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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

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A N A C T

RELATING TO TOWNS AND CITIES

Introduced By: Senator Daniel DaPonte

Date Introduced: March 10, 2011

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 45-9 of the General Laws entitled "Budget Commissions" is hereby
2 amended by adding thereto the following sections:

3 **45-9-18. Additional powers of receiver. –** The receiver shall be entitled to exercise all
4 powers under the general laws, this chapter, the state constitution, any special act, any charter
5 provision or ordinance that any elected official or any body of the city or town may exercise,
6 acting separately or jointly; provided, however, that with respect to any such exercise of powers
7 by the receiver, the elected officials or the body shall not rescind or take any action contrary to
8 such action by the receiver so long as the receivership continues to exist.

9 **45-9-19. Expenditures by elected officials in excess of appropriations prohibited. –**
10 (a) No elected official of a city or town which is subject to the jurisdiction of a fiscal overseer,
11 budget commission or receiver, except in the case of an emergency involving the health and
12 safety of the people or the people's property declared by the city or town council, shall knowingly
13 expend or cause to be expended in any fiscal year any sum in excess of that official's
14 departmental or other governmental unit's appropriation duly made in accordance with the law,
15 nor commit the city or town, nor cause it to be committed, to any obligation for the future
16 payment of money in excess of that appropriation, with the exception of court judgments.

17 (b) An elected official who intentionally violates this section shall be personally liable to
18 the city or town for any amounts expended in excess of an appropriation to the extent that the city
19 or town does not recover such amounts from the person or persons to whom such amounts were

1 paid and shall not be indemnified by the city or town for any such amounts. The superior court
2 shall have jurisdiction to adjudicate claims brought by the city or town, or on the city's or town's
3 behalf by a budget commission established under this chapter, and to order relief that the court
4 finds appropriate to prevent further violations of this section.

5 **45-9-20. Orders of the receiver.** – In the event a receiver is appointed pursuant to the
6 provisions of this chapter, powers of the city or town council exercisable by resolution or
7 ordinance shall be exercised by order of the receiver.

8 **45-9-21. Indemnification.** – Notwithstanding any general or special law to the contrary,
9 the state shall indemnify, exonerate, defend and hold harmless any fiscal overseer, budget
10 commission member, receiver or administration and finance officer, and any managerial,
11 professional, or clerical staff employed by any fiscal overseer, review commission member,
12 receiver or administration and finance officer under chapter 45-9 of the general laws from all
13 personal financial loss and expenses, including legal fees and costs, if any, arising out of or
14 relating to actions taken by such person under this chapter 45-9, except in the case of malfeasance
15 or gross negligence. Except in the case of tort claims, such indemnity and defense shall be paid
16 solely from amounts available in the city's or town's general fund or from amounts appropriated
17 by the general assembly for such purposes.

18 **45-9-22. Litigation costs.** – Unless such person shall be the prevailing party in a final
19 non-appealable judgment, any person who violates this chapter or ignores a written demand made
20 by a fiscal overseer, budget commission member, receiver or administration and finance officer
21 acting within the scope of his or her duties, shall be required to pay the reasonable attorneys' fees
22 incurred by the fiscal overseer, budget commission member, receiver or administration and
23 finance officer and/or his or her counsel to seek enforcement of this chapter or compliance with
24 such written demand.

25 SECTION 2. This act shall take effect upon passage, and shall apply retroactively to May
26 15, 2010.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES

1 This act would clarify provisions in chapter 45-9 – Budget Commissions, to address
2 issues that have arisen in the administration of the chapter, including statutory provisions
3 regarding indemnity.

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

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