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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO TOWNS AND CITIES -- BUDGET COMMISSIONS

Introduced By: Representatives Roberts, Morgan, Nardolillo, Chippendale, and Nunes

Date Introduced: February 02, 2017

Referred To: House Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 45-9-1, 45-9-2, 45-9-3, 45-9-4, 45-9-5, 45-9-6, 45-9-7, 45-9-8, 45-  
2   9-9, 45-9-10, 45-9-10.1, 45-9-11, 45-9-12, 45-9-13, 45-9-14, 45-9-15, 45-9-18, 45-9-19 and 45-9-  
3   20 of the General Laws in Chapter 45-9 entitled "Budget Commissions" are hereby amended to  
4   read as follows:

5           **45-9-1. Declaration of policy and legal standard.**

6           It shall be the policy of the state to provide a mechanism for the state to work with cities,  
7   and towns, ~~and fire districts~~ undergoing financial distress that threatens the fiscal well-being,  
8   public safety, and welfare of such cities; or towns, ~~and fire districts or other cities, towns, fire~~  
9   ~~districts~~ or the state, with the state providing varying levels of support and control depending on  
10   the circumstances. The powers delegated by the general assembly in this chapter shall be carried  
11   out having due regard for the needs of the citizens of the state and of the city; or town, ~~or fire~~  
12   ~~district~~ and in such a manner as will best preserve the safety and welfare of citizens of the state  
13   and their property and the access of the state, its municipalities, ~~and fire districts~~ to capital  
14   markets, all to the public benefit and good.

15           **45-9-2. Definitions.**

16           As used in this chapter, the following words shall, unless the context clearly requires  
17   otherwise, have the following meanings:

18           (1) "Budget commission" means the budget and review commission established under §§  
19   45-9-5 and 45-9-6.

1 (2) "Charter" means the home rule charter or the legislative charter of any city; or town;  
2 ~~or fire district.~~

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

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

6 (5) "Elected chief executive officer" means, in cities and towns having a popularly  
7 elected chief executive officer, the popularly elected chief executive officer, and in cities and  
8 towns where there is no popularly elected chief executive officer, the president of the city or town  
9 council.

10 (6) ~~"Fire district budget" means the fiscal year operating budget of the fire district.~~

11 (7) "Fiscal overseer" means the financial overseer appointed under § 45-9-3.

12 (8) "General Treasurer" means the general treasurer of the state.

13 (9) "Municipal budget" means the fiscal-year operating budget of the city; or town, ~~or~~  
14 ~~fire district~~, inclusive of the school department budget and all other departments.

15 (10) "Officer" means the chief administrative and financial officer appointed under § 45-  
16 9-10 after abolition of a fiscal overseer or a budget commission or a receiver in a city; or town; ~~or~~  
17 ~~fire district.~~

18 (11) "Receiver" means the receiver appointed pursuant to §§ 45-9-7 or 45-9-8.

19 (12) "School committee", means the school committee of the city or town, but shall not  
20 mean, or include, a regional school district committee.

21 (13) "State Aid" means the funds made available to cities and towns:

22 (i) As state aid pursuant to chapter 13 of title 45, but specifically excluding  
23 reimbursements to cities and towns for the cost of state mandates pursuant to § 45-13-9;

24 (ii) As school operations aid provided for in §§ 16-7-5 -- 16-7-34.3 and as school  
25 housing aid pursuant to §§ 16-7-35 -- 16-7-47, but subject to any pledge to bonds issued to  
26 finance school projects by the Rhode Island health and educational building corporation;

27 (iii) In replacement of motor vehicle and trailer excise taxes pursuant to chapter 34.1 of  
28 title 44;

29 (iv) From the public service corporation tax pursuant to chapter 13 of title 44;

30 (v) From the local meal and beverage tax pursuant to § 44-18-18.1 and the hotel tax  
31 pursuant to § 44-18-36.1; and

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

1 chapters listed in subdivisions (i) through (v).

2 **45-9-3. Appointment and duties of fiscal overseer.**

3 (a) Upon joint request by a city's or town's elected chief executive officer and city or  
4 town council, ~~or for a fire district~~, the request of the governing body as established by charter,  
5 which request is approved by the division of municipal finance and the auditor general, or in  
6 absence of such a request, in the event that the director of revenue, in consultation with the  
7 auditor general, makes any two (2) or more of the findings set forth in subsection (b), the director  
8 of revenue may appoint a fiscal overseer for the city; or town, ~~or fire district~~ to assess the ability  
9 of the city or town government ~~or fire district~~ to manage fiscal challenges.

