

2013 -- H 5088

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO TOWNS AND CITIES - FISCAL OVERSEERS, BUDGET COMMISSIONS
AND RECEIVERS

Introduced By: Representatives Silva, and Serpa

Date Introduced: January 16, 2013

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-9-3 of the General Laws in Chapter 45-9 entitled "Budget
2 Commissions" is hereby amended to read as follows:

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

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

14 (1) The city or town projects a deficit in the municipal budget in the current fiscal year
15 and again in the upcoming fiscal year;

16 (2) The city or town has not filed its audits with the auditor general by the deadlines
17 required by law for two (2) successive fiscal years (not including extensions authorized by the
18 auditor general);

1 (3) The city or town has been downgraded by one of the nationally recognized statistical
2 rating organizations;

3 (4) The city or town is otherwise unable to obtain access to credit markets on reasonable
4 terms in the sole judgment of the director of revenue.

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

9 (c) The director of revenue may also appoint a fiscal overseer if a city or town fails to
10 comply with the requirements of sections 45-12-22.1 -- 45-12-22.5 of the general laws.

11 (d) The fiscal overseer shall without limitation:

12 (1) Recommend to the elected chief executive officer, city or town council and school
13 committee sound fiscal policies for implementation;

14 (2) Supervise all financial services and activities;

15 (3) Advise the assessors, director of finance, city or town treasurer, purchasing agent and
16 employees performing similar duties but with different titles;

17 (4) Provide assistance in all matters related to municipal financial affairs;

18 (5) Assist in development and preparation of the municipal budget, all department
19 budgets and spending plans;

20 (6) Review all proposed contracts and obligations;

21 (7) Monitor the expenditures of all funds;

22 (8) Approve the annual or supplemental municipal budgets of the city or town and all of
23 its departments; and

24 (9) Report monthly to the director of revenue, the auditor general, the governor and the
25 chairpersons of the house finance and senate finance committees on the progress made towards
26 reducing the municipality's deficit and otherwise attaining fiscal stability.

27 (e) All department budgets and requests for municipal budget transfers shall be
28 submitted to the fiscal overseer for review and approval.

29 (f) The city or town shall annually appropriate amounts sufficient for the proper
30 administration of the fiscal overseer and staff, as determined in writing by the division of
31 municipal finance. If the city or town fails to appropriate such amounts, the division of municipal
32 finance shall direct the general treasurer to deduct the necessary funds from the city's or town's
33 distribution of state aid and shall expend those funds directly for the benefit of the fiscal overseer
34 and staff.

1 (g) Within one hundred twenty (120) days of being appointed by the director of revenue,
2 the fiscal overseer shall develop a three (3)-year operating and capital financial plan to achieve
3 fiscal stability in the city or town. The plan shall include a preliminary analysis of the city's or
4 town's financial situation and the fiscal overseer's initial recommendations to immediately begin
5 to address the city's or town's operating and structural deficits. The fiscal overseer shall have the
6 power to compel operational, performance or forensic audits, or any other similar assessments.
7 The fiscal overseer shall have the power, at the expense of the city or town, to employ, retain,
8 supervise such managerial, professional and clerical staff as are necessary to carry out the
9 responsibility of fiscal overseer, subject to the approval of the division of municipal finance;
10 provided, however, that the fiscal overseer shall not be subject to chapter 37-2 or chapter 45-55 of
11 the general laws in employing such staff.

12 (h) The fiscal overseer, budget commission or receiver of the city or town shall be limited
13 to dealing with financial matters, and shall not have authority to enact any ordinance, resolution
14 or charter revision, and shall not be empowered to abolish any board or committee or reduce any
15 elected body to an advisory capacity.

16 (i) The elected bodies of any city or town, while being overseen by a fiscal overseer,
17 budget commission or receiver, shall continue to perform their elected duties as provided by state
18 law or local charter except that such elected bodies shall not enact any ordinances regarding their
19 budgets or any other fiscal-related matter that contradicts any order of the fiscal overseer, budget
20 commission or receiver.

21 (j) A fiscal overseer, budget commission or receiver shall not have the authority to enact
22 any local ordinance but shall have the authority to issue any order(s) provided that such order(s)
23 pertain to the fiscal integrity of the city or town. The order(s) shall be properly noticed as
24 provided by the open meetings law (chapter 42-46) and shall remain in effect for as long as the
25 city or town remains under the supervision of the fiscal overseer, budget commission or receiver.

26 (k) No order issued by a fiscal overseer, budget commission or receiver shall be deemed
27 an ordinance or made part of any city or town code or charter. Any such orders shall be kept
28 separate and apart from the city's or town's code and charter, but shall be made accessible for
29 public review.

30 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO TOWNS AND CITIES - FISCAL OVERSEERS, BUDGET COMMISSIONS
AND RECEIVERS

- 1 This act would limit the duties and powers of a fiscal overseer, budget commission and
- 2 receiver of a city or town to financial matters only.
- 3 This act would take effect upon passage.

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