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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2007

A N A C T

RELATING TO STATUTES AND STATUTORY CONSTRUCTION

Introduced By: Representative Peter F. Kilmartin

Date Introduced: February 07, 2007

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-20-13.2 of the General Laws in Chapter 44-20 entitled
2 "Cigarette Tax" is hereby amended to read as follows:

3 **44-20-13.2. Tax imposed on smokeless tobacco, cigars, and pipe tobacco products. --**

4 (a) A tax is imposed on all smokeless tobacco, cigars, and pipe tobacco products sold or held for
5 sale in the state by any person, the payment of the tax to be accomplished according to a
6 mechanism established by the administrator, division of taxation, department of administration.
7 Any tobacco product on which the proper amount of tax provided for in this chapter has been
8 paid, payment being evidenced by a stamp, is not subject to a further tax under this chapter. The
9 tax imposed by this section shall be as follows:

10 (1) At the rate of forty percent (40%) of the wholesale cost of cigars, pipe tobacco
11 products and smokeless tobacco other than snuff.

12 (2) Notwithstanding the forty percent (40%) rate in subsection (a) above, in the case of
13 cigars, the tax shall not exceed fifty cents (\$.50) for each cigar for the period July 1, 2006 through
14 June 30, 2008.

15 (3) At the rate of one dollar (\$1.00) per ounce of snuff, and a proportionate tax at the like
16 rate on all fractional parts of an ounce thereof. Such tax shall be computed based on the net
17 weight as listed by the manufacturer, provided, however, that any product listed by the
18 manufacturer as having a net weight of less than 1.2 ounces shall be taxed as if the product has a
19 net weight of 1.2 ounces.

1 (b) The proceeds collected are paid into the general fund.

2 SECTION 2. Section 5-80-9 of the General Laws in Chapter 5-80 entitled "Mortgage
3 Foreclosure Purchasers" is hereby amended to read as follows:

4 **5-80-9. Enforcement.** -- (a) Remedies. -- A violation of sections 5-80-1 -- 5-80-8 is
5 considered to be a violation of section 6-13.1-2 and all the remedies of section 6-13.1-5.2 are
6 available for such an action. A private right of action under section 6-13.1-5.2 by a foreclosed
7 homeowner is in the public interest.

8 (b) Exemplary damages. -- In a private right of action under section 6-13.1-5.2 for a
9 violation of section 5-80-8, the court may award exemplary damages of any amount. In the event
10 the court determines that an award of exemplary damages is appropriate, the amount of
11 exemplary damages awarded shall not be less than one and one half (1 1/2) times the foreclosed
12 homeowner's actual damages. Any claim for exemplary damages brought pursuant to this section
13 must be commenced within four (4) years after the date of the alleged violation.

14 (c) Remedies cumulative. -- The remedies provided in this section are cumulative and do
15 not restrict any remedy that is otherwise available. The provisions of sections 5-80-1 -- 5-80-9 are
16 not exclusive and are in addition to any other requirements, rights, remedies and penalties
17 provided by law.

18 (d) Criminal penalty. -- Any foreclosure purchaser who engages in any practice which
19 would operate as a fraud or deceit upon a foreclosed homeowner may, upon conviction, be fined
20 not more than fifty thousand dollars (\$50,000) or imprisoned not more than one year, or both.
21 Prosecution or conviction for any one of the violations does not bar prosecution or conviction for
22 any other offenses.

23 (e) Failure of transaction. -- Failure of the parties to complete the reconveyance
24 transaction, in the absence of additional misconduct, shall not ~~be~~ subject a foreclosure purchaser
25 to the criminal penalties under section 5-79-7 or 5-80-9.

26 (f) Limitation. -- Notwithstanding any other provisions of this section, no action may be
27 brought on the basis of a violation of sections 5-80-1 -- 5-80-9, except by an owner against whom
28 the violation was committed or by the department of attorney general.

29 SECTION 3. Section 5-79-6 of the General Laws in Chapter 5-79 entitled "Mortgage
30 Foreclosure Consultant Regulation" is hereby amended to read as follows:

31 **5-79-6. Remedies.** -- (a) Any violation of sections 5-79-1 -- 5-79-9 is considered to be a
32 violation of section 6-13.1-2, and all remedies of section 6-13.1-5.2 are available for such an
33 action. A private cause of action under section 6-13.1-5.2 by a foreclosed homeowner is in the
34 public interest. An owner may bring an action against a foreclosure consultant for any violation of

1 sections 5-79-1 -- 5-79-9. Any judgment against the mortgage foreclosure consultant shall include
2 actual damages, reasonable attorney fees and costs, and appropriate equitable relief.

3 (b) The court may award punitive damages up to one and one half (1 1/2) times the
4 compensation charged by the foreclosure consultant if the court finds that the foreclosure
5 consultant violated the provisions of subsections 5-79-4(1), (2) or (4), and the foreclosure
6 consultant's conduct was in bad faith.

7 (c) The rights and remedies provided in paragraph (a) are cumulative to, and not a
8 limitation of, any other rights and remedies provided by law.

9 (d) Any action brought pursuant to this section must be commenced within four (4) years
10 from the date of the alleged violation.

11 (e) Notwithstanding any other provision of this section, no action may be brought on the
12 basis of a violation of sections 5-79-1 -- 5-79-9, except by an owner against whom the violation
13 was committed or by the department of attorney general.

14 SECTION 4. Section 31-41.1-4 of the General Laws in Chapter 31-41.1 entitled
15 "Adjudication of Traffic Offenses" is hereby amended to read as follows:

16 **31-41.1-4. Schedule of violations.** -- (a) The penalties for violations of the enumerated
17 sections, listed in numerical order, correspond to the fines described. However, those offenses for
18 which punishments which may vary according to the severity of the offense, or punishment which
19 require the violator to perform a service, shall be heard and decided by the traffic tribunal or
20 municipal court. The following violations may be handled administratively through the method
21 prescribed in this chapter. This list is not exclusive and jurisdiction may be conferred on the
22 traffic tribunal with regard to other violations.

