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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2012**

A N A C T

RELATING TO TOWNS AND CITIES - BUDGET COMMISSIONS

Introduced By: Senators DaPonte, DeVall, DiPalma, and E O'Neill

Date Introduced: January 04, 2012

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 45-9-6 of the General Laws in Chapter 45-9 entitled "Budget  
2 Commissions" is hereby amended to read as follows:

3           **45-9-6. Composition of budget commission.** -- (a) If a budget commission is established  
4 under section 45-9-5 or section 45-12-22.7, it shall consist of five (5) members: three (3) of  
5 whom shall be designees of the director of revenue, one of whom shall be the elected chief  
6 executive officer of the city and one of whom shall be the president of the city or town council. In  
7 cities or towns in which the elected chief executive officer for purposes of this chapter is the  
8 president of the city or town council, one member shall be the appointed city or town manager or  
9 town administrator (or, if none, the city or town chief financial officer) as the fifth (5th) member.  
10 The budget commission shall act by a majority vote of all its members. The budget commission  
11 shall initiate and assure the implementation of appropriate measures to secure the financial  
12 stability of the city or town. The budget commission shall continue in existence until the director  
13 of revenue abolishes it.

14           The budget commission shall be subject to chapter 36-2 of the general laws, "Access to  
15 Public Records," and chapter 36-14 of the general laws, "Code of Ethics". The budget  
16 commission shall be subject to chapter 42-46 of the general laws "Open Meetings" when meeting  
17 to take action on the following matters:

- 18           (1) Levy and assessment of taxes;
- 19           (2) Rulemaking or suspension of rules;

1 (3) Adoption of a municipal budget;

2 (4) Approval of collective bargaining agreements and amendments to collective  
3 bargaining agreements; and

4 (5) Making a determination under section 45-9-7 that the powers of the budget  
5 commission are insufficient to restore fiscal stability to the city or town.

6 (b) Action by the budget commission under this chapter shall constitute action by the  
7 city or town for all purposes under the general laws, under any special law and under the city or  
8 town charter.

9 (c) Until the budget commission ceases to exist, no appropriation, borrowing  
10 authorization, transfer, or other municipal spending authority shall take effect until approved by  
11 the budget commission. The budget commission shall approve all appropriations, borrowing  
12 authorizations, transfers and other municipal spending authorizations, in whole or part.

13 (d) In addition to the authority and powers conferred elsewhere in this chapter, and  
14 notwithstanding any city or town charter provision or local ordinance to the contrary, the budget  
15 commission shall have the power to:

16 (1) Amend, formulate and execute the annual municipal budget and supplemental  
17 municipal budgets of the city or town, including the establishment, increase or decrease of any  
18 appropriations and spending authority for all departments, budget commissions, committees,  
19 agencies or other units of the city or town; provided, however, that notwithstanding sections 16-2-  
20 9 and 16-2-18 of the general laws, this clause shall fully apply to the school department and all  
21 school spending purposes;

22 (2) Implement and maintain uniform budget guidelines and procedures for all  
23 departments;

24 (3) Amend, formulate and execute capital budgets, including to amend any borrowing  
25 authorization, or finance or refinance any debt in accordance with the law;

26 (4) Amortize operational deficits in an amount as the director of revenue approves and  
27 for a term not longer than five (5) years;

28 (5) Develop and maintain a uniform system for all financial planning and operations in  
29 all departments, offices, boards, commissions, committees, agencies or other units of the city's or  
30 town's government;

31 (6) Review and approve or disapprove all proposed contracts for goods or services;

32 (7) Notwithstanding any general or special law to the contrary, establish, increase or  
33 decrease any fee, rate or charge, for any service, license, permit or other municipal activity,  
34 otherwise within the authority of the city or town;

1           (8) Appoint, remove, supervise and control all city and town employees and have control  
2 over all personnel matters other than disciplinary matters; provided, that the budget commission  
3 shall hold all existing powers to hire and fire and set the terms and conditions of employment  
4 held by other employees or officers of the city or town; provided, further, that the budget  
5 commission shall have the authority to exercise all powers otherwise available to a municipality  
6 regarding contractual obligations during a fiscal emergency; provided, further, that no city or  
7 town employee or officer shall hire, fire, transfer or alter the compensation or benefits of a city or  
8 town employee except with the written approval of the budget commission; and provided, further,  
9 that the budget commission may delegate or otherwise assign these powers with the approval of  
10 the director of revenue;

11           (9) Alter or eliminate the compensation and/or benefits of elected officials of the city or  
12 town to reflect the fiscal emergency and changes in the responsibilities of the officials as  
13 provided by this chapter;

