



Employees' Retirement System of Rhode Island

ERSRI Board:

September 8, 2015

Seth Magaziner
General Treasurer
Chair

VIA EMAIL ONLY [REDACTED]

William B. Finelli
Vice Chair

[REDACTED]

Gary R. Alger

N. Kingstown, RI 02852

Daniel L. Beardsley

RE: Public Records Request

Roger P. Boudreau

Dear [REDACTED]

Michael R. Boyce

Mark A. Carruolo

We write in response to your follow up clarification of our response to your August 24, 2015 request for information pursuant to the Rhode Island Access to Public Records Act (APRA). Your specific request is noted below along with our corresponding response.

Michael DiBiase

John P. Maguire

John J. Meehan

Thank you for sending this. The letter states that you would like clarification of my request. I am looking for information regarding the split of a state pension in the event of a divorce after retirement. Once the pension is split(QDRO) what happens to the pension in the event of the retirees death? I had spoken to Gayle back in the early spring regarding this matter but I just need a copy of the contract page that states these terms. If I can help to clarify this further, please let me know and I will be happy to call you at your convenience. Thanks again for your help with this matter.

Marianne F. Monte

Thomas A. Mullaney

Claire M. Newell

Louis M. Prata

Jean Rondeau

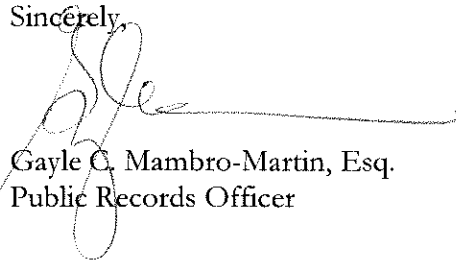
Frank J. Karpinski
Executive Director

There is no contract stating the terms you seek. If you are seeking a copy of the QDRO in this matter please advise. Otherwise, the Rhode Island General Laws (RIGL) govern the retirement system. Specifically, RIGL § 42-28-21 and §42-28-22 address the disbursement of injury and death benefits for State Police and Retirement of members respectively. Copies of these statutes have been provided. If these documents are not the documents you seek, please feel free to call Retirement at the number provided.

If you contend you have been denied access to public records, pursuant to RIGL §38-2-8, you may appeal this decision to Frank J. Karpinski, Executive Director of the Employees' Retirement System of Rhode Island, 50 Service Avenue, 2nd Floor, Warwick, RI 02886. You may also file a complaint with the Department of the Attorney General, 150 South Main Street, Providence, RI 02903 or the Rhode Island Superior Court of the county where the records are maintained.

Additional information regarding the Access to Public Records Act may be found at
<http://www.riag.ri.gov/civil/opengovernment>.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Mambro-Martin", with a long horizontal flourish extending to the right.

Gayle C. Mambro-Martin, Esq.
Public Records Officer

TITLE 42

State Affairs and Government

CHAPTER 42-28

State Police

SECTION 42-28-21

§ 42-28-21 Injury and death benefits. – (a) If any member of the division whose service is terminated on or after January 1, 1960 shall have in the course of performance of his or her duties suffered injury causing disability or causing death, that member or his or her surviving dependent relatives, whose dependence shall be determined from time to time by the superintendent subject to confirmation by the governor, shall be entitled to an annual pension of seventy-five percent (75%) of the annual salary paid to that member at the time of his or her termination of service by reason of injury or death. In the event that the member thus disabled or killed in the performance of his or her official duties is the superintendent, then confirmation and determination provided by this section shall be made by the governor. The provisions of chapters 29 – 38, inclusive, of title 28, shall not apply to members of the division.

(b) Upon the death of a member due to any cause other than that incurred while in the course of performance of his or her duties, occurring while in service or after retirement, if that member shall have rendered at least ten (10) years of service as a member of the Rhode Island state police, his or her surviving widow or domestic partner shall be entitled to a pension equal to two percent (2%) of his or her last annual salary as determined by the provision of § 42-28-22 as amended herein for each year of service as a member of the state police, subject to a minimum pension of twenty-five percent (25%) of salary, and subject to the following conditions:

(1) The widow or widower or domestic partner shall have been married to or a domestic partner of the member at least one year on the date of death of the member or on the date of retirement, whichever first occurs, and in any event while the member was in active service;

(2) The widow or widower or domestic partner shall be at least forty (40) years of age, otherwise payment of the annuity shall be deferred until she attains such age;

(3) The annuity shall terminate in any event when he or she remarries or enters into a domestic partnership or dies.

