



State of Rhode Island  
Office of the General Treasurer

**James A. Diosa**  
General Treasurer

27 March 2025

The Honorable Stephen Casey  
Chair, House Committee on Municipal Government and Housing

The Honorable Members of the House Committee on Municipal Government and Housing

**RE:** 2025-H 5372, *An Act Relating to Towns and Cities – Relief of Injured and Deceased Fire Fighters and Police Officers*

Chair Casey:

I write with regard to 2025-H 5372, which creates a rebuttable presumption that police officers with debilitating heart disease or hypertension were impaired in the line of duty. As proposed, the state can rebut this presumption by a showing of clear and convincing evidence that the impairment was caused by other factors. The presumption does not apply where a police officer:

- (1) Had hypertension or heart disease at the time of hiring; or
- (2) Has been a habitual smoker for the five years preceding a hypertension or heart disease diagnosis.

Since this legislation purports to expand access to accidental disability benefits for a class of employees, it will have an impact on municipal police units within the Municipal Employees' Retirement System ("MERS").

Consistent with Rhode Island law, legislation concerning MERS should not be approved without the benefit of a pension impact note. *See* R.I. Gen. Laws § 45-21-42.2. (Legislation impacting the pension system "shall *not* be approved by the general assembly unless an explanatory statement or note . . . is appended to the proposed legislation which actuarially calculates . . . the projected twenty (20) year cost of the proposed legislation") (emphasis added). This independent assessment will clarify the impact the proposed legislation will have on both the State budget, and the sustainability of the pension system. The Chair of the House Finance Committee – with the approval of the Speaker of the House – can request a pension impact note concerning proposed legislation originating in the House of Representatives. *See* R.I. Gen. Laws § 45-21-42.2.

Even with the benefit of an actuarial assessment, the state's ability to accurately forecast the full financial impact of this legislative change is severely limited. The number of police officers attempting to claim a disability based on hypertension and heart disease is likely to increase given the comparative ease of proving on-duty injury with the benefit of a rebuttable presumption. It is difficult to model exactly how many more police officers would file disability claims, and the frequency with which there will be sufficient evidence to overcome the presumption.

However, the average cost of a disability pension is generally over \$500,000 per person. As such, a comparatively small number of individuals can have a relatively large economic impact on a pension system, particularly in a small community where MERS police units may only have a handful of contributing members.

Moreover, the evidentiary showing necessary to overcome the presumption is considerable. "Clear and convincing" evidence requires the truth of the precise facts be "highly probable." *See Colorado v. New Mexico*, 467 U.S. 310, 316 (1984); *Luis v. Gaugler*, 185 A.3d 497, 503 n. 9 (R.I. 2018). In the context of this bill, the Retirement Board of the Employees' Retirement System of Rhode Island could not overcome the presumption absent a firm belief a heart disease or hypertension diagnosis was not duty related.

Cardiovascular impairments are caused by a myriad of factors and are quite common among men at or near retirement age, regardless of occupation. According to the most recent statistics published by the Centers for Disease Control and Prevention, 6.4% of adults aged 45-64 years were diagnosed with heart disease. Even more striking, over 63% of adult men aged 45-64 were diagnosed with hypertension.

In practice, this creates a nearly irrebuttable presumption since it will be difficult – if not impossible – for the state to overcome this burden. This much is evident from a recent ruling by the Rhode Island Workers' Compensation Court. *See Paul v. Employees' Ret. Sys. of Rhode Island*, W.C.C. No 2024-0388 (Feb. 27, 2024) (Minicucci, J.). In *Paul v. Employees' Retirement System of Rhode Island*, the Workers' Compensation Court considered a decision rendered by the Disability Committee of the Retirement Board of the Employees' Retirement System of Rhode Island which denied an application from a firefighter seeking an accidental disability for a "cardiac episode while on shift." *See id.* at \*2. Instead, the Disability Committee recommended an ordinary disability pension, finding inconclusive evidence that the cardiac episode was the result of job-related duties.

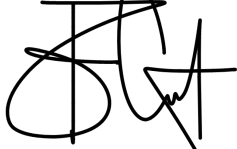
In light of identical legislation enacted by the General Assembly for the benefit firefighters during last session, the Court *reversed* the Disability Committee's decision based wholly on the state's inability to satisfy the requisite evidentiary standard. *See id.* at \*13. Specifically, the Court emphasized that the standard clear and convincing evidence is a high evidentiary bar, which requires a fact "be highly probable and so clear as to leave no substantial doubt." *Id.* "In other words, each assertion must be supported by evidence that commands the *unhesitating assent* of every reasonable mind." *Id.* (emphasis added).

Notably, the Court suggested the outcome may have been different were it to assess whether the firefighter's condition were causally related to his professional responsibilities "by a fair preponderance." *Id.* at \*15.

Given the proven difficulty of rebutting an accidental disability claim based on heart disease or hypertension, the Office of the General Treasurer recommends the General Assembly at least consider a lesser standard permitting the presumption to be overcome by a *preponderance* of the evidence, a lesser legal standard that will permit the state to plausibly rebut disability-related retirement based on hypertension. This amendment is consistent with the spirit of this legislation, while also providing a meaningful opportunity for the State to refute claims of those not truly injured in the line of duty.

Please feel free to reach out by email at [Robert.CravenJr@treasury.ri.gov](mailto:Robert.CravenJr@treasury.ri.gov) or by phone at (401) 330-0661 with any further questions.

Respectfully,

A handwritten signature in black ink, appearing to be "R. Craven, Jr.", written over a horizontal line.

Robert E. Craven, Jr.  
Director of Policy and Intergovernmental Affairs  
Office of the General Treasurer

cc: The Honorable Robert E. Craven, Sr.