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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 -- BUDGET COMMISSIONS

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

Date Introduced: February 25, 2015

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-9-1, 45-9-2, 45-9-3, 45-9-4, 45-9-5, 45-9-6, 45-9-7, 45-9-8, 45-  
2 9-9, 45-9-10, 45-9-10.1, 45-9-11, 45-9-12, 45-9-13, 45-9-14, 45-9-15, 45-9-18, 45-9-19, 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 45-9-5 and 45-9-6.

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

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

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

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

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

11 ~~(7)~~(6) "Fiscal overseer" means the financial overseer appointed under § 45-9-3.

12 ~~(8)~~(7) "General Treasurer" means the general treasurer of the state.

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

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

18 ~~(11)~~(10) "Receiver" means the receiver appointed pursuant to §§ 45-9-7 or 45-9-8.

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

21 ~~(13)~~(12) "State Aid" means the funds made available to cities and towns:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (d) The fiscal overseer shall without limitation:

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

34 (2) Supervise all financial services and activities;

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

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

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

6 (6) Review all proposed contracts and obligations;

7 (7) Monitor the expenditures of all funds;

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

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

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

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

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

32 **45-9-4. Approval of tax levy. --** A city, or town, ~~or fire district~~ that is subject to the  
33 jurisdiction of a fiscal overseer or a budget commission, may not levy property taxes or motor  
34 vehicle excise taxes without prior approval of the division of municipal finance. Before the city,

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

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

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

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

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

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

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

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

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

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

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

18 **45-9-6. Composition of budget commission.** -- (a) If a budget commission is established  
19 under §§ 45-9-5 or 45-12-22.7, it shall consist of five (5) members: three (3) of whom shall be  
20 designees of the director of revenue; one of whom shall be the elected chief executive officer of  
21 the city; and one of whom shall be a council member of the town or city elected to serve on the  
22 budget commission as chosen by a majority vote of said town or city council. In cities or towns in  
23 which the elected chief executive officer for purposes of this chapter is the president of the city or  
24 town council, one member shall be the appointed city or town manager or town administrator (or,  
25 if none, the city or town chief financial officer) as the fifth member. ~~For a fire district, it shall  
26 consist of five (5) members: three (3) of the members of the budget commission shall be  
27 designees of the director of revenue; one shall be the chairperson of the district's governing body;  
28 and one shall be the fire chief of the district.~~ The budget commission shall act by a majority vote  
29 of all its members. The budget commission shall initiate and assure the implementation of  
30 appropriate measures to secure the financial stability of the city, or town, ~~or fire district~~. The  
31 budget commission shall continue in existence until the director of revenue abolishes it.

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

- 1 (1) Levy and assessment of taxes;
- 2 (2) Rulemaking or suspension of rules;
- 3 (3) Adoption of a municipal ~~or fire district~~ budget;
- 4 (4) Approval of collective bargaining agreements and amendments to collective
- 5 bargaining agreements; and
- 6 (5) Making a determination under § 45-9-7 that the powers of the budget commission are
- 7 insufficient to restore fiscal stability to the city, town, or fire district.
- 8 (b) Action by the budget commission under this chapter shall constitute action by the
- 9 city, town, or fire district for all purposes under the general laws, under any special law, and
- 10 under the city, or town, ~~or fire district~~ charter.
- 11 (c) Until the budget commission ceases to exist, no appropriation, borrowing
- 12 authorization, transfer, or other municipal ~~or fire district~~ spending authority, shall take effect until
- 13 approved by the budget commission. The budget commission shall approve all appropriations,
- 14 borrowing authorizations, transfers, and other municipal ~~or fire district~~ spending authorizations,
- 15 in whole or part.
- 16 (d) In addition to the authority and powers conferred elsewhere in this chapter, and
- 17 notwithstanding any city, or town, ~~or fire district~~ charter provision, or local ordinance, or rule or
- 18 regulation to the contrary, the budget commission shall have the power to:
- 19 (1) Amend, formulate, and execute the annual municipal ~~or fire district~~ budget and
- 20 supplemental municipal ~~or fire district budgets~~ budget of the city, or town, ~~or fire district~~,
- 21 including the establishment, increase, or decrease of any appropriations and spending authority
- 22 for all departments, budget commissions, committees, agencies or other units of the city, or town,
- 23 ~~or fire district~~; provided, however, that notwithstanding §§ 16-2-9 and 16-2-18, this clause shall
- 24 fully apply to the school department and all school spending purposes;
- 25 (2) Implement and maintain uniform budget guidelines and procedures for all
- 26 departments;
- 27 (3) Amend, formulate and execute capital budgets, including to amend any borrowing
- 28 authorization, or finance or refinance any debt in accordance with the law;
- 29 (4) Amortize operational deficits in an amount as the director of revenue approves and
- 30 for a term not longer than five (5) years;
- 31 (5) Develop and maintain a uniform system for all financial planning and operations in
- 32 all departments, offices, boards, commissions, committees, agencies, or other units of the city's,
- 33 or town's, ~~or fire district's~~ government;
- 34 (6) Review and approve or disapprove all proposed contracts for goods or services;