23 VIOLATIONS SCHEDULE

24	8-8.2-2	DOT, DEM, or other agency and department	\$75.00
25		violations	
26	24-10-17	Soliciting rides in motor vehicles	40.00
27	24-10-18	Backing up prohibited	75.00
28	24-10-20	Park and ride lots	75.00
29	31-3-12	Visibility of plates	75.00
30	31-3-18	Display of plates	75.00
31	31-3-32	Driving with expired registration	75.00
32	31-3-34	Failure to notify division of change of address	75.00
33	31-3-35	Notice of change of name	75.00
34	31-3-40	Temporary plates - dealer issued	75.00

1	31-4-3	Temporary registration - twenty (20) day bill of sale	75.00
2	31-10-10	Rules as to armed forces license	75.00
3	31-10-30	Driving on expired license	75.00
4	31-10-32	Notice of change of address	75.00
5	31-10.1-4	No motorcycle helmet (operator)	60.00
6	31-10.1-5	Motorcycle handlebar violation	75.00
7	31-10.1-6	No motorcycle helmet (passenger)	75.00
8	31-10.1-7	Inspection of motorcycle required	75.00
9	31-12-12	Local motor vehicle ordinance	75.00
10	31-13-04	Obedience to devices	75.00
11	31-13-6(3)(i)	Eluding traffic light	75.00
12	31-13-09	Flashing signals	75.00
13	31-13-11	Injury to signs or devices	75.00
14	31-14-1	Reasonable and prudent speed	85.00
15	31-14-03	Condition requiring reduced speed	85.00
16	31-14-09	Below minimum speed	85.00
17	31-14-12	Speed limit on bridges and structures	85.00
18	31-15-1	Leaving lane of travel	75.00
19	31-15-2	Slow traffic to right	75.00
20	31-15-3	Operator left of center	75.00
21	31-15-4	Overtaking on left	75.00
22	31-15-5(a)	Overtaking on right	75.00
23	31-15-6	Clearance for overtaking	75.00
24	31-15-7	Places where overtaking prohibited	75.00
25	31-15-8	No passing zone	75.00
26	31-15-9	One way highways	75.00
27	31-15-10	Rotary traffic islands	75.00
28	31-15-11	Laned roadway violation	75.00
29	31-15-12	Following too closely	75.00
30	31-15-12.1	Entering intersection	75.00
31	31-15-13	Crossing center section of divided highway	75.00
32	31-15-14	Entering or leaving limited access roadways	75.00
33	31-15-16	Use of emergency break-down lane for travel	75.00
34	13-15-17	Crossing bicycle lane	75.00

1	31-16-1	Care in starting from stop	75.00
2	31-16-2	Manner of turning at intersection	75.00
3	31-16-4	U turn where prohibited	75.00
4	31-16-5	Turn signal required	75.00
5	31-16-6	Time of signaling turn	75.00
6	31-16-7	Failure to give stop signal	75.00
7	31-16-8	Method of giving signals	75.00
8	31-16.1-3	Diesel vehicle idling rules	first offense not to exceed 100.00
9			second and subsequent offense not
10			to exceed 500.00
11	31-17-1	Failure to yield right of way	75.00
12	31-17-2	Vehicle turning left	75.00
13	31-17-3	Yield right of way (intersection)	75.00
14	31-17-4	Obedience to stop signs	75.00
15	31-17-5	Entering from private road or driveway	75.00
16	31-17-8	Vehicle within right of way, rotary	75.00
17	31-17-9	Yielding to bicycles on bicycle lane	75.00
18	31-18-3	Right of way in crosswalks	75.00 first
19			violation 100.00 second
20			violation or any subsequent
21			violation
22	13-18-5	Crossing other than at crosswalks	75.00
23	31-18-8	Due care by drivers	75.00
24	31-18-12	Hitchhiking	75.00
25	31-18-18	Right of way on sidewalks	75.00
26	31-19-3	Traffic laws applied to bicycles	75.00
27	31-19-20	Sale of new bicycles	75.00
28	31-19-21	Sale of used bicycles	75.00
29	31-19.1-2	Operating motorized bicycle on an interstate	75.00
30		highway	
31	31-19.2-2	Operating motorized tricycle on an interstate	75.00
32		highway	
33	31-20-1	Failure to stop at railroad crossing	75.00
34	31-20-2	Driving through railroad gate	75.00

1	31-20-9	Obedience to stop sign	75.00
2	31-21-4	Places where parking or stopping prohibited	75.00
3	31-21-14	Opening of vehicle doors	45.00
4	31-22-2	Improper backing up	75.00
5	31-22-4	Overloading vehicle	75.00
6	31-22-5	Violation of safety zone	75.00
7	31-22-6	Coasting	75.00
8	31-22-7	Following fire apparatus	75.00
9	31-22-8	Crossing fire hose	75.00
10	31-22-9	Throwing debris on highway - snow removal	75.00
11	31-22-11.5	Improper use of school bus –	not to exceed
12			five hundred
13			dollars (\$500)
14			for each day of
15			improper use
16	31-22-22(a)	No child restraint	75.00
17	31-22-22(a)	Child restraint/seat belt but not in any rear	75.00
18		seating position	
19	31-22-22(b), (f)	No seat belt - passenger	75.00
20	31-22-22(g)	No seat belt - operator	75.00
21	31-22-23	Tow trucks - proper identification	275.00
22	31-22-24	Operation of interior lights	75.00
23	31-23-1 (e) (b)	2 U.S. department of transportation motor carrier	\$125.00 <u>Not less than</u>
24			<u>\$25.00 or more than</u>
25		safety rules and regulations	<u>\$500.00</u>
26	<u>31-23-1 (e)(6)</u>	<u>Removal of an "out of service vehicle"</u>	<u>125.00</u>
27		<u>sticker</u>	
28	<u>31-23-1 (e)(7)</u>	<u>Operation of an "out of service vehicle"</u>	<u>100.00</u>
29	31-23-4	Brake equipment required	75.00
30	31-23-8	Horn required	75.00
31	31-23-10	Sirens prohibited	75.00
32	31-23-13	Muffler required	75.00
33	31-23-13.1	Altering height or operating a motor vehicle	
34		with an altered height	75.00

