

THE CITY OF PROVIDENCE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RESOLUTION OF THE CITY COUNCIL

No. 187

Approved April 9, 2012

RESOLVED, That the Members of the Providence City Council hereby Endorse and Urge Passage by the General Assembly of House Bill 2012 – H 8006 and Senate Bill 2012 – S 2826, An Act Relating to Towns and Cities – Distressed Communities.

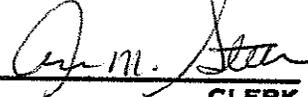
IN CITY COUNCIL

APR 05 2012

READ AND PASSED

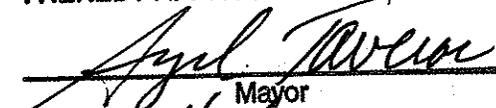


PRES.



CLERK

I HEREBY APPROVE.



Mayor

Date: 4/9/12

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

A N A C T

RELATING TO TOWNS AND CITIES -- DISTRESSED COMMUNITIES

Introduced By: Representatives Brien, and Newberry

Date Introduced: March 28, 2012

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 45 of the General Laws entitled "TOWNS AND CITIES" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 13.2

4 HIGHLY DISTRESSED COMMUNITY INTERVENTION ACT

5 45-13.2-1. Short title. – This chapter shall be known and may be cited as the “Highly
6 Distressed Community Intervention Act.”

7 45-13.2-2. Purpose. – It shall be the policy of the state to provide ongoing resources and
8 tools for, and to intervene on behalf of, cities and towns undergoing extraordinary financial
9 distress. The problems that municipalities with financial challenges experience threaten the fiscal
10 well-being, public safety and welfare of such cities and towns as well as the state as a whole. The
11 state has a right to involve itself in the fiscal affairs of any community that presents multiple
12 symptoms of economic stress. The powers delegated by the general assembly in this chapter shall
13 be carried out by municipalities in such a manner as will best preserve the safety and welfare of
14 citizens of the state and their property and the access of the state and its municipalities to capital
15 markets, all to the public benefit and good.

16 45-13.2-3. Legislative findings. – (a) The general assembly finds and declares that:

17 (1) Due to several factors, including, but not limited to, the extreme economic and
18 financial pressures experienced on the state and local levels, reductions in the state’s ability to
19 appropriate funds for municipal governments, certain structural changes to the manner in which

1 the state supports municipal governments, and large unfunded liabilities attributable to retirement
2 benefits and other post-employment benefits, the state's cities and towns face unprecedented
3 financial challenges.

4 (2) As of February 2012, several municipalities have perilously and disproportionately
5 high property tax burdens relative to the wealth of their taxpayers. Without state intervention,
6 financial instability will continue to pose grave problems for the citizens of those communities
7 and could introduce additional fiscal problems for other communities as well as the state.

8 (3) It is in the best interests of municipalities, taxpayers, and the state itself to maintain
9 the fiscal well-being, public safety, welfare and sovereignty of the municipalities. These
10 compelling state interests include:

11 (i) Preserving, to the fullest extent practicable, the principle of home rule as it is
12 enshrined in Article XIII of the Rhode Island Constitution, without jeopardizing the economic
13 stability of the various municipalities and the state;

14 (ii) Empowering municipalities to utilize financial resources and tools that are reasonably
15 necessary to allow them to achieve self-sufficiency within the shortest possible timeframe; and

16 (iii) Preventing the financial downgrade of municipalities by rating agencies, which
17 would make it more difficult to access the capital markets and increase the costs of borrowing.

18 (b) For the foregoing reasons, the general assembly expressly finds and declares that the
19 situation confronting several municipalities has reached a stage of emergency requiring state
20 intervention and relief, and must be addressed without delay and the enactment of this chapter is
21 reasonable and necessary to achieve and protect the compelling public interests listed herein.

22 **45-13.2-4. Eligibility.** – In order for a highly distressed community to be eligible for
23 relief under this chapter, its municipal council shall have adopted an ordinance or charter
24 amendment assuming any one, or more than one, of the relief provisions set forth in section 45-
25 13.2-6, which ordinance or charter amendment shall be supported by:

26 (1) A finding that the ordinance or charter amendment is reasonable and necessary to
27 ameliorate the municipality's property tax burden relative to its citizens' wealth, thereby
28 supporting such municipality's fiscal stability and protecting its property, and the health, welfare
29 and property of its citizens; and

30 (2) Findings demonstrating that alternatives to enacting the particular policies set forth in
31 section 45-13.2-6 have been and/or are being implemented. For purposes of this chapter, "highly
32 distressed community" means a municipality that falls into the lowest twenty percent (20%) of all
33 four (4) indices established by section 45-13-12, as determined by the director of revenue on an
34 annual basis pursuant to section 45-13-12.

1 45-13.2-5. Collective bargaining contracts. – During any fiscal year in which a
2 municipality has been designated as a highly distressed community and until it is no longer taking
3 advantage of the relief provisions enumerated under section 45-13.2-6, its municipal council shall
4 be required to:

5 (1) Estimate the financial impact of any collective bargaining contract proposal on the
6 taxpayers of that community;

7 (2) Balance such financial impact against the community's ability to pay; and

8 (3) Take such balance into account before deciding to approve or disapprove the
9 collective bargaining contract.

10 45-13.2-6. Relief provisions. – During any fiscal year in which a municipality is
11 designated as a highly distressed community pursuant to section 45-13.2-4 and for two (2) years
12 after it is no longer so designated, its municipal council shall be authorized and empowered to
13 adopt an ordinance or charter amendment specifying any of the following relief provisions (which
14 relief provisions shall be automatically repealed, and shall have no legal force or effect, as of two
15 (2) years after the date that the municipality is no longer designated as a highly distressed
16 community):

17 (1) Purchasing. During any fiscal year that a municipality has been designated as a highly
18 distressed community, its municipal council may adopt an ordinance or charter amendment that
19 requires municipal purchasing to be conducted in accordance with sections 37-2-56 and/or 16-60-
20 7.3.

21 (2) Continuance of contractual provisions. During any fiscal year that a municipality has
22 been designated as a highly distressed community, its municipal council may adopt an ordinance
23 or charter amendment that suspends sections 28-9.1-17 and/or 28-9.2-17.

24 (3) Retirement of sick or injured police officers and fire fighters. During any fiscal year
25 that a municipality has been designated as a highly distressed community, its municipal council
26 may adopt an ordinance or charter amendment that revises the disability retirement allowance
27 provided under section 45-19-19 to between fifty percent (50%) and sixty-six and two-thirds
28 percent (66 2/3%) of a retiree's annual salary at the time of retirement, subject to the provisions of
29 section 45-21-31.

30 (4) Educational incentive pay. During any fiscal year that a municipality has been
31 designated as a highly distressed community, its municipal council may adopt an ordinance or
32 charter amendment that suspends chapter 28.1 of title 42.

