upon by a physician or physicians  
27 engaged by the retirement board. If the examination indicates that the beneficiary is able to  
28 engage in a gainful occupation, with or without reasonable accommodation, his or her name shall  
29 be placed on such appropriate reemployment lists of candidates as are prepared for appointment  
30 to positions in his or her department or agency for which he or she is stated to be qualified and for  
31 a salary grade not exceeding that from which he or she was last retired. Should the beneficiary be  
32 engaged in a gainful occupation or should he or she be offered service as a result of the placing of  
33 his or her name on a list of candidates, the retirement board shall adjust and from time to time  
34 readjust, the amount of his or her disability benefit to an amount which shall not exceed the rate

1 of benefit upon which he or she was originally retired, and which, when added to the amount then  
2 earnable by him or her, shall not exceed his or her rate of annual compensation currently for the  
3 classification that the disability annuitant held prior to retirement. Should any disability  
4 beneficiary under the minimum age of service retirement refuse to submit to one medical  
5 examination in any year by a physician or physicians designated by the retirement board, his or  
6 her benefit shall be discontinued until his or her withdrawal of the refusal and should his or her  
7 refusal continue for one year, all his or her rights in and to disability benefit shall be revoked by  
8 the retirement board. A disability beneficiary, reinstated to active service, shall be reinstated as a  
9 member and participate in the rights of the retirement system to the same extent as any other  
10 member.

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

13 SECTION 5. Sections 45-21-19, 45-21-21 and 45-21-23 of the General Laws in Chapter  
14 45-21 entitled "Retirement of Municipal Employees" are hereby amended to read as follows:

15 **45-21-19. Retirement for ordinary disability.** -- (a) Any member who has had five (5)  
16 or more years of total service, may, upon the member's own application or upon application of the  
17 employer, or some person acting in the member's behalf, while in active service or on leave of  
18 absence for illness, apply for ordinary disability retirement; provided, that the member is not  
19 entitled to a regular service retirement allowance and; provided, that the member has at least three  
20 (3) consecutive years of service as an employee of a participating municipality within the five (5)  
21 years needed to be eligible under this section.

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

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

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

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



1           **45-21-21. Retirement for accidental disability.** -- (a) Any member in active service, [or](#)  
2 [on leave of absence due to injury or illness](#), regardless of length of service, is entitled to an  
3 accidental disability retirement allowance. Application for the allowance shall be made by the  
4 member or on the member's behalf, stating that the member is physically or mentally  
5 incapacitated for further service as the result of an injury sustained while in the performance of  
6 duty and certifying the time, place, and conditions of the duty performed by the member which  
7 resulted in the alleged disability, and that the alleged disability was not the result of the willful  
8 negligence or misconduct on the part of the member, and was not the result of age or length of  
9 service, and that the member has not attained the age of sixty-five (65). The application shall be  
10 made within five (5) years of the alleged accident from which the injury has resulted in the  
11 member's present disability [and that the member is physically or mentally incapacitated for the](#)  
12 [performance of duties of the position with or without reasonable accommodation](#) and shall be  
13 accompanied by an accident report and a physician's report certifying the disability. If a medical  
14 examination made by three (3) physicians engaged by the retirement board, and other  
15 investigations as the board may make, confirm the statements made by the member, the board  
16 may grant the member an accidental disability retirement allowance.

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

20           **45-21-23. Periodical examination of disability annuitants -- Placement on**  
21 **employment lists.** -- (a) At least once each year the retirement board may, and upon application  
22 shall, require any disability annuitant under the minimum age for service retirement, whether in  
23 receipt of an ordinary disability retirement allowance or an accidental disability retirement  
24 allowance, to undergo a medical examination, the examination to be made at the place of  
25 residence of the annuitant, or other place mutually agreed upon, by a physician or physicians  
26 engaged by the retirement board.

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

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

34           SECTION 6. Sections 45-21.2-7 and 45-21.2-9 of the General Laws in Chapter 45-21.2

1 entitled "Optional Retirement for Members of Police Force and Fire Fighters" are hereby  
2 amended to read as follows:

3 **45-21.2-7. Retirement for ordinary disability.** – (a) Any member in active service who  
4 has five (5) years or more of total service and who is not otherwise eligible for retirement may,  
5 upon the member's application or upon application of the employer, be retired on an ordinary  
6 disability retirement allowance, subject to the restrictions set forth in sections 45-21-19, 45-21-  
7 20, 45-21-23, and 45-21-24.