(c) If a widow or widower or domestic partner shall have minor children in his or her care, payment of the annuity shall commence immediately regardless of whether the widow or widower or domestic partner shall have attained age forty (40) years or not. In such a case, the payment to the widow or widower or domestic partner shall be increased one-third (1/3) on account of each minor child, provided that the maximum payment shall be fifty percent (50%) of annual salary.

(d) Allowances on account of minor children shall terminate upon their attainment of age eighteen (18) and if unemancipated and a full-time student to age twenty-two (22) years, death, or marriage, whichever

first occurs. In the event a widow or widower or domestic partner remarries or enters into a domestic partnership or dies, payment on account of minor children shall be increased to twice the amounts previously payable on account of the children, subject to a combined payment to all children equal to fifty percent (50%) of the final salary of the member.

(e) For purposes of this chapter, "domestic partner" shall be defined as a person who, prior to the decedent's death, was in an exclusive, intimate and committed relationship with the decedent, and who certifies by affidavit that their relationship met the following qualifications:

(1) Both partners were at least eighteen (18) years of age and were mentally competent to contract;

(2) Neither partner was married to anyone else;

(3) Partners were not related by blood to a degree which would prohibit marriage in the state of Rhode Island;

(4) Partners resided together and had resided together for at least one year at the time of death; and

(5) Partners were financially interdependent as evidenced by at least two (2) of the following:

(i) Domestic partnership agreement or relationship contract;

(ii) Joint mortgage or joint ownership of primary residence;

(iii) Two (2) of: (A) joint ownership of motor vehicle; (B) joint checking account; (C) joint credit account; (D) joint lease; and/or

(iv) The domestic partner had been designated as a beneficiary for the decedent's will, retirement contract or life insurance.

(f) Effective July 1, 2012, any reference in this section to "salary" or "annual salary" shall be changed to "average compensation" as defined in 36-8-1(5)(a).

History of Section.

(P.L. 1925, ch. 588, § 12; G.L. 1938, ch. 8, § 12; P.L. 1950, ch. 2435, § 2; G.L. 1956, § 42-28-21; P.L. 1959, ch. 51, § 1; P.L. 1964, ch. 206, § 1; P.L. 1966, ch. 277, § 1; P.L. 1967, ch. 67, § 1; P.L. 1973, ch. 113, § 1; P.L. 1978, ch. 240, § 1; P.L. 1978, ch. 263, § 1; P.L. 1988, ch. 84, § 87; P.L. 2007, ch. 510, § 14; P.L. 2011, ch. 408, § 13; P.L. 2011, ch. 409, § 13.)

TITLE 42

State Affairs and Government

CHAPTER 42-28

State Police

SECTION 42-28-22

§ 42-28-22 Retirement of members. – (a) Whenever any member of the state police hired prior to July 1, 2007 has served for twenty (20) years, he or she may retire therefrom or he or she may be retired by the superintendent with the approval of the governor, and in either event a sum equal to one-half (1/2) of the whole salary for the position from which he or she retired determined on the date he or she receives his or her first retirement payment shall be paid him or her during life.

(b) For purposes of this section, the term "whole salary" means:

(1) For each member who retired prior to July 1, 1966, "whole salary" means the base salary for the position from which he or she retired as the base salary for that position was determined on July 31, 1972;

(2) For each member who retired between July 1, 1966 and June 30, 1973, "whole salary" means the base salary for the position from which he or she retired as the base salary, implemented by the longevity increment, for that position was determined on July 31, 1972 or on the date of his or her retirement, whichever is greater;

(3) For each member who retired or who retires after July 1, 1973 "whole salary" means the base salary, implemented by the longevity increment, holiday pay, and clothing allowance, for the position from which he or she retired or retires.

(c)(1) Any member who retired prior to July 1, 1977 shall receive a benefits payment adjustment equal to three percent (3%) of his or her original retirement, as determined in subsection (b) of this section, in addition to his or her original retirement allowance. In each succeeding year thereafter during the month of January, the retirement allowance shall be increased an additional three percent (3%) of the original retirement allowance, not compounded, to be continued until January 1, 1991. For the purposes of the computation, credit shall be given for a full calendar year regardless of the effective date of the service retirement allowance. For purposes of this subsection, the benefits payment adjustment shall be computed from January 1, 1971 or the date of retirement, whichever is later in time.