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

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

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

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

30 (11) Reorganize, consolidate, or abolish departments, commissions, authorities, boards,  
31 offices, or functions of the city; or town; ~~or fire district~~, in whole or in part, and to establish such  
32 new departments, commissions, authorities, boards, offices, or functions as it deems necessary,  
33 and to transfer the duties, powers, functions and appropriations of one department, commission,  
34 board, office, or other unit to another department, commission, authority, board, or office, and in



1 connection therewith, remove and appoint new members for any such commission, authority,  
2 board, or department which appointees shall serve the remainder of any unexpired term of their  
3 predecessor;

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

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

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

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

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

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

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

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

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

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

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

22 **45-9-7. Appointment of receiver.** -- (a) If the budget commission established by § 45-9-  
23 5 concludes that its powers are insufficient to restore fiscal stability to the city; or town; ~~or fire~~  
24 ~~district~~, it shall so notify the director of revenue and shall forward to the director of revenue a  
25 statement of the reasons why it has been unable to restore fiscal stability to the city; or town; ~~or~~  
26 ~~fire district~~. Upon receipt of such statement, the director of revenue shall terminate the existence  
27 of the budget commission, notwithstanding § 45-9-5, and the director of revenue shall appoint a  
28 receiver for the city; or town; ~~or fire district~~ for a period as the director of revenue may determine.  
29 The director of revenue may, at any time, and without cause, remove the receiver and appoint a  
30 successor, or terminate the receivership.

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

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

34 (2) The power to exercise any function or power of any municipal ~~or fire district~~ officer

1 or employee, board, authority or commission, whether elected or otherwise relating to or  
2 impacting the fiscal stability of the city; or town; ~~or fire district~~ including, without limitation,  
3 school and zoning matters; and

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

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

20 **45-9-8. Appointment of receiver in a fiscal emergency.** -- In the event the director of  
21 revenue determines, in consultation with the auditor general, that a city; or town; ~~or fire district~~ is  
22 facing a fiscal emergency and that circumstances do not allow for appointment of a fiscal  
23 overseer or a budget commission prior to the appointment of a receiver, the director of revenue  
24 may appoint a receiver without having first appointed a fiscal overseer or a budget commission.

25 **45-9-9. Collective bargaining agreements.** -- Notwithstanding chapter 7 of title 28 or  
26 any other general or special law or any charter or local ordinance to the contrary, new collective  
27 bargaining agreements, and any amendments, to new or existing collective bargaining  
28 agreements, (collectively, "collective bargaining agreements") entered into by the city; or town;  
29 ~~or fire district~~ or the school department, shall be subject to the approval of the fiscal overseer,  
30 budget commission, or receiver if the fiscal overseer, budget commission, or receiver is in effect  
31 at the time. No collective bargaining agreement shall be approved under this section unless the  
32 fiscal overseer, budget commission, or receiver has participated in the negotiation of the  
33 collective bargaining agreement and provides written certification to the director of revenue that  
34 after an evaluation of all pertinent financial information reasonably available, the city's; or town's

1 ~~, or fire district's~~ financial resources and revenues are, and will continue to be, adequate to  
2 support such collective bargaining agreement without a detrimental impact on the provision of  
3 municipal ~~or fire district~~ services. A decision, by the fiscal overseer, budget commission, or  
4 receiver, to disapprove of a collective bargaining agreement under this section shall be made in a  
5 report to the parties; provided, however, that the report shall specify the disapproved portions of  
6 the agreement and the supporting reasons for the disapproval. This section shall not be construed  
7 to authorize a fiscal overseer, a budget commission, or a receiver under this chapter to reject or  
8 alter any existing collective bargaining agreement, unless by agreement, during the term of such  
9 collective bargaining agreement.

