STATE OF RHODE ISLAND

PROVIDENCE, SC. **SUPERIOR COURT**

(FILED: November 8, 2024)

BRETT P. SMILEY, in his official capacity as the Mayor of the City of Providence, and the PROVIDENCE CITY COUNCIL	:	
Appellants,	:	
v.	:	**C.A. No. PC-2023-03940**
ANGELICA INFANTE-GREEN, in her official capacity as Commissioner of the Rhode Island Department of Elementary and Secondary Education and as the delegate of the Rhode Island Council on Elementary and Secondary Education, and the RHODE ISLAND DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION	:	
Appellees,	:	
v.	:	
JAMES DIOSSA, in his official capacity as General Treasurer of the State of Rhode Island	:	
***Interested Party*.**	:	

DECISION

LANPHEAR, J. Before this Court is the City of Providence's (the City) appeal of the (1) Rhode Island Department of Elementary and Secondary Education (RIDE) Hearing Officer's August 15, 2023 decision to issue an Order to the General Treasurer to withhold a portion of the noneducation-related aid owing to the City in the amount of $7,069,428 from the Distressed Communities Relief Fund; and (2) subsequent order. (Compl. at 1.) The General Treasurer had been scheduled to disburse to the City the contested amount later that month. (Defs.' Mem. in

Supp. of Opp'n To Pls.' Admin. Appeal (Defs.' Mem. in Opp'n) at 8.) Jurisdiction is pursuant to G.L. 1956 § 42-35-15. For the reasons set forth herein, the City's appeal is denied, and the Hearing Officer's decision is affirmed in part.

I

Facts and Travel

On October 15, 2019, the Commissioner of RIDE assumed control over the Providence Public School District (PPSD) as permitted under G.L. 1956 § 16-7.1-5(a), otherwise referred to as The Paul W. Crowley Rhode Island Student Investment Initiative (the Crowley Act). The Crowley Act requires any school district under RIDE's control to continue funding the district "at the same level as in the prior academic year increased by the same percentage as the state total of school aid is increased." Section 16-7.1.5(a).

Since Fiscal Year (FY) 2020, the City has allocated the same amount for the PPSD in its annual budget every year: $130,046,611. For FY 2021 through 2023, the total amount of state aid allocated to local educational agencies increased yearly as follows: 3.73 percent in FY 2021, 3.93 percent in FY 2022, and 3.8 percent in FY 2023. The City and RIDE reached a Settlement Agreement for the disputed amounts in FY 2021, FY 2022, and FY 2023. In FY 2024, the total amount of state aid allocated to local educational agencies increased by 6.93 percent from the prior year. The City appropriated $130,046,611 to PPSD in its FY 2024 budget.

The City contends that the baseline funding for PPSD is the amount appropriated in the year before RIDE assumed control, while RIDE argues that the baseline funding is determined by the prior fiscal year and that the City's allocation to the PPSD did not include the required 6.93 percent increase.

On August 15, 2023, RIDE held a show cause hearing to provide the City with an opportunity to be heard. (Defs.' Mem. in Opp'n at 8.) The Hearing Officer issued a decision that found the City had not shown cause, that the City owed $25,554,280, and that the Commissioner shall issue a Withholding Order to the General Treasurer ordering the withholding of $7,069,428 from the Distressed Communities Relief Fund that was scheduled to be disbursed to the City that month. (Defs.' Mem. in Opp'n Ex. B).

The City appealed the Hearing Officer's decision to the Superior Court on August 16, 2023.

II

Standard of Review

Section 42-35-15(a) grants the Superior Court jurisdiction to review final orders of administrative agencies. As such, 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." Section 42-35-15(g).

The review of the administrative order must "be conducted by the court without a jury and shall be confined to the record." Section 42-35-15(f). Further, "[t]he court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact." Section 42-35-15(g). The Court "'must uphold the agency's decision if it is supported by legally

competent evidence.'" *Kyros v. Rhode Island Department of Health*, 253 A.3d 879, 884-85 (R.I. 2021) (quoting *Endoscopy Associates, Inc. v. Rhode Island Department of Health*, 183 A.3d 528, 532 (R.I. 2018)). "Legally competent evidence is defined as 'such relevant evidence that a reasonable mind might accept as adequate to support a conclusion, and means an amount more than a scintilla but less than a preponderance.'" *Beagan v. Rhode Island Department of Labor and Training*, 162 A.3d 619, 626 (R.I. 2017) (quoting *Rhode Island Temps, Inc. v. Department of Labor and Training, Board of Review*, 749 A.2d 1121, 1125 (R.I. 2000)).