33 (5) Consolidation of administrative functions. During any fiscal year that a municipality
34 has been designated as a highly distressed community, its municipal council may adopt an

1 ordinance or charter amendment that authorizes and empowers its chief executive officer or the
2 town manager or town administrator to consolidate some or all responsibilities with respect to the
3 following under a single person or a unified position, as may be most appropriate: municipal
4 administrative functions and non-educational functions that are or may be included under chapter
5 2 of title 16, including, but not limited to, human resources, information technology, budgetary
6 and financial management, procurement, disbursement, and/or facilities management.

7 (6) Municipal budget and contract approvals. During any fiscal year that a municipality
8 has been designated as a highly distressed community, its municipal council may adopt an
9 ordinance or charter amendment that, notwithstanding the provisions of section 16-2-9, requires
10 the approval of the municipality's chief executive officer or the town manager or town
11 administrator with respect to: (i) Any school budget, with line item veto power in respect thereto;
12 (ii) Any changes to the school budget during the course of the school year; and/or (iii) Any and
13 all contractual arrangements entered into by the school committee.

14 (7) Teacher step increases. During any fiscal year that a municipality has been designated
15 as a highly distressed community, its municipal council may adopt an ordinance or charter
16 amendment that suspends section 16-7-29.

17 (8) Certified nurses. During any fiscal year that a municipality has been designated as a
18 highly distressed community, its municipal council may adopt an ordinance or charter
19 amendment that suspends section 16-21-8 and requires that the functions performed by such
20 nurse-teachers be performed by certified nurses, consistent with policies, procedures and
21 regulations promulgated by the board of regents for elementary and secondary education.

22 (9) School bus monitors. During any fiscal year that a municipality has been designated
23 as a highly distressed community, its municipal council may adopt an ordinance or charter
24 amendment that suspends section 16-21-1. Any such ordinance or charter amendment may
25 require the functions performed by school bus monitors be fulfilled on a volunteer basis.

26 (10) Transportation to nonpublic schools. During any fiscal year that a municipality has
27 been designated as a highly distressed community, its municipal council may adopt an ordinance
28 or charter amendment that suspends any mandate pursuant to chapter 21.1 of title 16 to provide
29 bus transportation to pupils who attend nonpublic nonprofit schools that are consolidated,
30 regionalized, or otherwise established to serve residents of a specific area within the state.

31 (11) Health insurance cost sharing and plan design. During any fiscal year that a
32 municipality has been designated as a highly distressed community, its municipal council may
33 adopt an ordinance or charter amendment that requires future negotiated changes for active
34 employees under chapters 9.1, 9.2, 9.3 and/or 9.4 of title 28, relating to cost sharing and plan

1 design of health insurance, be applicable to new and existing retirements under the same chapters.
2 (12) Public safety collective bargaining. During any fiscal year that a municipality has
3 been designated as a highly distressed community, its municipal council may adopt an ordinance
4 or charter amendment that amends sections of the general laws of Rhode Island as set forth in
5 subdivisions (1) and/or (2) of this section related to fire fighters' or police officers' collective
6 bargaining rights, respectively.
7 **45-13.2-7. Mandatory reinvestment; Annual certifications.** – (a) At least fifty percent
8 (50%) of funds resulting from enacting an ordinance or charter amendment pursuant to this
9 chapter shall be reinvested exclusively to reduce a highly distressed community's property tax
10 burden or to limit growth of a highly distressed community's property tax burden, at least until
11 such municipality is no longer designated as a highly distressed community and is no longer
12 taking advantage of the relief provisions enumerated under section 45-13.2-6.
13 (b) Every highly distressed community shall submit a certification to the auditor general
14 and the director of revenue no later than one year after the date of passage of the ordinance or
15 charter amendment declaring that the municipality has assumed such designation, which
16 certification shall contain budgetary and numerical data sufficient to substantiate the satisfaction
17 of subsection (a) of this section. This certification requirement shall continue, on an annual basis
18 as measured from the date of passage of the ordinance or charter amendment, until a municipality
19 is no longer designated as a highly distressed community and is no longer taking advantage of the
20 relief provisions enumerated under section 45-13.2-6.
21 **45-13.2-8. Failure to comply.** – With respect to any municipality that fails to comply
22 with section 45-13.2-4 or 45-13.2-7:
23 (1) The general treasurer is authorized to withhold moneys due from the state for any
24 purpose other than education, including, but not limited to, municipal aid and other aid provided
25 under sections 45-13-5.1, 45-13-12, 44-34.1-2, 44-13-13, 44-18-18.1, 44-18-36.1(b) and 42-63.1-
26 3; and
27 (2) The auditor general shall have the power to compel a performance audit in connection
28 with such municipality, as provided under section 22-13-4.
29 **45-13.2-9. Supersession; Exclusivity.** – Notwithstanding any general or special law to
30 the contrary, unless otherwise specified, the provisions of this chapter shall supersede any
31 conflicting provisions of a local ordinance, collective bargaining agreement, interest arbitration
32 award, or municipal charter; further, the inclusion of any particular provision in this chapter shall
33 not be construed in a manner indicating that a municipality has no right to take action with
34 respect to the substance of such provision but for this chapter.

1 SECTION 2. Sections 28-9.1-3, 28-9.1-9, 28-9.1-10 and 28-9.1-16 of the General Laws
2 in Chapter 28-9.1 entitled "Firefighters' Arbitration" are hereby amended to read as follows:

3 **28-9.1-3. Definitions.** -- As used in this chapter the following terms, unless the context
4 requires a different interpretation, shall have the following meanings:

5 (1) "Base salaries" means the annual salary pursuant to the salary schedule or salary
6 chart contained in the collective bargaining agreement between the corporate authorities and the
7 bargaining unit exclusive of any monies provided for length of service or longevity, overtime
8 payments, incentive pay payments, special duty payments, detail payments and any non-salary
9 economic issues such as pensions, health and medical insurance costs.

10 ~~(2)~~(2) "Corporate authorities" means the proper officials within any city or town whose
11 duty or duties it is to establish the wages, salaries, rates of pay, hours, working conditions, and
12 other terms and conditions of employment of fire fighters, whether they are the mayor, city
13 manager, town manager, town administrator, city council, town council, director of personnel,
14 personnel board or commission, or by whatever other name or combination of names they may be
15 designated.

16 ~~(3)~~(3) "Fire fighter" means the permanent uniformed members, rescue service personnel
17 of any city or town, emergency medical services personnel of any city or town, any fire
18 dispatchers of any city or town, and all employees with the exception of fire chiefs of any paid
19 fire department in any city or town within the state. No assistant chief, deputy chief, battalion
20 chief, captain or lieutenant shall be excluded from the collective bargaining solely by virtue of his
21 or her title or position.

