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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO TOWNS AND CITIES - BUDGET COMMISSIONS

Introduced By: Senators DaPonte, Conley, Picard, and Cote

Date Introduced: June 05, 2013

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-9-10 of the General Laws in Chapter 45-9 entitled "Budget
2 Commissions" is hereby amended to read as follows:

3 ~~45-9-10. Appointment of administration and finance officer upon abolition of fiscal~~
4 ~~overseer, budget commission or receiver. --~~ Appointment of administration and finance
5 officer upon abolition of receiver where petition filed under Chapter 9 of Title 11 of the
6 United States Code. -- (a) Notwithstanding any general or special law or city or town ordinance
7 to the contrary, this section shall apply upon abolition of ~~the fiscal overseer or a budget~~
8 ~~commission or~~ a receiver established under this chapter, where petition was filed under Chapter 9
9 of Title 11 of the United States Code, upon a determination, in writing, by the director of revenue
10 that the financial condition of the city or town has improved to a level such that a ~~fiscal overseer,~~
11 ~~a budget commission or a~~ receiver is no longer needed.

12 (b) For a period of five (5) years after the abolition of ~~a fiscal overseer, or a budget~~
13 ~~commission or~~ a receiver in any such city or town, there shall be in the city or town a department
14 of administration and finance which shall be responsible for the overall budgetary and financial
15 administration of the city or town. The department shall be under the direction and control of the
16 officer appointed pursuant to subsection (c) below. The officer shall report to and be under the
17 charge and direction of the elected chief executive officer, or in the case of a municipality without
18 an elected chief executive officer, then the city or town council. Nothing in this section shall
19 abrogate the powers and duties of the school committee under any general or special law, except

1 as specifically provided in this section.

2 Whenever the term "department of finance" or "finance department" appears in a general
3 or special law or an ordinance, regulation, contract or other document with reference to the city or
4 town, it shall mean the department of administration and finance of the city or town. Whenever
5 the term "chief financial officer", "director of finance", "financial director" or "treasurer" appears
6 in a general or special law or an ordinance, regulation, contract or other document with reference
7 to the city or town, it shall mean the officer of the city or town.

8 (c) The elected chief executive officer, or in the case of a municipality without an elected
9 chief executive officer, then the city or town council shall appoint the officer from a list of three
10 (3) names submitted by the division of municipal finance, for a term of not more than five (5)
11 years, as provided in this subsection. The officer shall be an employee of the city or town who
12 shall be appointed solely on the basis of administrative and executive qualifications and shall be a
13 person especially fitted by education, training and experience to perform the duties of the office.
14 The officer need not be a resident of the city or town or the state. In the event of a vacancy in the
15 office of officer the same process will be used.

16 (d) While the process of appointing an officer under subsection (c) is proceeding, the
17 elected chief executive officer, or in the case of a municipality without an elected chief executive
18 officer, then the city or town council may appoint an acting officer.

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

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

- 22 (1) Coordinating, administering and supervising all financial services and activities;
- 23 (2) Assisting in all matters related to municipal financial affairs;
- 24 (3) Implementing and maintaining uniform systems, controls and procedures for all
25 financial activities in all departments, boards, commissions, agencies, offices or other units of city
26 or town government the operations of which have a financial impact upon the general fund and
27 enterprise funds of the city or town, and including, but not limited to, maintaining all financial
28 and accounting data and records;
- 29 (4) Implementing and maintaining uniform financial data processing capabilities for all
30 departments, boards, commissions, agencies and offices;
- 31 (5) Supervising all financial data processing activities;
- 32 (6) Implementing and maintaining uniform budget guidelines and procedures within all
33 departments, boards, commissions, agencies, offices and other units of city or town government;
- 34 (7) Assisting in the development and preparation of all department, board, commission,

1 agency and office budgets and spending plans;

2 (8) Reviewing all proposed contracts to which the city or town is party;

3 (9) Monitoring the expenditure of all city or town funds, including periodic reporting by
4 and to appropriate agencies of the status of accounts;

5 (10) Reviewing the spending plan for each department, board, commission, agency and
6 office; and

7 (11) Providing for the allotment of funds on a periodic basis as provided for in this
8 chapter.

