

2012 -- S 2473

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO TOWNS AND CITIES - BUDGET COMMISSIONS

Introduced By: Senators Crowley, Metts, Miller, Picard, and Pichardo

Date Introduced: February 16, 2012

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-9-11 of the General Laws in Chapter 45-9 entitled "Budget  
2 Commissions" is hereby amended to read as follows:

3 **45-9-11. Expenditures in excess of appropriations prohibited.** -- (a) No official of a  
4 city or town which is subject to the jurisdiction of a fiscal overseer, budget commission or  
5 receiver, except in the case of an emergency involving the health and safety of the people or the  
6 people's property declared by the city or town council, shall knowingly expend or cause to be  
7 expended in any fiscal year any sum in excess of that official's departmental or other  
8 governmental unit's appropriation duly made in accordance with the law, nor commit the city or  
9 town, nor cause it to be committed, to any obligation for the future payment of money in excess  
10 of that appropriation, with the exception of court judgments.

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

19 (c) For the purposes of this section, the word "official" shall mean a city or town

1 department head, permanent, temporary or acting, including the superintendent of schools, and all  
2 members of municipal boards, committees, including the school committee, and commissions  
3 which recommend, authorize or approve the expenditure of funds, and the word "emergency"  
4 shall mean a major disaster, including, but not limited to, flood, drought, fire, hurricane,  
5 earthquake, storm or other catastrophe, whether natural or otherwise, which poses an unexpected  
6 and immediate threat to the health and safety of persons or property.

7 [\(d\) Nothing contained in this section herein shall be interpreted to impair any protection](#)  
8 [and/or indemnification of elected officials provided in any city or town charter, or restrict the](#)  
9 [protections afforded by the constitution of the United States, the constitution of the state of Rhode](#)  
10 [Island, or the United States Supreme Court, specifically in Eastern Railroad Presidents](#)  
11 [Conference v. Noerr Motor Freight 365 U.S. 127 \(1961\) and United Mine Workers Pennington,](#)  
12 [381 U.S. 657 \(1965\), known as the Noerr-Pennington Doctrine, or chapter 9-33 of the general](#)  
13 [laws.](#)

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would provide that protections under the state and federal constitutions, state  
2 law, city or town charters, or the Noerr-Pennington doctrine would not be impaired in  
3 implementation of the state law prohibiting expenditures in excess of appropriations in cities or  
4 towns that are subject to fiscal oversight or receivership.

5           This act would take effect upon passage.

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