(2) Any member of the state police who retires pursuant to the provisions of this chapter on or after January 1, 1977, shall on the first day of January, next following the third anniversary date of the retirement receive a benefits payment adjustment, in addition to his or her retirement allowance, in an amount equal to three percent (3%) of the original retirement allowance. In each succeeding year thereafter during the month of January, the retirement allowance shall be increased an additional three percent (3%) of the original retirement allowance, not compounded, to be continued until January 1, 1991. For the purposes of the computation, credit shall be given for a full calendar year regardless of the

effective date of the service retirement allowance.

(3) Any retired member of the state police who is receiving a benefit payment adjustment pursuant to subdivisions (1) and (2) of this section shall beginning January 1, 1991 and ending June 30, 2012, receive a benefits payment adjustment equal to fifteen hundred dollars (\$1,500).

(d) The benefits payment adjustment as provided in this section shall apply to and be in addition to the retirement benefits under the provisions of § 42-28-5, and to the injury and death benefits under the provisions of § 42-28-21.

(e)(1) Any member who retires after July 1, 1972 and is eligible to retire prior to July 1, 2012 and who has served beyond twenty (20) years shall be allowed an additional amount equal to three percent (3%) for each completed year served after twenty (20) years, but in no event shall the original retirement allowance exceed sixty-five percent (65%) of his or her whole salary as defined in subsection (b) hereof or sixty-five percent (65%) of his or her salary as defined in subsection (b) hereof in his or her twenty-fifth (25th) year whichever is less.

(2) Each member who retired prior to July 1, 1975, shall be entitled to all retirement benefits as set forth above or shall be paid benefits as set forth in subdivision (b)(1) with "whole salary" meaning the base salary for the position from which he or she retired as the base salary for the position was determined on July 1, 1975, whichever is greater.

(f)(1) Any member who retires, has served as a member for twenty (20) years or more, and who served for a period of six (6) months or more of active duty in the armed service of the United States or in the merchant marine service of the United States as defined in § 2 of chapter 1721 of the Public Laws, 1946, may purchase credit for such service up to a maximum of two (2) years; provided that any member who has served at least six (6) months or more in any one year shall be allowed to purchase one year for such service and any member who has served a fraction of less than six (6) months in his or her total service shall be allowed to purchase six (6) months' credit for such service.

(2) The cost to purchase these credits shall be ten percent (10%) of the member's first year salary as a state policeman multiplied by the number of years and/or fraction thereof of such armed service up to a maximum of two (2) years. The purchase price shall be paid into the general fund. For members hired on or after July 1, 1989, the purchase price shall be paid into a restricted revenue account entitled "state police retirement benefits" and shall be held in trust.

(3) There will be no interest charge provided the member makes such purchase during his or her twentieth (20th) year or within five (5) years from May 18, 1981, whichever is later, but will be charged regular rate of interest as defined in § 36-8-1 as amended to date of purchase from the date of his or her twentieth (20th) year of state service or five (5) years from May 18, 1981, whichever is later.

(4) Any member who is granted a leave of absence without pay for illness, injury or any other reason may receive credit therefor by making the full actuarial cost as defined in subdivision 36-8-1(10); provided the employee returns to state service for at least one year upon completion of the leave.

(5) In no event shall the original retirement allowance exceed sixty-five percent (65%) of his or her whole salary as defined in subsection (b) hereof or sixty-five percent (65%) of his or her salary as defined in subsection (b) hereof in his or her twenty-fifth (25th) year, whichever is less.

(6) Notwithstanding any other provision of law, no more than five (5) years of service credit may be purchased by a member of the system. The five (5) year limit shall not apply to any purchases made prior

to January 1, 1995. A member who has purchased more than five (5) years of service credits before January 1, 1995, shall be permitted to apply those purchases towards the member's service retirement. However, no further purchase will be permitted. Repayment in accordance with applicable law and regulation of any contribution previously withdrawn from the system shall not be deemed a purchase of service credit.

