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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO TOWNS AND CITIES - BUDGET COMMISSIONS

Introduced By: Representative Nicholas A.Mattiello

Date Introduced: March 13, 2014

Referred To: House Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-9-1, 45-9-2, 45-9-3, 45-9-4, 45-9-5, 45-9-6, 45-9-7, 5-9-8, 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 ~~G~~general ~~A~~assembly in this chapter shall be carried out having due regard for
11 the needs of the citizens of the state and of the city, ~~or~~ town, or fire district and in such a manner
12 as will best preserve the safety and welfare of citizens of the state and their property, and the
13 access of the state, ~~and~~ its municipalities, and fire districts to capital markets, all to the public
14 benefit and good.

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

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

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

1 [or fire district.](#)

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

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

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

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

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

11 ~~(7)(8)~~ "General Treasurer"; means the general treasurer of the state.

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

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

17 ~~(10)(11)~~ "Receiver"; means the receiver appointed pursuant to ~~sections~~ [§§45-9-7](#) or [45-9-](#)
18 [8.](#)

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

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

22 (i) As state aid pursuant to chapter ~~45-13~~ of ~~the general laws~~ [title 45](#), but specifically
23 excluding reimbursements to cities and towns for the cost of state mandates pursuant to ~~section~~
24 [§45-13-9](#);

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

29 (iii) In replacement of motor vehicle and trailer excise taxes pursuant to chapter ~~44-34.1~~
30 of ~~the general laws~~ [title 44](#);

31 (iv) From the public service corporation tax pursuant to chapter ~~44-13~~ of ~~the general~~
32 ~~laws~~ [title 44](#);

33 (v) From the local meal and beverage tax pursuant to ~~section~~ [§44-18-18.1](#) ~~of the general~~
34 ~~laws~~ and the hotel tax pursuant to ~~section~~ [§44-18-36.1](#) ~~of the general laws~~; and

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

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

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

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

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

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

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

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

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

- 1 (d) The fiscal overseer shall without limitation:
- 2 (1) Recommend to the elected chief executive officer, fire district board of directors, city
- 3 or town council, and school committee sound fiscal policies for implementation;
- 4 (2) Supervise all financial services and activities;
- 5 (3) Advise the assessors, director of finance, city or town treasurer, fire district board of
- 6 directors, purchasing agent, and employees performing similar duties but with different titles;
- 7 (4) Provide assistance in all matters related to municipal or fire district financial affairs;
- 8 (5) Assist in development and preparation of the municipal or fire district budget, all
- 9 department budgets, and spending plans;
- 10 (6) Review all proposed contracts and obligations;
- 11 (7) Monitor the expenditures of all funds;
- 12 (8) Approve the annual or supplemental fire district budgets or municipal budgets of the
- 13 city or town and all of its departments; and
- 14 (9) Report monthly to the director of revenue, the auditor general, the governor, and the
- 15 chairpersons of the house finance and senate finance committees on the progress made towards
- 16 reducing the municipality's or fire district's deficit and otherwise attaining fiscal stability.
- 17 (e) All department budgets and requests for municipal or fire district budget transfers
- 18 shall be submitted to the fiscal overseer for review and approval.
- 19 (f) The city, ~~or town~~, or fire district shall annually appropriate amounts sufficient for the
- 20 proper administration of the fiscal overseer and staff, as determined in writing by the division of
- 21 municipal finance. If the city, ~~or town~~, or fire district fails to appropriate such amounts, the
- 22 division of municipal finance shall direct the general treasurer to deduct the necessary funds from
- 23 the city's, ~~or town's~~, or fire district's distribution of state aid and shall expend those funds directly
- 24 for the benefit of the fiscal overseer and staff.
- 25 (g) Within one hundred twenty (120) days of being appointed by the director of revenue,
- 26 the fiscal overseer shall develop a three ~~(3)~~-year (3) operating and capital financial plan to
- 27 achieve fiscal stability in the city, ~~or town~~, or fire district. The plan shall include a preliminary
- 28 analysis of the city's, ~~or town's~~, or fire district's financial situation and the fiscal overseer's initial
- 29 recommendations to immediately begin to address the ~~city's or town's~~ operating and structural
- 30 deficits. The fiscal overseer shall have the power to compel operational, performance, or forensic
- 31 audits, or any other similar assessments. The fiscal overseer shall have the power, at the expense
- 32 of the city, ~~or town~~, or fire district, to employ, retain, and supervise such managerial, professional
- 33 and clerical staff as are necessary to carry out the responsibility of fiscal overseer, subject to the
- 34 approval of the division of municipal finance; provided, however, that the fiscal overseer shall not

