

IN THE MATTER OF THE RECEIVERSHIP OF
CENTRAL FALLS, RHODE ISLAND

APPENDIX TO
REPORT OF THE STATE RECEIVER

DECEMBER 14, 2010

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APPENDIX

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Petition for the Appointment of a Judicial Receiver

7. The City's annual operating budget for fiscal year 2010 (actual) and 2011 (proposed) is just under \$18 million. There is presently a shortfall in the fiscal year 2010 budget of over \$3 million and a projected shortfall in fiscal year 2011 of over \$5 million.

8. Because of its dire fiscal situation, the City has sold off much of its chief pension fund assets to satisfy annual pension obligations. Its actuarial accrued liability exceeds \$35 million dollars and its assets are approximately \$4 million. The City audit reports that for fiscal year 2009, its "required" contribution was over \$2.7 million and the City's actual contribution was \$0. For fiscal year 2010, there are no funds available to contribute and over \$1.5 million in assets would have to be sold to meet present obligations.

9. Of the \$18 million City budget, over \$6.5 is allocated to employees covered by collective bargaining agreements, with approximately \$1.1 million allocated to other employees.

10. The City has municipal bonded indebtedness over \$10 million.

11. Increasing the property tax rate by the State cap of 4.5% would yield additional revenues of less than \$500,000.

12. In light of its extreme fiscal stress, without the appointment of a Receiver, the City is unable under to bring its operating budget into balance or save its chief retirement plan.

13. In the opinion of Plaintiffs, the elected leaders of the City, it is urgent and advisable that a Receiver be appointed immediately to oversee the affairs of the City to assist in balancing the City's budget through spending cuts and revenue enhancement, while equitably balancing the interests of City taxpayers, employees, creditors, vendors, and pensioners and other interested parties.

14. Given the complexity of the issues and non-routine nature of this matter, Plaintiffs respectfully request the appointment of a Receiver at counsel's suggestion, subject to this Honorable Court's approval.

15. This Petition is filed and made in good faith to seek relief as prayed by virtue of and pursuant to this Court's equity powers and pursuant to the powers as authorized by the laws and statutes

of the State of Rhode Island and the appointment of a Temporary Receiver is most desirable to protect the *status quo* of the Defendant pending final hearing on the appointment of a Permanent Receiver.

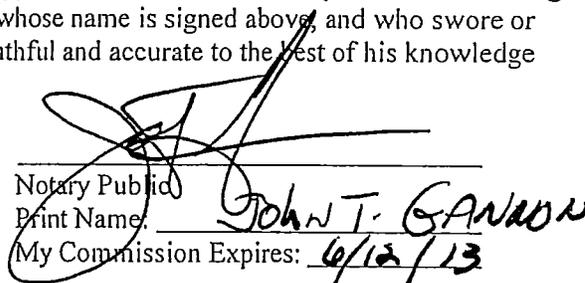
WHEREFORE, Plaintiffs respectfully pray that this Honorable Court appoint a Receiver forthwith to oversee the operation of the City and such other relief as this Court shall deem just and proper.


CHARLES D. MOREAU in his capacity as
MAYOR OF CENTAL FALLS and not
individually

Via Resolution dated May 18, 2010
CENTRAL FALLS CITY COUNCIL

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

On this 18 day of May, 2010, before me personally appeared Charles D. Moreau, proved to me through satisfactory evidence of identification to be the person whose name is signed above, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his knowledge and belief.

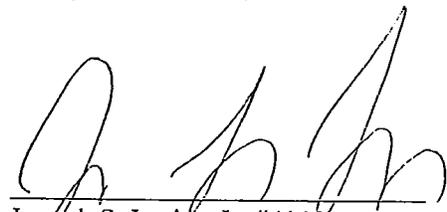

Notary Public
Print Name: John T. Gannon
My Commission Expires: 6/12/13

CERTIFICATE OF ATTORNEYS

We, the undersigned, Attorneys for the Plaintiffs, certify that this Petition is made in good faith for the protection of the Defendant and for the benefit of the Defendant's taxpayers, employees, creditors, vendors, and pensioners and other interested parties, and that the appointment of a Receiver is desirable to protect the *status quo* pending final Hearing for the appointment of a Permanent Receiver.

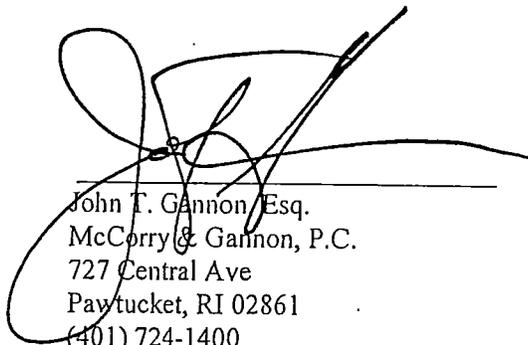
CHARLES MOREAU in his capacity as
MAYOR OF CENTRAL FALLS
and
CENTRAL FALLS CITY COUNCIL

by Special Counsel,



Joseph S. Larisa, Jr. #4113
Larisa Law and Consulting
55 Dorrance St., Suite 301B
Providence, RI 02903
(401) 743-4700
(401) 633-6296 (fax)
joe@larisalaw.com

by City Solicitor,



John T. Gannon Esq.
McCorry & Gannon, P.C.
727 Central Ave
Pawtucket, RI 02861
(401) 724-1400
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jack@mccorryandgannon.com



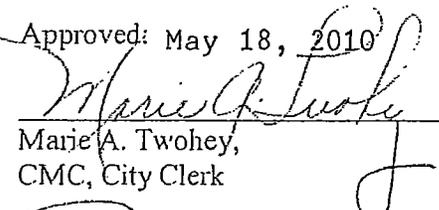
IN SUPPORT OF INSOLVENCY PROCEEDINGS THROUGH THE
PETITIONING OF THE SUPERIOR COURT
TO PLACE THE CITY OF CENTRAL FALLS
INTO RECEIVERSHIP TO BALANCE THE CITY BUDGET

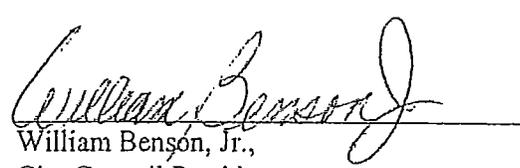
- WHERE AS: The Mayor and City Council have determined that the City is fiscally insolvent due to unanticipated revenue shortfalls and state budget cuts, along with collective bargaining agreements and pension obligations it cannot afford; and
- WHERE AS: The City is seeking to balance its budget for Fiscal Year 2010 and Fiscal Year 2011 and needs to resolve its budget crisis before the 2011 tax bills go out in June; and
- WHERE AS: The extent of the budget crisis is so severe that without a Court appointed Receiver assisting a Court of equity, it is impossible for the City to balance its budget without bankrupting its pension funds or defaulting on obligations to vendors, creditors and/or employees – none of which Mayor and the City Council desires.

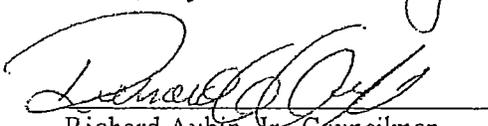
NOW THEREFORE, be it resolved that the Central Falls City Council does hereby join the Mayor in requesting that a petition be filed forthwith in Providence County Superior Court seeking the appointment of a Receiver to exercise all powers necessary and reasonable to return the City to solvency with a budget that is balanced.

Submitted by: Councilor William Benson, Jr.

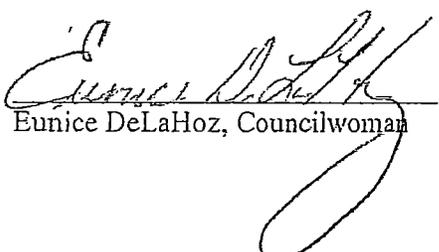
Approved: May 18, 2010

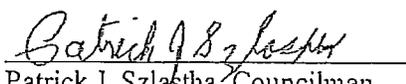

Marie A. Twohey,
CMC, City Clerk


William Benson, Jr.,
City Council President


Richard Aubin, Jr., Councilman

James Diossa, Councilman


Eunice DeLaHoz, Councilwoman


Patrick J. Szlastha, Councilman

Appointment of a Judicial Receiver

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

CHARLES D. MOREAU, in his Capacity
as Mayor of the City of Central Falls

and

the CITY COUNCIL FOR THE CITY
OF CENTRAL FALLS

Plaintiffs

v.

CITY OF CENTRAL FALLS

Defendant

P.B. No. 10- 2984

ORDER APPOINTING TEMPORARY RECEIVER

This cause came on to be heard upon the Plaintiff's Petition for Appointment of Receiver for the Defendant. The Court was advised that the Mayor for the City of Central Falls has authorized the filing of the Petition and the City Council has voted and approved the filing of the Petition by Resolution dated May 18, 2010. After a judicial conference followed by a hearing thereon the Court determined that it would be in the best interest of the Defendant's taxpayers, employees, creditors, vendors, and pensioners and other interested parties for: (a) the Court immediately to appoint a Temporary Receiver for the Defendant; and (b) the Court, on or before June 8, 2010, to appoint a Permanent Receiver for Defendant. Good cause appearing, it is hereby

ORDERED, ADJUDGED AND DECREED:

1. That Jonathan Savage of Providence, Rhode Island, and hereby is appointed Temporary Receiver (the "Receiver") of Defendant, and of all the assets, effects, property and business of Defendant of every name, kind, nature and description.

2. That said Receiver shall, no later than five (5) days from the date hereof, file herein a bond in the amount of \$ 1,000,000 with corporate surety thereon authorized to do business in the State of Rhode Island conditioned that the

2010 MAY 19 10:10

Copy Attest
[Signature]
Office of Clerk of Superior Court
Counties of Providence & Bristol
Providence, Rhode Island

Receiver will well and truly perform the duties of said office and duly account for all monies and property which may come into the Receiver's hands and abide by and perform all things which the Receiver will be directed, from time to time, to do by this Court.

3. That said Receiver be and hereby is authorized, empowered and directed to take possession and charge of said assets, effects, property and business of the Defendant, and to preserve the same, and is hereby vested with title to the same; to collect and receive the debts, property and other assets and effects of said Defendant and preserve the same until further order of this Court.

4. That said Receiver is authorized until further Order of this Court, in the Receiver's discretion and as said Receiver deems appropriate and advisable, to oversee the municipal business of said Defendant, to purchase, for cash or upon credit, merchandise, materials and other property, to engage consultants (financial, legal or other), appraisers and/or other assistance, clerical or otherwise, and pay all such individuals and entities in the usual course of business, and to do and perform or cause to be done and performed all other acts and things as are appropriate in the premises. Further, that said Receiver shall have final approval over the hiring and/or termination of any and all Defendant's personnel.

5. That the Receiver shall commence a comprehensive review and analysis of the Defendant's financial condition, including, without limitation Defendant's vendor contracts, books, records, employee salaries and benefits, collective bargaining agreements, pension funding and obligations, tax capacity, assets and liabilities, revenues, expenditures and other municipal matters related to achieving a balanced budget and restoring Defendant's fiscal health.

6. That, pursuant to and in compliance with Rhode Island Supreme Court Executive Order No. 95-01, this Court finds that the designation of the afore-described person for appointment as Receiver herein is warranted and required because of the Receiver's specialized expertise and experience in governmental issues, operating businesses in Receivership and in administering non-routine Receiverships which involve unusual or complex legal, financial, or business issues.

7. That the commencement, prosecution, or continuance of the prosecution, of any action, suit, arbitration proceeding, hearing, or any foreclosure, reclamation or repossession proceeding, both judicial and non-judicial, or any other proceeding, in law, or in equity or under any statute, or otherwise, against said Defendant or any of its property, in any Court, agency, tribunal, or elsewhere, or before any arbitrator, or otherwise by any creditor, stockholder, corporation, partnership or any other person, or the levy of any attachment, execution or other process upon or against any property of said Defendant, or the taking or attempting to take into possession any property in the possession of the Defendant or of which the Defendant has the right to possession, or the cancellation at any time during the Receivership proceeding herein of any insurance policy, lease or other contract with Defendant, by any of such parties as aforesaid, other

Handwritten signature
Clerk of Superior Court
Providence & Bristol
Providence, Rhode Island

than the Receiver designated as aforesaid, or the termination of telephone, electric, gas or other utility service to Defendant, by any public utility, without obtaining prior approval thereof from this Honorable Court, in which connection said Receiver shall be entitled to prior notice and an opportunity to be heard, are hereby restrained and enjoined until further Order of this Court.

8. That the Receiver shall report to the Court as directed or as the Receiver deems necessary and advisable prior to the hearing on the Permanent Receiver.

9. That a Citation be issued to said Defendant, returnable to the Superior Court sitting at Providence, Rhode Island on 6/9, 2010, at 9:30 a.m., at which time and place this cause is set down for Hearing on the prayer for the Appointment of a Permanent Receiver; that the Clerk of this Court shall give Notice of the pendency of the Petition herein by publishing this Order Appointing Temporary Receiver once in the Providence Journal on or before 5/26, 2010, and the Receiver shall give further notice by mailing, on or before 6/2, 2010, a copy of said Order Appointing Temporary Receiver to each of Defendant's creditors and other interested parties whose addresses are known or may become known to the Receiver.

10. This Order is entered by virtue of and pursuant to this Court's equity powers and pursuant to its powers as authorized by the laws and statutes of the State of Rhode Island.

ENTERED as an Order of this Court this ___ day of May, 2010.

ENTER:

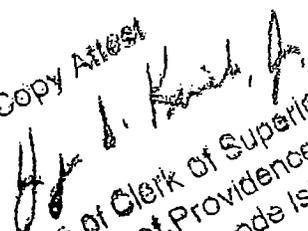


Associate Justice
Silverstein
5/19/10

BY ORDER:



Clerk, Superior Court

True Copy Attest

Office of Clerk of Superior Court
Courthouses of Providence & Bristol
Providence, Rhode Island

State Receivership Act

2010 -- H 8247 SUBSTITUTE A

LC02879/SUB A/3

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

AN ACT

RELATING TO CITIES AND TOWNS -- PROVIDING FINANCIAL STABILITY

Introduced By: Representatives Costantino, Melo, Carter, Giannini, and Gablinske

Date Introduced: June 08, 2010

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-9-1, through 45-9-17 of the General Laws in Chapter 45-9
2 entitled "Budget Commissions" are hereby amended to read as follows:

3 ~~45-9-1. Composition and powers. — If the general assembly at any time vests the~~
4 ~~authority to impose taxes and the authority to spend money in any town or city in a budget~~
5 ~~commission, that commission shall consist of not less than five (5) nor more than fifteen (15)~~
6 ~~electors, of any qualifications and with any powers that the general assembly may prescribe, to be~~
7 ~~elected by the qualified electors of the town or city.~~

8 ~~45-9-2. Town approval for establishment. — No budget commission shall be created for~~
9 ~~a town, as distinguished from a city, unless the electors of the town, in a regularly called financial~~
10 ~~town meeting, notice of the proposition appearing in the call for the meeting, by a majority vote~~
11 ~~of those present and voting, vote to submit the proposition to the electors of the town qualified to~~
12 ~~vote upon any proposition to impose a tax or for the expenditure of money, at the next regular~~
13 ~~election of town officers, and unless the electors at the election by a majority vote of those~~
14 ~~present and voting approve the proposition.~~

15 ~~45-9-3. Budget and Review Commission. — (a) (1) Notwithstanding the provisions of~~
16 ~~sections 45-9-1 and 45-9-2 or any other general or special laws of the state or charter provisions,~~
17 ~~the general assembly vests in the director of the state department of revenue (hereinafter~~
18 ~~"director") the power to authorize, create, and establish a budget and review commission in any~~
19 ~~town or city where the director finds that the town or city's bond rating has been assigned by one~~

1 or more recognized rating agencies to a rating which is below investment grade and there is an
2 imminent threat of default on any or all of its debt obligations.

3 ~~(2) Whereupon the director of revenue shall authorize said budget and review~~
4 ~~commission, to convene specifically to deal with the aforementioned town or city, that shall~~
5 ~~consist of the chief executive officer of the town or city; the president of the town or city council;~~
6 ~~three (3) public members from the affected municipality, at least one of whom shall be qualified~~
7 ~~by training or experience in the fields of finance or accounting, to be appointed by the governor,~~
8 ~~with the advice and consent of the senate; two (2) ex officio state officials who shall be the~~
9 ~~director, or his or her designee from the department of revenue; and one member of the public~~
10 ~~finance management board to be appointed by the governor who, in making his or her~~
11 ~~appointment, shall give due consideration to the recommendation of the chair of the public~~
12 ~~finance management board, with the advice and consent of the senate.~~

13 ~~(3) No one shall be eligible for appointment unless he or she is a resident of this state.~~

14 ~~(4) Where there is no chief executive officer of the town or city, the vice president of the~~
15 ~~town council or city council shall serve on the commission. The director of the state department~~
16 ~~of revenue shall serve as chair of the commission.~~

17 ~~(5) The commission may elect from among its members such other officers as they deem~~
18 ~~necessary.~~

19 ~~(6) Four (4) or more members of the commission shall constitute a quorum and the vote~~
20 ~~of a majority of said quorum at any meeting shall be required for action. No vacancy in the~~
21 ~~membership of the commission shall impair the right of a quorum to exercise all of the rights and~~
22 ~~perform all of the duties of the commission.~~

23 ~~(7) Newly appointed and qualified commission members of the municipality shall,~~
24 ~~within six (6) weeks of their qualification or designation, attend a training course that is~~
25 ~~developed with commission approval and conducted by the chair or his or her designee and shall~~
26 ~~include instruction in the subject area of chapter 9 of this title and chapters 46 of title 42, chapter~~
27 ~~14 of title 36, and chapter 2 of title 38 of Rhode Island general laws; and the commission's rules~~
28 ~~and regulations.~~

29 ~~(8) Public members of the commission shall be removable by the governor pursuant to~~
30 ~~section 36-1-7 for cause only, and removal solely for partisan or personal reasons unrelated to~~
31 ~~capacity or fitness for the office shall be unlawful.~~

32 ~~(9) The powers of the budget and review commission shall be to impose taxes and to~~
33 ~~make appropriations for the expenditure of moneys, for the purpose of adopting a budget and, for~~
34 ~~the purpose of maintaining a balanced budget, the budget and review commission shall make~~

1 ~~reductions or suspensions in the appropriations to any or all departments, offices or other~~
2 ~~agencies of town or city government as will prevent a deficit for the fiscal year. The budget and~~
3 ~~review commission shall be subject to the open meetings and open records law. The budget and~~
4 ~~review commission shall remain in office until that time as the chief executive officer of the town~~
5 ~~or city and the town or city council petitions the director of the state department of revenue to~~
6 ~~disband the budget and review commission.~~

7 ~~(b) (1) The budget and review commission shall commence its work by examining the~~
8 ~~financial and operating condition of the city or town and shall also advise the chief executive~~
9 ~~officer, city or town council and the fiscal officials of the city or town on the formulation of~~
10 ~~adequate budget and budgetary controls.~~

11 ~~(2) Reporting Requirements. — Within ninety (90) days of its being disbanded as~~
12 ~~provided for in section 45-9-3(a)(9), the budget and review commission shall approve and issue a~~
13 ~~report detailing its findings and recommendations. This report shall be submitted to the governor,~~
14 ~~the speaker of the house of representatives, the president of the senate, and the secretary of state~~
15 ~~of its activities during that fiscal year. The report shall provide: an operating statement~~
16 ~~summarizing meetings or hearings held, subjects addressed, decisions rendered, rules or~~
17 ~~regulations promulgated, studies conducted, policies and plans developed, approved, or modified,~~
18 ~~and programs administered or initiated; a consolidated financial statement of all funds received~~
19 ~~and expended including the source of the funds, a listing of any staff supported by these funds,~~
20 ~~and a summary of any clerical, administrative or technical support received; a summary of~~
21 ~~performance during the course of its existence, including accomplishments, shortcomings and~~
22 ~~remedies; a synopsis of hearings, complaints, suspensions, or other legal matters related to the~~
23 ~~authority of the board; a summary of any training courses held pursuant to section 45-9-3(a)(7); a~~
24 ~~briefing on anticipated activities in the upcoming fiscal year; and findings and recommendations~~
25 ~~for improvements. The report shall be posted electronically on the general assembly and the~~
26 ~~secretary of state's websites as prescribed in section 42-20-8.2.~~

27 ~~(3) The examination and report shall be completed and published no sooner than three~~
28 ~~(3) weeks after the formation of the budget and review commission. The commission shall~~
29 ~~exercise any of the powers set forth in this section only after the examination and publication of~~
30 ~~the commission's report.~~

31 45-9-1. Declaration of Policy and Legal Standard. -- It shall be the policy of the state
32 to provide a mechanism for the state to work with cities and towns undergoing financial distress
33 that threatens the fiscal well-being, public safety and welfare of such cities and towns, or other
34 cities and towns or the state, with the state providing varying levels of support and control

1 depending on the circumstances. The powers delegated by the General Assembly in this chapter
2 shall be carried out having due regard for the needs of the citizens of the state and of the city or
3 town, and in such a manner as will best preserve the safety and welfare of citizens of the state and
4 their property, and the access of the state and its municipalities to capital markets, all to the public
5 benefit and good.

6 45-9-2. Definitions. -- As used in this chapter the following words shall, unless the
7 context clearly requires otherwise, have the following meanings:

8 (1) "Budget commission", means the budget and review commission established under
9 sections 45-9-5 and 45-9-6.

10 (2) "Charter", means the home rule charter or the legislative charter of any city or town.

11 (3) "Division of municipal finance", means the division of municipal finance in the
12 department of revenue or any successor department or agency.

13 (4) "Director of revenue", means the director of the department of revenue.

14 (5) "Elected chief executive officer", means in cities and towns having a popularly
15 elected chief executive officer, the popularly elected chief executive officer, and in cities and
16 towns where there is no popularly elected chief executive officer, the president of the city or town
17 council.

18 (6) "Fiscal overseer", means the financial overseer appointed under section 45-9-3.

19 (7) "General Treasurer", means the general treasurer of the state.

20 (8) "Municipal budget", means the fiscal year operating budget of the city or town
21 inclusive of the school department budget and all other departments.

22 (9) "Officer", means the chief administrative and financial officer appointed under
23 section 45-9-10 after abolition of a fiscal overseer or a budget commission or a receiver in a city
24 or town.

25 (10) "Receiver", means the receiver appointed pursuant to sections 45-9-7 or 45-9-8.

26 (11) "School committee", means the school committee of the city or town, but shall not
27 mean or include a regional school district committee.

28 (12) "State Aid", means the funds made available to cities and towns:

29 (i) As state aid pursuant to chapter 45-13 of the general laws, but specifically excluding
30 reimbursements to cities and towns for the cost of state mandates pursuant to section 45-13-9;

31 (ii) As school operations aid provided for in sections 16-7-5 through 16-7-34.3 of the
32 general laws and as school housing aid pursuant to sections 16-7-35 through 16-7-47 of the
33 general laws, but subject to any pledge to bonds issued to finance school projects by the Rhode
34 Island health and educational building corporation;

1 (iii) In replacement of motor vehicle and trailer excise taxes pursuant to chapter 44-34.1
2 of the general laws;

3 (iv) From the public service corporation tax pursuant to chapter 44-13 of the general
4 laws;

5 (v) From the local meal and beverage tax pursuant to section 44-18-18.1 of the general
6 laws and the hotel tax pursuant to section 44-18-36.1 of the general laws; and

7 (vi) Pursuant to all acts supplementing such chapters listed in subdivisions (i) through (v)
8 above or pursuant to any other law hereafter enacted providing for funds to municipalities in lieu
9 of, or in substitution for, or in addition to the funds provided pursuant to acts supplementing such
10 chapters listed in subdivisions (i) through (v);

11 **45-9-3. Appointment and duties of fiscal overseer.** – (a) Upon joint request by a city’s
12 or town’s elected chief executive officer and city or town council, which request is approved by
13 the division of municipal finance and the auditor general, or in absence of such a request, in the
14 event that the director of revenue, in consultation with the auditor general, makes any two (2) or
15 more of the findings set forth in subsection (b), the director of revenue may appoint a fiscal
16 overseer for the city or town to assess the ability of the city or town government to manage the
17 city’s or town’s fiscal challenges.

18 (b) The director of revenue may appoint a fiscal overseer if the director finds in his or her
19 sole discretion that any two (2) of the following events have occurred which are of such a
20 magnitude that they threaten the fiscal well-being of the city or town, diminishing the city or
21 town’s ability to provide for the public safety or welfare of the citizens of the city or town:

22 (1) The city or town projects a deficit in the municipal budget in the current fiscal year
23 and again in the upcoming fiscal year;

24 (2) The city or town has not filed its audits with the auditor general by the deadlines
25 required by law for two (2) successive fiscal years (not including extensions authorized by the
26 auditor general);

27 (3) The city or town has been downgraded by one of the nationally recognized statistical
28 rating organizations;

29 (4) The city or town is otherwise unable to obtain access to credit markets on reasonable
30 terms in the sole judgment of the director of revenue.

31 (5) The city or town does not promptly respond to requests made by the director of
32 revenue, or the auditor general, or the chairpersons of the house and/or senate finance committees
33 for financial information and operating data necessary to assess the fiscal condition of the city or
34 town in the sole judgment of the director of revenue.

1 (c) The director of revenue may also appoint a fiscal overseer if a city or town fails to
2 comply with the requirements of sections 45-12-22.1 – 45-12-22.5 of the general laws.

3 (d) The fiscal overseer shall without limitation:

4 (1) Recommend to the elected chief executive officer, city or town council and school
5 committee sound fiscal policies for implementation;

6 (2) Supervise all financial services and activities;

7 (3) Advise the assessors, director of finance, city or town treasurer, purchasing agent and
8 employees performing similar duties but with different titles;

9 (4) Provide assistance in all matters related to municipal financial affairs;

10 (5) Assist in development and preparation of the municipal budget, all department
11 budgets and spending plans;

12 (6) Review all proposed contracts and obligations;

13 (7) Monitor the expenditures of all funds;

14 (8) Approve the annual or supplemental municipal budgets of the city or town and all of
15 its departments; and

16 (9) Report monthly to the director of revenue, the auditor general, the governor and the
17 chairpersons of the house finance and senate finance committees on the progress made towards
18 reducing the municipality's deficit and otherwise attaining fiscal stability.

19 (e) All department budgets and requests for municipal budget transfers shall be submitted
20 to the fiscal overseer for review and approval.

21 (f) The city or town shall annually appropriate amounts sufficient for the proper
22 administration of the fiscal overseer and staff, as determined in writing by the division of
23 municipal finance. If the city or town fails to appropriate such amounts, the division of municipal
24 finance shall direct the general treasurer to deduct the necessary funds from the city's or town's
25 distribution of state aid and shall expend those funds directly for the benefit of the fiscal overseer
26 and staff.

27 (g) Within one hundred twenty (120) days of being appointed by the director of revenue,
28 the fiscal overseer shall develop a three (3)-year operating and capital financial plan to achieve
29 fiscal stability in the city or town. The plan shall include a preliminary analysis of the city's or
30 town's financial situation and the fiscal overseer's initial recommendations to immediately begin
31 to address the city's or town's operating and structural deficits. The fiscal overseer shall have the
32 power to compel operational, performance or forensic audits, or any other similar assessments.
33 The fiscal overseer shall have the power, at the expense of the city or town, to employ, retain,
34 supervise such managerial, professional and clerical staff as are necessary to carry out the

1 responsibility of fiscal overseer, subject to the approval of the division of municipal finance;
2 provided, however, that the fiscal overseer shall not be subject to chapter 37-2 of chapter 45-55 of
3 the general laws in employing such staff.

4 **45-9-4. Approval of tax levy. – A city or town which is subject to the jurisdiction of a**
5 **fiscal overseer, or a budget commission may not levy property taxes or motor vehicle excise taxes**
6 **without prior approval of the division of municipal finance. Before the city or town which is**
7 **subject to the jurisdiction of a fiscal overseer, or a budget commission shall send out tax bills, the**
8 **city or town shall submit to the division of municipal finance a copy of its adopted municipal**
9 **budget and such supporting revenue and expenditure information as the division of municipal**
10 **finance shall prescribe for the succeeding fiscal year. The adopted municipal budget and such**
11 **supporting revenue and expenditure information as the division of municipal finance may**
12 **prescribe, shall be submitted to the division of municipal finance no later than ten (10) days after**
13 **the adoption of the budget. The division of municipal finance shall ascertain whether the budget**
14 **for that fiscal year contains reasonable revenues from taxation and other sources to meet the**
15 **appropriations and other amounts required by law to be raised, and the division of municipal**
16 **finance shall report its conclusion to the director of revenue. If the director of revenue determines**
17 **that the municipal budget as presented does not contain reasonable revenues from taxation and**
18 **other sources to meet appropriations and other amounts required by law to be raised, the director**
19 **of revenue shall certify this determination in writing and provide notice of the determination with**
20 **a copy of the certificate to the auditor general, the governor and the chairpersons of the house and**
21 **senate finance committees; and notify the city or town that its tax levy has not been approved and**
22 **that the city or town is not authorized to mail or otherwise transmit tax bills to city or town**
23 **taxpayers. If the director of revenue has made the foregoing determination, the city or town shall**
24 **prepare a revised budget for review and approval by the director of revenue.**

25 The city or town shall submit the reports required by section 45-12-22.2 to the director of
26 revenue, the division of municipal finance, the auditor general, the governor and the chairpersons
27 of the house and senate finance committees.

28 The director of revenue may waive any reporting or filing requirements contained in this
29 section.

30 **45-9-5. Reports of fiscal overseer and appointment of budget and review**
31 **commission. – (a) The fiscal overseer shall report in writing to the division of municipal finance**
32 **if the fiscal overseer concludes that the city or town: (1) Is unable to present a balanced**
33 **municipal budget; (2) Faces a fiscal crisis that poses an imminent danger to the safety of the**
34 **citizens of the city or town or their property; (3) Will not achieve fiscal stability without the**

1 assistance of a budget commission; or (4) That the tax levy of the fiscal year should not be
2 approved.

3 (b) If the fiscal overseer believes, at any time, that a budget commission should be
4 appointed, the fiscal overseer may report that belief to the division of municipal finance.

5 (c) If the fiscal overseer reports to the division of municipal finance under subsections (a)
6 or (b), the director of revenue may immediately abolish the fiscal overseer and appoint a budget
7 commission.

8 (d) A budget commission shall have all of the powers and duties set forth in sections 45-
9 9-3 and 45-9-6.

10 (e) If a budget commission has not been appointed and if the division of municipal
11 finance determines that the city or town has taken steps necessary to achieve long-term fiscal
12 sustainability and no longer requires active state oversight, the director of revenue may abolish
13 the fiscal overseer.

14 (f) If the division of municipal finance notifies the director of revenue in writing that the
15 city or town is unable to achieve a balanced municipal budget, then the director of revenue shall
16 establish a budget commission.

17 (g) Upon joint request by a city's or town's elected chief executive officer and city or
18 town council, which request is approved by the division of municipal finance, the director of
19 revenue, in consultation with the auditor general, may establish a budget commission for such
20 city or town.

21 **45-9-6. Composition of budget commission.** – (a) If a budget commission is established
22 under section 45-9-5 or section 45-12-22.7, it shall consist of five (5) members: three (3) of
23 whom shall be designees of the director of revenue, one of whom shall be the elected chief
24 executive officer of the city and one of whom shall be the president of the city or town council.
25 In cities or towns in which the elected chief executive officer for purposes of this chapter is the
26 president of the city or town council, one member shall be the appointed city or town manager or
27 town administrator (or, if none, the city or town chief financial officer) as the fifth (5th) member.
28 The budget commission shall act by a majority vote of all its members. The budget commission
29 shall initiate and assure the implementation of appropriate measures to secure the financial
30 stability of the city or town. The budget commission shall continue in existence until the director
31 of revenue abolishes it.

32 The budget commission shall be subject to chapter 36-2 of the general laws, "Access to
33 Public Records," and chapter 36-14 of the general laws, "Code of Ethics". The budget
34 commission shall be subject to chapter 42-46 of the general laws "Open Meetings" when meeting

1 to take action on the following matters:

2 (1) Levy and assessment of taxes;

3 (2) Rulemaking or suspension of rules;

4 (3) Adoption of a municipal budget;

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

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

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

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

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

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

25 (2) Implement and maintain uniform budget guidelines and procedures for all
26 departments;

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

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

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

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

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

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

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

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

29 (11) Reorganize, consolidate or abolish departments, commissions, authorities, boards,
30 offices or functions of the city or town, in whole or in part, and to establish such new
31 departments, commissions, authorities, boards, offices or functions as it deems necessary, and to
32 transfer the duties, powers, functions and appropriations of one department, commission, board,
33 office or other unit to another department, commission, authority, board or office and in
34 connection therewith remove and appoint new members for any such commission, authority,

1 board or department which appointees shall serve the remainder of any unexpired term of their
2 predecessor;

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

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

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

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

11 (16) Adopt rules and regulations governing the operation and administration of the city or
12 town which permit the budget commission to effectively carry out this chapter under subsection
13 42-35-3(b) of the general laws;

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

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

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

1 authorized under authority of this chapter shall be executed on behalf of the city or town by a
2 member of the commission and, except as provided for in this chapter, may be subject to the
3 provisions of chapter 45-12 of the general laws so far as apt. or may be subject to the provisions
4 of any special bond act enacted authorizing the issuance of bonds of a city or town so far as apt,
5 provided, however that any bonds or notes issued for school purposes must be approved by the
6 general assembly in order to qualify for school housing aid as set forth in chapter 16-7 of the
7 general laws; and

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

13 **45-9-7. Appointment of Receiver.** – (a) If the budget commission established by section
14 45-9-5 concludes that its powers are insufficient to restore fiscal stability to the city or town, it
15 shall so notify the director of revenue, and shall forward to the director of revenue a statement of
16 the reasons why it has been unable to restore fiscal stability to the city or town. Upon receipt of
17 such statement, the director of revenue shall terminate the existence of the budget commission,
18 notwithstanding section 45-9-5, and the director of revenue shall appoint a receiver for the city or
19 town for a period as the director of revenue may determine. The director of revenue may, at any
20 time, and without cause, remove the receiver and appoint a successor, or terminate the
21 receivership.

22 (b) The receiver shall have the following powers:

23 (1) All powers of the fiscal overseer and budget commission under sections 45-9-2 and
24 45-9-6. Such powers shall remain through the period of any receivership;

25 (2) The power to exercise any function or power of any municipal officer or employee,
26 board, authority or commission, whether elected or otherwise relating to or impacting the fiscal
27 stability of the city or town including, without limitation, school and zoning matters; and

28 (3) The power to file a petition in the name of the city or town under Chapter 9 of Title
29 11 of the United States Code, and to act on the city's or town's behalf in any such proceeding.

30 (c) Upon the appointment of a receiver, the receiver shall have the right to exercise the
31 powers of the elected officials under the general laws, special laws and the city or town charter
32 and ordinances relating to or impacting the fiscal stability of the city or town including, without
33 limitation, school and zoning matters; provided, further, that the powers of the receiver shall be
34 superior to and supersede the powers of the elected officials of the city or town shall continue to

1 be elected in accordance with the city or town charter, and shall serve in an advisory capacity to
2 the receiver.

3 The director of revenue shall determine the salary of the receiver, which salary shall be
4 payable by the city or town.

5 **45-9-8. Appointment of receiver in a fiscal emergency.** – In the event the director of
6 revenue determines, in consultation with the auditor general, that a city or town is facing a fiscal
7 emergency and that circumstances do not allow for appointment of a fiscal overseer or a budget
8 commission prior to the appointment of a receiver, the director of revenue may appoint a receiver
9 without having first appointed a fiscal overseer or a budget commission.