1	31-23-14	Prevention of excessive fumes or smoke	75.00
2	31-23-16	Windshield and window stickers (visibility)	75.00
3	31-23-17	Windshield wipers	75.00
4	31-23-19	Metal tires prohibited	75.00
5	31-23-20	Protuberances on tires	75.00
6	31-23-26	Fenders and wheel flaps required	75.00
7	31-23-27	Rear wheel flaps on buses, trucks and trailers	75.00
8	31-23-29	Flares or red flag required over four thousand	
9		pounds (4,000 lbs.)	75.00
10	31-23-40	Approved types of seat belt requirements	75.00
11	31-23-42.1	Special mirror - school bus	75.00
12	31-23-43	Chocks required (1 pair) - over four thousand	
13		pounds (4,000 lbs.)	75.00
14	31-23-45	Tire treads - defective tires	75.00
15	31-23-47	Slow moving emblem required	75.00
16	31-23-49	Transportation of gasoline - passenger vehicle	75.00
17	31-23-51	Operating bike or motor vehicle wearing	60.00 first
18		ear phones)	offense 70.00 second
19			offense 140.00 for the
20			third and each
21			subsequent offense
22	31-24-1	Times when lights required	75.00
23		through 31-24-53 31-24-54	
24	31-24-53	Safety lights required on food vending vehicles	75.00
25	31-24-5	Headlamp required on motorcycle	75.00
26	31-24-31	Flashing lights permit required	75.00
27	31-24-34	Failure to dim lights	75.00
28	31-24-45	Red flag required, load projecting four feet	75.00
29		(4') rear	
30	31-25-03	Maximum width of one hundred and two	
31		inches (102") exceeded	75.00
32	31-25-04	Maximum height of one hundred	
33		sixty-two inches (162") exceeded	75.00
34	31-25-06	Maximum number and length of coupled vehicles	500.00

1	31-25-07	Load extending three feet (3') front, six feet	75.00
2		(6') rear exceeded	
3	31-25-9	Leaking load	75.00
4	31-25-11	Connections between coupled vehicles	75.00
5	31-25-12	Towing chain, twelve inch (12") square flag	75.00
6		required	
7	31-25-12.1	Tow truck - use of lanes (first offense)	50.00 first offense 75.00
8			second offense 100.00 for the
9			third and each subsequent
10			offense
11	31-25-14(d)(1)	Maximum weight and tandem axles	125.00
12	31-25-14(d)(2)	Maximum weight and tandem axles	125.00
13	31-25-14(d)(3)	Maximum weight and tandem axles	125.00
14	31-25-16(c) (1) (2)	Maximum weight shown in registration	65.00
15			per thousand
16			lbs. overweight
17			or portion
18			thereof.
19	31-25-16(c) (2) (3)	Maximum weight shown in registration	125.00
20			per thousand
21			lbs. overweight
22			or portion
23			thereof.
24	31-25-16(c) (3) (4)	Maximum weight shown in registration	1,025.00
25			plus \$125.00
26			per thousand
27			lbs. overweight
28			or portion
29			thereof.
30	31-25-17	Identification of trucks and truck-tractors	50.00 (first
31			offense) 75.00
32			(second offense)
33			125.00 for the
34			third and

1			subsequent
2			offenses
3	31-25-24	Carrying and inspection of excess load limit	175.00
4	31-27-2.3	Refusal to take preliminary breath test	75.00
5	31-28-7(d)	Wrongful use of handicapped parking placard	500.00
6	31-28-7(f)	Handicapped parking space violation:	
7		First offense	100.00
8		Second offense	175.00
9		Third offense and subsequent offenses	325.00
10	31-28-7.1(e)	Wrongful use of institutional handicapped	
11		parking placard	125.00
12	31-33-2	Failure to file accident report	45.00
13	31-36.1-17	No fuel tax stamp (out-of-state)	75.00 and not
14			exceeding (\$100) for
15			subsequent offenses
16			
17	31-38-3	No inspection sticker	75.00
18	31-38-4	Violation of inspection laws	75.00
19	31-47.2-06	Heavy-duty vehicle emission inspections :	
20		First offense	125.00
21		Second offense	525.00
22		Third and subsequent offenses	1,025.00
23	37-15-7	Littering	not less than
24			(\$55.00) not more than
25			five hundred dollars
26			(\$500)
27	39-12-26	Public carriers violation	75.00
28			
29		SPEEDING	Fine
30		(A) One to ten miles per hour (1-10 mph)	
31		in excess of posted speed limit	85.00
32		(B) Eleven miles per hour (11 mph) in	
33		excess of posted speed limit with a fine	
34		of ten dollars (\$10.00) per mile in excess	195.00
35		of speed limit shall be assessed.	minimum

1 (b) In addition to any other penalties provided by law, a judge may impose the following
2 penalties for speeding:

3 (1) For speeds up to and including ten miles per hour (10 mph) over the posted speed
4 limit on public highways, a fine as provided for in subsection (a) of this section for the first
5 offense, ten dollars (\$10.00) per mile for each mile in excess of the speed limit for the second
6 offense if within twelve (12) months of the first offense, and fifteen dollars (\$15.00) per mile for
7 each mile in excess of the speed limit for the third and any subsequent offense if within twelve
8 (12) months of the first offense. In addition, the license may be suspended up to thirty (30) days.