22 ~~(3)~~(4) "Unresolved issues" means any and all contractual provisions specifically
23 addressing base salaries which have not been agreed upon by the bargaining agent and the
24 corporate authorities within the thirty (30) day period referred to in section 28-9.1-7. Any
25 contractual provision not presented by either the bargaining agent or the corporate authority
26 within the thirty (30) day period shall not be submitted to arbitration as an unresolved issue;
27 provided, that if either party or both parties are unable to present their respective proposals to the
28 other party during the thirty (30) day period, they shall have the opportunity to submit their
29 proposals by registered mail by midnight of the 30th day from and including the date of their first
30 meeting.

31 **28-9.1-9. Hearings.** -- (a) The arbitration board shall, acting through its chairperson, call
32 a hearing to be held within ten (10) days after the date of the appointment of the chairperson, and
33 shall, acting through its chairperson, give at least seven (7) days notice in writing to each of the
34 other two (2) arbitrators, the bargaining agent, and the corporate authorities of the time and place

1 of the hearing. The hearing shall be informal, and the rules of evidence prevailing in judicial
2 proceedings shall not be binding. Any documentary evidence and other data deemed relevant by
3 the arbitrators may be received in evidence.

4 (b) The arbitrators shall have the power to administer oaths and to require by subpoena
5 the attendance and testimony of witnesses, and the production of books, records, and other
6 evidence relative or pertinent to the issues presented to them for determination.

7 (c) All parties to arbitration shall present, at the formal hearings before the issuance of the
8 award, written estimates to the arbitration panel of the financial impact of their contract proposal
9 on the taxpayers of the city or town that employs the members of the bargaining unit.

10 (d) Each arbitration decision shall be accompanied by a written report explaining how
11 each of the statutory factors contained in section 28-9.1-10 played into the arbitrators'
12 determination of the final award. The report shall certify that the arbitration board gave primary
13 weight to the community's ability to pay and a comparison of the wages and other benefits of
14 employment of employees with the economic conditions of residents of the community, and that
15 it took into account the statutory limitations imposed on the local levy cap in making the award.

16 ~~(e)~~(e) The hearing conducted by the arbitrators shall be concluded within twenty (20)
17 days of the time of commencement, and within ten (10) days after the conclusion of the hearings,
18 the arbitrators shall make written findings and a written opinion upon the issues presented, a copy
19 of which shall be mailed or otherwise delivered to the bargaining agent or its attorney or
20 otherwise designated representative and the corporate authorities. The chairperson may require
21 briefs of the parties, in which case the time for issuance of the award shall be extended by no
22 more than ten (10) days.

23 (f) The chairperson of the arbitration board shall be required to render an arbitration
24 award within the aforementioned timeframes and under no circumstances shall the timeframes
25 provided for in this section be exceeded. Any chairperson who fails to render an award within the
26 time requirements set forth in this section shall be fined one thousand dollars (\$1,000) by the
27 courts for each day that the award is late.

28 ~~(g)~~(g) A majority decision of the arbitrators shall be binding upon both the bargaining
29 agent and the corporate authorities.

30 (h) Any arbitration board created pursuant to this chapter shall not issue a decision which
31 increases the aggregate base salaries of the employees in the bargaining unit in an amount greater
32 than two percent (2%).

33 **28-9.1-10. Factors to be considered by arbitration board.** – The arbitrators shall
34 conduct the hearings and render their decision upon the basis of a prompt, peaceful, and just

1 settlement of wage or hour disputes between the fire fighters and the city or town by which they
2 are employed. The factors, among others, to be given weight by the arbitrators in arriving at a
3 decision shall include:

4 (1) The overall compensation presently received by the employees, inclusive of direct
5 wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and
6 hospitalization benefits, and all other economic benefits received while in the employ of the city
7 or town or from the city or town upon the retirement of any member of the bargaining unit as
8 compared with the economic conditions of residents of the community.

9 ~~(1)(2)~~ Comparison of wage rates or hourly conditions of employment of the fire
10 department in question with prevailing wage rates or hourly conditions of employment of skilled
11 employees of the building trades and industry in the local operating area involved.

12 ~~(2)(3)~~ Comparison of wage rates or hourly conditions of employment of the fire
13 department in question with wage rates or hourly conditions of employment maintained for the
14 same or similar work of employees exhibiting like or similar skills under the same or similar
15 working conditions in the local operating area involved.

16 ~~(3)(4)~~ Comparison of wage rates or hourly conditions of employment of the fire
17 department in question with wage rates or hourly conditions of employment of fire departments in
18 cities or towns of comparable size.

19 ~~(4)(5)~~ Interest and welfare of the public. Among the items the panel of arbitrators shall
20 assess when considering this factor is the limitation imposed upon the employers by section 44-5-
21 2.

22 ~~(5)(6)~~ Comparison of peculiarities of employment in regard to other trades or
23 professions, specifically:

24 (i) Hazards of employment.

25 (ii) Physical qualifications.

26 (iii) Educational qualifications.

27 (iv) Mental qualifications.

28 (v) Job training and skills.

29 ~~(6)(7)~~ Comparison of community's ability to pay.

30 **28-9.1-16. Attorneys' fees -- Costs -- Interest. -- (a)** In the event either the bargaining
31 agent or the corporate authorities files a petition for writ of certiorari to the supreme court of the
32 state of Rhode Island for a review or modification of a majority decision of the arbitrators, which
33 by the provisions of section 28-9.1-9 is binding upon both the bargaining agent and the corporate
34 authorities, the party against whom the decision of the supreme court is adverse, if the supreme

1 court finds the appeal or petition to be frivolous, shall pay reasonable attorneys' fees and costs to
2 the successful party as determined by the supreme court, and the supreme court shall in its final
3 decision or judgment award costs and reasonable attorneys' fees. If the final decision affirms the
4 award of money, the award, if retroactive, shall bear interest at the rate of eight percentum
5 percent (8%) per annum from the effective retroactive date.

6 (b) In the event either the bargaining agent or the corporate authorities files a petition for
7 writ of certiorari to the supreme court, said petition shall be filed within sixty (60) days from the
8 date the parties were in receipt of the written decision of the arbitration board.

9 SECTION 3. Sections 28-9.2-3, 28-9.2-9, 28-9.2-10 and 28-9.2-16 of the General Laws
10 in Chapter 28-9.2 entitled "Municipal Police Arbitration" are hereby amended to read as follows:

11 **28-9.2-3. Definitions.** -- As used in this chapter the following terms, unless the context
12 requires a different interpretation, have the following meanings:

13 (1) "Base salaries" means the annual salary pursuant to the salary schedule or salary chart
14 contained in the collective bargaining agreement between the corporate authorities and the
15 bargaining unit exclusive of any monies provided for length of service or longevity, overtime
16 payments, incentive pay payments, special duty payments, detail payments and any non-salary
17 economic issues such as pensions, health and medical insurance costs.

18 (+)(2) "Corporate authorities" means the proper officials within any city or town whose
19 duty or duties it is to establish the wages, salaries, rates of pay, hours, working conditions, and
20 other terms and conditions of employment of police officers, whether they are the mayor, city
21 manager, town manager, town administrator, city council, town council, director of personnel,
22 personnel board or commission, or by whatever other name they may be designated, or any
23 combination thereof.

