

# RESOLUTION OF THE CITY COUNCIL

No. 355

Effective ~~Approved~~ May 28, 1995

WHEREAS, disability pensions are designed to make whole those municipal employees injured on the job, thereby safeguarding a standard of living that would otherwise be reduced through no fault of their own; and

WHEREAS, the obligation to make municipal employees whole should be offset against income earned when those employees are capable of supporting themselves through alternative employment; and

WHEREAS, an offset has been in place since 1936 for all state employees, since 1948 for all teachers in Rhode Island and since 1951 for all municipal employees enrolled in the state retirement system; and

WHEREAS, the City of Providence and other cities and towns that operate their own retirement systems currently do not have offsets in place for those who are employed subsequent to being granted a disability pension, thereby causing extreme fiscal stress on municipal budgets and providing too great an incentive for municipal employees to seek a disability pension; and

WHEREAS, statewide action is needed to create a uniform rule in this important area for all public employees in Rhode Island; and

WHEREAS, there are currently two identical bills in the Rhode Island House and the Senate that would offset a disability pension if that pension, when added to employment earnings, exceeds what the disability recipient would have earned had he/she stayed on the job; and

WHEREAS, such a rule would allow a disability recipient to obtain a part-time job with no offset taking place, and would allow the recipient to earn a small amount more each year as the salary of the job the recipient left increases; and

WHEREAS, the bills in the General Assembly specifically require that those benefits due to widows or other beneficiaries of disability recipients shall not in any way be reduced by the application of such an offset provision.

IN CITY COUNCIL

APR 6 1995

FIRST READING

REFERRED TO COMMITTEE ON

~~FINANCE~~

EMPL. RETIREMENT SYSTEM

*Richard K. Clement*  
CLERK

THE COMMITTEE ON

EMPLOYEE RETIREMENT

RECOMMENDS PASSAGE

*Richard K. Clement*  
Clerk

*Cancellation Order*

NOW, THEREFORE, be it resolved that the City of Providence hereby supports 95-H 6212 and 95-S 0581, Relating to Retirement and Disability Benefits, both introduced on behalf of the General Treasurer, in order to promote sound, statewide public policy in the granting and monitoring of disability pensions.

IN CITY COUNCIL  
MAY 18 1995  
READ AND PASSED

*Evelyn V. Fargnoli*  
ACTING PRES.

*Michael R. Clement*  
CLERK

Effective without the Mayor's  
signature:

*Michael R. Clement*  
Michael R. Clement  
City Clerk

95--  
STATE OF RHODE ISLAND  
IN GENERAL ASSEMBLY  
JANUARY SESSION, A.D. 1995  
-----  
AN ACT

INTRODUCED AT  
THE REQUEST OF  
THE GENERAL  
TREASURER

95-S 581

RELATING TO RETIREMENT AND DISABILITY BENEFITS

95-S 581

Introduced By: Senators Flynn and  
Gibbs

Date Introduced: February 14, 1995

95-S

Referred To: Senate Committee on  
Judiciary

Introduced by:

Date Introduced:

Referred to:

It is enacted by the General Assembly as follows:

- 1 SECTION 1. TITLE 45 OF THE GENERAL LAWS ENTITLED "TOWNS AND CITIES" IS  
2 HEREBY AMENDED BY ADDING THERETO THE FOLLOWING CHAPTER:

3 CHAPTER 21.4

4 ADJUSTMENT OF DISABILITY PENSIONS

5 45-21.4-1 Adjustment of disability allowance upon return to work.

6 (a) Definitions. --

- 7 (1) Municipal or quasi-municipal entity shall include, but not be limited to: cities, towns,  
8 fire districts, water districts, water waste districts, school districts, lighting districts, housing  
9 authorities, public building authorities, redevelopment authorities or any other public or quasi-  
10 public authority or agency created pursuant to state law.

11 (b) Adjustment of Disability Pensions. --

- 12 (1) Should the beneficiary of any Retirement System supported wholly or in part by a  
13 municipal or quasi-municipal entity be engaged in a gainful occupation, said Retirement System  
14 shall adjust, and at least annually readjust, the amount of his or her disability allowance to an  
15 amount which, when added to the amount of compensation then earned by the beneficiary, shall  
16 be in an amount no greater than the rate of earned compensation in force currently for the  
17 classification that the disability beneficiary held prior to retirement.