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

10 **45-21.2-9. Retirement for accidental disability.** -- (a) Any member in active service, [or](#)  
11 [on leave of absence due to injury or illness](#) regardless of length of service, is entitled to an  
12 accidental disability retirement allowance. Application for the allowance is made by the member  
13 or on the member's behalf, stating that the member is physically or mentally incapacitated for  
14 further service as the result of an injury sustained while in the performance of duty and certifying  
15 to the time, place, and conditions of the duty performed by the member which resulted in the  
16 alleged disability and that the alleged disability was not the result of the willful negligence or  
17 misconduct on the part of the member, and was not the result of age or length of service, and that  
18 the member has not attained the age of sixty-five (65). The application shall be made within  
19 eighteen (18) months of the alleged accident from which the injury has resulted in the member's  
20 present disability [and that the member is physically or mentally incapacitated for the performance](#)  
21 [of duties of the position with, or without reasonable accommodation](#) ~~and~~ [the application](#) shall be  
22 accompanied by an accident report and a physician's report certifying to the disability. If the  
23 member was able to return to his or her employment and subsequently reinjures or aggravates the  
24 same injury, the member shall make another application within eighteen (18) months of the  
25 reinjury or aggravation which shall be accompanied by a physician's report certifying to the  
26 reinjury or aggravation causing the disability. If a medical examination made by three (3)  
27 physicians engaged by the retirement board, and other investigations as the board may make,  
28 confirms the statements made by the member, the board may grant the member an accidental  
29 disability retirement allowance.

30 (b) For the purposes of subsection (a), "aggravation" shall mean an intervening work-  
31 related trauma that independently contributes to a member's original injury that amounts to more  
32 than the natural progression of the preexisting disease or condition and is not the result of age or  
33 length of service. The intervening independent trauma causing the aggravation must be an  
34 identifiable event or series of work-related events that are the proximate cause of the member's

1 present condition of disability.

2 (c) "Occupational cancer", as used in this section, means a cancer arising out of  
3 employment as a fire fighter, due to injury due to exposures to smoke, fumes, or carcinogenic,  
4 poisonous, toxic, or chemical substances while in the performance of active duty in the fire  
5 department.

6 (d) For purposes of subsection (a), "reinjury" shall mean a recurrence of the original  
7 work-related injury from a specific ascertainable event. The specific event must be the proximate  
8 cause of the member's present condition of disability.

9 (e) Any fire fighter, including one employed by the state, or a municipal firefighter  
10 employed by a municipality that participates in the optional retirement for police officers and fire  
11 fighters as provided in this chapter, who is unable to perform his or her duties in the fire  
12 department by reason of a disabling occupational cancer which develops or manifests itself  
13 during a period while the fire fighter is in the service of the department, and any retired member  
14 of the fire force of any city or town who develops occupational cancer, is entitled to receive an  
15 occupational cancer disability and he or she is entitled to all of the benefits provided for in this  
16 chapter, chapters 19, 19.1, and 21 of this title and chapter 10 of title 36 if the fire fighter is  
17 employed by the state.

18 (f) In the event that any party is aggrieved by the determination of the retirement board  
19 pursuant to section 45-19-1, for an injury occurring on or after July 1, 2011, the party may submit  
20 an appeal to the Rhode Island workers' compensation court. The appellant shall file a notice of  
21 appeal with the retirement board and shall serve a copy of the notice of appeal upon the opposing  
22 party.

23 (g) Within twenty (20) days of the receipt of the notice of appeal, the retirement board  
24 shall transmit the entire record of proceedings before it, together with its order, to the workers'  
25 compensation court.

26 (h) In the event that a party files a notice of appeal to the workers' compensation court,  
27 the order of the retirement board shall be stayed pending further action by the court pursuant to  
28 the provisions of Rhode Island general law section 28-35-20.

29 (i) Upon receipt of the record of proceedings before the retirement board, the court shall  
30 assign the matter to a judge and shall issue a notice at the time advising the parties of the judge to  
31 whom the case has been assigned and the date for pretrial conference in accordance with Rhode  
32 Island general law section 28-35-20.

33 (j) All proceedings filed with the workers' compensation court pursuant to this section  
34 shall be de novo and shall be subject to the provisions of chapters 29 to 38 of Title 28 for all case

1 management procedures and dispute resolution processes, as provided under the rules of workers'  
2 compensation court. Where the matter has been heard and decided by the workers' compensation  
3 court, the court shall retain jurisdiction to review any prior orders or decrees entered by it. Such  
4 petitions to review shall be filed directly with the workers' compensation court and shall be  
5 subject to the case management and dispute resolution procedures set forth in chapters 29 through  
6 38 of title 28 ("Labor and Labor Relations").

7 (k) If the court determines that a member qualifies for accidental disability retirement,  
8 the member shall receive a retirement allowance equal to sixty-six and two-thirds percent (66  
9 2/3%) of the rate of the member's compensation at the date of the member's retirement, subject to  
10 the provisions of section 45-21-31.

11 SECTION 7. This act shall take effect on January 1, 2013.

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LC01620  
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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 allow the reemployment of employees who suffer a disability while in
- 2 government service.
- 3           This act would take effect on January 1, 2013.

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LC01620  
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