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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO TOWNS AND CITIES -- RHODE ISLAND INTERLOCAL REGIONAL
SERVICES COMMISSION

Introduced By: Senators DiPalma, Sheehan, Felag, Bates, and Lanzi

Date Introduced: April 14, 2011

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 45-40.1 of the General Laws entitled "Interlocal Contracting and
2 Joint Enterprises" is hereby amended by adding thereto the following sections:

3 **45-40.1-9. Establishment of commission - Purpose.** -- (a) There is hereby authorized,
4 created, and established a public corporation of the state having a distinct legal existence from the
5 state and not constituting a department of state government to be known as "The Rhode Island
6 Interlocal Regional Services Commission," with such powers as are set forth in this chapter, for
7 the purposes of operating and administering various municipal operations which encompass two
8 (2) or more adjacent municipalities.

9 (b) It is the intent of the general assembly, by the passage of this chapter, to vest in the
10 commission all powers, authority, rights, privileges, and titles which may be necessary to enable
11 it to accomplish the purposes herein set forth, and this chapter and the powers herein granted shall
12 be liberally construed in conformity with those purposes.

13 (c) The commission and its corporate existence shall continue until terminated by law.
14 Upon termination of the existence of the commission, all its rights and properties shall pass to and
15 be vested in the state, and, in accordance with law, the governor may permit whatever rights and
16 properties he or she shall see fit to pass to municipalities located within the district, if the
17 municipality or municipalities accept the rights or properties.

18 **45-40.1-10. General powers.** -- The Rhode Island interlocal regional services

1 commission shall have the following powers, together with all powers incidental thereto or
2 necessary for the performance of those stated in this chapter:

3 (1) To sue and be sued, complain and defend, in its corporate name.

4 (2) To have a seal which may be altered at pleasure and to use the seal by causing it, or a
5 facsimile thereof, to be impressed or affixed or in any other manner reproduced.

6 (3) To purchase, take, receive, lease, or otherwise acquire, own, hold, improve, use, and
7 otherwise deal in and with, real or personal property, or any interest therein, wherever situated.

8 (4) To make and execute agreements of lease, construction contracts, operation contracts,
9 and all other contracts and instruments necessary or convenient in the exercise of the powers and
10 functions of the commission granted by this chapter.

11 (5) To make guarantees and incur or assume liabilities as the commission may deem
12 appropriate.

13 (6) To invest and reinvest its funds.

14 (7) To secure the cooperation and assistance of the United States, and any of its agencies,
15 and of agencies of this state and its municipalities in the work of the commission.

16 (8) To accept grants, donations, drafts, loans of funds, and contributions in money,
17 services, materials, or otherwise, from the United States or any of its agencies, from this state and
18 its agencies, or from any other source, and to use or expend those moneys, services, materials, or
19 other contributions in carrying out the purposes of this chapter.

20 (9) To make assessments and impose reasonable and just user charges, and to pay for
21 such expenses as may be required by law or as may be determined by the commission to be
22 necessary for the maintenance and operation of the project.

23 (10) To operate and administer various municipal operations which encompass two (2) or
24 more adjacent municipalities. Such operations may include, but shall not be limited to, tax
25 collection or assessment activities, public works operations sewer and water treatment and
26 distribution systems, police services, library services, and fire and rescue services.

27 (11) To acquire or contract to acquire, from any person, the federal government or the
28 state, or any agency of either the federal government or state, by grant, purchase, lease, gift,
29 condemnation, or otherwise, or to obtain options for the acquisition of any property, real or
30 personal, improved or unimproved, and interests in land less than the fee thereof; and to own,
31 hold, clear, improve, develop, and rehabilitate, and to sell, assign, exchange, transfer, convey,
32 lease, mortgage, or otherwise dispose of or encumber the property for the purposes of carrying
33 out the provisions and intent of this chapter for such consideration as the commission shall
34 determine.

1 (12) To elect or appoint officers and agents of the commission, and to define their duties
2 and fix their compensation, including authority to employ attorneys, accountants, architectural,
3 and engineering consultants, and such other employees or agents as the commission shall deem
4 necessary in its judgment.

5 (13) To make and alter bylaws, not inconsistent with this chapter, for the administration
6 and regulation of the affairs of the commission, and the bylaws may contain provisions
7 indemnifying any person who is or was a director or a member of the commission, in the manner
8 and to the extent provided in section 7-1.2-814.

9 (14) To construct, acquire, repair, develop, own, operated, maintain, extend, improve,
10 rehabilitate, renovate, equip, and furnish a project and make provision for its management.

11 (15) To prepare or cause to be prepared plans, specifications, designs, and estimates of
12 costs of construction, reconstruction, rehabilitations, improvement, alteration, or repair of a
13 project, and to modify the same.

14 (16) To issue orders of general or specific applicability to carry out the purposes of the
15 project.

16 (17) To have and exercise all powers necessary or convenient to effect its purposes.