24 (2)(3) "Police officer" means a full-time police officer from the rank of patrolman up to
25 and including the rank of chief, including policewomen, of any particular police department in
26 any city or town within the state.

27 (4) "Unresolved issues" means any and all contractual provisions specifically addressing
28 base salaries which have not been agreed upon by the bargaining agent and the corporate
29 authorities within the thirty (30) day period referred to in section 28-9.2-7. Any contractual
30 provision not presented by either the bargaining agent or the corporate authority within the thirty
31 (30) day period shall not be submitted to arbitration as an unresolved issue; provided, that if
32 either party or both parties are unable to present their respective proposals to the other party
33 during the thirty (30) day period, they shall have the opportunity to submit their proposals by
34 registered mail by midnight of the thirtieth (30th) day from and including the date of their first

1 meeting.

2 28-9.2-9. Hearings. -- (a) The arbitration board shall, acting through its chairperson, call
3 a hearing to be held within ten (10) days after the date of the appointment of the chairperson, and
4 shall, acting through its chairperson, give at least seven (7) days notice in writing to each of the
5 other two (2) arbitrators, the bargaining agent, and the corporate authorities of the time and place
6 of the hearing. The hearing shall be informal, and the rules of evidence prevailing in judicial
7 proceedings shall not be binding. Any documentary evidence and other data deemed relevant by
8 the arbitrators may be received in evidence.

9 (b) The arbitrators shall have the power to administer oaths and to require by subpoena
10 the attendance and testimony of witnesses, and the production of books, records, and other
11 evidence relative or pertinent to the issues presented to them for determination.

12 (c) All parties to arbitration shall present, at the formal hearings before the issuance of the
13 award, written estimates to the arbitration panel of the financial impact of their contract proposal
14 on the taxpayers of the city or town that employs the members of the bargaining unit.

15 (d) Each arbitration decision shall be accompanied by a written report explaining how
16 each of the statutory factors contained in section 28-9.2-10 played into the arbitrators'
17 determination of the final award. The report shall certify that the arbitration board gave primary
18 weight to the community's ability to pay and a comparison of the wages and other benefits of
19 employment of employees with the economic conditions of residents of the community, and that
20 it took into account the statutory limitations imposed on the local levy cap in making the award.

21 ~~(e)~~(e) The hearing conducted by the arbitrators shall be concluded within twenty (20)
22 days of the time of commencement, and within ten (10) days after the conclusion of the hearings,
23 the arbitrators shall make written findings and a written opinion upon the issues presented, a copy
24 of which shall be mailed or otherwise delivered to the bargaining agent or its attorney or
25 otherwise delegated representative and to the corporate authorities. The chairperson may require
26 briefs of the parties, in which case the time for issuance of the award shall be extended by no
27 more than ten (10) days.

28 (f) The chairperson of the arbitration board shall be required to render an arbitration
29 award within the aforementioned timeframes and under no circumstances shall the timeframes
30 provided for in this section be exceeded. Any chairperson who fails to render an award within the
31 time requirements set forth in this section shall be fined one thousand dollars (\$1,000) by the
32 courts for each day that the award is late.

33 ~~(g)~~(g) A majority decision of the arbitrators is binding on both the bargaining agent and
34 the corporate authorities.

1 (h) Any arbitration board created pursuant to this chapter shall not issue a decision which
2 increases the aggregate base salaries of the employees in the bargaining unit in an amount greater
3 than two percent (2%).

4 **28-9.2-10. Factors to be considered by arbitration board. --** The arbitrators shall
5 conduct the hearings and render their decision on the basis of a prompt, peaceful, and just
6 settlement of wage or hour disputes between the police officers and the city or town by which
7 they are employed. The factors, among others, to be given weight by the arbitrators in arriving at
8 a decision shall include:

9 (1) The overall compensation presently received by the employees, inclusive of direct
10 wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and
11 hospitalization benefits, and all other economic benefits received while in the employ of the city
12 or town or from the city or town upon the retirement of any member of the bargaining unit as
13 compared with the economic conditions of residents of the community.

14 ~~(1)(2)~~ Comparison of wage rates or hourly conditions of employment of the police
15 department in question with prevailing wage rates or hourly conditions of employment of skilled
16 employees of the building trades and industry in the local operating area involved.

17 ~~(2)(3)~~ Comparison of wage rates or hourly conditions of employment of the police
18 department in question with wage rates or hourly conditions of employment of police
19 departments in cities or towns of comparable size.

20 ~~(3)(4)~~ Interest and welfare of the public. Among items the panel of arbitrators shall
21 assess when considering this factor is the limitation imposed upon the employer by section 44-5-
22 2.

23 ~~(4)(5)~~ Comparison of peculiarities of employment in regard to other trades or
24 professions, specifically:

25 (i) Hazards of employment.

26 (ii) Physical qualifications.

27 (iii) Educational qualifications.

28 (iv) Mental qualifications.

29 (v) Job training and skills.

30 ~~(5)(6)~~ Comparison of community's ability to pay.

31 **28-9.2-16. Attorney's fees -- Costs -- Interest. --** (a) If either the bargaining agent or the
32 corporate authorities files a petition for writ of certiorari to the supreme court of the state of
33 Rhode Island for a review or modification of a majority decision of the arbitrators, which by the
34 provisions of section 28-9.2-9 is binding upon both the bargaining agent and the corporate

1 authorities, the party against whom the decision of the supreme court is adverse, if the supreme
2 court finds the appeal or petition to be frivolous, shall pay reasonable attorney's fees and costs to
3 the successful party as determined by the supreme court, and the supreme court shall in its final
4 decision or judgment award costs and reasonable attorney's fees. If the final decision affirms the
5 award of money, the award, if retroactive, shall bear interest at the rate of eight percent (8%) per
6 annum from the effective retroactive date.

7 (b) In the event either the bargaining agent or the corporate authorities files a petition for
8 writ of certiorari to the supreme court, said petition shall be filed within sixty (60) days from the
9 date the parties were in receipt of the written decision of the arbitration board.

10 SECTION 4. Severability. If any provision of this act or the application thereof to any
11 person or circumstances is held invalid, such invalidity shall not affect other provisions or
12 applications of the act, which can be given effect without the invalid provision or applications,
13 and to this end the provisions of this act are declared to be severable.

14 SECTION 5. This act shall take effect upon passage; provided, however, that the
15 provisions and amendments to the general laws contained in Sections 2 and 3 of this act shall
16 only apply to municipalities that are highly distressed, as defined under sections 45-13-12 and 45-
17 13.2-4 of the general laws and that have invoked the provisions of chapter 45-13.2 of the general
18 laws by the adoption of an ordinance or charter amendment.

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LC02226
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- DISTRESSED COMMUNITIES

1 This act would extend to communities which have been determined to be "highly
2 distressed communities" by reference to section 45-13-12 of the general laws additional
3 authorization to act in modification of police and fire labor contracts.

