

2012 -- S 2038

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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 EDUCATION - SCHOOL COMMITTEES AND SUPERINTENDENTS

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 16-2-9.5 of the General Laws in Chapter 16-2 entitled "School
2 Committees and Superintendents" is hereby amended to read as follows:

3 **16-2-9.5. 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 school district, acting by its business manager or superintendent, upon an approving resolution of
9 the school committee or school board as applicable, may enter into a trust agreement between the
10 school district and a corporate trustee which shall be a bank or trust company doing business in
11 the state, ~~or a corporation established pursuant to chapter 5 of title 45.~~ This trust agreement shall
12 be in any form deemed proper by the business manager or superintendent, and shall be executed
13 by its business manager or superintendent and countersigned by the chair of the school committee
14 of the school district. It shall be lawful for any bank, ~~or~~ trust company, or entity organized
15 pursuant to section 45-5-20.1 doing business in the state to act as a depository or trustee under
16 this trust agreement, and to furnish indemnification and pledge securities that may be required by
17 any school district.

18 (b) OPEB trust funds shall be credited with all amounts appropriated or otherwise made
19 available by the school district for the purposes of meeting the current and future OPEB costs

1 payable by the school district. OPEB trust funds shall also be credited with all amounts
2 contributed or otherwise made available by employees of the school district for the purpose of
3 meeting future OPEB costs payable by the school district. Amounts in an OPEB trust fund,
4 including any earnings or interest accruing from the investment of these amounts, shall be
5 expended only for the payment of the costs payable by the school district for OPEB or as
6 otherwise permitted by the terms of the trust and applicable law. The business manager or
7 superintendent, as applicable, shall invest or reinvest the amounts in the OPEB trust fund in any
8 investment permitted for the state pension funds consistent with the investment policies of the
9 state general treasurer's office.

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

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

25 (e) School districts are also hereby authorized to enter into agreements, trusts, contracts,
26 and other arrangements with any corporation created pursuant to chapter 5 of title 45 relating to
27 the execution, management or operation of the OPEB trust funds, including, but not limited to,
28 investments, and the corporations established pursuant to section 45-5-20.1 are hereby authorized
29 to enter into such agreements, contracts and other arrangements with school districts.

30 ~~(f)~~ (d) Nothing contained herein will prevent any school district from entering into
31 agreements with other school districts per section 16-2-9.2 for the purposes of jointly pooling
32 their investments or collectively entering into an agreement with a corporate trustee, as defined in
33 subsection (a) of this section.

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

1 Access to Public Records Act, ~~RIGL~~ [section](#) 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 such 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

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1 This act would add corporations pursuant to Chapter 5 of Title 45 to the list of entities
2 who may act as trustee for trust agreements between school districts and corporate trustees in
3 reference to OPEB trusts. It also would allow school districts to employ corporations to advise on
4 the investment of the OPEB trust and pay for it and allows corporations established pursuant to
5 45-5-20 to manage and operate OPEB trusts but requires a separate yearly audit annually.

6 This act would take effect upon passage.

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