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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO CITIES AND TOWNS -- PROVIDING FINANCIAL STABILITY

Introduced By: Representatives Costantino, Melo, Carter, Giannini, and Gablinske

Date Introduced: June 08, 2010

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-9-1, through 45-9-17 of the General Laws in Chapter 45-9  
2 entitled "Budget Commissions" are hereby amended to read as follows:

3 ~~45-9-1. Composition and powers. -- If the general assembly at any time vests the~~  
4 ~~authority to impose taxes and the authority to spend money in any town or city in a budget~~  
5 ~~commission, that commission shall consist of not less than five (5) nor more than fifteen (15)~~  
6 ~~electors, of any qualifications and with any powers that the general assembly may prescribe, to be~~  
7 ~~elected by the qualified electors of the town or city.~~

8 ~~45-9-2. Town approval for establishment. -- No budget commission shall be created for~~  
9 ~~a town, as distinguished from a city, unless the electors of the town, in a regularly called financial~~  
10 ~~town meeting, notice of the proposition appearing in the call for the meeting, by a majority vote~~  
11 ~~of those present and voting, vote to submit the proposition to the electors of the town qualified to~~  
12 ~~vote upon any proposition to impose a tax or for the expenditure of money, at the next regular~~  
13 ~~election of town officers, and unless the electors at the election by a majority vote of those~~  
14 ~~present and voting approve the proposition.~~

15 ~~45-9-3. Budget and Review Commission. -- (a) (1) Notwithstanding the provisions of~~  
16 ~~sections 45-9-1 and 45-9-2 or any other general or special laws of the state or charter provisions,~~  
17 ~~the general assembly vests in the director of the state department of revenue (hereinafter~~  
18 ~~"director") the power to authorize, create, and establish a budget and review commission in any~~  
19 ~~town or city where the director finds that the town or city's bond rating has been assigned by one~~

1 ~~or more recognized rating agencies to a rating which is below investment grade and there is an~~  
2 ~~imminent threat of default on any or all of its debt obligations.~~

3 ~~-(2) Whereupon the director of revenue shall authorize said budget and review~~  
4 ~~commission, to convene specifically to deal with the aforementioned town or city, that shall~~  
5 ~~consist of the chief executive officer of the town or city; the president of the town or city council;~~  
6 ~~three (3) public members from the affected municipality, at least one of whom shall be qualified~~  
7 ~~by training or experience in the fields of finance or accounting, to be appointed by the governor,~~  
8 ~~with the advice and consent of the senate; two (2) ex officio state officials who shall be the~~  
9 ~~director, or his or her designee from the department of revenue; and one member of the public~~  
10 ~~finance management board to be appointed by the governor who, in making his or her~~  
11 ~~appointment, shall give due consideration to the recommendation of the chair of the public~~  
12 ~~finance management board, with the advice and consent of the senate.~~

13 ~~-(3) No one shall be eligible for appointment unless he or she is a resident of this state.~~

14 ~~-(4) Where there is no chief executive officer of the town or city, the vice president of the~~  
15 ~~town council or city council shall serve on the commission. The director of the state department~~  
16 ~~of revenue shall serve as chair of the commission.~~

17 ~~-(5) The commission may elect from among its members such other officers as they deem~~  
18 ~~necessary.~~

19 ~~-(6) Four (4) or more members of the commission shall constitute a quorum and the vote~~  
20 ~~of a majority of said quorum at any meeting shall be required for action. No vacancy in the~~  
21 ~~membership of the commission shall impair the right of a quorum to exercise all of the rights and~~  
22 ~~perform all of the duties of the commission.~~

23 ~~-(7) Newly appointed and qualified commission members of the municipality shall,~~  
24 ~~within six (6) weeks of their qualification or designation, attend a training course that is~~  
25 ~~developed with commission approval and conducted by the chair or his or her designee and shall~~  
26 ~~include instruction in the subject area of chapter 9 of this title and chapters 46 of title 42, chapter~~  
27 ~~14 of title 36, and chapter 2 of title 38 of Rhode Island general laws; and the commission's rules~~  
28 ~~and regulations.~~

29 ~~-(8) Public members of the commission shall be removable by the governor pursuant to~~  
30 ~~section 36-1-7 for cause only, and removal solely for partisan or personal reasons unrelated to~~  
31 ~~capacity or fitness for the office shall be unlawful.~~

32 ~~-(9) The powers of the budget and review commission shall be to impose taxes and to~~  
33 ~~make appropriations for the expenditure of moneys, for the purpose of adopting a budget and, for~~  
34 ~~the purpose of maintaining a balanced budget, the budget and review commission shall make~~

1 ~~reductions or suspensions in the appropriations to any or all departments, offices or other~~  
2 ~~agencies of town or city government as will prevent a deficit for the fiscal year. The budget and~~  
3 ~~review commission shall be subject to the open meetings and open records law. The budget and~~  
4 ~~review commission shall remain in office until that time as the chief executive officer of the town~~  
5 ~~or city and the town or city council petitions the director of the state department of revenue to~~  
6 ~~disband the budget and review commission.~~

7 ~~(b) (1) The budget and review commission shall commence its work by examining the~~  
8 ~~financial and operating condition of the city or town and shall also advise the chief executive~~  
9 ~~officer, city or town council and the fiscal officials of the city or town on the formulation of~~  
10 ~~adequate budget and budgetary controls.~~

