

2012 -- S 2036

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO TOWNS AND CITIES -- OTHER POST- EMPLOYMENT BENEFITS
TRUSTS

Introduced By: Senators DiPalma, Sheehan, Bates, Ottiano, and Sosnowski

Date Introduced: January 11, 2012

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

- 1 SECTION 1. Section 45-21-65 of the General Laws in Chapter 45-21 entitled
2 "Retirement of Municipal Employees" is hereby amended to read as follows:
3 **45-21-65. Other post-employment benefits -- OPEB trusts.** -- (a) Notwithstanding the
4 provisions of any general or special law, or the provisions of any municipality's home rule
5 charter, to the contrary, for purposes of funding any unfunded liability for other post-employment
6 benefits including, but not limited to, health care and dental care benefits hereinafter referred to
7 as ("OPEB") in accordance with government accounting standards board statements 43 and 45, a
8 municipality, acting by its treasurer or director of finance, upon an approving resolution of the
9 city or town council or agency board as applicable, may enter into a trust agreement between the
10 municipality and a corporate trustee which shall be a bank or trust company doing business in the
11 state, [or a corporation established pursuant to chapter 5 of title 45 of the general laws](#). This trust
12 agreement shall be in any form deemed proper by the treasurer or director of finance of the
13 municipality, and shall be executed by its treasurer or director of finance and countersigned by its
14 mayor or president of the town council. It shall be lawful for any bank ~~or~~, trust company, [or entity](#)
15 [organized pursuant to section 45-5-20.1](#) doing business in the state to act as a depository or
16 trustee under this trust agreement, and to furnish indemnification and pledge securities that may
17 be required by any municipality.
18 (b) OPEB trust funds shall be credited with all amounts appropriated or otherwise made

1 available by the municipality for the purposes of meeting the current and future OPEB costs
2 payable by the municipality. OPEB trust funds shall also be credited with all amounts contributed
3 or otherwise made available by employees of the municipality for the purpose of meeting future
4 OPEB costs payable by the municipality. Amounts in an OPEB trust fund, including any earnings
5 or interest accruing from the investment of these amounts, shall be expended only for the
6 payment of the costs payable by the municipality for OPEB or as otherwise permitted by the
7 terms of the trust and applicable law. The director of finance or treasurer, as applicable, shall
8 invest and reinvest the amounts in the OPEB trust fund not needed for current disbursement in
9 any investment permitted for the municipality's pension funds consistent with the prudent person
10 rule and investment policies of the municipality, if any.

11 (c) Municipalities are hereby authorized to enter into agreements, trusts, contracts, and
12 other arrangements with the state and any of its departments, agencies, boards or commissions
13 relating to the execution, management or operation of the OPEB trust funds, including, but not
14 limited to, investments, and the state and its departments, agencies, boards and commissions are
15 hereby authorized to enter into such agreements, contracts and other arrangements with
16 municipalities. Notwithstanding any provisions of any general or special law or principle of
17 equity to the contrary, the state shall have no liability to any municipality for entering into such
18 agreements. ~~A municipality may employ any qualified bank, trust company, corporation, firm or
19 person to advise it on the investment of the OPEB trust fund and may pay from the OPEB trust
20 fund for this advice and other services. Procurement for these services shall be subject to the
21 procurement procedures and rules governing municipalities in the state.~~

22 (d) A municipality may employ any qualified bank, trust company, corporation, firm or
23 person to advise it on the investment of the OPEB trust fund and may pay for the OPEB trust
24 fund for this advice and other services. Procurement for these services shall be subject to the
25 procurement procedures and rules governing municipalities in the state.

26 (e) Municipalities are also hereby authorized to enter into agreements, trusts, contracts,
27 and other arrangements with any corporation established pursuant to chapter 5 of title 45 of the
28 general laws relating to the execution management or operations of OPEB trust funds including,
29 but not limited to, investments, and the corporations established pursuant to section 45-5-20.1 of
30 the general laws are hereby authorized to enter into such agreements, trusts, contracts or other
31 arrangements with municipalities.

32 ~~(d)~~(f) Any OPEB trusts that have been created by municipalities and are in effect on the
33 date hereof are hereby ratified and confirmed.

34 ~~(e)~~(g) Nothing herein shall be construed to exempt OPEB trusts from the Rhode Island

1 Access to Public Records Act, RIGL 38-2-1 et seq.

2 SECTION 2. Chapter 45-5 of the General Laws entitled "Councils and Governing
3 Bodies" is hereby amended by adding thereto the following section:

4 **45-5-20.2. Power of city and town councils and regional school districts to jointly**
5 **establish a corporation to manage and operate OPEB trusts.** -- (a) Notwithstanding the
6 provisions of any general or special law to the contrary, corporations established pursuant to
7 section 45-5-20.1 also shall have the power to manage and operate such other post-employment
8 benefit OPEB trusts as are established pursuant to section 45-21-65 and section 16-2-9.5. Such
9 corporations shall have the powers set forth in section 45-5-20.1, and shall have additional
10 powers as are necessary to effectuate the purposes of this section.

11 (b) For the purpose of OPEB trusts managed and operated pursuant to this section, the
12 corporation shall maintain discrete sub-trust accounts for each of the participating entities setting
13 forth the contributions made by each participating entity, the allocated income assigned to each
14 participating entity as it may be derived from investments and other revenue sources, the funds
15 distributed to each participating entity for use in meeting its OPEB obligations, each entity's
16 allocated share of the administrative costs, including investment management fees, for operating
17 the OPEB trust, and such other items as the directors of the corporation hereby established shall
18 deem proper and necessary. Agreements made pursuant to this section may provide for pooling of
19 administrative expenses, including investment management and advisory services, associated
20 with the operation of the OPEB trust and sub-trusts.

21 (c) The corporation shall ensure that a separate audit of OPEB trusts and sub-trusts is
22 performed annually, copies of which shall be provided to the participating entities of the OPEB
23 trust and the auditor general.

24 SECTION 3. 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 -- OTHER POST- EMPLOYMENT BENEFITS
TRUSTS

1 This act would allow for shared service administration of OPEB trusts between
2 municipalities. It would also allow city and town councils and regional school districts to jointly
3 establish a corporation to manage and operate OPEB trust.

4 This act would take effect upon passage.

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