

2011 -- H 5922 AS AMENDED

LC01775

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO TOWNS AND CITIES

Introduced By: Representative John J. McCauley

Date Introduced: March 09, 2011

Referred To: House Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-9-13 of the General Laws in Chapter 45-9 entitled "Budget
2 Commissions" is hereby amended to read as follows:

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

9 SECTION 2. Chapter 45-9 of the General Laws entitled "Budget Commissions" is hereby
10 amended by adding thereto the following sections:

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 may exercise,
14 acting separately or jointly; provided, however, that with respect to any such exercise of powers
15 by the receiver, the elected officials or the body shall not rescind or take any action contrary to
16 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 which is subject to the jurisdiction of a fiscal overseer,
19 budget commission or receiver, except in the case of an emergency involving the health and

1 safety of the people or the people's property declared by the city or town council, shall knowingly
2 expend or cause to be expended in any fiscal year any sum in excess of that official's
3 departmental or other governmental unit's appropriation duly made in accordance with the law,
4 nor commit the city or town, nor cause it to be committed, to any obligation for the future
5 payment of money in excess of that appropriation, with the exception of court judgments.

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

13 **45-9-20. Orders of the receiver.** – In the event a receiver is appointed pursuant to the
14 provisions of this chapter, powers of the city or town council exercisable by resolution or
15 ordinance shall be exercised by order of the receiver.

16 **45-9-21. Exemption from liability and prosecution.** – (a) Notwithstanding any general
17 or special law to the contrary, neither the director of the department of revenue, nor any fiscal
18 overseer, budget commission member, receiver or administration and finance officer or any
19 managerial, professional or clerical staff hired, retained or employed by the director of the
20 department of revenue or any fiscal overseer, budget and review commission, receiver or
21 administration and finance officer under chapter 45-9 of the general laws shall have any civil
22 liability for any actions taken or omitted in the course of performing their official duties.

23 (b) Notwithstanding any general or special law to the contrary, neither the director of the
24 department of revenue nor any fiscal overseer, budget commission member, receiver or
25 administration and finance officer, nor any managerial, professional or clerical staff employed by
26 the director of the department of revenue or any fiscal overseer, budget and review commission,
27 receiver or administration and finance officer under chapter 45-9 of the general laws shall be
28 subject to prosecution or have any liability for misdemeanor violations of criminal laws for
29 actions taken or omitted in the course of performing their official duties under the chapter 45-9 of
30 the general laws.

31 **45-9-22. Indemnification.** – Notwithstanding any general or special law to the contrary,
32 the state shall indemnify, exonerate, defend and hold harmless the director of the department of
33 revenue and any fiscal overseer, budget commission member, receiver or administration and
34 finance officer and any managerial, professional or clerical staff hired, retained or employed by

1 the director of the department of revenue or any fiscal overseer, budget and review commission,
2 receiver or administration and finance officer under chapter 45-9 of the general laws, from all
3 loss, cost, expense, and damage, including legal fees and court costs, if any, arising out of any
4 contract, claim, action, compromise, settlement, or judgment by reason of any intentional tort or
5 by reason of any alleged error or misstatement or action or omission, or neglect or violation of the
6 rights of any person under any federal or state law, arising out of or relating to actions taken or
7 omitted by such person under this chapter 45-9, except in the case of intentional malfeasance,
8 malicious conduct or gross negligence. The costs of such indemnity and defense shall be paid for
9 solely from amounts available in the city's or town's general fund, from amounts appropriated by
10 the general assembly for such purposes, or from other available funds to the extent permitted by
11 law.

12 **45-9-23. Litigation costs.** – Unless such person shall be the prevailing party in a final
13 non-appealable judgment, any person who violates this chapter or ignores a written demand made
14 by a fiscal overseer, budget commission member, receiver or administration and finance officer
15 acting within the scope of his or her duties, shall be required to pay the reasonable attorney fees
16 incurred by the fiscal overseer, budget commission member, receiver or administration and
17 finance officer and/or his or her counsel to seek enforcement of this chapter or compliance with
18 such written demand.

19 SECTION 3. This act shall take effect upon passage, and shall apply retroactively to May 15,
20 2010.

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

1 This act would clarify provisions in chapter 45-9 – Budget Commissions, to address
2 issues that have arisen in the administration of the chapter, including statutory provisions
3 regarding indemnity.

4 This act would take effect upon passage and shall apply retroactively to May 15, 2010.

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