11 ~~(2) Reporting Requirements. Within ninety (90) days of its being disbanded as~~  
12 ~~provided for in section 45-9-3(a)(9), the budget and review commission shall approve and issue a~~  
13 ~~report detailing its findings and recommendations. This report shall be submitted to the governor,~~  
14 ~~the speaker of the house of representatives, the president of the senate, and the secretary of state~~  
15 ~~of its activities during that fiscal year. The report shall provide: an operating statement~~  
16 ~~summarizing meetings or hearings held, subjects addressed, decisions rendered, rules or~~  
17 ~~regulations promulgated, studies conducted, policies and plans developed, approved, or modified,~~  
18 ~~and programs administered or initiated; a consolidated financial statement of all funds received~~  
19 ~~and expended including the source of the funds, a listing of any staff supported by these funds,~~  
20 ~~and a summary of any clerical, administrative or technical support received; a summary of~~  
21 ~~performance during the course of its existence, including accomplishments, shortcomings and~~  
22 ~~remedies; a synopsis of hearings, complaints, suspensions, or other legal matters related to the~~  
23 ~~authority of the board; a summary of any training courses held pursuant to section 45-9-3(a)(7); a~~  
24 ~~briefing on anticipated activities in the upcoming fiscal year; and findings and recommendations~~  
25 ~~for improvements. The report shall be posted electronically on the general assembly and the~~  
26 ~~secretary of state's websites as prescribed in section 42-20-8.2.~~

27 ~~(3) The examination and report shall be completed and published no sooner than three~~  
28 ~~(3) weeks after the formation of the budget and review commission. The commission shall~~  
29 ~~exercise any of the powers set forth in this section only after the examination and publication of~~  
30 ~~the commission's report.~~

31 **45-9-1. Declaration of Policy and Legal Standard. -- It shall be the policy of the state**  
32 **to provide a mechanism for the state to work with cities and towns undergoing financial distress**  
33 **that threatens the fiscal well-being, public safety and welfare of such cities and towns, or other**  
34 **cities and towns or the state, with the state providing varying levels of support and control**

1 depending on the circumstances. The powers delegated by the General Assembly in this chapter  
2 shall be carried out having due regard for the needs of the citizens of the state and of the city or  
3 town, and in such a manner as will best preserve the safety and welfare of citizens of the state and  
4 their property, and the access of the state and its municipalities to capital markets, all to the public  
5 benefit and good.

6 **45-9-2. Definitions.** -- As used in this chapter the following words shall, unless the  
7 context clearly requires otherwise, have the following meanings:

8 (1) "Budget commission", means the budget and review commission established under  
9 sections 45-9-5 and 45-9-6.

10 (2) "Charter", means the home rule charter or the legislative charter of any city or town.

11 (3) "Division of municipal finance", means the division of municipal finance in the  
12 department of revenue or any successor department or agency.

13 (4) "Director of revenue", means the director of the department of revenue.

14 (5) "Elected chief executive officer", means in cities and towns having a popularly  
15 elected chief executive officer, the popularly elected chief executive officer, and in cities and  
16 towns where there is no popularly elected chief executive officer, the president of the city or town  
17 council.

18 (6) "Fiscal overseer", means the financial overseer appointed under section 45-9-3.

19 (7) "General Treasurer", means the general treasurer of the state.

20 (8) "Municipal budget", means the fiscal year operating budget of the city or town,  
21 inclusive of the school department budget and all other departments.

22 (9) "Officer", means the chief administrative and financial officer appointed under  
23 section 45-9-10 after abolition of a fiscal overseer or a budget commission or a receiver in a city  
24 or town.

25 (10) "Receiver", means the receiver appointed pursuant to sections 45-9-7 or 45-9-8.

26 (11) "School committee", means the school committee of the city or town, but shall not  
27 mean or include a regional school district committee.

28 (12) "State Aid", means the funds made available to cities and towns:

29 (i) As state aid pursuant to chapter 45-13 of the general laws, but specifically excluding  
30 reimbursements to cities and towns for the cost of state mandates pursuant to section 45-13-9;

31 (ii) As school operations aid provided for in sections 16-7-5 through 16-7-34.3 of the  
32 general laws and as school housing aid pursuant to sections 16-7-35 through 16-7-47 of the  
33 general laws, but subject to any pledge to bonds issued to finance school projects by the Rhode  
34 Island health and educational building corporation;

1            (iii) In replacement of motor vehicle and trailer excise taxes pursuant to chapter 44-34.1  
2 of the general laws;

3            (iv) From the public service corporation tax pursuant to chapter 44-13 of the general  
4 laws;

5            (v) From the local meal and beverage tax pursuant to section 44-18-18.1 of the general  
6 laws and the hotel tax pursuant to section 44-18-36.1 of the general laws; and

7            (vi) Pursuant to all acts supplementing such chapters listed in subdivisions (i) through (v)  
8 above or pursuant to any other law hereafter enacted providing for funds to municipalities in lieu  
9 of, or in substitution for, or in addition to the funds provided pursuant to acts supplementing such  
10 chapters listed in subdivisions (i) through (v);

11            **45-9-3. Appointment and duties of fiscal overseer.** – (a) Upon joint request by a city’s  
12 or town’s elected chief executive officer and city or town council, which request is approved by  
13 the division of municipal finance and the auditor general, or in absence of such a request, in the  
14 event that the director of revenue, in consultation with the auditor general, makes any two (2) or  
15 more of the findings set forth in subsection (b), the director of revenue may appoint a fiscal  
16 overseer for the city or town to assess the ability of the city or town government to manage the  
17 city’s or town’s fiscal challenges.

18            (b) The director of revenue may appoint a fiscal overseer if the director finds in his or her  
19 sole discretion that any two (2) of the following events have occurred which are of such a  
20 magnitude that they threaten the fiscal well-being of the city or town, diminishing the city or  
21 town’s ability to provide for the public safety or welfare of the citizens of the city or town:

22            (1) The city or town projects a deficit in the municipal budget in the current fiscal year  
23 and again in the upcoming fiscal year;

24            (2) The city or town has not filed its audits with the auditor general by the deadlines  
25 required by law for two (2) successive fiscal years (not including extensions authorized by the  
26 auditor general);

27            (3) The city or town has been downgraded by one of the nationally recognized statistical  
28 rating organizations;

29            (4) The city or town is otherwise unable to obtain access to credit markets on reasonable  
30 terms in the sole judgment of the director of revenue.