1 be subject to chapter ~~37-2~~ of title 37 or chapter ~~45-55~~ of title 45 ~~of the general laws~~ in employing
2 such staff.

3 **45-9-4. Approval of tax levy. --** A city, ~~or town,~~ or fire district ~~which~~ that is subject to
4 the jurisdiction of a fiscal overseer, or a budget commission, may not levy property taxes or
5 motor vehicle excise taxes without prior approval of the division of municipal finance. Before the
6 city, ~~or town,~~ or fire district ~~which~~ that is subject to the jurisdiction of a fiscal overseer, or a
7 budget commission, shall send out tax bills, the city, ~~or town,~~ or fire district shall submit to the
8 division of municipal finance a copy of its adopted municipal or fire district budget and such
9 supporting revenue and expenditure information as the division of municipal finance shall
10 prescribe for the succeeding fiscal year. The adopted municipal or fire district budget, and such
11 supporting revenue and expenditure information as the division of municipal finance may
12 prescribe, shall be submitted to the division of municipal finance no later than ten (10) days after
13 the adoption of the budget. The division of municipal finance shall ascertain whether the budget
14 for that fiscal year contains reasonable revenues from taxation and other sources to meet the
15 appropriations and other amounts required by law to be raised, and the division of municipal
16 finance shall report its conclusion to the director of revenue. If the director of revenue determines
17 that the municipal or fire district budget as presented does not contain reasonable revenues from
18 taxation and other sources to meet appropriations and other amounts required by law to be raised,
19 the director of revenue shall certify this determination in writing and provide notice of the
20 determination with a copy of the certificate to the auditor general, the governor, and the
21 chairpersons of the house and senate finance committees; and notify the city, ~~or town,~~ or fire
22 district that its tax levy has not been approved and that the city, ~~or town,~~ or fire district is not
23 authorized to mail or otherwise transmit tax bills to city or town taxpayers. If the director of
24 revenue has made the foregoing determination, the city, ~~or town,~~ or fire district shall prepare a
25 revised budget for review and approval by the director of revenue.

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

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

31 **45-9-5. Reports of fiscal overseer and appointment of budget and review**
32 **commission. --** (a) The fiscal overseer shall report in writing to the division of municipal finance
33 if the fiscal overseer concludes that the city, ~~or town,~~ or fire district: (1) Is unable to present a
34 balanced municipal or fire district budget; (2) Faces a fiscal crisis that poses an imminent danger

1 to the safety of the citizens of the city, ~~or~~ town, or fire district, or their property; (3) Will not
2 achieve fiscal stability without the assistance of a budget commission; or (4) That the tax levy of
3 the fiscal year should not be approved.

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

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

9 (d) A budget commission shall have all of the powers and duties set forth in ~~sections~~
10 §§45-9-3 and 45-9-6.

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

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

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

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

1 [or fire district](#). The budget commission shall continue in existence until the director of revenue
2 abolishes it.

3 The budget commission shall be subject to chapter ~~36-2~~ [of title 36 of the general laws](#),
4 "Access to Public Records," and chapter ~~36-14~~ [of title 36 of the general laws](#), "Code of Ethics".

5 The budget commission shall be subject to chapter ~~42-46~~ [of title 42 of the general laws](#) "Open
6 Meetings" when meeting to take action on the following matters:

7 (1) Levy and assessment of taxes;

8 (2) Rulemaking or suspension of rules;

9 (3) Adoption of a municipal [or fire district](#) budget;

10 (4) Approval of collective bargaining agreements and amendments to collective
11 bargaining agreements; and

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

14 (b) Action by the budget commission under this chapter shall constitute action by the
15 city, ~~or town,~~ [or fire district](#) for all purposes under the general laws, under any special law, and
16 under the city, ~~or town,~~ [or fire district](#) charter.

