



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration  
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**MEMORANDUM**

**To:** The Honorable Marvin L. Abney  
Chairman, House Finance Committee

The Honorable William J. Conley, Jr.  
Chairman, Senate Finance Committee

**From:** Thomas A. Mullaney *Thomas A. Mullaney*  
Executive Director/State Budget Officer

**Date:** March 5, 2019

**Subject:** Amendments to Article 3 of the FY 2020 Appropriations Act  
(19-H-5151)

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The Governor requests that Section 27 of Article 3 entitled "Relating to Government Reform" be replaced with the attached revised language. This amendment is in addition to the amendments to Article 3 previously submitted on February 25, 2019.

The new Section 27 language limits the proposed changes in the injured-on-duty (IOD) statute to state employees only. The statutory changes proposed in the original article as submitted on January 17, 2019 would also impact IOD benefits for municipal employees, which was not the Governor's intent with the proposed changes. There is no change to the estimated fiscal impact of these changes. The new proposed language is shaded in grey.

If you have any questions regarding this amendment, please feel free to call me at 222-6300.

TAM: 20-Amend-7

cc: Sharon Reynolds Ferland, House Fiscal Advisor  
Stephen Whitney, Senate Fiscal Advisor  
Michael DiBiase, Director of Administration  
Jonathan Womer, Director, Office of Management and Budget

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## RELATING TO GOVERNMENT REFORM

SECTION 27. Section 45-19-1 of the General Laws in chapter 45-19 entitled “Relief of Injured and Deceased Fire Fighters and Police Officers” is hereby amended to read as follows:

**45-19-1. Salary payment during line of duty illness or injury.**

(a) Whenever any police officer of the Rhode Island Airport Corporation or whenever any police officer, fire fighter, crash rescue crewperson, fire marshal, chief deputy fire marshal, or deputy fire marshal of any city, town, fire district, or the state of Rhode Island is wholly or partially incapacitated by reason of injuries received or sickness contracted in the performance of his or her duties or due to their rendering of emergency assistance within the physical boundaries of the state of Rhode Island at any occurrence involving the protection or rescue of human life which necessitates that they respond in a professional capacity when they would normally be considered by their employer to be officially off-duty, the respective city, town, fire district, state of Rhode Island or Rhode Island Airport Corporation by which the police officer, fire fighter, crash rescue crewperson, fire marshal, chief deputy fire marshal, or deputy fire marshal, is employed, shall, during the period of the incapacity, pay the police officer, fire fighter, crash rescue crewperson, fire marshal, chief deputy fire marshal, or deputy fire marshal, the salary or wage and benefits to which the police officer, fire fighter, crash rescue crewperson, fire marshal, chief deputy fire marshal, or deputy fire marshal, would be entitled had he or she not been incapacitated, and shall pay the medical, surgical, dental, optical, or other attendance, or treatment, nurses, and hospital services, medicines, crutches, and apparatus for the necessary period, except that if any city, town, fire district, the state of Rhode Island or Rhode Island Airport Corporation provides the police officer, fire fighter, crash rescue crewperson, fire marshal, chief deputy fire marshal, or deputy fire marshal, with insurance coverage for the related treatment, services, or equipment, then the city, town, fire district, the state of Rhode Island or Rhode Island Airport Corporation is only obligated to pay the difference between the maximum amount allowable under the insurance coverage and the actual cost of the treatment, service, or equipment. In addition, the

1 cities, towns, fire districts, the state of Rhode Island or Rhode Island Airport Corporation shall pay all  
2 similar expenses incurred by a member who has been placed on a disability pension and suffers a recurrence  
3 of the injury or illness that dictated his or her disability retirement, subject to the provisions of subsection  
4 (j) herein.

5 (b) As used in this section, "police officer" means and includes any chief or other member  
6 of the police department of any city or town regularly employed at a fixed salary or wage and any  
7 deputy sheriff, member of the fugitive task force, or capitol police officer, permanent  
8 environmental police officer or criminal investigator of the department of environmental  
9 management, or airport police officer.

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

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

17 (e) As used in this section, "fire marshal," "chief deputy fire marshal", and "deputy fire  
18 marshal" mean and include the fire marshal, chief deputy fire marshal, and deputy fire marshals  
19 regularly employed by the state of Rhode Island pursuant to the provisions of chapter 28.2 of title  
20 23.

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

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

5 (h) Any claims to the benefits provided for under this section resulting from the rendering  
6 of emergency assistance in the state of Rhode Island at any occurrence involving the protection or  
7 rescue of human life while off-duty, shall first require those covered by this section to submit a  
8 sworn declaration to their employer attesting to the date, time, place and nature of the event  
9 involving the protection or rescue of human life causing the professional assistance to be rendered  
10 and the cause and nature of any injuries sustained in the protection or rescue of human life. Sworn  
11 declarations shall also be required from any available witness to the alleged emergency involving  
12 the protection or rescue of human life.

13 (i) All declarations required under this section shall contain the following language:  
14 "Under penalty of perjury, I declare and affirm that I have examined this declaration, including  
15 any accompanying schedules and statements, and that all statements contained herein are true and  
16 correct."