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

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

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

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

34 (c) The elected chief executive officer, or in the case of a municipality without an elected

1 chief executive officer then the city or town council, ~~or in the case of a fire district, the governing~~  
2 ~~body of the fire district,~~ shall appoint the officer from a list of three (3) names submitted by the  
3 division of municipal finance, for a term of not more than five (5) years, as provided in this  
4 subsection. The officer shall be an employee of the city; or town, ~~or fire district~~ who shall be  
5 appointed solely on the basis of administrative and executive qualifications and shall be a person  
6 especially fitted by education, training, and experience to perform the duties of the office. The  
7 officer need not be a resident of the city; or town, ~~or fire district~~, or the state. In the event of a  
8 vacancy in the office of officer the same process will be used.

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

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

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

- 16 (1) Coordinating, administering, and supervising all financial services and activities;
- 17 (2) Assisting in all matters related to municipal ~~or fire district~~ financial affairs;
- 18 (3) Implementing and maintaining uniform systems, controls, and procedures for all  
19 financial activities in all departments, boards, commissions, agencies, offices, or other units of  
20 city; or town, ~~or fire district~~ government the operations of which have a financial impact upon the  
21 general fund and enterprise funds of the city; or town, ~~or fire district~~, and including, but not  
22 limited to, maintaining all financial and accounting data and records;
- 23 (4) Implementing and maintaining uniform financial data processing capabilities for all  
24 departments, boards, commissions, agencies, and offices;
- 25 (5) Supervising all financial data processing activities;
- 26 (6) Implementing and maintaining uniform budget guidelines and procedures within all  
27 departments, boards, commissions, agencies, offices, and other units of city; or town, ~~or fire~~  
28 ~~district~~ government;
- 29 (7) Assisting in the development and preparation of all department, board, commission,  
30 agency, and office budgets and spending plans;
- 31 (8) Reviewing all proposed contracts to which the city; or town, ~~or fire district~~ is party;
- 32 (9) Monitoring the expenditure of all city; or town, ~~or fire district~~ funds, including  
33 periodic reporting by and to appropriate agencies of the status of accounts;
- 34 (10) Reviewing the spending plan for each department, board, commission, agency, and

1 office; and

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

4 In all cases where the duty is not expressly charged to any other department, board,  
5 commission, agency, or office, it shall be the duty of the officer to promote, secure, and preserve  
6 the financial interests of the city; or town, ~~or fire district~~.

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

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

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

1 capital needs of the city; or town; ~~or fire district~~.

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

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

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

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

34 **45-9-10.1. Appointment of administration and finance officer upon abolition of a**

1 **fiscal overseer, or a budget commission or a receiver where no chapter 9, title 11 petition**

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

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

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

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

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

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

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

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

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

31 (6) Review and approve the development and preparation of the annual municipal or fire  
32 district budget, all department operating and capital budgets, and spending plans;

33 (7) Review and approve all proposed labor contracts and obligations to determine if  
34 consistent with a structurally balanced, ~~five-year (5)~~ five (5) year plan;



- 1 (8) Monitor the receipt of revenues and expenditures of all funds with the assistance of  
2 ~~city, city's or town's town, or fire district~~ own staff;
- 3 (9) Participate in rating agency calls pertaining to the city; or town; ~~or fire district~~;
- 4 (10) Determine compliance with the various ordinances, laws (federal and state), and  
5 rules and regulations related to receipt and expenditure of city; or town; ~~or fire district~~;
- 6 (11) Provide comment to the local governing body on the annual or supplemental  
7 municipal ~~or fire district budgets~~ budget of the city; or town; ~~or fire district~~ and all of its  
8 departments;
- 9 (12) Report quarterly to the chief elected officer, city or town council; ~~fire district~~  
10 ~~governing body~~; director of revenue, the auditor general, the governor, and the chairpersons of the  
11 house finance and senate finance committees on the progress made towards maintaining fiscal  
12 stability and all financial operations of the city; or town; ~~or fire district~~;
- 13 (13) Make recommendations to the elected chief executive officer, city or town council;  
14 ~~fire district governing body~~; school committee, and the director of revenue, as appropriate, to  
15 begin to address any operational and/or structural deficit;
- 16 (14) Make recommendations to the elected chief executive officer, city or town council,  
17 ~~fire district governing body~~; and school committee, as appropriate, to have operational,  
18 performance, or forensic audits, or similar assessments conducted;
- 19 (15) Report any: (i) Inappropriate expenditure; (ii) Any improper accounting procedure;  
20 (iii) All failures to properly record financial transactions; and (iv) Other inaccuracies,  
21 irregularities, and shortages, as soon as practical to the elected chief executive officer, or in the  
22 case of a municipality without an elected chief executive officer, the city or town council; ~~or in~~  
23 ~~the case of a fire district, the fire district governing body~~; and
- 24 (16) Notify in writing as soon as practical, the elected chief executive officer or the city  
25 or town council; ~~or the fire district governing body~~; if the finance advisor discovers any errors,  
26 unusual practices, or any other discrepancies in connection with his or her work.
- 27 (f) The city or town, including the school department ~~or fire district~~, shall provide the  
28 finance advisor with any and all information requested in a timely fashion.
- 29 (g) The city; or town; ~~or fire district~~ shall annually appropriate amounts sufficient to  
30 cover the costs of the administration and finance officer. The state shall annually reimburse the  
31 city or town for fifty percent (50%) share of such costs.
- 32 (h) The city; or town; ~~or fire district~~, at its expense, shall provide office space and  
33 adequate resources needed by the administration and finance officer in the performance of his/her  
34 duties.