III

Analysis

A

Interpretation of the Crowley Act

The City presses several contentions related to its interpretation of the Crowley Act: (1) the City did not violate the Crowley Act because the statute allowed the City to adjust the baseline funding of the PPSD based on per-pupil enrollment; (2) the Withholding Order did not account for the settlement amounts from prior funding disputes in its calculation of how much the City owes; and (3) the Crowley Act should not be read to include an annualized increase of funding and, alternatively, if it does require an annualized increase, it should be calculated based on increased aid to the City and not to the entire state. Conversely, RIDE responds that: (1) the Crowley Act does not allow adjustment of baseline funding based on per-pupil enrollment; (2) the baseline calculation is based on the prior fiscal year's maintenance of obligation expenditure, not what the City appropriated or actually paid; (3) the Crowley Act requires the City to fund the PPSD at the same level as the previous academic year, with an increase that matches the percentage rise in the state's overall school aid, statewide.

"'[I]t is well settled that when the language of a statute is clear and unambiguous, this Court must interpret the statute literally and must give the words of the statute their plain and ordinary meanings.'" *City of Pawtucket v. Rhode Island Department of Revenue*, 313 A.3d 493, 499 (R.I. 2024) (quoting *State v. Santos*, 870 A.2d 1029, 1032 (R.I. 2005)). "'[W]hen [the Court] examine[s] an unambiguous statute, there is no room for statutory construction and [the Court] must apply the statute as written.'" *Id.* (quoting *Santos*, 870 A.2d at 1032). The "'plain statutory language is the best indicator of legislative intent.'" *Id.* (quoting *Santos*, 870 A.2d at 1032).

The Crowley Act is unusually succinct,

> "If a school or school district is under the board of regents' control as a result of actions taken by the board pursuant to this section, the local school committee shall be responsible for funding that school or school district at the same level as in the prior academic year increased by the same percentage as the state total of school aid is increased." Section 16-7.1-5(a).

The language in § 16-7.1-5(a) is unambiguous and does not reference other provisions of state education law. Thus, the other provisions, including the per pupil adjustment, does not apply because § 16-7.1-5(a) must be read independently. The statute establishes this baseline calculation for funding is the prior academic year's funding. However, the appropriation to the school district must be the baseline plus an increase "by the same percentage as the *state total* of school aid is increased," if applicable. *Id.* (emphasis added). This language is clear–the school district's funding must be increased by the same percentage as the increase in *statewide* total school aid. *See State v. Diamante*, 83 A.3d 546, 551 (R.I. 2014) (emphasizing "'the Legislature is presumed to have intended each word or provision of a statute to express a significant meaning, and the court will give effect to every word, clause, or sentence, whenever possible'") (quoting *State v. Bryant*, 670 A.2d 776, 779 (R.I. 1996)). Since the statewide total school aid

increased, the City must increase the amount of funding to the PPSD with an equal percentage increase.[1] The increase in aid to the particular district is not a factor in this calculation.

While this Court has already held that the phrase 'state total of school aid' is clear on its face, this interpretation is a logical approach. Had our General Assembly used the word 'local' rather than 'state,' the City's argument would be more plausible. The statute already uses the word 'local' elsewhere in the sentence. Further, if the statute were using aid to the one locality as a standard, the state would simply be clawing back all aid it remitted to the locality, regardless of the municipality's other needs.

B

Constitutional Considerations

The City also argues that RIDE's interpretation of the Crowley Act is unconstitutional because it violates the nondelegation and separation of powers doctrines by allowing the Commissioner to order the withholding of noneducation-related state aid appropriated to the City. (Pls.' Mem. at 14.) In contrast, RIDE argues that G.L. 1956 § 16-5-30 gives the Commissioner the power to order the General Treasurer to withhold state aid for violation of the Crowley Act and that use of this enforcement power does not violate the nondelegation or separation of powers doctrines. (Defs.' Mem. in Opp'n at 22-30.)