(g) The provisions of this section shall not apply to civilian employees in the Rhode Island state police; and, further, from and after April 28, 1937, chapters 8 – 10, inclusive, of title 36 shall not be construed to apply to the members of the Rhode Island state police, except as provided by §§ 36-8-3, 36-10-1.1, 42-28-22.1, and 42-28-22.2, and section 36-8-1(5) and (8)(a) effective July 1, 2012.

(h) Any member of the state police other than the superintendent of state police, who is hired prior to July 1, 2007 and who has served for twenty-five (25) years or who has attained the age of sixty-two (62) years, whichever shall first occur, shall retire therefrom.

(i)(1) Any member of the state police, other than the superintendent, who is hired on or after July 1, 2007 and who has served for twenty-five (25) years, may retire therefrom or he or she may be retired by the superintendent with the approval of the governor, and shall be entitled to a retirement allowance of fifty percent (50%) of his or her "whole salary" as defined in subsection (b) hereof.

(2) Any member of the state police who is hired on or after July 1, 2007 may serve up to a maximum of thirty (30) years, and shall be allowed an additional amount equal to three percent (3.0%) for each completed year served after twenty-five (25) years, but in no event shall the original retirement allowance exceed sixty-five percent (65%) of his or her "whole salary" as defined in subsection (b) hereof.

(j) Effective July 1, 2012, any other provision of this section notwithstanding:

(j)(1) Any member of the state police, other than the superintendent of state police, who is not eligible to retire on or prior to June 30, 2012 may retire at any time subsequent to the date the member's retirement allowance equals or exceeds fifty percent (50%) of average compensation as defined in section 36-8-1(5)(a), provided that a member shall retire upon the first to occur of:

(i) The date the member's retirement allowance equals sixty-five percent (65%); or

(ii) The later of the attainment of age sixty-two (62) or completion of five (5) years of service; provided however, any current member as of June 30, 2012 who has not accrued fifty percent (50%) upon attaining the age of sixty-two (62) shall retire upon accruing fifty percent (50%); and upon retirement a member shall receive a retirement allowance which shall equal:

(A) For members hired prior to July 1, 2007 the sum of (i), (ii) and (iii) where

(i) Is calculated as the member's years of total service before July 1, 2012 multiplied by two and one half percent (2.5%) of average compensation for a member's first twenty (20) total years,

(ii) Is calculated as the member's years of total service before July 1, 2012 in excess of twenty (20) years not to exceed twenty-five (25) years multiplied by three percent (3%) of average compensation, and

(iii) Is the member's years of total service on or after July 1, 2012 multiplied by two percent (2%) of average compensation as defined in § 36-8-1(5)(a).

(B) For members hired on or after July 1, 2007, the member's retirement allowance shall be calculated as the member's years of total contributory service multiplied by two percent (2%) of average compensation.

(C) Any member of the state police who is eligible to retire on or prior to June 30, 2012 shall retire with a retirement allowance calculated in accordance with paragraph (a) and (e) above except that whole salary shall be defined as final compensation where compensation for purposes of this section and § 42-28-22.1 includes base salary, longevity and holiday pay.

(D) Notwithstanding the preceding provisions, in no event shall a member's final compensation be lower than his or her final compensation determined as of June 30, 2012.

(2) In no event shall a member's original retirement allowance under any provisions of this section exceed sixty-five percent (65%) of his or her average compensation.

(3) For each member who retires on or after July 1, 2012, except as provided in paragraph (j)(1)(C) above, compensation and average compensation shall be defined in accordance with § 36-8-1(5)(a) and (8), provided that for a member whose regular work period exceeds one hundred forty-seven (147) hours over a twenty-four (24) day period at any time during the four (4) year period immediately prior to his/her retirement that member shall have up to four hundred (400) hours of his/her pay for regularly scheduled work earned during this period shall be included as "compensation" and/or "average compensation" for purposes of this section and § 42-28-22.1.