9 (2) For speeds in excess of ten miles per hour (10 mph) over the posted speed limit on
10 public highways, a mandatory fine of ten dollars (\$10.00) for each mile over the speed limit for
11 the first offense, fifteen dollars (\$15.00) per mile for each mile in excess of the speed limit for the
12 second offense if within twelve (12) months of the first offense, and twenty dollars (\$20.00) per
13 mile for each mile in excess of the speed limit for the third and subsequent offense if within
14 twelve (12) months of the first offense. In addition, the license may be suspended up to sixty (60)
15 days.

16 (c) Any person charged with a violation who pays the fine administratively pursuant to
17 chapter 8.2 of title 8 shall not be subject to any additional costs or assessments, including, but not
18 limited to, the hearing fee established in § 8-18-4 or assessment for substance abuse prevention.

19 SECTION 5. Section 31-44-22 of the General Laws in Chapter 31-44 entitled “Mobile
20 and Manufactured Homes” is hereby amended to read as follows:

21 **31-44-22. Sale price recording. [Effective April 1, 2007].** -- Every deed presented for
22 recording due to the sale of property, which results in the transfer in ownership of the property,
23 shall contain or have endorsed upon it the total dollar amount of the actual sale, which shall be
24 recorded as part of the deed. A city or town clerk may decline to accept a deed for recording if the
25 deed is not in compliance with this section. Failure to comply with this section shall not **effect**
26 **affect** the validity of any deed.

27 SECTION 6. Section 31-11-1.4 of the General Laws in Chapter 31-11 entitled “Form
28 and Effect of Conveyances” is hereby amended to read as follows:

29 **34-11-1.4. Sale price recording. [Effective April 1, 2007].** -- Every deed presented for
30 recording due to the sale of property, which results in the transfer in ownership of the property,
31 shall contain or have endorsed upon it the total dollar amount of the actual sale, which shall be
32 recorded as part of the deed. A city or town clerk may decline to accept a deed for recording if the
33 deed is not in compliance with this section. Failure to comply with this section shall not **effect**
34 **affect** the validity of any deed.

1 SECTION 7. Section 42-4-2 of the General Laws in Chapter 42-4 entitled “State
2 Emblems” is hereby amended to read as follows:

3 **42-4-2. State seal.** -- There shall continue to be one seal for the public use of the state;
4 the form of an anchor shall be ~~engraven~~ engraved thereon; the motto thereof shall be the word
5 "Hope"; and in a circle around the outside shall be ~~engraven~~ engraved with the words, "Seal of
6 the State of Rhode Island and Providence Plantations, 1636".

7 SECTION 8. Section 42-5-1 of the General Laws in Chapter 42-5 entitled “Standard
8 and Daylight Savings Time ” is hereby amended to read as follows:

9 **42-5-1. Period of daylight saving time.** -- At two o'clock antemeridian (2:00 a.m.) of the
10 ~~first~~ second Sunday in ~~April~~ March of each year, the standard time in this state shall be advanced
11 one hour, and at two o'clock antemeridian (2:00 a.m.) of the ~~last~~ first Sunday in ~~October~~
12 November of each year the standard time in this state shall, by the retarding of one hour, be made
13 to coincide with the mean astronomical time of the degree of longitude governing the zone
14 wherein the state is situated, the standard official time of which is described as United States
15 standard eastern time so that between the ~~first~~ second Sunday in ~~April~~ March at two o'clock
16 antemeridian (2:00 a.m.) and the ~~last~~ first Sunday in ~~October~~ November at two o'clock
17 antemeridian (2:00 a.m.) in each year the standard time of the state shall be one hour in advance
18 of the United States standard eastern time.

19 SECTION 9. Sections 42-7.2-12 and 42-7.2-12.1 of the General Laws in Chapter 42-
20 7.2 entitled “Office of Health and Human Services” are hereby amended to read as follows:

21 **42-7.2-12. Medicaid program study.** -- (a) The secretary of the executive office of
22 health and human services shall conduct a study of the Medicaid programs administered by state
23 to review and analyze the options available for reducing or stabilizing the level of uninsured
24 Rhode Islanders and containing Medicaid spending.

25 (1) As part of this process, the study shall consider the flexibility afforded the state under
26 the federal Deficit Reduction Act of 2006 and any other changes in federal Medicaid policy or
27 program requirements occurring on or before December 31, 2006, as well as the various
28 approaches proposed and/or adopted by other states through federal waivers, state plan
29 amendments, public-private partnerships, and other initiatives.

30 (2) In exploring these options, the study shall examine fully the overall administrative
31 efficiency of each program for children and families, elders and adults with disabilities and any
32 such factors that may affect access and/or cost including, but not limited to, coverage groups,
33 benefits, delivery systems, and applicable cost-sharing requirements.

34 (b) The secretary shall ensure that the study focuses broadly on the Medicaid programs

1 administered by all five of the state's five health and human services departments, irrespective of
2 the source or manner in which funds are budgeted or allocated. The directors of the departments
3 shall cooperate with the secretary in preparing this study and

4 **42-7.2-12.1. Human services call center study (211).** -- (a) The secretary of the
5 executive office of health and human services shall conduct a feasibility and impact study of the
6 potential to implement a statewide 211 human services call center and hotline. As part of the
7 process, the study shall catalog existing human service information hotlines in Rhode Island,
8 including, but not limited to, state-operated call centers and private and not-for-profit information
9 hotlines within the state.

10 (1) The study shall include analysis of whether consolidation of some or all call centers
11 into a centralized 211 human services information hotline would be economically and practically
12 advantageous for both the public users and agencies that currently operate separate systems.

13 (2) The study shall include projected cost estimates for any recommended actions,
14 including estimates of cost additions or savings to private service providers.

15 (b) The directors of all state departments and agencies shall cooperate with the secretary
16 in preparing this study and provide any information and/or resources the secretary deems
17 necessary to assess fully the short and long-term implications of the operations under review both
18 for the state and the people and the communities the departments serve.