10 **45-9-9. Collective bargaining agreements.** – Notwithstanding chapter 28-7 of the
11 general laws or any other general or special law or any charter or local ordinance to the contrary,
12 new collective bargaining agreements and any amendments to new or existing collective
13 bargaining agreements (collectively, “collective bargaining agreements”) entered into by the city
14 or town or the school department shall be subject to the approval of the fiscal overseer, budget
15 commission or receiver if the fiscal overseer, budget commission or receiver is in effect at the
16 time. No collective bargaining agreement shall be approved under this section unless the fiscal
17 overseer, budget commission or receiver has participated in the negotiation of the collective
18 bargaining agreement and provides written certification to the director of revenue that after an
19 evaluation of all pertinent financial information reasonably available, the city’s or town’s
20 financial resources and revenues are, and will continue to be, adequate to support such collective
21 bargaining agreement without a detrimental impact on the provision of municipal services. A
22 decision, by the fiscal overseer, budget commission or receiver, to disapprove of a collective
23 bargaining agreement under this section shall be made in a report to the parties; provided,
24 however, that the report shall specify the disapproved portions of the agreement and the
25 supporting reasons for the disapproval. This section shall not be construed to authorize a fiscal
26 overseer, a budget commission or a receiver under this chapter to reject or alter any existing
27 collective bargaining agreement, unless by agreement, during the term of such collective
28 bargaining agreement.

29 **45-9-10. Appointment of administration and finance officer upon abolition of fiscal**
30 **overseer, budget commission or receiver.** – (a) Notwithstanding any general or special law or
31 city or town ordinance to the contrary, this section shall apply upon abolition of the fiscal
32 overseer or a budget commission or a receiver established under this chapter, upon a
33 determination, in writing, by the director of revenue that the financial condition of the city or
34 town has improved to a level such that a fiscal overseer, a budget commission or a receiver is no

1 longer needed.

2 (b) For a period of five (5) years after the abolition of a fiscal overseer, or a budget
3 commission or a receiver in any city or town, there shall be in the city or town a department of
4 administration and finance which shall be responsible for the overall budgetary and financial
5 administration of the city or town. The department shall be under the direction and control of the
6 officer appointed pursuant to subsection (c) below. The officer shall report to and be under the
7 charge and direction of the elected chief executive officer. Nothing in this section shall abrogate
8 the powers and duties of the school committee under any general or special law, except as
9 specifically provided in this section.

10 Whenever the term "department of finance" or "finance department" appears in a general
11 or special law or an ordinance, regulation, contract or other document with reference to the city or
12 town, it shall mean the department of administration and finance of the city or town. Whenever
13 the term "chief financial officer", "director of finance", "financial director" or "treasurer" appears
14 in a general or special law or an ordinance, regulation, contract or other document with reference
15 to the city or town, it shall mean the officer of the city or town.

16 (c) The elected chief executive officer shall appoint the officer from a list of three (3)
17 names submitted by the division of municipal finance, for a term of not more than five (5) years,
18 as provided in this subsection. The officer shall be appointed solely on the basis of administrative
19 and executive qualifications and shall be a person especially fitted by education, training and
20 experience to perform the duties of the office. The officer need not be a resident of the city or
21 town or the state. In the event of a vacancy in the office of officer the same process will be used.

22 (d) While the process of appointing an officer under subsection (c) is proceeding, the
23 elected chief executive officer may appoint an acting officer.

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

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

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

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

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

34 (4) Implementing and maintaining uniform financial data processing capabilities for all

1 departments, boards, commissions, agencies and offices;

2 (5) Supervising all financial data processing activities;

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

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

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

8 (9) Monitoring the expenditure of all city or town funds, including periodic reporting by
9 and to appropriate agencies of the status of accounts;

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

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

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

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

1 the certification of the officer shall be expressly noted in that order or vote.

2 (h) All departments, officers, boards, commissions, agencies and other units of the city or
3 town, shall submit budget requests to the elected chief executive officer upon the schedule and in
4 the form established by the officer.

5 (i) Annually, not later than March 30, the officer shall submit a four (4)-year financial
6 plan and a five (5)-year capital plan to the city or town council that includes all capital needs of
7 the city or town.

8 (j) The assessor, treasurer, finance director, controller, director of information
9 technology, purchasing agent, director of human resources, labor relations director and employees
10 performing similar duties but with different titles shall report to and be under the direction of the
11 officer. The officer, with the approval of the elected chief executive officer shall appoint all such
12 officers and employees. The elected chief executive officer may also place other positions and
13 departments under the direction of the officer.

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

17 (l) The city or town shall annually appropriate amounts sufficient for the proper
18 administration of the department, as determined in writing by the division of municipal finance.
19 If the city or town fails to appropriate such amounts, the division of municipal finance shall direct
20 the general treasurer to deduct the necessary funds from the city's or town's distribution of the
21 city's or town's state aid and shall expend those funds directly for the benefit of the department.

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

33 **45-9-11. Expenditures in excess of appropriations prohibited.** – (a) No official of a
34 city or town which is subject to the jurisdiction of a fiscal overseer, budget commission or

1 receiver, except in the case of an emergency involving the health and safety of the people or the
2 people's property declared by the city or town council, shall knowingly expend or cause to be
3 expended in any fiscal year any sum in excess of that official's departmental or other
4 governmental unit's appropriation duly made in accordance with the law, nor commit the city or
5 town, nor cause it to be committed, to any obligation for the future payment of money in excess
6 of that appropriation, with the exception of court judgments.

7 (b) An official who intentionally violates this section shall be personally liable to the city
8 or town for any amounts expended in excess of an appropriation to the extent that the city or town
9 does not recover such amounts from the person or persons to whom such amounts were paid and
10 shall not be indemnified by the city or town for any such amounts. The superior court shall have
11 jurisdiction to adjudicate claims brought by the city or town, or on the city's or town's behalf by a
12 budget commission established under this chapter, and to order relief that the court finds
13 appropriate to prevent further violations of this section. A violation of this section shall be
14 sufficient cause for removal.

15 (c) For the purposes of this section, the word "official" shall mean a city or town
16 department head, permanent, temporary or acting, including the superintendent of schools, and all
17 members of municipal boards, committees, including the school committee, and commissions
18 which recommend, authorize or approve the expenditure of funds, and the word "emergency"
19 shall mean a major disaster, including, but not limited to, flood, drought, fire, hurricane,
20 earthquake, storm or other catastrophe, whether natural or otherwise, which poses an unexpected
21 and immediate threat to the health and safety of persons or property.

22 **45-9-12. Conflicts with other laws.** – Notwithstanding any general or special law to the
23 contrary, unless otherwise specified, the provisions of this chapter shall supersede any conflicting
24 provisions of the city's or town's charter or local ordinance.

25 **45-9-13. Other state receivership laws inapplicable.** – No city or town shall be placed
26 into, or made subject to, either voluntarily, or involuntarily, a judicial receivership proceeding.

27 **45-9-14. No state guarantee.** – Nothing in this chapter shall be construed to pledge the
28 credit and assets of the state to pay the obligations or indebtedness, including, bonded
29 indebtedness, of any municipality.

30 **45-9-15. Inconsistent provisions.** – Insofar as the provisions of this chapter are
31 inconsistent with the provisions of any charter or other laws or ordinances, general, special, or
32 local, or of any rule or regulation of the state or any municipality, the provisions of this chapter
33 are controlling.

1 45-9-16. Liberal construction. -- This chapter being necessary for the welfare of the
2 state and its inhabitants shall be liberally construed in order to effectuate its purposes.

3 45-9-17. Severability. -- The provisions of this chapter are severable, and if any of its
4 provisions are held unconstitutional or invalid for any other reason by any court of competent
5 jurisdiction, the decision of the court shall not affect or impair any of the remaining provisions. In
6 carrying out the purposes and provisions of this chapter, all steps shall be taken which are
7 necessary to meet constitutional requirements whether or not the steps are required by this
8 chapter.

9 SECTION 2. Section 45-12-22.7 of the General Laws in Chapter 45-12 entitled
10 "Indebtedness of Towns and Cities" is hereby amended to read as follows:

11 45-12-22.7. Enforcement and remedies. -- In the event that a municipality does not
12 comply with the requirements of this law the state auditor general or the division ~~of property~~
13 ~~valuation of municipal finance~~ through the director of revenue may elect any or all of the
14 following remedies:

15 (1) Petition the superior court for mandatory injunctive relief seeking compliance with
16 the provisions of this section. The superior court shall make a finding of fact as to whether there
17 has been compliance with the provisions of this section. As herein before stated, the approval or
18 disapproval of a plan shall be conclusive upon the court in making its finding as to compliance.

19 (2) In the event a municipality fails to provide a year-end deficit elimination plan under
20 section 45-12-22.3, such noncompliance shall allow for the implementation of a ~~financial budget~~
21 review commission pursuant to section ~~45-9-3~~ 45-9-5.

22 (3) Withholding of state aid. In the event that the state director of revenue with the
23 concurrence of the auditor general elect to withhold state aid, said amounts shall be placed in a
24 special account within the general fund. At such time the municipality comes into compliance
25 with the reporting requirements of this section, said funds shall be released to the municipality by
26 order of the state director of revenue and state auditor general.

27 SECTION 3. Chapter 45-12 of the General Laws entitled "Indebtedness of Cities and
28 Towns" is hereby amended by adding the following section:

29 45-12-32. Inability to pay interest or principal of bonds, notes or certificates of
30 indebtedness; notice; certification to general treasurer; payment by general treasurer. -- (a)
31 If it appears to the treasurer or finance director of a city, town or district, including a regional
32 school district, that the city, town or district is, or is likely to be, unable to pay in whole or in part
33 the principal or interest, or both, on any of its bonds, notes or certificates of indebtedness when
34 due, the treasurer or finance director shall forthwith notify the city manager, town manager, town

1 administrator or mayor, the city council or town council, the regional district school committee in
2 a regional school district, or the board of any other type of district, of the inability or likely
3 inability. If the city manager, town manager, town administrator, mayor, town council or city
4 council, committee or board, whether or not so notified, finds upon investigation that the payment
5 cannot or is not likely to be made when due, he, she or they shall certify the inability or likely
6 inability to the director of revenue. Upon receipt of the certificate, the director of revenue shall
7 immediately investigate the circumstances and, if the director finds that the city, town or district
8 is, or in the director's opinion will be, unable to make the payment when due, the director shall
9 forthwith certify the inability, the amount of the due or overdue payment and the name of the
10 paying agent for the bonds, notes or certificates of indebtedness to the general treasurer.

11 (b) Notwithstanding any provision of general or special law or any rules or regulations
12 with respect to the timing of payment of state aid payments, not later than three (3) days after
13 receipt of the certification from the director of revenue or one business day prior to the date on
14 which the principal or interest, or both, becomes due, whichever is later, the general treasurer
15 shall pay to the paying agent the amount of the due or overdue payment certified to him/her to the
16 extent of the sums otherwise then payable and the sums estimated to become payable during the
17 remainder of the fiscal year, from the treasury, to the city, town or district.

18 (c) The amounts so paid to the paying agent shall be in trust and shall be exempt from
19 being levied upon, taken, sequestered or applied for any purpose other than paying principal or
20 interest, or both, on bonds, notes or certificates of indebtedness of the city, town or district.

21 (d) Any amounts paid by the general treasurer under the provisions of this section,
22 together with all costs accruing to the state as a result of actions undertaken pursuant to this
23 section, including administrative costs as well as loss of interest income, shall be charged against
24 the amounts otherwise payable or becoming payable from the treasury to the city, town or district.

25 (e) For purposes of this section, the sums otherwise payable from the treasury to a city or
26 town shall be the funds made available to cities and towns:

27 (1) As state aid pursuant to chapter 45-13 of the general laws, but specifically excluding
28 reimbursements to cities and towns for the cost of state mandates pursuant to section 45-13-9;

29 (2) As school housing aid pursuant to sections 16-7-35 through 16-7-47 of the general
30 laws, but subject to any pledge to bonds issued to finance school projects by the Rhode Island
31 health and educational building corporation, and specifically excluding school operations aid
32 provided for in sections 16-7-15 through 17-7-34.3 of the general laws;

33 (3) In replacement of motor vehicle and trailer excise taxes pursuant to chapter 44-34.1 of
34 the general laws;

1 (4) From the public service corporation tax pursuant to chapter 44-13 of the general laws;
2 and
3 (5) From the local meal and beverage tax pursuant to section 44-18-18.1 and the hotel tax
4 pursuant to section 44-18-36.1; and
5 (6) Pursuant to all acts supplementing such chapters listed in subdivisions (1) through (5)
6 above or pursuant to any other law hereafter enacted providing for funds to municipalities in lieu
7 of or in substitution for the funds provided pursuant to acts supplementing such chapters listed in
8 (1) through (5).

9 SECTION 4. This act shall take effect upon passage and shall apply retroactively to May
10 15, 2010.

11 Notwithstanding sections 45-9-13 and any other provisions of this act, in order to ensure
12 an orderly transition, the superior court shall have limited jurisdiction to ratify the actions taken
13 by a receiver prior to the date of enactment of this legislation at the request of the director of
14 revenue, and to take such further actions as may be necessary to ensure an orderly transition.

=====
LC02879/SUB A/3
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CITIES AND TOWNS -- PROVIDING FINANCIAL STABILITY

1 This act would provide a mechanism for the state to work with cities and towns
2 undergoing financial distress that threatens the fiscal well-being, public safety and welfare of
3 such cities and towns, or other cities and towns or the state, with the state providing varying
4 levels of support and control depending on the circumstances.

5 This act would take effect upon passage and would apply retroactively to May 15, 2010.

6 In order to ensure an orderly transition, the superior court shall have the jurisdiction to
7 ratify the actions taken by a receiver prior to the date of enactment of this legislation at the
8 request of the director of revenue, and to take such further actions as may be necessary to ensure
9 an orderly transition.

=====
LC02879/SUB A/3
=====

**Resolution of City Council and Mayor Consenting
to Transfer from Judicial to State Receivership**



IN SUPPORT OF TRANSITIONING THE SUPERIOR COURT RECEIVERSHIP
TO STATE DEPARTMENT OF REVENUE RECEIVERSHIP

WHEREAS: On May 19, 2010, the Mayor and City Council commenced a Superior Court Receivership action, and on that date a Temporary Receiver for the City was appointed; and

WHEREAS: City leaders were forced to take this action due to fiscal insolvency as a result of revenue shortfalls, state budget cuts, along with collective bargaining agreements and pension obligations it cannot afford; and

WHEREAS: On June 11, 2010, the Governor signed into law "An Act Relating to City Act Relating to Cities and Towns - Providing Financial Stability," which provides for a Receivership overseen by the State Department of Revenue; and

WHEREAS: The State Receiver, with the power to petition the City into Chapter 9 bankruptcy, would possess essentially the same powers as the Superior Court Receiver.

NOW, THEREFORE, be it resolved that the Central Falls City Council does hereby join the Mayor in authorizing a Consent Order dismissing the pending Superior Court action with prejudice after transitioning the Receivership from Superior Court to the State Department of Revenue.

Submitted by Councilman William Benson, Jr.

Approved: June 17, 2010

Marie A. Twohey
Marie A. Twohey, CMC
City Clerk

William Benson, Jr.
William Benson, Jr.
City Council President

**Consent Order Transferring from Judicial to State
Receivership**

actions as may be necessary to ensure an orderly transition to a non-judicial receiver.

- 4) During the Transition Period, Paragraphs 1-8 of the Order Appointing Temporary Receiver shall remain in full force and effect.
- 5) During the Transition Period, the Temporary Receiver shall report to the Director of Revenue or her designee as and when reasonably requested by the Director of Revenue or her designee. The Temporary Receiver shall seek the Director of Revenue's or her designee's approval of all non-administrative actions that the Temporary Receiver plans to take. In the event that during the Transition Period a dispute arises between the Temporary Receiver and the Director of Revenue, the Temporary Receiver and counsel to the Director of Revenue shall bring the matter before the Court for resolution.
- 6) The Transition Period shall terminate immediately upon (a) the filing by the State of Rhode Island of a "Notice of Termination of Transition Period," with the Court, and (b) the simultaneous appointment by the Director of Revenue of a non-judicial Receiver for the City of Central Falls pursuant to the terms of the Act.
- 7) Within fourteen (14) days after the filing of a Notice of Termination of Transition Period, the Temporary Receiver shall file a Final Report and Request for Fees (the "Final Report") with the Court in accordance with the customary form and practice in receivership matters.
- 8) After the Court enters judgment approving the Final Report, the case shall be dismissed but, for a period of ninety (90) days from the date of such entry of

True Copy Attest

John S. Kenick, Jr.

Office of Clerk of Superior Court
Counties of Providence & Bristol
Providence, Rhode Island

judgment, the Court shall retain continuing jurisdiction to resolve any transitional issues.

CHARLES D. MOREAU in his capacity as
MAYOR OF CENTAL FALLS

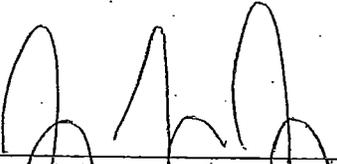
STATE OF RHODE ISLAND

and

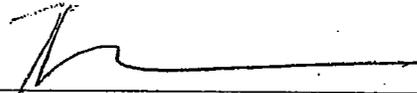
CENTRAL FALLS CITY COUNCIL

by Special Counsel,

by its Attorney,



Joseph S. Larisa, Jr., Esq.
Larisa Law and Consulting
55 Dorrance St., Suite 301B
Providence, RI 02903
(401) 743-4700
(401) 633-6296 (fax)
joe@larisalaw.com

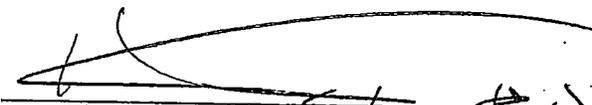
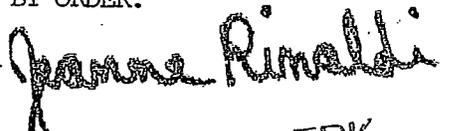


Theodore Orson, Esq. (No. 3874)
Orson and Brusini Ltd.
325 Angell Street
Providence, RI 02906
(401) 223-2100
(401) 861-3103 (fax)
torson@orsonandbrusini.com

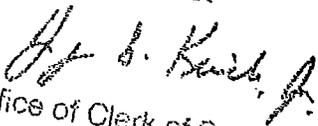
DATED: June 18, 2010

ENTER:

BY ORDER:


Associate Justice *Silverstein*
Dated: *6/18/10*
Jeanne Rinaldi
~~Clerk, Superior Court~~
DEPUTY CLERK
6-18-10

True Copy Attest



Office of Clerk of Superior Court
Counties of Providence & Bristol
Providence, Rhode Island

CERTIFICATE OF SERVICE

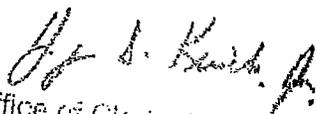
The undersigned hereby certifies that on the 18th day of June, 2010, he caused a true copy of the Consent Order to be served on the following parties by email:

Jon Savage, Esq. at jsavage@shlawri.com
Mark Gursky, Esq. at rilaborlaw@aol.com
Joseph F. Penza, Jr. Esq. at JFP@olenn-penza.com
John T. Gannon, Esq. at jack@mccorryandgannon.com
Joseph S. Larissa, Jr., Esq. at joe.larisa@verizon.net and joe@larisalaw.com
Ed Pare, Esq. at epare@brownrudnick.com
William Baldiga, Esq. at wbaldiga@brownrudnick.com
Gerald Coyne, Esq. at GCoyne@riag.ri.gov
Stephen Izzi, Esq. at sizzi@mosesafonso.com
Kenneth DeLorenzo at kdelorenzo@ricouncil.org
Stephen DelSesto, Esq. at sdelsesto@@shlawri.com



Theodore Orson, Esq. No. 3871

True Copy; Attest



Office of Clerk of Superior Court
Counties of Providence & Bristol
Providence, Rhode Island

Appointment of State Receiver



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF REVENUE

Rosemary Booth Gallogly, Acting Director
One Capitol Hill
Providence, RI 02908-5890

Office: (401) 222-2280
Fax: (401) 222-6436

July 16, 2010

The Honorable Mark A. Pfeiffer
86 State Street
Bristol, RI 02806

Re: Appointment as Receiver of the City of Central Falls

Dear Mr. Pfeiffer:

As the Acting Director of Revenue I have determined, in consultation with the Auditor General, that the City of Central Falls is facing a fiscal emergency and that circumstances do not allow for appointment of a fiscal overseer or a budget commission prior to the appointment of a receiver. Therefore, pursuant to R.I. Gen. Laws § 45-9-8, I hereby appoint you as non-judicial receiver of the City of Central Falls with all of the powers enumerated under *inter alia* R.I. Gen. Laws § 45-9-6 (d) and §45-9-7 (b) and (c). This appointment shall continue so long as mutually agreeable to the parties.

I look forward to working with you as receiver and thank you for agreeing to serve in this important capacity.

Sincerely,

Rosemary Booth Gallogly
Acting Director of Revenue

**State Receiver's Letter to Mayor Advising Him of
Advisory Status**

STATE OF RHODE ISLAND
CITY OF CENTRAL FALLS

OFFICE OF THE RECEIVER

580 BROAD STREET
CENTRAL FALLS, RI 02863

OFFICE: (401) 727-7400

July 19, 2010

VIA HAND DELIVERY

The Honorable Charles D. Moreau
Mayor of the City of Central Falls
Central Falls City Hall
580 Broad Street, 2nd Floor
Central Falls, RI 02863

Dear Mayor Moreau:

On July 16, 2010, I was appointed as the non-judicial receiver of the City of Central Falls (the "City") by the State of Rhode Island Director of Revenue pursuant to R.I. Gen. Laws §45-9-8 (Appointment of the Receiver in a Fiscal Emergency). R.I. Gen. Laws §45-9-7 provides the receiver with "the right to exercise the powers of the elected officials" of a municipality and that the "powers of the receiver shall be superior to and supersede the powers of the elected officials". That statute further provides that the elected officials of the city or town "shall serve in an advisory capacity to the receiver".

Effective immediately, I have assumed the duties and functions of the Office of Mayor. As a result of my role, your responsibility will be limited to serving in an advisory capacity, on such occasions as my office may seek input from you. Accordingly, pursuant to R.I. Gen. Laws §45-9-6(d)(g) your compensation will be reduced to \$1,000.00 bi-weekly effective today. These arrangements will remain in effect until such time as they may be modified by me.

You will be entitled to continue to receive the same health insurance benefits that you were receiving prior to the date of this letter. All other benefits and perquisites will terminate as of the date of this letter, specifically including but not limited to any vehicles, cell phones, and computers that may have been provided to you by or on behalf of the City and you are requested to immediately remit these items. You should contact my assistant, Christy Healey at 401-727-7400 to make arrangements to have your personal belongings delivered or otherwise made available to you.

Please note that during the course of your service to the City, you may have acquired information relating to the City's practices and operations, finances, and other confidential or proprietary information contained in various sources, whether print, electronic, or otherwise and further including any information not generally available to the public regarding the City (the "Confidential Information"). Please also note that without the undersigned's prior written authorization on behalf of the City, you may

neither use yourself nor for the benefit of another, nor disclose, any of the Confidential Information to any person or entity for any reason.

I look forward to your cooperation.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'M. Pfeiffer', with a long, sweeping horizontal line extending to the right.

Mark A. Pfeiffer,
Solely in His Capacity as the
Receiver of the City of Central Falls
and Not Individually

**Letter to Human Resource Director Advising Him
of Layoff**

STATE OF RHODE ISLAND
CITY OF CENTRAL FALLS

OFFICE OF THE RECEIVER

580 BROAD STREET
CENTRAL FALLS, RI 02863

OFFICE: (401) 727-7400

July 19, 2010

VIA HAND DELIVERY

Gene Noury
Director of Central Falls Personnel Department
Central Falls City Hall
580 Broad Street, 1st Floor
Central Falls, RI 02863

Dear Mr. Noury:

On July 16, 2010, I was appointed as the non-judicial receiver of the City of Central Falls (the "City") by the State of Rhode Island Director of Revenue pursuant to R.I. Gen. Laws §45-9-8. R.I. Gen. Laws §45-9-7 provides the receiver with "the right to exercise the powers of the elected officials" of a municipality. After consultation with the temporary receiver, and because I am bringing in outside staff to provide assistance, I have determined that your services are no longer required.

This letter serves as confirmation that you have been relieved of all duties associated with your position with the City effective immediately. Your employment with the City will terminate effective July 23, 2010, and you will be paid through this date, however you should not report for duty. All perquisites will terminate effective immediately, specifically but not limited to any vehicles, cell phones, and computers that may have been provided to you by or on behalf of the City. You should contact my assistant, Christy Healey at 727-7400 to make arrangements to have your personal belongings delivered or otherwise made available to you.

Please note that during the course of your employment with the City, you may have acquired information relating to the City's practices and operations, finances, and other confidential or proprietary information contained in various sources, whether print, electronic, or otherwise, and further including any other information not generally available to the public regarding the City (the "Confidential Information"). Please also note that without the undersigned's prior written authorization on behalf of the City, you may neither use for yourself nor for the benefit of another, nor disclose, any of the Confidential Information to any person or entity for any reason.

The City appreciates the services that you have provided and wishes you the best of luck in your future endeavors.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Pfeiffer', with a long horizontal flourish extending to the right.

Mark A. Pfeiffer,
Solely in His Capacity as the
Receiver of the City of Central Falls
and Not Individually

Letter Designating Chief of Staff

STATE OF RHODE ISLAND
CITY OF CENTRAL FALLS

OFFICE OF THE RECEIVER

580 BROAD STREET
CENTRAL FALLS, RI 02863

OFFICE: (401) 727-7400

July 16, 2010

Christy Healey
88 Amy Drive
Cranston, RI 02921

Dear Ms. Healey:

On July 16, 2010, I was appointed as the non-judicial receiver of the City of Central Falls (the "City") by the State of Rhode Island Director of the Department of Revenue pursuant to R.I. Gen. Laws §45-9-8 (Appointment of the Receiver in a Fiscal Emergency). R.I. Gen. Laws §45-9-7 provides the receiver with "the right to exercise the powers of the elected officials" of a municipality. Effective July 18, 2010 you will be reporting to me in my capacity as the Receiver of the City of Central Falls and are authorized to act on my behalf on all matters as it relates to this capacity.

I look forward to your cooperation.

Very Truly Yours,



Mark A. Pfeiffer,
Solely in His Capacity as the
Receiver of the City of Central Falls
and Not Individually

**Letter to City Council President Advising of State
Receivership**

STATE OF RHODE ISLAND
CITY OF CENTRAL FALLS

OFFICE OF THE RECEIVER

580 BROAD STREET
CENTRAL FALLS, RI 02863

OFFICE: (401) 727-7400

July 16, 2010

The Honorable William Benson, Jr.
City Council President, City of Central Falls
Central Falls City Hall
580 Broad Street
Central Falls, RI 02863

Re: Non-Judicial Receivership of the City of Central Falls

Dear President Benson:

On July 16, 2010, I was appointed as the non-judicial receiver of the City of Central Falls (the "City") by the State of Rhode Island Director of Revenue pursuant to the terms of R.I. Gen. Laws §45-9-8. Due to this appointment, Mayor Moreau will no longer be exercising the powers or duties of mayor, but I may be consulting with him from time to time in an advisory capacity.

As I am sure you are aware, the challenges facing Central Falls are extremely daunting. Nevertheless, we have put together a highly professional and experienced team to work aggressively towards returning the city to fiscal health. In this regard, I would like to schedule a meeting initially with you, and later with the entire City Council, so that we can hit the ground running and immediately establish a close working relationship. I consider your knowledge, and the knowledge of the entire council, to be a great asset, and I would most certainly like to use that asset to the benefit of the City. I would also like to seek your input and that of the council as a whole as we work together towards returning the City to fiscal health.

I would greatly appreciate it if you would call Christy Healey at 727-7400 to schedule a meeting at your earliest convenience. I look forward to hearing from you soon.

Very truly yours,



Mark A. Pfeiffer,
Receiver of the City of Central Falls

Baseline Fiscal Year 2011 Budget

City of Central Falls FY 2011 Budget

(1) FY '10 - '11	(2) FY 2009 Actual Audited	(3) FY 2010 Actual (Est.)	(4) 2 Year Average	(5) ADOPTED 2009-10	(6) BASE 2010-11	(7) RECEIVER 2010-11	(8) (7) - (6)
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General Fund Revenues

Beginning Balance \$840,429 \$230,810 (\$2,111,790)

TAX REVENUE: 2-1000-100-0000							
41209 Tax Revenue (Current Year)	\$ 9,815,566	\$ 10,095,645	\$ 9,955,605	\$ 10,228,296	\$ 10,252,320	\$ 12,102,223	\$ 1,849,903
41208 Tax Revenue (Prior Years)	565,652	304,036	434,844	300,000	300,000	434,844	134,844
Total Tax Revenue	\$ 10,381,218	\$ 10,399,680	\$ 10,390,449	\$ 10,528,296	\$ 10,552,320	\$ 12,537,067	\$ 1,984,747

FEES NON-TAX REVENUE: 2-1000-100-0000	(2)	(3)	(4)	(5)	(6)	(7)	(8)
42095 Interest on Taxes	\$ 259,719	\$ 234,309	\$ 247,014	\$ 200,000	\$ 200,000	\$ 200,000	\$ -
42095 City Clerk Fees	1,468	350	909	-	-	-	-
42100 VIN Check Fees	1,260	-	630	1,500	1,500	1,500	1,500
42106 Probate Fees	7,749	11,920	9,835	8,500	8,500	8,500	8,500
42108 Realty Stamps	99,888	62,656	81,272	100,000	100,000	100,000	100,000
42110 Real Estate Recordings	89,278	82,500	85,889	85,000	85,000	85,000	85,000
42113 Licenses (Other than marriage)	76,935	71,776	74,355	75,000	75,000	75,000	75,000
42115 Certificates (Vital records)	11,122	8,161	9,642	12,000	12,000	12,000	12,000
42117 Marriage Licenses	1,064	976	1,020	1,000	1,000	1,000	1,000
42119 Miscellaneous (City Clerk's)	14,871	10,271	12,571	14,000	14,000	14,000	14,000
42152 Reports/Copying Fees	2,431	1,967	2,199	2,500	2,500	2,500	2,500
42153 Constable Fees	-	65	33	-	-	-	-
42155 Finger Printing Fees	84	86	85	300	300	300	300
42160 Municipal Court Fees	-	-	-	2,000	2,000	2,000	2,000
42163 Administrative Fees	33,744	16,560	25,152	5,000	5,000	5,000	5,000
42340 Certificates of Occupancy	5,015	5,125	5,070	4,000	4,000	4,000	4,000
42351 Hazardous Material Permits	1,200	1,300	1,250	1,750	1,750	1,750	1,750
42353 Fire Code Inspection Fees	5,370	5,261	5,316	7,300	7,300	7,300	7,300
42355 Other Fire Permits	-	200	100	2,000	2,000	2,000	2,000
42357 Building Permits	25,186	25,673	25,430	60,000	60,000	60,000	60,000
42359 Plumbing Permits	15,335	19,892	17,614	18,000	18,000	18,000	18,000
42361 Electrical Permits	13,597	16,538	15,068	16,000	16,000	16,000	16,000
42453 Traffic Fines	218,783	264,746	241,764	200,000	200,000	200,000	200,000
42455 Code Enforcement Fees	817	805	811	15,000	15,000	15,000	15,000
42456 RI Traffic Tribune	10,050	10,824	10,437	12,000	12,000	12,000	12,000
42458 District Court Fines	1,528	1,407	1,467	1,500	1,500	1,500	1,500
42465 Library Fines	265	49	157	250	250	250	250
42467 Animal Control Fines	4,260	2,640	3,450	2,500	2,500	2,500	2,500
42510 Investment Interest	82,676	27,638	55,157	50,000	50,000	50,000	50,000
42520 Bond Interest	-	-	-	-	-	-	-
43010 Federal Revenue	6,548	4,869	5,709	-	-	-	-
Total Fees/Non Tax Revenue	\$ 990,243	\$ 888,564	\$ 939,404	\$ 897,100	\$ 897,100	\$ 897,100	\$ -

City of Central Falls FY 2011 Budget

(1) FY '10 - '11	(2) FY 2009 Actual Audited	(3) FY 2010 Actual (Est.)	(4) 2 Year Average	(5) ADOPTED 2009-10	(6) BASE 2010-11	(7) RECEIVER 2010-11	(8) (7) - (6)
STATE REVENUE: 2-1000-100-0000							
44100 General Revenue Sharing	\$ 649,611	\$ 1,240,546	\$ 324,806	\$ 250,000	\$ -	\$ -	\$ -
44105 M V Tax Phase Out	1,478,058	289,685	1,359,302	1,478,058	84,881	84,881	-
44110 Distressed Communities Aid (VG)	289,275	-	289,480	289,687	267,573	267,573	-
44200 Non Profit Organizations (PILOT)	-	-	-	21,195	19,158	19,158	-
44300 Telephone Tax	184,066	204,938	194,502	166,194	204,938	204,938	-
44301 Hotel/Meals & Beverage Tax	82,663	82,166	82,415	88,353	82,663	82,663	-
44400 Police/Fire Incentive	-	1,843,404	1,842,988	20,057	20,057	20,057	-
44500 School Housing Aid	2,000	4,000	3,000	1,818,784	1,600,055	1,600,055	-
44600 Emergency Management	10,004	-	5,002	2,000	2,000	2,000	-
44800 Misc. State Aid	-	-	-	-	-	-	-
Total State Revenue	\$ 4,538,248	\$ 3,664,739	\$ 4,101,494	\$ 4,134,328	\$ 2,281,325	\$ 2,281,325	\$ -
DEPARTMENT REVENUE: 2-1000-100-0000							
45200 Scrap Metal	\$ 159	\$ 231	\$ 195	\$ 3,000	\$ 3,000	\$ 3,000	\$ -
45220 Property Preservation Revenue	1,135,864	622,182	879,023	60,000	60,000	60,000	-
45223 Code Court Fees	-	21,084	10,542	5,000	5,000	5,000	-
45300 Misc. Departmental Revenue	8,732	5,684	7,208	10,000	10,000	10,000	-
45305 Public Works Revenue	7,088	5,276	6,182	9,000	9,000	9,000	-
45400 Rescue Runs	158,201	181,111	169,656	225,000	225,000	225,000	-
Total Departmental Revenue	\$ 1,310,043	\$ 835,568	\$ 1,072,805	\$ 312,000	\$ 312,000	\$ 312,000	\$ 55,350
OTHER REVENUE: 2-1000-100-0000							
46200 Water Rebate	\$ 1,198	\$ 980	\$ 1,089	\$ 1,200	\$ 1,200	\$ 1,200	\$ -
46210 Restitution	1,250	-	625	4,200	4,200	4,200	-
46230 Lease/Rental Income	30	300	165	-	-	-	-
46240 Athletic Fees	13,514	65,993	39,753	13,514	13,514	13,514	-
46300 Local Revenue	56,213	-	28,107	56,974	56,974	56,974	-
46500 Housing Authority	282,267	-	141,134	1,200,000	500,000	500,000	-
46500 Detention Center	-	-	-	1,000	1,000	1,000	-
46550 Surplus Sales	-	-	-	375,000	100,000	100,000	-
46880 Special Revenue	80,176	27,853	13,926	45,032	45,032	45,032	-
46980 Misc. Other Revenue	-	235,474	157,825	-	-	-	-
46980 Property Sales	-	10	5	-	-	-	-
46990 Funds From Fund Balance (Sources)	-	-	-	211,594	-	-	-
46995 Other Financial Sources (school Police Officer)	-	-	-	1,908,514	-	-	-
Total Other Revenue	\$ 434,649	\$ 330,610	\$ 382,629	\$ 1,908,514	\$ 721,920	\$ 721,920	\$ -
Total General Fund Revenues	\$ 17,654,401	\$ 16,119,160	\$ 16,886,781	\$ 17,780,238	\$ 14,764,665	\$ 16,804,762	\$ 2,040,097

