

**2014 -- H 7944 SUBSTITUTE A AS AMENDED**

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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2014**

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A N A C T

RELATING TO TOWNS AND CITIES - BUDGET COMMISSIONS

Introduced By: Representative Nicholas A.Mattiello

Date Introduced: March 13, 2014

Referred To: House Municipal Government

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, 49-9-8, 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, 45-9-20  
3   and 45-9-22 of the General Laws in Chapter 45-9 entitled "Budget Commissions" are hereby  
4   amended to read as follows:

5           **45-9-1. Declaration of policy and legal standard.** -- It shall be the policy of the state to  
6   provide a mechanism for the state to work with cities, ~~and~~ towns and fire districts undergoing  
7   financial distress that threatens the fiscal well-being, public safety and welfare of such cities, ~~and~~  
8   towns and fire districts, or other cities, ~~and~~ towns, fire districts or the state, with the state  
9   providing varying levels of support and control depending on the circumstances. The powers  
10  delegated by the General Assembly in this chapter shall be carried out having due regard for the  
11  needs of the citizens of the state and of the city, ~~or~~ town, or fire district, and in such a manner as  
12  will best preserve the safety and welfare of citizens of the state and their property, and the access  
13  of the state, ~~and~~ its municipalities, and fire districts to capital markets, all to the public benefit and  
14  good.

15           **45-9-2. Definitions.** -- As used in this chapter the following words shall, unless the  
16  context clearly requires otherwise, have the following meanings:

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

19           (2) "Charter", means the home rule charter or the legislative charter of any city, ~~or~~ town

1 [or fire district.](#)

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

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

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

9 [\(6\) "Fire district budget", means the fiscal year operating budget of the fire district.](#)

10 ~~(6)~~[\(7\)](#) "Fiscal overseer", means the financial overseer appointed under section 45-9-3.

11 ~~(7)~~[\(8\)](#) "General Treasurer", means the general treasurer of the state.

12 ~~(8)~~[\(9\)](#) "Municipal budget", means the fiscal year operating budget of the city, ~~or~~ town, [or](#)  
13 [fire district](#), inclusive of the school department budget and all other departments.

14 ~~(9)~~[\(10\)](#) "Officer", means the chief administrative and financial officer appointed under  
15 section 45-9-10 after abolition of a fiscal overseer or a budget commission or a receiver in a city,  
16 ~~or~~ town, [or fire district](#).

17 ~~(10)~~[\(11\)](#) "Receiver", means the receiver appointed pursuant to sections 45-9-7 or 45-9-8.

18 ~~(11)~~[\(12\)](#) "School committee", means the school committee of the city or town, but shall  
19 not mean or include a regional school district committee.

20 ~~(12)~~[\(13\)](#) "State Aid", means the funds made available to cities and towns:

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

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

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

29 (iv) From the public service corporation tax pursuant to chapter 44-13 of the general  
30 laws;

31 (v) From the local meal and beverage tax pursuant to section 44-18-18.1 of the general  
32 laws and the hotel tax pursuant to section 44-18-36.1 of the general laws; and

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

1 of, or in substitution for, or in addition to the funds provided pursuant to acts supplementing such  
2 chapters listed in subdivisions (i) through (v);

3 **45-9-3. Appointment and duties of fiscal overseer.** -- (a) Upon joint request by a city's  
4 or town's elected chief executive officer and city or town council, or for a fire district, the request  
5 of the governing body as established by charter, which request is approved by the division of  
6 municipal finance and the auditor general, or in absence of such a request, in the event that the  
7 director of revenue, in consultation with the auditor general, makes any two (2) or more of the  
8 findings set forth in subsection (b), the director of revenue may appoint a fiscal overseer for the  
9 city, ~~or town,~~ or fire district to assess the ability of the city or town government or fire district to  
10 manage ~~the city's or town's~~ fiscal challenges.

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

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

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

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

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

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

30 (c) The director of revenue may also appoint a fiscal overseer if a city or town or fire  
31 district fails to comply with the requirements of sections 45-12-22.1 -- 45-12-22.5 of the general  
32 laws.