19 (c) The secretary shall submit a report and recommendations based on the findings of the
20 study to the general assembly, the governor, and the house and senate fiscal advisors no later than
21 February 1, 2007.

22 SECTION 10. Section 42-8.2-7 of the General Laws in Chapter 42-8.2 entitled "State
23 Register" is hereby amended to read as follows:

24 **42-8.2-7. Filing document as constructive notice - Publication as presumption of**
25 **validity - Judicial notice.** -- (a) A document required to be published by § 42-8.2-5 in the state
26 register is not valid as against a person who has not had actual knowledge thereof until the
27 duplicate originals or certified copies of the document have been filed with the office of the
28 secretary of state and a copy made available for public inspection as provided by § 42-8.2-3.
29 Unless otherwise specifically provided by statute, filing the document required or authorized to
30 be published by § 42-8.2-5, except in cases where notice by publication is insufficient in law, is
31 sufficient to give notice of the contents of the document to a person subject to or affected by it.

32 (b) Notice hereunder shall be in addition to all other notices required by the
33 Administrative Procedures Act, chapter 35 of this title, or any other rule or regulation requiring
34 notice. The publication in the state register of a document creates a rebuttable presumption:

- 1 (1) That it was duly issued, prescribed or promulgated;
- 2 (2) That it was filed with the office of the secretary of state and made available for public
3 inspection at the day and hour stated in printed notation;
- 4 (3) That the copy contained in the state register is a true copy of the original; and
- 5 (4) That all requirements of this chapter and the regulations prescribed hereunder relative
6 to the document have been complied with. The contents of the state register shall be judicially
7 noticed and without prejudice to any other mode of citation, may be cited by volume and page
8 number.

9 SECTION 11. Section 42-9-6.1, 8.1, and 18 of the General Laws in Chapter 42-9
10 entitled "Department of Attorney General" are hereby amended to read as follows:

11 **42-9-6.1. Annual report of defense of challenged legislation.** -- (a) The attorney
12 general shall annually on or before the thirty-first day of January of each year submit a report to
13 the general assembly showing the transactions of his or her office and that of any special counsel
14 appointed by or through his or her office during the previous calendar year in relation to the
15 defense of legislation passed by the general assembly which has been challenged on the grounds
16 that it violates a provision of either the Constitution of the United States or the Constitution of the
17 state of Rhode Island.

18 (b) The report shall include: (1) the name of each case; (2) the bill number of the
19 challenged legislation; (3) the court in which the case was filed; (4) whether the case is being
20 handled directly by the attorney general's office and/or the name of additional special counsel that
21 have been appointed; (5) a summary of the proceedings including any final disposition of the
22 case; and (6) the cost to the state, as near as may be ascertained, for defending each case.

23 (c) This report shall be a public document.

24 **42-9-8.1. Office of investigation — Powers and duties of investigators.** -- (1)
25 *Establishment.* There is hereby established within the department of attorney general an office of
26 investigation.

27 (2) *Scope and purpose.* The scope and purpose of the office of investigation shall be:

28 (a) To assist special assistant and assistant attorneys general in carrying out investigations
29 relating to grand jury investigations, pre-trial preparation and other litigation efforts; ~~and~~

30 (b) To coordinate their efforts in investigating criminal activity with existing federal,
31 state and local law enforcement resources; ~~and~~ and

32 (c) To initiate criminal investigations for violations of the law at the direction of the
33 attorney general.

34 (3) *Composition and powers.* The office of investigation shall consist of a chief, and not

1 more than five (5) field investigators and support personnel. The chief and the field investigators
2 shall have the following powers:

3 (a) The power to arrest independently or in conjunction with local, state or federal law
4 enforcement agencies; ;

5 (b) The power to, with the written authorization by the attorney general or his or her
6 designated deputy, apply for and execute search warrants; and

7 (c) The power to serve civil and criminal process.

8 (4) *Qualifications.* No person shall be appointed as chief of the office of investigation or
9 as a field investigator in the office unless he or she has successfully completed the basic course of
10 instruction for police officers at the Providence police training academy, the Rhode Island
11 municipal police training academy, or the Rhode Island state police training academy, and has at
12 least three (3) years of active law enforcement experience, or has served as a member of the
13 United States Marshal's Service or as a special agent of the Federal Bureau of Investigation, a
14 criminal law enforcement agency of the United States Department of Justice, the United States
15 Department of State, the United States Department of the Treasury or the United States Postal
16 Inspection Service and has at least three (3) years of active law enforcement experience, or has
17 been certified as a police officer by the duly-constituted state commission on police officer
18 standards and training of another state, and has at least three (3) years of active law enforcement
19 experience.

20 (5) *Appointment background check.* The attorney general shall appoint the chief, field
21 investigators, and the support personnel of the office of investigation. Prior to the appointment of
22 any individuals, a background examination shall be conducted utilizing federal, state and local
23 law enforcement agencies, bureau of criminal identification, national crime information center,
24 and any and all relevant records existing within the federal and state court systems.

25 (6) *Standards.* The office shall adopt and implement such standards as may be applicable
26 to its scope and purpose as promulgated by the commission for the accreditation of law
27 enforcement agencies.

28 **42-9-18. Reports, Use of Experts, and Costs.** -- (a) Notwithstanding the provisions of §
29 23-17.14-13, the department of attorney general, may in effectuating the purpose of:

30 (1) the Hospital Conversion Act pursuant to chapter 17.14 of title 23; or

31 (2) any non-profit hospital service corporation conversion; or

32 (3) non-profit medical service corporation conversion; or

33 (4) any health care conversion; engage experts or consultants including but not limited to,
34 actuaries, investment bankers, accountants, attorneys, or industry analysts.

1 (b) All copies of reports prepared by experts and consultants, and costs associated with
2 those reports, shall be made available to the transacting parties and to the public.

3 (c) All costs incurred under the provisions of this section are the responsibility of the one
4 or more transacting parties in an amount to be determined by the attorney general.