17 (18) To impose administrative penalties to the same degree and extent as the Narragansett
18 Bay Commission in accordance with the provisions of section 46-25-25.4.

19 (19) To secure certain payments on its revenue bonds and notes, in whole or in part, by
20 insurance or by letters or lines of credit or other credit facilities.

21 (20) To enter into agreements, contracts, and other arrangements with the state and any of
22 its departments, agencies, boards or commissions relating to the execution or performance of any
23 function or purpose of the commission, including, but not limited to, investments, employee
24 compensation and employee benefits, and the state and its departments, agencies, boards and
25 commissions are hereby authorized to enter into such agreements, contracts and other
26 arrangements with the commission, and upon the request of the commission shall enter into such
27 agreements, contracts and other arrangements with the commission.

28 **45-40.1-11. Composition of commission - Appointment of members.** -- (a) The
29 commission shall consist of five (5) members. The director of the department of administration or
30 designee, the director of the department of revenue or designee, the executive director of the
31 Rhode Island league of cities and towns or designee, the president of the Rhode Island city and
32 town managers association or designee, and one public member to be appointed by the governor.
33 In addition, one additional member shall be appointed from each city or town which is party to a
34 joint agreement and those members shall participate and have voting rights on all issues relating

1 [to agreements affecting their city or town.](#)

2 **45-40.1-12. Regional project.** -- [By resolution of two \(2\) or more city or town councils,](#)
3 [the commission shall be authorized to undertake a regional program or project. Existing](#)
4 [municipal employees in good standing shall have preference in employment by the commission](#)
5 [and compensation and employee benefits shall be comparable to existing average compensation](#)
6 [plans for municipal employees throughout the state. It is provided further, however, that](#)
7 [employees of the commission shall be participants in the municipal employees retirement system](#)
8 [as authorized by chapters 45-21 and 45-21.1 of the general laws relating to municipal retirement](#)
9 [and shall not participate in any other employee sponsored retirement plans.](#)

10 SECTION 2. Section 45-21-65 of the General Laws in Chapter 45-21 entitled
11 "Retirement of Municipal Employees" is hereby amended to read as follows:

12 **45-21-65. Other post-employment benefits -- OPEB trusts.** -- (a) Notwithstanding the
13 provisions of any general or special law, or the provisions of any municipality's home rule
14 charter, to the contrary, for purposes of funding any unfunded liability for other post-employment
15 benefits including, but not limited to, health care and dental care benefits hereinafter referred to
16 as ("OPEB") in accordance with government accounting standards board statements 43 and 45, a
17 municipality, acting by its treasurer or director of finance, upon an approving resolution of the
18 city or town council or agency board as applicable, may enter into a trust agreement between the
19 municipality and a corporate trustee which shall be a bank or trust company doing business in the
20 state, [or a corporation established pursuant to chapter 5 of title 45 \("Councils and Governing](#)
21 [Bodies"\) of the general laws.](#) This trust agreement shall be in any form deemed proper by the
22 treasurer or director of finance of the municipality, and shall be executed by its treasurer or
23 director of finance and countersigned by its mayor or president of the town council. It shall be
24 lawful for any bank, ~~or~~ trust company, [or entity organized pursuant to section 45-5-20.1](#) doing
25 business in the state to act as a depository or trustee under this trust agreement, and to furnish
26 indemnification and pledge securities that may be required by any municipality.

27 (b) OPEB trust funds shall be credited with all amounts appropriated or otherwise made
28 available by the municipality for the purposes of meeting the current and future OPEB costs
29 payable by the municipality. OPEB trust funds shall also be credited with all amounts contributed
30 or otherwise made available by employees of the municipality for the purpose of meeting future
31 OPEB costs payable by the municipality. Amounts in an OPEB trust fund, including any earnings
32 or interest accruing from the investment of these amounts, shall be expended only for the
33 payment of the costs payable by the municipality for OPEB or as otherwise permitted by the
34 terms of the trust and applicable law. The director of finance or treasurer, as applicable, shall

1 invest and reinvest the amounts in the OPEB trust fund not needed for current disbursement in
2 any investment permitted for the municipality's pension funds consistent with the prudent person
3 rule and investment policies of the municipality, if any.

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

15 (d) Any OPEB trusts that have been created by municipalities and are in effect on the
16 date hereof are hereby ratified and confirmed.

17 (e) Nothing herein shall be construed to exempt OPEB trusts from the Rhode Island
18 Access to Public Records Act, RIGL 38-2-1 et seq.

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

23 (g) Municipalities are also hereby authorized to enter into agreements, trusts, contracts,
24 and other arrangements with any corporation created pursuant to chapter 5 of title 45 ("Councils
25 and Governing Bodies") of the general laws relating to the execution, management or operation
26 of the OPEB trust funds, including, but not limited to, investments, and the corporations
27 established pursuant to Rhode Island general laws section 45-5-20.1 are hereby authorized to
28 enter into such agreements, contracts and other arrangements with municipalities.

