

2016 -- S 2021

=====
LC003165
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

—————
A N A C T

RELATING TO TOWNS AND CITIES - BUDGET COMMISSIONS

Introduced By: Senator Roger Picard

Date Introduced: January 13, 2016

Referred To: Senate Education

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 §§ 45-9-5 or 45-12-22.7, it shall consist of five (5) members: three (3) of whom shall be
5 designees of the director of revenue, with the provision that one of the three (3) members shall be
6 selected by the Rhode Island department of education whenever a school system is involved; one
7 of whom shall be the elected chief executive officer of the city; and one of whom shall be a
8 council member of the town or city elected to serve on the budget commission as chosen by a
9 majority vote of said town or city council. In cities or towns in which the elected chief executive
10 officer for purposes of this chapter is the president of the city or town council, one member shall
11 be the appointed city or town manager or town administrator (or, if none, the city or town chief
12 financial officer) as the fifth member. For a fire district, it shall consist of five (5) members: three
13 (3) of the members of the budget commission shall be designees of the director of revenue; one
14 shall be the chairperson of the district's governing body; and one shall be the fire chief of the
15 district. The budget commission shall act by a majority vote of all its members. The budget
16 commission shall initiate and assure the implementation of appropriate measures to secure the
17 financial stability of the city, town, or fire district. The budget commission shall continue in
18 existence until the director of revenue abolishes it.

19 The budget commission shall be subject to chapter 2 of title ~~36~~ 38, "Access to Public

1 Records," and chapter 14 of title 36, "Code of Ethics". The budget commission shall be subject to
2 chapter 46 of title 42 "Open Meetings" when meeting to take action on the following matters:

3 (1) Levy and assessment of taxes;

4 (2) Rulemaking or suspension of rules;

5 (3) Adoption of a municipal or fire district budget;

6 (4) Approval of collective bargaining agreements and amendments to collective
7 bargaining agreements; and

8 (5) Making a determination under § 45-9-7 that the powers of the budget commission are
9 insufficient to restore fiscal stability to the city, town, or fire district.

10 (b) Action by the budget commission under this chapter shall constitute action by the
11 city, town, or fire district for all purposes under the general laws, under any special law, and
12 under the city, town, or fire district charter.

13 (c) Until the budget commission ceases to exist, no appropriation, borrowing
14 authorization, transfer, or other municipal or fire district spending authority, shall take effect until
15 approved by the budget commission. The budget commission shall approve all appropriations,
16 borrowing authorizations, transfers, and other municipal or fire district spending authorizations,
17 in whole or part.

18 (d) In addition to the authority and powers conferred elsewhere in this chapter, and
19 notwithstanding any city, town, or fire district charter provision, or local ordinance, or rule or
20 regulation to the contrary, the budget commission shall have the power to:

21 (1) Amend, formulate, and execute the annual municipal or fire district budget and
22 supplemental municipal or fire district budgets of the city, town, or fire district, including the
23 establishment, increase, or decrease of any appropriations and spending authority for all
24 departments, budget commissions, committees, agencies or other units of the city, town, or fire
25 district; provided, however, that notwithstanding §§ 16-2-9 and 16-2-18, this clause shall fully
26 apply to the school department and all school spending purposes;

27 (2) Implement and maintain uniform budget guidelines and procedures for all
28 departments;

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

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

33 (5) Develop and maintain a uniform system for all financial planning and operations in
34 all departments, offices, boards, commissions, committees, agencies, or other units of the city's,

1 town's, or fire district's government;

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

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

6 (8) Appoint, remove, supervise, and control all city, town, or fire district employees with
7 the exception of the school superintendent and have control over all personnel matters other than
8 disciplinary matters with the exception of those responsibilities of the school committee and
9 superintendent defined in chapter 2 of title 16; provided, that the budget commission shall hold all
10 existing powers to hire and fire and set the terms and conditions of employment held by other
11 employees or officers of the city, town, or fire district; provided, further, that the budget
12 commission shall have the authority to exercise all powers otherwise available to a municipality
13 or fire district regarding contractual obligations during a fiscal emergency; provided, further, that
14 no city, town, or fire district employee or officer shall hire, fire, transfer, or alter the
15 compensation or benefits of a city, town, or fire district employee except with the written
16 approval of the budget commission; and provided, further, that the budget commission may
17 delegate or otherwise assign these powers with the approval of the director of revenue;

18 (9) Alter or eliminate the compensation and/or benefits of elected officials of the city,
19 town, or fire district to reflect the fiscal emergency and changes in the responsibilities of the
20 officials as provided by this chapter;