5 SECTION 12. Section 42-9.1-2 of the General Laws in Chapter 42-9.1 entitled “Office
6 of Health Care Advocate” is hereby amended to read as follows:

7 **42-9.1-2. Establishment.** -- (a) There shall be established within the department of
8 attorney general an office of health care advocate. The health care advocate shall be an assistant
9 or special assistant attorney general to be appointed by the attorney general. The health care
10 advocate is authorized to perform the following duties as the attorney general may direct:

11 (1) Appear as an amicus curiae in civil actions involving any health care quality standard
12 or issue as determined by the attorney general;

13 (2) Intervene in or request initiation of administrative actions related to health care or
14 health insurance by the state or any agency thereof as determined by the attorney general;

15 (3) Review complaints and conduct any investigations deemed by the attorney general
16 necessary to assure quality health care delivery;

17 (4) Assist and cooperate with the director of any state department or person in charge of
18 any state agency, in the investigation of any complaints, occurrences, conditions, or practices
19 with respect to inadequacies in health care or health insurance;

20 (5) To take all necessary and appropriate action, including but not limited to public
21 education, legislative advocacy, and where authorized by law to institute formal legal action, to
22 secure and insure compliance with the provisions of titles 23 and 27 and to advocate for any
23 changes necessary to support the goal of quality and affordable health care for all citizens of
24 Rhode Island.

25 (b) For the purposes of this section, "health care quality standard" shall mean any statute,
26 ordinance, limitation, regulation, rule, order, license, stipulation, agreement, or permit of the
27 state, or any agency of the state.

28 SECTION 13. Section 42-12-23 of the General Laws in Chapter 42-12 entitled
29 “Department of Human Services” is hereby amended to read as follows:

30 **42-12-23. Child care — Planning and coordinating.** -- (a) The department of human
31 services shall be the principal agency of the state for the planning and coordination of state
32 involvement in the area of child care. To accomplish this purpose, the department's duties shall
33 include submitting an annual report to the governor and the general assembly on the status of
34 child care in Rhode Island.

1 (b) The annual report of the department shall include, but not be limited to, the following
2 information:

3 (1) the amount of state and federal funds spent on child care in each of the two (2)
4 preceding years;

5 (2) the number of child care providers licensed pursuant to the provisions of chapter 72.1
6 of this title;

7 (3) the number of children served in state subsidized programs;

8 (4) the number of taxpayers who have claimed the child care assistance and development
9 tax credit pursuant to chapter 47 of title 44;

10 (5) the average cost for both infant and preschool child care;

11 (6) an estimate of unmet needs for child care;

12 (7) information on child care staff salaries and training and education programs, and

13 (8) Recommendations for any changes in child care public policy.

14 (c) The department shall cooperate with the unit of the department of children, youth,
15 and families which licenses and monitors child care providers pursuant to the terms of chapter
16 72.1 of this title.

17 (d) The department is hereby charged with the responsibility of assuring that a statewide
18 child care resource and referral system exists in this state to provide services and consumer
19 information to assist parents in locating and choosing licensed, approved and/or certified
20 providers, and to maintain data necessary for such referrals.

21 SECTION 14. Section 42-12.3-2 of the General Laws in Chapter 42-12.3 entitled
22 "Health Care For Children and Pregnant Women" is hereby amended to read as follows:

23 **42-12.3-2. Purposes.** -- (a) It is the intent of the general assembly to assure access to the
24 comprehensive health care by providing health insurance to all Rhode Islanders who are
25 uninsured;

26 Universal comprehensive coverage for all Rhode Islanders is a goal to be achieved over
27 the course of several years;

28 The first step in providing comprehensive health coverage is to assure coverage for the
29 most vulnerable residents of the state;

30 Uninsured pregnant women and children under age eight (8) are among the most
31 vulnerable residents of the state; and

32 The governor's health care advisory committee has provided advice and
33 recommendations in its report of January, 1993 to improve access to health care for pregnant
34 women and children up to age six (6);

1 The objectives to meet the goal of comprehensive health coverage are:

2 (1) Every child under age eight (8) in Rhode Island will have a reliable source of health
3 coverage and health care;

4 (2) Every pregnant woman in Rhode Island will have early and comprehensive prenatal
5 and maternity care services;

6 (3) All low income families will have improved access to family planning and
7 reproductive services; [and](#)

8 (4) Every pregnant woman and child in Rhode Island will receive effective, preventive
9 primary care. ~~, and~~

10 [\(b\)](#) To assure access to care and availability of services, the following principles will
11 guide the design of the health care act:

12 (1) There will be equal access to health care for children and pregnant women, regardless
13 of the type of coverage;

14 (2) There shall be an emphasis on primary and preventive care which will include a
15 "medical home" for every child;

16 (3) Current deficiencies in the fee for service delivery system will be addressed;

17 (4) In addition to accessibility of health care, provisions must be made to address
18 language, cultural and transportation barriers;

19 (5) Enrollment must be both timely and accomplished in a user friendly fashion;

20 (6) An adequate source of primary care providers should be developed;

21 (7) An enhanced set of services should be developed to support and address the needs of
22 families at risk.

23 SECTION 15. Sections 42-12.3-4 and 42-12.3-15 of the General Laws in Chapter 42-
24 12.3 entitled "Health Care For Children and Pregnant Women" are hereby repealed.