4 This act would take effect upon passage, provided; however, that the provisions and
5 amendments to the general laws contained in Sections 2 and 3 of this act would only apply to
6 municipalities that are highly distressed, as defined under sections 45-13-12 and 45-13.2-4 of the
7 general laws and that have invoked the provisions of chapter 45-13.2 of the general laws by the
8 adoption of an ordinance or charter amendment.

LC02226

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

A N A C T

RELATING TO TOWNS AND CITIES -- DISTRESSED COMMUNITIES

Introduced By: Senators DaPonte, and Bates

Date Introduced: March 22, 2012

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 45 of the General Laws entitled "TOWNS AND CITIES" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 13.2

4 HIGHLY DISTRESSED COMMUNITY INTERVENTION ACT

5 45-13.2-1. Short title. -- This chapter shall be known and may be cited as the "Highly
6 Distressed Community Intervention Act."

7 45-13.2-2. Purpose. -- It shall be the policy of the state to provide ongoing resources and
8 tools for, and to intervene on behalf of, cities and towns undergoing extraordinary financial
9 distress. The problems that municipalities with financial challenges experience threaten the fiscal
10 well-being, public safety and welfare of such cities and towns as well as the state as a whole. The
11 state has a right to involve itself in the fiscal affairs of any community that presents multiple
12 symptoms of economic stress. The powers delegated by the general assembly in this chapter shall
13 be carried out by municipalities in such a manner as will best preserve the safety and welfare of
14 citizens of the state and their property and the access of the state and its municipalities to capital
15 markets, all to the public benefit and good.

16 45-13.2-3. Legislative findings. -- (a) The general assembly finds and declares that:

17 (1) Due to several factors, including, but not limited to, the extreme economic and
18 financial pressures experienced on the state and local levels, reductions in the state's ability to
19 appropriate funds for municipal governments, certain structural changes to the manner in which

1 the state supports municipal governments, and large unfunded liabilities attributable to retirement
2 benefits and other post-employment benefits, the state's cities and towns face unprecedented
3 financial challenges.

4 (2) As of February 2012, several municipalities have perilously and disproportionately
5 high property tax burdens relative to the wealth of their taxpayers. Without state intervention,
6 financial instability will continue to pose grave problems for the citizens of those communities
7 and could introduce additional fiscal problems for other communities as well as the state.

8 (3) It is in the best interests of municipalities, taxpayers, and the state itself to maintain
9 the fiscal well-being, public safety, welfare and sovereignty of the municipalities. These
10 compelling state interests include:

11 (i) Preserving, to the fullest extent practicable, the principle of home rule as it is
12 enshrined in Article XIII of the Rhode Island Constitution, without jeopardizing the economic
13 stability of the various municipalities and the state;

14 (ii) Empowering municipalities to utilize financial resources and tools that are reasonably
15 necessary to allow them to achieve self-sufficiency within the shortest possible timeframe; and

16 (iii) Preventing the financial downgrade of municipalities by rating agencies, which
17 would make it more difficult to access the capital markets and increase the costs of borrowing.

18 (b) For the foregoing reasons, the general assembly expressly finds and declares that the
19 situation confronting several municipalities has reached a stage of emergency requiring state
20 intervention and relief, and must be addressed without delay and the enactment of this chapter is
21 reasonable and necessary to achieve and protect the compelling public interests listed herein.

22 **45-13.2-4. Eligibility.** – In order for a highly distressed community to be eligible for
23 relief under this chapter, its municipal council shall have adopted an ordinance or charter
24 amendment assuming any one, or more than one, of the relief provisions set forth in section 45-
25 13.2-6, which ordinance or charter amendment shall be supported by:

26 (1) A finding that the ordinance or charter amendment is reasonable and necessary to
27 ameliorate the municipality's property tax burden relative to its citizens' wealth, thereby
28 supporting such municipality's fiscal stability and protecting its property, and the health, welfare
29 and property of its citizens; and

30 (2) Findings demonstrating that alternatives to enacting the particular policies set forth in
31 section 45-13.2-6 have been and/or are being implemented. For purposes of this chapter, "highly
32 distressed community" means a municipality that falls into the lowest twenty percent (20%) of all
33 four (4) indices established by section 45-13-12, as determined by the director of revenue on an
34 annual basis pursuant to section 45-13-12.

1 45-13.2-5. Collective bargaining contracts. – During any fiscal year in which a
2 municipality has been designated as a highly distressed community and until it is no longer taking
3 advantage of the relief provisions enumerated under section 45-13.2-6, its municipal council shall
4 be required to:

5 (1) Estimate the financial impact of any collective bargaining contract proposal on the
6 taxpayers of that community;

7 (2) Balance such financial impact against the community's ability to pay; and

8 (3) Take such balance into account before deciding to approve or disapprove the
9 collective bargaining contract.

10 45-13.2-6. Relief provisions. – During any fiscal year in which a municipality is
11 designated as a highly distressed community pursuant to section 45-13.2-4 and for two (2) years
12 after it is no longer so designated, its municipal council shall be authorized and empowered to
13 adopt an ordinance or charter amendment specifying any of the following relief provisions (which
14 relief provisions shall be automatically repealed, and shall have no legal force or effect, as of two
15 (2) years after the date that the municipality is no longer designated as a highly distressed
16 community):

17 (1) Purchasing. During any fiscal year that a municipality has been designated as a highly
18 distressed community, its municipal council may adopt an ordinance or charter amendment that
19 requires municipal purchasing to be conducted in accordance with sections 37-2-56 and/or 16-60-
20 7.3.

21 (2) Continuance of contractual provisions. During any fiscal year that a municipality has
22 been designated as a highly distressed community, its municipal council may adopt an ordinance
23 or charter amendment that suspends sections 28-9.1-17 and/or 28-9.2-17.

24 (3) Retirement of sick or injured police officers and fire fighters. During any fiscal year
25 that a municipality has been designated as a highly distressed community, its municipal council
26 may adopt an ordinance or charter amendment that revises the disability retirement allowance
27 provided under section 45-19-19 to between fifty percent (50%) and sixty-six and two-thirds
28 percent (66 2/3%) of a retiree's annual salary at the time of retirement, subject to the provisions of
29 section 45-21-31.

30 (4) Educational incentive pay. During any fiscal year that a municipality has been
31 designated as a highly distressed community, its municipal council may adopt an ordinance or
32 charter amendment that suspends chapter 28.1 of title 42.

33 (5) Consolidation of administrative functions. During any fiscal year that a municipality
34 has been designated as a highly distressed community, its municipal council may adopt an

1 ordinance or charter amendment that authorizes and empowers its chief executive officer or the
2 town manager or town administrator to consolidate some or all responsibilities with respect to the
3 following under a single person or a unified position, as may be most appropriate: municipal
4 administrative functions and non-educational functions that are or may be included under chapter
5 2 of title 16, including, but not limited to, human resources, information technology, budgetary
6 and financial management, procurement, disbursement, and/or facilities management.