31            (5) The city or town does not promptly respond to requests made by the director of  
32 revenue, or the auditor general, or the chairpersons of the house and/or senate finance committees  
33 for financial information and operating data necessary to assess the fiscal condition of the city or  
34 town in the sole judgment of the director of revenue.

1           (c) The director of revenue may also appoint a fiscal overseer if a city or town fails to  
2 comply with the requirements of sections 45-12-22.1 – 45-12-22.5 of the general laws.

3           (d) The fiscal overseer shall without limitation:

4           (1) Recommend to the elected chief executive officer, city or town council and school  
5 committee sound fiscal policies for implementation;

6           (2) Supervise all financial services and activities;

7           (3) Advise the assessors, director of finance, city or town treasurer, purchasing agent and  
8 employees performing similar duties but with different titles;

9           (4) Provide assistance in all matters related to municipal financial affairs;

10          (5) Assist in development and preparation of the municipal budget, all department  
11 budgets and spending plans;

12          (6) Review all proposed contracts and obligations;

13          (7) Monitor the expenditures of all funds;

14          (8) Approve the annual or supplemental municipal budgets of the city or town and all of  
15 its departments; and

16          (9) Report monthly to the director of revenue, the auditor general, the governor and the  
17 chairpersons of the house finance and senate finance committees on the progress made towards  
18 reducing the municipality's deficit and otherwise attaining fiscal stability.

19          (e) All department budgets and requests for municipal budget transfers shall be submitted  
20 to the fiscal overseer for review and approval.

21          (f) The city or town shall annually appropriate amounts sufficient for the proper  
22 administration of the fiscal overseer and staff, as determined in writing by the division of  
23 municipal finance. If the city or town fails to appropriate such amounts, the division of municipal  
24 finance shall direct the general treasurer to deduct the necessary funds from the city's or town's  
25 distribution of state aid and shall expend those funds directly for the benefit of the fiscal overseer  
26 and staff.

27          (g) Within one hundred twenty (120) days of being appointed by the director of revenue,  
28 the fiscal overseer shall develop a three (3)-year operating and capital financial plan to achieve  
29 fiscal stability in the city or town. The plan shall include a preliminary analysis of the city's or  
30 town's financial situation and the fiscal overseer's initial recommendations to immediately begin  
31 to address the city's or town's operating and structural deficits. The fiscal overseer shall have the  
32 power to compel operational, performance or forensic audits, or any other similar assessments.  
33 The fiscal overseer shall have the power, at the expense of the city or town, to employ, retain,  
34 supervise such managerial, professional and clerical staff as are necessary to carry out the

1 responsibility of fiscal overseer, subject to the approval of the division of municipal finance;  
2 provided, however, that the fiscal overseer shall not be subject to chapter 37-2 of chapter 45-55 of  
3 the general laws in employing such staff.

4 **45-9-4. Approval of tax levy.** – A city or town which is subject to the jurisdiction of a  
5 fiscal overseer, or a budget commission may not levy property taxes or motor vehicle excise taxes  
6 without prior approval of the division of municipal finance. Before the city or town which is  
7 subject to the jurisdiction of a fiscal overseer, or a budget commission shall send out tax bills, the  
8 city or town shall submit to the division of municipal finance a copy of its adopted municipal  
9 budget and such supporting revenue and expenditure information as the division of municipal  
10 finance shall prescribe for the succeeding fiscal year. The adopted municipal budget and such  
11 supporting revenue and expenditure information as the division of municipal finance may  
12 prescribe, shall be submitted to the division of municipal finance no later than ten (10) days after  
13 the adoption of the budget. The division of municipal finance shall ascertain whether the budget  
14 for that fiscal year contains reasonable revenues from taxation and other sources to meet the  
15 appropriations and other amounts required by law to be raised, and the division of municipal  
16 finance shall report its conclusion to the director of revenue. If the director of revenue determines  
17 that the municipal budget as presented does not contain reasonable revenues from taxation and  
18 other sources to meet appropriations and other amounts required by law to be raised, the director  
19 of revenue shall certify this determination in writing and provide notice of the determination with  
20 a copy of the certificate to the auditor general, the governor and the chairpersons of the house and  
21 senate finance committees; and notify the city or town that its tax levy has not been approved and  
22 that the city or town is not authorized to mail or otherwise transmit tax bills to city or town  
23 taxpayers. If the director of revenue has made the foregoing determination, the city or town shall  
24 prepare a revised budget for review and approval by the director of revenue.

25 The city or town shall submit the reports required by section 45-12-22.2 to the director of  
26 revenue, the division of municipal finance, the auditor general, the governor and the chairpersons  
27 of the house and senate finance committees.

28 The director of revenue may waive any reporting or filing requirements contained in this  
29 section.

30 **45-9-5. Reports of fiscal overseer and appointment of budget and review**  
31 **commission.** – (a) The fiscal overseer shall report in writing to the division of municipal finance  
32 if the fiscal overseer concludes that the city or town: (1) Is unable to present a balanced  
33 municipal budget; (2) Faces a fiscal crisis that poses an imminent danger to the safety of the  
34 citizens of the city or town or their property; (3) Will not achieve fiscal stability without the

1 assistance of a budget commission; or (4) That the tax levy of the fiscal year should not be  
2 approved.

3 (b) If the fiscal overseer believes, at any time, that a budget commission should be  
4 appointed, the fiscal overseer may report that belief to the division of municipal finance.

5 (c) If the fiscal overseer reports to the division of municipal finance under subsections (a)  
6 or (b), the director of revenue may immediately abolish the fiscal overseer and appoint a budget  
7 commission.

8 (d) A budget commission shall have all of the powers and duties set forth in sections 45-  
9 9-3 and 45-9-6.

10 (e) If a budget commission has not been appointed and if the division of municipal  
11 finance determines that the city or town has taken steps necessary to achieve long-term fiscal  
12 sustainability and no longer requires active state oversight, the director of revenue may abolish  
13 the fiscal overseer.