1

Nondelegation Doctrine

The City argues that the Commissioner's withholding violates the nondelegation doctrine because § 16-5-30, which gives the Commissioner the power to withhold state aid, is a broad sweeping mandate. (Pls.' Mem. at 34-37.) RIDE argues that the Commissioner was properly and

[1] The City argues that RIDE calculated the baseline amount incorrectly. (Pls.' Mem. at 13-14.) This Court will address this argument in a later evidentiary hearing. See Conclusion herein.

narrowly delegated the power to determine whether statutory violations have occurred and to take action to remedy those statutory violations. (Defs.' Mem. in Opp'n at 22-28.)

"'The Rhode Island Constitution forbids unrestricted delegations of legislative power by the General Assembly.'" *Kaveny v. Town of Cumberland Zoning Board of Review*, 875 A.2d 1, 11 (R.I. 2005) (quoting *Marran v. Baird*, 635 A.2d 1174, 1179 (R.I. 1994)). However, "'the General Assembly must confront modern problems of ever-increasing complexity, [thus] strict adherence to the nondelegation doctrine would detrimentally inhibit the Legislature's ability to execute its constitutional duties.'" *Id.* (quoting *Marran*, 635 A.2d at 1179). Thus, "'reasonable' delegations do not violate the nondelegation doctrine." *Id.* (quoting *Marran*, 635 A.2d at 1179). "A delegation is reasonable as long as the Legislature provides 'standards or principles to confine and guide' interpretation." *Id.* (quoting *Marran*, 635 A.2d at 1179).

In *Kaveny*, our Supreme Court held that the Low- and Moderate-Income Housing Act [G.L. 1956 § 45-53] did not violate the nondelegation doctrine when the grounds for approval of comprehensive permits for low-income housing developments were defined by negative implication in the statute. *Kaveny*, 875 A.2d at 10-11. Specifically, the Court held that defining approval of comprehensive permit applications by negative implication constituted sufficient "'standards or principles' to aid zoning boards in deciding on comprehensive permit applications." *Id.* at 11. In this action, § 16-5-30 provides that

> "[t]he commissioner of elementary and secondary education may, for violation or neglect of law or for violation or neglect of rules and regulations in pursuance of law by any city . . . , order the general treasure to withhold the payment of any portion of the public money that has been or may be apportioned to the city or town . . . until the time as the commissioner by writing requests the withheld funds for the purposes of eliminating the violation or neglect of law or regulation that caused the order to be issued, or the commissioner of elementary and secondary education shall

> notify the treasurer that the city or town has complied with the order…" Section 16-5-30.

As with the statute at issue in *Kaveny*, the Legislature clearly articulated when the Commissioner may order the General Treasurer to withhold state aid, including for a violation of education law. *Id*. As discussed, *supra*, the City violated the Crowley Act by failing to adjust the funding of PPSD to account for the increase in statewide aid. The state is left to finance the local schools even though increases of state aid for education flowed to the City. Accordingly, the Commissioner properly exercised her limited authority to order the General Treasurer to withhold state aid from the City to remedy the violation or until the City rectifies the violation.

2

Separation of Powers Doctrine

The City claims the Commissioner's Order to the General Treasurer to withhold noneducation-related state aid violates the separation of powers principal because the Commissioner's statutory power only applies to education. (Pls.' Mem. at 37.) RIDE argues that the Commissioner's authority to order withholding of state aid does not violate separation of powers because it is limited to remedying violations of school law and does not divest the General Assembly of legislative power. (Defs.' Mem. in Opp'n at 29.)