9 In all cases where the duty is not expressly charged to any other department, board,
10 commission, agency or office, it shall be the duty of the officer to promote, secure and preserve
11 the financial interests of the city or town.

12 (g) All department, board, commission, agency and office budgets and requests for
13 budget transfers shall be submitted to the officer for review and recommendation before
14 submission to the elected chief executive officer, city or town council or school committee, as
15 appropriate. For each proposed appropriation order, lease or contract arrangement for a term,
16 including more than one fiscal year, collective bargaining agreement and with respect to any
17 proposed city or town council vote necessary to effectuate a financial transfer, ordinance revision
18 or special legislation which may require the expenditure of funds or otherwise financially obligate
19 the city or town for a period in excess of one year, or with respect to a vote to authorize a
20 borrowing under a law other than sections 45-12-4.1, 45-12-4.2 or 45-12-4.3 of the general laws,
21 the officer shall, if it be the case, submit in writing to the elected chief executive officer, city or
22 town council or school committee, as appropriate, a certification that it is the officer's
23 professional opinion, after an evaluation of all pertinent financial information reasonably
24 available, that the city's or town's financial resources and revenues are, and will continue to be,
25 adequate to support such proposed expenditures or obligations without a detrimental impact on
26 the provision of municipal services. If the officer fails to provide this certification within seven
27 (7) days after a request for such certification from the elected chief executive officer, city or town
28 council or school committee, the appropriation order, financial transfer, ordinance revision,
29 special legislation or borrowing authorization may nonetheless be approved, but the absence of
30 the certification of the officer shall be expressly noted in that order or vote.

31 (h) All departments, officers, boards, commissions, agencies and other units of the city
32 or town, shall submit budget requests to the elected chief executive officer, or appropriate
33 authority under applicable charter and ordinance provisions, upon the schedule and in the form
34 established by the officer.

1 (i) Annually, not later than ~~March 30~~ ninety (90) days prior to the beginning of the
2 municipality's fiscal year, the officer shall submit a four (4)-year financial plan and a five (5)-year
3 capital plan to the city or town council that includes all capital needs of the city or town.

4 (j) The assessor, treasurer, finance director, controller, director of information
5 technology, purchasing agent, director of human resources, labor relations director and employees
6 performing similar duties but with different titles shall report to and be under the direction of the
7 officer. The officer, with the approval of the elected chief executive officer or appropriate
8 authority under applicable charter and ordinance provisions, shall appoint all such officers and
9 employees. The elected chief executive officer, or in the case of a municipality without an elected
10 chief executive officer, then the city or town council may also place other positions and
11 departments under the direction of the officer.

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

15 (l) The city or town shall annually appropriate amounts sufficient for the proper
16 administration of the department, ~~as determined in writing by the division of municipal finance.~~
17 If the city or town fails to appropriate such amounts, the division of municipal finance shall direct
18 the general treasurer to deduct the necessary funds from the city's or town's distribution of the
19 city's or town's state aid and shall expend those funds directly for the benefit of the department.
20 The city or town shall annually appropriate amounts sufficient to cover the costs of the
21 administration and finance officer. The state shall annually reimburse the city or town for fifty
22 percent (50%) share of such costs. The city or town at its expense shall provide office space and
23 adequate resources needed by the administration and finance officer in the performance of his/her
24 duties.

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

1 powers or duties of the school committee under the general laws.

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

4 **45-9-10.1. Appointment of administration and finance officer upon abolition of a**
5 **fiscal overseer, or a budget commission or a receiver where no chapter 9, title 11 petition**

6 **filed. -- (a) Notwithstanding any general or special law or city or town ordinance to the contrary,**
7 **this section shall apply upon the abolition of the fiscal overseer, budget commission or receiver**
8 **where the receiver has not filed a petition for Chapter 9, Title 11 of the United States Code, upon**
9 **a determination, in writing, by the director of revenue that the financial condition of the city or**
10 **town has improved to a level such that a fiscal overseer, budget commission or receiver is no**
11 **longer needed.**