14 (f) If the division of municipal finance notifies the director of revenue in writing that the  
15 city or town is unable to achieve a balanced municipal budget, then the director of revenue shall  
16 establish a budget commission.

17 (g) Upon joint request by a city's or town's elected chief executive officer and city or  
18 town council, which request is approved by the division of municipal finance, the director of  
19 revenue, in consultation with the auditor general, may establish a budget commission for such  
20 city or town.

21 **45-9-6. Composition of budget commission.** – (a) If a budget commission is established  
22 under section 45-9-5 or section 45-12-22.7, it shall consist of five (5) members: three (3) of  
23 whom shall be designees of the director of revenue, one of whom shall be the elected chief  
24 executive officer of the city and one of whom shall be the president of the city or town council.  
25 In cities or towns in which the elected chief executive officer for purposes of this chapter is the  
26 president of the city or town council, one member shall be the appointed city or town manager or  
27 town administrator (or, if none, the city or town chief financial officer) as the fifth (5<sup>th</sup>) member.  
28 The budget commission shall act by a majority vote of all its members. The budget commission  
29 shall initiate and assure the implementation of appropriate measures to secure the financial  
30 stability of the city or town. The budget commission shall continue in existence until the director  
31 of revenue abolishes it.

32 The budget commission shall be subject to chapter 36-2 of the general laws, "Access to  
33 Public Records," and chapter 36-14 of the general laws, "Code of Ethics". The budget  
34 commission shall be subject to chapter 42-46 of the general laws "Open Meetings" when meeting

1 to take action on the following matters:

2 (1) Levy and assessment of taxes;

3 (2) Rulemaking or suspension of rules;

4 (3) Adoption of a municipal budget;

5 (4) Approval of collective bargaining agreements and amendments to collective  
6 bargaining agreements; and

7 (5) Making a determination under section 45-9-7 that the powers of the budget  
8 commission are insufficient to restore fiscal stability to the city or town.

9 (b) Action by the budget commission under this chapter shall constitute action by the city  
10 or town for all purposes under the general laws, under any special law and under the city or town  
11 charter.

12 (c) Until the budget commission ceases to exist, no appropriation, borrowing  
13 authorization, transfer, or other municipal spending authority shall take effect until approved by  
14 the budget commission. The budget commission shall approve all appropriations, borrowing  
15 authorizations, transfers and other municipal spending authorizations, in whole or part.

16 (d) In addition to the authority and powers conferred elsewhere in this chapter, and  
17 notwithstanding any city or town charter provision or local ordinance to the contrary, the budget  
18 commission shall have the power to:

19 (1) Amend, formulate and execute the annual municipal budget and supplemental  
20 municipal budgets of the city or town, including the establishment, increase or decrease of any  
21 appropriations and spending authority for all departments, budget commissions, committees,  
22 agencies or other units of the city or town; provided, however, that notwithstanding sections 16-2-  
23 9 and 16-2-18 of the general laws, this clause shall fully apply to the school department and all  
24 school spending purposes;

25 (2) Implement and maintain uniform budget guidelines and procedures for all  
26 departments;

27 (3) Amend, formulate and execute capital budgets, including to amend any borrowing  
28 authorization, or finance or refinance any debt in accordance with the law;

29 (4) Amortize operational deficits in an amount as the director of revenue approves and for  
30 a term not longer than five (5) years;

31 (5) Develop and maintain a uniform system for all financial planning and operations in all  
32 departments, offices, boards, commissions, committees, agencies or other units of the city's or  
33 town's government;

34 (6) Review and approve or disapprove all proposed contracts for goods or services;

1           (7) Notwithstanding any general or special law to the contrary, establish, increase or  
2 decrease any fee, rate or charge, for any service, license, permit or other municipal activity,  
3 otherwise within the authority of the city or town;

4           (8) Appoint, remove, supervise and control all city and town employees and have control  
5 over all personnel matters other than disciplinary matters; provided, that the budget commission  
6 shall hold all existing powers to hire and fire and set the terms and conditions of employment  
7 held by other employees or officers of the city or town; provided, further, that the budget  
8 commission shall have the authority to exercise all powers otherwise available to a municipality  
9 regarding contractual obligations during a fiscal emergency; provided, further, that no city or  
10 town employee or officer shall hire, fire, transfer or alter the compensation or benefits of a city or  
11 town employee except with the written approval of the budget commission; and provided, further,  
12 that the budget commission may delegate or otherwise assign these powers with the approval of  
13 the director of revenue;

14           (9) Alter or eliminate the compensation and/or benefits of elected officials of the city or  
15 town to reflect the fiscal emergency and changes in the responsibilities of the officials as  
16 provided by this chapter;

17           (10) Employ, retain and supervise such managerial, professional and clerical staff as are  
18 necessary to carry out its responsibilities; provided, however, that such employment, retention  
19 and supervisory decisions are subject to the approval of the director of revenue; provided, further,  
20 that the budget commission shall not be subject to chapter 37-2 or chapter 45-55 of the general  
21 laws in employing such staff; provided, further, that the budget commission, with the approval of  
22 the director of revenue, shall have authority to set the compensation, terms and conditions of  
23 employment of its own staff; provided, further, that the city or town shall annually appropriate  
24 amounts sufficient for the compensation of personnel hired under this clause as determined and  
25 fixed by the budget commission; provided, further, that if the city or town fails to appropriate  
26 such amounts, the director of revenue shall direct the general treasurer to deduct the necessary  
27 funds from the city's or town's distribution of state aid and shall expend those funds directly for  
28 the benefit of the budget commission;

29           (11) Reorganize, consolidate or abolish departments, commissions, authorities, boards,  
30 offices or functions of the city or town, in whole or in part, and to establish such new  
31 departments, commissions, authorities, boards, offices or functions as it deems necessary, and to  
32 transfer the duties, powers, functions and appropriations of one department, commission, board,  
33 office or other unit to another department, commission, authority, board or office and in  
34 connection therewith remove and appoint new members for any such commission, authority,