7 (6) Municipal budget and contract approvals. During any fiscal year that a municipality
8 has been designated as a highly distressed community, its municipal council may adopt an
9 ordinance or charter amendment that, notwithstanding the provisions of section 16-2-9, requires
10 the approval of the municipality's chief executive officer or the town manager or town
11 administrator with respect to: (i) Any school budget, with line item veto power in respect thereto;
12 (ii) Any changes to the school budget during the course of the school year; and/or (iii) Any and
13 all contractual arrangements entered into by the school committee.

14 (7) Teacher step increases. During any fiscal year that a municipality has been designated
15 as a highly distressed community, its municipal council may adopt an ordinance or charter
16 amendment that suspends section 16-7-29.

17 (8) Certified nurses. During any fiscal year that a municipality has been designated as a
18 highly distressed community, its municipal council may adopt an ordinance or charter
19 amendment that suspends section 16-21-8 and requires that the functions performed by such
20 nurse-teachers be performed by certified nurses, consistent with policies, procedures and
21 regulations promulgated by the board of regents for elementary and secondary education.

22 (9) School bus monitors. During any fiscal year that a municipality has been designated
23 as a highly distressed community, its municipal council may adopt an ordinance or charter
24 amendment that suspends section 16-21-1. Any such ordinance or charter amendment may
25 require the functions performed by school bus monitors be fulfilled on a volunteer basis.

26 (10) Transportation to nonpublic schools. During any fiscal year that a municipality has
27 been designated as a highly distressed community, its municipal council may adopt an ordinance
28 or charter amendment that suspends any mandate pursuant to chapter 21.1 of title 16 to provide
29 bus transportation to pupils who attend nonpublic nonprofit schools that are consolidated,
30 regionalized, or otherwise established to serve residents of a specific area within the state.

31 (11) Health insurance cost sharing and plan design. During any fiscal year that a
32 municipality has been designated as a highly distressed community, its municipal council may
33 adopt an ordinance or charter amendment that requires future negotiated changes for active
34 employees under chapters 9.1, 9.2, 9.3 and/or 9.4 of title 28, relating to cost sharing and plan

1 design of health insurance, be applicable to new and existing retirements under the same chapters.
2 (12) Public safety collective bargaining. During any fiscal year that a municipality has
3 been designated as a highly distressed community, its municipal council may adopt an ordinance
4 or charter amendment that amends sections of the general laws of Rhode Island as set forth in
5 subdivisions (1) and/or (2) of this section related to fire fighters' or police officers' collective
6 bargaining rights, respectively.

7 **45-13.2-7. Mandatory reinvestment; Annual certifications.** – (a) At least fifty percent
8 (50%) of funds resulting from enacting an ordinance or charter amendment pursuant to this
9 chapter shall be reinvested exclusively to reduce a highly distressed community's property tax
10 burden or to limit growth of a highly distressed community's property tax burden, at least until
11 such municipality is no longer designated as a highly distressed community and is no longer
12 taking advantage of the relief provisions enumerated under section 45-13.2-6.

13 (b) Every highly distressed community shall submit a certification to the auditor general
14 and the director of revenue no later than one year after the date of passage of the ordinance or
15 charter amendment declaring that the municipality has assumed such designation, which
16 certification shall contain budgetary and numerical data sufficient to substantiate the satisfaction
17 of subsection (a) of this section. This certification requirement shall continue, on an annual basis
18 as measured from the date of passage of the ordinance or charter amendment, until a municipality
19 is no longer designated as a highly distressed community and is no longer taking advantage of the
20 relief provisions enumerated under section 45-13.2-6.

21 **45-13.2-8. Failure to comply.** – With respect to any municipality that fails to comply
22 with section 45-13.2-4 or 45-13.2-7:

23 (1) The general treasurer is authorized to withhold moneys due from the state for any
24 purpose other than education, including, but not limited to, municipal aid and other aid provided
25 under sections 45-13-5.1, 45-13-12, 44-34.1-2, 44-13-13, 44-18-18.1, 44-18-36.1(b) and 42-63.1-
26 3; and

27 (2) The auditor general shall have the power to compel a performance audit in connection
28 with such municipality, as provided under section 22-13-4.

29 **45-13.2-9. Supersession; Exclusivity.** – Notwithstanding any general or special law to
30 the contrary, unless otherwise specified, the provisions of this chapter shall supersede any
31 conflicting provisions of a local ordinance, collective bargaining agreement, interest arbitration
32 award, or municipal charter; further, the inclusion of any particular provision in this chapter shall
33 not be construed in a manner indicating that a municipality has no right to take action with
34 respect to the substance of such provision but for this chapter.

1 SECTION 2. Sections 28-9.1-3, 28-9.1-9, 28-9.1-10 and 28-9.1-16 of the General Laws
2 in Chapter 28-9.1 entitled "Firefighters' Arbitration" are hereby amended to read as follows:

3 **28-9.1-3. Definitions.** -- As used in this chapter the following terms, unless the context
4 requires a different interpretation, shall have the following meanings:

5 (1) "Base salaries" means the annual salary pursuant to the salary schedule or salary
6 chart contained in the collective bargaining agreement between the corporate authorities and the
7 bargaining unit exclusive of any monies provided for length of service or longevity, overtime
8 payments, incentive pay payments, special duty payments, detail payments and any non-salary
9 economic issues such as pensions, health and medical insurance costs.

10 ~~(1)~~(2) "Corporate authorities" means the proper officials within any city or town whose
11 duty or duties it is to establish the wages, salaries, rates of pay, hours, working conditions, and
12 other terms and conditions of employment of fire fighters, whether they are the mayor, city
13 manager, town manager, town administrator, city council, town council, director of personnel,
14 personnel board or commission, or by whatever other name or combination of names they may be
15 designated.

16 ~~(2)~~(3) "Fire fighter" means the permanent uniformed members, rescue service personnel
17 of any city or town, emergency medical services personnel of any city or town, any fire
18 dispatchers of any city or town, and all employees with the exception of fire chiefs of any paid
19 fire department in any city or town within the state. No assistant chief, deputy chief, battalion
20 chief, captain or lieutenant shall be excluded from the collective bargaining solely by virtue of his
21 or her title or position.

22 ~~(3)~~(4) "Unresolved issues" means any and all contractual provisions specifically
23 addressing base salaries which have not been agreed upon by the bargaining agent and the
24 corporate authorities within the thirty (30) day period referred to in section 28-9.1-7. Any
25 contractual provision not presented by either the bargaining agent or the corporate authority
26 within the thirty (30) day period shall not be submitted to arbitration as an unresolved issue;
27 provided, that if either party or both parties are unable to present their respective proposals to the
28 other party during the thirty (30) day period, they shall have the opportunity to submit their
29 proposals by registered mail by midnight of the 30th day from and including the date of their first
30 meeting.