10 (b) The director of revenue may appoint a fiscal overseer if the director finds, in his or  
11 her sole discretion, that any two (2) of the following events have occurred that are of such a  
12 magnitude that they threaten the fiscal well-being of the city; or town, ~~or fire district~~, diminishing  
13 the city's; or town's, ~~or fire district's~~ ability to provide for the public safety or welfare of the  
14 citizens of the city; or town, ~~or fire district~~:

15 (1) The city; or town, ~~or fire district~~ projects a deficit in the municipal budget ~~or fire~~  
16 ~~district budget~~ in the current fiscal year and again in the upcoming fiscal year;

17 (2) The city; or town, ~~or fire district~~ has not filed its required audits with the auditor  
18 general by the deadlines required by law for two (2) successive fiscal years (not including  
19 extensions authorized by the auditor general);

20 (3) The city; or town, ~~or fire district~~ has been downgraded by one of the nationally  
21 recognized statistical rating organizations;

22 (4) The city; or town, ~~or fire district~~ is otherwise unable to obtain access to credit  
23 markets or obtain financing when necessary on reasonable terms in the sole judgment of the  
24 director of revenue.

25 (5) The city; or town, ~~or fire district~~ does not promptly respond to requests made by the  
26 director of revenue, or the auditor general, or the chairpersons of the house and/or senate finance  
27 committees, for financial information and operating data necessary to assess the fiscal condition  
28 of the city; or town, ~~or fire district~~ in the sole judgment of the director of revenue.

29 (c) The director of revenue may also appoint a fiscal overseer if a city; or town, ~~or fire~~  
30 ~~district~~ fails to comply with the requirements of §§ 45-12-22.1 -- 45-12-22.5.

31 (d) The fiscal overseer shall without limitation:

32 (1) Recommend to the elected chief executive officer, ~~fire district board of directors~~, city  
33 or town council, and school committee sound fiscal policies for implementation;

34 (2) Supervise all financial services and activities;

1 (3) Advise the assessors, director of finance, city or town treasurer, ~~fire district board of~~  
2 ~~directors~~, purchasing agent, and employees performing similar duties but with different titles;

3 (4) Provide assistance in all matters related to municipal ~~or fire district~~ financial affairs;

4 (5) Assist in development and preparation of the municipal ~~or fire district~~ budget, all  
5 department budgets, and spending plans;

6 (6) Review all proposed contracts and obligations;

7 (7) Monitor the expenditures of all funds;

8 (8) Approve the annual or supplemental ~~fire districts budgets or~~ municipal budgets of the  
9 city or town and all of its departments; and

10 (9) Report monthly to the director of revenue, the auditor general, the governor, and the  
11 chairpersons of the house finance and senate finance committees on the progress made towards  
12 reducing the municipality's ~~or fire district's~~ deficit and otherwise attaining fiscal stability.

13 (e) All department budgets and requests for municipal ~~or fire district~~ budget transfers  
14 shall be submitted to the fiscal overseer for review and approval.

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

21 (g) Within one hundred twenty (120) days of being appointed by the director of revenue,  
22 the fiscal overseer shall develop a three-year (3) operating and capital financial plan to achieve  
23 fiscal stability in the city, or town, ~~or fire district~~. The plan shall include a preliminary analysis of  
24 the city's, or town's, ~~or fire district's~~ financial situation and the fiscal overseer's initial  
25 recommendations to immediately begin to address the operating and structural deficits. The fiscal  
26 overseer shall have the power to compel operational, performance, or forensic audits, or any other  
27 similar assessments. The fiscal overseer shall have the power, at the expense of the city, or town,  
28 ~~or fire district~~, to employ, retain, and supervise such managerial, professional and clerical staff as  
29 are necessary to carry out the responsibility of fiscal overseer, subject to the approval of the  
30 division of municipal finance; provided, however, that the fiscal overseer shall not be subject to  
31 chapter 2 of title 37 or chapter 55 of title 45 in employing such staff.

32 **45-9-4. Approval of tax levy.**

33 A city, or town, ~~or fire district~~ that is subject to the jurisdiction of a fiscal overseer or a  
34 budget commission, may not levy property taxes or motor vehicle excise taxes without prior

1 approval of the division of municipal finance. Before the city; or town; ~~or fire district~~ that is  
2 subject to the jurisdiction of a fiscal overseer or a budget commission, shall send out tax bills, the  
3 city; or town; ~~or fire district~~ shall submit to the division of municipal finance a copy of its adopted  
4 municipal ~~or fire district~~ budget and such supporting revenue and expenditure information as the  
5 division of municipal finance shall prescribe for the succeeding fiscal year. The adopted  
6 municipal ~~or fire district~~ budget, and such supporting revenue and expenditure information as the  
7 division of municipal finance may prescribe, shall be submitted to the division of municipal  
8 finance no later than ten (10) days after the adoption of the budget. The division of municipal  
9 finance shall ascertain whether the budget for that fiscal year contains reasonable revenues from  
10 taxation and other sources to meet the appropriations and other amounts required by law to be  
11 raised, and the division of municipal finance shall report its conclusion to the director of revenue.  
12 If the director of revenue determines that the municipal ~~or fire district~~ budget as presented does  
13 not contain reasonable revenues from taxation and other sources to meet appropriations and other  
14 amounts required by law to be raised, the director of revenue shall certify this determination in  
15 writing and provide notice of the determination with a copy of the certificate to the auditor  
16 general, the governor, and the chairpersons of the house and senate finance committees; and  
17 notify the city; or town; ~~or fire district~~ that its tax levy has not been approved and that the city; or  
18 town; ~~or fire district~~ is not authorized to mail or otherwise transmit tax bills to city or town  
19 taxpayers. If the director of revenue has made the foregoing determination, the city; or town; ~~or~~  
20 ~~fire district~~ shall prepare a revised budget for review and approval by the director of revenue.