33 (d) The fiscal overseer shall without limitation:

34 (1) Recommend to the elected chief executive officer, fire district board of directors, city

- 1 or town council and school committee sound fiscal policies for implementation;
- 2 (2) Supervise all financial services and activities;
- 3 (3) Advise the assessors, director of finance, city or town treasurer, [fire district board of](#)
- 4 [directors](#), purchasing agent and employees performing similar duties but with different titles;
- 5 (4) Provide assistance in all matters related to municipal [or fire district](#) financial affairs;
- 6 (5) Assist in development and preparation of the municipal [or fire district](#) budget, all
- 7 department budgets and spending plans;
- 8 (6) Review all proposed contracts and obligations;
- 9 (7) Monitor the expenditures of all funds;
- 10 (8) Approve the annual or supplemental [fire district budgets or](#) municipal budgets of the
- 11 city or town and all of its departments; and
- 12 (9) Report monthly to the director of revenue, the auditor general, the governor and the
- 13 chairpersons of the house finance and senate finance committees on the progress made towards
- 14 reducing the municipality's [or fire district's](#) deficit and otherwise attaining fiscal stability.
- 15 (e) All department budgets and requests for municipal [or fire district](#) budget transfers
- 16 shall be submitted to the fiscal overseer for review and approval.
- 17 (f) The city, ~~or town,~~ [or fire district](#) shall annually appropriate amounts sufficient for the
- 18 proper administration of the fiscal overseer and staff, as determined in writing by the division of
- 19 municipal finance. If the city, ~~or town,~~ [or fire district](#) fails to appropriate such amounts, the
- 20 division of municipal finance shall direct the general treasurer to deduct the necessary funds from
- 21 the city's, ~~or town's,~~ [or fire district's](#) distribution of state aid and shall expend those funds directly
- 22 for the benefit of the fiscal overseer and staff.
- 23 (g) Within one hundred twenty (120) days of being appointed by the director of revenue,
- 24 the fiscal overseer shall develop a three (3)-year operating and capital financial plan to achieve
- 25 fiscal stability in the city, ~~or town,~~ [or fire district](#). The plan shall include a preliminary analysis of
- 26 the city's, ~~or town's,~~ [or fire district's](#) financial situation and the fiscal overseer's initial
- 27 recommendations to immediately begin to address the ~~city's or town's~~ operating and structural
- 28 deficits. The fiscal overseer shall have the power to compel operational, performance or forensic
- 29 audits, or any other similar assessments. The fiscal overseer shall have the power, at the expense
- 30 of the city, ~~or town,~~ [or fire district](#) to employ, retain, supervise such managerial, professional and
- 31 clerical staff as are necessary to carry out the responsibility of fiscal overseer, subject to the
- 32 approval of the division of municipal finance; provided, however, that the fiscal overseer shall not
- 33 be subject to chapter 37-2 or chapter 45-55 of the general laws in employing such staff.
- 34 **45-9-4. Approval of tax levy.** -- A city, ~~or town,~~ [or fire district](#) which is subject to the

1 jurisdiction of a fiscal overseer, or a budget commission may not levy property taxes or motor  
2 vehicle excise taxes without prior approval of the division of municipal finance. Before the city,  
3 ~~or~~ town, or fire district which is subject to the jurisdiction of a fiscal overseer, or a budget  
4 commission shall send out tax bills, the city, ~~or~~ town, or fire district shall submit to the division of  
5 municipal finance a copy of its adopted municipal or fire district budget and such supporting  
6 revenue and expenditure information as the division of municipal finance shall prescribe for the  
7 succeeding fiscal year. The adopted municipal or fire district budget and such supporting revenue  
8 and expenditure information as the division of municipal finance may prescribe, shall be  
9 submitted to the division of municipal finance no later than ten (10) days after the adoption of the  
10 budget. The division of municipal finance shall ascertain whether the budget for that fiscal year  
11 contains reasonable revenues from taxation and other sources to meet the appropriations and  
12 other amounts required by law to be raised, and the division of municipal finance shall report its  
13 conclusion to the director of revenue. If the director of revenue determines that the municipal or  
14 fire district budget as presented does not contain reasonable revenues from taxation and other  
15 sources to meet appropriations and other amounts required by law to be raised, the director of  
16 revenue shall certify this determination in writing and provide notice of the determination with a  
17 copy of the certificate to the auditor general, the governor and the chairpersons of the house and  
18 senate finance committees; and notify the city, ~~or~~ town, or fire district that its tax levy has not  
19 been approved and that the city, ~~or~~ town, or fire district is not authorized to mail or otherwise  
20 transmit tax bills to city or town taxpayers. If the director of revenue has made the foregoing  
21 determination, the city, ~~or~~ town, or fire district shall prepare a revised budget for review and  
22 approval by the director of revenue.