"'The doctrine of separation of powers is an inherent and integral element of the republican form of government . . .'" *Quattrucci v. Lombardi*, 232 A.3d 1062, 1065-66 (R.I. 2020) (quoting *In re Advisory from the Governor*, 633 A.2d 664, 674 (R.I. 1993)). "The doctrine is presented in article 5 of the Rhode Island Constitution and states, 'The powers of the government shall be distributed into three separate and distinct departments: the legislative, executive, and judicial.'" *Id.* at 1066 (quoting R.I. Const., art. 5). Rhode Island has "adopted the separation-of-powers test set forth in *Chadha v. Immigration and Naturalization Service*, [462

U.S. 919 (1983)]." *Quattrucci*, 232 A.3d at 1066 (citing *In re Advisory Opinion to the Governor*, 633 A.2d at 674). The Court has defined

> "'a constitutional violation of the separation of powers as [1] an assumption by one branch of powers that are central or essential to the operation of a coordinate branch, [2] provided also that the assumption disrupts the coordinate branch in the performance of its duties and [3] is unnecessary to implement a legitimate policy of the Government.'" *In re Advisory from the Governor*, 633 A.2d at 674-75 (quoting *State v. Jacques*, 554 A.2d 193, 196 (R.I. 1989)).

However, "'[o]ne branch of government may exercise some of the powers of the other departments . . . *when it is not an assumption of the whole power of another department* . . . '" *In re Advisory Opinion to the Governor (Ethics Commission)*, 612 A.2d 1, 18 (R.I. 1992) (internal quotations omitted).

The first prong of the *Chadha* test requires the Court to determine whether the Commissioner has assumed powers essential to the operation of the legislative branch. Here, the statute gives the Commissioner the power to order the General Treasurer to withhold state aid to the City to remedy a violation of the Crowley Act. Since the statute does not limit the withholding to education-related aid, the Commissioner can withhold any "public money that has been or may be apportioned to the city . . ." Section 16-5-30. However, the Commissioner is limited by the statute in what she can do with the withheld funds; the Commissioner may only keep the withheld funds to remedy a violation or allow the funds to be returned after the violation has been remedied. *Id.* Thus, the Commissioner does not assume the legislative power of the purse.

Similarly, the statute also survives the second and third prongs of the *Chadha* test. While the Commissioner's ability to withhold state aid for violation of law does impact the Legislature's ability to apportion funds, it does not disrupt the ability of the Legislature to carry

out its constitutionally defined duties because the Commissioner's enforcement powers under the statute are limited. *In re Advisory from the Governor*, 633 A.2d at 675 (defining "disruption as the act of 'throwing into confusion or disorder'") (quoting The American Heritage Dictionary, 408 (Second College Ed. 1982)). Specifically, the Commissioner's enforcement power is limited to remedy violations of law or regulation and the withheld funds only may be used to either remedy the violation or incentivize the local educational agency to find another way to remedy the violation. Further, the General Treasurer is simply performing a ministerial function,[2] whereby he is told to withhold funds by the Commissioner, and he is bound by this order. Thus, by merely empowering the Commissioner to order the General Treasurer to withhold state aid from the City to remedy a violation of the Crowley Act, § 16-5-30 does not violate the separation of powers doctrine. This statutory remedy is a logical, limited, and appropriate avenue to allow RIDE to recover monies it is due.

C

Absurd Result

The City also argues that § 16-5-30 produces an absurd result and conflicts with another provision of state law that dictates the city can only increase its property taxes by 4 percent in one year. (Pls.' Mem. at 2.) In contrast, RIDE argues that the purpose of the Crowley Act is to close inequitable gaps in resources, performance, and achievement between districts, and the City's failure to properly fund the PPSD directly contravenes the requirement and intent of the

[2] Our Supreme Court has defined the ministerial function "as being 'one that is to be performed by an official in a prescribed manner based on a particular set of facts without regard to or the exercise of his [or her] own judgment upon the propriety of the act being done.'" *Vidot v. Salisbury*, 315 A.3d 928, 931 n.2 (R.I. 2024) (quoting *Nerney v. Town of Smithfield*, 269 A.3d 753, 756 (R.I. 2022)).

Crowley Act. (Defs.' Mem. in Further Supp. of Opp'n to Admin. Appeal and in Response to Pls.' Mem. (Defs.' Resp.) at 2.)

