

2014 -- H 8288

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO TOWNS AND CITIES

Introduced By: Representatives Morin, Phillips, Casey, Shekarchi, and Kennedy

Date Introduced: June 05, 2014

Referred To: House Corporations

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

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

19 (c) To accomplish the purposes of this section any two (2) or more cities, towns, school

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

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

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

28 (f) The corporations created pursuant to the provisions of this section, notwithstanding  
29 the filing of its articles of incorporation pursuant to chapter 6 of title 7 entitled Rhode Island  
30 Nonprofit Corporation Act, (1) will be deemed to be public corporations, instrumentality, and  
31 agency of the state of Rhode Island acting for the benefit of the municipalities which are members  
32 of the corporations and its eligible entities but will not constitute a department of the government  
33 of the state of Rhode Island, and (2) will be deemed to be exercising public and essential  
34 governmental functions of the state of Rhode Island. No part of the net earnings of the

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

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

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

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

31 (j) Whenever the governing board of the corporations created pursuant to the provisions  
32 of this section determines that the purposes for which the corporations were created have been  
33 substantially fulfilled and all bonds, notes, or other obligations of the corporations have been fully  
34 paid or adequate provision has been made for their payment, the corporations may be dissolved in

1 the manner provided for nonprofit corporations pursuant to chapter 6 of title 7 entitled Rhode  
2 Island Nonprofit Corporation Act and, upon the corporations' dissolution, title to all funds and  
3 assets of the corporation shall vest in and become the property of the members of the corporation  
4 in proportions that are provided for in the corporation's articles of incorporation.

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

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

11 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

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1           This act would provide that certain corporations be regulated by the Rhode Island  
2 department of business regulations, removing such jurisdiction from the provisions of the general  
3 laws regulating insurance companies.

4           This act would take effect upon passage.

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