21 The city; or town; ~~or fire district~~ shall submit the reports required by § 45-12-22.2 to the  
22 director of revenue, the division of municipal finance, the auditor general, the governor, and the  
23 chairpersons of the house and senate finance committees.

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

26 **45-9-5. Reports of fiscal overseer and appointment of budget and review**  
27 **commission.**

28 (a) The fiscal overseer shall report in writing to the division of municipal finance if the  
29 fiscal overseer concludes that the city; or town; ~~or fire district~~: (1) Is unable to present a balanced  
30 municipal ~~or fire district~~ budget; (2) Faces a fiscal crisis that poses an imminent danger to the  
31 safety of the citizens of the city; or town, ~~or fire district~~, or their property; (3) Will not achieve  
32 fiscal stability without the assistance of a budget commission; or (4) That the tax levy of the fiscal  
33 year should not be approved.

34 (b) If the fiscal overseer believes, at any time, that a budget commission should be

1 appointed, the fiscal overseer may report that belief to the division of municipal finance.

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

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

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

11 (f) If the division of municipal finance notifies the director of revenue in writing that the  
12 city; or town; ~~or fire district~~ is unable to achieve a balanced municipal budget, then the director of  
13 revenue shall establish a budget commission.

14 (g) Upon joint request by a city's or town's elected chief executive officer and city or  
15 town council, ~~or, for a fire district,~~ the request of the governing body as established by charter,  
16 which request is approved by the division of municipal finance, the director of revenue, in  
17 consultation with the auditor general, may establish a budget commission for such city; or town;  
18 ~~or fire district.~~

19 **45-9-6. Composition of budget commission.**

20 (a) If a budget commission is established under §§ 45-9-5 or 45-12-22.7, it shall consist  
21 of five (5) members: three (3) of whom shall be designees of the director of revenue; one of  
22 whom shall be the elected chief executive officer of the city; and one of whom shall be a council  
23 member of the town or city elected to serve on the budget commission as chosen by a majority  
24 vote of said town or city council. In cities or towns in which the elected chief executive officer  
25 for purposes of this chapter is the president of the city or town council, one member shall be the  
26 appointed city or town manager or town administrator (or, if none, the city or town chief financial  
27 officer) as the fifth member. ~~For a fire district, it shall consist of five (5) members: three (3) of the~~  
28 ~~members of the budget commission shall be designees of the director of revenue; one shall be the~~  
29 ~~chairperson of the district's governing body; and one shall be the fire chief of the district.~~ The  
30 budget commission shall act by a majority vote of all its members. The budget commission shall  
31 initiate and ensure the implementation of appropriate measures to secure the financial stability of  
32 the city; or town; ~~or fire district.~~ The budget commission shall continue in existence until the  
33 director of revenue abolishes it.

34 The budget commission shall be subject to chapter 2 of title 36, "Access to Public

1 Records," and chapter 14 of title 36, "Code of Ethics". The budget commission shall be subject to  
2 chapter 46 of title 42 "Open Meetings" when meeting to take action on the following matters:

3 (1) Levy and assessment of taxes;

4 (2) Rulemaking or suspension of rules;

5 (3) Adoption of a municipal ~~or fire district~~ budget;

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

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

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

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

18 (d) In addition to the authority and powers conferred elsewhere in this chapter, and  
19 notwithstanding any city; or town; ~~or fire district~~ charter provision, or local ordinance, or rule or  
20 regulation to the contrary, the budget commission shall have the power to:

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

27 (2) Implement and maintain uniform budget guidelines and procedures for all  
28 departments;

29 (3) Amend, formulate and execute capital budgets, including amending any borrowing  
30 authorization, or financing or refinancing of any debt in accordance with the law;

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

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

1 town's, ~~or fire district's~~ government;

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

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

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

17 (9) Alter or eliminate the compensation and/or benefits of elected officials of the city; or  
18 town, ~~or fire district~~ to reflect the fiscal emergency and changes in the responsibilities of the  
19 officials as provided by this chapter;