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

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

28 **45-9-5. Reports of fiscal overseer and appointment of budget and review**  
29 **commission.** -- (a) The fiscal overseer shall report in writing to the division of municipal finance  
30 if the fiscal overseer concludes that the city, ~~or~~ town, or fire district: (1) Is unable to present a  
31 balanced municipal or fire district budget; (2) Faces a fiscal crisis that poses an imminent danger  
32 to the safety of the citizens of the city, ~~or~~ town, or fire district, or their property; (3) Will not  
33 achieve fiscal stability without the assistance of a budget commission; or (4) That the tax levy of  
34 the fiscal year should not be approved.

1 (b) If the fiscal overseer believes, at any time, that a budget commission should be  
2 appointed, the fiscal overseer may report that belief to the division of municipal finance.

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

6 (d) A budget commission shall have all of the powers and duties set forth in sections 45-  
7 9-3 and 45-9-6.

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

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

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

20 **45-9-6. Composition of budget commission.** -- (a) If a budget commission is established  
21 under section 45-9-5 or section 45-12-22.7, it shall consist of five (5) members: three (3) of  
22 whom shall be designees of the director of revenue, one of whom shall be the elected chief  
23 executive officer of the city and one of whom shall be the president of the city or town council. In  
24 cities or towns in which the elected chief executive officer for purposes of this chapter is the  
25 president of the city or town council, one member shall be the appointed city or town manager or  
26 town administrator (or, if none, the city or town chief financial officer) as the fifth (5th) member.  
27 For a fire district, it shall consist of five (5) members: Three (3) of the members of the budget  
28 commission shall be designees of the director of revenue; One shall be the chairperson of the  
29 district's governing body; and one shall be the fire chief of the district. The budget commission  
30 shall act by a majority vote of all its members. The budget commission shall initiate and assure  
31 the implementation of appropriate measures to secure the financial stability of the city, ~~or town,~~  
32 or fire district. The budget commission shall continue in existence until the director of revenue  
33 abolishes it.

34 The budget commission shall be subject to chapter 36-2 of the general laws, "Access to

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

4 (1) Levy and assessment of taxes;

5 (2) Rulemaking or suspension of rules;

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

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

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

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

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

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

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

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

30 (3) Amend, formulate and execute capital budgets, including to amend any borrowing  
31 authorization, or finance or refinance any debt in accordance with the law;

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

34 (5) Develop and maintain a uniform system for all financial planning and operations in



1 all departments, offices, boards, commissions, committees, agencies or other units of the city's, ~~or~~  
2 town's, or fire district's government;

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

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

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

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

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

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



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

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

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

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

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

15 (16) Adopt rules and regulations governing the operation and administration of the city,  
16 ~~or town,~~ or fire district which permit the budget commission to effectively carry out this chapter  
17 under subsection 42-35-3(b) of the general laws;

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

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

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

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

13 (20) Exercise all powers under the general laws and this chapter or any special act, any  
14 charter provision or ordinance that any elected official of the city, ~~or town,~~ or fire district may  
15 exercise, acting separately or jointly; provided, however, that with respect to any such exercise of  
16 powers by the budget commission, the elected officials shall not rescind or take any action  
17 contrary to such action by the budget commission so long as the budget commission continues to  
18 exist.

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

27 **45-9-7. Appointment of receiver. --** If the budget commission established by section 45-  
28 9-5 concludes that its powers are insufficient to restore fiscal stability to the city, ~~or town,~~ or fire  
29 district, it shall so notify the director of revenue, and shall forward to the director of revenue a  
30 statement of the reasons why it has been unable to restore fiscal stability to the city, ~~or town,~~ or  
31 fire district. Upon receipt of such statement, the director of revenue shall terminate the existence  
32 of the budget commission, notwithstanding section 45-9-5, and the director of revenue shall  
33 appoint a receiver for the city, ~~or town,~~ or fire district for a period as the director of revenue may  
34 determine. The director of revenue may, at any time, and without cause, remove the receiver and

1 appoint a successor, or terminate the receivership.

