

CHAPTER 42-10.1
Public Finance Management Board

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SECTION 42-10.1-1

§ 42-10.1-1 Creation – Members. – (a) There is hereby authorized, created and established in the department of the general treasurer a public finance management board to consist of nine (9) members:

(1) The general treasurer or his or her designee who shall be a subordinate within the general treasurer's office;

(2) The director of the department of administration or his or her designee who shall be a subordinate within the department of administration;

(3) Three (3) members of the general public to be appointed by the governor, with the advice and consent of the senate, one of whom shall serve an initial term of three (3) years, one of whom shall serve an initial term of two (2) years and one of whom shall serve an initial term of one year, and until his or her successor is appointed and qualified. Thereafter, the members appointed pursuant to this subsection shall serve for a term of three (3) years and until his or her successor is appointed and qualified; and

(4) Two (2) members of the general public to be appointed by the general treasurer, with the advice and consent of the senate, from a list of five (5) candidates submitted to the general treasurer by the League of Cities and Towns, one of whom shall serve an initial term of two (2) years and one of whom shall serve an initial term of three (3) years, and until his or her successor is appointed and qualified. Thereafter, the members appointed pursuant to this subsection shall serve for a term of three (3) years and until his or her successor is appointed and qualified.

(5) Two (2) members of the general public to be appointed by the general treasurer, with the advice and consent of the senate, one of whom shall serve an initial term of two (2) years and one of whom shall serve an initial term of three (3) years, and until his or her successor is appointed and qualified. Thereafter, the members appointed pursuant to this subsection shall serve for a term of three (3) years and until his or her successor is appointed and qualified.

(b) Any member that was appointed by the governor or general treasurer prior to the effective date of this act shall continue to serve until such time as a successor is appointed and qualified.

(c) All appointments shall be experienced in the issuance and sale of bonds by public agencies or shall otherwise be qualified by training or experience in the field of finance and investment. No one shall be eligible for appointment unless he or she is a resident of this state.

Public members of the authority shall be removable by the chair for cause only, and removal solely for partisan or personal reasons unrelated to capacity or fitness for the office shall be unlawful.

Newly appointed and qualified public members shall, within six (6) months of their appointment, attend a training course that shall be developed and provided by the office of the general treasurer and shall include instruction in the following areas: the provisions of chapters 42-10.1, 42-46, 36-14 and 38-2 of the Rhode Island general laws; and the authority's rules and regulations. The director of the department of administration shall, within ninety (90) days of the effective date of this act, prepare and disseminate training materials relating to the provisions of chapters 42-46, 36-14 and 38-2.

A vacancy shall be filled in like manner as the original appointment.

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SECTION 42-10.1-2

§ 42-10.1-2 Purpose. – It shall be the purpose and responsibility of the board:

(1) To advise and assist all state departments, municipal and regional authorities, agencies, boards, commissions, and public and quasi-public corporations, and fire districts and other special districts having authority to issue revenue or general obligation bonds or GARVEE bonds or notes or other various types of conduit debt or enter into financing leases with respect to issuance of and financial planning related to all those bonds, leases, and notes;

(2) ~~Upon request, to~~ advise and/or assist any city or town and any municipal or regional agency, authority, board, commission, ~~or~~ public or quasi-public corporations, or fire districts or other special districts having authority to issue revenue or general obligation bonds or GARVEE bonds or notes or other various types of conduit debt or enter into financing leases with respect to the issuance and financial planning related to those bonds, leases, and notes;

(3) To collect, maintain, and provide information on state, municipal and regional authority, agency, board, commission, public or quasi-public corporation, fire district and other special district debt authorization, sold and outstanding, and serve as a statistical center for all state and municipal debt issues;

(4) To maintain contact with state municipal and regional authority, agency, board, commission, public or quasi-public corporation, fire district and other special district bond issuers, underwriters, credit rating agencies, investors, and others to improve the market for state and local government debt issues;

(5) To undertake or commission studies on methods to reduce the costs and improve credit ratings of state and local debt issues;

(6) To recommend changes in state laws and local practices to improve the sale and servicing of state and local debts;

(7) To annually ascertain the total amount of state, regional, municipal, and public and quasi-public corporation debt authorized, sold and unsold.

(8) To oversee the undertaking of a debt affordability study no less frequently than every two (2) years, which shall include recommended limits for the debt capacity of each state, municipal and regional authority, agency, board, commission, public and quasi-public corporation and fire

district and other special district having authority to issue revenue or general obligation bonds or GARVEE bonds or notes or other types of conduit debt or enter into financing leases. -

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SECTION 42-10.1-3

§ 42-10.1-3 Allocation of statewide financing limitation. – (a) The eighty-seven million four thousand dollars (\$87,004,000) in total recovery zone economic development bond volume cap allocations granted to the five (5) counties of the State of Rhode Island by the United States Secretary of the Treasury pursuant to 26 U.S.C. §§ 1400U-1 and 1400U-2 of the Internal Revenue Code are hereby ceded to the State of Rhode Island for use by the state in connection with the issuance of general obligation bonds of the state.