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

33 (11) Reorganize, consolidate, or abolish departments, commissions, authorities, boards,
34 offices, or functions of the city, town, or fire district, in whole or in part, and to establish such

1 new departments, commissions, authorities, boards, offices, or functions as it deems necessary,
2 and to transfer the duties, powers, functions and appropriations of one department, commission,
3 board, office, or other unit to another department, commission, authority, board, or office, and in
4 connection therewith, remove and appoint new members for any such commission, authority,
5 board, or department which appointees shall serve the remainder of any unexpired term of their
6 predecessor;

7 (12) Appoint, in consultation with the director of revenue, persons to fill vacancies on
8 any authority, board, committee, department, or office;

9 (13) Sell, lease, or otherwise transfer, real property and other assets of the city, town, or
10 fire district with the approval of the director of revenue;

11 (14) Purchase, lease, or otherwise acquire, property or other assets on behalf of the city,
12 town, or fire district with the approval of the director of revenue;

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

15 (16) Adopt rules and regulations governing the operation and administration of the city,
16 town, or fire district that permit the budget commission to effectively carry out this chapter under
17 § 42-35-3(b);

18 (17) Alter or rescind any action or decision of any municipal or fire district officer,
19 employee, board, authority, or commission within fourteen (14) days after receipt of notice of
20 such action or decision;

21 (18) Suspend, in consultation with the director of revenue, any rules and regulations of
22 the city, town, or fire district;

23 (19) Notwithstanding any other general law, special act, charter provision, or ordinance,
24 and in conformity with the reserved powers of the general assembly pursuant to Article XIII,
25 section 5 of the constitution of the state, a budget commission is authorized to issue bonds, notes,
26 or certificates of indebtedness to fund the deficit of a city, town, or fire district without regard to §
27 45-12-22.4, to fund cash flow and to finance capital projects. Bonds, notes, or certificates of
28 indebtedness issued under authority of this chapter shall be general obligation bonds backed by
29 the full faith and credit and taxing power of the city, town, or fire district; provided, however, that
30 the budget commission may pledge future distributions of state aid for the purpose of retiring
31 such bonds, notes, or certificates of indebtedness. If any state aid is so pledged, the budget
32 commission shall execute on behalf of the city, town, or fire district a trust agreement with a
33 corporate trustee, which may be any bank or trust company having the powers of a trust company
34 within the state, and any state aid so pledged shall be paid by the general treasurer directly to the

1 trustee to be held in trust and applied to the payment of principal and interest on such bonds,
2 notes, or certificates of indebtedness; any earnings derived from the investment of such pledged
3 aid shall be applied as needed to the payment of that principal and interest and for trustee's fees
4 and related expenses, with any excess to be paid to the city, town, or fire district. Bonds, notes, or
5 certificates of indebtedness authorized under authority of this chapter shall be executed on behalf
6 of the city, town, or fire district by a member of the commission and, except as provided for in
7 this chapter, may be subject to the provisions of chapter 12 of title 45 so far as apt, or may be
8 subject to the provisions of any special bond act enacted authorizing the issuance of bonds of a
9 city, town, or fire district so far as apt; provided, however, that any bonds or notes issued for
10 school purposes must be approved by the general assembly in order to qualify for school housing
11 aid as set forth in chapter 7 of title 16; and

12 (20) Exercise all powers under the general laws and this chapter, or any special act, any
13 charter provision or ordinance that any elected official of the city, town, or fire district may
14 exercise, acting separately or jointly; provided, however, that with respect to any such exercise of
15 powers by the budget commission, the elected officials shall not rescind nor take any action
16 contrary to such action by the budget commission so long as the budget commission continues to
17 exist.

18 (21) Certify to the Rhode Island department of revenue the need to advance payments of
19 the state's basic education program under chapter 7 of title 16 in the amount determined by the
20 budget commission. Said amount shall be advanced, subject to approval of the director of the
21 department of revenue, notwithstanding any general or public law to the contrary. The director of
22 the department of revenue shall provide notice of any advance payments to the fiscal advisors of
23 the house and senate finance committees. The state general treasurer shall deduct the estimated
24 cost to the state's general fund resulting from any advance payments.

25 [\(22\) Defer educational decisions not directly related to the budget to the school](#)
26 [committee in matters of educational law and regulation.](#)

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

=====
LC003165
=====

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

1 This act would require the selection of one member of a budget commission by the
2 Rhode Island department of education whenever a school system is involved and would exempt
3 from removal the school superintendent and certain responsibilities of the school committee and
4 superintendent from the commission's powers.

5 This act would take effect upon passage.

=====
LC003165
=====