1 board or department which appointees shall serve the remainder of any unexpired term of their  
2 predecessor;

3 (12) Appoint, in consultation with the director of revenue, persons to fill vacancies on  
4 any authority, board, committee, department or office;

5 (13) Sell, lease or otherwise transfer real property and other assets of the city or town  
6 with the approval of the director of revenue;

7 (14) Purchase, lease or otherwise acquire property or other assets on behalf of the city or  
8 town with the approval of the director of revenue;

9 (15) Enter into contracts, including, but not limited to, contracts with other governmental  
10 entities, and such other governmental entities are hereby authorized to enter into such contracts;

11 (16) Adopt rules and regulations governing the operation and administration of the city or  
12 town which permit the budget commission to effectively carry out this chapter under subsection  
13 42-35-3(b) of the general laws;

14 (17) Alter or rescind any action or decision of any municipal officer, employee, board,  
15 authority or commission within fourteen (14) days after receipt of notice of such action or  
16 decision;

17 (18) Suspend, in consultation with the director of revenue any rules and regulations of the  
18 city or town;

19 (19) Notwithstanding any other general law, special act, charter provision or ordinance,  
20 and in conformity with the reserved powers of the general assembly pursuant to Article XIII,  
21 section 5 of the Constitution of the state, a budget commission is authorized to issue bonds, notes  
22 or certificates of indebtedness to fund the deficit of a city or town without regard to section 45-  
23 12-22.4 of the general laws, to fund cash flow and to finance capital projects. Bonds, notes or  
24 certificates of indebtedness issued under authority of this chapter shall be general obligation  
25 bonds backed by the full faith and credit and taxing power of the city or town; provided, however,  
26 that the budget commission may pledge future distributions of state aid for the purpose of retiring  
27 such bonds, notes or certificates of indebtedness. If any state aid is so pledged, the budget  
28 commission shall execute on behalf of the city or town a trust agreement with a corporate trustee,  
29 which may be any bank or trust company having the powers of a trust company within the state,  
30 and any state aid so pledged shall be paid by the general treasurer directly to the trustee to be held  
31 in trust and applied to the payment of principal and interest on such bonds, notes or certificates of  
32 indebtedness; any earnings derived from the investment of such pledged aid shall be applied as  
33 needed to the payment of that principal and interest and for trustee's fees and related expenses,  
34 with any excess to be paid to the city or town. Bonds, notes or certificates of indebtedness

1 authorized under authority of this chapter shall be executed on behalf of the city or town by a  
2 member of the commission and, except as provided for in this chapter, may be subject to the  
3 provisions of chapter 45-12 of the general laws so far as apt, or may be subject to the provisions  
4 of any special bond act enacted authorizing the issuance of bonds of a city or town so far as apt,  
5 provided, however that any bonds or notes issued for school purposes must be approved by the  
6 general assembly in order to qualify for school housing aid as set forth in chapter 16-7 of the  
7 general laws; and

8 (20) Exercise all powers under the general laws and this chapter or any special act, any  
9 charter provision or ordinance that any elected official of the city or town may exercise, acting  
10 separately or jointly; provided, however, that with respect to any such exercise of powers by the  
11 budget commission, the elected officials shall not rescind or take any action contrary to such  
12 action by the budget commission so long as the budget commission continues to exist.

13 **45-9-7. Appointment of Receiver.** – (a) If the budget commission established by section  
14 45-9-5 concludes that its powers are insufficient to restore fiscal stability to the city or town, it  
15 shall so notify the director of revenue, and shall forward to the director of revenue a statement of  
16 the reasons why it has been unable to restore fiscal stability to the city or town. Upon receipt of  
17 such statement, the director of revenue shall terminate the existence of the budget commission,  
18 notwithstanding section 45-9-5, and the director of revenue shall appoint a receiver for the city or  
19 town for a period as the director of revenue may determine. The director of revenue may, at any  
20 time, and without cause, remove the receiver and appoint a successor, or terminate the  
21 receivership.

22 (b) The receiver shall have the following powers:

23 (1) All powers of the fiscal overseer and budget commission under sections 45-9-2 and  
24 45-9-6. Such powers shall remain through the period of any receivership;

25 (2) The power to exercise any function or power of any municipal officer or employee,  
26 board, authority or commission, whether elected or otherwise relating to or impacting the fiscal  
27 stability of the city or town including, without limitation, school and zoning matters; and

28 (3) The power to file a petition in the name of the city or town under Chapter 9 of Title  
29 11 of the United States Code, and to act on the city's or town's behalf in any such proceeding.

30 (c) Upon the appointment of a receiver, the receiver shall have the right to exercise the  
31 powers of the elected officials under the general laws, special laws and the city or town charter  
32 and ordinances relating to or impacting the fiscal stability of the city or town including, without  
33 limitation, school and zoning matters; provided, further, that the powers of the receiver shall be  
34 superior to and supersede the powers of the elected officials of the city or town shall continue to

1 be elected in accordance with the city or town charter, and shall serve in an advisory capacity to  
2 the receiver.

3 The director of revenue shall determine the salary of the receiver, which salary shall be  
4 payable by the city or town.

5 **45-9-8. Appointment of receiver in a fiscal emergency.** – In the event the director of  
6 revenue determines, in consultation with the auditor general, that a city or town is facing a fiscal  
7 emergency and that circumstances do not allow for appointment of a fiscal overseer or a budget  
8 commission prior to the appointment of a receiver, the director of revenue may appoint a receiver  
9 without having first appointed a fiscal overseer or a budget commissio n.

