

2014 -- S 2198 SUBSTITUTE A

=====
LC003862/SUB A
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

—————
A N A C T

RELATING TO TOWNS AND CITIES - BUDGET COMMISSIONS

Introduced By: Senators Crowley, Picard, Cote, Satchell, and Conley

Date Introduced: January 30, 2014

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-9-10 of the General Laws in Chapter 45-9 entitled "Budget
2 Commissions" is hereby amended to read as follows:

3 **45-9-10. Appointment of administration and finance officer upon abolition of**
4 **receiver where petition filed under Chapter 9 of Title 11 of the United States Code. --** (a)

5 Notwithstanding any general or special law or city or town ordinance to the contrary, this section
6 shall apply upon abolition of a receiver established under this chapter, where petition was filed
7 under Chapter 9 of Title 11 of the United States Code, upon a determination, in writing, by the
8 director of revenue that the financial condition of the city or town has improved to a level such
9 that a receiver is no longer needed.

10 (b) For a period of five (5) years after the abolition of a receiver in any such city or
11 town, there shall be in the city or town a department of administration and finance which shall be
12 responsible for the overall budgetary and financial administration of the city or town. The
13 department shall be under the direction and control of the officer appointed pursuant to subsection
14 (c) below. The officer shall report to and be under the charge and direction of the elected chief
15 executive officer, or in the case of a municipality without an elected chief executive officer, then
16 the city or town council. Nothing in this section shall abrogate the powers and duties of the school
17 committee under any general or special law, except as specifically provided in this section.

18 Whenever the term "department of finance" or "finance department" appears in a general
19 or special law or an ordinance, regulation, contract or other document with reference to the city or

1 town, it shall mean the department of administration and finance of the city or town. Whenever
2 the term "chief financial officer", "director of finance", "financial director" or "treasurer" appears
3 in a general or special law or an ordinance, regulation, contract or other document with reference
4 to the city or town, it shall mean the officer of the city or town.

5 (c) The elected chief executive officer, or in the case of a municipality without an elected
6 chief executive officer, then the city or town council shall appoint the officer from a list of three
7 (3) names submitted by the division of municipal finance, for a term of not more than five (5)
8 years, as provided in this subsection. The officer shall be an employee of the city or town who
9 shall be appointed solely on the basis of administrative and executive qualifications and shall be a
10 person especially fitted by education, training and experience to perform the duties of the office.
11 The officer need not be a resident of the city or town or the state. In the event of a vacancy in the
12 office of officer the same process will be used.

13 (d) While the process of appointing an officer under subsection (c) is proceeding, the
14 elected chief executive officer, or in the case of a municipality without an elected chief executive
15 officer, then the city or town council may appoint an acting officer.

16 (e) The appointment, including an acting appointment, or removal of the officer shall not
17 take effect until it has been approved in writing by the division of municipal finance.

18 (f) The powers and duties of the officer shall include the following:

19 (1) Coordinating, administering and supervising all financial services and activities;

20 (2) Assisting in all matters related to municipal financial affairs;

21 (3) Implementing and maintaining uniform systems, controls and procedures for all
22 financial activities in all departments, boards, commissions, agencies, offices or other units of city
23 or town government the operations of which have a financial impact upon the general fund and
24 enterprise funds of the city or town, and including, but not limited to, maintaining all financial
25 and accounting data and records;

26 (4) Implementing and maintaining uniform financial data processing capabilities for all
27 departments, boards, commissions, agencies and offices;

28 (5) Supervising all financial data processing activities;

29 (6) Implementing and maintaining uniform budget guidelines and procedures within all
30 departments, boards, commissions, agencies, offices and other units of city or town government;

31 (7) Assisting in the development and preparation of all department, board, commission,
32 agency and office budgets and spending plans;

33 (8) Reviewing all proposed contracts to which the city or town is party;

34 (9) Monitoring the expenditure of all city or town funds, including periodic reporting by

1 and to appropriate agencies of the status of accounts;

2 (10) Reviewing the spending plan for each department, board, commission, agency and
3 office; and

4 (11) Providing for the allotment of funds on a periodic basis as provided for in this
5 chapter.

6 In all cases where the duty is not expressly charged to any other department, board,
7 commission, agency or office, it shall be the duty of the officer to promote, secure and preserve
8 the financial interests of the city or town.