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

32 (11) Reorganize, consolidate, or abolish departments, commissions, authorities, boards,  
33 offices, or functions of the city; or town, ~~or fire district~~ in whole or in part, and to establish such  
34 new departments, commissions, authorities, boards, offices, or functions as it deems necessary,



1 and to transfer the duties, powers, functions and appropriations of one department, commission,  
2 board, office, or other unit to another department, commission, authority, board, or office, and in  
3 connection therewith, remove and appoint new members for any such commission, authority,  
4 board, or department which appointees shall serve the remainder of any unexpired term of their  
5 predecessor;

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

8 (13) Sell, lease, or otherwise transfer, real property and other assets of the city; or town;  
9 ~~or fire district~~ with the approval of the director of revenue;

10 (14) Purchase, lease, or otherwise acquire, property or other assets on behalf of the city;  
11 or town;~~or fire district~~ with the approval of the director of revenue;

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

14 (16) Adopt rules and regulations governing the operation and administration of the city;  
15 or town;~~or fire district~~ that permit the budget commission to effectively carry out this chapter  
16 under § 42-35-3(b);

17 (17) Alter or rescind any action or decision of any municipal ~~or fire district~~ officer,  
18 employee, board, authority, or commission within fourteen (14) days after receipt of notice of  
19 such action or decision;

20 (18) Suspend, in consultation with the director of revenue, any rules and regulations of  
21 the city; or town;~~or fire district~~;

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

1 notes, or certificates of indebtedness; any earnings derived from the investment of such pledged  
2 aid shall be applied as needed to the payment of that principal and interest and for trustee's fees  
3 and related expenses, with any excess to be paid to the city; or town; ~~or fire district~~. Bonds, notes,  
4 or certificates of indebtedness authorized under authority of this chapter shall be executed on  
5 behalf of the city, town, or fire district by a member of the commission and, except as provided  
6 for in this chapter, may be subject to the provisions of chapter 12 of title 45 so far as apt, or may  
7 be subject to the provisions of any special bond act enacted authorizing the issuance of bonds of a  
8 city; or town; ~~or fire district~~ so far as apt; provided, however, that any bonds or notes issued for  
9 school purposes must be approved by the general assembly in order to qualify for school housing  
10 aid as set forth in chapter 7 of title 16; and

11 (20) Exercise all powers under the general laws and this chapter, or any special act, any  
12 charter provision or ordinance that any elected official of the city; or town; ~~or fire district~~ may  
13 exercise, acting separately or jointly; provided, however, that with respect to any such exercise of  
14 powers by the budget commission, the elected officials shall not rescind nor take any action  
15 contrary to such action by the budget commission so long as the budget commission continues to  
16 exist.

17 (21) Certify to the Rhode Island department of revenue the need to advance payments of  
18 the state's basic education program under chapter 7 of title 16 in the amount determined by the  
19 budget commission. Said amount shall be advanced, subject to approval of the director of the  
20 department of revenue, notwithstanding any general or public law to the contrary. The director of  
21 the department of revenue shall provide notice of any advance payments to the fiscal advisors of  
22 the house and senate finance committees. The state general treasurer shall deduct the estimated  
23 cost to the state's general fund resulting from any advance payments.

24 **45-9-7. Appointment of receiver.**

25 (a) If the budget commission established by § 45-9-5 concludes that its powers are  
26 insufficient to restore fiscal stability to the city; or town; ~~or fire district~~, it shall so notify the  
27 director of revenue and shall forward to the director of revenue a statement of the reasons why it  
28 has been unable to restore fiscal stability to the city; or town; ~~or fire district~~. Upon receipt of such  
29 statement, the director of revenue shall terminate the existence of the budget commission,  
30 notwithstanding § 45-9-5, and the director of revenue shall appoint a receiver for the city; or  
31 town; ~~or fire district~~ for a period as the director of revenue may determine. The director of  
32 revenue may, at any time, and without cause, remove the receiver and appoint a successor, or  
33 terminate the receivership.

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

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

3 (2) The power to exercise any function or power of any municipal ~~or fire district~~ officer  
4 or employee, board, authority or commission, whether elected or otherwise relating to or  
5 impacting the fiscal stability of the city; or town; ~~or fire district~~ including, without limitation,  
6 school and zoning matters; and

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

10 (c) Upon the appointment of a receiver, the receiver shall have the right to exercise the  
11 powers of the elected officials under the general laws, special laws and the city; or town; ~~or fire~~  
12 ~~district~~ charter and ordinances and rules and regulations relating to or impacting the fiscal  
13 stability of the city; or town; ~~or fire district including~~, without limitation, school and zoning  
14 matters; provided, further, that the powers of the receiver shall be superior to and supersede the  
15 powers of the elected officials of the city; or town; ~~or fire district~~ shall continue to be elected in  
16 accordance with the city or town ~~or fire district~~ charter, and shall serve in an advisory capacity to  
17 the receiver. The receiver shall allow the city's; or town's; ~~or fire district's~~ elected officials to  
18 serve their constituents by providing advice to the receiver on the matters relating to the operation  
19 of the city; or town; ~~or fire district~~. In the event a conflict arises between the chief elected official  
20 or city or town council ~~or fire district governing body~~ and the receiver, the receiver's decision  
21 shall prevail. The director of revenue shall determine the salary of the receiver, which salary shall  
22 be payable by the city; or town; ~~or fire district~~.