10 **45-9-9. Collective bargaining agreements.** – Notwithstanding chapter 28-7 of the  
11 general laws or any other general or special law or any charter or local ordinance to the contrary,  
12 new collective bargaining agreements and any amendments to new or existing collective  
13 bargaining agreements (collectively, “collective bargaining agreements”) entered into by the city  
14 or town or the school department shall be subject to the approval of the fiscal overseer, budget  
15 commission or receiver if the fiscal overseer, budget commission or receiver is in effect at the  
16 time. No collective bargaining agreement shall be approved under this section unless the fiscal  
17 overseer, budget commission or receiver has participated in the negotiation of the collective  
18 bargaining agreement and provides written certification to the director of revenue that after an  
19 evaluation of all pertinent financial information reasonably available, the city’s or town’s  
20 financial resources and revenues are, and will continue to be, adequate to support such collective  
21 bargaining agreement without a detrimental impact on the provision of municipal services. A  
22 decision, by the fiscal overseer, budget commission or receiver, to disapprove of a collective  
23 bargaining agreement under this section shall be made in a report to the parties; provided,  
24 however, that the report shall specify the disapproved portions of the agreement and the  
25 supporting reasons for the disapproval. This section shall not be construed to authorize a fiscal  
26 overseer, a budget commission or a receiver under this chapter to reject or alter any existing  
27 collective bargaining agreement, unless by agreement, during the term of such collective  
28 bargaining agreement.

29 **45-9-10. Appointment of administration and finance officer upon abolition of fiscal**  
30 **overseer, budget commission or receiver.** – (a) Notwithstanding any general or special law or  
31 city or town ordinance to the contrary, this section shall apply upon abolition of the fiscal  
32 overseer or a budget commission or a receiver established under this chapter, upon a  
33 determination, in writing, by the director of revenue that the financial condition of the city or  
34 town has improved to a level such that a fiscal overseer, a budget commission or a receiver is no

1 longer needed.

2 (b) For a period of five (5) years after the abolition of a fiscal overseer, or a budget  
3 commission or a receiver in any city or town, there shall be in the city or town a department of  
4 administration and finance which shall be responsible for the overall budgetary and financial  
5 administration of the city or town. The department shall be under the direction and control of the  
6 officer appointed pursuant to subsection (c) below. The officer shall report to and be under the  
7 charge and direction of the elected chief executive officer. Nothing in this section shall abrogate  
8 the powers and duties of the school committee under any general or special law, except as  
9 specifically provided in this section.

10 Whenever the term “department of finance” or “finance department” appears in a general  
11 or special law or an ordinance, regulation, contract or other document with reference to the city or  
12 town, it shall mean the department of administration and finance of the city or town. Whenever  
13 the term “chief financial officer”, “director of finance”, “financial director” or “treasurer” appears  
14 in a general or special law or an ordinance, regulation, contract or other document with reference  
15 to the city or town, it shall mean the officer of the city or town.

16 (c) The elected chief executive officer shall appoint the officer from a list of three (3)  
17 names submitted by the division of municipal finance, for a term of not more than five (5) years,  
18 as provided in this subsection. The officer shall be appointed solely on the basis of administrative  
19 and executive qualifications and shall be a person especially fitted by education, training and  
20 experience to perform the duties of the office. The officer need not be a resident of the city or  
21 town or the state. In the event of a vacancy in the office of officer the same process will be used.

22 (d) While the process of appointing an officer under subsection (c) is proceeding, the  
23 elected chief executive officer may appoint an acting officer.

24 (e) The appointment, including an acting appointment, or removal of the officer shall not  
25 take effect until it has been approved in writing by the division of municipal finance.

26 (f) The powers and duties of the officer shall include the following:

27 (1) Coordinating, administering and supervising all financial services and activities;

28 (2) Assisting in all matters related to municipal financial affairs;

29 (3) Implementing and maintaining uniform systems, controls and procedures for all  
30 financial activities in all departments, boards, commissions, agencies, offices or other units of city  
31 or town government the operations of which have a financial impact upon the general fund and  
32 enterprise funds of the city or town, and including, but not limited to, maintaining all financial  
33 and accounting data and records;

34 (4) Implementing and maintaining uniform financial data processing capabilities for all

1 departments, boards, commissions, agencies and offices;  
2 (5) Supervising all financial data processing activities;  
3 (6) Implementing and maintaining uniform budget guidelines and procedures within all  
4 departments, boards, commissions, agencies, offices and other units of city or town government;  
5 (7) Assisting in the development and preparation of all department, board, commission,  
6 agency and office budgets and spending plans;  
7 (8) Reviewing all proposed contracts to which the city or town is party;  
8 (9) Monitoring the expenditure of all city or town funds, including periodic reporting by  
9 and to appropriate agencies of the status of accounts;  
10 (10) Reviewing the spending plan for each department, board, commission, agency and  
11 office; and  
12 (11) Providing for the allotment of funds on a periodic basis as provided for in this  
13 chapter.  
14 In all cases where the duty is not expressly charged to any other department, board,  
15 commission, agency or office, it shall be the duty of the officer to promote, secure and preserve  
16 the financial interests of the city or town.  
17 (g) All department, board, commission, agency and office budgets and requests for  
18 budget transfers shall be submitted to the officer for review and recommendation before  
19 submission to the elected chief executive officer, city or town council or school committee, as  
20 appropriate. For each proposed appropriation order, lease or contract arrangement for a term,  
21 including more than one fiscal year, collective bargaining agreement and with respect to any  
22 proposed city or town council vote necessary to effectuate a financial transfer, ordinance revision  
23 or special legislation which may require the expenditure of funds or otherwise financially obligate  
24 the city or town for a period in excess of one year, or with respect to a vote to authorize a  
25 borrowing under a law other than sections 45-12-4.1, 45-12-4.2 or 45-12-4.3 of the general laws,  
26 the officer shall, if it be the case, submit in writing to the elected chief executive officer, city or  
27 town council or school committee, as appropriate, a certification that it is the officer's  
28 professional opinion, after an evaluation of all pertinent financial information reasonably  
29 available, that the city's or town's financial resources and revenues are, and will continue to be,  
30 adequate to support such proposed expenditures or obligations without a detrimental impact on  
31 the provision of municipal services. If the officer fails to provide this certification within seven  
32 (7) days after a request for such certification from the elected chief executive officer, city or town  
33 council or school committee, the appropriation order, financial transfer, ordinance revision,  
34 special legislation or borrowing authorization may nonetheless be approved, but the absence of

1 the certification of the officer shall be expressly noted in that order or vote.