(4)(i) Notwithstanding the prior paragraphs of this section, and subject to paragraph (4)(ii) below, for all present and former members, active and retired members, and beneficiaries receiving any retirement, disability or death allowance or benefit of any kind, whether for or on behalf of a non-contributory member or contributory member, the annual benefit adjustment provided in any calendar year under this section shall be equal to (A) multiplied by (B) where (A) is equal to the percentage determined by subtracting five and one-half percent (5.5%) (the "subtrahend") from the Five-Year Average Investment Return of the retirement system determined as of the last day of the plan year preceding the calendar year in which the adjustment is granted, said percentage not to exceed four percent (4%) and not to be less than zero percent (0%), and (B) is equal to the lesser of the member's retirement allowance or the first twenty-five thousand dollars (\$25,000) of retirement allowance, such twenty-five thousand dollars (\$25,000) amount to be indexed annually in the same percentage as determined under (4)(i)(A) above. The "Five-Year Average Investment Return" shall mean the average of the investment returns for the most recent five (5) plan years as determined by the retirement board. Subject to paragraph (4)(ii) below, the benefit adjustment provided by this paragraph shall commence upon the third (3rd) anniversary of the date of retirement or the date on which the retiree reaches age fifty-five (55), whichever is later. In the event the retirement board adjusts the actuarially assumed rate of return for the system, either upward or downward, the subtrahend shall be adjusted either upward or downward in the same amount.

(ii) Except as provided in paragraph (4)(iii), the benefit adjustments under this section for any plan year shall be suspended in their entirety unless the GASB Funded Ratio of the Employees' Retirement System of Rhode Island, the Judicial Retirement Benefits Trust and the State Police Retirement Benefits Trust, calculated by the system's actuary on an aggregate basis, exceeds eighty percent (80%) in which event the benefit adjustment will be reinstated for all members for such plan year.

In determining whether a funding level under this paragraph (4)(ii) has been achieved, the actuary shall calculate the funding percentage after taking into account the reinstatement of any current or future benefit adjustment provided under this section. "GASB Funded Ratio" shall mean the ratio of the actuarial value of assets to the actuarial accrued liability.

(iii) Notwithstanding paragraph (4)(ii), in each fifth plan year commencing after June 30, 2012 commencing with the plan year ending June 30, 2017, and subsequently at intervals of five (5) plan years, a benefit adjustment shall be calculated and made in accordance with paragraph (4)(i) above until the GASB Funded Ratio of the Employees' Retirement System of Rhode Island, the Judicial Retirement Benefits Trust and the State Police Retirement Benefits Trust, calculated by the system's actuary on an aggregate basis, exceeds eighty percent (80%).

(iv) The provisions of this paragraph (j)(4) of § 42-28-22 shall become effective July 1, 2012 and shall apply to any benefit adjustment not granted on or prior to June 30, 2012.

(v) The cost-of-living adjustment as provided in this paragraph (j)(4) shall apply to and be in addition to the retirement benefits under the provisions of § 42-28-5 and to the injury and death benefits under the provisions of § 42-28-21.

(5) Any member with contributory service on or after July 1, 2012, who has completed at least five (5) years of contributory service but who has not retired in accordance with (j)(1) above, shall be eligible to retire upon the attainment of member's Security retirement age as defined in 36-8-1(19).

(6) In no event shall a member's retirement allowance be less than the member's retirement allowance calculated as of June 30, 2012 based on the member's years of total service and whole salary as of June 30, 2012.

(k) In calculating the retirement benefit for any member, the term base salary as used in subdivision (b) (3) or average compensation as used in paragraph (j) shall not be affected by a deferral of salary plan or a reduced salary plan implemented to avoid shutdowns or layoffs or to effect cost savings. Basic salary shall remain for retirement calculation that which it would have been but for the salary deferral or salary reduction due to a plan implemented to avoid shutdowns or layoffs or to effect cost savings.

History of Section.

(P.L. 1937, ch. 2526, § 1; G.L. 1938, ch. 8, § 13; P.L. 1952, ch. 3015, § 1; G.L. 1956, § 42-28-22; P.L. 1962, ch. 213, § 1; P.L. 1972, ch. 264, § 1; P.L. 1974, ch. 266, § 1; P.L. 1980, ch. 390, § 1; P.L. 1980, ch. 400, § 1; P.L. 1981, ch. 189, § 1; P.L. 1985, ch. 385, § 1; P.L. 1987, ch. 349, § 1; P.L. 1989, ch. 494, § 5; P.L. 1990, ch. 326, § 1; P.L. 1990, ch. 327, § 1; P.L. 1991, ch. 129, § 3; P.L. 1991, ch. 174, § 3; P.L. 2008, ch. 100, art. 22, § 1; P.L. 2011, ch. 408, § 13; P.L. 2011, ch. 409, § 13; P.L. 2012, ch. 222, § 1; P.L. 2012, ch. 253, § 1.)