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

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

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

31 (2) Implement and maintain uniform budget guidelines and procedures for all
32 departments;

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

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

3 (5) Develop and maintain a uniform system for all financial planning and operations in
4 all departments, offices, boards, commissions, committees, agencies, or other units of the city's,
5 ~~or town's,~~ or fire district's government;

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

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

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

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

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

1 distribution of state aid and shall expend those funds directly for the benefit of the budget
2 commission;

3 (11) Reorganize, consolidate, or abolish departments, commissions, authorities, boards,
4 offices, or functions of the city, ~~or town,~~ or fire district, in whole or in part, and to establish such
5 new departments, commissions, authorities, boards, offices, or functions as it deems necessary,
6 and to transfer the duties, powers, functions and appropriations of one department, commission,
7 board, office, or other unit to another department, commission, authority, board, or office, and in
8 connection therewith, remove and appoint new members for any such commission, authority,
9 board, or department which appointees shall serve the remainder of any unexpired term of their
10 predecessor;

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

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

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

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

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

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

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

27 (19) Notwithstanding any other general law, special act, charter provision, or ordinance,
28 and in conformity with the reserved powers of the general assembly pursuant to Article XIII,
29 section 5 of the ~~C~~constitution of the state, a budget commission is authorized to issue bonds,
30 notes, or certificates of indebtedness to fund the deficit of a city, ~~or town,~~ or fire district without
31 regard to ~~section~~ §45-12-22.4 of the general laws, to fund cash flow and to finance capital
32 projects. Bonds, notes, or certificates of indebtedness issued under authority of this chapter shall
33 be general obligation bonds backed by the full faith and credit and taxing power of the city, ~~or~~
34 town, or fire district; provided, however, that the budget commission may pledge future

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

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

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

31 **45-9-7. Appointment of receiver.** – (a) If the budget commission established by ~~section~~
32 ~~§45-9-5~~ concludes that its powers are insufficient to restore fiscal stability to the city, ~~or town,~~ or
33 fire district, it shall so notify the director of revenue, and shall forward to the director of revenue a
34 statement of the reasons why it has been unable to restore fiscal stability to the city, ~~or town,~~ or

1 [fire district](#). Upon receipt of such statement, the director of revenue shall terminate the existence
2 of the budget commission, notwithstanding ~~section~~ [§45-9-5](#), and the director of revenue shall
3 appoint a receiver for the city, ~~or town,~~ [or fire district](#) for a period as the director of revenue may
4 determine. The director of revenue may, at any time, and without cause, remove the receiver and
5 appoint a successor, or terminate the receivership.

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

7 (1) All powers of the fiscal overseer and budget commission under ~~sections~~ [§§45-9-2](#)
8 and [45-9-6](#). Such powers shall remain through the period of any receivership;

9 (2) The power to exercise any function or power of any municipal [or fire district](#) officer
10 or employee, board, authority or commission, whether elected or otherwise relating to or
11 impacting the fiscal stability of the city, ~~or town,~~ [or fire district](#) including, without limitation,
12 school and zoning matters; and

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

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

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

34 **45-9-9. Collective bargaining agreements.** -- Notwithstanding chapter ~~28-7~~ [of title 28](#)

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

19 **45-9-10. Appointment of administration and finance officer upon abolition of**
20 **receiver where petition filed under Chapter 9 of Title 11 of the United States Code. --** (a)

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

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

1 specifically provided in this section.

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

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

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

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

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

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

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

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

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

34 (5) Supervising all financial data processing activities;

- 1 (6) Implementing and maintaining uniform budget guidelines and procedures within all
2 departments, boards, commissions, agencies, offices, and other units of city, ~~or town,~~ or fire
3 district government;
- 4 (7) Assisting in the development and preparation of all department, board, commission,
5 agency, and office budgets and spending plans;
- 6 (8) Reviewing all proposed contracts to which the city, ~~or town,~~ or fire district is party;
- 7 (9) Monitoring the expenditure of all city, ~~or town,~~ or fire district funds, including
8 periodic reporting by and to appropriate agencies of the status of accounts;
- 9 (10) Reviewing the spending plan for each department, board, commission, agency, and
10 office; and
- 11 (11) Providing for the allotment of funds on a periodic basis as provided for in this
12 chapter.