City of Central Falls FY 2011 Budget

(1) FY '10 - '11	(2) FY 2009 Actual Audited	(3) FY 2010 Actual (Est.)	(4) 2 Year Average	(5) ADOPTED 2009-10	(6) BASE 2010-11	(7) RECEIVER 2010-11	(8) (7) - (6)
General Fund Appropriations							
MAYOR: 1-1000-100-4030-							
51101 Salaries	\$ 114,568	\$ 128,527	\$ 121,547	\$ 116,711	\$ 116,711	\$ 63,965	\$ (52,746)
51120 Overtime	-	-	-	-	-	-	-
53002 Office Supplies	-	77	39	100	100	100	-
53003 Other Supplies	-	51	26	150	150	150	-
53216 Non-Capital Equipment	1,000	2,192	1,596	2,000	2,000	500	(1,500)
54221 Education & Training	-	80	40	500	500	500	-
59102 Donations	3,922	4,278	4,100	4,000	4,000	-	(4,000)
59110 Expense Account	6,782	4,388	5,585	4,000	4,000	-	(4,000)
59112 Grants/Other Reimbursable Expenses	2,915	6,672	4,793	4,000	4,000	-	-
TOTAL	\$ 129,187	\$ 146,264	\$ 137,726	\$ 127,461	\$ 127,461	\$ 65,215	\$ (62,246)
CITY COUNCIL: 1-1000-100-4050-							
51101 Salaries	\$ 14,700	\$ 14,700	\$ 14,700	\$ 14,700	\$ 14,700	\$ 14,700	\$ -
51305 Camera Operator	6,860	6,860	6,860	6,860	6,860	6,860	0
53216 Non-Capital Equipment	-	-	-	-	-	-	-
54011 General (Video) R & M	54	-	27	500	500	500	-
54221 Education & Training	-	-	-	-	-	-	-
59110 Expense Account	-	-	-	-	-	-	-
TOTAL	\$ 21,614	\$ 21,560	\$ 21,587	\$ 22,060	\$ 22,060	\$ 22,060	\$ 0
CITY CLERK: 1-1000-100-4070-							
51101 Salaries	\$ 126,706	\$ 128,609	\$ 127,658	\$ 128,433	\$ 133,036	\$ 123,373	\$ (9,663)
51120 Overtime	-	144	72	-	-	-	-
51140 Longevity	-	-	-	-	-	-	-
53041 Dues/Subscriptions	100	-	50	520	520	520	-
53216 Non-Capital Equipment	241	-	121	500	500	500	-
54006 Advertising	-	-	-	-	-	-	-
54033 Other Professional Services	28,957	23,648	26,303	36,000	36,000	26,000	(10,000)
54063 Meetings & Conference Fee	-	-	-	-	-	-	-
54221 Education & Training	-	560	280	-	-	-	-
59151 Charter Review Committee	-	2,580	1,290	5,000	5,000	-	(5,000)
TOTAL	\$ 156,004	\$ 155,541	\$ 155,772	\$ 170,453	\$ 175,056	\$ 150,393	\$ (24,663)

City of Central Falls FY 2011 Budget

(1) FY '10 - '11	(2) FY 2009 Actual Audited	(3) FY 2010 Actual (Est.)	(4) 2 Year Average	(5) ADOPTED 2009-10	(6) BASE 2010-11	(7) RECEIVER 2010-11	(8) (7) - (6)
PERSONNEL: 1-1000-100-4080-							
51101 Salaries	\$ 77,683	\$ 83,709	\$ 80,696	\$ 82,950	\$ 82,950	\$ 35,439	\$ (47,511)
51120 Overtime	698	224	461	-	-	-	-
53041 Dues/Subscriptions	-	-	29	600	600	600	-
53216 Non-Capital Equipment	-	58	84	-	-	-	-
54006 Advertising	167	-	2,530	2,500	2,500	2,500	-
54033 Other Professional Services	2,747	2,312	-	-	-	-	-
54063 Meetings & Conference Fees	-	-	233	1,000	1,000	200	(800)
54221 Education & Training	1,094	5,589	3,341	4,000	4,000	4,000	-
59120 Testing	-	-	-	-	-	-	-
TOTAL	\$ 82,389	\$ 92,358	\$ 87,374	\$ 91,050	\$ 91,050	\$ 42,739	\$ (48,311)

LEGAL: 1-1000-100-4090-							
51101 Salaries	\$ 129,535	\$ 112,804	\$ 121,169	\$ 129,531	\$ 129,531	\$ 90,756	\$ (38,775)
53002 Office Supplies	-	5	3	-	-	-	-
53041 Dues/Subscriptions	200	650	425	900	900	900	-
53216 Non-Capital Equipment	-	-	-	-	-	-	-
54033 Other Professional Services	-	200,000	100,000	-	-	50,000	50,000
54063 Meetings and Conference Fees	-	-	72	-	-	500	-
54221 Education & Training	483	135	309	-	500	500	-
59110 Expenses	-	-	-	-	-	300	300
TOTAL	\$ 130,218	\$ 313,737	\$ 221,977	\$ 130,931	\$ 130,931	\$ 142,456	\$ 11,525

TAX ASSESSOR: 1-1000-100-4130-							
51101 Salaries	\$ 68,356	\$ 86,548	\$ 77,452	\$ 83,099	\$ 86,207	\$ 79,741	\$ (6,465)
51120 Overtime	1,434	1,259	1,346	-	-	-	-
51140 Longevity Pay	-	1,730	865	2,042	1,857	1,857	-
53041 Dues/Subscriptions	545	750	648	825	825	825	-
53216 Non-Capital Equipment	-	-	-	-	-	-	-
54006 Advertising	-	-	-	-	-	-	-
54033 Other Professional Services	-	-	-	820	820	820	-
54063 Meetings & Conference Fees	10,593	8,362	9,478	9,875	9,875	14,575	4,700
54111 Revaluation Services	-	-	-	150	150	150	-
54221 Education & Training	-	9,982	4,991	11,000	-	-	-
TOTAL	\$ 80,928	\$ 108,631	\$ 94,780	\$ 107,811	\$ 99,734	\$ 97,969	\$ (1,765)

City of Central Falls FY 2011 Budget

(1) FY '10 - '11	(2) FY 2009 Actual Audited	(3) FY 2010 Actual (Est.)	(4) 2 Year Average	(5) ADOPTED 2009-10	(6) BASE 2010-11	(7) RECEIVER 2010-11	(8) (7) - (6)
FINANCE: 1-1000-100-4150-							
51101 Salaries	\$ 190,855	\$ 278,172	\$ 234,514	\$ 235,022	\$ 233,703	\$ 184,489	\$ (49,214)
51120 Overtime	3,899	3,145	3,522	-	-	2,000	2,000
51140 Longevity Pay	1,599	-	800	-	1,714	1,714	-
53005 Postage	24,162	18,786	21,474	22,500	22,500	22,500	-
53041 Dues/Subscriptions	-	-	-	50	50	50	-
53216 Non-Capital Equipment	1,341	896	1,119	1,000	1,000	1,000	-
54014 Collection Agency Fees	5,472	7,142	6,307	7,500	7,500	7,500	-
54016 Accounting/Auditing	24,300	25,000	24,650	30,000	30,000	30,000	-
54020 Consulting Services	116,878	-	58,439	-	-	-	-
54033 Other Professional Services	-	40,317	20,158	48,000	48,000	-	(48,000)
54063 Meetings & Conference Fees	-	-	-	-	-	-	-
54210 Contract R & M	-	-	-	-	-	-	-
54221 Education & Training	-	-	-	-	-	-	-
TOTAL \$	\$ 368,506	\$ 373,458	\$ 370,982	\$ 344,072	\$ 344,467	\$ 249,253	\$ (95,214)

(1) FY '10 - '11	(2) FY 2009 Actual Audited	(3) FY 2010 Actual (Est.)	(4) 2 Year Average	(5) ADOPTED 2009-10	(6) BASE 2010-11	(7) RECEIVER 2010-11	(8) (7) - (6)
BOARD OF CANVASSERS: 1-1000-100-4170-							
51101 Salaries	\$ 50,152	\$ 51,916	\$ 51,034	\$ 50,936	\$ 50,936	\$ 47,116	\$ (3,820)
51301 City Sergeant	1,607	2,142	1,875	2,142	2,142	-	(2,142)
51400 Election Workers	15,150	7,400	11,275	15,200	15,200	15,200	-
53002 Office Supplies	377	211	294	200	200	200	-
53003 Other Supplies	1,152	-	576	-	-	-	-
53216 Non-Capital Equipment	-	-	-	-	-	-	-
54006 Advertising	-	490	245	770	770	770	-
54033 Other Professional Services	-	-	-	-	-	-	-
54063 Meetings & Conference Fees	40	40	40	140	140	-	(140)
54221 Education & Training	-	-	-	-	-	-	-
TOTAL \$	\$ 68,478	\$ 62,198	\$ 65,338	\$ 69,388	\$ 69,388	\$ 63,286	\$ (6,102)

(1) FY '10 - '11	(2) FY 2009 Actual Audited	(3) FY 2010 Actual (Est.)	(4) 2 Year Average	(5) ADOPTED 2009-10	(6) BASE 2010-11	(7) RECEIVER 2010-11	(8) (7) - (6)
CITY PROPERTY: 1-1000-100-4210-							
51101 Salaries	\$ 60,300	\$ 61,332	\$ 60,816	\$ 62,223	\$ 62,223	\$ 57,556	\$ (4,667)
51120 Overtime	1,056	1,440	1,248	-	-	-	-
51140 Longevity Pay	1,466	1,540	1,503	-	1,586	1,586	-
53025 Clothing	500	400	450	400	400	400	-
53002 Office Supplies	15,502	12,437	13,970	20,000	20,000	14,000	(6,000)
53003 Other Supplies	2,305	1,448	1,877	3,000	3,000	3,000	-
53004 Janitorial Supplies	1,796	2,101	1,948	3,000	3,000	3,000	-
53008 Heating Fuel	6,763	11,715	9,239	10,500	10,500	10,500	-
53041 Dues/Subscriptions	422	1,760	1,091	8,000	8,000	1,000	(7,000)
53216 Non-Capital Equipment	970	1,670	1,320	1,000	1,000	1,000	-
54004 Telephone/Communications - Other	32,686	39,203	35,945	20,000	20,000	13,500	(6,500)
5400x Telephone/Communications - Police	12,585	13,778	13,181	14,000	14,000	14,000	-
5400x Telephone/Communications - Fire	8,322	8,737	8,530	14,000	14,000	14,000	-
5400x Telephone/Communications - Highway	5,276	4,663	4,969	14,000	14,000	14,000	-

City of Central Falls FY 2011 Budget

(1) FY '10 - '11	(2) FY 2009 Actual Audited	(3) FY 2010 Actual (Est.)	(4) 2 Year Average	(5) ADOPTED 2009-10	(6) BASE 2010-11	(7) RECEIVER 2010-11	(8) (7) - (6)
54006 Advertising	14,282	16,345	15,313	11,000	11,000	11,000	-
54007 Electric - Other	55,169	47,799	51,484	38,000	38,000	48,000	10,000
5400x Electric - Police	24,347	18,218	21,282	19,000	19,000	19,000	-
5400x Electric - Fire	24,347	18,189	21,268	19,000	19,000	19,000	-
5400x Electric - Highway	13,469	9,227	11,348	19,000	19,000	19,000	-
54011 General R & M	35,794	1,524	18,659	5,000	5,000	5,000	-
54013 Travel Costs	-	68	34	1,500	1,500	100	(1,400)
54015 Water	15,637	10,217	12,927	15,000	15,000	15,000	-
54020 Consulting Services	24,500	42,080	33,290	15,000	15,000	15,000	-
54033 Other Professional Services	-	-	-	-	-	-	-
54210 Contracts, R & M	4,223	27,958	16,091	25,000	25,000	25,000	-
54400 General Liability	240,858	209,942	225,400	207,907	207,907	207,907	-
54420 Fire & Other Insurance	-	(1,214)	(607)	-	-	-	-
54422 Workers Compensation Insurance	123,300	58,687	90,994	106,519	106,519	106,519	-
59108 Misc. City Property	8,546	7,025	7,786	5,000	5,000	5,000	-
TOTAL \$	734,421	628,290	681,355	657,049	658,635	643,068	15,567
CITY BOARDS: 1-1000-100-4230-							
51510 Pension Board	\$ 450.	\$ 506	\$ 478	\$ 675	\$ 675	\$ 675	\$ -
51511 Personnel Board	731	675	703	675	675	675	-
51512 Library Board	675	675	675	675	675	675	-
51513 Purchasing Board	619	619	619	675	675	675	-
51514 Appeals Board	675	563	619	900	900	900	-
51515 Recreation Board	675	675	675	675	675	675	-
51516 Planning Board	900	844	872	1,125	1,125	1,125	-
51517 Zoning Board	1,375	1,500	1,438	1,750	1,750	1,750	-
51518 Canvassers Board	1,688	2,100	1,894	2,100	2,100	2,100	-
51519 Housing Authority Board	1,210	1,705	1,458	2,750	2,750	2,750	-
51520 Redevelopment Board	-	-	-	-	-	-	-
TOTAL \$	8,998.	9,861.	9,430	12,000	12,000	12,000	\$ -
POLICE: 1-1000-200-4530-							
51101 Salaries	\$ 2,089,678	\$ 2,198,031	\$ 2,143,855	\$ 2,238,524	\$ 2,370,006	\$ 2,340,379	\$ (29,626)
51005 Police Trainee Wages	8,280	9,000	8,640	-	8,640	8,640	-
51107 Parking Violation Officer	14,055	2,340	8,198	15,080	13,069	13,069	-
51120 Overtime	203,269	260,798	232,034	150,000	230,000	230,000	-
51130 Holiday Pay	54,446	100,260	77,353	119,019	102,241	102,241	-
51140 Longevity Pay (42)	-	12	6	82,804	64,628	64,628	-
51143 Clerk Longevity	2,619	4,410	3,515	2,457	4,708	4,708	-
51144 Dispatchers longevity	2,729	4,900	3,814	3,200	7,094	7,094	-
52025 Clothing Tool Allowances	107,658	58,505	83,082	113,975	98,000	98,000	-
53002 Office Supplies	4,260	3,264	3,762	5,000	5,000	5,000	-
53003 Other Supplies	3,100	2,810	2,955	3,000	3,000	3,000	-

Office of the Receiver

8/18/2010

City of Central Falls FY 2011 Budget

(1) FY '10 - '11	(2) FY 2009 Actual Audited	(3) FY 2010 Actual (Est.)	(4) 2 Year Average	(5) ADOPTED 2009-10	(6) BASE 2010-11	(7) RECEIVER 2010-11	(8) (7) - (6)
53008 Heating Fuel	7,475	18,017	12,746	7,600	7,600	12,000	4,400
53009 Vehicle Fuels	80,473	73,728	77,101	120,000	120,000	90,000	(30,000)
53041 Dues/Subscriptions	675	-	338	-	-	-	-
53202 Detective Supplies	5,990	3,714	4,852	6,000	6,000	6,000	-
53216 Non-Capital Equipment	4,026	4,011	4,018	4,000	4,000	4,000	-
54011 General R & M	18,299	18,355	18,327	18,000	18,000	18,000	-
54012 Vehicle R & M	50,713	26,633	38,673	40,000	40,000	40,000	-
54033 Other Professional Services	37,775	32,084	34,930	37,000	37,000	37,000	-
54146 Finger Printing	2,310	2,700	2,505	2,500	2,500	2,500	-
54221 Education & Training	10,058	9,996	10,027	10,000	10,000	10,000	-
54223 College Tuitions	36,458	18,779	27,619	30,000	30,000	30,000	-
59122 State Incentive	3,500	3,500	3,500	14,130	14,130	3,500	(10,630)
59127 Special Investigations	26,507	24,872	25,690	25,000	25,000	25,000	-
59128 Code Compliance	23,977	16,255	20,116	30,000	30,000	20,000	(10,000)
TOTAL	\$ 2,798,330	\$ 2,896,977	\$ 2,847,653	\$ 3,077,289	\$ 3,250,616	\$ 3,174,760	\$ (75,856)

(1) FY '10 - '11	(2) FY 2009 Actual Audited	(3) FY 2010 Actual (Est.)	(4) 2 Year Average	(5) ADOPTED 2009-10	(6) BASE 2010-11	(7) RECEIVER 2010-11	(8) (7) - (6)
FIRE: 1-1000-200-4570-				293,083			
51101 Salaries	\$ 1,822,486	\$ 2,003,122	\$ 1,912,804	\$ 1,906,478	\$ 1,987,626	\$ 1,982,608	\$ (5,018)
51105 Fire Trainee Wages	-	-	-	2,400	2,400	2,400	-
51120 Overtime	418,994	393,083	406,038	100,000	400,000	400,000	-
51130 Holiday Pay	122,110	109,997	116,053	112,672	200,413	200,413	-
51140 Longevity Pay	81,244	84,316	82,780	86,992	97,275	97,275	-
51150 Out of Rank	19,513	29,728	24,620	20,000	20,000	20,000	-
51153 Rescue Pay	14,168	14,580	14,374	14,560	14,560	14,560	-
51154 EMT Cardiac Pay	41,364	44,820	43,092	42,120	43,680	43,680	-
51155 Mechanics Pay	7,044	7,280	7,162	7,280	7,280	7,280	-
52025 Clothing/Tool Allowances	75,984	84,410	80,197	82,950	82,950	82,950	-
53003 Other Supplies	24,577	24,914	24,745	25,000	25,000	25,000	-
53008 Heating Fuel	14,866	13,714	14,290	15,000	15,000	15,000	-
53009 Vehicle Fuels	-	15,769	7,885	8,000	8,000	8,000	-
53041 Dues/Subscriptions	-	-	-	-	-	-	-
53216 Non-Capital Equipment	12,912	13,311	13,112	15,000	15,000	15,000	-
54011 General R & M	5,643	4,726	5,185	7,000	7,000	7,000	-
54012 Vehicle R & M	25,391	36,856	31,123	27,000	27,000	27,000	-
54033 Other Professional Services	4,881	4,852	4,867	5,000	5,000	5,000	-
54210 Contracts, R & M (New Account)	-	555	1,758	3,000	3,000	3,000	-
54221 Education & Training	2,961	-	-	5,927	5,927	5,927	-
59122 State Incentive	-	-	-	-	-	-	-
59217 Fire Fighter Equipment	-	-	-	-	-	-	-
TOTAL	\$ 2,694,138	\$ 2,886,034	\$ 2,790,086	\$ 2,486,379	\$ 2,967,110	\$ 2,962,092	\$ (5,018)

City of Central Falls FY 2011 Budget

(1) FY '10 - '11	(2) FY 2009 Actual Audited	(3) FY 2010 Actual (Est.)	(4) 2 Year Average	(5) ADOPTED 2009-10	(6) BASE 2010-11	(7) RECEIVER 2010-11	(8) (7) - (6)
PROBATE COURT: 1-1000-200-4610-							
51101 Salaries	\$ 7,309	\$ 7,309	\$ 7,309	\$ 7,309	\$ 7,309	\$ 7,309	\$ -
59110 Expenses	-	-	-	-	-	-	-
TOTAL	\$ 7,309	\$ 7,309	\$ 7,309	\$ 7,309	\$ 7,309	\$ 7,309	\$ -
MUNICIPAL COURT: 1-1000-200-4620-							
51101 Salaries	\$ 59,284	\$ 60,447	\$ 59,865	\$ 62,042	\$ 61,353	\$ 58,852	\$ (2,501)
51120 Overtime	2,817	2,588	2,703	-	-	-	-
51140 Longevity Pay	1,493	1,577	1,535	1,494	1,464	1,464	-
53002 Office Supplies	1,729	1,244	1,487	1,500	1,500	1,500	-
53216 Non-Capital Equipment	-	-	-	-	-	-	-
54033 Other Professional Services	4,455	4,455	4,455	4,600	4,600	4,600	-
TOTAL	\$ 69,778	\$ 70,311	\$ 70,045	\$ 69,636	\$ 68,917	\$ 66,416	\$ (2,501)
ANIMAL CONTROL: 1-1000-200-4640-							
51101 Salaries	\$ 14,021	\$ 2,135	\$ 8,078	\$ 15,080	\$ 14,200	\$ 14,200	\$ -
51120 Overtime	-	-	-	-	-	-	-
52025 Clothing/Tool Allowances	350	-	175	350	350	350	-
53216 Non-Capital Equipment	191	-	96	800	800	800	-
54033 Other Professional Services	-	-	-	-	-	-	-
54063 Meetings & Conference Fees	-	-	-	-	-	-	-
54221 Education & Training	-	-	-	-	-	-	-
59118 Boarding of Animals	5,310	1,501	3,405	6,000	6,000	6,000	-
TOTAL	\$ 19,872	\$ 3,636	\$ 11,754	\$ 22,230	\$ 21,350	\$ 21,350	\$ -
INSPECTION OFFICERS: 1-1000-200-4650-							
51501 Plumbing Inspector	\$ 4,323	\$ 4,323	\$ 4,323	\$ 4,323	\$ 4,323	\$ 4,323	\$ -
51502 License Officer	4,323	4,323	4,323	4,323	4,323	4,323	-
51503 Electrical Inspector	4,323	4,323	4,323	4,323	4,323	4,323	-
TOTAL	\$ 12,969	\$ 12,969	\$ 12,969	\$ 12,969	\$ 12,969	\$ 12,969	\$ -
CODE ENFORCEMENT: 1-1000-200-5500-							
51101 Salaries	\$ 161,675	\$ 162,623	\$ 162,149	\$ 159,952	\$ 155,311	\$ 143,663	\$ (11,648)
51120 Overtime	3,466	1,375	2,420	-	-	-	-
51140 Longevity Pay	3,004	2,590	2,797	2,457	2,457	2,457	-
52025 Clothing	500	508	504	400	400	400	-
53003 Other Supplies	670	-	335	1,000	1,000	1,000	-
53041 Dues/Subscriptions	-	-	-	200	200	200	-
53216 Non-Capital Equipment	-	-	-	1,000	1,000	1,000	-
54033 Other Professional Services	2,543	1,399	1,971	1,500	1,500	1,500	-
54063 Meetings & Conference Fees	-	-	-	-	-	-	-
54221 Education & Training	210	-	105	1,000	1,000	1,000	-
59123 Property Protection	1,029,942	525,771	777,856	10,000	10,000	10,000	-
TOTAL	\$ 1,202,010	\$ 694,265	\$ 948,138	\$ 177,509	\$ 172,868	\$ 161,220	\$ (11,648)

City of Central Falls FY 2011 Budget

(1) FY '10 - '11	(2) FY 2009 Actual Audited	(3) FY 2010 Actual (Est.)	(4) 2 Year Average	(5) ADOPTED 2009-10	(6) BASE 2010-11	(7) RECEIVER 2010-11	(8) (7) - (6)
HIGHWAY: 1-1000-400-5750-				26,379	319,462		
51101 Salaries	\$ 618,566	\$ 683,477	\$ 651,032	\$ 613,088	\$ 664,378	\$ 614,550	\$ (49,828)
51120 Overtime	48,367	46,379	47,373	-	20,000	20,000	-
51155 Mechanical Operators	2,680	3,100	2,890	-	-	-	-
51140 Longevity Pay	24,744	31,686	28,215	-	-	-	-
51160 Specialty Pay	540	520	530	24,668	36,051	36,051	-
52025 Clothing/Tool Allowances	3,512	3,781	3,647	520	520	520	-
53003 Other Supplies	3,660	1,904	2,782	3,575	3,850	3,850	-
53008 Heating Fuel	7,454	6,527	6,990	3,000	3,000	3,000	-
53009 Vehicle Fuels	40,389	36,464	38,427	7,500	7,500	7,500	-
53041 Dues/Subscriptions	-	-	-	38,000	38,000	38,000	-
53216 Non-Capital Equipment	3,039	13,350	8,195	2,500	2,500	2,500	-
53317 Winter Road Supplies	13,635	13,810	13,723	13,500	13,500	13,500	-
54011 General R & M	7,912	6,783	7,347	7,500	7,500	7,500	-
54012 Vehicle R & M	56,787	56,240	56,513	52,200	52,200	52,200	-
54033 Other-Professional Services	-	-	-	-	-	-	-
54038 Road R & M	42,454	27,865	35,159	22,500	22,500	22,500	-
54063 Meetings & Conference Fees	-	-	-	-	-	-	-
54221 Education & Training	240	518	379	500	500	500	-
54233 Water Lines R & M	-	982	491	-	-	-	-
54237 Traffic Signal R & M	12,978	2,489	7,733	6,000	6,000	6,000	-
54255 Rentals	-	3,050	1,525	-	-	-	-
59109 Misc. Highway	2,588	2,675	2,631	3,000	3,000	3,000	-
TOTAL \$	\$ 889,565	\$ 941,600	\$ 915,582	\$ 818,051	\$ 880,999	\$ 831,171	\$ (49,828)
PUBLIC WORKS: 1-1000-400-5900-							
54467 Hydrants	\$ 134,912	\$ 67,070	\$ 100,991	\$ 126,616	\$ 126,616	\$ 126,616	\$ -
54556 Sewer/N.B.C.	9,360	14,186	11,773	22,065	22,065	22,065	-
54570 Solid Waste Disposal	146,369	120,885	133,627	145,000	145,000	145,000	-
54572 Trash Removal/Recycling	-	-	-	-	-	-	-
54590 Street Lights	126,351	118,971	122,661	132,824	132,824	85,007	(47,817)
TOTAL \$	\$ 416,992	\$ 321,113	\$ 369,052	\$ 426,505	\$ 426,505	\$ 378,688	\$ (47,817)

City of Central Falls FY 2011 Budget

(1) FY '10 - '11	(2) FY 2009 Actual Audited	(3) FY 2010 Actual (Est.)	(4) 2 Year Average	(5) ADOPTED 2009-10	(6) BASE 2010-11	(7) RECEIVER 2010-11	(8) (7) - (6)
LIBRARY: 1-1000-500-6100-							
51101 Salaries	\$ 177,788	\$ 176,695	\$ 177,242	\$ 159,313	\$ 196,600	\$ 177,295	\$ (19,305)
51120 Overtime	4,814	1,643	3,228	-	-	-	-
51140 Longevity	5,747	2,121	3,934	5,747	3,345	3,345	-
53002 Office Supplies	4,444	2,847	3,646	4,000	4,000	4,000	-
53003 Other Supplies	880	1,211	1,046	1,000	1,000	1,000	-
53008 Heating Fuel	7,804	7,753	7,779	10,500	10,500	10,500	-
53041 Dues/Subscriptions	2,375	1,888	2,132	2,375	2,375	2,375	-
53216 Non-Capital Equipment	2,500	94	1,297	2,000	2,000	2,000	-
53220 Books	16,217	9,269	12,743	6,000	6,000	6,000	-
54007 Electric	7,560	3,190	5,375	7,000	7,000	7,000	-
54033 Other Professional Services	7,574	4,685	6,130	10,000	10,000	10,000	-
54221 Education & Training	845	64	454	1,000	1,000	1,000	-
TOTAL	\$ 238,548	\$ 211,462	\$ 225,005	\$ 208,935	\$ 243,820	\$ 224,515	\$ (19,305)

RECREATION: 1-1000-600-6150-							
51101 Salaries	\$ 106,171	\$ 116,003	\$ 111,087	\$ 99,878	\$ 68,825	\$ 51,549	\$ (17,276)
53003 Other Supplies	5,996	4,945	5,470	5,000	5,000	5,000	-
53008 Heating Fuel	-	-	-	-	-	-	-
53216 Non-Capital Equipment	-	-	-	-	-	-	-
54011 General R & M	6,999	6,809	6,904	7,000	7,000	7,000	-
54025 YMCA Contract	-	-	-	-	-	-	-
54033 Other Professional Services	7,905	3,970	5,938	6,000	6,000	6,000	-
54201 Public Events & Activities	2,435	958	1,696	1,000	1,000	1,000	-
54255 Rentals	-	-	-	-	-	-	-
59104 Team Subsidy	4,753	2,500	3,627	3,500	3,500	3,500	-
59107 Misc. Recreation	4,052	3,850	3,951	4,000	4,000	4,000	-
TOTAL	\$ 138,311	\$ 139,034	\$ 138,673	\$ 126,378	\$ 95,325	\$ 78,049	\$ (17,276)

CELEBRATIONS: 1-1000-600-6200-							
53020 Decorations	\$ 992	\$ 570	\$ 781	\$ 1,000	\$ 1,000	\$ 1,000	\$ -
59101 Veterans Council	1,000	1,000	1,000	1,000	1,000	1,000	-
59252 Community Activities	10,509	10,379	10,444	10,400	10,400	10,400	-
59253 Sponsorships	195	-	98	200	200	200	-
59255 Special Events	-	38	19	10,000	10,000	-	(10,000)
TOTAL	\$ 12,696	\$ 11,987	\$ 12,341	\$ 22,600	\$ 22,600	\$ 12,600	\$ (10,000)

PLANNING: 1-1000-100-6250-							
51101 Salaries	\$ 42,676	\$ 44,676	\$ 43,676	\$ 44,676	\$ 87,506	\$ 13,827	\$ (73,679)
53002 Office Supplies	-	-	-	-	-	-	-
53216 Non-Capital Equipment	-	-	-	-	-	-	-
TOTAL	\$ 42,676	\$ 44,676	\$ 43,676	\$ 44,676	\$ 87,506	\$ 13,827	\$ (73,679)

City of Central Falls FY 2011 Budget

(1) FY '10 - '11	(2) FY 2009 Actual Audited	(3) FY 2010 Actual (Est.)	(4) 2 Year Average	(5) ADOPTED 2009-10	(6) BASE 2010-11	(7) RECEIVER 2010-11	(8) (7) - (6)
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CHANNEL ONE: 1-1000-100-6270-							
51101 Salaries	\$ 167,167	\$ 180,180	\$ 173,674	\$ 172,450	\$ 173,303	\$ 160,851	\$ (12,452)
53003 Program (Other) Supplies	-	-	-	-	-	-	-
54029 RJH Community Center (Operating Expense)	45,000	-	22,500	40,500	40,500	40,500	-
TOTAL	\$ 212,167	\$ 180,180	\$ 196,174	\$ 212,950	\$ 213,803	\$ 201,351	\$ (12,452)

MUNICIPAL DEBT: 1-1000-800-6300-							
54017 Issuance Costs	\$ 12,576	\$ -	\$ 6,288	\$ -	\$ -	\$ -	\$ -
57081 Bond Principal	1,295,000	1,417,291	1,356,146	1,405,000	1,195,000	1,570,000	375,000
57082 Bond Interest	1,028,503	886,784	957,643	899,078	842,606	971,913	129,307
57083 Note Interest	113,044	112,173	-	-	-	-	-
57086 Paying Agency Fees	2,000	2,800	2,400	5,000	22,000	22,000	-
57095 Revolving Loan Principal	-	-	-	-	-	-	-
57096 Revolving Loan Interest	-	-	-	-	-	-	-
57097 Serial Note: Police Pension Case	-	-	-	-	-	-	-
57098 Lease Purchase	131,912	176,767	154,339	179,258	46,931	46,931	-
TOTAL	\$ 2,583,035	\$ 2,595,815	\$ 2,476,816	\$ 2,488,336	\$ 2,106,537	\$ 2,610,844	\$ 504,307

CONTINGENCIES: 1-1000-100-6320-							
59080 Legal Contingencies	\$ 59,204	\$ 154,169	\$ 106,687	\$ 62,000	\$ 62,000	\$ 62,000	\$ -
59081 Contingent/Salaries	-	-	-	53,182	53,182	(421,888)	(475,070)
59084 General Contingencies	32,213	37,671	34,942	50,000	50,000	50,000	-
5908x Debt Escrow Fund Contribution	-	-	-	-	-	-	-
5908x Contingent Contribution to Fund Balance	-	-	-	-	-	-	-
5908x Contribution to CF School District	-	-	-	-	-	-	-
TOTAL	\$ 91,417	\$ 191,840	\$ 141,628	\$ 165,182	\$ 165,182	\$ (309,888)	\$ (475,070)

EMPLOYEE BENEFITS: 1-1000-100-6400-							
52045 Social Security	\$ 173,979	\$ 195,307	\$ 184,643	\$ 163,590	\$ 148,042	\$ 148,042	\$ -
52050 Medicare	111,041	112,475	111,758	93,620	96,029	82,041	(13,988)
52052 Municipal State Pension	183,695	206,631	195,163	225,212	199,504	199,504	-
52054 Compensated Absences	242,933	194,657	218,795	160,000	160,000	160,000	-
52056 Unemployment Compensation	90,372	69,844	80,108	126,696	126,696	126,696	-
52066 Medical Insurance	2,785,869	2,893,302	2,839,586	3,120,000	2,962,268	2,693,110	(269,158)
52067 Dental Insurance	122,314	95,898	109,106	142,799	180,000	180,000	-
52068 Public Safety Pension (Uses)	(5,442)	(5,865)	(5,654)	400,000	3,447,000	-	(3,447,000)
52262 Injuries/Medical	4,505	5,496	5,000	5,000	5,000	5,000	-
TOTAL	\$ 3,709,266	\$ 3,767,744	\$ 3,738,505	\$ 4,436,917	\$ 7,324,540	\$ 3,594,394	\$ (3,730,146)

POLICE RETIREMENT: 1-1000-100-6450-							
59645 Police Retirement - Contribution	\$ 643,311	\$ 614,637	\$ 628,974	\$ 616,800	\$ 628,974	\$ 628,974	\$ -
TOTAL	\$ 643,311	\$ 614,637	\$ 628,974	\$ 616,800	\$ 628,974	\$ 628,974	\$ -

City of Central Falls FY 2011 Budget

(1) FY '10 - '11	(2) FY 2009 Actual Audited	(3) FY 2010 Actual (Est.)	(4) 2 Year Average	(5) ADOPTED 2009-10	(6) BASE 2010-11	(7) RECEIVER 2010-11	(8) (7) - (6)
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FIRE RETIREMENT: 1-1000-100-6500-							
59650 Fire Retirement - Contribution	\$ 627,313	\$ 645,682	\$ 636,497	\$ 627,312	\$ 645,682	\$ 645,682	\$ -
TOTAL	\$ 627,313	\$ 645,682	\$ 636,497	\$ 627,312	\$ 645,682	\$ 645,682	\$ -

MAJOR PURCHASES: 1-1000-100-6570-							
58100 Land		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
58200 Building		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
58300 Improvements (Other than Building)	20,000	\$ -	10,000	\$ -	\$ -	\$ -	\$ -
58400 Machinery & Equipment	20,000	\$ -	10,000	\$ -	\$ -	\$ -	\$ -
TOTAL	\$ 40,000	\$ -	\$ 20,000	\$ -	\$ -	\$ -	\$ -

Total General Fund Appropriations	\$ 18,210,446	\$ 18,149,170	\$ 18,067,199	\$ 17,780,238	\$ 21,073,395	\$ 16,804,761	\$ (4,268,634)
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SUMMARY:							
Total Revenues	\$ 17,654,401	\$ 16,119,160	\$ 16,886,781	\$ 17,780,238	\$ 14,764,665	\$ 16,804,762	\$ 2,040,097
Total Expenditures	\$ 18,210,446	\$ 18,149,170	\$ 18,067,199	\$ 17,780,238	\$ 21,073,395	\$ 16,804,761	\$ (4,268,634)
Difference	\$ (556,045)	\$ (2,030,009)	\$ (1,180,418)	\$ 0	\$ (6,308,730)	\$ 0	\$ 6,308,731

Adjustments Required Under GAAP:							
Property Tax Revenue - 60 day rule	\$ 189,463						\$ -
Prior Years Property Tax Revenue - 60 day rule	(243,037)						\$ -
TOTAL	\$ (53,574)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Difference	\$ (609,619)	\$ (2,030,009)	\$ (1,180,418)	\$ 0	\$ (6,308,730)	\$ 0	\$ 6,308,731
Ending Balance	\$ 230,810	\$ (1,799,199)					
Less Misc. Payables		\$ (312,591)					
Ending Balance		\$ (2,111,790)					

**Approval of Municipal Finance Division to Exceed
Tax Cap**



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Revenue

Division of Municipal Finance

One Capitol Hill - 4th Floor

Providence, RI 02908

OFFICE: (401) 222-2867

FAX: (401) 222-3809

WEBSITE: www.muni-info.ri.gov

RECEIVED

SEP 13 2010

September 7, 2010

CENTRAL FALLS, RI

The Honorable Mark Pfeiffer
Receiver City of Central Falls
Central Falls City Hall
580 Broad Street
Central Falls, RI 02863

Dear Judge Pfeiffer:

The Department of Revenue has received your Notice of Proposed Property Tax Rate Change for fiscal year 2010-2011. The Department has reviewed the manner upon which the notice was computed and finds that it concurs with the Procedures and Standards for Property Tax and Fiscal Disclosure for Rhode Island Cities and Towns. Your notice is hereby approved.