(b) The one hundred thirty million five hundred four thousand dollars (\$130,504,000) in total recovery zone facility bond volume cap allocations granted to the five (5) counties of the State of Rhode Island by the United States Secretary of the Treasury pursuant to 26 U.S.C. §§ 1400U-1 and 1400U-3 are hereby ceded to the public finance management board for subsequent allocation by the board in accordance with rules and regulations to be promulgated by the board in accordance with the Administrative Procedures Act, Chapter 35 of this title.

(c) The ten million nine hundred one thousand dollars (\$10,901,000) in total qualified energy conservation bond volume cap allocation granted to the State of Rhode Island by the Secretary of the Treasury pursuant to 26 U.S.C. § 54D of the Internal Revenue Code is hereby allocated to the board for subsequent allocations by the board in accordance with rules and regulations to be promulgated by the board in accordance with the Administrative Procedures Act, Chapter 35 of this title, provided, however, that the City of Providence shall be allocated by the board no less than its portion as provided in 26 U.S.C. § 54D(e)(2)(A) of the Internal Revenue Code unless the City of Providence determines that the board may further reallocate such portion to other bond issuers.

(d) The general assembly hereby finds, declares and designates the entire State of Rhode Island as a "recovery zone" meeting the standards referenced in 26 U.S.C. § 1400U-1(b)(1) of the Internal Revenue Code, given the significant unemployment, rate of foreclosures, or general distress present throughout the State of Rhode Island, and particularly given the geographic compactness of the state and the resultant interrelated nature of economic conditions and activities within the state as a whole.

(e) The board is hereby authorized to allocate tax exempt and taxable bond issuance capacity and/or federal tax credits among all issuers in the state of Rhode Island, pursuant to 26 U.S.C. § 103, 26 U.S.C. § 145, or pursuant to 26 U.S.C. §§ 1400U-1, 1400U-2, 1400U-3, 54D and any similar federal legislation heretofore or hereinafter enacted. The allocations of tax exempt and

taxable bond issuance capacity and/or federal tax credits shall be pursuant to rules and regulations to be promulgated by the board in accordance with the Administrative Procedures Act, chapter 35 of this title.

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SECTION 42-10.1-4

§ 42-10.1-4 Notice of debt issue to board. – (a) Each state, municipal and regional department, authority, agency, board, commission, ~~and~~ public and quasi-public corporation, and fire district and other special district having authority to issue revenue or general obligation bonds or GARVEE bonds or notes or other various types of conduit debt shall, no later than thirty (30) days prior to the sale of any such debt issue at public or private sale, give written notice of the proposed sale to the board; and each such issuer shall, within thirty (30) days after closing, submit to the board a report of final sale.

(b) The notice of proposed debt shall include one proposed sale date, the name of the issuer, the nature of the debt issue, and the estimated principal amount thereof, and such further information as may be required by rule of the board and shall be delivered in accordance with procedures to be established by rule of the board; and the notice of final sale shall be made on a form approved by the board and contain all of the information requested on said form. Any issuer which fails to submit the report of proposed debt or report of final sale by the appropriate deadline may be subject to a per diem fine of two hundred fifty dollars (\$250), which shall be collected and enforced by the Office of the General Treasurer.

(c) Each state, municipal and regional authority, agency, board, commission, public and quasi-public corporation, and fire district and other special district having authority to issue revenue or general obligation bonds or GARVEE bonds or notes or various types of conduit debt or enter into financing leases shall provide annually, within ninety (90) days after the end of each fiscal year, the following information for each outstanding debt incurred as of the end of such year:

(1) the principal amount of the issue outstanding;

(2) the amount of proceeds of the issue that remains unspent;

(3) the amount of debt authorized by the bond act or other appropriate authorization relevant to the issue that remains authorized but unissued; and

(4) a list of the purposes for which the debt has been issued and the amounts expended for each purpose in the prior fiscal year from the proceeds of the issue. -

(ed) Failure of delivery of the above notice or of the time or efficiency thereof shall not affect the validity of the issuance of any debt, ~~bond or note,~~ bonds, notes or leases.

(de) The board shall submit a report annually on or before September 30th of each year to the director of administration, the speaker of the house, the chairman of the house finance committee, the president of the senate, the chairman of the senate finance committee, and the auditor general on debt issues by cities and towns and other authorities, agencies, boards, commissions, public and quasi-public corporations, fire districts, and other special districts subject to the provision of chapter 45-12, which report shall include the information set forth in division (b) of this section and shall be for the notices of debt issues received during the state's fiscal year next preceding. An electronic transmission of the report shall be considered an acceptable submission.