2 (h) All departments, officers, boards, commissions, agencies and other units of the city or  
3 town, shall submit budget requests to the elected chief executive officer upon the schedule and in  
4 the form established by the officer.

5 (i) Annually, not later than March 30, the officer shall submit a four (4)-year financial  
6 plan and a five (5)-year capital plan to the city or town council that includes all capital needs of  
7 the city or town.

8 (j) The assessor, treasurer, finance director, controller, director of information  
9 technology, purchasing agent, director of human resources, labor relations director and employees  
10 performing similar duties but with different titles shall report to and be under the direction of the  
11 officer. The officer, with the approval of the elected chief executive officer shall appoint all such  
12 officers and employees. The elected chief executive officer may also place other positions and  
13 departments under the direction of the officer.

14 (k) The officer shall not assume the duties or responsibilities of the treasurer or the  
15 finance director and shall not hold an elective office and shall devote the officer's full-time and  
16 attention to the officer's duties.

17 (l) The city or town shall annually appropriate amounts sufficient for the proper  
18 administration of the department, as determined in writing by the division of municipal finance.  
19 If the city or town fails to appropriate such amounts, the division of municipal finance shall direct  
20 the general treasurer to deduct the necessary funds from the city's or town's distribution of the  
21 city's or town's state aid and shall expend those funds directly for the benefit of the department.

22 (m) The officer shall comply with all requests of the school department to provide any  
23 information relating to the operation of the school department held within the authority or control  
24 of the officer as the result of the consolidation of school and city or town business and financial  
25 functions under sections 45-9-3 or 45-9-6. If the officer, or any employee under the control of the  
26 officer, refuses to provide such information or engages in unreasonable delay, the school  
27 department shall notify the division of municipal finance. The division of municipal finance shall,  
28 within a reasonable time, make a determination whether any such information shall be provided  
29 to the school department which shall be binding upon the officer and the school department. The  
30 division of municipal finance's determination shall not be an adjudicatory proceeding reviewable  
31 under chapter 42-35 of the general laws. Nothing in this subsection shall abrogate any of the other  
32 powers or duties of the school committee under the general laws.

33 **45-9-11. Expenditures in excess of appropriations prohibited.** – (a) No official of a  
34 city or town which is subject to the jurisdiction of a fiscal overseer, budget commission or

1 receiver, except in the case of an emergency involving the health and safety of the people or the  
2 people's property declared by the city or town council, shall knowingly expend or cause to be  
3 expended in any fiscal year any sum in excess of that official's departmental or other  
4 governmental unit's appropriation duly made in accordance with the law, nor commit the city or  
5 town, nor cause it to be committed, to any obligation for the future payment of money in excess  
6 of that appropriation, with the exception of court judgments.

7 (b) An official who intentionally violates this section shall be personally liable to the city  
8 or town for any amounts expended in excess of an appropriation to the extent that the city or town  
9 does not recover such amounts from the person or persons to whom such amounts were paid and  
10 shall not be indemnified by the city or town for any such amounts. The superior court shall have  
11 jurisdiction to adjudicate claims brought by the city or town, or on the city's or town's behalf by a  
12 budget commission established under this chapter, and to order relief that the court finds  
13 appropriate to prevent further violations of this section. A violation of this section shall be  
14 sufficient cause for removal.

15 (c) For the purposes of this section, the word "official" shall mean a city or town  
16 department head, permanent, temporary or acting, including the superintendent of schools, and all  
17 members of municipal boards, committees, including the school committee, and commissions  
18 which recommend, authorize or approve the expenditure of funds, and the word "emergency"  
19 shall mean a major disaster, including, but not limited to, flood, drought, fire, hurricane,  
20 earthquake, storm or other catastrophe, whether natural or otherwise, which poses an unexpected  
21 and immediate threat to the health and safety of persons or property.

22 **45-9-12. Conflicts with other laws.** – Notwithstanding any general or special law to the  
23 contrary, unless otherwise specified, the provisions of this chapter shall supersede any conflicting  
24 provisions of the city's or town's charter or local ordinance.

25 **45-9-13. Other state receivership laws inapplicable.** – No city or town shall be placed  
26 into, or made subject to, either voluntarily, or involuntarily, a judicial receivership proceeding.

27 **45-9-14. No state guarantee.** – Nothing in this chapter shall be construed to pledge the  
28 credit and assets of the state to pay the obligations or indebtedness, including, bonded  
29 indebtedness, of any municipality.

30 **45-9-15. Inconsistent provisions.** – Insofar as the provisions of this chapter are  
31 inconsistent with the provisions of any charter or other laws or ordinances, general, special, or  
32 local, or of any rule or regulation of the state or any municipality, the provisions of this chapter  
33 are controlling.

1           **45-9-16. Liberal construction.** – This chapter being necessary for the welfare of the  
2 state and its inhabitants shall be liberally construed in order to effectuate its purposes.

3           **45-9-17. Severability.** – The provisions of this chapter are severable, and if any of its  
4 provisions are held unconstitutional or invalid for any other reason by any court of competent  
5 jurisdiction, the decision of the court shall not affect or impair any of the remaining provisions. In  
6 carrying out the purposes and provisions of this chapter, all steps shall be taken which are  
7 necessary to meet constitutional requirements whether or not the steps are required by this  
8 chapter.

9           SECTION 2. Section 45-12-22.7 of the General Laws in Chapter 45-12 entitled  
10 "Indebtedness of Towns and Cities" is hereby amended to read as follows:

11           **45-12-22.7. Enforcement and remedies.** -- In the event that a municipality does not  
12 comply with the requirements of this law the state auditor general or the division ~~of property~~  
13 ~~valuation~~ of municipal finance through the director of revenue may elect any or all of the  
14 following remedies:

15           (1) Petition the superior court for mandatory injunctive relief seeking compliance with  
16 the provisions of this section. The superior court shall make a finding of fact as to whether there  
17 has been compliance with the provisions of this section. As herein before stated, the approval or  
18 disapproval of a plan shall be conclusive upon the court in making its finding as to compliance.