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

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

1 borrowing authorization may nonetheless be approved, but the absence of the certification of the
2 officer shall be expressly noted in that order or vote.

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

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

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

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

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

33 (m) The officer shall comply with all requests of the school department to provide any
34 information relating to the operation of the school department held within the authority or control

1 of the officer as the result of the consolidation of school and city or town business and financial
2 functions under ~~sections §§~~45-9-3 or 45-9-6. If the officer, or any employee under the control of
3 the officer, refuses to provide such information or engages in unreasonable delay, the school
4 department shall notify the division of municipal finance. The division of municipal finance shall,
5 within a reasonable time, make a determination whether any such information shall be provided
6 to the school department which shall be binding upon the officer and the school department. The
7 division of municipal finance's determination shall not be an adjudicatory proceeding reviewable
8 under chapter ~~42-35~~ of title 42 ~~of the general laws~~. Nothing in this subsection shall abrogate any
9 of the other powers or duties of the school committee under the general laws.

10 **45-9-10.1. Appointment of administration and finance officer upon abolition of a**
11 **fiscal overseer, or a budget commission or a receiver where no chapter 9, title 11 petition**

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

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

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

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

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

34 (2) Monitor and oversee all financial operations and activities including the city's, ~~or~~

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

1 unusual practices, or any other discrepancies in connection with his or her work.

2 (f) The city or town, including the school department or fire district, shall provide the
3 finance advisor with any and all information requested in a timely fashion.

4 (g) The city, ~~or town~~, or fire district shall annually appropriate amounts sufficient to
5 cover the costs of the administration and finance officer. The state shall annually reimburse the
6 city or town for fifty percent (50%) share of such costs.

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

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

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

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

30 (c) For the purposes of this section, the word "official" shall mean a city, ~~or town~~, or fire
31 district department head, permanent, temporary, or acting, including the superintendent of
32 schools, and all members of municipal boards, committees, including the school committee, and
33 commissions ~~which~~ that recommend, authorize, or approve the expenditure of funds, and the
34 word "emergency" shall mean a major disaster, including, but not limited to, flood, drought, fire,

1 hurricane, earthquake, storm, or other catastrophe, whether natural or otherwise, ~~which~~ that poses
2 an unexpected and immediate threat to the health and safety of persons or property.

3 **45-9-12. Conflicts with other laws.** -- Notwithstanding any general or special law to the
4 contrary, unless otherwise specified, the provisions of this chapter shall supersede any conflicting
5 provisions of the city's, ~~or~~ town's, or fire district's charter ~~or~~ local ordinance, rule or regulation.

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

13 **45-9-14. No state guarantee.** -- Nothing in this chapter shall be construed to pledge the
14 credit and assets of the state to pay the obligations or indebtedness, including, bonded
15 indebtedness, of any municipality or fire district.

16 **45-9-15. Inconsistent provisions.** -- Insofar as the provisions of this chapter are
17 inconsistent with the provisions of any charter, ~~or~~ other laws, or ordinances, general, special, or
18 local, or of any rule or regulation of the state or any municipality or fire district, the provisions of
19 this chapter are controlling.

20 **45-9-18. Additional powers of receiver.** -- The receiver shall be entitled to exercise all
21 powers under the general laws, this chapter, the state constitution, any special act, any charter
22 provision or ordinance that any elected official or any body of the city, ~~or~~ town, or fire district
23 may exercise, acting separately or jointly; provided, however, that with respect to any such
24 exercise of powers by the receiver, the elected officials or the body shall not rescind, ~~or~~ nor take
25 any action contrary to, such action by the receiver so long as the receivership continues to exist.