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

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

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

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

28 **45-9-12. Conflicts with other laws.** -- Notwithstanding any general or special law to the  
29 contrary, unless otherwise specified, the provisions of this chapter shall supersede any conflicting  
30 provisions of the city's, or town's, ~~or fire district's~~ charter, or local ordinance, rule or regulation.

31 **45-9-13. Other state receivership laws inapplicable.** -- No city, or town, ~~or fire district~~  
32 shall be placed into, or made subject to, either voluntarily or involuntarily, a state judicial  
33 receivership proceeding, and nothing in this act shall in any way pre-empt or restrict the powers  
34 and remedies available to a state-appointed receiver under Chapter 9 of Title 11 of the United

1 States Code and the receiver's ability to exercise such powers and remedies on a city's; or town's ;  
2 ~~or fire district's~~ behalf in a federal proceeding filed under Chapter 9 of Title 11 of the United  
3 States Code.

4 **45-9-14. No state guarantee. --** Nothing in this chapter shall be construed to pledge the  
5 credit and assets of the state to pay the obligations or indebtedness, including bonded  
6 indebtedness, of any municipality ~~or fire district~~.

7 **45-9-15. Inconsistent provisions. --** Insofar as the provisions of this chapter are  
8 inconsistent with the provisions of any charter, other laws, ~~or~~ ordinances, general, special, or  
9 local, or of any rule or regulation of the state or any municipality ~~or fire district~~, the provisions of  
10 this chapter are controlling.

11 **45-9-18. Additional powers of receiver. --** The receiver shall be entitled to exercise all  
12 powers under the general laws, this chapter, the state constitution, any special act, any charter  
13 provision or ordinance that any elected official or any body of the city; or town; ~~or fire district~~  
14 may exercise, acting separately or jointly; provided, however, that with respect to any such  
15 exercise of powers by the receiver, the elected officials or the body shall not rescind, nor take any  
16 action contrary to, such action by the receiver so long as the receivership continues to exist.

17 **45-9-19. Expenditures by elected officials in excess of appropriations prohibited. --**

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

26 (b) An elected official who intentionally violates this section shall be personally liable to  
27 the city; or town; ~~or fire district~~ for any amounts expended in excess of an appropriation to the  
28 extent that the city; or town; ~~or fire district~~ does not recover such amounts from the person or  
29 persons to whom such amounts were paid and shall not be indemnified by the city; or town; ~~or~~  
30 ~~fire district~~ for any such amounts. The superior court shall have jurisdiction to adjudicate claims  
31 brought by the city or town, or on the city's; or town's ; ~~or fire district's~~ behalf by a budget  
32 commission established under this chapter, and to order relief that the court finds appropriate to  
33 prevent further violations of this section.

34 **45-9-20. Orders of the receiver. --** In the event a receiver is appointed pursuant to the

1 provisions of this chapter, powers of the ~~fire district governing body or powers of the~~ city or town  
2 council exercisable by resolution or ordinance shall be exercised by order of the receiver.