19           (2) In the event a municipality fails to provide a year-end deficit elimination plan under  
20 section 45-12-22.3, such noncompliance shall allow for the implementation of a ~~financial~~ budget  
21 review commission pursuant to section ~~45-9-3~~ 45-9-5.

22           (3) Withholding of state aid. In the event that the state director of revenue with the  
23 concurrence of the auditor general elect to withhold state aid, said amounts shall be placed in a  
24 special account within the general fund. At such time the municipality comes into compliance  
25 with the reporting requirements of this section, said funds shall be released to the municipality by  
26 order of the state director of revenue and state auditor general.

27           SECTION 3. Chapter 45-12 of the General Laws entitled "Indebtedness of Cities and  
28 Towns" is hereby amended by adding the following section:

29           **45-12-32. Inability to pay interest or principal of bonds, notes or certificates of**  
30 **indebtedness; notice; certification to general treasurer; payment by general treasurer.** – (a)  
31 If it appears to the treasurer or finance director of a city, town or district, including a regional  
32 school district, that the city, town or district is, or is likely to be, unable to pay in whole or in part  
33 the principal or interest, or both, on any of its bonds, notes or certificates of indebtedness when  
34 due, the treasurer or finance director shall forthwith notify the city manager, town manager, town

1 administrator or mayor, the city council or town council, the regional district school committee in  
2 a regional school district, or the board of any other type of district, of the inability or likely  
3 inability. If the city manager, town manager, town administrator, mayor, town council or city  
4 council, committee or board, whether or not so notified, finds upon investigation that the payment  
5 cannot or is not likely to be made when due, he, she or they shall certify the inability or likely  
6 inability to the director of revenue. Upon receipt of the certificate, the director of revenue shall  
7 immediately investigate the circumstances and, if the director finds that the city, town or district  
8 is, or in the director's opinion will be, unable to make the payment when due, the director shall  
9 forthwith certify the inability, the amount of the due or overdue payment and the name of the  
10 paying agent for the bonds, notes or certificates of indebtedness to the general treasurer.

11 (b) Notwithstanding any provision of general or special law or any rules or regulations  
12 with respect to the timing of payment of state aid payments, not later than three (3) days after  
13 receipt of the certification from the director of revenue or one business day prior to the date on  
14 which the principal or interest, or both, becomes due, whichever is later, the general treasurer  
15 shall pay to the paying agent the amount of the due or overdue payment certified to him/her to the  
16 extent of the sums otherwise then payable and the sums estimated to become payable during the  
17 remainder of the fiscal year, from the treasury, to the city, town or district.

18 (c) The amounts so paid to the paying agent shall be in trust and shall be exempt from  
19 being levied upon, taken, sequestered or applied for any purpose other than paying principal or  
20 interest, or both, on bonds, notes or certificates of indebtedness of the city, town or district.

21 (d) Any amounts paid by the general treasurer under the provisions of this section,  
22 together with all costs accruing to the state as a result of actions undertaken pursuant to this  
23 section, including administrative costs as well as loss of interest income, shall be charged against  
24 the amounts otherwise payable or becoming payable from the treasury to the city, town or district.

25 (e) For purposes of this section, the sums otherwise payable from the treasury to a city or  
26 town shall be the funds made available to cities and towns:

27 (1) As state aid pursuant to chapter 45-13 of the general laws, but specifically excluding  
28 reimbursements to cities and towns for the cost of state mandates pursuant to section 45-13-9;

29 (2) As school housing aid pursuant to sections 16-7-35 through 16-7-47 of the general  
30 laws, but subject to any pledge to bonds issued to finance school projects by the Rhode Island  
31 health and educational building corporation, and specifically excluding school operations aid  
32 provided for in sections 16-7-15 through 17-7-34.3 of the general laws;

33 (3) In replacement of motor vehicle and trailer excise taxes pursuant to chapter 44-34.1 of  
34 the general laws;

1           (4) From the public service corporation tax pursuant to chapter 44-13 of the general laws;  
2   and  
3           (5) From the local meal and beverage tax pursuant to section 44-18-18.1 and the hotel tax  
4   pursuant to section 44-18-36.1; and  
5           (6) Pursuant to all acts supplementing such chapters listed in subdivisions (1) through (5)  
6   above or pursuant to any other law hereafter enacted providing for funds to municipalities in lieu  
7   of or in substitution for the funds provided pursuant to acts supplementing such chapters listed in  
8   (1) through (5).

9           SECTION 4. This act shall take effect upon passage and shall apply retroactively to May  
10  15, 2010.

11           Notwithstanding sections 45-9-13 and any other provisions of this act, in order to ensure  
12  an orderly transition, the superior court shall have limited jurisdiction to ratify the actions taken  
13  by a receiver prior to the date of enactment of this legislation at the request of the director of  
14  revenue, and to take such further actions as may be necessary to ensure an orderly transition.

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LC02879/SUB A/3  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO CITIES AND TOWNS -- PROVIDING FINANCIAL STABILITY

\*\*\*

1           This act would provide a mechanism for the state to work with cities and towns  
2 undergoing financial distress that threatens the fiscal well-being, public safety and welfare of  
3 such cities and towns, or other cities and towns or the state, with the state providing varying  
4 levels of support and control depending on the circumstances.

5           This act would take effect upon passage and would apply retroactively to May 15, 2010.

6           In order to ensure an orderly transition, the superior court shall have the jurisdiction to  
7 ratify the actions taken by a receiver prior to the date of enactment of this legislation at the  
8 request of the director of revenue, and to take such further actions as may be necessary to ensure  
9 an orderly transition.

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