

2017 -- S 0433

LC000363

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO TOWNS AND CITIES

Introduced By: Senators Cote, Picard, Ciccone, and Ruggerio

Date Introduced: March 02, 2017

Referred To: Senate Commerce

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-5-20.1 of the General Laws in Chapter 45-5 entitled "Councils
2 and Governing Bodies" is hereby amended to read as follows:

3 **45-5-20.1. Power of city and town councils and regional school districts to jointly**
4 **establish an insurance corporation, to obtain insurance, and to enter into a cooperative risk**
5 **management program.**

6 (a) Cities and town councils, school committees, water and fire districts may, through
7 passage of a resolution, establish agreements between two (2) or more cities, town councils,
8 school committees, and water and fire districts for obtaining for obtaining or effecting insurance
9 by self insurance, for obtaining or effecting insurance from any insurer authorized to transact
10 insurance in the state, or for obtaining and effecting insurance secured in accordance with any
11 other method provided by law, or by combination and of the provisions of this section for
12 obtaining and effecting insurance. Agreements made pursuant to this section may provide for
13 pooling of self insurance reserves, risks, claims and losses, and of administrative expenses
14 associated with the same, among local government units.

15 (b) For purposes of this section the term "Eligible Entities" shall mean any city, town,
16 school committee, water or fire district, or other public or quasi-municipal authority, agency or
17 entity, or organization that is an instrumentality of such cities or towns, or any group of such
18 cities or towns, authorities, agencies or entities which is a member of the corporations created
19 pursuant to the provisions of this section.

1 (c) To accomplish the purposes of this section any two (2) or more cities, towns, school
2 committees, or water and fire districts, may authorize the creation of separate corporations (the
3 "corporation") for the purpose of: (1) issuing to the eligible entities policies of insurance and
4 reinsurance of all types and categories, including, without being limited to, the following types
5 and categories: property, casualty, and life, accident, and health insurance, and (2) developing and
6 administering an interlocal risk management program. The corporations, in addition, may have as
7 their purposes reducing the risk of its members; safety engineering; distributing, sharing, and
8 pooling risks; acquiring excess loss insurance; and processing and defending claims against the
9 members of the corporations. Any contributions made to the corporations for the purpose of
10 distributing, sharing, or pooling risks shall be made on actuarially sound basis, and the
11 corporations shall have an audit performed annually, copies of which shall be provided to the
12 members of the corporations, and the auditor general; discrete accounts shall be kept for each risk
13 management program developed and administered by the corporations.

14 (d) The corporations shall ~~not be considered an insurance company and shall not~~ be
15 subject to the provisions of the laws of the state of Rhode Island regulating insurance companies
16 and ~~therefore~~ shall ~~in no way~~ be regulated by the Rhode Island department of business regulation.

17 (e) The corporations created pursuant to the provisions of this section will be created by
18 filing articles of incorporation pursuant to chapter 6 of title 7 entitled Rhode Island Nonprofit
19 Corporation Act and the articles of incorporation will be filed by an incorporator/incorporators
20 designated by the city, town councils, school committees, or water or fire districts, authorizing the
21 creation of the corporation. The articles of incorporation creating the corporations pursuant to the
22 provisions of this section may contain provisions, not inconsistent with this section, that the
23 incorporators determine to be desirable or useful in fulfilling the purposes set forth in this section.
24 The corporations created pursuant to the provisions of this section will have the powers of a
25 nonprofit corporation created under chapter 6 of title 7 entitled Rhode Island Nonprofit
26 Corporation Act including, without being limited to, the power to issue bonds, notes, and other
27 obligations in any amounts and upon any terms that the corporation's governing board
28 determines.

29 (f) The corporations created pursuant to the provisions of this section, notwithstanding
30 the filing of its articles of incorporation pursuant to chapter 6 of title 7 entitled Rhode Island
31 Nonprofit Corporation Act, (1) will be deemed to be public corporations, instrumentality, and
32 agency of the state of Rhode Island acting for the benefit of the municipalities which are members
33 of the corporations and its eligible entities but will not constitute a department of the government
34 of the state of Rhode Island, and (2) will be deemed to be exercising public and essential

1 governmental functions of the state of Rhode Island. No part of the net earnings of the
2 corporations created pursuant to the provisions of this section will be distributable to, or inure to
3 the benefit of, any private person. The members of the governing board of the corporations
4 created pursuant to the provisions of this section will consist solely of chief executives, chief
5 elected officials, finance directors, or treasurers of municipalities, or any other municipal officials
6 that may be provided for in the bylaws of the corporations, and the members shall receive no
7 compensation for the performance of their duties but each member may be reimbursed for his or
8 her reasonable expenses incurred in carrying out their duties.

9 (g) The bonds, notes, or other obligations issued by the corporations created pursuant to
10 the provisions of this section will not be deemed to constitute a debt or liability or obligation of
11 the state of Rhode Island or of any political subdivision of the state or of any municipality which
12 is a member of the corporation but will be payable solely from the revenues or assets of the
13 corporations.

14 (h) Notwithstanding any provision of this chapter or special or general law to the
15 contrary, each eligible entity which is a member of the corporations created pursuant to the
16 provisions of this section will be authorized to enter into contracts with the corporations with
17 respect to, among other matters, the payment of premiums and other payments, for terms not
18 exceeding twenty-five (25) years in duration. To the extent that the obligation to pay premiums or
19 make other payments under any contract is deemed to constitute the incurring of indebtedness by
20 an eligible entity the contract may nevertheless be entered into without obtaining the approval of
21 the electors of the city or town notwithstanding the provisions of §§ 45-12-19 and 45-12-20 and
22 notwithstanding any provisions of the city's or town's charter or any special or general law to the
23 contrary. Any contract may be entered into by an eligible entity either prior to or subsequent to
24 the making of any appropriations which may be needed to carry out the obligations of the eligible
25 entity under the contract.

26 (i) The property and assets of the corporations created pursuant to the provisions of this
27 section, the income of the corporations, and any bonds, notes, or other obligations issued by the
28 corporation, their transfer, and the income from these (including any profits made on the sale
29 thereof) will at all times be free from taxation by the state of Rhode Island or any political
30 subdivision or other instrumentality of the state of Rhode Island, excepting inheritance, estate,
31 and gift taxes with respect to the bonds, notes, or other obligations issued by the corporations.

32 (j) Whenever the governing board of the corporations created pursuant to the provisions
33 of this section determines that the purposes for which the corporations were created have been
34 substantially fulfilled and all bonds, notes, or other obligations of the corporations have been fully

1 paid or adequate provision has been made for their payment, the corporations may be dissolved in
2 the manner provided for nonprofit corporations pursuant to chapter 6 of title 7 entitled Rhode
3 Island Nonprofit Corporation Act and, upon the corporations' dissolution, title to all funds and
4 assets of the corporation shall vest in and become the property of the members of the corporation
5 in proportions that are provided for in the corporation's articles of incorporation.

6 (k) No corporations created pursuant to the provisions of this section shall be required to
7 pay any recording or filing fee or any transfer tax of any kind on account of papers or instruments
8 recorded or filed by it or on its behalf.

9 (l) No corporations created pursuant to the provisions of this section and no agent or
10 broker acting on behalf of the corporations shall be required to pay a surplus line premium tax of
11 any kind on premiums for any policies of insurance and reinsurance to or from the corporations.

12 SECTION 2. 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

1 This act would provide that municipal insurance corporations would be subject to laws
2 regulating insurance companies and would be regulated by the Rhode Island department of
3 business regulation.

4 This act would take effect upon passage.

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