I should remind you that per RIGL 44-35-6 and 44-35-7, the Notice of Proposed Property Tax Rate Change and the Report to Taxpayers on Current and Proposed Budget must appear in a newspaper of general circulation at least ten calendar days prior to the September 20th meeting to consider the budget. Upon review of your community's request to exceed the cap by this office, approval or denial will be forwarded in a separate letter.

Thank you for your cooperation.

Sincerely,

Susanne Greschner
Chief

SG: emm
xc: Rosemary Booth Gallogly, Acting Director of Revenue
Christy Healey, Chief of Staff
Ellen Eggeman, Finance Director



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Revenue
Division of Municipal Finance
One Capitol Hill - 4th Floor
Providence, RI 02908

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September 7, 2010

The Honorable Mark Pfeiffer
Receiver City of Central Falls
Central Falls City Hall
580 Broad Street
Central Falls, RI 02863

Dear Judge Pfeiffer:

The Department of Revenue, Division of Municipal Finance has reviewed the City of Central Falls' request to exceed the property tax cap for FY 2011.

The Department's review was limited to determining whether the city qualified for an exemption relating to a loss in total non-property tax revenue in accordance with Section 44-5-2(d) (1) of the General Laws. After a review of the revenue-detail submitted, we hereby certify the following loss in total non-property tax revenues for FY 2011.

FY 2011 Non-Property Tax Revenue	\$ 4,267,695
<u>FY 2010 Non-Property Tax Revenue</u>	<u>\$ 7,251,942</u>
Total Certified Loss:	\$ 2,984,247

The above amounts are certified to the extent that anticipated non-property tax revenues for FY 2011 result in a loss at least equal to the original exemption amount requested by the city. The amount approved totals \$1,566,788 which was the amount requested by the city. Therefore, the City of Central Falls is certified to exceed the property tax cap by no more than \$1,566,788 for Fiscal Year 2011. Based upon the current year's levy of \$10,570,404, this certification to exceed the 4.5% cap should result in a tax levy no greater than \$12,612,860.

The above amounts are certified to the extent that the anticipated non-property tax revenues for FY 2011 remain unchanged in the final approved budget.

We would remind you that, since the cap is now based upon tax levy, your final tax resolution and tax rate would be restricted to the maximum levy previously referenced.

If you have any questions, please do not hesitate to call.

Sincerely,

Susanne Greschner
Chief

SG: emm
xc: Rosemary Booth Gallogly, Acting Director of Revenue
Christy Healey, Chief of Staff
Ellen Eggeman, Finance Director

Adopted Fiscal Year 2011 Budget and Tax Levy

**ORDER OF THE STATE-APPOINTED RECEIVER
RELATING TO THE ANNUAL OPERATING BUDGET, LEVY AND
ASSESSMENT OF TAX, SUPPLEMENTAL TAX AND MOTOR VEHICLE TAX**

SECTION 1. THE STATE-APPOINTED RECEIVER OF THE CITY OF CENTRAL FALLS HEREBY ORDERS THAT THE SEVERAL SUMS HEREINAFTER NAMED OR SO MUCH AS IS AUTHORIZED BY LAW AND IS NECESSARY OF THE OBJECTS RESPECTIVELY NAMED, ARE HEREBY APPROPRIATED FOR THE SUPPORT AND TO DEFRAY THE EXPENSES OF THE GOVERNMENT OF THE CITY OF CENTRAL FALLS FOR THE FINANCIAL YEAR BEGINNING ON THE FIRST DAY OF JULY, A.D. TWO-THOUSAND AND TEN AND ENDING ON THE THIRTIETH OF JUNE A.D. TWO-THOUSAND AND ELEVEN THE SAME SHALL BE APPORTIONED IN THE SAME MANNER AND FOR THE OBJECTS AND PURPOSE FOLLOWING, AND SHALL BE KNOWN AS THE ORDINARY EXPENSES OF THE CITY, VIZ:

**CITY OF CENTRAL FALLS
Annual Operating Budget – General Fund
Fiscal Year Beginning July 1, 2010
And Ending June 30, 2011
Adopted October 1, 2010**

	Adopted Budget 2010 – 2011
General Fund Revenues	
4100 Tax Revenue	\$12,537,067
4200 Fees/Non Tax Revenue	897,100
4400 State Revenue	2,281,325
4500 Departmental Revenue	367,350
4600 Other Revenue (Sources)	<u>721,920</u>
Total General Fund Revenues	\$16,804,762
 General Fund Appropriations	
4030 Mayor	\$ 65,215
4050 City Council	22,060
4070 City Clerk	150,393
4080 Personnel	42,739
4090 Legal	217,456
4130 Tax Assessor	97,969
4150 Finance	249,253
4170 Board of Canvassers	63,286
4210 City Property	643,068
4230 City Boards	12,000
4530 Police	2,931,322
4570 Fire	2,642,676
4610 Probate Court	7,309
4620 Municipal Court	66,416
4640 Animal Control	21,350
4650 Inspection Officers	12,969
5500 Code Enforcement	158,573

5750 Highway	831,171
5900 Public Works	378,688
6100 Library	224,515
6150 Recreation	78,049
6200 Celebrations	12,600
6250 Planning	13,827
6270 Channel One	201,351
6300 Municipal Debt	2,440,883
6320 Contingencies	112,000
6400 Employee Benefits	3,832,968
6450 Police Retirement	628,974
6500 Fire Retirement	645,682
6570 Major Purchases	0
Total General Fund Appropriations	\$16,804,762

Total General Fund Revenues	\$16,804,762
Total General Fund Appropriations	<u>16,804,762</u>
	\$0

SECTION 2. PRIOR TAX ASSESSMENT BILL RATIFIED AND CONFIRMED
 – AND BE IT FURTHER ORDERED THAT THE ASSESSMENT AND COLLECTION OF A TAX ON THE RATABLE REAL ESTATE AND TANGIBLE PERSONAL PROPERTY IN A SUM NOT LESS THAN \$9,935,000 NOR MORE THAN \$10,575,000 ORDERED BY THE JUDICIAL RECEIVER, JON SAVAGE, IS HEREBY RATIFIED AND CONFIRMED. SAID TAX SHALL BE LEVIED ON THREE (3) CLASSES OF TAXABLE PROPERTY AT THE FOLLOWING RATES PER \$1,000 OF NET ASSESSED VALUE: (1) RESIDENTIAL REAL ESTATE @ \$19.22; (2) COMMERCIAL/INDUSTRIAL REAL ESTATE @ \$28.99; AND (3) TANGIBLE PERSONAL PROPERTY @ \$58.54. SAID TAX IS FOR PAYMENT OF THE INTEREST AND INDEBTEDNESS IN WHOLE OR IN PART OF THE CITY, PAYMENTS AUTHORIZED BY THE ORDER OF THE STATE APPOINTED RECEIVER AND FOR PURPOSES AUTHORIZED BY LAW. PRIOR TO CERTIFYING THE TAX ROLL, THE TAX ASSESSOR SHALL ADJUST THESE RATE(S), IF NECESSARY SO THAT THE FINAL LEVY DOES NOT EXCEED THE STATE-APPROVED MAXIMUM LEVY FOR THE FISCAL YEAR ENDING JUNE 30, 2011.

SECTION 3. THE TAX ASSESSOR SHALL ASSESS AND APPORTION SAID TAX PROVIDED FOR IN SECTION 2 ON THE INHABITANTS AND RATABLE PROPERTY OF THE SAID CITY ON THE THIRTY-FIRST DAY OF DECEMBER, A.D. 2009 AT 12:00 MIDNIGHT, ACCORDING TO THE LAW, AND SHALL ON COMPLETION OF SAID ASSESSMENT DATE, CERTIFY AND SIGN THE SAME AND DELIVER TO AND DEPOSIT THE SAME IN THE OFFICE OF THE FINANCE DIRECTOR IN HIS/HER CAPACITY AS CITY TREASURER AND COLLECTOR OF TAXES, ON OR BEFORE OCTOBER 15, 2010.

SECTION 4. SAID TAX PROVIDED FOR IN SECTION 2 SHALL BE DUE AND PAYABLE ON OR BEFORE JULY 1, 2010 AND ALL TAXES REMAINING UNPAID AFTER THE FIRST DAY OF JULY 2010 SHALL BEAR INTEREST FROM THE FIRST

DAY OF JULY 2010 AND UNTIL COLLECTED, AT THE RATE OF FIFTEEN (15%) PER CENT PER ANNUM AND ALL TAXES AND INTEREST IN ADDITION TO TAXES SHALL BE PAID TO THE CITY TREASURER IMMEDIATELY AFTER THE RECEIPT THEREOF.

SECTION 5. SAID TAX PROVIDED FOR IN SECTION 2 MAY BE MADE IN INSTALLMENTS, THE FIRST INSTALLMENT OF TWENTY-FIVE (25%) PER CENT ON OR BEFORE THE FIRST DAY OF JULY 2010, AND THE REMAINING INSTALLMENTS AS FOLLOWS: TWENTY-FIVE (25%) PER CENT ON THE FIRST DAY OF OCTOBER 2010. TWENTY-FIVE (25%) PER CENT ON THE FIRST DAY OF JANUARY 2011 AND TWENTY-FIVE PER CENT ON THE FIRST DAY OF APRIL 2011. AFTER A SIX (6) WORKING DAY GRACE PERIOD FOR INTEREST PENALTY ON EACH INSTALLMENT, ALL INSTALLMENTS REMAINING UNPAID AFTER THE DATE ON WHICH THE FIRST INSTALLMENT BECOMES DUE AND PAYABLE SHALL CARRY UNTIL COLLECTED, A PENALTY AT THE RATE OF FIFTEEN (15%) PER CENT PER ANNUM.

SECTION 6. SUPPLEMENTAL TAX – THE STATE-APPOINTED RECEIVER OF THE CITY OF CENTRAL FALLS HEREBY ORDERS THE ASSESSMENT AND COLLECTION OF A SUPPLEMENTAL TAX ON THE RATABLE REAL ESTATE AND TANGIBLE PERSONAL PROPERTY, AND A MOTOR VEHICLE EXCISE TAX IN A SUM NOT LESS THAN \$950,000 NOR MORE THAN \$2,680,000 FOR A TOTAL TAX LEVY FOR THE 2010-2011 FISCAL YEAR OF NOT LESS THAN \$9,935,000 NOR MORE THAN \$12,615,000. SAID SUPPLEMENTAL TAX SHALL BE LEVIED ON FOUR (4) CLASSES OF TAXABLE PROPERTY AT THE FOLLOWING RATES PER \$1,000 OF NET ASSESSED VALUE: (1) RESIDENTIAL REAL ESTATE @ \$1.76; (2) COMMERCIAL/INDUSTRIAL REAL ESTATE @ \$2.65; (3) TANGIBLE PERSONAL PROPERTY @ \$5.36; AND (4) MOTOR VEHICLES @ \$48.65. SAID SUPPLEMENTAL TAX IS FOR PAYMENT OF THE INTEREST AND INDEBTEDNESS IN WHOLE OR IN PART OF THE CITY, PAYMENTS AUTHORIZED BY THE ORDERS OF THE STATE-APPOINTED RECEIVER AND FOR PURPOSES AUTHORIZED BY LAW. PRIOR TO CERTIFYING THE TAX ROLL, THE TAX ASSESSOR SHALL ADJUST THESE RATE(S) IF NECESSARY, SO THAT THE FINAL TOTAL TAX LEVY, INCLUSIVE OF THE SUPPLEMENTAL TAX LEVY, DOES NOT EXCEED THE STATE APPROVED MAXIMUM LEVY FOR THE FISCAL YEAR ENDING JUNE 30, 2011.

SECTION 7. THE TAX ASSESSOR SHALL ASSESS AND APPORTION SAID TAX PROVIDED FOR IN SECTION 4 ON THE INHABITANTS AND RATABLE PROPERTY OF THE SAID CITY ON THE THIRTY-FIRST DAY OF DECEMBER, A.D. 2009 AT 12:00 MIDNIGHT, ACCORDING TO THE LAW, AND SHALL ON COMPLETION OF SAID ASSESSMENT DATE, CERTIFY AND SIGN THE SAME AND DELIVER TO AND DEPOSIT THE SAME IN THE OFFICE OF THE FINANCE DIRECTOR IN HIS/HER CAPACITY AS CITY TREASURER AND COLLECTOR OF TAXES, ON OR BEFORE OCTOBER 1, 2010.

SECTION 8. SAID SUPPLEMENTAL TAX PROVIDED FOR IN SECTION 4 SHALL BE DUE AND PAYABLE ON OR BEFORE NOVEMBER 15, 2010 AND ALL TAXES REMAINING UNPAID AFTER THE FIFTEENTH DAY OF NOVEMBER 2010 SHALL BEAR INTEREST FROM THE FIFTEENTH DAY OF NOVEMBER 2010 AND UNTIL COLLECTED, AT THE RATE OF FIFTEEN (15%) PER CENT PER ANNUM AND ALL TAXES AND INTEREST IN ADDITION TO TAXES SHALL BE PAID TO THE CITY TREASURER IMMEDIATELY AFTER THE RECEIPT THEREOF.

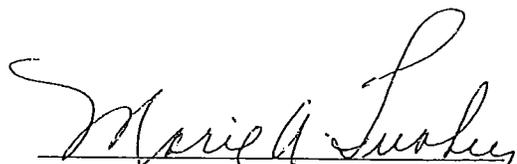
SECTION 9. SAID SUPPLEMENTAL TAX MAY BE MADE IN INSTALLMENTS. THE FIRST INSTALLMENT OF THIRTY-THREE AND ONE-THIRD PERCENT (33⅓%) ON OR BEFORE THE FIFTEENTH DAY OF NOVEMBER 2010, AND THE REMAINING INSTALLMENTS AS FOLLOWS: THIRTY-THREE AND ONE-THIRD PERCENT (33⅓%) ON THE FIFTEENTH DAY OF FEBRUARY 2011 AND THIRTY-THREE AND ONE-THIRD PERCENT (33⅓%) ON THE FIFTEENTH DAY OF MAY 2011. AFTER A SIX (6) WORKING DAY GRACE PERIOD FOR INTEREST PENALTY ON EACH INSTALLMENT, ALL INSTALLMENTS REMAINING UNPAID AFTER THE DATE ON WHICH THE FIRST INSTALLMENT BECOMES DUE AND PAYABLE SHALL CARRY UNTIL COLLECTED, A PENALTY AT THE RATE OF FIFTEEN (15%) PER CENT PER ANNUM.

SECTION 10. THIS ORDER SHALL BE EFFECTIVE IMMEDIATELY.



THE HONORABLE MARK A. PFEIFFER
STATE-APPOINTED RECEIVER OF THE
CITY OF CENTRAL FALLS

DATE: Oct 7 2010



MARIE A. TWOHEY
CITY CLERK *received for record*

DATE: Oct. 7 2010

**Five Year Financial Forecast with Projected
Deficits**

General Fund Outyear Estimates
FY 2011 - FY 2016

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Opening Surplus or Deficit	\$ -	\$ -	\$ (4,888,090)	\$ (9,976,555)	\$ (15,148,314)	\$ (20,438,682)
Plus Revenues						
Taxes and Departmentals	\$ 12,537,066	\$ 12,787,807	\$ 13,043,563	\$ 13,304,435	\$ 13,583,828	\$ 13,869,088
Fees/Non Tax Revenue	\$ 1,141,203	\$ 1,163,030	\$ 1,137,270	\$ 1,199,406	\$ 1,175,142	\$ 1,150,996
State Revenue	\$ 2,281,326	\$ 2,016,194	\$ 2,033,962	\$ 2,050,194	\$ 2,063,100	\$ 2,076,125
Departmental Revenue	\$ 367,349	\$ 367,349	\$ 367,349	\$ 385,717	\$ 385,717	\$ 385,717
Other Revenue	\$ 848,797	\$ 383,895	\$ 391,089	\$ 398,604	\$ 406,453	\$ 414,652
Total Available	\$ 17,175,740	\$ 16,718,275	\$ 16,973,235	\$ 17,338,355	\$ 17,614,240	\$ 17,896,578
Minus Expenditures						
Salaries	\$ 6,025,686	\$ 6,315,524	\$ 6,470,427	\$ 6,619,734	\$ 6,762,013	\$ 6,907,397
Benefits	\$ 5,616,154	\$ 9,457,896	\$ 9,737,276	\$ 10,002,300	\$ 10,268,361	\$ 10,542,560
Operating	\$ 3,179,035	\$ 3,176,316	\$ 3,239,842	\$ 3,304,639	\$ 3,374,037	\$ 3,444,891
Capital	\$ 2,354,864	\$ 2,656,630	\$ 2,614,153	\$ 2,583,441	\$ 2,500,198	\$ 2,462,179
Total Expenditures	\$ 17,175,740	\$ 21,606,366	\$ 22,061,699	\$ 22,510,114	\$ 22,904,609	\$ 23,357,028
Equals Ending Balance						
Operating Surplus or Deficit	\$ 0	\$ (4,888,090)	\$ (5,088,464)	\$ (5,171,759)	\$ (5,290,368)	\$ (5,460,449)
Cumulative Operating Surplus or Deficit	\$ 0	\$ (4,888,090)	\$ (9,976,555)	\$ (15,148,314)	\$ (20,438,682)	\$ (25,899,131)

General Fund Revenue Estimates

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Taxes [1, 2]	\$ 12,537,066	\$ 12,787,807	\$ 13,043,563	\$ 13,304,435	\$ 13,583,828	\$ 13,869,088
Fees/Non Tax Revenue [3]						
Interest on Taxes [4]	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
City Clerk Fees	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,575	\$ 1,575	\$ 1,575
VIN Check Fees	\$ 8,500	\$ 8,500	\$ 8,500	\$ 8,925	\$ 8,925	\$ 8,925
Probate Fees	\$ 100,000	\$ 100,000	\$ 100,000	\$ 105,000	\$ 105,000	\$ 105,000
Real Estate Recordings	\$ 85,000	\$ 85,000	\$ 85,000	\$ 89,250	\$ 89,250	\$ 89,250
Licenses (Other than marriage)	\$ 75,000	\$ 75,000	\$ 75,000	\$ 78,750	\$ 78,750	\$ 78,750
Certificates (Vital records)	\$ 12,000	\$ 12,000	\$ 12,000	\$ 12,600	\$ 12,600	\$ 12,600
Marriage Licenses	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,050	\$ 1,050	\$ 1,050
Miscellaneous (City Clerk's)	\$ 14,000	\$ 14,000	\$ 14,000	\$ 14,700	\$ 14,700	\$ 14,700
Reports/Copying Fees	\$ 12,500	\$ 12,500	\$ 12,500	\$ 13,125	\$ 13,125	\$ 13,125
Constable Fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Finger Printing Fees	\$ 300	\$ 300	\$ 300	\$ 315	\$ 315	\$ 315
Municipal Court Fees	\$ 2,000	\$ 2,000	\$ 2,000	\$ 2,100	\$ 2,100	\$ 2,100
Administrative Fees	\$ 10,780	\$ 10,780	\$ 10,780	\$ 11,319	\$ 11,319	\$ 11,319
Certificates of Occupancy	\$ 4,000	\$ 4,000	\$ 4,000	\$ 4,200	\$ 4,200	\$ 4,200
Hazardous Material Permits	\$ 1,750	\$ 1,750	\$ 1,750	\$ 1,838	\$ 1,838	\$ 1,838
Fire Code Inspection Fees	\$ 7,300	\$ 7,300	\$ 7,300	\$ 7,665	\$ 7,665	\$ 7,665
Other Fire Permits	\$ 2,000	\$ 2,000	\$ 2,000	\$ 2,100	\$ 2,100	\$ 2,100
Building Permits [5]	\$ 83,384	\$ 60,000	\$ 60,000	\$ 63,000	\$ 63,000	\$ 63,000
Plumbing Permits	\$ 18,000	\$ 18,000	\$ 18,000	\$ 18,900	\$ 18,900	\$ 18,900
Electrical Permits	\$ 16,000	\$ 16,000	\$ 16,000	\$ 16,800	\$ 16,800	\$ 16,800
Traffic Fines	\$ 200,000	\$ 200,000	\$ 200,000	\$ 210,000	\$ 210,000	\$ 210,000
Code Enforcement Fees	\$ 15,000	\$ 15,000	\$ 15,000	\$ 15,750	\$ 15,750	\$ 15,750
RI Traffic Tribune	\$ 12,000	\$ 12,000	\$ 12,000	\$ 12,600	\$ 12,600	\$ 12,600
District Court Fines	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,575	\$ 1,575	\$ 1,575
Library Fines	\$ 251	\$ 251	\$ 251	\$ 263	\$ 263	\$ 263
Animal Control Fines	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,625	\$ 2,625	\$ 2,625
Investment Interest	\$ 29,020	\$ 29,020	\$ 29,020	\$ 30,471	\$ 30,471	\$ 30,471
Bond Interest [6]	\$ 225,918	\$ 266,525	\$ 236,674	\$ 206,822	\$ 176,971	\$ 147,119
Total Fees/Non Tax Revenue	\$ 1,141,203	\$ 1,163,030	\$ 1,137,270	\$ 1,199,406	\$ 1,175,142	\$ 1,150,996

General Fund Revenue Estimates

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
State Revenue [7]						
M V Tax Phase Out	\$ 84,881	\$ -	\$ -	\$ -	\$ -	\$ -
Distressed Communities Aid (VG)	\$ 267,573	\$ -	\$ -	\$ -	\$ -	\$ -
Non Profit Organizations (PILOT)	\$ 19,158	\$ 20,078	\$ 20,981	\$ 21,883	\$ 22,759	\$ 23,669
Telephone Tax	\$ 204,938	\$ 204,938	\$ 204,938	\$ 204,938	\$ 204,938	\$ 204,938
Hotel/Meals & Beverage Tax	\$ 82,663	\$ 82,663	\$ 82,663	\$ 82,663	\$ 82,663	\$ 82,663
Police/Fire Incentive	\$ 20,057	\$ 20,057	\$ 20,057	\$ 20,057	\$ 20,057	\$ 20,057
School Housing Aid	\$ 1,600,055	\$ 1,686,458	\$ 1,703,323	\$ 1,718,652	\$ 1,730,683	\$ 1,742,798
Emergency Management	\$ 2,000	\$ 2,000	\$ 2,000	\$ 2,000	\$ 2,000	\$ 2,000
Total State Revenue	\$ 2,281,326	\$ 2,016,194	\$ 2,033,962	\$ 2,050,194	\$ 2,063,100	\$ 2,076,125
Departmental Revenue [3]						
Scrap Metal	\$ 3,000	\$ 3,000	\$ 3,000	\$ 3,150	\$ 3,150	\$ 3,150
Property Preservation Revenue	\$ 60,000	\$ 60,000	\$ 60,000	\$ 63,000	\$ 63,000	\$ 63,000
Code Court Fees	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,250	\$ 5,250	\$ 5,250
Misc. Departmental Revenue	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,500	\$ 10,500	\$ 10,500
Public Works Revenue	\$ 64,350	\$ 64,350	\$ 64,350	\$ 67,568	\$ 67,568	\$ 67,568
Rescue Runs	\$ 225,000	\$ 225,000	\$ 225,000	\$ 236,250	\$ 236,250	\$ 236,250
Total Departmental Revenue	\$ 367,349	\$ 367,349	\$ 367,349	\$ 385,717	\$ 385,717	\$ 385,717
Other Revenue						
Restitution	\$ 1,200	\$ 1,200	\$ 1,200	\$ 1,200	\$ 1,200	\$ 1,200
Lease/Rental Income	\$ 4,200	\$ 4,200	\$ 4,200	\$ 4,200	\$ 4,200	\$ 4,200
Athletic Fees *	\$ 150	\$ 150	\$ 150	\$ 150	\$ 150	\$ 150
Local Revenue	\$ 13,514	\$ 13,514	\$ 13,514	\$ 13,514	\$ 13,514	\$ 13,514
Housing Authority	\$ 56,974	\$ 56,974	\$ 56,974	\$ 56,974	\$ 56,974	\$ 56,974
Detention Center	\$ 500,000	\$ -	\$ -	\$ -	\$ -	\$ -
Surplus Sales	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000
Special Revenue	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000
Misc. Other Revenue [8]	\$ 171,759	\$ 206,857	\$ 214,051	\$ 221,566	\$ 229,415	\$ 237,614
Total Other Revenue	\$ 848,797	\$ 383,895	\$ 391,089	\$ 398,604	\$ 406,453	\$ 414,652
Total General Fund Revenues	\$ 17,175,740	\$ 16,718,275	\$ 16,973,235	\$ 17,338,355	\$ 17,614,240	\$ 17,896,578

General Fund Expenditure Estimates

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Salaries [1]						
General Government	\$ 695,780	\$ 916,466	\$ 916,466	\$ 916,466	\$ 916,466	\$ 916,466
Public Safety	\$ 4,486,512	\$ 4,511,930	\$ 4,511,930	\$ 4,511,930	\$ 4,511,930	\$ 4,511,930
Public Works	\$ 614,550	\$ 664,378	\$ 664,378	\$ 664,378	\$ 664,378	\$ 664,378
Library	\$ 177,295	\$ 167,775	\$ 167,775	\$ 167,775	\$ 167,775	\$ 167,775
Recreation	\$ 51,549	\$ 54,975	\$ 54,975	\$ 54,975	\$ 54,975	\$ 54,975
Community Development	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Anticipated Salary Increases	\$ -	\$ -	\$ 154,903	\$ 304,210	\$ 446,489	\$ 591,873
Total Salaries	\$ 6,025,686	\$ 6,315,524	\$ 6,470,427	\$ 6,619,734	\$ 6,762,013	\$ 6,907,397
Benefits [2]						
General Government	\$ 371,534	\$ 457,211	\$ 491,749	\$ 516,631	\$ 535,522	\$ 553,527
Public Safety	\$ 4,484,008	\$ 8,189,304	\$ 8,425,824	\$ 8,665,650	\$ 8,913,935	\$ 9,172,689
Public Works	\$ 343,570	\$ 392,829	\$ 412,780	\$ 427,319	\$ 440,749	\$ 453,294
Library	\$ 122,314	\$ 137,293	\$ 142,785	\$ 148,226	\$ 153,475	\$ 158,025
Recreation	\$ 8,033	\$ 14,563	\$ 17,442	\$ 17,779	\$ 17,984	\$ 18,330
Community Development	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Compensated Absences	\$ 160,000	\$ 160,000	\$ 160,000	\$ 160,000	\$ 160,000	\$ 160,000
Unemployment	\$ 126,696	\$ 106,696	\$ 86,696	\$ 66,696	\$ 46,696	\$ 26,696
Total Benefits	\$ 5,616,154	\$ 9,457,896	\$ 9,737,276	\$ 10,002,300	\$ 10,268,361	\$ 10,542,560
Operating [3]						
General Government	\$ 1,177,543	\$ 1,134,794	\$ 1,157,490	\$ 1,180,640	\$ 1,205,433	\$ 1,230,747
Public Safety	\$ 1,133,285	\$ 1,155,950	\$ 1,179,069	\$ 1,202,651	\$ 1,227,907	\$ 1,253,693
Public Works	\$ 592,882	\$ 604,739	\$ 616,834	\$ 629,171	\$ 642,383	\$ 655,874
Library	\$ 41,780	\$ 42,616	\$ 43,468	\$ 44,338	\$ 45,269	\$ 46,219
Recreation	\$ 26,825	\$ 27,362	\$ 27,909	\$ 28,467	\$ 29,065	\$ 29,675
Community Development	\$ 206,720	\$ 210,854	\$ 215,071	\$ 219,373	\$ 223,980	\$ 228,683
Total Operating	\$ 3,179,035	\$ 3,176,316	\$ 3,239,842	\$ 3,304,639	\$ 3,374,037	\$ 3,444,891
Capital [4]	\$ 2,354,864	\$ 2,656,630	\$ 2,614,153	\$ 2,583,441	\$ 2,500,198	\$ 2,462,179
Total City Operations	\$ 17,175,740	\$ 21,606,366	\$ 22,061,699	\$ 22,510,114	\$ 22,904,609	\$ 23,357,028

Assumptions:

[1] Based on contractual obligations for 2011 and 2012; FY2012 and thereafter - assumptions:

FY2012 - non-union and AFSCME salaries revert back to original FY11 salaries.

FY2012 - included annual salaries of Mayor, Human Resources Director, Solicitor, and part-time Planner.

FY2013 - fire department salaries annualized for 2% increase on June 30, 2012.

FY2013 - FY2016 - funding for anticipated salary increases.

[2] Based on contractual obligations for 2011 and 2012; FY2012 and thereafter - assumptions:

Superior Court Decisions

General Fund Expenditure Estimates

- FY2012 - included associated benefits of Mayor, Human Resources Director, Solicitor, and part-time Planner.
 FY2012 - J Hancock pension for police and fire assumed payment of \$3,547,000.
 FY2012 - municipal pension at 9.05%, per ERSRI.
 FY2012 - BCBS at 4.4% increase based on average of FY2008, 2009, and 2010. Increase for FY2011 unusual at 1%; therefore, not included.
 FY2012 - DD at 5% increase, per contract.
 FY2012 - medical waiver (non-union and AFSCME) revert back to \$5,000/ee.
 FY2012 - police and fire medical waiver at \$1,000 per contract.
 FY2012 - fire clothing allowance includes \$1,000/ff, per contract.
 FY2012 - fire clothing maintenance includes \$1,500/ff, per contract.
 FY2012 - fire longevity assumes an additional 3 firefighters.
 FY2012 - police longevity assumes an additional 4 patrolman.
 FY2013 - J Hancock pension for police and fire assumed payment of \$3,647,000.
 FY2013 - municipal pension assumes an increase of .34%, which reflects an average increase of two prior fiscal years.
 FY2013 - BCBS at 4.4% increase based on average of FY2008, 2009, and 2010. Increase for FY2011 unusual at 1%; therefore, not included.
 FY2013 - DD at 5% increase, per contract.
 FY2013 - assumes an additional 3 AFSCME and 7 non-union ee for longevity.
 FY2013 - police and fire medical waiver reverts back to original FY11 amounts, \$6,000 and \$5,000, respectively.
 FY2013 - fire longevity assumes an additional 3 firefighters.
 FY2013 - police longevity assumes an additional 2 patrolman.
 FY2013 - police clothing allowance and maintenance reverts back to original FY11 amounts.
 FY2014 - J Hancock pension for police and fire assumed payment of \$3,747,000.
 FY2014 - municipal pension assumes an increase of .17%, which reflects an average increase of two prior fiscal years.
 FY2014 - BCBS at 4.4% increase based on average of FY2008, 2009, and 2010. Increase for FY2011 unusual at 1%; therefore, not included.
 FY2014 - DD at 5% increase, consistent with prior contract.
 FY2014 - assumes an additional 2 AFSCME and 1 non-union ee for longevity.
 FY2015 - J Hancock pension for police and fire assumed payment of \$3,847,000.
 FY2015 - municipal pension assumes an increase of .08%, which reflects an average increase of two prior fiscal years.
 FY2015 - BCBS at 4.4% increase based on average of FY2008, 2009, and 2010. Increase for FY2011 unusual at 1%; therefore, not included.
 FY2015 - DD at 5% increase, consistent with prior contract.
 FY2015 - assumes an additional 1 AFSCME ee for longevity.
 FY2016 - J Hancock pension for police and fire assumed payment of \$3,947,000.
 FY2016 - municipal pension assumes an increase of .08%, which reflects an average increase of two prior fiscal years.
 FY2016 - BCBS at 4.4% increase based on average of FY2008, 2009, and 2010. Increase for FY2011 unusual at 1%; therefore, not included.
 FY2016 - DD at 5% increase, consistent with prior contract.
 FY2016 - assumes no additional employees for longevity.
- [3] FY2011 - based on actual expenses through September; includes \$5,661 for migration to web-based payroll system.
 FY2012 - reduce legal expenses by \$75,000 for contract with Umass; add \$10,000 for restoration of car show.
- | | | | | | |
|--|----------------|----------------|----------------|----------------|----------------|
| | <u>FY 2012</u> | <u>FY 2013</u> | <u>FY 2014</u> | <u>FY 2015</u> | <u>FY 2016</u> |
| | 2.0% | 2.0% | 2.0% | 2.1% | 2.1% |
- FY2012 - FY2016 CPI-U (U.S.):

CPI-U (U.S) is consistent with November 2009 Revenue Estimating Conference Consensus Economic Forecast, FY2010 - FY2015.

[4] Based on actual debt service schedules, including lease on fire rescue.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Filed – October 18, 2010

PROVIDENCE, SC.