25 ~~42-12.3-4. "Rite track" program. [Effective until December 31, 2006.] (a) There~~
26 ~~is hereby established a payor of last resort program for comprehensive health care for children~~
27 ~~until they reach nineteen (19) years of age, to be known as "Rite track". The department of~~
28 ~~human services is hereby authorized to amend its title XIX state plan pursuant to title XIX [42~~
29 ~~U.S.C. § 1396 et seq.] of the Social Security Act to provide for expanded Medicaid coverage~~
30 ~~through expanded family income disregards for children, until they reach nineteen (19) years of~~
31 ~~age, whose family income levels are up to two hundred fifty percent (250%) of the federal~~
32 ~~poverty level; provided, however, that health care coverage under this section shall also be~~
33 ~~provided without regard to the availability of federal financial participation to a noncitizen child~~
34 ~~lawfully residing in the United States and to a noncitizen child residing in Rhode Island, provided~~

1 ~~that the child satisfies all other eligibility requirements. The department is further authorized to~~
2 ~~promulgate any regulations necessary, and in accord with title XIX [42 U.S.C. § 1396 et seq.] of~~
3 ~~the Social Security Act to implement the state plan amendment. For those children who lack~~
4 ~~health insurance, and whose family incomes are in excess of two hundred fifty percent (250%) of~~
5 ~~the federal poverty level, the department of human services shall promulgate necessary~~
6 ~~regulations to implement the program. The department of human services is further directed to~~
7 ~~ascertain and promulgate the scope of services that will be available to those children whose~~
8 ~~family income exceeds the maximum family income specified in the approved title XIX [42~~
9 ~~U.S.C. § 1396 et seq.] state plan amendment.~~

10 ~~(b) Resources. Except as provided herein, no child shall be eligible for medical~~
11 ~~assistance coverage provided under this section if the combined value of the child's or the family's~~
12 ~~liquid resources exceeds ten thousand dollars (\$10,000); provided, however, that this subsection~~
13 ~~shall not apply to children with disabilities who are otherwise eligible for medical assistance~~
14 ~~coverage as categorically needy under § 134(a) of the Tax Equity and Fiscal Responsibility Act~~
15 ~~of 1982 [federal P.L. 97-248], commonly known as Katie Beckett eligible, upon meeting the~~
16 ~~requirements established in § 1902(e)(3) of the federal Social Security Act.~~

17 ~~**42-12.3-15. Expansion of RIte track program. [Effective until December 31, 2006.]**~~

18 ~~The Department of Human Services is hereby authorized and directed to submit to the United~~
19 ~~States Department of Health and Human Services an amendment to the "RIte Care" waiver~~
20 ~~project number 11-W-0004/1-01 to provide for expanded Medicaid coverage for children until~~
21 ~~they reach eight (8) years of age, whose family income levels are up to two hundred fifty percent~~
22 ~~(250%) of the federal poverty level. Expansion of the RIte track program from the age of six (6)~~
23 ~~until they reach eighteen (18) years of age in accordance with this chapter shall be subject to the~~
24 ~~approval of the amended waiver by the United States Department of Health and Human Services.~~
25 ~~Health care coverage under this section shall also be provided without regard to the availability of~~
26 ~~federal financial participation: (1) to a non-citizen child lawfully residing in the United States~~
27 ~~provided such child satisfies all other eligibility requirements.~~

28 SECTION 16. Sections 42-14-11 and 42-14-16.1 of the General Laws in Chapter 42-
29 14 entitled "Department of Business Regulation" are hereby amended to read as follows:

30 ~~**42-14-11. Subpoena power - False swearing.**~~ ~~-- (a)~~ In connection with any matters
31 having to do with the discharge of his or her duties pursuant to this chapter, the director, in all
32 cases of every nature pending before him or her, is hereby authorized and empowered to summon
33 witnesses to attend and testify in like manner as in either the supreme or the superior courts. The
34 director is authorized to compel the production of all papers, books, documents, records,

1 certificates or other legal evidence that may be necessary for the determination and the decision
2 of any question or the discharge of any duty required by law of the department, including the
3 function of the director as a member of the board of bank incorporation and board of building-
4 loan association incorporation, by issuing a subpoena duces tecum signed by the director.

5 (b) Every person who disobeys this writ shall be considered in contempt of the
6 department, and the department may punish that and any other contempt of the authority in like
7 manner as contempts may be punished in either the supreme or the superior court.

8 (c) Any person who shall wilfully swear falsely in any proceedings, matter or hearing
9 before the department shall be deemed guilty of the crime of perjury.

10 **42-14-16.1. Order to cease and desist.** -- (a) If the director has reason to believe that
11 any person, firm, corporation or association is conducting any activities requiring licensure under
12 title 27 without obtaining a license, or who after the denial, suspension or revocation of a license
13 conducts any activities requiring licensure under title 27, the department may issue its order to
14 that person, firm, corporation or association commanding them to appear before the department at
15 a hearing to be held no sooner than ten (10) days nor later than twenty (20) days after issuance of
16 that order to show cause why the department should not issue an order to that person to cease and
17 desist from the violation of the provisions of title 27.

18 (b) The order to show cause may be served on any person, firm, corporation or
19 association named in the order in the same manner that summons in a civil action may be served,
20 or by mailing a copy of the order, certified mail, return receipt requested, to that person at any
21 address at which he or she has done business or at which he or she lives. If, upon that hearing, the
22 department is satisfied that the person is in fact violating any provision of title 27, then the
23 department may order that person, in writing, to cease and desist from that violation.

24 (c) All hearings shall be governed in accordance with chapter 35 of this title, the
25 "Administrative Procedures Act." If that person fails to comply with an order of the department
26 after being afforded a hearing, the superior court in Providence county has jurisdiction upon
27 complaint of the department to restrain and enjoin that person from violating this chapter.

28 SECTION 17. Section 42-14.2-20 of the General Laws in Chapter 42-14.2 entitled
29 "Department of Business Regulation – Automobile Wrecking and Salvage Yards" are hereby
30 amended to read as follows

31 **42-14.2-20. Cease and desist orders.** -- (a) If the department shall have reason to
32 believe that any person, firm, corporation, or association is violating the provisions of this
33 chapter, the department may issue its order to that person, firm, corporation, or association
34 commanding them to appear before the department at a hearing to be held not sooner than ten

1 (10) days nor later than twenty (20) days after issuance of the order to show cause why the
2 commission should not issue an order to the person to cease and desist from the violation of the
3 provisions of this chapter.