14           (10) Employ, retain and supervise such managerial, professional and clerical staff as are  
15 necessary to carry out its responsibilities; provided, however, that such employment, retention  
16 and supervisory decisions are subject to the approval of the director of revenue; provided, further,  
17 that the budget commission shall not be subject to chapter 37-2 or chapter 45-55 of the general  
18 laws in employing such staff; provided, further, that the budget commission, with the approval of  
19 the director of revenue, shall have authority to set the compensation, terms and conditions of  
20 employment of its own staff; provided, further, that the city or town shall annually appropriate  
21 amounts sufficient for the compensation of personnel hired under this clause as determined and  
22 fixed by the budget commission; provided, further, that if the city or town fails to appropriate  
23 such amounts, the director of revenue shall direct the general treasurer to deduct the necessary  
24 funds from the city's or town's distribution of state aid and shall expend those funds directly for  
25 the benefit of the budget commission;

26           (11) Reorganize, consolidate or abolish departments, commissions, authorities, boards,  
27 offices or functions of the city or town, in whole or in part, and to establish such new  
28 departments, commissions, authorities, boards, offices or functions as it deems necessary, and to  
29 transfer the duties, powers, functions and appropriations of one department, commission, board,  
30 office or other unit to another department, commission, authority, board or office and in  
31 connection therewith remove and appoint new members for any such commission, authority,  
32 board or department which appointees shall serve the remainder of any unexpired term of their  
33 predecessor;

34           (12) Appoint, in consultation with the director of revenue, persons to fill vacancies on

1 any authority, board, committee, department or office;

2 (13) Sell, lease or otherwise transfer real property and other assets of the city or town  
3 with the approval of the director of revenue;

4 (14) Purchase, lease or otherwise acquire property or other assets on behalf of the city or  
5 town with the approval of the director of revenue;

6 (15) Enter into contracts, including, but not limited to, contracts with other governmental  
7 entities, and such other governmental entities are hereby authorized to enter into such contracts;

8 (16) Adopt rules and regulations governing the operation and administration of the city  
9 or town which permit the budget commission to effectively carry out this chapter under  
10 subsection 42-35-3(b) of the general laws;

11 (17) Alter or rescind any action or decision of any municipal officer, employee, board,  
12 authority or commission within fourteen (14) days after receipt of notice of such action or  
13 decision;

14 (18) Suspend, in consultation with the director of revenue any rules and regulations of  
15 the city or town;

16 (19) Notwithstanding any other general law, special act, charter provision or ordinance,  
17 and in conformity with the reserved powers of the general assembly pursuant to Article XIII,  
18 section 5 of the Constitution of the state, a budget commission is authorized to issue bonds, notes  
19 or certificates of indebtedness to fund the deficit of a city or town without regard to section 45-  
20 12-22.4 of the general laws, to fund cash flow and to finance capital projects. Bonds, notes or  
21 certificates of indebtedness issued under authority of this chapter shall be general obligation  
22 bonds backed by the full faith and credit and taxing power of the city or town; provided, however,  
23 that the budget commission may pledge future distributions of state aid for the purpose of retiring  
24 such bonds, notes or certificates of indebtedness. If any state aid is so pledged, the budget  
25 commission shall execute on behalf of the city or town a trust agreement with a corporate trustee,  
26 which may be any bank or trust company having the powers of a trust company within the state,  
27 and any state aid so pledged shall be paid by the general treasurer directly to the trustee to be held  
28 in trust and applied to the payment of principal and interest on such bonds, notes or certificates of  
29 indebtedness; any earnings derived from the investment of such pledged aid shall be applied as  
30 needed to the payment of that principal and interest and for trustee's fees and related expenses,  
31 with any excess to be paid to the city or town. Bonds, notes or certificates of indebtedness  
32 authorized under authority of this chapter shall be executed on behalf of the city or town by a  
33 member of the commission and, except as provided for in this chapter, may be subject to the  
34 provisions of chapter 45-12 of the general laws so far as apt, or may be subject to the provisions

1 of any special bond act enacted authorizing the issuance of bonds of a city or town so far as apt,  
2 provided, however that any bonds or notes issued for school purposes must be approved by the  
3 general assembly in order to qualify for school housing aid as set forth in chapter 16-7 of the  
4 general laws; and

5 (20) Exercise all powers under the general laws and this chapter or any special act, any  
6 charter provision or ordinance that any elected official of the city or town may exercise, acting  
7 separately or jointly; provided, however, that with respect to any such exercise of powers by the  
8 budget commission, the elected officials shall not rescind or take any action contrary to such  
9 action by the budget commission so long as the budget commission continues to exist.

10 (21) Certify to the Rhode Island department of revenue the need to advance payments of  
11 the state's basic education program under chapter 7 of title 16 of the Rhode Island general laws in  
12 the amount determined by the budget commission. Said advance payments shall be subject to  
13 approval of the Director of the Department of Administration. The Director of the Department of  
14 Administration shall provide notice to the speaker of the house and president of the senate prior to  
15 advancing any such payments. The state general treasurer shall deduct the estimated cost to the  
16 state's general fund resulting from the advance payments.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
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1           This act would authorize a Budget Commission established under Title 45 of the Rhode  
2 Island General Laws to certify to the Rhode Island Department of Revenue the need to advance  
3 payments of the state's basic education program.

4           This act would take effect upon passage.

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