12 **(b) For a period of five (5) years after the abolition of a fiscal overseer, or a budget**
13 **commission or a receiver where the receiver has not filed a petition for Chapter 9, Title 11 of the**
14 **United States Code, a finance advisor shall be appointed for the city or town by the director of**
15 **revenue. The finance advisor shall be an employee of the city or town. The finance advisor shall**
16 **be responsible for monitoring the overall budgetary and financial administration and fiscal health**
17 **of the city or town. The finance advisor shall report to the director of revenue.**

18 **(c) The finance advisor shall be appointed solely on the basis of his or her qualifications**
19 **and shall be a person especially fitted by education, training or experience to perform the**
20 **functions of the position.**

21 **(d) The finance advisor shall have complete access to the financial books and records of**
22 **all offices, departments, and other agencies of the municipal government and, without limitations:**

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

25 **(2) Monitor and oversee all financial operations and activities including the city's or**
26 **town's operating and capital financial plans to maintain fiscal stability;**

27 **(3) Review operational results of various city or town funds and evaluate the structural**
28 **soundness of each;**

29 **(4) Advise the assessor, director of finance, city or town treasurer, purchasing agent and**
30 **employees performing similar duties but with different titles;**

31 **(5) Provide assistance in all matters related to municipal financial affairs;**

32 **(6) Review and approve the development and preparation of the annual municipal budget,**
33 **all department operating and capital budgets and spending plans;**

34 **(7) Review and approve all proposed labor contracts and obligations to determine if**

- 1 consistent with a structurally balanced five (5) year plan;
- 2 (8) Monitor the receipt of revenues and expenditures of all funds with the assistance of
3 city/town staff;
- 4 (9) Participate in rating agency calls pertaining to the city or town;
- 5 (10) Determine compliance with the various ordinances, laws (federal and state) and rules
6 and regulations related to receipt and expenditure of city funds;
- 7 (11) Provide comment to the local governing body on the annual or supplemental
8 municipal budgets of the city or town and all of its departments;
- 9 (12) Report quarterly to the chief elected officer, city or town council, director of
10 revenue, the auditor general, the governor and the chairpersons of the house finance and senate
11 finance committees on the progress made towards maintaining fiscal stability and all financial
12 operations of the city or town;
- 13 (13) Make recommendations to the elected chief executive officer, city or town council,
14 school committee, and the director of revenue, as appropriate, to begin to address any operational
15 and/or structural deficit;
- 16 (14) Make recommendations to the elected chief executive officer, city or town council,
17 and school committee, as appropriate, to have operational, performance, or forensic audits, or
18 similar assessments conducted;
- 19 (15) Report any: (i) Inappropriate expenditure; (ii) Any improper accounting procedure;
20 (iii) All failures to properly record financial transactions; and (iv) Other inaccuracies,
21 irregularities, and shortages, as soon as practical to the elected chief executive officer, or in the
22 case of a municipality without an elected chief executive officer, the city or town council; and
- 23 (16) Notify in writing as soon as practical, the elected chief executive officer or the city
24 or town council; if the finance advisor discovers any errors, unusual practices, or any other
25 discrepancies in connection with his or her work.
- 26 (f) The city or town, including the school department, shall provide the finance advisor
27 with any and all information requested in a timely fashion.
- 28 (g) The city or town shall annually appropriate amounts sufficient to cover the costs of
29 the administration and finance officer. The state shall annually reimburse the city or town for
30 fifty percent (50%) share of such costs.
- 31 (h) The city or town at its expense shall provide office space and adequate resources
32 needed by the administration and finance officer in the performance of his/her duties.
- 33 (i) Nothing contained herein removes duties from existing positions in the city or town.

1 SECTION 3. 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 - BUDGET COMMISSIONS

1 This act would create an amended process to be followed by a city or town upon the
2 abolition of its fiscal overseer, budget commission, or receiver, depending upon whether an
3 accompanying bankruptcy petition has been filed. It would also require the state of Rhode Island
4 to annually reimburse a city or town fifty percent (50%) of the costs for the administration and
5 finance officer.

6 This act would take effect upon passage.

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