26 **45-9-19. Expenditures by elected officials in excess of appropriations prohibited.** --

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

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

9 **45-9-20. Orders of the receiver.** -- In the event a receiver is appointed pursuant to the
10 provisions of this chapter, powers of the fire district governing body or powers of the city or
11 town council exercisable by resolution or ordinance shall be exercised by order of the receiver.

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

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

29 **45-10-4. Annual post audit required.** -- Each municipality and regional school district
30 in the state, prior to the close of the fiscal year, shall retain the services of one or more
31 independent certified public accountants holding a certificate from the state of Rhode Island, or
32 from any other state with whom the state board of accountancy has a reciprocal relationship, to
33 make a detailed post audit of the financial records of the municipality or regional school district
34 for the preceding fiscal year in accordance with generally accepted auditing standards and

1 government auditing standards. School districts ~~which~~ that are part of the primary government of
2 a municipality shall be included in the municipality's post audit and shall not be required to obtain
3 a separate post audit. The selection of auditors pursuant to this section shall be subject to the final
4 approval of the state auditor general. The municipality or school district shall not engage the
5 auditors or enter into a contract for those services until the auditor general gives his or her written
6 authorization. The term school district shall include regional school districts. At the request of the
7 auditor general, the audit firm for each municipality or school district shall release any and all
8 information obtained in the course of the engagement to the Rhode Island state auditor general (or
9 his or her designee). This information includes, but is not limited to, financial data, analysis, work
10 papers, and memorandum. Audit work papers of the independent auditors shall be made available
11 to the auditor general (or his or her designee) upon request. The request for such information by
12 the auditor general shall be responded to promptly. Failure to provide this information shall
13 constitute a breach of contract by the audit firm. The auditor general shall have standing to bring
14 an action in the superior court to compel the audit firm to provide the information listed in this
15 section. In addition the auditor general shall prescribe requirements for audits of fire districts
16 conducted pursuant to § 44-5-69.

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

19 **45-12-22.2. Monitoring of financial operations -- Corrective action. -- Subsections (a)**
20 **through (e) below shall apply to cities and towns.**

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

24 (b) The chief financial officer of the municipality shall submit a report on a monthly
25 basis to the municipality's chief executive officer, each member of the city or town council, and
26 school district committee certifying the status of the municipal budget from all fund sources,
27 including the school department budget from all fund sources, or regional school district budget
28 from all fund sources. The chief financial officer of the municipality shall also submit a quarterly
29 report on or before the 25th day of the month succeeding the end of each fiscal quarter to the
30 division of municipal finance, the commissioner of education, and the auditor general certifying
31 the status of the municipal budget, including the school budget that has been certified by the
32 school department. Each quarterly report submitted must be signed by the chief executive officer,
33 chief financial officer, ~~as well as~~ the superintendent of the school district, and chief financial
34 officer for the school district. The report has to be submitted to the city own council president and

1 the school committee chair. It is encouraged, but not required, to have the council
2 president/school committee chair sign the report. The chief financial officer of the school
3 department or school district shall certify the status of the school district's budget and shall assist
4 in the preparation of these reports. The monthly and quarterly reports shall be in a format
5 prescribed by the division of municipal finance, the commissioner of education, and the state
6 auditor general. The reports shall contain a statement as to whether any actual or projected
7 shortfalls in budget line items are expected to result in a year-end deficit; the projected impact on
8 year-end financial results, including all accruals and encumbrances; and how the municipality
9 and school district plans to address any such shortfalls. In the event that the school reporting is
10 not provided, then state education aid may be withheld pursuant to the provisions of ~~section~~ §16-
11 2-9.4(d).

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

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

27 (e) The reports required shall include the financial operations of any departments or funds
28 of municipal government, including the school department or the regional school district,
29 notwithstanding the status of the entity as a separate legal body. This provision does not eliminate
30 the additional requirements placed on local and regional school districts by §§ 16-2-9(f) and 16-3-
31 11(e)(3).

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

33 (f) The treasurer/chief financial officer or other fiduciary, as applicable, of the fire district
34 within the state shall continuously monitor the fire district's financial operations by tracking

1 actual versus budgeted revenue and expense.