31 **28-9.1-9. Hearings.** -- (a) The arbitration board shall, acting through its chairperson, call
32 a hearing to be held within ten (10) days after the date of the appointment of the chairperson, and
33 shall, acting through its chairperson, give at least seven (7) days notice in writing to each of the
34 other two (2) arbitrators, the bargaining agent, and the corporate authorities of the time and place

1 of the hearing. The hearing shall be informal, and the rules of evidence prevailing in judicial
2 proceedings shall not be binding. Any documentary evidence and other data deemed relevant by
3 the arbitrators may be received in evidence.

4 (b) The arbitrators shall have the power to administer oaths and to require by subpoena
5 the attendance and testimony of witnesses, and the production of books, records, and other
6 evidence relative or pertinent to the issues presented to them for determination.

7 (c) All parties to arbitration shall present, at the formal hearings before the issuance of the
8 award, written estimates to the arbitration panel of the financial impact of their contract proposal
9 on the taxpayers of the city or town that employs the members of the bargaining unit.

10 (d) Each arbitration decision shall be accompanied by a written report explaining how
11 each of the statutory factors contained in section 28-9.1-10 played into the arbitrators'
12 determination of the final award. The report shall certify that the arbitration board gave primary
13 weight to the community's ability to pay and a comparison of the wages and other benefits of
14 employment of employees with the economic conditions of residents of the community, and that
15 it took into account the statutory limitations imposed on the local levy cap in making the award.

16 ~~(e)~~(c) The hearing conducted by the arbitrators shall be concluded within twenty (20)
17 days of the time of commencement, and within ten (10) days after the conclusion of the hearings,
18 the arbitrators shall make written findings and a written opinion upon the issues presented, a copy
19 of which shall be mailed or otherwise delivered to the bargaining agent or its attorney or
20 otherwise designated representative and the corporate authorities. The chairperson may require
21 briefs of the parties, in which case the time for issuance of the award shall be extended by no
22 more than ten (10) days.

23 (f) The chairperson of the arbitration board shall be required to render an arbitration
24 award within the aforementioned timeframes and under no circumstances shall the timeframes
25 provided for in this section be exceeded. Any chairperson who fails to render an award within the
26 time requirements set forth in this section shall be fined one thousand dollars (\$1,000) by the
27 courts for each day that the award is late.

28 ~~(g)~~ A majority decision of the arbitrators shall be binding upon both the bargaining
29 agent and the corporate authorities.

30 (h) Any arbitration board created pursuant to this chapter shall not issue a decision which
31 increases the aggregate base salaries of the employees in the bargaining unit in an amount greater
32 than two percent (2%).

33 **28-9.1-10. Factors to be considered by arbitration board.** – The arbitrators shall
34 conduct the hearings and render their decision upon the basis of a prompt, peaceful, and just

1 settlement of wage or hour disputes between the fire fighters and the city or town by which they
2 are employed. The factors, among others, to be given weight by the arbitrators in arriving at a
3 decision shall include:

4 ~~(1)~~ (1) The overall compensation presently received by the employees, inclusive of direct
5 wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and
6 hospitalization benefits, and all other economic benefits received while in the employ of the city
7 or town or from the city or town upon the retirement of any member of the bargaining unit as
8 compared with the economic conditions of residents of the community.

9 ~~(2)~~ Comparison of wage rates or hourly conditions of employment of the fire
10 department in question with prevailing wage rates or hourly conditions of employment of skilled
11 employees of the building trades and industry in the local operating area involved.

12 ~~(3)~~ Comparison of wage rates or hourly conditions of employment of the fire
13 department in question with wage rates or hourly conditions of employment maintained for the
14 same or similar work of employees exhibiting like or similar skills under the same or similar
15 working conditions in the local operating area involved.

16 ~~(4)~~ Comparison of wage rates or hourly conditions of employment of the fire
17 department in question with wage rates or hourly conditions of employment of fire departments in
18 cities or towns of comparable size.

19 ~~(5)~~ Interest and welfare of the public. Among the items the panel of arbitrators shall
20 assess when considering this factor is the limitation imposed upon the employers by section 44-5-
21 2.

22 ~~(6)~~ Comparison of peculiarities of employment in regard to other trades or
23 professions, specifically:

24 (i) Hazards of employment.

25 (ii) Physical qualifications.

26 (iii) Educational qualifications.

27 (iv) Mental qualifications.

28 (v) Job training and skills.

29 ~~(7)~~ Comparison of community's ability to pay.

30 **28-9.1-16. Attorneys' fees -- Costs -- Interest. -- (a)** In the event either the bargaining
31 agent or the corporate authorities files a petition for writ of certiorari to the supreme court of the
32 state of Rhode Island for a review or modification of a majority decision of the arbitrators, which
33 by the provisions of section 28-9.1-9 is binding upon both the bargaining agent and the corporate
34 authorities, the party against whom the decision of the supreme court is adverse, if the supreme

1 court finds the appeal or petition to be frivolous, shall pay reasonable attorneys' fees and costs to
2 the successful party as determined by the supreme court, and the supreme court shall in its final
3 decision or judgment award costs and reasonable attorneys' fees. If the final decision affirms the
4 award of money, the award, if retroactive, shall bear interest at the rate of eight per centum
5 percent (8%) per annum from the effective retroactive date.

6 (b) In the event either the bargaining agent or the corporate authorities files a petition for
7 writ of certiorari to the supreme court, said petition shall be filed within sixty (60) days from the
8 date the parties were in receipt of the written decision of the arbitration board.

9 SECTION 3. Sections 28-9.2-3, 28-9.2-9, 28-9.2-10 and 28-9.2-16 of the General Laws
10 in Chapter 28-9.2 entitled "Municipal Police Arbitration" are hereby amended to read as follows:

11 28-9.2-3. Definitions. -- As used in this chapter the following terms, unless the context
12 requires a different interpretation, have the following meanings:

13 (1) "Base salaries" means the annual salary pursuant to the salary schedule or salary chart
14 contained in the collective bargaining agreement between the corporate authorities and the
15 bargaining unit exclusive of any monies provided for length of service or longevity, overtime
16 payments, incentive pay payments, special duty payments, detail payments and any non-salary
17 economic issues such as pensions, health and medical insurance costs.

18 (~~1~~)⁽²⁾ "Corporate authorities" means the proper officials within any city or town whose
19 duty or duties it is to establish the wages, salaries, rates of pay, hours, working conditions, and
20 other terms and conditions of employment of police officers, whether they are the mayor, city
21 manager, town manager, town administrator, city council, town council, director of personnel,
22 personnel board or commission, or by whatever other name they may be designated, or any
23 combination thereof.

24 (~~2~~)⁽³⁾ "Police officer" means a full-time police officer from the rank of patrolman up to
25 and including the rank of chief, including policewomen, of any particular police department in
26 any city or town within the state.