23 **45-9-8. Appointment of receiver in a fiscal emergency.**

24 In the event the director of revenue determines, in consultation with the auditor general,  
25 that a city; or town; ~~or fire district~~ is facing a fiscal emergency and that circumstances do not  
26 allow for appointment of a fiscal overseer or a budget commission prior to the appointment of a  
27 receiver, the director of revenue may appoint a receiver without having first appointed a fiscal  
28 overseer or a budget commission.

29 **45-9-9. Collective bargaining agreements.**

30 Notwithstanding chapter 7 of title 28 or any other general or special law or any charter or  
31 local ordinance to the contrary, new collective bargaining agreements, and any amendments, to  
32 new or existing collective bargaining agreements, (collectively, "collective bargaining  
33 agreements") entered into by the city, town; ~~or fire district~~ or the school department, shall be  
34 subject to the approval of the fiscal overseer, budget commission, or receiver if the fiscal

1 overseer, budget commission, or receiver is in effect at the time. No collective bargaining  
2 agreement shall be approved under this section unless the fiscal overseer, budget commission, or  
3 receiver has participated in the negotiation of the collective bargaining agreement and provides  
4 written certification to the director of revenue that after an evaluation of all pertinent financial  
5 information reasonably available, the city's; or town's; ~~or fire district's~~ financial resources and  
6 revenues are, and will continue to be, adequate to support such collective bargaining agreement  
7 without a detrimental impact on the provision of municipal ~~or fire district~~ services. A decision, by  
8 the fiscal overseer, budget commission, or receiver, to disapprove of a collective bargaining  
9 agreement under this section shall be made in a report to the parties; provided, however, that the  
10 report shall specify the disapproved portions of the agreement and the supporting reasons for the  
11 disapproval. This section shall not be construed to authorize a fiscal overseer, a budget  
12 commission, or a receiver under this chapter to reject or alter any existing collective bargaining  
13 agreement, unless by agreement, during the term of such collective bargaining agreement.

14 **45-9-10. Appointment of administration and finance officer upon abolition of**  
15 **receiver where petition filed under Chapter 9 of Title 11 of the United States Code.**

16 (a) Notwithstanding any general or special law or city or town ordinance to the contrary,  
17 this section shall apply upon abolition of a receiver established under this chapter, where petition  
18 was filed under Chapter 9 of Title 11 of the United States Code, upon a determination, in writing,  
19 by the director of revenue, that the financial condition of the city or town has improved to a level  
20 such that a receiver is no longer needed.

21 (b) For a period of five (5) years after the abolition of a receiver in any such city; or  
22 town; ~~or fire district~~, there shall be in the city; or town; ~~or fire district~~ a department of  
23 administration and finance that shall be responsible for the overall budgetary and financial  
24 administration of the city; or town; ~~or fire district~~. The department shall be under the direction  
25 and control of the officer appointed pursuant to subsection (c) below. The officer shall report to,  
26 and be under the charge and direction of, the elected chief executive officer, or in the case of a  
27 municipality without an elected chief executive officer, then the city or town council; ~~or in the~~  
28 ~~case of a fire district, the governing body of the fire district~~. Nothing in this section shall abrogate  
29 the powers and duties of the school committee under any general or special law, except as  
30 specifically provided in this section.

31 Whenever the term "department of finance" or "finance department" appears in a general  
32 or special law or an ordinance, regulation, contract, or other document with reference to the city;  
33 or town; ~~or fire district~~, it shall mean the department of administration and finance of the city; or  
34 town; ~~or fire district~~. Whenever the term "chief financial officer", "director of finance", "financial

1 director", or "treasurer" appears in a general or special law or an ordinance, regulation, contract,  
2 or other document with reference to the city; or town, ~~or fire district~~, it shall mean the officer of  
3 the city; or town, ~~or fire district~~.