17 (j) Any person, not employed by the state of Rhode Island, receiving injured on-duty  
18 benefits pursuant to this section, and subject to the jurisdiction of the state retirement board for  
19 accidental retirement disability, for an injury occurring on or after July 1, 2011, shall apply for an  
20 accidental disability retirement allowance from the state retirement board not later than the later  
21 of eighteen (18) months after the date of the person's injury that resulted in said person's injured  
22 on duty status or sixty (60) days from the date on which the treating physician certifies that the  
23 person has reached maximum medical improvement. Nothing herein shall be construed to limit or

1 alter any and all rights of the parties with respect to independent medical examination or otherwise,  
2 as set forth in the applicable collective bargaining agreement. Notwithstanding the forgoing, any  
3 person receiving injured on duty benefits as the result of a static and incapacitating injury whose  
4 permanent nature is readily obvious and ascertainable shall be required to apply for an accidental  
5 disability retirement allowance within sixty (60) days from the date on which the treating physician  
6 certifies that the person's injury is permanent, or sixty (60) days from the date on which such  
7 determination of permanency is made in accordance with the independent medical examination  
8 procedures as set forth in the applicable collective bargaining agreement.

9 (1) If a person with injured on duty status fails to apply for an accidental disability  
10 retirement allowance from the state retirement board within the time frame set forth above, that  
11 person's injured on duty payment shall terminate. Further, any person suffering a static and  
12 incapacitating injury as set forth in subsection (j) above and who fails to apply for an accidental  
13 disability benefit allowance as set forth in subsection (j) shall have his or her injured on duty  
14 payment terminated.

15 (2) A person who so applies shall continue to receive injured on duty payments, and the  
16 right to continue to receive IOD payments of a person who so applies shall terminate in the event  
17 of a final ruling of the workers compensation court allowing accidental disability benefits. Nothing  
18 herein shall be construed to limit or alter any and all rights of the parties with respect to  
19 independent medical examination or otherwise, as set forth in the applicable collective bargaining  
20 agreement.

21 (k) Any person employed by the state of Rhode Island who is currently receiving injured  
22 on-duty benefits or any person employed by the state of Rhode Island who in the future is entitled  
23 to injured on-duty benefits pursuant to chapter 19, and subject to the jurisdiction of the state

1 retirement board for accidental retirement disability, shall apply for an accidental disability  
2 retirement allowance from the state retirement board not later than sixty (60) days from the date  
3 on which a treating physician or an independent medical examiner certifies that the person has  
4 reached maximum medical improvement, and in any event not later than eighteen (18) months  
5 after the date of the person's injury that resulted in said person being on injured on-duty. Nothing  
6 herein shall be construed to limit or alter any and all rights of the parties with respect to  
7 independent medical examination or otherwise, as set forth in the applicable collective bargaining  
8 agreement. Notwithstanding the forgoing, any person receiving injured on duty benefits as the  
9 result of a static and incapacitating injury whose permanent nature is readily obvious and  
10 ascertainable shall be required to apply for an accidental disability retirement allowance within  
11 sixty (60) days from the date on which a treating physician or an independent medical examiner  
12 certifies that the person's injury is permanent, or sixty (60) days from the date on which such  
13 determination of permanency is made in accordance with the independent medical examination  
14 procedures as set forth in the applicable collective bargaining agreement.

15 (1) If a person employed by the state of Rhode Island with injured on duty status fails to  
16 apply for an accidental disability retirement allowance from the state retirement board within the  
17 time frame set forth in subsection (k) above, that person's injured on duty payment shall terminate.  
18 Further, any person employed by the state of Rhode Island suffering a static and incapacitating  
19 injury as set forth in subsection (k) above and who fails to apply for an accidental disability benefit  
20 allowance as set forth in subsection (k) shall have his or her injured on duty payment terminated.

21 (2) A person employed by the state of Rhode Island who so applies shall continue to receive  
22 injured on duty payments, and the right to continue to receive injured on-duty payments of a person  
23 who so applies shall terminate upon final adjudication by the state retirement board approving or

1 denying either ordinary or accidental disability payments and, notwithstanding 45-31.2-9, this  
2 termination of injured on duty benefits shall not be stayed.

3 (3)(a) Notwithstanding any other provision of law, all persons employed by the state of  
4 Rhode Island entitled to benefits under this section who were injured prior to July 1, 2019 and who  
5 have been receiving injured on duty benefits pursuant to this section for a period of eighteen (18)  
6 months or longer as of July 1, 2019 shall have up to ninety (90) days from July 1, 2019 to apply  
7 for an accidental disability retirement benefit allowance. Any person employed by the state of  
8 Rhode Island receiving injured on-duty benefits for a period less than eighteen (18) months as of  
9 July 1, 2019 shall apply for an accidental disability retirement benefit allowance within eighteen  
10 (18) months of the date of injury that resulted in said person receiving injured on-duty pay,  
11 provided however, said person shall have a minimum of ninety (90) days to apply.

12 Applications for disability retirement received by the state retirement board by any person  
13 employed by the State of Rhode Island receiving injured on-duty payments that shall be deemed  
14 untimely pursuant to §36-10-14(b) shall have ninety (90) days from July 1, 2019 to apply for an  
15 accidental disability retirement benefit allowance. Failure to apply for an accidental disability  
16 retirement benefit allowance within the timeframe set forth herein shall result in the termination  
17 of injured on duty benefits.

18 (b) Any person employed by the state of Rhode Island receiving injured on-duty payments  
19 who has been issued a final adjudication of the state retirement board on an application for an  
20 ordinary or accidental disability benefit, either approving or denying said application, shall have  
21 his/her injured on-duty payments terminated.

22 (4) If awarded an accidental disability pension, any person employed by the state of Rhode  
23 Island covered under this section shall receive benefits consistent with 36-10-15.