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

3 (1) All powers of the fiscal overseer and budget commission under sections 45-9-2 and  
4 45-9-6. Such powers shall remain through the period of any receivership;

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

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

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

25 **45-9-8. Appointment of receiver in a fiscal emergency.** -- In the event the director of  
26 revenue determines, in consultation with the auditor general, that a city, ~~or town,~~ or fire district is  
27 facing a fiscal emergency and that circumstances do not allow for appointment of a fiscal  
28 overseer or a budget commission prior to the appointment of a receiver, the director of revenue  
29 may appoint a receiver without having first appointed a fiscal overseer or a budget commission.

30 **45-9-9. Collective bargaining agreements.** -- Notwithstanding chapter 28-7 of the  
31 general laws or any other general or special law or any charter or local ordinance to the contrary,  
32 new collective bargaining agreements and any amendments to new or existing collective  
33 bargaining agreements (collectively, "collective bargaining agreements") entered into by the city,  
34 ~~or town,~~ or fire district or the school department shall be subject to the approval of the fiscal

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (5) Supervising all financial data processing activities;

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

3 (9) Monitoring the expenditure of all city, ~~or town,~~ or fire district funds, including  
4 periodic reporting by 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,~~ or fire district.

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

33 (h) All departments, officers, boards, commissions, agencies and other units of the city,  
34 ~~or town,~~ or fire district, shall submit budget requests to the elected chief executive officer, or

1 appropriate authority under applicable charter and ordinance provisions, upon the schedule and in  
2 the form established by the officer.

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

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

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

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

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



1 within a reasonable time, make a determination whether any such information shall be provided  
2 to the school department which shall be binding upon the officer and the school department. The  
3 division of municipal finance's determination shall not be an adjudicatory proceeding reviewable  
4 under chapter 42-35 of the general laws. Nothing in this subsection shall abrogate any of the other  
5 powers or duties of the school committee under the general laws.

6 **45-9-10.1. Appointment of administration and finance officer upon abolition of a**  
7 **fiscal overseer, or a budget commission or a receiver where no chapter 9, title 11 petition**

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

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

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

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

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

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

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

34 (4) Advise the assessor, director of finance, city or town treasurer, purchasing agent and

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

1 cover the costs of the administration and finance officer. The state shall annually reimburse the  
2 city or town for fifty percent (50%) share of such costs.

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

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

8 **45-9-11. Expenditures in excess of appropriations prohibited.** -- (a) No official of a  
9 city, ~~or town,~~ or fire district which is subject to the jurisdiction of a fiscal overseer, budget  
10 commission or receiver, except in the case of an emergency involving the health and safety of the  
11 people or the people's property declared by the city or town council or fire district governing  
12 body, shall knowingly expend or cause to be expended in any fiscal year any sum in excess of  
13 that official's departmental or other governmental unit's appropriation duly made in accordance  
14 with the law, nor commit the city, ~~or town,~~ or fire district, nor cause it to be committed, to any  
15 obligation for the future payment of money in excess of that appropriation, with the exception of  
16 court judgments.

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

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

33 **45-9-12. Conflicts with other laws.** -- Notwithstanding any general or special law to the  
34 contrary, unless otherwise specified, the provisions of this chapter shall supersede any conflicting

1 provisions of the city's, ~~or~~ town's [or fire district's](#) charter ~~or~~, local ordinance [or rule or regulation](#).

2 **45-9-13. Other state receivership laws inapplicable.** -- No city, ~~or~~ town [or fire district](#)  
3 shall be placed into, or made subject to, either voluntarily, or involuntarily, a state judicial  
4 receivership proceeding, and nothing in this act shall in any way pre-empt or restrict the powers  
5 and remedies available to a state-appointed receiver under Chapter 9 of Title 11 of the United  
6 States Code and the receiver's ability to exercise such powers and remedies on a city's, ~~or~~ town's,  
7 [or fire district's](#) behalf in a federal proceeding filed under Chapter 9 of Title 11 of the United  
8 States Code.

9 **45-9-14. No state guarantee.** -- Nothing in this chapter shall be construed to pledge the  
10 credit and assets of the state to pay the obligations or indebtedness, including, bonded  
11 indebtedness, of any municipality [or fire district](#).

12 **45-9-15. Inconsistent provisions.** -- Insofar as the provisions of this chapter are  
13 inconsistent with the provisions of any charter or other laws or ordinances, general, special, or  
14 local, or of any rule or regulation of the state or any municipality [or fire district](#), the provisions of  
15 this chapter are controlling.

