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LC02088/SUB B  
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# STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2006

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A N A C T

RELATING TO TOWNS AND CITIES -- COUNCILS AND GOVERNING BODIES

Introduced By: Senators Bates, Felag, Paiva-Weed, C Levesque, and Gibbs

Date Introduced: February 14, 2006

Referred To: Senate Financial, Technology, Regulatory

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 45-5-20.1 of the General Laws in Chapter 45-5 entitled "Councils  
2 and Governing Bodies" is hereby amended to read as follows:

3           ~~45-5-20.1. Power of city and town councils to jointly establish an insurance~~  
4 ~~corporation, to obtain insurance, and to enter into a cooperative risk management program.~~  
5 Power of city and town councils and regional school districts to jointly establish an  
6 insurance corporation, to obtain insurance, and to enter into a cooperative risk  
7 management program. -- (a) City ~~Cities~~ and town councils, school committees, and water and  
8 fire districts may, through passage of a resolution, establish agreements between two (2) or more  
9 cities, town councils, school committees, and water and fire districts ~~and towns~~ for obtaining or  
10 effecting insurance by self insurance, for obtaining or effecting insurance from any insurer  
11 authorized to transact insurance in the state, or for obtaining and effecting insurance secured in  
12 accordance with any other method provided by law, or by combination and of the provisions of  
13 this section for obtaining and effecting insurance. Agreements made pursuant to this section may  
14 provide for pooling of self insurance reserves, risks, claims and losses, and of administrative  
15 expenses associated with the same, among local government units.

16           (b) To accomplish the purposes of this section any two (2) or more cities, ~~and towns,~~  
17 school committee or water and fire districts may authorize the creation of ~~a corporation~~ separate  
18 corporations (the "corporation") for the purpose of: (1) issuing to the cities, ~~and towns,~~ school  
19 committees, and water and fire districts which are members of the ~~corporation~~ corporations, their

1 departments, officials, and employees, their boards, commissions, authorities, and other agencies,  
2 and their members, policies of insurance and reinsurance of all types and categories, including,  
3 without being limited to, the following types and categories: property, casualty, and life, accident,  
4 and health insurance, and (2) developing and administering an interlocal risk management  
5 program. The ~~corporation~~ corporations, in addition, may have as ~~its~~ their purposes reducing the  
6 risk of its members; safety engineering; distributing, sharing, and pooling risks; acquiring excess  
7 loss insurance; and processing and defending claims against the members of the ~~corporation~~  
8 corporations. Any contributions made to the ~~corporation~~ corporations for the purpose of  
9 distributing, sharing, or pooling risks shall be made on actuarially sound basis, and the  
10 ~~corporation~~ corporations shall have an audit performed annually, copies of which shall be  
11 provided to the members of the ~~corporation~~ corporations, ~~the insurance administrator~~, and the  
12 auditor general; discrete accounts shall be kept for each risk management program developed and  
13 administered by the ~~corporation~~ corporations. ~~The corporation shall not receive funds from any~~  
14 ~~local government or local government agency for the purpose of distributing, sharing, or pooling~~  
15 ~~any risk, until a plan for the operation of the corporation has been approved by the insurance~~  
16 ~~administrator, which approval shall not be unreasonably withheld.~~

17 (c) The ~~corporation~~ corporations shall not be considered an insurance company and shall  
18 not be subject to the provisions of the laws of the state of Rhode Island regulating insurance  
19 companies: and therefore shall in no way be regulated by the Rhode Island department of  
20 business regulation.

21 (d) The ~~corporation~~ corporations created pursuant to the provisions of this section will be  
22 created by filing articles of incorporation pursuant to chapter 6 of title 7 entitled Rhode Island  
23 Nonprofit Corporation Act and the articles of incorporation will be filed by an  
24 incorporator/incorporators designated by the city, ~~or~~ town councils, school committees or water  
25 or fire districts authorizing the creation of the corporation. The articles of incorporation creating  
26 the ~~corporation~~ corporations pursuant to the provisions of this section may contain provisions, not  
27 inconsistent with this section, that the incorporators determine to be desirable or useful in  
28 fulfilling the purposes set forth in this section. The ~~corporation~~ corporations created pursuant to  
29 the provisions of this section will have the powers of a nonprofit corporation created under  
30 chapter 6 of title 7 entitled Rhode Island Nonprofit Corporation Act including, without being  
31 limited to, the power to issue bonds, notes, and other obligations in any amounts and upon any  
32 terms that the corporation's governing board determines.

