

2015 -- S 0812

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO TOWNS AND CITIES -- INTERLOCAL CONTRACTING, JOINT
ENTERPRISES AND SHARED SERVICES

Introduced By: Senators DiPalma, Coyne, Ottiano, Sosnowski, and Lombardo

Date Introduced: April 09, 2015

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-40.1-1, 45-40.1-3 and 45-40.1-4 of the General Laws in
2 Chapter 45-40.1 entitled "Interlocal Contracting and Joint Enterprises" are hereby amended to
3 read as follows:

4 **45-40.1-1. Legislative purpose.** -- It is the purpose of this chapter to permit local
5 governmental units to make the most efficient use of their powers by enabling them to cooperate
6 with other localities on a basis of mutual advantage, and, ~~thereby, to enter into agreements~~ to
7 provide shared services, activities and facilities which any governmental unit is authorized by law
8 to perform ~~and facilities~~ in a manner, and pursuant to, forms of governmental organization that
9 will accord best with geographic, economic, population, and other factors influencing the needs
10 and development of ~~local communities~~ cities and towns.

11 **45-40.1-3. "Public agency" defined "Governmental units" defined.** -- (a) For the
12 purposes of this chapter, the term ~~"public agency"~~ "governmental unit" means any ~~political~~
13 ~~subdivision of this state~~ city, town, fire district, school district, and other taxing authority, and any
14 agency of ~~the~~ state government or ~~of~~ the United States, and any ~~political subdivision~~ city or town
15 of another state.

16 (b) The term "state" means a state of the United States.

17 **45-40.1-4. Interlocal agreements.** -- (a) Any power or powers, privileges, or authority,
18 exercised or capable of exercise by a ~~public agency~~ governmental unit of this state, as defined in

1 § 45-40.1-3, may be exercised and enjoyed jointly with any other ~~public-agency~~ governmental
2 unit ~~of or~~ any other state, ~~or of~~ the United States, and to the extent that laws of the other state or
3 of the United States permit the joint exercise or enjoyment. Any ~~agency~~ governmental unit or
4 agency of the state government, when acting jointly with any ~~public-agency~~ other governmental
5 units may exercise and enjoy all of the powers, privileges, and authority conferred by this chapter
6 upon a ~~public-agency~~ governmental unit.

7 (b) (1) Any two (2) or more ~~public-agency~~ governmental units may enter into agreements
8 with one another for joint or cooperative action pursuant to the provisions of this chapter.

9 (2) Appropriate action by ordinance, resolution, or otherwise, pursuant to law of the
10 governing bodies of the participating ~~public-agencies~~ governmental units, is necessary before any
11 agreement may enter into force.

12 (c) Any agreement shall specify the following:

13 (1) Its duration, ~~if necessary~~ ;

14 (2) The precise organization, composition, and nature of any separate legal or
15 administrative entity created by it, together with the powers delegated to it, provided the entity
16 may be legally created ;

17 (3) Its purpose or purposes ;

18 (4) The manner of financing the joint or cooperative undertaking, and of establishing and
19 maintaining a budget for it ;

20 (5) The permissible method or methods to be employed in accomplishing the partial or
21 complete termination of the agreement and for disposing of property upon partial or complete
22 termination ;

23 (6) Provide sufficient financial safeguards for all participants, including, but not limited
24 to: accurate and comprehensive records of services performed, costs incurred, and
25 reimbursements and contributions received; the performance of regular audits of such records;
26 and provisions for officers responsible for the agreement to give appropriate performance bonds.
27 The agreement shall also require that periodic financial statements be issued to all participants;

28 ~~(6)(7)~~ Any other necessary and proper matters.

29 (d) In the event that the agreement does not establish a separate legal entity to conduct
30 the joint or cooperative undertaking, the agreement shall, pursuant to the requirements of
31 subsections ~~(e)(1)–(e)(6)~~ (c)(1) through (c)(7) of this section, contain provisions for:

32 (1) An administrator or a joint board responsible for administering the joint or
33 cooperative undertaking. In the case of a joint board, all ~~public-agencies~~ governmental units party
34 to the agreement shall be represented.

1 (2) The manner of acquiring, holding, and disposing of real and personal property used
2 in the joint or cooperative undertaking.