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§ 42-10.1-5 Fees authorized – Fund established. – In connection with the discharge of its duties under this chapter, the board is authorized to charge and impose fees for its services upon the lead underwriter or purchaser of any affected debt issue, bond, or note in an amount equal to one-fortieth of one percent (1/40%) of the issued principal amount of the issue. Amounts received under this section shall be deposited as general revenue.

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SECTION 42-10.1-6

§ 42-10.1-6 Officers – Meetings. – (a) The general treasurer or his or her designee shall serve as chairperson and shall preside at meetings of the board.

(b) The board members shall annually elect, by majority vote, one of the members as vice chairman and one of the members as secretary and other such officers as they deem necessary.

(c) The board shall meet on the call of the chairperson, or at the request of a majority of the members, or at the request of the governor. Four (4) members of the board shall constitute a quorum for the transaction of business. No vacancy in the membership of the board shall impair the right of a quorum to exercise all of the rights and perform all of the duties of the board.

(d) The board shall adopt rules and regulations for the conduct of its business pursuant to the provisions of chapter 35 of this title.

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§ 42-10.1-7 Compensation – Staff – Advice from other agencies – Office space. – (a) The membership of the board shall receive no compensation for their services. The general treasurer shall provide the clerical and administrative support required to develop and evaluate the comprehensive state plan.

(b) All departments and agencies of the state shall furnish such advice and information, documentary and otherwise, to the board and its agents as is deemed necessary or desirable by the board to facilitate the purposes of this resolution.

(c) The director of administration is hereby authorized and directed to provide suitable quarters for the board.

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SECTION 42-10.1-8

§ 42-10.1-8 Comprehensive review. – (a) The board shall comprehensively review the financing of capital improvements by all state, municipal, and regional departments, authorities, agencies, boards, commissions, and public and quasi-public corporations and study the comparative debt of all state and local governmental units for capital improvements and the use of bond financing as a source of the indebtedness. The review shall include an analysis of all outstanding general obligation and revenue bonds. Annually, on the thirtieth (30th) day of September, the board shall submit to the general assembly a report based upon information from the fiscal year ending in the prior calendar year of its findings and recommendations, if any, for revising the laws governing such financing devices. An electronic transmission of the report shall be considered an acceptable submission.

(b) Annually, on the thirtieth (30th) day of September, the board shall submit to the governor, the speaker of the house of representatives, the president of the senate and the secretary of state a report based upon information from the fiscal year ending in the prior calendar year of its findings and recommendations, if any, for revising the laws governing such financing devices. An electronic transmission of the report shall be considered an acceptable submission. The report shall also set forth a complete operating and financial statement covering its operations during the year, a summary of meetings or hearings held, meeting minutes if requested, subjects addressed, decisions rendered, rules or regulations promulgated, studies conducted, policies and plans developed, approved, or modified, and programs administered or initiated; a summary of performance during the fiscal year ending in the prior calendar year including accomplishments, shortcomings and remedies; a synopsis of hearings, complaints, suspensions, or other legal matters related to the authority of the board; a summary of any training courses held pursuant to § 42-10.1-1; a briefing on anticipated activities in the current fiscal year; and findings and recommendations for improvements. The report shall be posted electronically on the general assembly and the secretary of state's website as prescribed in § 42-20-8.2 of the Rhode Island general laws. The director of the department of administration shall be responsible for the enforcement of this provision.

(c) Neither the board nor its individual members shall have any liability as a result of the performance of the responsibilities or the exercise of the powers described herein. They shall not be deemed to have expressed an opinion regarding or deemed to have approved any aspect of any bonds or notes, including but not limited to, the proper authorization of any bonds or notes, the availability of funds for the repayment of any bonds or notes, the tax exempt status of any bonds or notes, or compliance by the issuer of any bonds or notes with any federal or state tax or securities law.

(d) In the event that any liability shall accrue to the board or its members because of the performance of the responsibilities or exercise of the powers described herein, the issuer who issued the bonds or notes which cause the liability shall fully indemnify the board and the members.

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§ 42-10.1-9 Report of debt affordability and targets. – (a) The board shall compile and publish annually the total amount of public state, regional, municipal, and public and quasi-public corporation debt authorized, sold and unsold.

(b) No less frequently than every two (2) years, the board shall oversee the undertaking of a debt affordability study, which shall include recommended limits for the debt capacity of each state, municipal and regional authority, agency, board, commission, public and quasi-public corporation and fire district and other special district having authority to issue revenue or general obligation bonds or GARVEE bonds or notes or other various types of conduit debt or enter into financing leases.

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SECTION 42-10.1-10

§ 42-10.1-10 Public finance management board advisory opinions. – (a) The board shall have the authority to offer non-binding, advisory opinions on all aspects of debt management practices of state, municipal, and public and quasi-public corporations.