"[W]hen . . . Court[s] interpret[] a statute, '[the] ultimate goal is to give effect to the General Assembly's intent . . . The best evidence of such intent can be found in the plain language used in the statute.'" *State v. Menard*, 888 A.2d 57, 60 (R.I. 2005) (quoting *Martone v. Johnston School Committee*, 824 A.2d 426, 431 (R.I. 2003)). Further, the Court "'presume[s] that the General Assembly knows the state of existing relevant law when it enacts or amends a statute.'" *Purcell v. Johnson*, 297 A.3d 464, 470 (R.I. 2023) (quoting *Power Test Realty Company Limited Partnership v. Coit*, 134 A.3d 1213, 1222 (R.I. 2016)). Importantly, "'[u]nder no circumstances will [a] Court construe a statute to reach an absurd result.'" *Id*. (quoting *Mendes v. Factor*, 41 A.3d 994, 1002 (R.I. 2012)). "It is 'an especially well-settled principle of statutory construction' that when two laws are *in pari materia*, the Court will harmonize them whenever possible." *Id.* (quoting *Horn v. Southern Union Co.*, 927 A.2d 292, 295 (R.I. 2007)). "Even if the laws appear at first to be inconsistent, the Court will make every effort to construe the provisions 'in such a manner so as to avoid the inconsistency.'" *Id.* (quoting *Kells v. Town of Lincoln*, 874 A.2d 204, 212 (R.I. 2005)). "'This rule of construction applies even though the statutes in question [may] contain no reference to each other and are passed at different times.'" *Id.* at 470-71 (quoting *State v. Ahmadjian*, 438 A.2d 1070, 1081 (R.I. 1981)).

State law prevents any municipality from increasing its annual tax levy by more than 4 percent. G.L. 1956 § 44-5-2(b). State law also prevents school committees from adopting budgets that appropriate more than "one hundred four percent (104%) of the total of municipal funds appropriated by the city or town council for school purposes for the previous fiscal year." G.L. 1956 § 16-2-21(d)(vi). The Crowley Act's requirement that school funding increase

relative to statewide funding increases does not contradict § 44-5-2(b) or § 16-2-21(d)(vi) and may not produce an absurd result. The Crowley Act provides avenues for the Commissioner to receive the appropriate funding without requiring a municipality to raise taxes by more than 4 percent or require a school committee to appropriate a budget that exceeds 104 percent of the prior fiscal year's appropriation, including allowing the Commissioner to direct the General Treasurer to withhold funds intended to be disbursed to the municipality. Whether it is appropriate for RIDE to require that the City increase its tax levy beyond the statutory cap here may be considered at a later evidentiary hearing when the Court has the opportunity to determine the precise amounts to be withheld. Localities have other methods available to pay for unanticipated expenses, other than simply raising taxes. Further, the Crowley Act requires the "board of regents for elementary and secondary education" to report to the General Assembly on an annual basis any "infractions of school law" that trigger intervention under the Act. Section 16-5-30.

IV

Conclusion

For the foregoing reasons, the City's appeal is denied and the Hearing Officer's decision to order the General Treasurer to withhold funds intended for disbursement to the City is affirmed in part. The orders to the General Treasure to withhold portions of aid shall continue in full force and effect at this time.

However, there is insufficient evidence for the Court to determine the precise amounts of the obligations in each of the separate years. Accordingly, the Court will next set the amount of funds which may continue to be withheld and may calculate the disbursements of the funds

which are held. If the parties disagree on the amounts, they are entitled to an evidentiary hearing.

Having determined that RIDE is entitled to withhold monies due the City, the Court (1) orders an evidentiary hearing to calculate the amount owed, to be held at a date to be determined, and (2) will determine the process of collection on judgment at a later date. The City's suggestion that the state will be forcing a violation of §§ 44-5-2(b) and 16-2-21(d)(vi) are preserved for purposes of the later hearing. The Court will schedule a hearing with counsel in the next few days.

RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE:	**Brett P. Smiley, et al. v. Angelica Infante-Green, et al.**
CASE NO:	**PC-2023-03940**
COURT:	**Providence County Superior Court**
DATE DECISION FILED:	**November 8, 2024**
JUSTICE/MAGISTRATE:	**Lanphear, J.**
ATTORNEYS:	
For Plaintiff:	**Dean J. Wagner, Esq.** **Edward D. Pare, Esq.**
For Defendant:	**Nicole J. Benjamin, Esq.**