2 (g) The treasurer/chief financial officer or other fiduciary, as applicable, of the fire
3 district shall submit a quarterly report on or before the 25th day of the month succeeding the end
4 of each fiscal quarter to the division of municipal finance and the state auditor general certifying
5 the status of the fire district's budget. Each quarterly report submitted must be signed by the chair
6 of the governing body and the treasurer/chief financial officer. The report shall be submitted to
7 the members of the governing body and the members of the town council. The quarterly reports
8 shall be in a format prescribed by the division of municipal finance and the state auditor general.
9 The reports shall contain a statement as to whether any actual or projected shortfalls in budget
10 line items are expected to result in a year-end deficit; the projected impact on year-end financial
11 results including all accruals and encumbrances; and how the fire district plans to address any
12 such shortfalls.

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

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

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

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

34 **44-5-22. Certification of tax roll. --** The tax levy shall be applied to the assessment roll

1 and the resulting tax roll certified by the assessors to the city or town clerk, city or town treasurer,
2 or tax collector, as the case may be, and to the department of revenue division of municipal
3 finance, not later than the next succeeding August 15. In the case of a fire district, the tax levy
4 shall be applied to the assessment roll and the resulting tax roll certified by such fire district's tax
5 assessor, treasurer, or other appropriate fire district official to the town clerk, town treasurer, tax
6 assessor or tax collector, as the case may be, and to the department of revenue, division of
7 municipal finance, not later than thirty (30) business days prior to its annual meeting.

8 ~~44-5-69. Local fire districts -- Publication of property tax data~~ **Local fire districts --**
9 **Requirements of annual budget -- Annual financial statements and publication of property**
10 **tax data.** -- Every fire district authorized to assess and collect taxes on real and personal property
11 in the several ~~cities and~~ towns in the state shall be required to have annual financial statements
12 audited by an independent auditing firm approved pursuant to § 45-10-4 by the auditor general.
13 The auditor general may waive or modify form and content of financial statements and scope of
14 the audit, based upon the size of the fire districts. The financial statements for fiscal year 2015
15 and every fiscal year thereafter shall be presented at the district's first annual meeting subsequent
16 to receipt of said financial statements. At least ten (10) days prior to said annual meeting, a copy
17 of such financial statements shall be filed by the fire district with the town clerk for the town in
18 which the district(s) is located. A copy of the financial statements shall be simultaneously sent to
19 the auditor general and the division of municipal finance in the department of revenue. The fire
20 districts shall also provide to the division of ~~property valuation and~~ municipal finance in the
21 department of revenue the adopted budget thirty (30) days of final action, and other information
22 on tax rates, budgets, assessed valuations, and other pertinent data upon forms provided by the
23 division of ~~property valuation and~~ municipal finance. The information shall be ~~included in the~~
24 ~~department's annual state report on local governmental finances and tax equalization~~ published by
25 the department of revenue.

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

28 **42-142-7. Collections of debts.** -- (a) For the purpose of this section "governmental
29 entity" means the state, state agency, board commission, department, public institution of higher
30 learning, all political subdivisions of the state, fire districts, and quasi-state agency.

31 (b) Any governmental entity may contract to allow the tax administrator to collect an
32 outstanding liability owed the governmental entity. In administering the provisions of those
33 agreements, the tax administrator shall have all the rights and powers of collection provided
34 pursuant to title 44 for the collection of taxes and all the rights and powers authorized the

1 governmental entity to which the liability is owed. In addition, the tax administrator shall have all
2 of the rights and powers of collection provided pursuant to title 44 for the collection of taxes
3 including, but not limited to, the right to set-off debts enumerated in ~~section~~ [chapter 44-30.1](#) of
4 [title 44](#) against any amounts collected under the agreements. Subject to subordination to any set-
5 off for past-due child support, the tax administrator shall also have the right to set-off amounts
6 owed to the division of taxation against amounts collected under the agreements.

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

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

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

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

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

1 title.

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

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

9

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LC004952/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES - BUDGET COMMISSIONS

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

4 This act would take effect upon passage.

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LC004952/SUB A
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