SUPERIOR COURT

MARK A. PFEIFFER, in his capacity :
as Receiver for the City of Central Falls :

V. :

C.A. No. PB 10-5615
CONSOLIDATED WITH
C.A. No. PB 10-5672

CHARLES MOREAU, in his individual :
capacity and in his official capacity as :
Mayor of the City of Central Falls; :
WILLIAM BENSON, JR., in his :
individual capacity and in his official :
capacity as President of the City Council :
for the City of Central Falls; RICHARD :
AUBIN, JR., in his individual capacity and :
in his official capacity as a member of the :
City Council for the City of Central Falls; :
EUNICE DELAHOZ, in her individual :
capacity and in her official capacity as :
a member of the City Council for the City :
of Central Falls; PATRICK J. :
SZLASTHA, in his individual capacity :
and in his official capacity as a member :
of the City Council for the City of Central :
Falls; and JAMES DIOSSA, in his :
individual capacity and in his official :
capacity as a member of the City Council :
for the City of Central Falls :

CHARLES D. MOREAU, in his capacity :
as Mayor of the City of Central Falls, and :
individually; the CITY COUNCIL :
FOR THE CITY OF CENTRAL FALLS; :
WILLIAM BENSON, JR., in his capacity :
as a member of the City Council for the :
City of Central Falls; RICHARD AUBIN, :
JR., in his capacity as a member of the :
City Council for the City of Central Falls; :
EUNICE DELAHOZ, in her capacity as a :
member of the City Council for the :
City of Central Falls; and PATRICK J. :

SZLASTHA, in his capacity as a member :
of the City Council for the City of :
Central Falls :

V. :

C.A. No. PB 10-5672
CONSOLIDATED

JUSTICE MARK A. PFEIFFER, in his :
capacity as Appointed Receiver to the City :
of Central Falls; ROSEMARY BOOTH :
GALLOGLY, in her capacity as Director :
of the Department of Revenue and Director :
of the Department of Administration; and :
JAMES DIOSSA, in his capacity as a :
member of the City Council for the City :
of Central Falls :

DECISION

SILVERSTEIN, J. These consolidated matters are before the Court for decision following a hearing predicated on a Joint Statement of Undisputed Facts, the Joint Undisputed Exhibits, and arguments by counsel of record.¹ The parties seek injunctive relief and a declaration by the Court regarding the constitutionality of the Act Relating to Cities and Towns – Providing Financial Stability, G.L. 1956 § 45-9-1 *et seq.* (Act) and the propriety of certain appointments made to the Central Falls Housing Authority (CFHA) and Central Falls Detention Center Corporation.

I

Facts and Travel

The following facts are undisputed. On July 16, 2010, Mark A. Pfeiffer (Receiver or Pfeiffer) was appointed by the state of Rhode Island’s Director of Revenue to serve as Receiver of the City of Central Falls pursuant to the terms of the Act. (Joint Statement of Undisputed

¹ The Attorney General, pursuant to G.L. 1956 § 42-9-1 *et seq.*, also participated in these proceedings.

Facts ¶ 1.) At all times material to this matter Rosemary Booth Gallogly (Director of Revenue) was the Director of the Department of Revenue and the Acting Director of the Department of Administration of the state of Rhode Island. Id. ¶ 9.

The City of Central Falls (City or Central Falls) is a duly organized municipal corporation that has a Home Rule Charter adopted in accordance with the Rhode Island State Constitution. The City's governance includes the Mayor as chief executive officer, and the City Council as the legislative branch. Id. ¶ 10. The City Council is comprised of five members who are elected by the electorate of the City. Id. ¶ 11. The Mayor is also an elected official, elected by the residents of the City. Id. ¶ 12.

Charles D. Moreau (Moreau or Mayor) is the Mayor of Central Falls. Id. ¶ 2. At all times material to this matter, William Benson, Jr. (Benson), Richard Aubin, Jr. (Aubin), Eunice DeLaHoz (DeLaHoz), Patrick J. Szlastha (Szlastha), and James Diossa (Diossa) (collectively, City Council) were members of Central Falls' City Council. Id. ¶¶ 3-8.

On May 18, 2010, the City Council by Resolution, along with the Mayor, authorized the filing of a Verified Petition for Appointment of Receiver with the Providence County Superior Court. Id. ¶ 13. After a review of the petition and hearing on the same, on May 19, 2010, this Court entered an order appointing Jonathan N. Savage as Temporary Receiver of the City upon the terms and conditions, and with the powers therein contained. Id. ¶ 14; see Joint Ex. E.

On June 9, 2010, the Rhode Island Senate passed the Act. Id. ¶ 15. On June 10, 2010, the Rhode Island House of Representatives passed the Act. Id. ¶ 16. On June 11, 2010, the Governor, the Honorable Donald L. Carcieri, signed the Act into law. Id. ¶ 17. In response to the enactment of the Act, on June 18, 2010, Moreau and the City Council withdrew their motion for the appointment of a judicial receiver and this Court entered a Consent Order outlining the

transition period from the judicial receivership to the non-judicial receivership as required pursuant to the Act.² Id. ¶ 18; see Joint Ex. G.

As part of the transition to a non-judicial receivership, in a July 16, 2010 letter, the Director of Revenue appointed Pfeiffer as receiver for the City. Id. ¶ 19; see Joint Ex. J. Pfeiffer, by a letter dated July 19, 2010, informed Moreau that he had been appointed receiver of Central Falls and had assumed the duties and functions of the Office of Mayor. Id. ¶ 20; see Joint Ex. L. Pfeiffer further instructed Moreau that pursuant to his powers under § 45-9-7, Moreau was to henceforth act solely in an advisory capacity.³ Id. ¶ 20; see Joint Ex. L.

As of the July 16, 2010 letter, the Receiver has assumed all of Moreau's duties as both Public Safety Director and Mayor. Id. ¶ 24. On July 19, 2010, Moreau was required to relinquish his City vehicle, cell phone, and his keys to City Hall. Id. ¶ 21. Prior to July 19, 2010, Moreau was not afforded a hearing or an opportunity to be heard with respect to the Receiver's decision to assume the duties and functions of the Office of Mayor, including the Mayor's duties as Public Safety Director. Id. ¶ 22.

On September 13, 2010, the Receiver appointed Edna Poulin to the CFHA for a five-year term and informed Milad Shabo⁴ that a successor had been appointed to his position. Id. ¶ 25; see Joint Exs. N & O. Edna Poulin was subsequently qualified as a commissioner of the CFHA

² Said Consent Order was signed by counsel representing the State of Rhode Island, the Mayor (in his official capacity as Mayor), and the City Council. Id. ¶ 18. Prior to seeking the Consent Order, the City Council passed a Resolution on June 17, 2010, joining the Mayor in his decision to authorize the dismissal of the pending Superior Court receivership and to transition to a "[s]tate [r]eceiver, with the power to petition the City into Chapter 9 bankruptcy [and] possess[ing] essentially the same powers as the Superior Court Receiver." See Joint Ex. F.

³ Pfeiffer also informed Moreau that he was reducing his salary of \$71,736 to \$26,000 and was terminating Personnel Director Gene R. Noury. Id. ¶ 20; see Joint Ex. L.

⁴ Milad Shabo was holdover commissioner whose term expired on April 1, 2010. See Joint Ex. N.

by the filing of a certificate with the City's Clerk and by the administration of the oath of office.
Id.

As Receiver, Pfeiffer has rescinded the August 4, 2010 and September 20, 2010 Resolutions of the City Council.⁵ Id. ¶ 23. The City Council's August 4, 2010 Resolution authorized the appointment of Lawrence L. Goldberg, Esq. as attorney for the City Council, and the September 20, 2010 Resolution authorized the engagement of Attorneys Michael A. Kelly and John O. Mancini of the Law Offices of Michael A. Kelly, P.C. to file a legal action to determine the legality and constitutionality of the Act. Id. ¶ 26; see Joint Ex. P. By a letter dated September 22, 2010, from the Receiver to Benson, the Receiver rescinded the September 20, 2010 Resolution. Id. ¶ 27; see Joint Ex. Q.

On September 22, 2010, the City Council scheduled a meeting for September 24, 2010 at 5:30 p.m. Id. ¶ 29. The posted Agenda included consideration of Moreau's putative appointments of Milad Shabo and Gladys Burns to the CFHA and Clarise Thompson and Shawne Thomas to the Central Falls Detention Center Corporation. Id. ¶ 29; Joint Ex. T.

Additionally, on September 22, 2010, the CFHA filed a Motion for Declaratory Judgment seeking a declaration that Milad Shabo remain as a commissioner of the CFHA and a declaration that the Receiver exceeded his legal authority in appointing Edna Poulin.⁶ Id. ¶ 28. On September 23, 2010, the Receiver filed a Complaint seeking a preliminary injunction and temporary restraining order against Moreau and Benson. Id. ¶ 30. On September 27, 2010, Moreau and the City Council filed a Motion for a Preliminary Injunction and Temporary

⁵ Prior to rescinding these resolutions, the City Council was not afforded a hearing or an opportunity to be heard. Id. ¶ 23.

⁶ That matter, Central Falls Hous. Auth. v. Pfeiffer, No. 10-5580 (R.I. Super. Ct. Sept. 22, 2010), was not consolidated with the instant action.

Restraining Order against the Receiver. Id. ¶ 31. By agreement, the parties filed a motion with the Court consolidating the Receiver's action with that of Moreau and the City Council. Additionally, the parties agreed that the October 5, 2010 hearing would combine their requests for preliminary and permanent injunctions.⁷

The Court also takes notice of the following relevant facts. Central Falls is in an "extraordinary" fiscal crisis. (June 18, 2010 Tr. 14.) Even before requesting a judicial or non-judicial receivership, Central Falls had already requested that the General Assembly grant it the authority to file for a Chapter 9 bankruptcy proceeding. Id. A June 30, 2009 independent audit showed that the City had total net assets of negative \$16,866,819. (Verified Pet. for Appointment of Receiver ¶ 6.) The City's annual operating budget for fiscal year 2010 and the proposed budget for 2011 was just under \$18,000,000, with a shortfall of \$3,000,000 and projected shortfall of over \$5,000,000 respectively. Id. ¶ 7. The City also has a municipal bond indebtedness of over \$10,000,000. Id. ¶ 10.

Furthermore, in order to satisfy its annual pension obligations, the City sold off much of its chief pension fund assets. Id. ¶ 8. The pension accrued liability exceeding \$35,000,000, with assets of approximately \$4,000,000. Id. The City's audit reports indicate that for fiscal year 2009 the City failed to make any contributions to the pension despite having a required contribution of over \$2,700,000, and at the time the City petitioned for the appointment of a receiver, it had no funds available to satisfy over \$1,500,000 in obligations for fiscal year 2010.

Id.

⁷ At a hearing held on October 4, 2010, the Court admitted de bene esse the Affidavits of Charles D. Moreau and Gene R. Noury, as well as portions of the Affidavit of City Council President William Benson, Jr.; these affidavits are now admitted as full exhibits.

In light of this “extreme fiscal stress,” on May 18, 2010, the City Council passed a Resolution joining the Mayor in his petition for the appointment of a receiver “to exercise all the powers necessary and reasonable to return the City to solvency with a budget that is balanced.” See Joint Ex. C. As a result of the receivership, Central Falls’ capital markets credit rating was immediately reduced to junk bond status. Id. at 4. State officials were told by municipal finance advisors and rating agencies, that as a result of such receiverships, the capital markets would view debt financing to Rhode Island municipalities as extremely risky and it would become more expensive for municipalities to borrow in the capital markets. Id. at 4-5.

With many of Rhode Island’s municipalities already financially stressed, the General Assembly determined that receivership proceedings—such as the one Central Falls had entered—were not in the best interest of the citizens of Central Falls and threatened the financial well-being of Rhode Island and its other municipalities. Id. In light of this perceived threat, the General Assembly revised the then existing § 45-9-1 et seq.⁸ to its current form in order to create

⁸ In its pre-amended form, the Act provided a more limited mechanism by which to deal with a city or town’s fiscal crisis. The Act originally vested the director of the state department of revenue with the power to

“authorize, create, and establish a budget and review commission in any town or city where the director finds that the town or city’s bond rating has been assigned by one or more recognized rating agencies to a rating which is below investment grade and there is an imminent threat of default on any or all of its obligations.” G.L. 1956 § 45-9-3 (amended 2010).

Furthermore, the Act in its pre-amended form specified the composition of the budget and review commission and granted it the power

“to impose taxes and to make appropriations for the expenditures of moneys, for the purpose of adopting a budget and, for the purpose of maintaining a balanced budget, the budget and review commission shall make reductions or suspensions in the appropriations to any or all departments, offices, or other agencies of town or city government as will prevent a deficit for the fiscal year.” Sec. 45-9-3(a)(9) (amended 2010).

a more effective mechanism by which to save Rhode Island and its municipalities from financial disaster. Id. at 5.

II

Standard of Review

In assessing the Mayor and City Council's challenge to the constitutionality of the Act, the court must begin with the principle that legislative enactments of the General Assembly are presumed to be valid and constitutional. Newport Court Club Assocs. v. Town Council of Middletown, 800 A.2d 405, 409 (R.I. 2002) (citing Rhode Island Depositors Econ. Prot. Corp. v. Brown, 659 A.2d 95, 100 (R.I. 1995)). The court is to approach constitutional questions with great deliberation, caution, and reluctance, and should never declare a statute void unless it finds it to be invalid beyond a reasonable doubt. Gorham v. Robinson, 57 R.I. 1, 7, 186 A. 832, 837 (1936). To be deemed unconstitutional, a statute must palpably and unmistakably be characterized as an excess of legislative power. City of Pawtucket v. Sundlun, 662 A.2d 40, 44-45 (R.I. 1995).

The party challenging the validity of a statute has the burden of persuading the court beyond a reasonable doubt that it violates an "identifiable aspect of the Rhode Island or United States Constitution." Newport Court, 800 A.2d at 409; Gorham v. Robinson, 57 R.I. at 7, 186 A. at 837. Unless the party challenging the statute's constitutionality can establish beyond a reasonable doubt that a specific provision of the United States or Rhode Island Constitution has been violated, the court will not hold the statute unconstitutional. Sundlun, 662 A.2d at 44-45

Additionally the budget and review commission would remain in office until "that time as the chief executive officer of the town or city and the town or city council petitions the director of the state department of revenue to disband the budget and review commission." Id. Within ninety days of being disbanded, the budget and review commission was required to approve and issue a report detailing its findings and recommendations. See § 45-9-3(b)(2) (amended 2010).

(stating that because of the broad plenary power of the General Assembly, the court's evaluation of legislative enactments is extremely deferential); Gorham v. Robinson, 57 R.I. at 7, 186 A. at 837 (stating that every intendment in favor of validity should be made by the court unless the Act on its face is repugnant to the Constitution).

III

The Act

Section 45-9-1 et seq. was passed by the General Assembly in response to the fiscal crisis threatening Rhode Island and its municipalities. In § 45-9-1, the General Assembly declared the policy behind the Act and the scope and breadth of its delegation. Section 45-9-1 serves as a guidepost for administrators of the Act and provides:

“§ 45-9-1. Declaration of Policy and Legal Standard⁹”

“It shall be the policy of the state to provide a mechanism for the state to work with the cities and towns undergoing financial distress that threatens the fiscal well-being, public safety and welfare of such cities and towns, or other cities and towns or the state, with the state providing varying levels of support and control depending on the circumstances. The powers delegated by the General Assembly in this chapter shall be carried out having due regard for the needs of the citizens of the state and of the city or town, and in such a manner as will best preserve the safety and welfare of citizens of the state and their property, and the access of the state and its municipalities to capital markets, all to the public benefit and good.” Sec. 45-9-1.

Through the Act's varying levels of support and control, the General Assembly delegated to certain state officials a means to protect the fiscal well-being, public safety, and welfare of fiscally distressed cities and towns. Although on its face, § 45-9-1 appears to be a broad delegation of power, these powers are expressly circumscribed by the terms and standards

⁹ The text of any General Law, or reenactment thereof, does not include the title or chapter heading or the boldface captions appearing at the beginning of the sections, except as necessary for clarification of statutory text. See G.L. 1956 § 43-4-18.

contained therein. Not only is an official administering the Act limited to acting for the fiscal well-being, public safety, and welfare of a distressed city or town, but the official must also be acting solely to “best preserve the safety and welfare of citizens . . . their property, and the access of the state and its municipalities to capital markets, all to the public benefit and good.”¹⁰ Id.

Moreover, the Act clearly establishes a five-tier mechanism by which state officials may work with a city or town to resolve fiscal instability. At the first tier, a fiscal overseer may be appointed at the request of the city or town’s chief executive officer and council or by the director of revenue, in consultation with the auditor general. The director’s discretion to appoint an overseer is not unlimited. Under the Act, the director of revenue may only appoint a fiscal overseer independently if he or she finds that:

“any two (2) of the following events have occurred which are of such a magnitude that they threaten the fiscal well-being of the city or town, diminishing the city or town’s ability to provide for the public safety or welfare of the citizens of the city or town:

“(1) The city or town projects a deficit in the municipal budget in the current fiscal year and again in the upcoming fiscal year;

“(2) The city or town has not filed its audits with the auditor general by the deadlines required by law for two (2) successive fiscal years (not including extensions authorized by the auditor general);

“(3) The city or town has been downgraded by one of the nationally recognized statistical rating organizations;

¹⁰ In construing the provisions of the Act, the General Assembly provided that “[the Act] being necessary for the welfare of the state and its inhabitants shall be liberally construed in order to effectuate its purposes.” Sec. 45-9-16. Furthermore, “[n]otwithstanding any general or special law to the contrary, unless otherwise specified, the provisions of [the Act] shall supersede any conflicting provisions of the city’s or town’s charter or local ordinance.” Sec. 45-9-12. “Insofar as the provisions of [the Act] are inconsistent with the provisions of any charter or other laws or ordinances, general, special, or local, or of any rule or regulation of the state or any municipality, the provisions of [the Act] are controlling.” Sec. 45-9-15.

“(4) The city or town is otherwise unable to obtain access to credit markets on reasonable terms in the sole judgment of the director of revenue.

“(5) The city or town does not promptly respond to requests made by the director of revenue, or the auditor general, or the chairpersons of the house and/or senate committees for financial information and operating data necessary to assess the financial condition of the city or town in the sole judgment of the director of revenue.” Sec. 45-9-3.

At a minimum, these factors serve as a guidepost for officials administering the Act to determine whether a city or town is facing fiscal instability and whether the appointment of a fiscal overseer, budget and review commission, or receiver is necessary.

Once appointed, the fiscal overseer is empowered to (1) recommend fiscal policies; (2) supervise all financial services and activities; (3) provide fiscal advice to city and town officials; (4) provide assistance with municipal financial affairs; (5) assist in the development and preparation of budget and spending plans; (6) review all proposed contracts and obligations; (7) monitor expenditures; (8) approve the annual or supplemental municipal budgets; and (9) report monthly to the director of revenue, the auditor general, the governor and other state officials on the progress made in reducing the municipality’s deficit and attaining fiscal stability. See § 45-9-3(d). The goal of the fiscal overseer is to balance the municipality’s budget, improve its fiscal policies, and thereby establish fiscal stability.

In the event the fiscal overseer is unable to return the municipality to fiscal stability or resolve the events that led the director of revenue to initially appoint an overseer, the Act

provides for the appointment of a budget and review commission as the second tier.¹¹ The Act provides that the fiscal overseer

“shall report in writing to the division of municipal finance if the fiscal overseer concludes that the city or town: (1) [i]s unable to present a balanced municipal budget; (2) [f]aces a fiscal crisis that poses imminent danger to the safety of the citizens of the city or town or their property; (3) [w]ill not achieve fiscal stability without the assistance of a budget commission; or (4) [t]hat the tax levy of the fiscal year should not be approved.” Sec. 45-9-5.

If the fiscal overseer believes that a budget commission is necessary, he or she may at any time report this belief to the division of municipal finance.¹² Id.

Upon notice from the division of municipal finance of the fiscal overseer’s failure to establish fiscal stability, the director of revenue is authorized to establish a budget and review commission.¹³ The budget commission is charged with the responsibility of initiating and implementing “appropriate measures to secure the financial stability of the city or town.”¹⁴ Sec. 45-9-6(a). Given the fiscal overseer’s failure to resolve the fiscal crisis, the Act empowers the budget commission not only with the powers and duties delegated to the fiscal overseer, but an

¹¹ Under § 45-9-5(g), the chief executive officer of a city or town and city or town council may also jointly request approval from the division of municipal finance, the director of revenue, and the auditor, for the establishment of a budget commission. See § 45-9-5(g).

¹² If a budget commission has not been appointed and the division of municipal finance determines that the city or town has taken the necessary steps to achieve long-term fiscal stability—no longer requiring active state oversight—the director of revenue may abolish the fiscal overseer in accordance with § 45-9-5(e).

¹³ The budget and review commission consists of five members: three being appointed by the director of revenue, one being the chief executive officer of the city or town, and the last being the president of the city or town council. The budget and review commission is empowered to act by a majority vote of all its members. See § 45-9-6.

¹⁴ The budget commission is subject to the “Access to Public Records” and “Code of Ethics” requirements of the General Laws. When meeting to take action on (1) levy and assessment of taxes; (2) rulemaking or suspension of rules; (3) adoption of a municipal budget; (4) collective bargaining agreements; or (5) making a determination that its powers are insufficient to restore fiscal stability, the budget commission is subject to the “Open Meetings” requirements of the General Laws. See § 45-9-6.

additional twenty delegations set forth in § 45-9-6(d).¹⁵ Under § 45-9-6, the budget commission shall continue at the discretion of the director of revenue.¹⁶

As part of the third tier, the Act provides that if the budget commission concludes its powers are insufficient to restore the fiscal stability of the city or town, the director of revenue, upon notice, is authorized to terminate the budget commission and appoint a receiver.¹⁷ At this level, given the exigency of the city or town's fiscal instability, the General Assembly has expanded the receiver's powers beyond those of the fiscal overseer and budget commission. In addition to the powers granted to the fiscal overseer and budget commission under §§ 45-9-2 and 45-9-6, the receiver has

“[t]he power to exercise any function or power of any municipal officer or employee, board, authority, or commission, whether elected or otherwise relating to or impacting the fiscal stability of the city or town including, without limitation, school and zoning matter.” Sec. 45-9-7.

¹⁵ Among these delegations is the power to: (1) amend, formulate, and execute the annual municipal budget; (2) develop and maintain a uniform system for all financial planning; (3) appoint, remove, supervise, and control all city and town employees and have control over all personnel matters other than disciplinary matters; (4) alter or eliminate compensation and/or benefits of elected officials of the city or town to reflect the fiscal emergency and changes in the responsibility of the officials; (5) reorganize, consolidate or abolish departments, commissions, boards, offices, or functions of the city or town, and remove or appoint new members in connection therewith; (6) alter or rescind any action or decision of any municipal officer, employee, board authority, or commission within fourteen days after notice of action or decision; and (7) exercise all powers under the General Laws and this chapter or any special act, any charter provision, or ordinance that any elected official of the city or town may exercise. See § 45-9-6(d).

¹⁶ The Court notes that while the duration of the budget commission is at the discretion of the director of revenue, all officials administering the powers delegated under the Act must act in accordance with the policy stated in § 45-9-1 and in light of the standards for fiscal instability provided in § 45-9-3.

¹⁷ The director of revenue may, at any time, and without cause, remove the receiver and appoint a successor, or terminate the receivership. See § 45-9-7. Additionally, the Act limits a city or town's access to receivership proceedings, providing that “[n]o city or town shall be placed into, or made subject to, either voluntarily, or involuntarily, a judicial receivership proceeding.” Sec. 45-9-13.

Essentially, upon appointment, the receiver has the right to exercise the power of any officer, employee, board, authority or commission, whether elected or relating to fiscal stability. Id. Although the city or town is directed to continue with elections in accordance with its charter, during the receivership, the powers of the receiver shall be “superior to and supersede” those of the elected officials who serve in an advisory capacity to the receiver. Id.

Additionally, the Act provides a mechanism by which the director of revenue, in consultation with the auditor general, may immediately appoint a receiver to resolve a dire fiscal crisis. See § 45-9-8. In times of a fiscal emergency, where the exigency of a city or town’s fiscal condition does not allow for the appointment of a fiscal overseer or budget commission, the director of revenue may immediately appoint a receiver having all the powers and duties of a receiver appointed under § 45-9-7. Id.

As to the fourth tier of the Act, upon determining that the financial condition of the city or town has improved to a level that a fiscal overseer, budget commission, or receiver is no longer needed, a department of administration and finance shall be created for a period of five years. See § 45-9-10. The department of administration and finance is a municipal-level department and shall be under the control of an officer appointed by and reporting to the elected chief executive officer of the city or town. Id. The department of administration and finance shall be responsible for the “overall budgetary and financial administration of the city or town” and the preservation of the city or town’s financial interest after having been restored to financial stability. Id.

In the instance that the receiver is unable to restore the city or town’s fiscal stability, the Act provides for a fifth and final tier. Under § 45-9-7(b)(3), the receiver is authorized “to file a

petition in the name of the city or town under Chapter 9 of Title 11 of the United States Code, and to act on the city's or town's behalf in any such proceeding." Sec. 45-9-7(b)(3). Thus, should the receiver's powers be insufficient to resolve the city or town's fiscal crisis, the United States Bankruptcy Court is authorized to assume control over the matter. Id.

IV

Discussion

A

Judicial Estoppel

Under the doctrine of judicial estoppel, "where a party assumes a certain position in a legal proceeding, and succeeds in maintaining that position," the court may bar that party from assuming a contrary position, especially if it prejudices another party. New Hampshire v. Maine, 532 U.S. 742, 749, 121 S. Ct. 1808, 1814 (2001). The doctrine prevents a party from asserting a claim in a proceeding that is inconsistent with a claim taken by that party in a prior proceeding. Id.; see also Chernick v. National Surety Co., 50 R.I. 419, 420, 148 A. 418, 419 (1930) (stating that judicial estoppel is an equitable principle employed to prevent injustice that may result from a litigant's inconsistency or fraud).

Judicial estoppel is an equitable doctrine that may be invoked by a court at its discretion. Maine, 532 U.S. at 750, 121 S. Ct. at 1815 (quoting Konstantinidis v. Chen, 626 F.2d 933, 938 (D.C. Cir. 1980)) (stating that "because the rule is intended to prevent 'improper use of judicial machinery' . . . judicial estoppel 'is an equitable doctrine invoked by a court at its discretion'"); Gaumond v. Trinity Repertory Co., 909 A.2d 512, 519 (R.I. 2006) (stating that the application of judicial estoppel is an extraordinary form of relief, applied only in instances where the equities are balanced in favor of the party seeking relief). Judicial estoppel differs from other forms of

estoppel in that it focuses on the relationship between the litigant and the judicial system as a whole rather than solely on the relationship between parties. Gaumond, 909 A.2d at 519 (citing D & H Therapy Assocs. v. Murray, 821 A.2d 691, 693 (2003) (noting that the doctrine of judicial estoppel is driven by the motive of promoting truthfulness and fair dealing in court proceedings)).

In determining whether to apply judicial estoppel, courts will look to see whether: (1) a party's later position is inconsistent with its earlier position; (2) the party has persuaded a court to accept its earlier position such that acceptance of an inconsistent position in the later proceeding creates the perception that one of the courts has been misled; and (3) the party asserting an inconsistent position would derive an unfair advantage or impose an unfair detriment on the opposing party if not estopped. Maine, 532 U.S. at 750-51, 121 S. Ct. at 1815. Of these factors, unfair advantage is the primary factor relied upon by courts in invoking judicial estoppel. Id. at 751, 121 S. Ct. at 1815; Gaumond, 909 A.2d at 520 (noting that judicial estoppel should be employed when a party is playing fast and loose with the courts and self-contradiction is being used as a means of obtaining an unfair advantage).

Here, the Receiver argues that having previously agreed to a Consent Order transitioning the judicial receivership to a non-judicial receivership, the Mayor and City Council should now be estopped from challenging the constitutionality of the Act. (Oct. 5, 2010 Tr. 11.; Joint Ex. G.) Conversely, the Mayor and City Council argue that they should not be estopped because the Consent Order was in no way a consent to the constitutionality of the Act. Id. at 80. In fact, they argue that both the Mayor and City Council were acting in good faith when they agreed to the Consent Order, and that it would be "totally inequitable to allow the [R]eceiver to assert judicial estoppel, when in fact, the Legislature passed a statute, the Legislature put the provision in [preventing] judicial receivers, and the City had no choice." Id. at 82-84.

In New Hampshire v. Maine, relied upon by the Receiver, the United States Supreme Court applied judicial estoppel after having found that New Hampshire's subsequent claim as to the location of a border line was "clearly inconsistent" with its interpretation during a prior litigation. Id. at 751, 121 S. Ct. at 1815. In considering the equities, the Maine court determined that to accept New Hampshire's subsequent inconsistent interpretation, after "[h]aving convinced this Court to accept one interpretation . . . [and] having benefited from that interpretation," would allow New Hampshire to "gain additional advantage at Maine's expense" and would "undermine[] the integrity of the judicial process." Id. at 755, 121 S. Ct. at 1817.

Unlike the Supreme Court in Maine, this Court fails to recognize how the Mayor and City Council would derive unfair advantage or impose an unfair detriment upon the Receiver by challenging the constitutionality of the Act. In the instant matter, the Court runs no risk of inconsistent determinations by proceeding with a determination of the parties' constitutional challenge. Id. (applying judicial estoppel where "the risk of inconsistent court determinations would become a reality" were the court to accept the party's subsequent interpretation). Furthermore, where, as here, the Act explicitly prohibited judicial receiverships, the Court finds that the Mayor and City Council were not acting in bad faith when they petitioned the Court and should not be estopped from challenging its constitutionality. Gaumond, 909 A.2d at 520 (noting that judicial estoppel should be employed when a party is playing fast and loose with the courts and self-contradiction is being used as a means of obtaining an unfair advantage).

Moreover, the Court fails to see how the parties' assent to the Consent Order was either an affirmative representation about the constitutionality of the Act or an inducement causing reliance and injury to another. Southex Exhibitions, Inc. v. Rhode Island Builders Ass'n, 279 F.3d 94, 104 (1st Cir. 2002) (noting that in determining whether to apply judicial estoppel,

Rhode Island courts have also looked for (1) an affirmative representation by the party against whom estoppel is claimed; (2) for the purpose of inducing another to act or fail to act in reliance thereon; and (3) a showing of actual inducement of another causing injury). Where, as here, the Consent Order was merely a “formality” after the General Assembly passed the Act, the Court, in its discretion, finds that the Receiver has failed to establish that the Mayor or City Council made “clearly inconsistent” affirmative representations which induced reliance to the detriment of either the Receiver or the Court. *Id.*; Gaumond, 909 A.2d at 519 (stating that judicial estoppel is an extraordinary form of relief, invoked in the court’s discretion, and only applied when the equities are clearly balanced in favor of the party seeking relief). (Oct. 5, 2010 Tr. 83; Joint Ex. G.)

B

Constitutionality of the Act

1

The Right to Self-Government in All Local Matters

Article 13, Sections 1 and 2 of the Rhode Island Constitution grant the right of self-government in all local matters to the people of every city or town that has adopted a charter consistent with the Rhode Island Constitution and laws enacted by the General Assembly. In re Advisory Opinion to the House of Representatives, 628 A.2d 537, 538 (R.I. 1993); R.I. Const. art XIII, §§ 1 and 2. Despite this delegation, Article 13, Section 4 of the Rhode Island Constitution reserves for the General Assembly, “the power to act in relation to the property, affairs and government of any city by general laws which shall apply alike to all cities and towns, but which shall not affect the form of government of any city or town.” R.I. Const. art. XIII, § 4. Furthermore, the General Assembly is empowered to “act in relation to the property,

affairs and government of a particular city or town provided that such legislative action shall become effective only upon approval by a majority of the qualified electors of said city or town voting at a general or special election. . . .”¹⁸ Id. (emphasis added).

Article 13, often referred to as the “Home Rule Amendment,” altered the traditional rule that cities and towns have ‘no inherent right to self-government.’¹⁹ Marran v. Baird, 635 A.2d 1174, 1177 (R.I. 1994) (quoting In re Advisory Opinion, 628 A.2d at 538). Under the Home Rule Amendment, once a municipality adopts a valid home rule charter,²⁰ it is authorized to “enact and amend local laws relating to its property, affairs and government not inconsistent with this [C]onstitution and laws enacted by the [G]eneral [A]ssembly in conformity with the powers reserved to the [G]eneral [A]ssembly.” R.I. Const. art. XIII, § 2. However, the legislative power conferred by Article 13 is not unfettered. Amico’s Inc. v. Mattos, 789 A.2d 899, 903 (R.I. 2002). Although municipalities are granted the right to self-government on a local level, legislation of matters of statewide concern is exclusively reserved for the General Assembly. Marran, 635 A.2d at 1177 (citing Westerly Residents for Thoughtful Dev., Inc. v. Brancato, 565 A.2d 1262, 1264 (R.I. 1989)) (stating that the power of the home rule is subordinate to the General

¹⁸ In essence, the General Assembly “can act only in relation to the property, affairs, and government of any home-rule city or town by the General Laws when such legislation pertains to all cities and towns alike and does not affect the form of government of any home-rule city or town.” In re Advisory Opinion, 628 A.2d at 538. When an act of the General Assembly is directed to only one home-rule city or town, the approval of a majority of the qualified electors of that city or town in a general or special election is necessary. Id.

¹⁹ The Home Rule Amendment becomes effective in a city or town only after a charter is presented and accepted by the city or town. In re Advisory Opinion, 628 A.2d at 538 (citing Lynch v. King, 120 R.I. 868, 391 A.2d 117 (1978)). Until a charter is approved, the city or town remains subject to the plenary power of the General Assembly. Id.

²⁰ Central Falls adopted its Home Rule Charter in 1952. Pursuant to Article 1 of the Charter, the City reserves to itself “all powers and authority of local self-government and shall have complete powers of legislation and administration in relation to its municipal functions, including any additional powers and authority which may hereafter be granted to it.” Central Falls Home Rule Charter, art. I, § 1-100 (1951).

Assembly's power to legislate in matters of statewide concern). Thus, in light of Article 13, legislation by the General Assembly will infringe a municipality's right to self-government unless it applies alike to all cities and towns and addresses a matter of statewide concern.

a

Applies Alike to All Cities and Towns

The Mayor and City Council contend that the Act is unconstitutional because it violates Central Falls' right to self-government under Article 13, Sections 1 and 2. (Oct. 5, 2010 Tr. 85-86.) They claim that because the Act applied retroactively, it applied exclusively to Central Falls, and should have been subject to a vote of the electorate in accordance with the Home Rule Amendment. *Id.*; see also Mayor and City Council's Mem. of Law in Supp. of its Mot. for a Prelim. Inj. and TRO 10-11.

In Marran, our Supreme Court addressed a similar challenge to a prior version of the Act. The plaintiffs in Marran asserted that the old version of the Act affected each municipality differently and therefore violated Article 13 because it did not apply alike to all cities and towns. In determining whether the old version of the Act "applied alike" or was directed at a specific city or town, Justice Lederberg focused on whether the Act "on its face" was "applicable to any city or town" and was thus "an act of general application." Marran, 635 A.2d 1177-78 (citing City of East Providence v. Local 850, Int'l Ass'n of Firefighters, AFL-CIO, 117 R.I. 329, 338-339, 366 A.2d 1151, 1156 (1976)). Justice Lederberg, writing for the Court, held that the 'critical fact [was] that the enabling legislation applie[d] equally to all cities and towns' on its face. Marran, 635 A.2d 1178 (quoting City of Cranston v. Hall, 116 R.I. 183, 186, 354 A.2d 415, 417 (1976)).

Here, the Mayor and City Council similarly contend that the Act in its amended form affects Central Falls differently and therefore does not apply alike. (Oct. 5, 2010 Tr. 85-86.) However, the current version of the Act still does not facially discriminate between any particular city or town. In the “Declaration of Policy and Legal Standard,” the Act clearly states that “[i]t shall be the policy of the state to provide a mechanism for the state to work with cities and towns undergoing financial distress” and “shall be carried out having due regard for the needs of the citizens of the state and of the city or town.” Sec. 45-9-1. Although the Act may have applied retroactively²¹ and affected Central Falls differently than other municipalities, on its face and by its terms the Act applies equally to all cities and towns, including Central Falls, and is therefore a statute of general application. But see McCarthy v. Johnson, 574 A.2d 1229, 1232 (R.I. 1990) (holding that the statute violated Article 13 because by its terms it failed to apply alike to all cities and towns).

b

Addresses an Issue of Statewide Concern

The Mayor and City Council also contend that the Act fails to address an issue of statewide concern. (Oct. 5, 2010 Tr. 87-88.) Thus, they claim that because the Home Rule Amendment grants them the right to govern purely local matters, when the Act was not presented for voter approval in accordance with Article 13, the General Assembly usurped Central Falls’ right to self-government. Id.; see also Mayor and City Council’s Mem. in Supp. of its Mot. for Prelim. Inj. and TRO 7-8, 11-12.

