

2011 -- S 0051

LC00149

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO EDUCATION - SCHOOL COMMITTEES AND SUPERINTENDENTS

Introduced By: Senators DiPalma, DaPonte, Sheehan, Sosnowski, and Lombardo

Date Introduced: January 19, 2011

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 16-2-9.5 of the General Laws in Chapter 16-2 entitled "School  
2 Committees and Superintendents" is hereby amended to read as follows:

3 **16-2-9.5. Other post-employment benefits -- OPEB trusts.** -- (a) Notwithstanding the  
4 provisions of any general or special law, or the provisions of any municipality's home rule  
5 charter, to the contrary, for purposes of funding any unfunded liability for other post-employment  
6 benefits including, but not limited to, health care and dental care benefits hereinafter referred to  
7 as ("OPEB") in accordance with government accounting standards board statements 43 and 45, a  
8 school district, acting by its business manager or superintendent, upon an approving resolution of  
9 the school committee or school board as applicable, may enter into a trust agreement between the  
10 school district and a corporate trustee which shall be a bank or trust company doing business in  
11 the state, or a corporation established pursuant to chapter 5 of title 45. This trust agreement shall  
12 be in any form deemed proper by the business manager or superintendent, and shall be executed  
13 by its business manager or superintendent and countersigned by the chair of the school committee  
14 of the school district. It shall be lawful for any bank, ~~or~~ trust company, or entity organized  
15 pursuant to section 45-5-20.1 doing business in the state to act as a depository or trustee under  
16 this trust agreement, and to furnish indemnification and pledge securities that may be required by  
17 any school district.

18 (b) OPEB trust funds shall be credited with all amounts appropriated or otherwise made  
19 available by the school district for the purposes of meeting the current and future OPEB costs

1 payable by the school district. OPEB trust funds shall also be credited with all amounts  
2 contributed or otherwise made available by employees of the school district for the purpose of  
3 meeting future OPEB costs payable by the school district. Amounts in an OPEB trust fund,  
4 including any earnings or interest accruing from the investment of these amounts, shall be  
5 expended only for the payment of the costs payable by the school district for OPEB or as  
6 otherwise permitted by the terms of the trust and applicable law. The business manager or  
7 superintendent, as applicable, shall invest or reinvest the amounts in the OPEB trust fund in any  
8 investment permitted for the state pension funds consistent with the investment policies of the  
9 state general treasurer's office.

10 (c) School districts are hereby authorized to enter into agreements, trusts, contracts, and  
11 other arrangements with the state and any of its departments, agencies, boards or commissions  
12 relating to the execution, management or operation of the OPEB trust funds, including, but not  
13 limited to, investments, and the state and its department, agencies, boards and commissions are  
14 hereby authorized to enter into such agreements, contracts and other arrangements with school  
15 districts. Notwithstanding any provisions of any general or special law or principle of equity to  
16 the contrary, the state shall have no liability to any school district for entering into such  
17 agreements. ~~A school district may employ any qualified bank, trust company, corporation, firm or~~  
18 ~~person to advise it on the investment of the OPEB trust fund and may pay from the OPEB trust~~  
19 ~~fund for this advice and other services. Procurement for these services shall be subject to the~~  
20 ~~procurement procedures and rules governing school districts in state law.~~

21 (d) A school district may employ any qualified bank, trust company, corporation, firm or  
22 person to advise it on the investment of the OPEB trust fund and may pay from the OPEB trust  
23 fund for this advice and other services. Procurement for these services shall be subject to the  
24 procurement procedures and rules governing school districts and municipalities in the state.

25 (e) School districts are also hereby authorized to enter into agreements, trusts, contracts,  
26 and other arrangements with any corporation created pursuant to chapter 5 of title 45 relating to  
27 the execution, management or operation of the OPEB trust funds, including, but not limited to,  
28 investments, and the corporations established pursuant to section 45-5-20.1 are hereby authorized  
29 to enter into such agreements, contracts and other arrangements with school districts.

30 ~~(f)~~ Nothing contained herein will prevent any school district from entering into  
31 agreements with other school districts per section 16-2-9.2 for the purposes of jointly pooling  
32 their investments or collectively entering into an agreement with a corporate trustee, as defined in  
33 subsection (a) of this section.

34 ~~(g)~~ Nothing herein shall be construed to exempt OPEB trusts from the Rhode Island

1 Access to Public Records Act, ~~RIGL~~ [section](#) 38-2-1 et seq.

2 SECTION 2. Chapter 45-5 of the General Laws entitled "Councils and Governing  
3 Bodies" is hereby amended by adding thereto the following section:

4 **45-5-20.2. Power of city and town councils and regional school districts to jointly**  
5 **establish a corporation to manage and operate OPEB trusts.** – (a) Notwithstanding the  
6 provisions of any general or special law to the contrary, corporations established pursuant to  
7 section 45-5-20.1 also shall have the power to manage and operate such other post-employment  
8 benefit (OPEB) trusts as are established pursuant to section 45-21-65 and section 16-2-9.5. Such  
9 corporations shall have the powers set forth in section 45-5-20.1, and shall have such additional  
10 powers as are necessary to effectuate the purposes of this section.

11 (b) For the purpose of OPEB trusts managed and operated pursuant to this section, the  
12 corporation shall maintain discrete sub-trust accounts for each of the participating entities setting  
13 forth the contributions made by each participating entity, the allocated income assigned to each  
14 participating entity as it may be derived from investments and other revenue sources, the funds  
15 distributed to each participating entity for use in meeting its OPEB obligations, each entity's  
16 allocated share of the administrative costs, including investment management fees, for operating  
17 the OPEB trust, and such other items as the directors of the corporation hereby established shall  
18 deem proper and necessary. Agreements made pursuant to this section may provide for pooling of  
19 administrative expenses, including investment management and advisory services, associated  
20 with the operation of the OPEB trust and sub-trusts.

21 (c) The corporation shall ensure that a separate audit of OPEB trusts and sub-trusts is  
22 performed annually, copies of which shall be provided to the participating entities of the OPEB  
23 trust and the auditor general.

24 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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1           This act would add corporations pursuant to Chapter 5 of Title 45 to the list of entities  
2 who may act as trustee for trust agreements between school districts and corporate trustees in  
3 reference to OPEB trusts. It also would allow school districts to employ corporations to advise on  
4 the investment of the OPEB trust and pay for it and allows corporations established pursuant to  
5 45-5-20 to manage and operate OPEB trusts but requires a separate yearly audit annually.

6           This act would take effect upon passage.

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