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

13 (d) While the process of appointing an officer under subsection (c) is proceeding, the  
14 elected chief executive officer, or in the case of a municipality without an elected chief executive  
15 officer then the city or town council, may appoint an acting officer, ~~or in the case of a fire district,~~  
16 ~~then the governing body of the fire district may appoint an acting officer.~~

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

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

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

21 (2) Assisting in all matters related to municipal ~~or fire district~~ financial affairs;

22 (3) Implementing and maintaining uniform systems, controls, and procedures for all  
23 financial activities in all departments, boards, commissions, agencies, offices, or other units of  
24 city; or town, ~~or fire district~~ government the operations of which have a financial impact upon the  
25 general fund and enterprise funds of the city; or town, ~~or fire district~~, and including, but not  
26 limited to, maintaining all financial and accounting data and records;

27 (4) Implementing and maintaining uniform financial data processing capabilities for all  
28 departments, boards, commissions, agencies, and offices;

29 (5) Supervising all financial data processing activities;

30 (6) Implementing and maintaining uniform budget guidelines and procedures within all  
31 departments, boards, commissions, agencies, offices, and other units of city; or town, ~~or fire~~  
32 ~~district~~ government;

33 (7) Assisting in the development and preparation of all department, board, commission,  
34 agency, and office budgets and spending plans;

- 1 (8) Reviewing all proposed contracts to which the city, or town, ~~or fire district~~ is party;
- 2 (9) Monitoring the expenditure of all city, or town, ~~or fire district~~ funds, including
- 3 periodic reporting by and to appropriate agencies of the status of accounts;
- 4 (10) Reviewing the spending plan for each department, board, commission, agency, and
- 5 office; and
- 6 (11) Providing for the allotment of funds on a periodic basis as provided for in this
- 7 chapter.

8 In all cases where the duty is not expressly charged to any other department, board,

9 commission, agency, or office, it shall be the duty of the officer to promote, secure, and preserve

10 the financial interests of the city, or town, ~~or fire district~~.

11 (g) All department, board, commission, agency, and office budgets and requests for

12 budget transfers shall be submitted to the officer for review and recommendation before

13 submission to the elected chief executive officer, city or town council, ~~fire district governing~~

14 ~~body~~, or school committee, as appropriate. For each proposed appropriation order, lease, or

15 contract arrangement for a term including more than one fiscal year; collective bargaining

16 agreement; and with respect to any proposed city or town council ~~or fire district governing body~~

17 vote necessary to effectuate a financial transfer, ordinance revision, or special legislation that may

18 require the expenditure of funds or otherwise financially obligate the city, or town, ~~or fire district~~

19 for a period in excess of one year; or with respect to a vote to authorize a borrowing under a law

20 other than §§ 45-12-4.1, 45-12-4.2 or 45-12-4.3; the officer shall, if it be the case, submit in

21 writing to the elected chief executive officer, city or town council, ~~fire district governing body~~, or

22 school committee, as appropriate, a certification that it is the officer's professional opinion, after

23 an evaluation of all pertinent financial information reasonably available, that the city's, or town's,

24 ~~or fire district's~~ financial resources and revenues are, and will continue to be, adequate to support

25 such proposed expenditures or obligations without a detrimental impact on the provision of

26 municipal ~~or fire district~~ services. If the officer fails to provide this certification within seven (7)

27 days after a request for such certification from the elected chief executive officer, city or town

28 council, ~~fire district governing body~~, or school committee, the appropriation order, financial

29 transfer, ordinance revision, special legislation, or borrowing authorization may nonetheless be

30 approved, but the absence of the certification of the officer shall be expressly noted in that order

31 or vote.

32 (h) All departments, officers, boards, commissions, agencies, and other units of the city,

33 or town, ~~or fire district~~ shall submit budget requests to the elected chief executive officer, or

34 appropriate authority under applicable charter and ordinance provisions, upon the schedule and in

1 the form established by the officer.

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

6 (j) The assessor, treasurer, finance director, controller, purchasing agent, labor relations  
7 director, and employees performing similar duties but with different titles shall report to, and be  
8 under the direction of, the officer. The officer, with the approval of the elected chief executive  
9 officer or appropriate authority under applicable charter and ordinance provisions, shall appoint  
10 all such officers and employees. The elected chief executive officer, or in the case of a  
11 municipality without an elected chief executive officer then the city or town council, ~~or in the~~  
12 ~~case of a fire district, the governing body of the fire district,~~ 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, ~~or fire district~~ shall annually appropriate amounts sufficient for the  
18 proper administration of the department. If the city, or town, ~~or fire district~~ fails to appropriate  
19 such amounts, the division of municipal finance shall direct the general treasurer to deduct the  
20 necessary funds from the city's, or town's, ~~or fire district's~~ distribution of the city's, or town's, ~~or~~  
21 ~~fire district's~~ state aid and shall expend those funds directly for the benefit of the department. The  
22 city or town shall annually appropriate amounts sufficient to cover the costs of the administration  
23 and finance officer. The state shall annually reimburse the city, or town, ~~or fire district~~ for fifty  
24 percent (50%) share of such costs. The city, or town, ~~or fire district~~ at its expense shall provide  
25 office space and adequate resources needed by the administration and finance officer in the  
26 performance of his/her duties.