27 (4) "Unresolved issues" means any and all contractual provisions specifically addressing
28 base salaries which have not been agreed upon by the bargaining agent and the corporate
29 authorities within the thirty (30) day period referred to in section 28-9.2-7. Any contractual
30 provision not presented by either the bargaining agent or the corporate authority within the thirty
31 (30) day period shall not be submitted to arbitration as an unresolved issue; provided, that if
32 either party or both parties are unable to present their respective proposals to the other party
33 during the thirty (30) day period, they shall have the opportunity to submit their proposals by
34 registered mail by midnight of the thirtieth (30th) day from and including the date of their first

1 meeting.

2 **28-9.2-9. Hearings.** -- (a) The arbitration board shall, acting through its chairperson, call
3 a hearing to be held within ten (10) days after the date of the appointment of the chairperson, and
4 shall, acting through its chairperson, give at least seven (7) days notice in writing to each of the
5 other two (2) arbitrators, the bargaining agent, and the corporate authorities of the time and place
6 of the hearing. The hearing shall be informal, and the rules of evidence prevailing in judicial
7 proceedings shall not be binding. Any documentary evidence and other data deemed relevant by
8 the arbitrators may be received in evidence.

9 (b) The arbitrators shall have the power to administer oaths and to require by subpoena
10 the attendance and testimony of witnesses, and the production of books, records, and other
11 evidence relative or pertinent to the issues presented to them for determination.

12 (c) All parties to arbitration shall present, at the formal hearings before the issuance of the
13 award, written estimates to the arbitration panel of the financial impact of their contract proposal
14 on the taxpayers of the city or town that employs the members of the bargaining unit.

15 (d) Each arbitration decision shall be accompanied by a written report explaining how
16 each of the statutory factors contained in section 28-9.2-10 played into the arbitrators'
17 determination of the final award. The report shall certify that the arbitration board gave primary
18 weight to the community's ability to pay and a comparison of the wages and other benefits of
19 employment of employees with the economic conditions of residents of the community, and that
20 it took into account the statutory limitations imposed on the local levy cap in making the award.

21 ~~(e)~~(e) The hearing conducted by the arbitrators shall be concluded within twenty (20)
22 days of the time of commencement, and within ten (10) days after the conclusion of the hearings,
23 the arbitrators shall make written findings and a written opinion upon the issues presented, a copy
24 of which shall be mailed or otherwise delivered to the bargaining agent or its attorney or
25 otherwise delegated representative and to the corporate authorities. The chairperson may require
26 briefs of the parties, in which case the time for issuance of the award shall be extended by no
27 more than ten (10) days.

28 (f) The chairperson of the arbitration board shall be required to render an arbitration
29 award within the aforementioned timeframes and under no circumstances shall the timeframes
30 provided for in this section be exceeded. Any chairperson who fails to render an award within the
31 time requirements set forth in this section shall be fined one thousand dollars (\$1,000) by the
32 courts for each day that the award is late.

33 ~~(g)~~(g) A majority decision of the arbitrators is binding on both the bargaining agent and
34 the corporate authorities.

1 (h) Any arbitration board created pursuant to this chapter shall not issue a decision which
2 increases the aggregate base salaries of the employees in the bargaining unit in an amount greater
3 than two percent (2%).

4 **28-9.2-10. Factors to be considered by arbitration board. --** The arbitrators shall
5 conduct the hearings and render their decision on the basis of a prompt, peaceful, and just
6 settlement of wage or hour disputes between the police officers and the city or town by which
7 they are employed. The factors, among others, to be given weight by the arbitrators in arriving at
8 a decision shall include:

9 (1) The overall compensation presently received by the employees, inclusive of direct
10 wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and
11 hospitalization benefits, and all other economic benefits received while in the employ of the city
12 or town or from the city or town upon the retirement of any member of the bargaining unit as
13 compared with the economic conditions of residents of the community.

14 ~~(1)~~(2) Comparison of wage rates or hourly conditions of employment of the police
15 department in question with prevailing wage rates or hourly conditions of employment of skilled
16 employees of the building trades and industry in the local operating area involved.

17 ~~(2)~~(3) Comparison of wage rates or hourly conditions of employment of the police
18 department in question with wage rates or hourly conditions of employment of police
19 departments in cities or towns of comparable size.

20 ~~(3)~~(4) Interest and welfare of the public. Among items the panel of arbitrators shall
21 assess when considering this factor is the limitation imposed upon the employer by section 44-5-
22 2.

23 ~~(4)~~(5) Comparison of peculiarities of employment in regard to other trades or
24 professions, specifically:

25 (i) Hazards of employment.

26 (ii) Physical qualifications.

27 (iii) Educational qualifications.

28 (iv) Mental qualifications.

29 (v) Job training and skills.

30 ~~(5)~~(6) Comparison of community's ability to pay.

31 **28-9.2-16. Attorney's fees -- Costs -- Interest. --** (a) If either the bargaining agent or the
32 corporate authorities files a petition for writ of certiorari to the supreme court of the state of
33 Rhode Island for a review or modification of a majority decision of the arbitrators, which by the
34 provisions of section 28-9.2-9 is binding upon both the bargaining agent and the corporate

1 authorities, the party against whom the decision of the supreme court is adverse, if the supreme
2 court finds the appeal or petition to be frivolous, shall pay reasonable attorney's fees and costs to
3 the successful party as determined by the supreme court, and the supreme court shall in its final
4 decision or judgment award costs and reasonable attorney's fees. If the final decision affirms the
5 award of money, the award, if retroactive, shall bear interest at the rate of eight percent (8%) per
6 annum from the effective retroactive date.

7 (b) In the event either the bargaining agent or the corporate authorities files a petition for
8 writ of certiorari to the supreme court, said petition shall be filed within sixty (60) days from the
9 date the parties were in receipt of the written decision of the arbitration board.

10 SECTION 4. Severability. If any provision of this act or the application thereof to any
11 person or circumstances is held invalid, such invalidity shall not affect other provisions or
12 applications of the act, which can be given effect without the invalid provision or applications,
13 and to this end the provisions of this act are declared to be severable.

14 SECTION 5. This act shall take effect upon passage; provided, however, that the
15 provisions and amendments to the general laws contained in Sections 2 and 3 of this act shall
16 only apply to municipalities that are highly distressed, as defined under sections 45-13-12 and 45-
17 13.2-4 of the general laws and that have invoked the provisions of chapter 45-13.2 of the general
18 laws by the adoption of an ordinance or charter amendment.

LC02250

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

1 This act would extend to communities which have been determined to be "highly
2 distressed communities" by reference to section 45-13-12 of the general laws additional
3 authorization to act in modification of police and fire labor contracts.

4 This act would take effect upon passage, provided; however, that the provisions and
5 amendments to the general laws contained in Sections 2 and 3 of this act would only apply to
6 municipalities that are highly distressed, as defined under sections 45-13-12 and 45-13.2-4 of the
7 general laws and that have invoked the provisions of chapter 45-13.2 of the general laws by the
8 adoption of an ordinance or charter amendment.

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