1       (2) Said adjustment shall not apply if said Retirement System finds that a job-related  
2 injury, as defined by said Retirement System, of a disability recipient resulted in permanent total  
3 disability, as defined in Rhode Island's Workers' Compensation Law, 28-33-17 (b) (1-7).

4       (3) Nothing in the foregoing shall limit a municipal or quasi-municipal entity from  
5 applying a greater adjustment than that described in (b)(1), supra, to a beneficiary's disability  
6 pension based upon any other provision of law or contract.

7       (c) Applicability. --

8       (1) This provision of law shall apply to beneficiaries of disability pensions granted  
9 subsequent to the effective date of this act. It shall only take effect upon passage of this act.

10       (2) This provision of law shall supersede any special or general laws to the contrary.

11       (3) Notwithstanding the foregoing, the provisions of this chapter shall in no way impair  
12 any contract or collective bargaining agreement currently in effect. Any contracts or collective  
13 bargaining agreements, entered into or renewed after the effective date of this chapter, shall be  
14 subject to the provisions of this chapter.

15       (4) Nothing contained herein shall be construed to limit the benefits that survivors of  
16 disability pension beneficiaries would otherwise receive as if (b)(1) supra were not in effect.

17       (5) Notwithstanding the foregoing, the provisions of this chapter shall not apply to any  
18 disability benefits so long as such benefits are currently contracted for, and paid by, an insurance  
19 company. Any contracts entered into or renewed after the effective date of this chapter, shall be  
20 subject to the provisions of this chapter.

21       SECTION 2. Section 36-10-17 of the General Laws in Chapter 36-10 entitled  
22 "Retirement System -- Contributions and Benefits" is hereby amended to read as follows:

23       36-10-17. Reexamination of disability beneficiaries -- Reduction of benefit --  
24 Reinstatement to active service. -- Once each year the retirement board may, and upon his or  
25 her application shall, require any disability beneficiary under the minimum age of service  
26 retirement to undergo a medical examination, the examination to be made at the place of  
27 residence of the beneficiary, or other place mutually agreed upon, by a physician or physicians  
28 engaged by the retirement board. If the examination indicates that the beneficiary is able to  
29 engage in a gainful occupation, his or her name shall be placed on such appropriate lists of  
30 candidates as are prepared for appointment to positions in his or her department or agency for  
31 which he or she is stated to be qualified, of a salary grade not exceeding that from which he or  
32 she was last retired. Should the beneficiary be engaged in a gainful occupation or should he or  
33 she be offered service as a result of the placing of his or her name on a list of candidates, the  
34 retirement board shall adjust, and, from time to time readjust, the amount of his or her disability  
35 benefit to an amount which shall not exceed the rate of benefit upon which he or she was  
36 originally retired, and which, when added to the amount then earnable by him or her, shall not

1 exceed his or her rate of annual compensation currently for the classification that the disability  
2 annuitant held prior to retirement. Said adjustment shall not apply if the retirement board finds  
3 that an accidental disability, as otherwise defined by this chapter of law, resulted in permanent  
4 total disability, as defined in Rhode Island's Workers' Compensation Law, 28-33-17 (b) (1-7).  
5 Should any disability beneficiary under the minimum age of service retirement refuse to submit  
6 to one medical examination in any year by a physician or physicians designated by the retirement  
7 board, his or her benefit shall be discontinued until his or her withdrawal of the refusal, and  
8 should his or her refusal continue for one year, all his or her rights in and to such benefit shall be  
9 revoked by the retirement board. A disability beneficiary, reinstated to active service, shall be  
10 reinstated as a member and participate in the rights of the retirement system, to the same extent  
11 as any other member.