16 **45-9-18. Additional powers of receiver.** -- The receiver shall be entitled to exercise all  
17 powers under the general laws, this chapter, the state constitution, any special act, any charter  
18 provision or ordinance that any elected official or any body of the city, ~~or~~ town [or fire district](#)  
19 may exercise, acting separately or jointly; provided, however, that with respect to any such  
20 exercise of powers by the receiver, the elected officials or the body shall not rescind or take any  
21 action contrary to such action by the receiver so long as the receivership continues to exist.

22 **45-9-19. Expenditures by elected officials in excess of appropriations prohibited.** --

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

31 (b) An elected official who intentionally violates this section shall be personally liable to  
32 the city, ~~or~~ town [or fire district](#) for any amounts expended in excess of an appropriation to the  
33 extent that the city, ~~or~~ town [or fire district](#) does not recover such amounts from the person or  
34 persons to whom such amounts were paid and shall not be indemnified by the city, ~~or~~ town [or fire](#)

1 [district](#) for any such amounts. The superior court shall have jurisdiction to adjudicate claims  
2 brought by the city, ~~or~~ town [or fire district](#), or on the city's, ~~or~~ town's [or fire district's](#) behalf by a  
3 budget commission established under this chapter, and to order relief that the court finds  
4 appropriate to prevent further violations of this section.

5 **45-9-20. Orders of the receiver.** -- In the event a receiver is appointed pursuant to the  
6 provisions of this chapter, powers of the [fire district governing body or powers of the](#) city or  
7 town council exercisable by resolution or ordinance shall be exercised by order of the receiver.

8 **45-9-22. Indemnification.** -- Notwithstanding any general or special law to the contrary,  
9 the state shall indemnify, exonerate, defend and hold harmless the director of the department of  
10 revenue and any fiscal overseer, budget commission member, receiver or administration and  
11 finance officer and any managerial, professional or clerical staff hired, retained or employed by  
12 the director of the department of revenue or any fiscal overseer, budget and review commission,  
13 receiver or administration and finance officer under chapter 45-9 of the general laws, from all  
14 loss, cost, expense, and damage, including legal fees and court costs, if any, arising out of any  
15 contract, claim, action, compromise, settlement, or judgment by reason of any intentional tort or  
16 by reason of any alleged error or misstatement or action or omission, or neglect or violation of the  
17 rights of any person under any federal or state law, arising out of or relating to actions taken or  
18 omitted by such person under this chapter 45-9, except in the case of intentional malfeasance,  
19 malicious conduct or gross negligence. The costs of such indemnity and defense shall be paid for  
20 solely from amounts available in the city's, ~~or~~ town's [or fire district's](#) general fund, from amounts  
21 appropriated by the general assembly for such purposes, or from other available funds to the  
22 extent permitted by law.

23 SECTION 2. Section 45-10-4 of the General Laws in Chapter 45-10 entitled "Audit of  
24 Accounts and Installation of Systems" is hereby amended to read as follows:

25 **45-10-4. Annual post audit required.** -- Each municipality and regional school district  
26 in the state, prior to the close of the fiscal year, shall retain the services of one or more  
27 independent certified public accountants holding a certificate from the state of Rhode Island, or  
28 from any other state with whom the state board of accountancy has a reciprocal relationship, to  
29 make a detailed post audit of the financial records of the municipality or regional school district  
30 for the preceding fiscal year in accordance with generally accepted auditing standards and  
31 government auditing standards. School districts which are part of the primary government of a  
32 municipality shall be included in the municipality's post audit and shall not be required to obtain a  
33 separate post audit. The selection of auditors pursuant to this section shall be subject to the final  
34 approval of the state auditor general. The municipality or school district shall not engage the

1 auditors or enter into a contract for those services until the auditor general gives his or her written  
2 authorization. The term school district shall include regional school districts. At the request of the  
3 auditor general, the audit firm for each municipality or school district shall release any and all  
4 information obtained in the course of the engagement to the Rhode Island state auditor general (or  
5 his or her designee). This information includes, but is not limited to, financial data, analysis, work  
6 papers and memorandum. Audit work papers of the independent auditors shall be made available  
7 to the auditor general (or his or her designee) upon request. The request for such information by  
8 the auditor general shall be responded to promptly. Failure to provide this information shall  
9 constitute a breach of contract by the audit firm. The auditor general shall have standing to bring  
10 an action in the superior court to compel the audit firm to provide the information listed in this  
11 section. [In addition the auditor general shall prescribe requirements for audits of fire districts](#)  
12 [conducted pursuant to § 44-5-69.](#)