29 SECTION 3. Section 16-2-9.5 of the General Laws in Chapter 16-2 entitled "School
30 Committees and Superintendents" is hereby amended to read as follows:

31 **16-2-9.5. Other post-employment benefits -- OPEB trusts.** -- (a) Notwithstanding the
32 provisions of any general or special law, or the provisions of any municipality's home rule
33 charter, to the contrary, for purposes of funding any unfunded liability for other post-employment
34 benefits including, but not limited to, health care and dental care benefits hereinafter referred to

1 as ("OPEB") in accordance with government accounting standards board statements 43 and 45, a
2 school district, acting by its business manager or superintendent, upon an approving resolution of
3 the school committee or school board as applicable, may enter into a trust agreement between the
4 school district and a corporate trustee which shall be a bank or trust company doing business in
5 the state, or a corporation established pursuant to chapter 5 of title 45 ("Councils and Governing
6 Bodies") of the general laws. This trust agreement shall be in any form deemed proper by the
7 business manager or superintendent, and shall be executed by its business manager or
8 superintendent and countersigned by the chair of the school committee of the school district. It
9 shall be lawful for any bank, ~~or~~ trust company, or entity organized pursuant to section 45-5-20.1
10 doing business in the state to act as a depository or trustee under this trust agreement, and to
11 furnish indemnification and pledge securities that may be required by any school district.

12 (b) OPEB trust funds shall be credited with all amounts appropriated or otherwise made
13 available by the school district for the purposes of meeting the current and future OPEB costs
14 payable by the school district. OPEB trust funds shall also be credited with all amounts
15 contributed or otherwise made available by employees of the school district for the purpose of
16 meeting future OPEB costs payable by the school district. Amounts in an OPEB trust fund,
17 including any earnings or interest accruing from the investment of these amounts, shall be
18 expended only for the payment of the costs payable by the school district for OPEB or as
19 otherwise permitted by the terms of the trust and applicable law. The business manager or
20 superintendent, as applicable, shall invest or reinvest the amounts in the OPEB trust fund in any
21 investment permitted for the state pension funds consistent with the investment policies of the
22 state general treasurer's office.

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

34 (d) Nothing contained herein will prevent any school district from entering into

1 agreements with other school districts per section 16-2-9.2 for the purposes of jointly pooling
2 their investments or collectively entering into an agreement with a corporate trustee, as defined in
3 subsection (a) of this section.

4 (e) Nothing herein shall be construed to exempt OPEB trusts from the Rhode Island
5 Access to Public Records Act, RIGL 38-2-1 et seq.

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

10 (g) School districts are also hereby authorized to enter into agreements, trusts, contracts,
11 and other arrangements with any corporation created pursuant to chapter 5 of title 45 ("Councils
12 and Governing Bodies") of the general laws relating to execution, management or operation of
13 the OPEB trust funds, including, but not limited to, investments, and the corporations established
14 pursuant to Rhode Island general laws section 45-5-20.1 are hereby authorized to enter into such
15 agreements, contracts and other arrangements with school districts.

16 SECTION 4. Chapter 45-5 of the General Laws entitled "Councils and Governing
17 Bodies" is hereby amended by adding thereto the following section:

18 **45-5-20.2. Power of city and town councils and regional school districts to jointly**
19 **establish a corporation to manage and operate OPEB trusts. -- (a) Notwithstanding the**
20 **provisions of any general or special law to the contrary, corporations established pursuant to**
21 **Rhode Island general laws section 45-5-20.1 also shall have the power to manage and operate**
22 **such other post-employment benefit (OPEB) trusts as are established pursuant to Rhode Island**
23 **general laws sections 45-21-65 and 16-2-9.5. Such corporations shall have the powers set forth in**
24 **Rhode Island general laws section 45-5-20.1, and shall have such additional powers as are**
25 **necessary to effectuate the purposes of this section.**

26 (b) For the purpose of OPEB trusts managed and operated pursuant to this section, the
27 corporation shall maintain discrete sub-trust accounts for each of the participating entities setting
28 forth the contributions made by each participating entity, the allocated income assigned to each
29 participating entity as it may be derived from investments and other revenue sources, the funds
30 distributed to each participating entity for use in meeting its OPEB obligations, each entity's
31 allocated share of the administrative costs, including investment management fees, for operating
32 the OPEB trust, and such other items as the directors of the corporation hereby established shall
33 deem proper and necessary. Agreements made pursuant to this section may provide for pooling of
34 administrative expenses, including investment management and advisory services, associated

1 [with the operation of the OPEB trust and sub-trusts.](#)

2 SECTION 5. 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 -- RHODE ISLAND INTERLOCAL REGIONAL
SERVICES COMMISSION

1 This act would establish a public corporation to be known as "The Rhode Island
2 Interlocal Regional Services Commission." The purpose of the commission would be to operate
3 and administer various municipal operations which encompass two (2) or more adjacent
4 municipalities.

5 This act would take effect upon passage.

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