27 (m) The officer shall comply with all requests of the school department to provide any  
28 information relating to the operation of the school department held within the authority or control  
29 of the officer as the result of the consolidation of school and city or town business and financial  
30 functions under §§ 45-9-3 or 45-9-6. If the officer, or any employee under the control of the  
31 officer, refuses to provide such information or engages in unreasonable delay, the school  
32 department shall notify the division of municipal finance. The division of municipal finance shall,  
33 within a reasonable time, make a determination whether any such information shall be provided  
34 to the school department that shall be binding upon the officer and the school department. The

1 division of municipal finance's determination shall not be an adjudicatory proceeding reviewable  
2 under chapter 35 of title 42. Nothing in this subsection shall abrogate any of the other powers or  
3 duties of the school committee under the general laws.

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.**

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

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

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

23 (d) The finance advisor shall have complete access to the financial books and records of  
24 all offices, departments, and other agencies of the municipal ~~fire district~~ government and, without  
25 limitations:

26 (1) Recommend to the elected chief executive officer, city or town council, ~~or fire~~  
27 ~~district governing body~~, and school committee sound fiscal policies for implementation and  
28 monitor implementation;

29 (2) Monitor and oversee all financial operations and activities including the city's, or  
30 town's, ~~or fire district's~~ operating and capital financial plans to maintain fiscal stability;

31 (3) Review operational results of various city, or town, ~~or fire district~~ funds and evaluate  
32 the structural soundness of each;

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



- 1 (5) Provide assistance in all matters related to municipal ~~or fire district~~ financial affairs;
- 2 (6) Review and approve the development and preparation of the annual municipal ~~or fire~~  
3 ~~district~~ budget, all department operating and capital budgets, and spending plans;
- 4 (7) Review and approve all proposed labor contracts and obligations to determine if  
5 consistent with a structurally balanced, five-year (5) plan;
- 6 (8) Monitor the receipt of revenues and expenditures of all funds with the assistance of  
7 city; or town; ~~or fire district~~ staff;
- 8 (9) Participate in rating agency calls pertaining to the city; or town; ~~or fire district~~;
- 9 (10) Determine compliance with the various ordinances, laws (federal and state), and  
10 rules and regulations related to receipt and expenditure of city; or town; ~~or fire district~~ funds;
- 11 (11) Provide comment to the local governing body on the annual or supplemental  
12 municipal ~~or fire district~~ budgets of the city; or town; ~~or fire district~~ and all of its departments;
- 13 (12) Report quarterly to the chief elected officer, city or town council; ~~fire district~~  
14 ~~governing body~~, director of revenue, the auditor general, the governor, and the chairpersons of the  
15 house finance and senate finance committees on the progress made towards maintaining fiscal  
16 stability and all financial operations of the city; or town; ~~or fire district~~;
- 17 (13) Make recommendations to the elected chief executive officer, city or town council;  
18 ~~fire district governing body~~, school committee, and the director of revenue, as appropriate, to  
19 begin to address any operational and/or structural deficit;
- 20 (14) Make recommendations to the elected chief executive officer, city or town council;  
21 ~~fire district governing body~~, and school committee, as appropriate, to have operational,  
22 performance, or forensic audits, or similar assessments conducted;
- 23 (15) Report any: (i) Inappropriate expenditure; (ii) Any improper accounting procedure;  
24 (iii) All failures to properly record financial transactions; and (iv) Other inaccuracies,  
25 irregularities, and shortages, as soon as practical to the elected chief executive officer, or in the  
26 case of a municipality without an elected chief executive officer, the city or town council; ~~or in~~  
27 ~~the case of a fire district, the fire district governing body~~; and
- 28 (16) Notify in writing as soon as practical, the elected chief executive officer or the city  
29 or town council; ~~or the fire district governing body~~; if the finance advisor discovers any errors,  
30 unusual practices, or any other discrepancies in connection with his or her work.
- 31 (f) The city or town, including the school department ~~or fire district~~, shall provide the  
32 finance advisor with any and all information requested in a timely fashion.
- 33 (g) The city; or town; ~~or fire district~~ shall annually appropriate amounts sufficient to  
34 cover the costs of the administration and finance officer. The state shall annually reimburse the

1 city or town for fifty percent (50%) share of such costs.

2 (h) The city, or town, ~~or fire district~~, at its expense, shall provide office space and  
3 adequate resources needed by the administration and finance officer in the performance of his/her  
4 duties.

5 (i) Nothing contained herein removes duties from existing positions in the city, or town,  
6 ~~or fire district~~.