9 (g) All department, board, commission, agency and office budgets and requests for
10 budget transfers shall be submitted to the officer for review and recommendation before
11 submission to the elected chief executive officer, city or town council or school committee, as
12 appropriate. For each proposed appropriation order, lease or contract arrangement for a term,
13 including more than one fiscal year, collective bargaining agreement and with respect to any
14 proposed city or town council vote necessary to effectuate a financial transfer, ordinance revision
15 or special legislation which may require the expenditure of funds or otherwise financially obligate
16 the city or town for a period in excess of one year, or with respect to a vote to authorize a
17 borrowing under a law other than sections 45-12-4.1, 45-12-4.2 or 45-12-4.3 of the general laws,
18 the officer shall, if it be the case, submit in writing to the elected chief executive officer, city or
19 town council or school committee, as appropriate, a certification that it is the officer's
20 professional opinion, after an evaluation of all pertinent financial information reasonably
21 available, that the city's or town's financial resources and revenues are, and will continue to be,
22 adequate to support such proposed expenditures or obligations without a detrimental impact on
23 the provision of municipal services. If the officer fails to provide this certification within seven
24 (7) days after a request for such certification from the elected chief executive officer, city or town
25 council or school committee, the appropriation order, financial transfer, ordinance revision,
26 special legislation or borrowing authorization may nonetheless be approved, but the absence of
27 the certification of the officer shall be expressly noted in that order or vote.

28 (h) All departments, officers, boards, commissions, agencies and other units of the city
29 or town, shall submit budget requests to the elected chief executive officer, or appropriate
30 authority under applicable charter and ordinance provisions, upon the schedule and in the form
31 established by the officer.

32 (i) Annually, not later than ninety (90) days prior to the beginning of the municipality's
33 fiscal year, the officer shall submit a four (4)-year financial plan and a five (5)-year capital plan to
34 the city or town council that includes all capital needs of the city or town.

1 (j) ~~The assessor, treasurer, finance director, controller, director of information~~
2 ~~technology, purchasing agent, director of human resources, labor relations director and employees~~
3 ~~performing similar duties but with different titles shall report to and be under the direction of the~~
4 ~~officer. The officer, with the approval of the elected chief executive officer or appropriate~~
5 ~~authority under applicable charter and ordinance provisions, shall appoint all such officers and~~
6 ~~employees.~~ The elected chief executive officer, or in the case of a municipality without an elected
7 chief executive officer, then the city or town council may ~~also~~ place ~~other~~ certain positions and
8 departments under the direction of the officer.

9 (k) The officer shall not assume the duties or responsibilities of the treasurer or the
10 finance director and shall not hold an elective office and shall devote the officer's full-time and
11 attention to the officer's duties.

12 (l) The city or town shall annually appropriate amounts sufficient for the proper
13 administration of the department. If the city or town fails to appropriate such amounts, the
14 division of municipal finance shall direct the general treasurer to deduct the necessary funds from
15 the city's or town's distribution of the city's or town's state aid and shall expend those funds
16 directly for the benefit of the department. The city or town shall annually appropriate amounts
17 sufficient to cover the costs of the administration and finance officer. The state shall annually
18 reimburse the city or town for fifty percent (50%) share of such costs. The city or town at its
19 expense shall provide office space and adequate resources needed by the administration and
20 finance officer in the performance of his/her duties.

21 (m) The officer shall comply with all requests of the school department to provide any
22 information relating to the operation of the school department held within the authority or control
23 of the officer as the result of the consolidation of school and city or town business and financial
24 functions under sections 45-9-3 or 45-9-6. If the officer, or any employee under the control of the
25 officer, refuses to provide such information or engages in unreasonable delay, the school
26 department shall notify the division of municipal finance. The division of municipal finance shall,
27 within a reasonable time, make a determination whether any such information shall be provided
28 to the school department which shall be binding upon the officer and the school department. The
29 division of municipal finance's determination shall not be an adjudicatory proceeding reviewable
30 under chapter 42-35 of the general laws. Nothing in this subsection shall abrogate any of the other
31 powers or duties of the school committee under the general laws.

32 (n) Notwithstanding any general law, public law, or rule or regulation to the contrary,
33 required reimbursements from a city or town or fire district to the state for expenditures incurred
34 under this chapter, where petition was filed under Chapter 9 of Title 11 of the United States Code,

1 shall be waived provided the city or town or fire district maintains compliance with successfully
2 completes the plan of debt adjustment approved by the Bankruptcy Court, and provided the
3 administrative and finance officers certify under penalty of perjury that the city or town or fire
4 district has maintained compliance with an successfully completed said plan.

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

=====
LC003862/SUB A
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES - BUDGET COMMISSIONS

1 This act would provide that for a municipality where a receiver has been abolished
2 because of a Chapter 9 Bankruptcy filing, the costs associated with the receivership and
3 bankruptcy would be waived if the municipality's administrative and finance officers certify that
4 the municipality was in conformity with and had completed the bankruptcy plan as ordered by the
5 United States Bankruptcy Court.

6 This act would take effect upon passage.

=====
LC003862/SUB A
=====