²¹ The Court notes that had the General Assembly passed the Act without the retroactive provision, Central Falls likely would have remained in a judicial receivership, and the Act—prohibiting all judicial receiverships—would have violated Article 13 by not applying alike to all cities and towns. (Oct. 5, 2010 Tr. 86.)

Although the Home Rule Amendment grants municipalities with valid home rule charters authority over purely local concerns, municipalities are not authorized to legislate on matters of statewide concern. Brancato, 565 A.2d at 1264. Furthermore, because the Constitution and General Laws are devoid of guidelines defining the parameters of “local” and “statewide” legislation, the court is delegated the responsibility of resolving the conflict. Bruckshaw v. Paolino, 557 A.2d 1221, 1223 (R.I. 1989). To determine whether a matter is of local or statewide concern, our Supreme Court considers whether: (1) uniform regulation throughout the state is necessary; (2) the matter is traditionally within the historical dominion of one entity; and (3) the municipality’s action has a significant effect upon people outside the home-rule city or town. Town of East Greenwich v. O’Neil, 617 A.2d 104, 111 (R.I. 1992). Most critical to the Court’s determination is whether the municipality’s action will significantly affect other cities and towns within Rhode Island. Id.

Accordingly, because the fiscal collapse of a municipality can affect the entire state’s financial interests, the General Assembly has consistently recognized the importance of sound fiscal policies. Marran, 635 A.2d 1178-79. Thus, it is without question that uniform fiscal regulation is desirable and necessary to ensure that the state protects its own fiscal stability as well as that of its municipalities. See e.g. G.L. 1956 § 45-52.1 (1991 Reenactment) (stating that the insolvency of Central Falls threatens the credit, health, and welfare of the entire state). Furthermore, the aggregate indebtedness and municipal budgets of cities or towns have historically been regulated by statutes of general application and subject to state oversight. Marran, 635 A.2d at 1179. Consequently, where, as here, Rhode Island has consistently exercised oversight over municipal budgets and debt obligations, the insolvency of a city or town threatens the credit of the state and other cities and towns, and uniform regulations are desirable

and necessary to protect the fiscal stability of the state and its municipalities, the Court finds that the Act affects matters of statewide concern and does not violate Central Falls' right to self-government.

2

Alters a Municipality's Form of Government

The Mayor and City Council contend that the Act violates Article 13, Section 4 of the Rhode Island Constitution because it significantly alters a municipality's form of government by displacing appointed and elected officials.²² (Oct. 5, 2010 Tr. 94; Mayor and City Council's Mem. in Supp. of its Mot. for Prelim. Inj. and TRO 9-10.) In contrast, the Receiver avers that the Court should not address whether a change in the form of government has occurred because it is a non-justiciable political question. (Oct. 5, 2010 Tr. 26.) Further, should the Court deem it

²² Under § 45-9-7(b), the Receiver shall have the following powers:

“(1) All powers of the fiscal overseer and budget commission under §§ 45-9-2 and 45-9-6. Such powers shall remain through the period of any receivership;

“(2) [t]he power to exercise any function or power of any municipal officer or employee, board, authority, or commission, whether elected or otherwise relating to or impacting the fiscal stability of the city or town including, without limitation, school and zoning matter; and

“(3) [t]he power to file a petition in the name of the city or town under Chapter 9 of Title 11 of the United States Code, and to act on the city's or town's behalf in any such proceeding.” Sec. 45-9-7.

The Act further provides:

“(c) Upon appointment of a receiver, the receiver shall have the right to exercise the powers of the elected officials under the [G]eneral [L]aws, special laws and the city or town charter and ordinances relating to or impacting the fiscal stability of the city or town . . . provided, further, that the powers of the receiver shall be superior to and supersede the powers of the elected officials of the city or town shall continue in accordance with the city or town charter, and shall serve in an advisory capacity to the receiver.” *Id.*

appropriate to decide the issue, the Receiver argues that because the delegation of legislative authority under the Act is merely temporary and incidental, no change in the form of government has occurred. Id.

a

The Political Question Doctrine

The United States Supreme Court has held that the political question doctrine incorporates three inquiries: (1) does the issue involve resolution of questions committed by the text of the Constitution to a coordinate branch of government; (2) would resolution of the question demand that a court move beyond areas of judicial expertise; and (3) do prudential considerations counsel against judicial intervention. Goldwater v. Carter, 444 U.S. 996, 998, 100 S. Ct. 533, 534 (1979) (citing Baker v. Carr, 369 U.S. 186, 217, 82 S. Ct. 691, 710 (1962)). In considering justiciability, the court must decide whether the question before it is one of legislative power or of soundness of legislative policy. Gorham v. Robinson, 57 R.I. 1, 8-9, 186 A. 832, 837-38 (1936) (stating that the question of whether a legislation is wise or unwise is a matter for the legislature, but the question of whether the legislation is in excess of legislative power is for the court to decide).

Under the Home Rule Amendment, “the [G]eneral [A]ssembly shall have the power to act in relation to the property, affairs and government of any city or town by general laws which shall apply alike to all cities and towns, but which shall not affect the form of government of any city or town.” R.I. Const. art. XIII, § 4 (emphasis added). Here, the Mayor and City Council believe that although the Home Rule Amendment reserves legislative powers to the General Assembly, the Act exceeds those powers and violates Article 13 because it affects a municipality’s form of government. As a result, the Court must determine whether the General

Assembly exceeded the scope of its powers by enacting legislation that alters a municipality's form of government.

Under the Rhode Island Constitution, the General Assembly has no right to alter or amend a municipality's form of government. Thus, in determining whether the Act violates Article 13, Section 4, the Court is not resolving an issue committed by text to the General Assembly nor is it addressing the soundness of the legislation's policy. Goldwater, 444 U.S. at 998, 100 S. Ct. at 534; Gorham, 57 R.I. at 8-9, 186 A. at 837-38.

Furthermore, resolution of the question is not beyond the judicial expertise of this Court. See Goldwater, 444 U.S. at 998, 100 S. Ct. at 534. In Marran, our Supreme Court made an explicit determination regarding whether the old version of the Act impermissibly altered a city's form of government in violation of Article 13. 635 A.2d at 1178. The Supreme Court held that the pre-amended Act did "not expressly alter the structure or form of West Warwick's municipal government" because "any effect it may have [had] on a local government [was] contained, delineated, and temporary, lasting no longer than the end of the fiscal year." Id. In light of this, the Court finds that the determination is not beyond the expertise of this Court and further fails to recognize any prudential considerations counseling against a resolution of the Mayor and City Council's claim. Goldwater, 444 U.S. at 998, 100 S. Ct. at 534.

As a result, the Court finds that the political question doctrine does not apply to the Mayor and City Council's claim. The Court proceeds to address whether the Act exceeded the scope of the power reserved to the General Assembly by altering a municipality's form of government in violation of Article 13, Section 4.

b

Impact on the Municipality

Although the scope and breadth of the pre-amended version of the Act addressed in Marran was narrower than the current version of the Act, the standard applied by our Supreme Court in that case is applicable here. In Marran, the Supreme Court stated that the Act did not alter the structure or form of West Warwick's government because "any effect it may have [had] on a local government [was] contained, delineated, and temporary, lasting no longer than the end of the fiscal year." 635 A.2d at 1178. In its analysis, the Court determined that although the budget and review commission impacted the town's budgetary process, its effect was "at most incidental and temporary." Id.

Here, the Mayor and City Council claim that given the scope of the Receiver's powers, the Act—in its amended form—does more than merely affect a municipality's form of government, it displaces it. (Mayor and City Council's Mem. in Supp. of its Mot. for Prelim. Inj. and TRO 9-10.) However, although the Receiver's powers are broad and the receivership is not limited to a particular durational term, the Act does not permanently affect a municipality's form of government.

In fact, several provisions throughout the Act not only contemplate, but provide for the termination of the fiscal overseer, budget commission, and receiver. For example, § 45-9-10 clearly establishes the procedures for the appointment of an administration and finance officer upon the removal of a fiscal overseer, budget commission, or receiver. See § 45-9-10. The Act provides that an administration and finance officer will be appointed "upon a determination, in writing, by the director of revenue that the financial condition of the city or town has improved

to such a level that a fiscal overseer, a budget commission or a receiver is no longer needed.”²³

Id.

Furthermore, despite the scope of the Receiver’s power, § 45-9-7 explicitly states that the Director of Revenue, may at any time, and without cause, remove the Receiver and appoint a successor, or simply terminate the receivership entirely. See § 45-9-7. Moreover, § 45-9-7 also contemplates that elected officials are to remain in office serving in an advisory capacity, and that the municipality is to continue holding elections in anticipation that the receivership will eventually terminate.²⁴ Id.; see Marran, 635 A.2d at 1178 (stating that the municipality’s form of government was not altered because the legislation’s impact was incidental and temporary).

Although the Act places discretion in the hands of the Director of Revenue—particularly in light of §§ 49-9-7, 49-9-8 and 45-9-10—it delineates sufficient standards to contain the Director of Revenue’s actions and limit the Act’s impact on a municipality.²⁵ Marran, 635 A.2d

²³ The Court notes that the finance and administration officer is appointed by and reports to the municipality’s chief executive officer. See § 45-9-10.

²⁴ The Court notes that a prior draft of the legislation provided for the removal of elected officials; however, the House Finance Committee insisted on an amendment requiring that no elected official would be removed from office. (Receiver’s Reply to Supplemental Mem. in Supp. of Moreau, City Council, and Benson’s Mot. for Injunctive Relief 4.)

²⁵ The Mayor and City Council contend that deferring to the Director of Revenue’s discretion is not a sufficient safeguard against the risk of arbitrary and capricious administration of the Act. (Mayor and City Council’s Post Hearing Mem. 6-7.) However, unless the Court is presented with evidence indicating otherwise, ‘all reasonable presumptions must be indulged in support of the action of the officers to whom the law entrusted’ enforcement. Gardner v. Cumberland Town Council, 826 A.2d 972, 979 (R.I. 2003) (quoting Ross v. Stewart, 227 U.S. 530, 535, 33 S. Ct. 345, 348 (1913)); Signore v. Zoning Bd. of Review of Barrington (R.I. 1964) (noting that until proven otherwise, sworn officials are entitled to the presumption that their official acts have been properly performed); see also 29 Am. Jur. 2d Evidence § 220 (2010) (stating that if the constitutionality of a state statute is challenged, absent some showing to the contrary, courts presume public officers charged with enforcement will fulfill their duties to uphold the validity of the statute). Consequently, the Court recognizes that the Director of Revenue, as an agent of the Executive Branch, is entitled to the presumption that she will act in good faith and discharge her obligations in accordance with her oath of office. Opinion to the Governor, 95 R.I. 109, 118,

at 1178 (stating that the legislation did not unconstitutionally alter municipality's form of government where the impact was contained, delineated, and temporary). In fact, any action taken by the Director of Revenue or any official administering the Act, must be in accordance with the policy and standards stated in § 45-9-1.²⁶ In administering the provisions of the Act, an official may only act in relation to the fiscal well-being, public safety, or welfare of cities and towns, and the powers delegated are to be used to best preserve the safety and welfare of citizens of the state, their property, and access of the state and its municipalities to capital markets. See § 45-9-1.

Furthermore, §§ 45-9-3, 45-9-5, 45-9-6, 45-9-7, and 45-9-8 delineate when a fiscal overseer, budget commission, or receiver should be appointed. Section 45-9-3(b) clearly outlines the factors the Director of Revenue must consider when determining whether a fiscal crisis exists. Additionally, these provisions contain explicit procedures explaining how a city or town moves from tier to tier throughout its fiscal instability. Although § 45-9-8 empowers the Director of Revenue to appoint a receiver without first appointing a fiscal overseer or budget commission, the Director of Revenue may do so only upon a declaration of fiscal emergency.²⁷

185 A.2d 111, 122 (R.I. 1962) (stating that the Court must recognize that coordinate branches of government are entitled to the presumption that they are discharging their obligations in good faith and in accordance with their oath to support and preserve the Constitution). As a result of the presumption, the Court finds that deferring to the Director of Revenue's discretion is a safeguard against arbitrary and capricious administration and ensures that the receivership will last "no longer than [it is] needed." Sec. 45-9-10.

²⁶ Although under § 45-9-7 the Director of Revenue has the discretion to remove the Receiver or terminate the receivership, her discretion is guided and limited by the goal of preserving the fiscal well-being, public safety, and welfare of cities and towns, as well as protecting the state and municipalities' access to capital markets. See §§ 45-9-1 and 45-9-7.

²⁷ In the instant matter, the Receiver was appointed after the Director of Revenue, in consultation with the Auditor General, determined that Central Falls faced a fiscal emergency that did not allow for the appointment of a fiscal overseer or budget commission. See Joint Ex. J.

Given the factors listed in § 45-9-3(b), the discretion of the Director of Revenue to declare a fiscal emergency is at a minimum constrained by these standards.²⁸

As a result, in light of the standard established by our Supreme Court in Marran, the Court finds that the Act is sufficiently contained and delineated so as not to impermissibly alter a municipality's form of government.²⁹ Consequently, the General Assembly did not exceed its authority under Article 13, Section 4.

3

The Separation of Powers Doctrine

The Mayor and City Council contend that the Act authorizes the Receiver to assume all the powers of the Mayor and City Council. (Mayor and City Council's Post Hearing Mem. 1.) Therefore, they argue that the Act violates the separation of powers doctrine. Id.

In an advisory opinion to the Governor, our Supreme Court has stated that "a constitutional violation of separation of powers [is] an assumption by one branch of powers that are central or essential to the operation of a coordinate branch." In re Advisory Opinion to the Governor, 612 A.2d 1, 18 (R.I. 1992); see also East Greenwich, 617 A.2d at 107 (stating that "the separation of powers doctrine prohibits the usurpation of the power of one branch of

²⁸ The Court notes that although the Act restricts the Court's jurisdiction with regard to municipal receiverships, the Judiciary is an appropriate forum to challenge the Director of Revenue's enforcement and administration of her duties under the Act, and serves as an additional remedy and safeguard.

²⁹ The Mayor and City Council also contend that the Act violates the right of suffrage as guaranteed by Article 2, Section 1 of the Rhode Island Constitution. (Mayor and City Council's Mem. of Law in Supp. of its Mot. for a Prelim. Inj. and TRO 14.) They claim that by allowing the Receiver to assume the powers of elected officials, the Act "negates the people's electoral choice." Id. at 15. However, in light of the fact that § 45-9-7(c) specifically provides for elections to continue during the receivership, and the Court's determination that the Act applies alike, affects issues of statewide concern, and does not alter a municipality's form of government, the Court finds that the Act does not violate the right of suffrage guaranteed by Article 2, Section 1.

government by a coordinate branch of government”). However, our Supreme Court has stated that while previously the lines between coordinate branches of government were “broadly and clearly defined,” under modern interpretation, “some degree of blending of departmental powers” is required as long as there is not an assumption of the whole power of another department. Id. at 18-19.

Here, the General Assembly has delegated to the Director of Revenue the power to resolve fiscal instability at a state and municipal level. Although the powers of the Receiver combine those of the Mayor and City Council, those powers are restrained and limited by the policy and standards set for in § 45-9-1. Moreover, in administering the provisions of the Act, the Receiver is merely acting upon and within the legislative powers delegated to him by the General Assembly. See Milardo v. Coastal Res. Mgmt. Council, 434 A.2d 266, 271 (R.I. 1981) (stating that the exercise of a combination of governmental powers has been upheld with respect to administrative agencies and has been consistently recognized as constitutional); Davis v. Woods, 427 A.2d 332, 336 (R.I. 1981) (stating that “[a]s long as the Legislature that creates the agency demonstrates standards or principles to confine and guide the agency’s power” the court should sustain the delegation).

Moreover, regardless of the fact that modern separation of powers doctrine is not strictly applied, separation of powers is not even guaranteed on the municipal level. See East Greenwich, 617 A.2d at 107 (stating that because a city or town is a creature of the state and the city or town council is not a coordinate branch of state government, separation of powers is not implicated on the municipal level); Board of County Comm’rs of Bernalillo v. Padilla, 111 N.M. 278, 283, 804 P.2d 1097, 1102 (N.M. App. 1990) (stating that the state guarantee of separation of powers does not apply to the distribution of power within local governments because the

threat of an unchecked governing body is slight where the body is subordinated to the powers of a higher level of government); Bottone v. Town of Westport, 209 Conn. 652, 553 A.2d 576 (1989) (stating that because a municipality is not one of the departments enumerated in the state constitution's separation of powers provision, the separation of powers doctrine does not apply to municipalities); 2A McQuillin Mun. Corp. § 10:3 (3d ed. 2010) (noting that historically the constitutional principle of the separation of powers has not been applied to the government of cities). Therefore, in light of our Supreme Court's statements that a violation of separation of powers occurs when one branch assumes the powers of a coordinate branch, and that a city council is not a coordinate branch of the state government, the Court finds that the Act does not implicate or violate the separation of powers doctrine. Advisory Opinion to the Governor, 612 A.2d at 18; See East Greenwich, 617 A.2d at 107.

4

Overbreadth and the Non-delegation Doctrine

The Mayor and City Council claim that the delegation of power to the Receiver pursuant to § 45-9-7 is unreasonable because it fails to delegate a "clear and precisely defined function." (Mayor and City Council's Mem. of Law in Supp. of its Mot. for a Prelim. Inj. and TRO 13-14.) They contend that given the broad scope of powers delegated to the Receiver under § 45-9-7, the Receiver's powers are unlimited, are without an intelligible standard or principle, and will breed arbitrary and capricious actions. Id.

Unrestricted delegations of legislative power by the General Assembly are forbidden by the Rhode Island Constitution. Marran, 635 A.2d at 1179 (citing Milardo, 434 A.2d at 270). This prohibition, known as the non-delegation doctrine, is derived from Article 6, Sections 1 and 2 of the Rhode Island Constitution. Milardo, 434 A.2d at 270. These sections provide that the

Rhode Island Constitution “shall be the supreme law of the state and that the legislative power thereunder shall be vested in two houses of the Legislature.” Davis, 427 A.2d at 335. The non-delegation doctrine is intended to protect citizens against discriminatory and arbitrary actions of public officials and ensures that politically accountable officials make fundamental policy decisions. Marran, 635 A.2d at 1179.

Although the Constitution has been interpreted to forbid unconditional delegations of legislative power, our Supreme Court has recognized that modern problems of ever-increasing complexity require administrative expertise³⁰ and that strict adherence to the non-delegation doctrine “would detrimentally inhibit the Legislature’s ability to execute its constitutional duties.” Id. (stating that non-delegation doctrine should not be so strictly applied that it inhibits the General Assembly’s ability to execute its constitutional duties); Milardo, 434 A.2d at 270-71 (stating that delegation of legislative functions is not per se unconstitutional in light of the need for administrative expertise in the discharge of certain legislative functions). Accordingly, our Supreme Court has held that “reasonable delegations” of legislative power to administrative bodies and agents shall be permitted. Id.

According to Justice Lederberg in Marran, “a delegation is reasonable, and thus constitutional, ‘as long as the Legislature that creates the agency demonstrates standards or principles to confine and guide the agency’s power.’ In making this determination, ‘we must read the act as a whole.’” 635 A.2d 1179 (citing Davis, 427 A.2d at 336). The Marran court further explained that ‘it is the conditions of the delegation—the specificity of the functions delegated, the standards accompanying the delegation, and the safeguards against administrative

³⁰ The Court notes that Pfeiffer, a retired Justice of the Superior Court, previously served as the Director of Business Regulation for the State of Rhode Island.

abuse—that we examine in determining the constitutionality of a delegation of power.’ Id. (citing Milardo, 434 A.2d at 271). As long as the statute “declares a legislative purpose, establishes a primary standard for carrying out the [delegation], or lays out an intelligent principle to which an administrative officer must conform,” the court should sustain the delegation. Davis, 427 A.2d at 336.

With regards to the standards accompanying the delegation of power to the Receiver, § 45-9-1 clearly delineates the policy and standards by which the Receiver or any official administering the provisions of the Act are controlled. As previously discussed, under the Act, the Receiver is only empowered to act in relation to the fiscal well-being, public safety, and welfare of cities and towns within Rhode Island. Furthermore, any action by the Receiver must be carried out with “due regard for the needs of the citizens of the state and of the city or town, and in such a manner as will best preserve the safety and welfare of citizens of the state . . . their property, and the access of the state and its municipalities to capital markets. . . .” Sec. 45-9-1.

In light of the general directives upheld by our Supreme Court in Davis, 427 A.2d at 336 (holding that the directive “that activities relating to management of solid waste be conducted in an environmentally sound manner” was a sufficiently intelligible standard), and J.M. Mills, Inc. v. Murphy, 116 R.I. 54, 63-63, 352 A.2d 661, 666 (1976) (holding that the requirement that the director act in the “best public interest” was a sufficient standard to confine and guide the agency’s discretion), this Court finds that § 45-9-1 similarly provides a sufficiently intelligible standard to confine and guide the Receiver’s authority. See Milardo, 434 A.2d at 270 (stating that upon delegation, administrative agents must have flexibility to effectuate the purposes of the legislation).

Furthermore, with regards to the specificity of the functions delegated to the Receiver in § 45-9-7, given the fiscal emergency facing the municipality at the receivership level, flexibility in the authority and functions of the Receiver is necessary to ensure the municipality is effectively returned to fiscal stability. Milardo, 434 A.2d at 270. Moreover, any action taken by the Receiver under § 45-9-7 is sufficiently confined by the “Declaration of Policy and Legal Standard” in § 45-9-1. DePetrillo v. Coffey, 118 R.I. 519, 523, 376 A.2d 317, 319 (1977) (holding that our Supreme Court subscribes to the view that the General Assembly’s delegation of its legislative power will be deemed reasonable and lawful if it is limited by standards sufficient to confine the exercise of that power for the purpose for which the delegation was made). Additionally, § 45-9-16 of the Act guides the Court by providing that “[t]his chapter being necessary for the welfare of the state and its inhabitants shall be liberally construed in order to effectuate its purposes.” Sec. 45-9-16. As such, the Act clearly provides that the purposes stated in § 45-9-1 should serve as a guiding principle for the Receiver and the court in interpreting and administering the Act’s provisions. Thompson v. Town of East Greenwich, 512 A.2d 837, 842 (R.I. 1986).

The Act also provides for sufficient safeguards to protect against arbitrary actions. As previously discussed, officials administering the Act must rely on the standards of §§ 45-9-3, 45-9-5, 45-9-6, 45-9-7, 45-9-8, and 45-9-10 as triggering points before determining whether a fiscal crisis exists or appointing or terminating a fiscal overseer, budget commission, or receiver. Moreover, despite the Mayor and City Council’s concern regarding the scope of the Receiver’s authority, under § 45-9-7 the Director of Revenue is specifically authorized, at any time, and without cause, to remove the Receiver and appoint a successor or terminate the receivership. See

§ 45-9-7. Although the Receiver is not subject to a term limit or a reporting requirement, the Director of Revenue is a sufficient safeguard to protect against arbitrary actions.

Accordingly, in light of the policy and standards of § 45-9-1, the five-tiered mechanism establishing clear guidelines for administration, and the oversight provided by the Director of Revenue and the Judiciary,³¹ when read as a whole, the Court finds that the Act is a reasonable delegation by the General Assembly of its legislative powers and sufficiently guards against arbitrary and unconstrained actions. Milardo, 434 A.2d at 272 (holding a delegation reasonable in light of the necessity of agency expertise, the specificity of the functions delegated, the standards accompanying the delegation, and the safeguards against administrative abuse).

5

Substantive Due Process

The Mayor and City Council claim that § 45-9-7 violates substantive due process because the delegation of such vast powers to the Receiver shocks the conscience. (Mayor and City Council's Mem. of Law in Supp. of its Mot. for a Prelim. Inj. and TRO 16-17.) They further argue that the lack of standards or guidance within the Act, combined with the broad delegation of power to the Receiver, allows the Receiver to act arbitrarily and capriciously in violation of substantive due process. (Mayor and City Council's Supplemental Mem. of Law in Supp. of their Mot. for TRO 15-17.) Conversely, the Receiver maintains that under the "Declaration of Policy and Legal Standard," the General Assembly demonstrated sufficient standards or principles to confine and guide the Receiver's power. (Receiver's Reply to Supplemental Mem. in Supp. of Moreau, City Council, and Benson's Mot. for Injunctive Relief 7-8.) Furthermore, the Receiver contends that both the Act's "Declaration of Policy and Legal Standard" and the

³¹ See supra note 28.

multi-tiered approach are sufficient to establish that the legislation is not arbitrary and capricious.

Id.

Substantive due process is grounded in Article 1, Section 2 of the Rhode Island Constitution which provides that “[a]ll free governments are instituted for the protection safety, and happiness of the people. All laws, therefore, should be made for the good of the whole; and the burdens of the state ought to be fairly distributed among its citizens. . . .” R.I. Const. art. I, § 2. Substantive due process guards against arbitrary and capricious government action. Brunelle v. Town of South Kingstown, 700 A.2d 1075, 1084 (R.I. 1997); L.A. Ray Realty v. Town Council of Cumberland, 698 A.2d 202, 211 (citing PFZ Props., Inc. v. Rodriguez, 928 F.2d 28, 31-32 (1st Cir. 1991)) (stating that substantive due process prevents governmental abuse of power that shocks the conscience and government action not rationally related to a legitimate state interest). To establish a substantive due process violation, a party must show that the challenged provision is clearly arbitrary and unreasonable, having no substantial relation to public health, safety, morals, or general welfare. Kaveny v. Town of Cumberland Zoning Board of Review, 875 A.2d 1, 10 (R.I. 2005).

Where, as here, the Act explicitly states that “[t]his chapter is necessary for the welfare of the state,” the Court finds that the Act has a substantial relation to proper legislative purposes. See § 45-9-16; Kaveny, 875 A.2d at 10-11 (stating that the act has a substantial relation to proper legislative purposes where the Legislature declared that the provisions of the act are necessary to assure the health, safety, and welfare of all citizens of the state). Furthermore, in light of the Court’s previous determinations regarding the sufficiency and effect of the “Declaration of Policy and Legal Standard” and the multi-tiered structure of the Act, the Court declines to find

that the Act's delegations of power either shock the conscience, are arbitrary and capricious, or violate substantive due process.

a

Vagueness

The Mayor and City Council also argue that the Act is unconstitutional because it is “vague, undefined, and unconfined.” (Mayor and City Council’s Supplemental Mem. of Law in Supp. of their Mot. for TRO 17-18; Oct. 5, 2010 Tr. 117-121.) They claim that the Act violates substantive due process because it fails to delineate or suggest any standards to protect against arbitrary or unfettered discretion. Id.

Our Supreme Court has held that a statute is unconstitutionally vague if it compels a person of average intelligence to guess and to resort to conjecture as to its meaning and application. Kaveny, 875 A.2d at 10; see also Fitzpatrick v. Pare, 568 A.2d 1012, 1013 (R.I. 1990) (citing United Nuclear Corp. v. Cannon, 553 F. Supp. 1220, 1235 (D.R.I. 1982)) (stating that a statute is unconstitutionally vague if it fails to delineate or suggest any standards or delegate rule-making powers sufficient to provide the omitted standards); Grayned v. City of Rockford, 408 U.S. 104, 108-09, 92 S. Ct. 2294, 2298-99 (1972) (noting that a statute lacking explicit standards and enabling officials to act arbitrarily and with unchecked discretion is unconstitutionally vague). Moreover, the court uses a less stringent standard to determine vagueness of a non-criminal statute. Fitzpatrick, 568 A.2d at 1013 (stating that the standard used by the court to determine vagueness of a statute is dependent upon the nature of the statute).

In Fitzpatrick, relied upon by the Mayor and City Council, our Supreme Court declared that a statute requiring suspension of a driver’s license in cases of accidents involving death or personal injury was unconstitutionally vague because it “fail[ed] to set forth any standard to be

used when determining if the driver's license should be revoked" and would result in arbitrary enforcement. 568 A.2d at 1013-14. However, in light of the fact that the Court has already determined that §§ 45-9-1, 45-9-3, 45-9-5, 45-9-6, 45-9-7, 45-9-8, and 45-9-10 sufficiently delineate the policy and standards for administration of the Act, the factors for determining whether a fiscal crisis exists, and the conditions and procedures for the appointment or termination of a fiscal overseer, budget commission, or receiver, the Court finds that the Act is not impermissibly vague.

6

Procedural Due Process

Under the Rhode Island Constitution, procedural due process protections are grounded in Article 1, Section 2 which states that "[n]o person shall be deprived of life, liberty, or property without due process of law. . . ." R.I. Const. art. I, § 2. Procedural due process ensures that notice and an opportunity to be heard precede any deprivation of a person's life, liberty, or property. Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532, 542, 105 S. Ct. 1487, 1493 (1985); Board of Regents v. Roth, 408 U.S. 564, 569-70, 92 S. Ct. 2701, 2705 (1972) (stating that procedural due process requires some kind of hearing prior to the deprivation of a constitutionally protected property interest). The applicability of procedural due process depends on the presence of a constitutionally protected property or liberty interest. Sweeney v. Tucker, 473 Pa. 493, 523, 375 A.2d 698, 712 (1977) (stating that the court should only determine what due process is required when a legitimate property interest exists).

The Mayor and City Council claim that the Act violates procedural due process because it essentially removed them from office, without prior notice or a hearing. (Mayor and City Council's Supplemental Mem. of Law in Supp. of their Mot. for TRO 10-11.) Furthermore, they

claim that the removal of an elected official in this manner, absent notice and a hearing, is a deprivation of their constitutionally protected property rights and is in contravention of our Supreme Court's prior holdings. Id.; see also Oct. 5, 2010 Tr. 121-24. The Receiver argues that the Act does not violate procedural due process because neither the Mayor nor the City Council has been removed from office. (Oct. 5, 2010, Tr. 48.) Moreover, the Receiver claims that neither the Mayor nor the City Council has a fundamental right or property interest in their offices. Id. at 47-49.

a

Removal of the Mayor and City Council

In light of the Court's determination that the Act does not have a permanent effect on a municipality's form of government, the Mayor and City Council's procedural due process claims must fail. Despite their contentions, the Mayor and the City Council have not been removed from office, but are temporarily acting in an advisory capacity to the Receiver. See § 45-9-7(c); Joint Exs. K & L. Although to date, the Receiver has not deferred to the Mayor for advice, the Receiver explained that he has yet to find "a situation in which he thought . . . that it was necessary to seek [the Mayor's] advice." (Oct. 5, 2010 Tr. 46.)

Furthermore, the Court finds the Mayor and City Council's reliance on Hansen v. Board of Educ. of Sch. Dist. No. 65, 150 Ill. App.3d 979, 502 N.E.2d 467 (1986), to be misplaced. The Mayor and City Council rely on Hansen to show that by placing them in an advisory capacity, the Receiver has effectively "removed" them from office. In Hansen, the Appellate Court of Illinois found that a tenured public school teacher who had been stripped of his teaching duties and reassigned to a position as a full-time proctor, had effectively been dismissed under the tenure provision of the Illinois School Code, and was thus entitled to the notice and hearing

requirements of the code. Id. at 986, 502 N.E.2d at 472. Hansen, however, is distinguishable from the instant matter. While the teacher in Hansen was permanently reassigned, both the Mayor and City Council remain in an advisory capacity for only as long as the receivership is in place. As previously indicated, the Act clearly dictates that general elections are to continue and expressly contemplates termination of the receivership when the fiscal stability of the municipality is restored. See §§ 45-9-7 & 45-9-10.

Moreover, unlike the tenured teacher who was totally stripped of his teaching duties, neither the Mayor nor the City Council has been entirely stripped of their government functions. Although the powers assumed by the Receiver are superior to those of the Mayor and City Council, throughout the receivership, they remain in an advisory capacity to the Receiver, who may defer to them for action and advice in an appropriate situation.³² (Oct. 5, 2010 Tr. 46.) Whereas the Illinois Appellate Court deemed the teacher's reassignment to be the equivalent of a removal in light of the purpose and policy of the tenure provision of the Illinois School Code, this Court does not view the Mayor or City Council's advisory status as a removal in light of the General Assembly's policy and purpose under the Act.

b

Property Interest

Having decided that neither the Mayor nor the City Council has been removed from office, for purposes of discussion, the Court will address whether the Mayor or City Council has a property interest as elected officials. The Mayor and City Council claim that the removal of an elected official, absent notice and a hearing, is in explicit contravention of our Supreme Court's

³² The Court notes that despite Central Falls' receivership, the City Council continues to meet regularly and pass resolutions.

prior holdings.³³ See Doris v. Heroux, 71 R.I. 491, 494, 47 A.2d 633, 635, (1946), Brule v. Board of Aldermen of Central Falls, 54 R.I. 472, 473, 175 A. 478, 479 (1934), and McCarthy v. Board of Aldermen of Central Falls, 38 R.I. 385, 386, 95 A. 921, 923 (1915). However, these cases are distinguishable.

Here, the Mayor and City Council were elected by the general electorate of Central Falls. In contrast, in Doris, Brule, and McCarthy, the officials claiming procedural due process violations, were not elected by the public, but were appointed officials, chosen by the city council or board of aldermen. The United States Supreme Court has expressly stated that public officials chosen by the general electorate serve at the will of the people and do not have a property interest in elected office. Taylor v. Beckham, 178 U.S. 548, 576-77, 20 S. Ct. 890, 900 (1900) (stating that public offices such as the governorship are mere agencies or trusts and not property because of “the nature of the relation of a public officer to the public”); Snowden v. Hughes, 321 U.S. 1, 7, 64 S. Ct. 397, 400 (1944) (affirming Taylor and stating that a senatorial candidate does not have a property interest in elected office that is secured by due process).

Elected public officials such as the Mayor and City Council hold office for the benefit of the citizens of Central Falls and do not have an entitlement to their office. Sweeney, 473 Pa. at 524, 375 A.2d at 713 (stating that because an elected member of the legislature holds office for the benefit of his constituents, the public interest in the office far outweighs any private interest or expectation in holding the office); see also 3 McQuillin Mun. Corp. § 12.117 (3d ed. 2010) (stating that under our system of government, elected office is not held by grant or contract, and

³³ The Mayor and City Council’s reliance on Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532, 105 S. Ct. 1487 (1985), Board of Regents v. Roth, 408 U.S. 564, 92 S. Ct. 2701 (1972), and Memphis Light, Gas and Water Div. v. Craft, 436 U.S. 1, 98 S. Ct. 1554 (1978), is misplaced, as they do not deal with the removal of an elected public official.

no person has a private property or vested right or interest in them). As a result, had the Mayor and City Council actually been removed, the Court finds it questionable whether they would have been entitled to procedural due process requirements.