7 **45-9-11. Expenditures in excess of appropriations prohibited.**

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

16 (b) An official who intentionally violates this section shall be personally liable to the  
17 city, or town, ~~or fire district~~ for any amounts expended in excess of an appropriation to the extent  
18 that the city, or town, ~~or fire district~~ does not recover such amounts from the person or persons to  
19 whom such amounts were paid and shall not be indemnified by the city, or town, ~~or fire district~~  
20 for any such amounts. The superior court shall have jurisdiction to adjudicate claims brought by  
21 the city, or town, ~~or fire district~~, or on the city's, or town's, ~~or fire district's~~ behalf by a budget  
22 commission established under this chapter, and to order relief that the court finds appropriate to  
23 prevent further violations of this section. A violation of this section shall be sufficient cause for  
24 removal.

25 (c) For the purposes of this section, the word "official" ~~shall mean~~ means a city, or town,  
26 ~~or fire district~~ department head, permanent, temporary, or acting, including the superintendent of  
27 schools, and all members of municipal boards, committees, including the school committee, and  
28 commissions that recommend, authorize, or approve the expenditure of funds, and the word  
29 "emergency" shall mean a major disaster, including, but not limited to, flood, drought, fire,  
30 hurricane, earthquake, storm or other catastrophe, whether natural or otherwise, that poses an  
31 unexpected and immediate threat to the health and safety of persons or property.

32 **45-9-12. Conflicts with other laws.**

33 Notwithstanding any general or special law to the contrary, unless otherwise specified,  
34 the provisions of this chapter shall supersede any conflicting provisions of the city's, or town's, ~~or~~

1 ~~fire district's~~ charter, local ordinance, rule or regulation.

2 **45-9-13. Other state receivership laws inapplicable.**

3 No city; or town; ~~or fire district~~ shall be placed into, or made subject to, either voluntarily  
4 or involuntarily, a state judicial receivership proceeding, and nothing in this act shall in any way  
5 pre-empt or restrict the powers and remedies available to a state-appointed receiver under Chapter  
6 9 of Title 11 of the United States Code and the receiver's ability to exercise such powers and  
7 remedies on a city's; or town's; ~~or fire district's~~ behalf in a federal proceeding filed under Chapter  
8 9 of Title 11 of the United States Code.

9 **45-9-14. No state guarantee.**

10 Nothing in this chapter shall be construed to pledge the credit and assets of the state to  
11 pay the obligations or indebtedness, including bonded indebtedness, of any municipality ~~or fire~~  
12 ~~district.~~

13 **45-9-15. Inconsistent provisions.**

14 Insofar as the provisions of this chapter are inconsistent with the provisions of any  
15 charter, other laws, or ordinances, general, special, or local, or of any rule or regulation of the  
16 state or any municipality ~~or fire district~~, the provisions of this chapter are controlling.

17 **45-9-18. Additional powers of receiver.**

18 The receiver shall be entitled to exercise all powers under the general laws, this chapter,  
19 the state constitution, any special act, any charter provision or ordinance that any elected official  
20 or any body of the city; or town; ~~or fire district~~ may exercise, acting separately or jointly;  
21 provided, however, that with respect to any such exercise of powers by the receiver, the elected  
22 officials or the body shall not rescind, nor take any action contrary to, such action by the receiver  
23 so long as the receivership continues to exist.

24 **45-9-19. Expenditures by elected officials in excess of appropriations prohibited.**

25 (a) No elected official of a city, town, or fire district that is subject to the jurisdiction of a  
26 fiscal overseer, budget commission, or receiver, except in the case of an emergency involving the  
27 health and safety of the people or the people's property declared by the city or town council ~~or~~  
28 ~~fire district governing body~~; shall knowingly expend, or cause to be expended, in any fiscal year  
29 any sum in excess of that official's departmental or other governmental unit's appropriation duly  
30 made in accordance with the law, nor commit the city; or town; ~~or fire district~~, nor cause it to be  
31 committed, to any obligation for the future payment of money in excess of that appropriation,  
32 with the exception of court judgments.

33 (b) An elected official who intentionally violates this section shall be personally liable to  
34 the city; or town; ~~or fire district~~ for any amounts expended in excess of an appropriation to the

1 extent that the city, or town, ~~or fire district~~ does not recover such amounts from the person or  
2 persons to whom such amounts were paid and shall not be indemnified by the city, or town, ~~or~~  
3 ~~fire district~~ for any such amounts. The superior court shall have jurisdiction to adjudicate claims  
4 brought by the city or town, or on the city's, or town's, ~~or fire district's~~ behalf by a budget  
5 commission established under this chapter, and to order relief that the court finds appropriate to  
6 prevent further violations of this section.

7 **45-9-20. Orders of the receiver.**

8 In the event a receiver is appointed pursuant to the provisions of this chapter, ~~powers of~~  
9 ~~the fire district governing body or~~ powers of the city or town council exercisable by resolution or  
10 ordinance shall be exercised by order of the receiver.

11 SECTION 2. This act shall take effect upon passage.

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LC000310  
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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 remove fire districts from budget commission oversight.
- 2 This act would take effect upon passage.

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LC000310  
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