3 (e) No agreement made pursuant to this chapter relieves any ~~public agency~~ governmental
4 unit of any obligation or responsibility imposed upon it by law, except ~~that~~ with respect to the
5 actual and timely performance of ~~it~~ the obligation or responsibility by a joint board, or other legal
6 or administrative entity created by an agreement made under this chapter, ~~the performance may~~
7 ~~be offered in satisfaction of the obligation or responsibility.~~

8 (f) Every agreement made under this chapter between a state agency or public agency of
9 any other state or of the United States shall, prior to and as a condition precedent to its entry into
10 force, be submitted to the attorney general who shall determine whether the agreement is in
11 proper form and in compliance with the laws of this state. The attorney general shall approve any
12 agreement submitted to him or her unless he or she finds that it does not meet the conditions
13 established by this chapter, and shall state, in writing, addressed to the governing bodies of the
14 state agencies or public agencies of other states concerned, the specific respects in which the
15 proposed agreement fails to meet the requirements of law. Failure of the attorney general to
16 disapprove an agreement submitted under this chapter within fifteen (15) days of its submission
17 constitutes approval of the agreement. Every agreement entered into between two (2) or more
18 governmental units, not inclusive of any agency of the state or of the United States, shall be
19 submitted to the city or town council or other governing body for approval. The termination of an
20 agreement made pursuant to this chapter shall require one year's notice of withdrawal by any
21 member to allow for budget and operations adjustments by the remaining members.

22 SECTION 2. Sections 45-43-2, 45-43-3 and 45-43-5 of the General Laws in Chapter 45-
23 43 entitled "Regional Councils of Local Government" are hereby amended to read as follows:

24 **45-43-2. Membership.** -- Membership of the council consists of ~~three (3)~~ representatives
25 from each ~~city or town~~ governmental unit entering into the agreement. The ~~three (3) regular~~
26 members from each ~~city or town~~ governmental unit shall be appointed to the council by each
27 participating governmental unit, are as follows:

- 28 ~~(1) The chief executive or administrative head of the city or town.~~
29 ~~(2) The council president or designee of the city or town.~~
30 ~~(3) A third elected or appointed official in the city or town designated by the first two (2)~~
31 ~~regular members.~~

32 **45-43-3. Powers.** -- (a) The council has the power to:

- 33 (1) Study area governmental problems common to two (2) or more members of the
34 council as it deems appropriate, including, but not limited to, matters affecting health, safety,

1 welfare, education, economic conditions, and regional development;

2 (2) Promote cooperative arrangements and coordinate action among its members; and

3 (3) Make recommendations for review and action to the members and other public
4 agencies that perform functions within the region.

5 (b) The council may, by appropriate action of the governing bodies of the member
6 ~~governments~~ governmental units, enter into an agreement to perform any service, activity or
7 undertaking which any member governmental unit is authorized by law to perform. For the term
8 of such agreement and subject to the terms thereof said council shall be authorized to perform
9 such service, activity or undertaking, and said council may designate a committee of its members
10 to oversee such performance, provided such committee membership, functions and duties are set
11 forth in the agreement ~~exercise other powers that are exercised or capable of exercise by the~~
12 ~~member governments and necessary or desirable for dealing with problems of mutual concern;~~
13 ~~provided, that the exercise of power for the creation, construction, or operation of new regional~~
14 ~~solid waste disposal facilities is contingent upon the approval of the solid waste management~~
15 ~~corporation.~~

16 **45-43-5. Staff. --** The council may employ staff, and consult and retain experts, as it
17 deems necessary. ~~The state department of administration may furnish research, secretarial, and~~
18 ~~stenographic service to a council.~~

19 SECTION 3. Chapter 45-43 of the General Laws entitled "Regional Councils of Local
20 Government" is hereby amended by adding thereto the following section:

21 **45-43-2.1. "Governmental units" defined. –** (a) For the purposes of this chapter, the
22 term "governmental unit" means any city, town, fire district, school district, and other taxing
23 authority, and any agency of the state government or of the United States, and any city or town of
24 another state.

25 (b) The term "state" means a state of the United States.

26 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO TOWNS AND CITIES -- INTERLOCAL CONTRACTING, JOINT
ENTERPRISES AND SHARED SERVICES

1 This act would allow cities, towns, fire districts, school districts, and other taxing
2 authorities to enter into agreements to provide shared services, activities, and facilities which any
3 governmental unit is authorized by law to perform.

4 This act would take effect upon passage.

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