13 SECTION 3. Section 45-12-22.2 of the General Laws in Chapter 45-12 entitled  
14 "Indebtedness of Towns and Cities" is hereby amended to read as follows:

15 **45-12-22.2. Monitoring of financial operations -- Corrective action.** – [Subsections \(a\)](#)  
16 [through \(e\) below shall apply to cities and towns.](#)

17 (a) The chief financial officer of each municipality and each school district within the  
18 state shall continuously monitor their financial operations by tracking actual versus budgeted  
19 revenue and expense.

20 (b) The chief financial officer of the municipality shall submit a report on a monthly  
21 basis to the municipality's chief executive officer, each member of the city or town council, and  
22 school district committee certifying the status of the municipal budget from all fund sources,  
23 including the school department budget from all fund sources, or regional school district budget  
24 from all fund sources. The chief financial officer of the municipality shall also submit a quarterly  
25 report on or before the 25th day of the month succeeding the end of each fiscal quarter to the  
26 division of municipal finance, the commissioner of education, and the auditor general certifying  
27 the status of the municipal budget, including the school budget that has been certified by the  
28 school department. Each quarterly report submitted must be signed by the chief executive officer,  
29 chief financial officer as well as the superintendent of the school district and chief financial  
30 officer for the school district. The report has to be submitted to the city own council president and  
31 the school committee chair. It is encouraged, but not required, to have the council  
32 president/school committee chair sign the report. The chief financial officer of the school  
33 department or school district shall certify the status of the school district's budget and shall assist  
34 in the preparation of these reports. The monthly and quarterly reports shall be in a format

1 prescribed by the division of municipal finance, the commissioner of education, and the state  
2 auditor general. The reports shall contain a statement as to whether any actual or projected  
3 shortfalls in budget line items are expected to result in a year-end deficit, the projected impact on  
4 year-end financial results including all accruals and encumbrances, and how the municipality and  
5 school district plans to address any such shortfalls. In the event that the school reporting is not  
6 provided, then state education aid may be withheld pursuant to the provisions of section 16-2-  
7 9.4(d).

8 (c) If any of the quarterly reports required under subsection (b) above project a year-end  
9 deficit, the chief financial officer of the municipality shall submit to the state division of  
10 municipal finance, the commissioner of education, and the auditor general a corrective action  
11 plan signed by the chief executive officer and chief financial officer on or before the last day of  
12 the month succeeding the close of the fiscal quarter, which provides for the avoidance of a year-  
13 end deficit or structural deficit that could impact future years, and the school superintendent shall  
14 also comply with the provisions of section 16-2-11(c) to assist in this effort. The plan may  
15 include recommendations as to whether an increase in property taxes and/or spending cuts should  
16 be adopted to eliminate the deficit. The plan shall include a legal opinion by municipal counsel  
17 that the proposed actions under the plan are permissible under federal, state, and local law. The  
18 state division of municipal affairs may rely on the written representations made by the  
19 municipality in the plan and will not be required to perform an audit.

20 (d) If the division of municipal finance concludes the plan required hereunder is  
21 insufficient and/or fails to adequately address the financial condition of the municipality, the  
22 division of municipal finance can elect to pursue the remedies identified in section 45-12-22.7.

23 (e) The reports required shall include the financial operations of any departments or funds  
24 of municipal government including the school department or the regional school district,  
25 notwithstanding the status of the entity as a separate legal body. This provision does not eliminate  
26 the additional requirements placed on local and regional school districts by §§ 16-2-9(f) and 16-3-  
27 11(e)(3).

28 Subsections (f) through (j) below shall apply to fire districts.

29 (f) The treasurer/chief financial officer of the fire district within the state shall  
30 continuously monitor the fire district's financial operations by tracking actual versus budgeted  
31 revenue and expense.