3 **45-9-22. Indemnification.** -- Notwithstanding any general or special law to the contrary,  
4 the state shall indemnify, exonerate, defend, and hold harmless the director of the department of  
5 revenue and any fiscal overseer, budget commission member, receiver, or administration and  
6 finance officer, and any managerial, professional, or clerical staff hired, retained, or employed by  
7 the director of the department of revenue, or any fiscal overseer, budget and review commission,  
8 receiver, or administration and finance officer under chapter 9 of this title, from all loss, cost,  
9 expense, and damage, including legal fees and court costs, if any, arising out of any contract,  
10 claim, action, compromise, settlement, or judgment by reason of any intentional tort or by reason  
11 of any alleged error or misstatement or action or omission, or neglect or violation of the rights of  
12 any person under any federal or state law, arising out of, or relating to, actions taken or omitted  
13 by such person under chapter 9 of this title, except in the case of intentional malfeasance,  
14 malicious conduct, or gross negligence. The costs of such indemnity and defense shall be paid for  
15 solely from amounts available in the city's, or town's ~~, or fire district's~~ general fund, from amounts  
16 appropriated by the general assembly for such purposes, or from other available funds to the  
17 extent permitted by law.

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

20 **45-10-4. Annual post audit required.** -- Each municipality and regional school district  
21 in the state, prior to the close of the fiscal year, shall retain the services of one or more  
22 independent certified public accountants holding a certificate from the state of Rhode Island, or  
23 from any other state with whom the state board of accountancy has a reciprocal relationship, to  
24 make a detailed post audit of the financial records of the municipality or regional school district  
25 for the preceding fiscal year in accordance with generally accepted auditing standards and  
26 government auditing standards. School districts that are part of the primary government of a  
27 municipality shall be included in the municipality's post audit and shall not be required to obtain a  
28 separate post audit. The selection of auditors pursuant to this section shall be subject to the final  
29 approval of the state auditor general. The municipality or school district shall not engage the  
30 auditors or enter into a contract for those services until the auditor general gives his or her written  
31 authorization. The term school district shall include regional school districts. At the request of the  
32 auditor general, the audit firm for each municipality or school district shall release any and all  
33 information obtained in the course of the engagement to the Rhode Island state auditor general (or  
34 his or her designee). This information includes, but is not limited to, financial data, analysis, work

1 papers, and memorandum. Audit work papers of the independent auditors shall be made available  
2 to the auditor general (or his or her designee) upon request. The request for such information by  
3 the auditor general shall be responded to promptly. Failure to provide this information shall  
4 constitute a breach of contract by the audit firm. The auditor general shall have standing to bring  
5 an action in the superior court to compel the audit firm to provide the information listed in this  
6 section. ~~In addition the auditor general shall prescribe requirements for audits of fire districts~~  
7 ~~conducted pursuant to § 44-5-69.~~

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

10 **45-12-22.2. Monitoring of financial operations -- Corrective action.** ~~-- Subsections (a)~~  
11 ~~through (e) below shall apply to cities and towns.~~

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

15 (b) The chief financial officer of the municipality shall submit a report on a monthly  
16 basis to the municipality's chief executive officer, each member of the city or town council, and  
17 school district committee certifying the status of the municipal budget from all fund sources,  
18 including the school department budget from all fund sources, or regional school district budget  
19 from all fund sources. The chief financial officer of the municipality shall also submit a quarterly  
20 report on or before the 25th day of the month succeeding the end of each fiscal quarter to the  
21 division of municipal finance, the commissioner of education, and the auditor general certifying  
22 the status of the municipal budget, including the school budget that has been certified by the  
23 school department. Each quarterly report submitted must be signed by the chief executive officer,  
24 chief financial officer, the superintendent of the school district, and chief financial officer for the  
25 school district. The report has to be submitted to the city own council president and the school  
26 committee chair. It is encouraged, but not required, to have the council president/school  
27 committee chair sign the report. The chief financial officer of the school department or school  
28 district shall certify the status of the school district's budget and shall assist in the preparation of  
29 these reports. The monthly and quarterly reports shall be in a format prescribed by the division of  
30 municipal finance, the commissioner of education, and the state auditor general. The reports shall  
31 contain a statement as to whether any actual or projected shortfalls in budget line items are  
32 expected to result in a year-end deficit; the projected impact on year-end financial results,  
33 including all accruals and encumbrances; and how the municipality and school district plans to  
34 address any such shortfalls. In the event that the school reporting is not provided, then state

1 education aid may be withheld pursuant to the provisions of § 16-2-9.4(d).

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

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

17 (e) The reports required shall include the financial operations of any departments or  
18 funds of municipal government, including the school department or the regional school district,  
19 notwithstanding the status of the entity as a separate legal body. This provision does not eliminate  
20 the additional requirements placed on local and regional school districts by §§ 16-2-9(f) and 16-3-  
21 11(e)(3).