C

Edna Poulin's Appointment to the CFHA

Having determined that the Act is constitutional, the Court now addresses the Receiver's appointment of Edna Poulin to the CFHA. In addition to the powers granted to the fiscal overseer and budget commission under §§ 45-9-2 and 45-9-6,³⁴ upon appointment the Receiver is also empowered:

“to exercise any function or power of any municipal officer or employee, board, authority, or commission, whether elected or otherwise relating to or impacting the fiscal stability of the city or town including, without limitation, school and zoning matter.” Sec. 45-9-7(b)(1).³⁵

³⁴ To assist the Receiver in resolving a municipality's dire fiscal crisis, § 45-9-7(b)(1) grants the Receiver all of the powers of the fiscal overseer and budget commission. See § 45-9-7(b)(1). As part of those powers, the Receiver is authorized to “[e]xercise all powers under the [G]eneral [L]aws and this chapter or any special act, any charter provision or ordinance that any elected official of the city or town may exercise, acting separately or jointly. . . .” Sec. 45-9-6(d)(20). Furthermore, the Receiver is granted the right to

“[r]eorganize, consolidate or abolish departments, commission, authorities, boards, offices or functions of the city or town . . . establish such new departments, commissions, authorities, boards, offices or functions as it deems necessary . . . transfer the duties, powers, functions and appropriations of one department, commission, board, office or other unit to another . . . and in connection therewith remove and appointment new members [who] shall serve the remainder of any unexpired term of their predecessor.” Sec. 45-9-6(d)(11).

Additionally, the Receiver may, in consultation with the Director of Revenue, appoint “persons to fill vacancies on any authority, board, committee, department or office.” Sec. 45-9-6(d)(12).

³⁵ In accordance with § 45-9-7(c), any powers assumed and exercised by the Receiver under § 45-9-7(b) are superior to and supersede those of the elected officials of the city or town, who continue to serve merely in an advisory capacity for the duration of the receivership. See § 45-9-7(c).

Under a plain reading of this unambiguous provision, the Act authorizes the Receiver to assume the functions or powers of any municipal officer or employee, board, authority, or commission, whether they be elected or otherwise relating to or impacting the fiscal stability of the city or town. As a result, the Court concludes that under the terms of the Act, the power of the Receiver is not limited to exercising functions or powers solely related to fiscal stability, but in fact allows for the assumption of powers whether they are of an elected official or relate to the fiscal stability of a city or town.³⁶

Accordingly, when the Receiver appointed Edna Poulin to the CFHA, he was simply exercising the Mayor's power to appoint commissioners under G.L. 1956 § 45-25-1 et seq. In fact, § 45-25-10 provides that each city housing authority shall "consist[] of five (5) commissioners appointed by the mayor. . . ." G.L. 1956 § 45-25-10. The Mayor is authorized to appoint each commissioner for a specified term and to fill vacancies for the remainder of the unexpired term. Id. Each commissioner is entitled to hold office until his or her successor has been appointed or elected, and has been qualified. Id. A commissioner is qualified after the Mayor files with the city clerk a certificate of appointment or reappointment, which serves as conclusive evidence of due and proper appointment of the commissioner. Id.

³⁶ The Court's reading of the statute's plain meaning is supported not only by the "Declaration of Policy and Legal Standards," which does not limit the Act to fiscal stability, but also avoids the absurd result of the Receiver being deemed to have less power than the budget commission. See Oct. 5, 2010 Tr. 63; State v. Burke, 811 A.2d 1158, 1167 (R.I. 2002) (stating that courts should not construe a statute to reach an absurd result). The Court agrees with the Receiver that if the Receiver's powers are limited to instances relating to or impacting the fiscal stability of a city or town, the budget commission, which does not have a fiscal impact limitation, would have more power than the Receiver. Such a result would be incongruous with the legislative intent clearly evinced by the five-tier mechanism and the increased powers delegated at each tier to the fiscal overseer, budget commission, and receiver. Id. The Court again notes however, that any action taken by the Receiver or other official administering the Act, must be made in accordance with the standards and policy guidelines of the "Declaration of Policy and Legal Standards" of § 45-9-1.

Here, after assuming the Mayor's powers in accordance with § 45-9-7, on September 13, 2010, the Receiver appointed Edna Poulin as a successor to Milad Shabo, whose term had expired on April 1, 2010. See Joint Exs. N & O. Accordingly, as a holdover, Milad Shabo was only entitled to hold office until a successor had been appointed and qualified.³⁷ See § 45-25-10. Where, as here, the Receiver properly appointed and qualified Edna Poulin as a successor to Milad Shabo, the Court finds that the Receiver's actions were proper and in accordance with the Mayor's powers under § 45-25-10.³⁸

Additionally, the Receiver's actions were within the scope of the "Declaration of Policy and Legal Standard." Sec. 45-9-1. As previously discussed, an official administering the Act is limited to acting for the fiscal well-being, public safety, and welfare of a distressed city or town, and must act solely to "best preserve the safety and welfare of citizens . . . their property, and the access of the state and its municipalities to capital markets, all to the public benefit and good."

Id. Where, as here, the General Assembly has expressly stated that the establishment of a housing authority and commissioners is "in the public interest" and is necessary to prevent "an

³⁷ The parties do not dispute that Edna Poulin was subsequently qualified as a commissioner of the CFHA by the filing of a certificate with the City's Clerk and by the administration of the oath of office. (Joint Statement of Undisputed Facts ¶ 25.)

³⁸ Because § 45-9-7 authorizes the Receiver to assume the powers of the City Council, Pfeiffer's actions also satisfied the requirements of Title 45, Chapter 26 of the General Laws. Under Chapter 46, which governs town housing authorities, the appointment of commission members to the CFHA must be approved by a majority vote of the City Council. G.L. 1956 § 45-26-4. Therefore, because the Receiver had the right to exercise the powers of the City Council, his appointment of Edna Poulin to the CFHA was proper. Furthermore, even under Central Falls' Home Rule Charter, Pfeiffer's actions were valid and proper. Article 3, Section 3-202 provides that "[e]xcept as expressly otherwise provided and subject to the limitations of this Charter, the [M]ayor, with the approval of a majority of the members of the council, shall appoint the members of all boards and commission." Central Falls Home Rule Charter, art. III, § 3-202 (1951). Because the provisions of § 45-9-7 clearly authorized the Receiver to assume the powers of both the Mayor and City Council, under Central Falls' Home Rule Charter, the Receiver had the right and authority to appoint Edna Poulin to the CFHA.

increase in and spread of disease and crime,” the Court finds that the Receiver was acting within the scope of the policy and standards of § 45-9-1³⁹ when he appointed Edna Poulin to the CFHA and was not acting arbitrarily or capriciously.⁴⁰ See § 45-25-2.

³⁹ Section 45-9-1 provides that

“[i]t shall be the policy of the state to provide a mechanism for the state to work with cities and towns undergoing financial distress that threatens the fiscal well-being, public safety and welfare of such cities and town, or other cities and towns or the state, with the state providing varying levels of support and control depending on the circumstances.” Sec. 45-9-1.

In enforcing this policy, the Receiver, or any official administering the Act, is required to act to preserve the safety, welfare, and property of the citizens of Rhode Island. Although, the Receiver’s appointment of Edna Poulin to the CFHA may appear to be a matter of local concern, the actions of the CFHA and its commissioners have an effect on the safety, welfare, and property of the citizens of Rhode Island. The United States Supreme Court has stated “that even though the evils of bad housing are local in their origin, their effect may become so widespread as to create a menace to the national welfare and that Congress is empowered to deal with the subject in that aspect.” City of Cleveland v. United States, 323 U.S. 329, 331, 65 S. Ct. 280, 281 (1945). Therefore, the Court finds that if the evils of bad housing have been held to have a nationwide effect, then it follows that they certainly have a statewide effect. See § 45-25-2 (stating that bad housing conditions in Rhode Island can “cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals, and welfare of the citizens of the state and impair economic values) (emphasis added). As a result, when the Receiver appointed Edna Poulin to the CFHA he was acting within the scope of the Act and addressing a matter of statewide concern.

⁴⁰ Similarly, as part of the powers assumed under the Act, during the receivership, the Receiver has the exclusive right to make appointments to the Board of Directors of the Central Falls Detention Center Corporation. Section 45-54-5(a) provides that “the elected chief executive officer, in cities and towns having a popularly elected chief executive officer, shall appoint five (5) resident electors of the city or town as directors of the corporation” whose appointment is subject to approval by the city or town council. G.L. 1956 § 45-54-5(a). Additionally, the Mayor, as chief executive officer, is authorized to fill vacancies for any unexpired term. See § 45-54-5(b). Thus, the Receiver, upon assuming the powers of the Mayor and City Council has the right to make these appointments. Consequently, given the scope of the Receiver’s powers to protect the fiscal well-being, public safety, and welfare of Central Falls under § 45-9-7, his additional powers of appointment and removal under § 45-9-6, and in light of the Mayor and City Council’s advisory capacity under § 45-9-7(c), any putative appointments made by the Mayor or City Council are improper and invalid.

D

Injunctive Relief

By agreement, and pursuant to Rule 65, the parties consolidated their requests for preliminary and permanent injunctions during the October 5, 2010 hearing. See Super. R. Civ. P. 65. A party seeking injunctive relief must demonstrate (1) a reasonable likelihood of success on the merits; (2) a threat of irreparable harm that is presently threatened or imminent and for which there is no adequate remedy of law; and (3) a balancing of the equities that favors the moving party. Fund for Cmty. Progress v. United Way of Se. New England, 695 A.2d 517, 521-22 (R.I. 1997); Iggy's Doughboys, Inc. v. Giroux, 729 A.2d 701, 705 (R.I. 1999).

Further, in addressing a request for a permanent injunction, the Court must determine whether “the merits of the case call for an order forbidding or compelling particular conduct.” See Robert B. Kent et al., Rhode Island Civil and Appellate Procedure § 65:1 (West 2006). A party seeking injunctive relief ‘must demonstrate that it stands to suffer some irreparable harm that is presently threatened or imminent and for which no adequate legal remedy exists to restore that plaintiff to its rightful position.’ National Lumber & Bldg. Materials Co. v. Langevin, 798 A.2d 429, 434 (R.I. 2002) (quoting United Way, 695 A.2d at 521). “Irreparable injury must be either ‘presently threatened’ or ‘imminent’; injuries that are prospective only and might never occur cannot form the basis of a permanent injunction.” Id. (quoting Rhode Island Tpk. & Bridge Auth. v. Cohen, 433 A.2d 179, 182 (R.I. 1981)). The issuance of an injunction and the scope of the relief granted rests in the Court’s discretion. DeNucci v. Pezza, 114 R.I. 123, 130, 329 A.2d 807, 811 (1974); United Way, 695 A.2d at 521-22.

Having now considered the merits of the Receiver’s case, and in light of the Court’s determinations contained herein, the Court finds that the Receiver is entitled to injunctive relief.

Given the General Assembly's statement that the Act is "necessary for the welfare of the state and its inhabitants," as well as the Marran court's finding that the fiscal collapse of a municipality can affect the entire state's financial interest, the Court finds that irreparable harm will result if the Mayor and City Council are not enjoined from making further appointments, and the Receiver is hindered from administering the Act. See § 45-9-16; Oct. 5, 2010 Tr. 68-69.

In considering the equities of the case, the Court examines the hardship to the moving party if the injunction is denied, the hardship to the opposing party if the injunction is granted, and the public interest in granting or denying relief. United Way, 695 A.2d at 521-22. In the instant matter, should Central Falls' fiscal instability continue, any harm to the Mayor or City Council that would result from an injunction, is far outweighed by the harm to the Receiver in administering the Act, to Central Falls, and to Rhode Island.

As a result the Court grants the Receiver's request for a permanent injunction and enjoins: (1) the Mayor and City Council and each of its members from making any appointments to the CFHA, including those of Milad Shabo and Gladys Burns; (2) the Mayor and City Council and each of its members from making any appointments to the Central Falls Detention Center Corporation, including those of Clarise Thompson and Shawne Thomas; (3) the Mayor and City Council and each of its members from interfering with the acts of the Receiver in his capacity as receiver; and (4) the Mayor and City Council and each of its members from acting in contravention of the Act.

V

Conclusion

After due consideration of all the evidence, together with the arguments advanced by counsel at the hearing and in their memoranda, the Court finds that the Act is constitutional and

that the Receiver did not exceed the scope of his authority in appointing Edna Poulin to the CFHA. As a result, the Court holds that the Act applies alike to all cities and town, addresses a statewide concern, does not alter a municipality's form of government, and is substantially related to public welfare. Furthermore, the Court holds that the "Declaration of Policy and Legal Standard" and the five-tiered mechanism delineated within the Act provide sufficient standards, principles, and safeguards by which to guide the administration of the Act and prevent against arbitrary and capricious actions. Additionally, the Court holds that neither the Mayor nor the City Council has been removed from office and that they have failed to establish a claim for procedural due process. Having determined that the Receiver was acting within the authority granted by §§ 45-9-7, 45-25-10, 45-26-4, and by Central Falls' Home Rule Charter, the Court finds that the Receiver's appointment of Edna Poulin to the CFHA is proper and valid. Lastly, having satisfied the elements for a permanent injunction, the Court grants the Receiver's request for injunctive relief.

Prevailing counsel may present an order consistent herewith which shall be settled after due notice to counsel of record:

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Filed – October 18, 2010

PROVIDENCE, SC.

SUPERIOR COURT

CENTRAL FALLS HOUSING :
AUTHORITY and MILAD SHABO, :
in his capacity as Chair of the :
Commissioners for Central Falls Housing :
Authority :

C.A. No. PB 10-5580

V. :

MARK A. PFEIFFER, in his capacity :
as Receiver for the City of Central Falls :

DECISION

SILVERSTEIN, J. This matter is before the Court for decision following a hearing on dueling requests for declaratory relief. Petitioner, Central Falls Housing Authority (CFHA), seeks a declaration that Milad Shabo (Shabo) shall remain a commissioner of the CFHA until a successor is properly appointed, and that Respondent Mark A. Pfeiffer’s (Receiver or Pfeiffer) removal of Shabo and appointment of Edna Poulin (Poulin) to the CFHA exceeded the statutory and legal authority granted to him under the Act Relating to Cities and Towns – Providing Financial Stability, G.L. 1956 § 45-9-1 et seq. (Act). Petitioner also seeks an award of legal fees and costs. The Respondent seeks a declaration that the Act grants him the authority to make appointments to the CFHA, and that for the duration of the receivership, Central Falls’ Mayor, Charles D. Moreau (Mayor or Moreau), does not have such authority. The Receiver also seeks supplemental relief as may be necessary under the circumstances.

I

Facts and Travel

The following facts are undisputed. On May 19, 2010, pursuant to a petition filed with the Providence County Superior Court by the City Council of Central Falls (City Council) and

the Mayor, Jonathan N. Savage was appointed Temporary Receiver of Central Falls. (Stipulation of Facts ¶ 1.) On June 9, 2010, the Rhode Island Senate passed the Act. Id. ¶ 2. On June 10, 2010, the Rhode Island House of Representatives passed the Act. Id. ¶ 3. On June 11, 2010, the Governor, the Honorable Donald L. Carcieri, signed the Act into law. Id. ¶ 4.

On June 18, 2010, Moreau and the City Council withdrew their motion for the appointment of a judicial receiver. Id. ¶ 7. This Court then entered a Consent Order outlining the transition period from the judicial receivership to the non-judicial receivership as required by the Act. Id.

On July 16, 2010, pursuant to the terms of the Act, Rosemary Booth Gallogly, the Director of Revenue for the Rhode Island Department of Revenue, appointed Pfeiffer as non-judicial receiver for Central Falls. Id. ¶ 5. By a letter dated July 19, 2010, Pfeiffer informed Moreau that he had been appointed receiver of Central Falls and had assumed the duties and functions of the Office of Mayor. Id. ¶ 6. Pfeiffer further instructed Moreau that pursuant to his powers under § 45-9-7(c), Moreau was to henceforth act solely in an advisory capacity. Id.

On September 13, 2010, the Receiver appointed Poulin as a commissioner of the CFHA for a five-year term and informed Shabo that a successor had been appointed to his position. Id. ¶ 10-11. Shabo had previously been appointed to the CFHA on November 25, 2009, to fill the unexpired term of Robert Salisbury whose term was scheduled to expire on April 1, 2010.¹ Id. ¶ 8. Although the City Council was scheduled to vote on Shabo's reappointment on September 24, 2010, the vote did not take place due to the Receiver's lawsuit seeking to enjoin the vote. Id. ¶ 14.

¹ Although Shabo was never reappointed to the CFHA, he remained in the position as a holdover. On June 16, 2010, by a vote of his fellow commissioners, Shabo was elected to serve as the Chair of the CFHA. Id. ¶ 9.

The CFHA's activities are performed and its infrastructure is located entirely within the municipal boundaries of Central Falls. Id. ¶ 17. The United States Department for Housing and Urban Development (HUD) oversees and assesses the CFHA's budget and assesses its management and performance. Id. ¶ 16.

The CFHA's budget is federally funded. Id. ¶ 15. Under Central Falls' budget for fiscal year 2010, the CFHA is budgeted to pay Central Falls \$56,974.00. Id. ¶ 12. These payments are to be made in the form of Payment in Lieu of Taxes (PILOT) which are made each year to Central Falls. Id. The CFHA is responsible for calculating the amount to be paid to Central Falls each year, which equals between 10-12.5% of the rental income from the CFHA's units, minus its costs for utilities.² Id.

II

Conclusion

In light of this Court's decision in the consolidated matter of Pfeiffer v. Moreau, Nos. 10-5615 and 10-5672 (R.I. Super. Ct. Oct. 18, 2010), which was also issued today and is incorporated by reference into this Decision, the Court declares that the Receiver's removal of Shabo and appointment of Poulin to the CFHA did not exceed the statutory and legal authority granted to him under the Act and is thus valid and proper.

Further, the Court declares that the Mayor, serving in an advisory capacity to the Receiver, does not have the power to make appointments to the CFHA for the duration of the receivership. As a result, the Court denies Petitioner's request for legal fees and costs.

Prevailing counsel may present an order consistent herewith which shall be settled after due notice to counsel of record.

² Under Central Falls' proposed budget for fiscal year 2011, the CFHA will also pay Central Falls \$56,974.00. Id. ¶ 12.

**Statement of Policy Regarding State Receiver's
Oversight of Council Business**

STATEMENT OF POLICY
CENTRAL FALLS CITY COUNCIL

In accordance with Rhode Island General Laws Chapter 45-9 (the "Act"), Mark A. Pfeiffer is acting in the capacity of Receiver of the City of Central Falls and the City Council of the City of Central Falls serves in an advisory capacity to the Receiver. Pursuant to the Order and Final Judgment of the Superior Court in C.A. No. PB 10-5615 consolidated with C.A. No. PB 10-5672, a copy of which is annexed hereto, the Central Falls City Council and each of its members is permanently enjoined from interfering with the acts of the Receiver, in his capacity as Receiver, and from acting in contravention of the Act.

For the avoidance of confusion regarding the role of the City Council and in order to facilitate the ongoing orderly operations of the City of Central Falls, this policy statement is issued by the Receiver.

The City Council shall continue to conduct all City business in a prompt and efficient manner, subject to the following:

1. All City Council meeting agendas shall be provided to the Receiver three (3) business days prior to the posting or distribution of any meeting notices as required by law. The meaning of the term "meeting" herein shall be as it is defined in Rhode Island General Laws Section 42-46-1 et. seq. (the "Open Meetings Law").
2. Upon request of the Receiver, the City Council shall provide the Receiver with copies of any proposed ordinances, resolutions, and votes to be considered at any meeting or other documents attached to or referenced in the agenda for any upcoming meeting, and any written or electronic materials intended to be presented to the City Council at a meeting.
3. All City Council meeting agendas and items thereon shall be subject to the approval of the Receiver and the Receiver may remove items from the agenda.
4. The Receiver shall have the right to add items to any meeting agenda.
5. The City Council shall provide the Receiver with copies of all written or electronic materials submitted at any City Council meeting within one (1) business day after such meeting.
6. Subject to the Stipulation between the Receiver and the City Council of October 25, 2010, the City Council meeting minutes shall be provided to the Receiver within three (3) business days of such meeting.

7. No less than three (3) business days prior to any regular meeting of the City Council, the Receiver shall submit to the City Clerk a report of recent activities of the Receiver.
8. Nothing set forth herein shall be deemed to be a waiver of the Receiver's right to alter or rescind any resolution of the City Council as set forth in Rhode Island General Laws Chapter § 45-9-6(d)(17) or any other power granted to the Receiver under the terms of the Act.

The office of City Clerk shall be provided with this Statement of Policy and shall not take any action in contravention hereof.

The Receiver hereby acknowledges the advisory status of the Central Falls City Council.

Issued By:



Mark A. Pfeiffer, in his capacity as Receiver
for the City of Central Falls, Rhode Island

**State Receiver's Letter to Council's Legal Counsel
Regarding Advisory Status**



ORSON AND BRUSINI LTD

COUNSELORS AT LAW

November 6, 2010

Via Email at mary@lg.necoxmail.com
Lawrence Goldberg, Esq.
92 Jefferson Blvd.
Warwick, RI 02888

Re: City of Central Falls

Dear Mr. Goldberg:

This letter confirms your representation that in executive session on Friday, November 5, 2010, the Central Falls City Council rejected the Policy Statement, copy attached, promulgated by Mark A. Pfeiffer, in his capacity as Receiver for the City of Central Falls. If this is not correct, please notify me in writing immediately.

We are disappointed by the City Council's decision not to cooperate and work closely with the Receiver's efforts to return fiscal stability to the City of Central Falls and to advance the interests of its businesses and residents. As the City Council is unwilling to cooperate in these efforts, the Receiver has no choice but to immediately exercise his power under the Act Relating to Cities and Towns – Providing Financial Stability, Rhode Island General Laws § 45-9-7(c), to relegate the City Council and its members to an advisory capacity. The Receiver will let the City Council and its members know if and when their advice is needed.

By letters to the City Council members, on Monday, November 8, 2010, the Receiver will instruct them not to take any actions on behalf of the City of Central Falls, and not to conduct any official meetings, without his prior written authorization. Any contrary action will be deemed to be interference with the acts of the Receiver in violation and contempt of Paragraph 2(iii) of the Final Judgment on Counts One, Two, Six and Seven of the Receiver's Complaint, and Counts One, Two, Three, Four, Five, Six, Seven and Eight of the Mayor's and City Council's Complaint, a copy of which is attached.

The Receiver intends to instruct the City Clerk to cancel the City Council meeting scheduled for Monday, November 8, 2010. Please call me with any questions.

Sincerely,

Theodore Orson, Esq.

CC: Mark A. Pfeiffer, Receiver

**State Receiver's Letter to Council Members
Regarding Advisory Status**

STATE OF RHODE ISLAND
CITY OF CENTRAL FALLS

OFFICE OF THE RECEIVER

580 BROAD STREET
CENTRAL FALLS, RI 02863

OFFICE: (401) 727-7474
FAX: (401) 727-7422

November 8, 2010

Mr. William Benson, Jr.
President of Central Falls City Council
1100 Lonsdale Avenue
Central Falls, RI 02863

Mr. Richard G. Aubin, Jr.
127 Chestnut Street
Central Falls, Rhode Island 02863

Ms. Eunice DeLaHoz
66 Pacific Street
Central Falls, Rhode Island 02863

Mr. Patrick Szlastha
385 Dexter Street
Central Falls, Rhode Island 02863

Re: Relegation of Central Falls City Council to an Advisory Capacity

Dear Sirs and Madam:

This letter confirms Lawrence Goldberg's representation to my attorney Theodore Orson that in executive session on Friday, November 5, 2010, the Central Falls City Council rejected the Policy Statement, copy attached, which I had promulgated in my capacity as Receiver for the City of Central Falls.

I am disappointed by the City Council's decision not to cooperate and work closely with our efforts to return fiscal stability to the City of Central Falls and to advance the interests of its businesses and residents. As the City Council is unwilling to cooperate in these efforts, I have no choice but to immediately exercise my power under the Act Relating to Cities and Towns – Providing Financial Stability, Rhode Island General Laws § 45-9-7(c), to relegate the City Council and its members to an advisory capacity. I will let you know if and when the advice of the City Council and/or its members is needed.

You are further instructed not to take any actions on behalf of the City of Central Falls, and not to conduct any official meetings, without my prior written authorization. Any contrary action will be deemed to be interference with the acts of the Receiver in violation and contempt of Paragraph 2(iii) of the Judgment on Counts One, Two, Six and Seven of the Receiver's Complaint, and Counts One, Two, Three, Four, Five, Six, Seven and Eight of the Mayor's and City Council's Complaint, a copy of which is attached.

I intend to instruct the City Clerk to cancel the City Council meeting scheduled for this evening, Monday, November 8, 2010.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Pfeiffer', with a long horizontal flourish extending to the right.

Mark A. Pfeiffer, Receiver

Encl.

CC: Lawrence Goldberg, Esq.
Theodore Orson, Esq.

Establishment of State Receivership Council

**ORDER OF THE STATE-APPOINTED RECEIVER ESTABLISHING
STATE RECEIVER'S COUNCIL**

SECTION 1. PURSUANT TO RHODE ISLAND GENERAL LAWS § 45-9-7(c), THE STATE-APPOINTED RECEIVER (THE "RECEIVER") HEREBY LIMITS THE AUTHORITY OF THE CITY COUNCIL FOR THE CITY OF CENTRAL FALLS (THE "CITY COUNCIL") TO AN ADVISORY CAPACITY.

SECTION 2. PURSUANT TO RHODE ISLAND GENERAL LAWS §§ 45-9-7(b)(1) AND 45-9-6(d)(11), THE RECEIVER HEREBY ORDERS THE ESTABLISHMENT OF A "STATE RECEIVER'S COUNCIL" TO ASSIST THE RECEIVER IN CONDUCTING THE BUSINESS OF THE CITY OF CENTRAL FALLS (THE "CITY") WHICH PREVIOUSLY WAS CONDUCTED BY THE CITY COUNCIL.

SECTION 3. THE STATE RECEIVER'S COUNCIL SHALL BE COMPRISED OF THREE (3) RESIDENTS OF THE CITY APPOINTED BY THE RECEIVER, ONE OF WHOM SHALL BE APPOINTED THE PRESIDENT OF THE STATE RECEIVER'S COUNCIL.

SECTION 4. MEMBERS OF THE STATE RECEIVER'S COUNCIL SHALL BE PAID A SALARY BY THE CITY AT THE ANNUAL RATE OF \$2,940.00.

SECTION 5. THE STATE RECEIVER'S COUNCIL SHALL CONDUCT ITS FIRST MEETING ON NOVEMBER 17, 2010 AT 6:00 P.M. AND THEN SHALL SCHEDULE MEETINGS ON SUCH DAYS AND AT SUCH TIMES AS DIRECTED BY THE STATE RECEIVER.

SECTION 6. ALL STATE RECEIVER'S COUNCIL MEETING AGENDAS SHALL BE DELIVERED TO THE RECEIVER THREE (3) BUSINESS DAYS PRIOR TO THE POSTING OR DISTRIBUTION OF ANY MEETING NOTICES AS REQUIRED BY LAW. THE MEANING OF THE TERM "MEETING" HEREIN SHALL BE AS IT IS DEFINED IN RHODE ISLAND GENERAL LAWS § 42-46-1 ET SEQ. ALL STATE RECEIVER'S COUNCIL MEETINGS SHALL BE SUBJECT TO THE OPEN MEETINGS LAW.

SECTION 7. ALL STATE RECEIVER'S COUNCIL MEETING AGENDAS AND ITEMS THEREON SHALL BE SUBJECT TO THE APPROVAL OF THE RECEIVER AND THE RECEIVER MAY REMOVE FROM AND/OR ADD TO ITEMS IN THE AGENDA.

SECTION 8. UPON REQUEST OF THE RECEIVER, THE STATE RECEIVER'S COUNCIL SHALL PROVIDE THE RECEIVER WITH COPIES OF ANY PROPOSED VOTES RECOMMENDING ORDERS OF THE RECEIVER WHICH ARE TO BE CONSIDERED AT ANY STATE RECEIVER'S COUNCIL MEETING OR OTHER DOCUMENTS ATTACHED TO OR REFERENCED IN THE

AGENDA, AND ANY WRITTEN OR ELECTRONIC MATERIALS INTENDED TO BE PRESENTED TO THE STATE RECEIVER'S COUNCIL AT A STATE RECEIVER'S COUNCIL MEETING.

SECTION 9. ALL VOTES OF THE STATE RECEIVER'S COUNCIL ARE FINAL AND EFFECTIVE UNLESS RESCINDED BY WRITTEN ORDER OF THE RECEIVER WITHIN FIVE (5) BUSINESS DAYS.

SECTION 10. THE STATE RECEIVER'S COUNCIL SHALL PROVIDE THE RECEIVER WITH COPIES OF ALL WRITTEN OR ELECTRONIC MATERIALS SUBMITTED AT ANY STATE RECEIVER'S COUNCIL MEETING WITHIN ONE (1) BUSINESS DAY AFTER SUCH MEETING.

SECTION 11. THE STATE RECEIVER'S COUNCIL MEETING MINUTES SHALL BE PROVIDED TO THE RECEIVER WITHIN THREE (3) BUSINESS DAYS AFTER EACH MEETING.

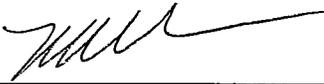
SECTION 12. NO LESS THAN THREE (3) BUSINESS DAYS PRIOR TO ANY STATE RECEIVER'S COUNCIL MEETING, THE RECEIVER SHALL SUBMIT TO THE CITY CLERK A REPORT OF RECENT ACTIVITIES OF THE RECEIVER.

SECTION 13. NOTHING SET FORTH HEREIN SHALL BE DEEMED TO BE A WAIVER OF ANY POWER GRANTED TO THE RECEIVER UNDER THE TERMS OF THE ACT RELATING TO CITIES AND TOWNS – PROVIDING FINANCIAL STABILITY, RHODE ISLAND GENERAL LAWS § 45-9-1 *ET SEQ.*

SECTION 14. THE OFFICE OF CITY CLERK SHALL BE PROVIDED WITH THIS ORDER AND SHALL NOT TAKE ANY ACTION IN CONTRAVENTION THEREOF.

SECTION 15. THIS ORDER SHALL BE EFFECTIVE IMMEDIATELY.

SO ORDERED.



MARK A. PFEIFFER, RECEIVER
OF THE CITY OF CENTRAL
FALLS
NOVEMBER 12, 2010

**Economic Development Corporation's Economic
Development Assessment**

Economic Development Recovery Plan
City of Central Falls, Rhode Island

Prepared by the Rhode Island Economic Development Corporation
November 8, 2010

I. Overview: Description of the Problem

The city of Central Falls has experienced serious fiscal distress resulting in the city's finances being placed in state receivership. The city's residents wrestle with high unemployment and local small business owners struggle to stay viable.

II. Opportunity

To develop a series of coordinated actions items that are consistent with an overall business and economic development strategy.

III. Action Items

Develop a comprehensive inventory of developable industrial and commercial buildings and sites which can be targeted for redevelopment and used to accommodate local business growth and regional business attraction efforts.

Review zoning and land use policies to assure compatibility with redevelopment and identify impediments to redevelopment of vacant and underutilized buildings and sites, particularly as it relates to mixed-use development opportunities. The city should also assess the redevelopment needs of the property owners to assure a mutual beneficial redevelopment effort.

Work to leverage the efforts of the KeepSpace, an initiative of Rhode Island Housing, which seeks to foster broad-based partnerships among residents, local businesses and non-profit organizations, municipal and state agencies for the betterment and preservation of neighborhoods. A portion of Central Falls included within the Pawtucket project area as one of four Rhode Island KeepSpace communities, the other three are Cranston, Providence (Olneyville) and downtown Westerly. Rhode Island Housing has allocated up to \$10 million to help fund the development of these KeepSpace communities.

Build upon the momentum created by the Broad Street Regeneration Initiative, which engaged local community leaders and mobilized business, residents and other local organizations to address the revitalization of the Broad Street area. The city should work to build upon the business development tenants identified in the Broad Street Regeneration Initiative Action Plan, specifically those centered around promoting local merchants and their products and services across the state and regionally.

Partner with the Pawtucket Foundation to look at ways of co-marketing and co-branding Broad Street and other business corridors as business and consumer destinations.

Develop a Business Improvement District, in conjunction with the Blackstone Merchants Association, to principally focus on developing and implementing a coordinated business and merchant marketing initiative.

Establish a redevelopment agency to help spur revitalization, encourage new business development, create jobs and generate higher property tax revenues. The agency should be able to analyze the economic conditions of the targeted neighborhoods or business corridors to develop information and data to guide the economic development plan. In addition, the agency should be tasked with working with business interests in targeted redevelopment neighborhoods or business corridors to help strengthen their position and economic base. The agency should analyze target industries and business sectors to identify opportunities for project development.

Identify Federal funding opportunities through agencies like the U.S Economic Development Administration and the U.S Department of Housing and Urban Development to support local economic development and strategic planning initiatives for economically distressed and underserved communities. The U.S EDA's investments priorities include grants for economic development in economically distressed and underserved communities. All investments must strengthen diverse communities that have suffered disproportionate economic and job losses.

Work with the RIEDC on customized delivery of their small business programs, resources and services specifically the services offered through their small business development initiative, Every Company Counts. They include one-on-one consultations with business professionals focused on small business liability and insurance, legal structure and formation, business development and growth, marketing and branding, computer networks/systems design and website design.

Promote the state's array of business technical assistance programs and services available to assist the city's small business community. They include programs and services that help identify opportunities to sell to the Federal government and secure Federal procurement contracts through the Rhode Island Procurement Technical Assistance Center (PTAC), assistance with managing the production process, continuous improvement and competitive positioning for manufacturers through the Rhode Island Manufacturers Extension Services (RIMES), help develop the internal framework for exporting products or services through the Rhode Island Office of International Trade and Export Assistance.

Enhance access to small and micro-business capital. The KeepSpace Initiative has been looking at creative way of improving access to business finance in those targeted communities. Work with KeepSpace on identifying options for the establishment of a micro-business loan capital access program (funded through public/private partnerships) to assist local merchants and business owners with temporary cash flow issues , the purchases of inventory and supplies, advertising and promotions efforts, etc.

Evaluate potential renewable energy projects, particularly those that can generate electricity including business, commercial, and institutional, as well as municipal and non-profit projects.

IV. Recommendations

Should the city of Central Falls consider implementing the action items outlined within this economic recovery plan it will need to reallocate some of its CDBG funding, develop new

collaborative partnerships, reaffirm and strengthen existing partnerships and create a staff positions for a new urbanism-oriented city planner.

**Executive Summary of Infrastructure Assessment
by RIDOT**



State of Rhode Island and Providence Plantations
Department of Transportation

Michael P. Lewis
Director

*Review of the City of Central Falls
Department of Public Works*

October 22, 2010

Executive Summary

The City of Central Falls Department of Public Works (CFDPW) is responsible for maintaining over twenty-seven (27) linear miles of roadways with operations including, but not limited to, trash and recycling pick-up, road sweeping, drainage system cleaning, road and sidewalk repairs, grass mowing, maintenance of traffic signals and other safety devices, and winter operations. In order to complete these activities the CFDPW employs sixteen (16) full-time employees, including both its managerial and labor forces.

The State of Rhode Island Department of Transportation (RIDOT) was tasked with performing an evaluation of the CFDPW by Receiver Mark A. Pfeiffer, Esquire. Under the direction of Director Michael P. Lewis an incident command structure was put into place using the National Incident Management System guidelines (see Attachment A – RIDOT Incident Command Structure). This organization allowed RIDOT to effectively assess and evaluate the CFDPW not only on paper but also on the actual city streets.

This report is broken down into four sections, Traffic Assessment, Highway Assessment, Operational Assessment, and Recommendations, each of which is summarized below. Although a review of the bridges within the City of Central Falls was also conducted, all nine (9) bridges are presently owned and maintained by the State of Rhode Island, therefore an assessment was not incorporated into this report. Also included is a report provided to RIDOT by the CFDPW Director Joseph G. Nield, Jr., which provides a status report and operational assignments and procedures currently in place in the City.