12 SECTION 3. Section 16-16-19 of the General Laws in Chapter 16-16 entitled  
13 "Teachers' Retirement" is hereby amended to read as follows:

14 16-16-19. Reexamination of disability beneficiaries -- Reduction of benefit --  
15 Reinstatement to active service. [Effective January 1, 1993.] -- Once each year the retirement  
16 board may, and upon his or her application shall, require any disability beneficiary under the  
17 minimum age of service retirement to undergo a medical examination, the examination to be  
18 made at the place of residence of the beneficiary, or other place mutually agreed upon, by a  
19 physician or physicians engaged by the retirement board. If the examination indicates that the  
20 beneficiary is able to engage in a gainful occupation, his or her name shall be placed on such  
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23 exceeding that from which he or she was last retired. Should the beneficiary be engaged in a  
24 gainful occupation or should he or she be offered service as a result of the placing of his or her  
25 name on a list of candidates, the retirement board shall adjust, and, from time to time readjust,  
26 the amount of his or her disability benefit to an amount which shall not exceed the rate of benefit  
27 upon which he or she was originally retired, and which, when added to the amount then earnable  
28 by him or her, shall not exceed his or her rate of annual compensation currently for the  
29 classification that the disability annuitant held prior to retirement. Said adjustment shall not  
30 apply if the retirement board finds that an accidental disability, as otherwise defined by this  
31 chapter of law, resulted in permanent total disability, as defined in Rhode Island's Workers'  
32 Compensation Law, 28-33-17 (b) (1-7). Should any disability beneficiary under the minimum  
33 age of service retirement refuse to submit to one (1) medical examination in any year by a  
34 physician or physicians designated by the retirement board, his or her benefit shall be  
35 discontinued until his or her withdrawal of the refusal, and should his or her refusal continue for  
36 one (1) year, all his or her rights in and to such benefit shall be revoked by the retirement board.

1 A disability beneficiary, reinstated to active service, shall be reinstated as a member and  
2 participate in the rights of the retirement system, to the same extent as any other teacher.

3 SECTION 4. Section 45-21-24 of the General Laws in Chapter 45-21 entitled  
4 "Retirement of Municipal Employees" is hereby amended to read as follows:

5 **45-21-24. Adjustment of disability allowances on return to work -- Discontinuance for**  
6 **refusal to submit to examination.** -- Should the beneficiary be engaged in a gainful occupation  
7 or should the beneficiary be offered service as a result of the placing of his or her name on a list  
8 of candidates, the retirement board shall adjust, and, from time to time readjust, the amount of  
9 his or her disability allowance to an amount which, when added to the amount of compensation  
10 then earnable by the beneficiary, shall not exceed the rate of earnable compensation in force  
11 currently for the classification that the disability annuitant held prior to retirement. Said  
12 adjustment shall not apply if the retirement board finds that an accidental disability, as otherwise  
13 defined by this chapter of law, resulted in permanent total disability, as defined in Rhode Island's  
14 Workers' Compensation Law, 28-33-17 (b) (1-7). Should any disability annuitant under the  
15 minimum age of retirement refuse to submit to a medical examination in any year by a physician  
16 or physicians designated by the retirement board, the annuitant's retirement allowance may be  
17 discontinued until the annuitant's withdrawal of the refusal, and should the annuitant's refusal  
18 continue for one year after a request has been made, all the annuitant's rights in and to the  
19 retirement allowance may be revoked by the retirement board. A disability annuitant, reinstated  
20 to active service, shall be reinstated as a member and participate in the benefits of the retirement  
21 system to the same extent as any other member.

22 SECTION 5. Section 44-30-95 of the General Laws shall be in Chapter 44-30 entitled  
23 "Personal Income Tax" is hereby amended to read as follows:

24 44-30-95 General Powers of the Tax Administrator

25 (a) \*\*\*

26 (b) \*\*\*

27 (c) \*\*\*

28 (d) \*\*\*

29 (e) \*\*\*

30 (f) \*\*\*

31 (g) limited disclosure of information. -- The tax administrator shall disclose to the retirement  
32 board of the state of Rhode Island and to the Retirement Systems of municipal and quasi-  
33 municipal entities, as defined in 45-21.4-1, information needed by said board and said  
34 Retirement Systems to implement the provisions of Section 36-10-17, and 45-21-24, and 16-16-  
35 19 and 45-21.4-1. The content and nature of the information to be disclosed shall be determined

# 95-S 581

1 and approved by the tax administrator and shall be kept confidential by the board and the  
2 Retirement Systems.

3 SECTION 6. **Severability** -- If any provision of this act or the application thereof to any  
4 person or circumstances is held invalid, such invalidity shall not affect other provisions or  
5 applications of the act which can be given effect without the invalid provision or application, and  
6 to this end the provisions of this act are declared to be severable.