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

23 ~~(f) The treasurer/chief financial officer or other fiduciary, as applicable, of the fire~~  
24 ~~district within the state shall continuously monitor the fire district's financial operations by~~  
25 ~~tracking actual versus budgeted revenue and expense.~~

26 ~~(g) The treasurer/chief financial officer or other fiduciary, as applicable, of the fire~~  
27 ~~district shall submit a quarterly report on or before the 25th day of the month succeeding the end~~  
28 ~~of each fiscal quarter to the division of municipal finance and the state auditor general certifying~~  
29 ~~the status of the fire district's budget. Each quarterly report submitted must be signed by the chair~~  
30 ~~of the governing body and the treasurer/chief financial officer. The report shall be submitted to~~  
31 ~~the members of the governing body and the members of the town council. The quarterly reports~~  
32 ~~shall be in a format prescribed by the division of municipal finance and the state auditor general.~~  
33 ~~The reports shall contain a statement as to whether any actual or projected shortfalls in budget~~  
34 ~~line items are expected to result in a year-end deficit; the projected impact on year-end financial~~

1 ~~results including all accruals and encumbrances; and how the fire district plans to address any~~  
2 ~~such shortfalls.~~

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

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

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

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

24 **44-5-22. Certification of tax roll. --** The tax levy shall be applied to the assessment roll  
25 and the resulting tax roll certified by the assessors to the city or town clerk, city or town treasurer,  
26 or tax collector, as the case may be, and to the department of revenue division of municipal  
27 finance, not later than the next succeeding August 15. ~~In the case of a fire district, the tax levy~~  
28 ~~shall be applied to the assessment roll and the resulting tax roll certified by such fire district's tax~~  
29 ~~assessor, treasurer, or other appropriate fire district official to the town clerk, town treasurer, tax~~  
30 ~~assessor or tax collector, as the case may be, and to the department of revenue, division of~~  
31 ~~municipal finance, not later than thirty (30) business days prior to its annual meeting.~~

32 **44-5-69. Local fire districts -- Requirements of annual budget -- Annual financial**  
33 **statements and publication of property tax data. Local fire districts -- Publication of**  
34 **property tax data. --** Every fire district authorized to assess and collect taxes on real and

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

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

18 **42-142-7. Collections of debts.** -- (a) For the purpose of this section "governmental  
19 entity" means the state, state agency, board commission, department, public institution of higher  
20 learning, all political subdivisions of the state, ~~fire districts,~~ and quasi-state agency.

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

31 (c) The tax administrator may charge and retain a reasonable fee for a collection effort  
32 made on behalf of a governmental entity. The amount of the fee must be negotiated between the  
33 governmental entity and the tax administrator. The debtor must be given full credit toward the  
34 satisfaction of the debt for the amount of the fee collected by the tax administrator pursuant to



1 this section.

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

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

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

11 **28-9.1-6. Obligation to bargain.** -- It shall be the obligation of the city or town, acting  
12 through its corporate authorities, to meet and confer in good faith with the representative or  
13 representatives of the bargaining agent within ten (10) days after receipt of written notice from  
14 the bargaining agent of the request for a meeting for collective bargaining purposes. This  
15 obligation shall include the duty to cause any agreement resulting from the negotiations to be  
16 reduced to a written contract, provided that no contract shall exceed the term of one year, unless a  
17 longer period is agreed upon in writing by the corporate authorities and the bargaining agents, but  
18 in no event shall the contract exceed the term of three (3) years unless a budget commission or a  
19 receiver has been appointed for a municipality ~~or fire district~~ pursuant to chapter 9 of title 45, or  
20 if a municipality has a locally administered pension plan in "critical status" and is required to  
21 submit a funding improvement plan pursuant to § 45-65-6(2), in either of which case the contract  
22 shall not exceed the term of five (5) years. An unfair labor practice charge may be complained of  
23 by either the employer's representative or the bargaining agent to the state labor relations board  
24 which shall deal with the complaint in the manner provided in chapter 7 of this title.

25 SECTION 7. Pending state judicial receivership proceedings. -- The provisions of this act  
26 shall apply to any and all state judicial receivership proceedings pending at the time of passage of  
27 this act; provided, however, in order to ensure an orderly transition, the superior court shall have  
28 limited jurisdiction to ratify the actions taken by any receiver prior to the date of enactment of  
29 this legislation at the request of the director of revenue, and to take such further actions as may be  
30 necessary to ensure an orderly transition.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO TOWNS AND CITIES -- BUDGET COMMISSIONS

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- 1           This act would exempt fire districts from the provisions of the budget commission
- 2 chapter.
- 3           This act would take effect upon passage.

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LC001141  
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