32 (g) The treasurer/chief financial officer or other fiduciary, as applicable, of the fire  
33 district shall submit a quarterly report on or before the 25th day of the month succeeding the end  
34 of each fiscal quarter to the division of municipal finance and the state auditor general certifying



1 the status of the fire district's budget. Each quarterly report submitted must be signed by the chair  
2 of the governing body and the treasurer/chief financial officer. The report shall be submitted to  
3 the members of the governing body and the members of the town council. The quarterly reports  
4 shall be in a format prescribed by the division of municipal finance and the state auditor general.  
5 The reports shall contain a statement as to whether any actual or projected shortfalls in budget  
6 line items are expected to result in a year-end deficit, the projected impact on year-end financial  
7 results including all accruals and encumbrances, and how the fire district plans to address any  
8 such shortfalls.

9 (h) If any of the quarterly reports required under subsection (g) above project a year-end  
10 deficit, the treasurer/chief financial officer or other fiduciary, as applicable, of the fire district  
11 shall submit to the division of municipal finance and the state auditor general a corrective action  
12 plan signed by the chair of the governing body and treasurer/chief financial officer or other  
13 fiduciary, as applicable, of the fire district on or before the last day of the month succeeding the  
14 close of the fiscal quarter, which provides for the avoidance of a year-end deficit or structural  
15 deficit that could impact future years. The plan may include recommendations as to whether an  
16 increase in property taxes and/or spending cuts should be adopted to eliminate the deficit. The  
17 plan shall include a legal opinion by legal counsel that the proposed actions under the plan are  
18 permissible under federal, state, and local law. Said plan shall be sent to the members of the fire  
19 district's governing body and the members of the town council. The division of municipal finance  
20 may rely on the written representations made by the governing body of the fire district in the plan  
21 and is not be required to perform an audit.

22 (i) If the division of municipal finance concludes the plan required hereunder is  
23 insufficient and/or fails to adequately address the financial condition of the fire district, the  
24 division of municipal finance can elect to pursue the remedies identified in § 45-12-22.7.

25 (j) The reports and plans required above shall also include, but not be limited to, a  
26 comprehensive overview of the financial operations of the fire district, including a list of the  
27 value of the fire district's assets (tangibles and intangibles) and liabilities.

28 SECTION 4. Sections 44-5-22 and 44-5-69 of the General Laws in Chapter 44-5 entitled  
29 "Levy and Assessment of Local Taxes" are hereby amended to read as follows:

30 **44-5-22. Certification of tax roll.** -- The tax levy shall be applied to the assessment roll  
31 and the resulting tax roll certified by the assessors to the city or town clerk, city or town treasurer,  
32 or tax collector, as the case may be, and to the department of revenue division of municipal  
33 finance, not later than the next succeeding August 15. In the case of a fire district, the tax levy  
34 shall be applied to the assessment roll and the resulting tax roll certified by such fire district's tax

1 [assessor, treasurer or other appropriate fire district official to the town clerk, town treasurer, tax](#)  
2 [assessor or tax collector, as the case may be, and to the department of revenue, division of](#)  
3 [municipal finance, not later than thirty \(30\) business days prior to its annual meeting.](#)

4 **~~44-5-69. Local fire districts -- Publication of property tax data~~ Local fire districts --**

5 **Requirements of annual budget -- Annual financial statements and publication of property**  
6 **tax data. --** Every fire district authorized to assess and collect taxes on real and personal property  
7 in the several ~~cities and~~ towns in the state shall [be required to have annual financial statements](#)  
8 [audited by an independent auditing firm approved pursuant to § 45-10-4 by the auditor general.](#)  
9 [The auditor general may waive or modify form and content of financial statements and scope of](#)  
10 [the audit, based upon the size of the fire districts. The financial statements for fiscal year 2015](#)  
11 [and every fiscal year thereafter shall be presented at the district's first annual meeting subsequent](#)  
12 [to receipt of said financial statements. At least ten \(10\) days prior to said annual meeting, a copy](#)  
13 [of such financial statements shall be filed by the fire district with the town clerk for the town in](#)  
14 [which the district\(s\) is located. A copy of the financial statements shall be simultaneously sent to](#)  
15 [the auditor general and the division of municipal finance in the department of revenue. The fire](#)  
16 [districts shall also](#) provide to the division of ~~property valuation and~~ municipal finance in the  
17 department of revenue the [adopted budget thirty \(30\) days of final action, and other](#) information  
18 on tax rates, budgets, assessed valuations and other pertinent data upon forms provided by the  
19 division of ~~property valuation and~~ municipal finance. The information shall be ~~included in the~~  
20 ~~department's annual state report on local governmental finances and tax equalization~~ [published by](#)  
21 [the department of revenue.](#)

22 SECTION 5. Section 42-142-7 of the General Laws in Chapter 42-142 entitled  
23 "Department of Revenue" is hereby amended to read as follows:

24 **42-142-7. Collections of debts. --** (a) For the purpose of this section "governmental  
25 entity" means the state, state agency, board commission, department, public institution of higher  
26 learning, all political subdivisions of the state, [fire districts](#) and quasi-state agency.