7 SECTION 7. This act shall take effect upon passage.

## 8 EXPLANATION

9 This act would require municipal and quasi-municipal entities not currently enrolled in  
10 the state retirement system to annually adjust the disability pensions of pension beneficiaries  
11 according to any compensation earned. This would apply the same rule to cities and towns that  
12 is currently in effect in the state retirement system. Exempted from the offset would be those  
13 whose job-related injuries are found to be permanent total disabilities as defined by Rhode  
14 Island's Workers' Compensation Law. To maintain the symmetry between local retirement  
15 systems and the state retirement system, this act extends this exemption from the offset to those  
16 on disability in the state retirement system determined by the State Retirement Board to have  
17 job-related injuries that resulted in permanent total disability.

18 This act would take effect upon passage.

5



STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY  
JANUARY SESSION, A.D. 1995

AN ACT

95-H 6212

RELATING TO RETIREMENT AND DISABILITY BENEFITS

INTRODUCED AT  
THE REQUEST OF  
THE GENERAL  
TREASURER

95-H 6212

Introduced By: Reps. Salisbury, Pires,  
Long, Fleury and Kelley  
Date Introduced: February 14, 1995

Referred To: Committee on Finance

It is enacted by the General Assembly as follows:

- 1 SECTION 1. TITLE 45 OF THE GENERAL LAWS ENTITLED "TOWNS AND CITIES" IS
- 2 HEREBY AMENDED BY ADDING THERETO THE FOLLOWING CHAPTER:

CHAPTER 21.4

ADJUSTMENT OF DISABILITY PENSIONS

45-21.4-1 Adjustment of disability allowance upon return to work.

(a) Definitions. --

- 7 (1) Municipal or quasi-municipal entity shall include, but not be limited to: cities, towns,
- 8 fire districts, water districts, water waste districts, school districts, lighting districts, housing
- 9 authorities, public building authorities, redevelopment authorities or any other public or quasi-
- 10 public authority or agency created pursuant to state law.

(b) Adjustment of Disability Pensions. --

- 12 (1) Should the beneficiary of any Retirement System supported wholly or in part by a
- 13 municipal or quasi-municipal entity be engaged in a gainful occupation, said Retirement System
- 14 shall adjust, and at least annually readjust, the amount of his or her disability allowance to an
- 15 amount which, when added to the amount of compensation then earned by the beneficiary, shall
- 16 be in an amount no greater than the rate of earned compensation in force currently for the
- 17 classification that the disability beneficiary held prior to retirement.

1           (2) Said adjustment shall not apply if said Retirement System finds that a job-related  
2 injury, as defined by said Retirement System, of a disability recipient resulted in permanent total  
3 disability, as defined in Rhode Island's Workers' Compensation Law, 28-33-17 (b) (1-7).

4           (3) Nothing in the foregoing shall limit a municipal or quasi-municipal entity from  
5 applying a greater adjustment than that described in (b)(1), supra, to a beneficiary's disability  
6 pension based upon any other provision of law or contract.

7           (c) Applicability. --

8           (1) This provision of law shall apply to beneficiaries of disability pensions granted  
9 subsequent to the effective date of this act. It shall only take effect upon passage of this act.

10          (2) This provision of law shall supersede any special or general laws to the contrary.

11          (3) Notwithstanding the foregoing, the provisions of this chapter shall in no way impair  
12 any contract or collective bargaining agreement currently in effect. Any contracts or collective  
13 bargaining agreements, entered into or renewed after the effective date of this chapter, shall be  
14 subject to the provisions of this chapter.

15          (4) Nothing contained herein shall be construed to limit the benefits that survivors of  
16 disability pension beneficiaries would otherwise receive as if (b)(1) supra were not in effect.

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5 45-21-24. Adjustment of disability allowances on return to work -- Discontinuance for  
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# 95-H 6212

1 and approved by the tax administrator and shall be kept confidential by the board and the  
2 Retirement Systems.

3 SECTION 6. **Severability** -- If any provision of this act or the application thereof to any  
4 person or circumstances is held invalid, such invalidity shall not affect other provisions or  
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