33 (e) The ~~corporation~~ corporations created pursuant to the provisions of this section,  
34 notwithstanding the filing of its articles of incorporation pursuant to chapter 6 of title 7 entitled

1 Rhode Island Nonprofit Corporation Act, (1) will be deemed to be a public ~~corporation~~  
2 corporations, instrumentality, and agency of the state of Rhode Island acting for the benefit of the  
3 municipalities which are members of the ~~corporation~~ corporations but will not constitute a  
4 department of the government of the state of Rhode Island, and (2) will be deemed to be  
5 exercising public and essential governmental functions of the state of Rhode Island. No part of  
6 the net earnings of the ~~corporation~~ corporations created pursuant to the provisions of this section  
7 will be distributable to, or inure to the benefit of, any private person. The members of the  
8 governing board of the ~~corporation~~ corporations created pursuant to the provisions of this section  
9 will consist solely of chief executives, chief elected officials, finance directors, or treasurers of  
10 municipalities, or any other municipal officials that may be provided for in the bylaws of the  
11 ~~corporation~~ corporations, and the members shall receive no compensation for the performance of  
12 their duties but each member may be reimbursed for his or her reasonable expenses incurred in  
13 carrying out their duties.

14 (f) The bonds, notes, or other obligations issued by the ~~corporation~~ corporations created  
15 pursuant to the provisions of this section will not be deemed to constitute a debt or liability or  
16 obligation of the state of Rhode Island or of any political subdivision of the state or of any  
17 municipality which is a member of the corporation but will be payable solely from the revenues  
18 or assets of the ~~corporation~~ corporations.

19 (g) Notwithstanding any provision of this chapter or special or general law to the  
20 contrary, each city, ~~or town,~~ school committee, or water or fire district which is a member of the  
21 ~~corporation~~ corporations created pursuant to the provisions of this section will be authorized to  
22 enter into contracts with the ~~corporation~~ corporations with respect to, among other matters, the  
23 payment of premiums and other payments, for terms not exceeding twenty-five (25) years in  
24 duration. To the extent that the obligation to pay premiums or make other payments under any  
25 contract is deemed to constitute the incurring of indebtedness by a city, ~~or town,~~ school  
26 committee, or water or fire district, the contract may nevertheless be entered into without  
27 obtaining the approval of the electors of the city or town notwithstanding the provisions of  
28 sections 45-12-19 and 45-12-20 and notwithstanding any provisions of the city's or town's charter  
29 or any special or general law to the contrary. Any contract may be entered into by a city, ~~or town,~~  
30 school committee or water or fire district either prior to or subsequent to the making of any  
31 appropriations which may be needed to carry out the obligations of the city, ~~or town,~~ school  
32 committee or water or fire district under the contract.

33 (h) The property and assets of the ~~corporation~~ corporations created pursuant to the  
34 provisions of this section, the income of the ~~corporation~~ corporations, and any bonds, notes, or

1 other obligations issued by the corporation, their transfer, and the income from these (including  
2 any profits made on the sale thereof) will at all times be free from taxation by the state of Rhode  
3 Island or any political subdivision or other instrumentality of the state of Rhode Island, excepting  
4 inheritance, estate, and gift taxes with respect to the bonds, notes, or other obligations issued by  
5 the ~~corporation~~ corporations.

6 (i) Whenever the governing board of ~~a corporation~~ the corporations created pursuant to  
7 the provisions of this section determines that the purposes for which the ~~corporation~~ corporations  
8 ~~was~~ were created have been substantially fulfilled and all bonds, notes, or other obligations of the  
9 ~~corporation~~ corporations have been fully paid or adequate provision has been made for their  
10 payment, the ~~corporation~~ corporations may be dissolved in the manner provided for nonprofit  
11 corporations pursuant to chapter 6 of title 7 entitled Rhode Island Nonprofit Corporation Act and,  
12 upon the ~~corporation's~~ corporations' dissolution, title to all funds and assets of the corporation  
13 shall vest in and become the property of the members of the corporation in proportions that are  
14 provided for in the corporation's articles of incorporation.

15 (j) No ~~corporation~~ corporations created pursuant to the provisions of this section shall be  
16 required to pay any recording or filing fee or any transfer tax of any kind on account of papers or  
17 instruments recorded or filed by it or on its behalf.

18 (k) No ~~corporation~~ corporations created pursuant to the provisions of this section and no  
19 agent or broker acting on behalf of the ~~corporation~~ corporations shall be required to pay a surplus  
20 line premium tax of any kind on premiums for any policies of insurance and reinsurance to or  
21 from the ~~corporation~~ corporations.

22 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO TOWNS AND CITIES -- COUNCILS AND GOVERNING BODIES

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1           This act would remove the requirement that the plan of operation be approved by the  
2 insurance administrator, and would clarify that cities and town councils, school committees and  
3 water and fire districts may participate in all aspects of the legislation and would clarify that more  
4 than one corporation may be formed under this act.

5           This act would take effect upon passage.

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