27 (b) Any governmental entity may contract to allow the tax administrator to collect an  
28 outstanding liability owed the governmental entity. In administering the provisions of those  
29 agreements, the tax administrator shall have all the rights and powers of collection provided  
30 pursuant to title 44 for the collection of taxes and all the rights and powers authorized the  
31 governmental entity to which the liability is owed. In addition, the tax administrator shall have all  
32 of the rights and powers of collection provided pursuant to title 44 for the collection of taxes  
33 including, but not limited to, the right to set-off debts enumerated in section 44-30.1 against any  
34 amounts collected under the agreements. Subject to subordination to any set-off for past-due child

1 support, the tax administrator shall also have the right to set-off amounts owed to the division of  
2 taxation against amounts collected under the agreements.

3 (c) The tax administrator may charge and retain a reasonable fee for a collection effort  
4 made on behalf of a governmental entity. The amount of the fee must be negotiated between the  
5 governmental entity and the tax administrator. The debtor must be given full credit toward the  
6 satisfaction of the debt for the amount of the fee collected by the tax administrator pursuant to  
7 this section.

8 (d) Governmental entities that contract with the tax administrator pursuant to this section  
9 shall indemnify the tax administrator against injuries, actions, liabilities, or proceedings arising  
10 from the collection or attempted collection by the tax administrator of the liability owed to the  
11 governmental entity.

12 (e) The governmental entity shall notify the debtor of its intention to submit the liability  
13 to the tax administrator for collection and of the debtor's right to appeal not less than thirty (30)  
14 days before the liability is submitted to the tax administrator for collection.

15 SECTION 6. Section 28-9.1-6 of the General Laws in Chapter 28-9.1 entitled  
16 "Firefighters' Arbitration" is hereby amended to read as follows:

17 **28-9.1-6. Obligation to bargain.** -- It shall be the obligation of the city or town, acting  
18 through its corporate authorities, to meet and confer in good faith with the representative or  
19 representatives of the bargaining agent within ten (10) days after receipt of written notice from  
20 the bargaining agent of the request for a meeting for collective bargaining purposes. This  
21 obligation shall include the duty to cause any agreement resulting from the negotiations to be  
22 reduced to a written contract, provided that no contract shall exceed the term of one year, unless a  
23 longer period is agreed upon in writing by the corporate authorities and the bargaining agents, but  
24 in no event shall the contract exceed the term of three (3) years unless a budget commission or a  
25 receiver has been appointed for a municipality [or fire district](#) pursuant to Chapter 45-9, or if a  
26 municipality has a locally administered pension plan in "critical status", and is required to submit  
27 a funding improvement plan pursuant to § 45-65-6(2), in either of which cases the contract shall  
28 not exceed the term of five (5) years. An unfair labor practice charge may be complained of by  
29 either the employer's representative or the bargaining agent to the state labor relations board  
30 which shall deal with the complaint in the manner provided in chapter 7 of this title.

31 SECTION 7. Pending state judicial receivership proceedings. -- The provisions of this act  
32 shall apply to any and all state judicial receivership proceedings pending at the time of passage of  
33 this act; provided, however, in order to ensure an orderly transition, the superior court shall have  
34 limited jurisdiction to ratify the actions taken by any receiver prior to the date of enactment of

1 this legislation at the request of the director of revenue, and to take such further actions as may be  
2 necessary to ensure an orderly transition.

3 SECTION 8. This act shall take effect upon passage.

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LC004952/SUB A  
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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 extend the provisions of the budget commission chapter to include and  
2 cover fire districts. The act would also provide additional financial reporting requirements for fire  
3 districts, which requirements would be similar to those applicable to a city or town.

4           This act would take effect upon passage.

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LC004952/SUB A  
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