Traffic Assessment

The RIDOT Traffic Design Section performed a thorough field review of all roadways within the City of Central Falls. This review included the 27.3 linear miles of City maintained roads as well as the 0.76 linear miles of State maintained roads. The investigation focused on pavement markings, signs, sight distance, flashers and traffic signals and ensuring that each of the respective items are in accordance with the 2009 edition of the *Manual on Uniform Traffic Control Devices (MUTCD)*.

In summary the traffic related assets which are the responsibility of the CFDPW appear to be in fair condition. However in order to bring all items up to minimum *MUTCD* standards it is estimated that approximately \$44,000.00, which includes \$20,000.00 for traffic control and police details, will be necessary.

Highway Assessment

The RIDOT Highway Design Section performed a detailed review of all roadways City maintained within the City of Central Falls. The review paid careful attention to the surface condition of both the roadway and sidewalks, whether a drainage system was present and whether American Disability Act (ADA) standards were met. A rating method was used to provide a better understanding of each highway segment and its assets on a scale of 1-5, with 1 being the lowest score and 5 being the highest score.

In summary, the surface conditions scored between 1.0 and 4.0 with 33% scored less than or equal to 2.9 and 67% scored 3.0 or above. *These ranges of scores are consistent with the statewide highway system.* Of note is that although highway segments were ranked in the category of 1 (Failed), there were no conditions observed by our engineers which could be considered a possible catastrophic failure or in any imminent danger to life safety.

A cost estimate was prepared, based on simply resurfacing the highways which scored below a 3.0 and rehabilitating sidewalks to minimum ADA standards, which totals \$10.5 million, \$3.0 million for road improvements and \$7.5 million for ADA upgrades and sidewalks.

Operational Assessment

An assessment of all public works operations, personnel, equipment and materials was conducted by the RIDOT Division of Highway & Bridge Maintenance. This evaluation included a meeting with Mr. Nield and Mr. Kenneth A. Vaudreuil (CFDPW Deputy Director) to discuss the daily and seasonal operations of the CFDPW as well as its budget and immediate needs.

Overall the CFDPW appears to have a very good operating plan and procedures; however several areas are to be of immediate concern, all with regard to having sufficient funding: vehicle/equipment maintenance, sufficient materials for winter operations, and cold-planting operations for coordinating with the Pawtucket Water Supply Board (PWSB) Road Resurfacing Program.

A cost estimate for ensuring each of these items is adequately funded has been prepared and totals \$375,813.00, which is roughly \$310,000.00 greater than the enacted Fiscal Year 2011 budget.

Recommendations

Based on the evaluations and observations by the RIDOT the following items are recommended:

1. Perform limited traffic asset improvements to remove immediate safety concerns that were found during the RIDOT evaluation (e.g. Stop sign mounted in concrete)
2. Continue to monitor and make minor repairs where necessary along the City highway system
3. Provide sufficient funding for previously agreed upon PWSB Road Resurfacing Program to allow for re-surfacing to occur at a highly discounted rate per square foot
4. Provide adequate funding for making required repairs to public works equipment, including two backhoes and trash/recycling equipment at a minimum

These recommendations, along with the existing procedures and practices of the CFDPW, will allow it to provide a safe and operable transportation system and public works functions.

Schedule of Pension Benefits under CBAs

Appendix 22
Comparison of Pension Benefits by Plan
City of Central Falls, Rhode Island

	Central Falls "John Hancock Plan" (Police/Fire Post-July 1, 1972)	Central Falls "1% Plan" (Police/Fire Pre-July 1, 1972)	MERS (Council 94 and Non-Union Municipal)
Years to Vest	5	Closed Plan	10
Service for Normal Retirement	20	Closed Plan	10
Minimum Age for Normal Retirement	55	65 for police; any age with 20 years of service for fire	58 with 10 years service or any age with 30 years of service
Mandatory Retirement	30 years of service	Closed Plan	None
Annual Accrual			
Years 1-20	2.5%	2.5%	2.0%
Years 21-25	2.0%	2.0%	2.0%
Years 26-30	1.0%	1.0%	2.0%
Subsequent years	N/A	N/A	2.0%
Base for Pension	Final year of service	Closed Plan	Average three years' regular salary
Pay Types Excluded	None specified	Overtime	Overtime, extraordinary pay, severance and buyouts of sick and vacation time
COLA	1/2 of annual union increases	1/2 of annual union increases	3% per year if elected by municipality
Employee Share	7.0%	6.0% *	

* Employee contributions to MERS plans may be increased if the municipality has elected to offer the cost-of-living option

**Actuarial Study Regarding John Hancock Plan
Shift to MERS**



November 19, 2010

Mr. Frank J. Karpinski
Executive Director
Employees' Retirement System of Rhode Island
40 Fountain Street, First Floor
Providence, RI 02903-1854

Dear Mr. Karpinski:

Subject: Actuarial Analysis - Extending MERS Coverage to Police and Firefighter Employees of the City of Central Falls – Active Information

As requested, we have determined what the impact would be if Police and Firefighter employees of Central Falls are covered under MERS (Rhode Island's Municipal Employees' Retirement System).

Background and Proposal

We have been provided data on 39 firefighters and 39 policemen who would be moved into two new MERS units.

The analysis provides the cost estimates for transferring the above members into MERS and future members hired into these positions. Current retirees and deferred vested members of the current local retirement plan will not be moved into MERS. The analysis assumes all prior service will be granted to the members for both benefit calculations and for eligibility purposes.

We understand that you want to see results under both the standard police/fire provisions and the optional 20-year retirement provisions as well as results for both groups with and without the optional COLA, referred to as COLA C. The member contribution rates for each unit, depending on the options chosen, will be:

	No COLA	COLA C
Fire – standard plan	7.00%	8.00%
Police – standard plan	7.00%	8.00%
Fire – optional 20 year retirement	8.00%	9.00%
Police – optional 20 year retirement	8.00%	9.00%

In addition, you have requested we provide analysis based on an alternative benefit package. This benefit package would provide a 1% multiplier, 5 year final average salary period, the standard 25 & out MERS police and fire retirement eligibility provisions, and no cost of living increases. For this analysis, we are assuming the employee rate would be 6% of salary.

Analysis

The tables below show the employer contribution rate and the estimated contribution amount determined by the June 30, 2010 actuarial valuation, scheduled to become effective when the plan is opened.

Firefighters		
Plan Provisions	Employer Contribution Rate	Estimated FY2012 Employer Contributions
25&Out Retirement, no COLA	25.50%	\$477,000
25&Out Retirement, COLA C	32.90%	\$616,000
Optional 20 year retirement, no COLA	29.68%	\$556,000
Optional 20 year retirement, COLA C	38.45%	\$720,000
25&Out Retirement, 1% multiplier, 5-year FAE, and no COLA	12.70%	\$238,000
Police		
Plan Provisions	Employer Contribution Rate	Estimated FY2012 Employer Contributions
25&Out Retirement, no COLA	18.81%	\$352,000
25&Out Retirement, COLA C	24.70%	\$462,000
Optional 20 year retirement, no COLA	22.62%	\$423,000
Optional 20 year retirement, COLA C	29.90%	\$559,000
25&Out Retirement, 1% multiplier, 5-year FAE, and no COLA	9.60%	\$180,000

Impact of Additional Contributions

The employer contribution rates and amounts shown above are based on the assumption that no extra assets are transferred into MERS at the time the members are transferred. If extra assets are transferred, then for each \$100,000 contributed to each MERS unit, the employer contribution rate will be reduced by 42 basis points (0.42%) for both groups. This amounts to a savings of just over \$7,000 in the annual employer contribution for each \$100,000 contributed. Assets contributed

Mr. Frank J. Karpinski
November 19, 2010
Page 3

could include any member contribution account balances transferred from the current plan, as well as any additional contributions made by the employer, whether transferred from the current plan or made directly from the town's assets.

Member Data

Member data came from two sources. Existing member data came from Frank Karpinski. As of July 1, 2010, the 39 active firefighters are 39.9 years old on average, they have an average of 12.2 years of service, and their average salary for FY 2010 is \$46,037. As of July 1, 2010, the 39 active policemen are 34.2 years old on average, they have an average of 7.9 years of service, and their average salary for FY 2010 is \$46,023.

Other Comments

Our analysis was prepared based on actuarial assumptions and methods used in preparing the June 30, 2009 actuarial valuation report, the most recently completed one.

If you have any questions about our analysis, please do not hesitate to call or write. A copy of our invoice is attached.

Sincerely,



Joseph P. Newton, FSA
Senior Consultant

3014\2010\CVG\CentralFalls\CentralFallsCoverageAnalysis.doc



November 29, 2010

Mr. Frank J. Karpinski
Executive Director
Employees' Retirement System of Rhode Island
40 Fountain Street, First Floor
Providence, RI 02903-1854

Dear Mr. Karpinski:

Subject: Actuarial Analysis – Liability for the Current Inactive Members of the City of Central Falls John Hancock and 1% Pension Plans

As requested, we have determined the liability of the current inactive members (retirees, beneficiaries, and disabled members) in the City of Central Falls John Hancock's Deferred Liability Contract No. 1132 GAC Pension Plan (John Hancock Plan) and City of Central Falls, Rhode Island Fire Department and Police Department 1% Pension Plan (1% Pension Plan).

Background

It is our understanding that it has been proposed to transfer the active members of the City's John Hancock and 1% Pension Plans to MERS (Rhode Island's Municipal Employees' Retirement System). The inactive members (retirees, beneficiaries, deferred vested and alternate payees) will not be transferred to MERS. Rather, they benefits will continue to be provided by the City's respective pension plans.

We were provided data on all the inactive members of the John Hancock and 1% Pension Plan as of July 1, 2010, which included 79 and 57 members respectively. The analysis below provides the Plans' liability associated with continuing to provide benefits to these members.

Analysis and Assumptions

Below is a table with the benefit liability for each of the City's pension plans. We have calculated the liability based on the plan's actuarial assumptions, which includes a 7.50% interest rate.

In addition, we have also calculated the liability using an alternative, 6.00%, interest rate. Results under the alternative assumption will provide you an understanding of the increased cost that would result if the plans' assets were invested more conservatively to reduce the plan's exposure to investment risk. We believe it may be prudent to invest any assets for the closed plan more conservatively since the expected timeline for the plan will be much shorter once the active members are removed.

Benefit Liability as of July 1, 2010		
Pension Plan	Valuation Assumption 7.50% Interest	Alternative Assumption 6.00% Interest
John Hancock Plan	\$30,367,000	\$36,461,000
1% Pension Plan	<u>14,026,000</u>	<u>15,865,000</u>
Total Liability	\$44,393,000	\$52,326,000

Decreasing the valuation interest rate assumption from 7.50% to 6.00% will increase the liability for the John Hancock Plan by 20% and the 1% Pension Plan by 13%. The 1% Pension Plan is less sensitive to changes in the interest rate, compared to the John Hancock Plan, because the average age of the members in the 1% Pension Plan is 12 years older than the average age of the members in the John Hancock Plan (age 72.7 for the 1% Pension Plan versus age 60.7 for the John Hancock Plan). This means the timeline of the future benefit payments for the 1% Pension Plan is shorter.

The liabilities are calculated using the actuarial assumptions used to value the plan as of July 1, 2008. These include a 7.50% interest rate and the RP-2000 mortality table projected to 2006 using scale AA. There is also a 10-year age setback applied to the mortality assumption for all disabled members. It was also assumed that members who are entitled to receive cost-of-living adjustments (COLAs) would receive future increases at the rate of 2.50% per year.

Member Data

Inactive membership data was provided to us by yourself in an email on November 16th. We did not audit this data, but we did apply a number of tests to the data to determine its reasonability. Enclosed is an exhibit with various statistics regarding the membership information we received for each plan.

Other Comments

The calculations of the liabilities are dependent on the actuarial assumptions used. While we believe these assumptions are reasonable and appropriate for their use, the actual emerging cost can and almost certainly will differ as actual experience deviates from the assumptions.

If you have any questions about our analysis, please do not hesitate to call or write.

Sincerely,



Joseph P. Newton, FSA

Senior Consultant

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Exhibit 1. - City of Central Falls Pension Plans Inactive Membership Information

Table 1. – Summary of Inactive Membership

	<u>John Hancock Plan</u>	<u>1% Pension Plan</u>
Number of:		
Retirees	50	40
Beneficiaries	1	17
Disabled	<u>28</u>	<u>0</u>
Total Members	79	57
Average Age:	60.7	72.7
Average Monthly Benefit:	\$2,112	\$1,891
Total Annual Benefit Payments:	\$2,001,804	\$1,293,181

Table 2. – Distribution of Inactive Members by Age

	<u>John Hancock Plan</u>	<u>1% Pension Plan</u>
Under 40	1	0
40 – 44	5	0
45 – 49	13	0
50 – 54	16	1
55 – 59	16	0
60 – 64	8	12
65 – 69	3	12
70 – 74	2	11
75 – 79	2	6
80 – 84	2	10
85 – 89	8	5
Over 90	3	0

Table 3. – Distribution of Inactive Members by Monthly Benefit

	<u>John Hancock Plan</u>	<u>1% Pension Plan</u>
\$0 – \$499	12	9
\$500 – \$999	5	4
\$1,000 – \$1,499	4	7
\$1,500 – \$1,999	1	6
\$2,000 – \$2,499	18	15
\$2,500 – \$2,999	27	8
\$3,000 – \$3,499	10	6
\$3,500 – \$3,999	1	2
\$4,000 – \$4,499	1	0
\$4,500 – \$4,999	0	0

Schedule of OPEB Benefits under CBAs

Appendix 24
Summary of Other Post-Employment Benefits Provided by Collective Bargaining Agreement
City of Central Falls, Rhode Island

	Non-Union Municipal and Rhode Island Council 94 Local 1627 - General Government	Fraternal Order of Police Lodge 2	International Association of Firefighters Local 1485
Full Benefits For:	Employees who retire at age 62, until age 65, at a 90/10 split. Does not include vision coverage.	Those who retired between July 1, 1977 and June 30, 1990. Those employed prior to July 12, 1972 who retired after June 30, 1990 without sufficient Social Security coverage to receive Medicare Part A for free. Those retiring after June 30, 1990 until they reach age 65, except as provided above, and excluding vision, dental, prescription and student coverage.	Employees who retire after June 30, 1979 (not including vision, dental or prescription) until they receive "equivalent" coverage from another employer or are covered by Medicare.
Other Benefits	Coverage continues for six months following layoff, excluding dental.		Full coverage for the surviving spouse (until Medicare eligibility) and children (until age 25) when the covered individual, employed or retired after July 1, 2005, dies as a result of job-related illness or injury.
Other Employment		City will reimburse retiree for any costs he/she pays in excess of those that would be paid under City coverage.	Required to accept health insurance from a subsequent employer if the health insurance is "equivalent" to the City's.

Rhode Island District Court Decision

PROVIDENCE, Sc.
SIXTH DIVISION

STATE OF RHODE ISLAND & PROVIDENCE PLANTATIONS
DISTRICT COURT

City of Central Falls

v.

Department of Labor & Training,
Board of Review
(Sandra Salisbury)

A.A. No. 10 - 167

RECEIVED

OCT 21 2010

Per _____

ORDER

This matter is before the Court pursuant to § 8-8-8.1 of the General Laws for review of the Findings & Recommendations of the Magistrate.

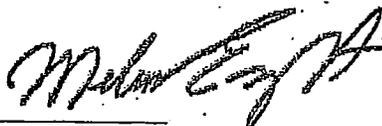
After a de novo review of the record, the Court finds that the Findings & Recommendations of the Magistrate are supported by the record, and are an appropriate disposition of the facts and the law applicable thereto. It is, therefore,

ORDERED, ADJUDGED AND DECREED,

that the Findings & Recommendations of the Magistrate are adopted by reference as the Decision of the Court and the instant matter is hereby AFFIRMED.

Entered as an Order of this Court at Providence on this 19 day of October, 2010.

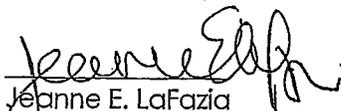
By Order:



Melvin Enright
Acting Chief Clerk

Melvin J. Enright
Acting Chief Clerk

Enter:



Jeanne E. LaFazia
Chief Judge

STATE OF RHODE ISLAND & PROVIDENCE PLANTATIONS
PROVIDENCE, Sc. DISTRICT COURT
SIXTH DIVISION

City of Central Falls :
 :
v. : A.A. No. 10 - 167
 :
Department of Labor & Training, :
Board of Review :
(Sandra Salisbury) :

FINDINGS & RECOMMENDATIONS

Ippolito, M. In this case the City of Central Falls urges that the Board of Review of the Department of Labor & Training erred when it found that a former employee, Ms. Sandra Salisbury, left her position with good cause and was therefore eligible to receive unemployment benefits pursuant to Gen. Laws 1956 § 28-44-17. Jurisdiction to hear and decide appeals from decisions made by the Board of Review is vested in the District Court by GEN. LAWS 1956 § 28-44-52. These matters have been referred to me for the making of findings and recommendations pursuant to GEN. LAWS 1956 § 8-8-8.1. For the reasons stated below, I conclude that the decision issued by the Board of Review granting benefits to Ms. Salisbury is supported by the facts of the case and the applicable law and should be affirmed; accordingly, I so recommend.

FACTS AND TRAVEL OF THE CASE

An outline of the facts and travel of this case may be stated briefly: Claimant

worked for the City of Central Falls as an administrative assistant concentrating on human resource issues for five and a half years until she quit on October 9, 2009. She filed for unemployment benefits on November 16, 2009 but in a decision dated February 1, 2010 the Director determined the claimant was disqualified from receiving benefits pursuant to Gen. Laws 1956 § 28-44-17 because she voluntarily quit without good cause.

Claimant filed a timely appeal and a hearing was held by Referee Gunter A. Vukic on April 19, 2010. In his April 30, 2010 decision, Referee Vukic found that, despite claimant's allegations that she was subjected to instances of humiliation and instances of vulgarity, the job had not become unsuitable and therefore claimant quit without good cause. See Decision of Referee, April 30, 2010, at 2. Accordingly, the referee affirmed the decision of the Director and found that claimant was disqualified pursuant to Gen Laws 1956 § 28-44-17.

Claimant employer filed a timely appeal and on July 12, 2010, the Board of Review held a new hearing. On July 27, 2010, based on the evidence and testimony elicited at both hearings, the Board of Review unanimously reversed the Referee's decision. The Board found that claimant did have good cause to quit.

The claimant was subject to comments, in front of co-workers, personal in nature complimented (sic) by unprofessional language at what was purported to be a staff meeting. In reality the meeting became a political campaign meeting concerning an upcoming election. While the line between politics and official business in a local government, especially in an election year can be a fine one, the claimant should not have been subject to a personal attack on her and her husband, in front of coworkers.

The Board finds that the claimant's decision to voluntarily leave her job following this encounter was bottomed on good cause.

Decision of Board of Review, July 27, 2010, at 1-2.

Thereafter, on August 25, 2010, the City filed a complaint for judicial review in the Sixth Division District Court.

APPLICABLE LAW

Our review of this case involves the application and interpretation of the following provision of the Rhode Island Employment Security Act, which specifically touches on voluntary leaving without good cause; Gen. Laws 1956 § 28-44-17, provides:

28-44-17. Voluntary leaving without good cause. – An individual who leaves work voluntarily without good cause shall be ineligible for waiting period credit or benefits for the week until he or she establishes to the satisfaction of the director that he or she has subsequent to that leaving had at least eight (8) weeks of work, and in each of those eight (8) weeks has had earnings of at least twenty (20) times the minimum hourly wage as defined in chapter 12 of this title for performing services in employment for one or more employers subject to chapters 42 – 44 of this title. * * * For the purposes of this section, 'voluntarily leaving work without good cause' shall include voluntarily leaving work with an employer to accompany, join or follow his or her spouse in a new locality in connection with the retirement of his or her spouse, or failure by a temporary employee to contact the temporary help agency upon completion of the most recent work assignment to seek additional work unless good cause is shown for that failure; however, that the temporary help agency gave written notice to the individual that the individual is required to contact the temporary help agency at the completion of the most recent work assignment to seek additional work.

In the case of Harraka v. Board of Review of Department of Employment Security, 98 R.I. 197, 201, 200 A.2d 595, 597-98 (1964), the Rhode Island Supreme Court noted that a liberal reading of good cause would be adopted:

To view the statutory language as requiring an employee to establish that he terminated his employment under compulsion is to make any voluntary termination thereof work a forfeiture of his eligibility under the act. This, in our opinion, amounts to reading into the statute a provision that the legislature did not contemplate at the time of its enactment.

In excluding from eligibility for benefit payments those who voluntarily terminate their employment without good cause, the legislature intended in the public interest to secure the fund from which the payments are made against depletion by payment of benefits to the shirker, the indolent, or the malingerer. However, the same public interest demands of this court an interpretation sufficiently liberal to permit the benefits of the act to be made available to employees who in good faith voluntarily leave their employment because the conditions thereof are such that continued exposure thereto would cause or aggravate nervous reactions or otherwise produce psychological trauma.

Later, in Murphy v. Fascio, 115 R.I. 33, 340 A.2d 137 (1975), the Supreme Court elaborated that:

The Employment Security Act was intended to protect individuals from the hardships of unemployment the advent of which involves a substantial degree of compulsion.

Murphy, 115 R.I. at 37, 340 A.2d at 139.

and

* * * unemployment benefits were intended to alleviate the economic insecurity arising from termination of employment the prevention of which was effectively beyond the employee's control."

Murphy, 115 R.I. at 35, 340 A.2d at 139.

STANDARD OF REVIEW

The standard of review by which the court must proceed is established in Gen. Laws § 42-35-15(g), a section of the state Administrative Procedures Act, which provides as follows:

42-35-15. Judicial review of contested cases.

(g) The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings, or it may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the agency;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
- (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Thus, on questions of fact, the District Court “* * * may not substitute its judgment for that of the agency and must affirm the decision of the agency unless its findings are ‘clearly erroneous.’”¹ The Court will not substitute its judgment for that of the Board as to the weight of the evidence on questions of fact.² Stated differently, the findings of the

1 Guarino v. Department of Social Welfare, 122 R.I. 583, 584, 410 A.2d 425 (1980) citing R.I. GEN. LAWS § 42-35-15(g)(5).

2 Cahoone v. Board of Review of the Dept. of Employment Security, 104 R.I. 503, 506, 246 A.2d 213, 215 (1968).

agency will be upheld even though a reasonable mind might have reached a contrary result.³

The Supreme Court of Rhode Island recognized in Harraka, supra, 98 R.I. at 200, 200 A.2d at 597, that a liberal interpretation shall be utilized in construing and applying the Employment Security Act:

* * * eligibility for benefits is to be determined in the light of the expressed legislative policy that "Chapters 42 to 44, inclusive, of this title shall be construed liberally in aid of their declared purpose which declared purpose is to lighten the burden which now falls upon the unemployed worker and his family." G.L. 1956, § 28-42-73. The legislature having thus declared a policy of liberal construction, this court, in construing the act, must seek to give as broad an effect to its humanitarian purpose as it reasonably may in the circumstances. Of course, compliance with the legislative policy does not warrant an extension of eligibility by this court to any person or class of persons not intended by the legislature to share in the benefits of the act; but neither does it permit this court to enlarge the exclusionary effect of expressed restrictions on eligibility under the guise of construing such provisions of the act.

ISSUE

The issue before the Court is whether the decision of the Board of Review was supported by reliable, probative, and substantial evidence in the record or whether or not it was clearly erroneous or affected by error of law. More precisely, was claimant properly allowed to receive unemployment benefits because she left work with good cause pursuant to section 28-44-17?

3 Cahoone v. Board of Review of Department of Employment Security, 104 R.I. 503, 506, 246 A.2d 213 (1968). Also D'Ambra v. Board of Review, Department of Employment Security, 517 A.2d 1039 (R.I. 1986).

ANALYSIS

The facts in this case are in dispute.

In an effort to furnish the Referee with the “good cause” necessary under section 17 to justify her departure, claimant urged that she quit because of the way she had been treated. At the hearing before the Board of Review, claimant testified that she had been verbally abused by her superior, the Director of Human Resources. See Board of Review Hearing Transcript, June 9, 2010, at 23.⁴ She also described a meeting held in City Hall during the work day that evolved into a political meeting regarding the mayor’s bid for reelection. See Board of Review Hearing Transcript, June 9, 2010, at 24-25.⁵ She specifically stated that during this latter meeting the mayor stated to her — “F— you.” See Board of Review Hearing Transcript, June 9, 2010, at 25.⁶ The use of the f-word in its various forms by the Mayor toward the claimant at the meeting was confirmed by Mr. Todd Oldrick (See Board of Review Hearing Transcript, July 14, 2010, at 37-38), Mr. Len Coutu (See Board of Review Hearing Transcript, July 14, 2010, at 40), and Mr. John LaBossiere (See Board of Review Hearing Transcript, July 14, 2010, at 42).

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- 4 This testimony was consistent with that given by the claimant before the referee on April 19, 2010. See Referee Hearing Transcript, at 12.
- 5 This testimony was consistent with that given by the claimant before the referee on April 19, 2010. See Referee Hearing Transcript, at 15-16.
- 6 This testimony was consistent with that given by the claimant before the referee on April 19, 2010. See Referee Hearing Transcript, at 16. See also Referee Hearing Transcript, at 17.

The chief witness for the City was Mr. Gene Noury, Director of Human Resources, who denied that he or the Mayor used profanity or vulgarities to Ms. Salisbury. See Referee Hearing Transcript, at 80-90; Board of Review Hearing Transcript, June 9, 2010, at 19. Lisa Dias, a co-worker, denied Mr. Noury used profanity but confirmed that the Mayor did. See Referee Hearing Transcript, at 112.

In light of the foregoing, the Board's finding that claimant was subjected to ill treatment by city officials must be deemed well-supported by the record.

The Board's finding of good cause is also consistent with principles this Court has long invoked in section 17 cases founded on allegations of harassment. Claimant did proffer medical evidence that she was affected adversely by her treatment. Moreover, claimant could not be required to seek the assistance of a superior in addressing Mr. Noury's conduct since the highest city official, the Mayor, was also implicated. The Board's finding that claimant was entitled to quit without waiting to find a new position is certainly supported by the egregious nature of the allegations which were deemed proven.⁷

Pursuant to Gen. Laws 1956 § 42-35-15(g), the decision of the Board must be upheld unless it was, *inter alia*, contrary to law, clearly erroneous in light of the substantial

⁷ In recommending the Board be affirmed, I have focused on the harassment issues, as did the Board. Nevertheless, it is worth noting that the fact that claimant [and others] were forced on city time to engage in a political meeting may well have formed a separate justification for her departure. See Powell v. Department of Employment Security Board of Review, 477 A.2d 93, 97 (R.I. 1984) (Public relations officer of company was held to quit with good cause when employer directed that he intentionally deceive press, an act which would have grave effects on his future employability in trade). Engaging in political meeting on city time left claimant open to severe criticism and possible prosecution for misuse of city time.

evidence of record, or arbitrary or capricious. When applying this standard, the Court will not substitute its judgment for that of the Board as to the weight of the evidence on questions of fact, including the question of which witnesses to believe.⁸ Stated differently, the findings of the agency will be upheld even though a reasonable mind might have reached a contrary result.⁹ Accordingly, the Board's decision (adopting the finding of the Referee) that claimant voluntarily terminated her employment with the City of Central Falls with good cause within the meaning of section 17 is supported by the evidence of record and must be affirmed.

⁸ Cahoone v. Board of Review of the Department of Employment Security, 104 R.I. 503, 506, 246 A.2d 213, 215 (1968).

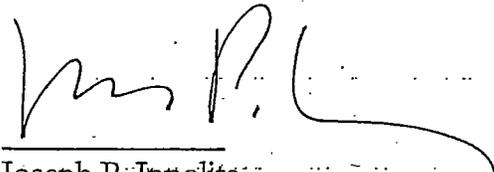
⁹ Cahoone, *supra* n. 7, 104 R.I. at 506, 246 A.2d at 215 (1968). See also D'Ambra v. Bd. of Review, Dept. of Employment Security, 517 A.2d 1039, 1041 (R.I. 1986). See also Gen. Laws § 42-35-15(g), *supra* p. 5 and Guarino, *supra* p. 5, fn.1.

CONCLUSION

Upon careful review of the evidence, I recommend that this Court find that the decision of the Board of Review was not affected by error of law. GEN. LAWS 1956 § 42-35-15(G)(3),(4). Further, the instant decision was not clearly erroneous in view of the reliable, probative and substantial evidence on the whole record or arbitrary or capricious.

GEN. LAWS 1956 § 42-35-15(G)(5),(6).

Accordingly, I recommend that the decision of the Board be AFFIRMED.



Joseph P. Ippolito
MAGISTRATE

OCTOBER 19, 2010

**Draft Legislation Regarding Securitizing
Municipal Bonds in a Chapter 9 Bankruptcy
Proceedings**

2011 –

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

AN ACT

RELATING TO INDEBTEDNESS OF TOWNS AND CITIES

11 --

Introduced By:

Date Introduced:

Referred To:

1 It is enacted by the General Assembly as follows:

2 **SECTION 1.** Section 45-12-1 in Chapter 45-12 of the General Laws
3 entitled “Indebtedness of Cities and Towns” is hereby amended to read as
4 follows:

5 § 45-12-1 Payment of indebtedness. – (a) The outstanding notes, bonds,
6 and contracts of cities and towns shall be paid and fulfilled according to their
7 tenor, and all public works now authorized to be prosecuted shall be prosecuted,
8 and all indebtedness now authorized to be incurred on account thereof may be
9 incurred, according to the tenor of the authority therefor. The power and
10 obligation of each city and town to pay its general obligation bonds and notes,
11 whether or not issued pursuant to this chapter, shall be unlimited, and each city

1 and town shall levy ad valorem taxes upon all the taxable property within the city
2 or town for the payment of the general obligation bonds or notes and interest on
3 these bonds or notes, without limitation of rate or amount, except as otherwise
4 provided by or pursuant to law. The faith and credit, ad valorem taxes, and
5 general fund revenues of each city and town and district shall be pledged for the
6 payment of the principal of, premium and the interest on, all general obligation
7 bonds and notes of the city or town or district whether or not the pledge is stated
8 in the bonds or notes, or in the proceedings authorizing their issue and shall
9 constitute a first lien on such ad valorem taxes and general fund revenues. Each
10 city ~~and~~ town and district shall annually appropriate a sum sufficient to pay the
11 principal, premium and interest coming due within the year on all its general
12 obligation bonds and notes to the extent that moneys for the general obligation
13 bonds and notes are not otherwise provided. If that sum is not appropriated, it
14 shall nevertheless be added to the annual tax levy. Annual appropriations for
15 payment of financing leases and obligations securing bonds, notes or certificates
16 ("other financing obligations"), shall also have a first lien on ad valorem taxes and
17 general fund revenues commencing on the date of each annual appropriation.
18 Amounts appropriated or added to the tax levy to pay principal of, premium and
19 interest on general obligation bonds or notes and payments of other financing
20 obligations shall be applied to the payment of such obligations. Any municipal or
21 district employee or official who intentionally violates the provisions of this
22 section shall be personally liable to the city, town or district for any amounts not
23 expended in accordance with such appropriations. The superior court shall have
24 jurisdiction to adjudicate claims brought by any city, town or district hereunder

1 and to order such relief as the court may find appropriate to prevent further
2 violations of this section. Any municipal or district employee or official who
3 violates the provisions of this section shall be subject to removal.

4 (b) Notwithstanding any provision of any other law, including the
5 Uniform Commercial Code, Title 6A of the Rhode Island General Laws:

6 (1) The pledge of ad valorem taxes and general fund revenues to the
7 payment of the principal, premium and interest on general obligation bonds and
8 notes and payment of other financing obligations, whether or not issued pursuant
9 to this chapter, is valid and binding, and deemed continuously perfected from the
10 time the bonds or notes or other financing obligations are issued;

11 (2) No filing need be made under the Uniform Commercial Code or
12 otherwise to perfect the first lien on ad valorem taxes or general fund revenues;

13 (3) The pledge of ad valorem taxes and general fund revenues is
14 subject to the lien of the pledge without delivery or segregation, and the first lien
15 on ad valorem taxes and general fund revenues is valid and binding against all
16 parties having claims of contract or tort or otherwise against the city or town,
17 whether or not the parties have notice thereof.

18 (4) The pledge shall be a statutory lien effective by operation of law
19 and shall apply to all general obligation bonds and notes and other financing
20 obligations of cities and towns and districts heretofore or hereafter issued and
21 shall not require a security agreement to be effective. Such pledge shall not
22 constitute a security agreement under Rhode Island Law.

23 (c) The pledge of ad valorem taxes and general fund revenues to the
24 payment of principal, premium and interest on general obligation bonds and

1 notes, under this section constitutes a sufficient appropriation for the purposes of
2 any provision for appropriation, and the ad valorem taxes and general fund
3 revenues may be applied as required by the pledge without further appropriation,
4 provided however that this subsection (c) shall not apply to other financing
5 obligations which are subject to annual appropriation.

6 (d) As used in this section the following words shall have the
7 following meanings:

8 (1) "Ad valorem taxes" shall mean all ad valorem taxes levied by cities,
9 towns and districts on property, including motor vehicle excise taxes, except for
10 "project revenues" as defined in Section 45-33.2-3(5) of the General Laws.

11 (2) "Pledge" shall mean a first lien on, and a grant of a security interest in,
12 ad valorem taxes and general fund revenues.

13 (3) "General fund revenues" shall mean all taxes, fees, assessments,
14 charges, receipts and other monies (including unrestricted fund balance) derived
15 from any source, to the extent that such monies are deposited or required to be
16 deposited to the general fund of the city, town, or district, and all accounts and
17 rights to receive the ad valorem taxes and general fund revenues and the proceeds
18 thereof.

19 **SECTION 2.** Section 45-12-22.4 in Chapter 45-12 of the General Laws
20 entitled "Indebtedness of Cities and Towns is hereby amended to read as follows:

21 § 45-12-22.4 Deficit, pension and other post-employment benefit
22 financing – Approval required. – Except as provided in Chapter 45-9 of the
23 General Laws, no municipality shall sell a long-term bond in order to fund a
24 deficit or to fund pension obligations or other post-employment benefits without

1 prior approval by the state auditor general and director of the state department of
2 revenue.

3 **SECTION 3.** This act and each section, sub-section, paragraph,
4 subparagraph, part, provision, sentence, word and portion thereof are hereby
5 declared to be severable. If any sub-section, paragraph, part, provision, sentence,
6 word and/or portion is adjudged by a court of competent jurisdiction to be invalid
7 or unenforceable for any reason whatsoever, it is hereby provided that the
8 remainder of this section shall not be affected thereby.

9 **SECTION 4.** This act shall take effect upon passage and shall apply to
10 general obligation bonds and notes and other financing obligations (as herein
11 defined) issued by cities, towns and districts prior to the date of enactment.

EXPLANATION
OF
AN ACT
RELATING TO INDEBTEDNESS OF TOWNS AND CITIES

1 This act would enhance capital market access for cities, towns and districts
2 by providing that general obligation bonds, notes and other financing obligations
3 of cities, towns and districts have a lien on ad valorem taxes (as defined in the act)
4 and general fund revenues. It would also require that the state auditor general and
5 the director of the state department of revenue approve the issuance of any bonds
6 to fund pension obligations or other post-employment benefits.

7 This act shall take effect upon passage. Section 1 shall also apply to
8 general obligation bonds and notes and other financing obligations (as defined in
9 the act) issued by cities, towns and districts prior to the date of enactment.

AN ACT
RELATING TO INDEBTEDNESS OF TOWNS AND CITIES

-----Presented by