4 (b) An order to show cause may be served on any person, firm, corporation, or
5 association named therein by any person in the same manner that a summons in a civil action may
6 be served, or by mailing a copy of the order to the person at any address at which he or she has
7 done business or at which he or she lives. If upon the hearing the department shall be satisfied
8 that the person is in fact violating any provision of this chapter, then the department shall order
9 that person, in writing, to cease and desist from the violation. At any hearing, any person subject
10 to an order of the department to cease and desist may be represented by counsel.

11 (c) The department shall not be bound by common law rules of evidence, but may
12 receive and consider any statements, documents, and things which shall be considered by them
13 necessary or useful in arriving at their decision. If that person shall thereafter fail to comply with
14 the order of the department, the superior court for Providence County shall have jurisdiction upon
15 the complaint of the department to restrain and enjoin that person from violating this chapter. The
16 complaint shall be in the form of a civil action. The findings and order of the department shall
17 constitute prima facie evidence that the person ordered by the department to cease and desist has
18 violated the provisions of this chapter.

19 (d) The attorney general shall afford the department any necessary assistance in
20 obtaining relief in the superior court.

21 SECTION 18. The title and all sections of Chapter 42-15 entitled "Department of
22 Education" are hereby repealed.

23 ~~CHAPTER 42-15~~

24 ~~DEPARTMENT OF EDUCATION~~

25 ~~42-15-1. — 42-15-6. [Obsolete.] —~~

26 SECTION 19. Sections 42-17.1-2, 42-17.1-6, and 42-17.1-9.1 of the General Laws in
27 Chapter 42-17.1 entitled "Department of Environmental Management" are hereby amended to
28 read as follows:
29

30 **42-17.1-2. Powers and duties.** -- The director of environmental management shall have
31 the following powers and duties:

32 (a)(1) To supervise and control the protection, development, planning, and utilization of
33 the natural resources of the state, such resources, including but not limited to, water, plants, trees,
34 soil, clay, sand, gravel, rocks and other minerals, air, mammals, birds, reptiles, amphibians, fish,
35 shellfish, and other forms of aquatic, insect, and animal life;

1 ~~(b)~~(2) To exercise all functions, powers, and duties heretofore vested in the department of
2 agriculture and conservation, and in each of the divisions of the department, such as the
3 promotion of agriculture and animal husbandry in their several branches, including the inspection
4 and suppression of contagious diseases among animals, the regulation of the marketing of farm
5 products, the inspection of orchards and nurseries, the protection of trees and shrubs from
6 injurious insects and diseases, protection from forest fires, the inspection of apiaries and the
7 suppression of contagious diseases among bees, prevention of the sale of adulterated or
8 misbranded agricultural seeds, promotion and encouragement of the work of farm bureaus in
9 cooperation with the University of Rhode Island, farmers' institutes and the various organizations
10 established for the purpose of developing an interest in agriculture, together with such other
11 agencies and activities as the governor and the general assembly may from time to time place
12 under the control of the department, and as heretofore vested by such of the following chapters
13 and sections of the general laws as are presently applicable to the department of environmental
14 management and which were previously applicable to the department of natural resources and the
15 department of agriculture and conservation or to any of its divisions: chapters 1 through 22,
16 inclusive, as amended, in title 2 entitled "Agriculture and Forestry;" chapters 1 through 17,
17 inclusive, as amended, in title 4 entitled "Animals and Animal Husbandry;" chapters 1 through
18 19, inclusive, as amended, in title 20 entitled "Fish and Wildlife;" chapters 1 through 32,
19 inclusive, as amended, in title 21 entitled "Food and Drugs;" chapter 7 of title 23 as amended,
20 entitled "Mosquito Abatement;" and by any other general or public law relating to the department
21 of agriculture and conservation or to any of its divisions or bureaus;

22 ~~(c)~~(3) To exercise all the functions, powers, and duties heretofore vested in the division
23 of parks and recreation of the department of public works by chapters 1, 2, and 5 in title 32
24 entitled "Parks and Recreational Areas;" by chapter 22.5 of title 23, as amended, entitled
25 "Drowning Prevention and Lifesaving;" and by any other general or public law relating to the
26 division of parks and recreation;

27 ~~(d)~~(4) To exercise all the functions, powers, and duties heretofore vested in the division
28 of harbors and rivers of the department of public works, or in the department itself by such as
29 were previously applicable to the division or the department, of chapters 1 through 22 and
30 sections thereof, as amended, in title 46 entitled "Waters and Navigation"; and by any other
31 general or public law relating to the division of harbors and rivers;

32 ~~(e)~~(5) To exercise all the functions, powers and duties heretofore vested in the department
33 of health by chapters 25, 18.9, and 19.5 of title 23, as amended, entitled "Health and Safety;" and
34 by chapters 12 and 16 of title 46, as amended, entitled "Waters and Navigation"; by chapters 3, 4,

1 5, 6, 7, 9, 11, 13, 18, and 19 of title 4, as amended, entitled "Animals and Animal Husbandry;"
2 and those functions, powers, and duties specifically vested in the director of environmental
3 management by the provisions of § 21-2-22, as amended, entitled "Inspection of Animals and
4 Milk;" together with other powers and duties of the director of the department of health as are
5 incidental to or necessary for the performance of the functions transferred by this section;

6 ~~(6)~~ (6) To cooperate with the Rhode Island economic development corporation in its
7 planning and promotional functions, particularly in regard to those resources relating to
8 agriculture, fisheries, and recreation;

9 ~~(7)~~ (7) To cooperate with, advise, and guide conservation commissions of cities and towns
10 created under chapter 35 of title 45 entitled "Conservation Commissions", as enacted by chapter
11 203 of the Public Laws, 1960;

12 ~~(8)~~ (8) To assign or reassign, with the approval of the governor, any functions, duties, or
13 powers established by this chapter to any agency within the department, except as hereinafter
14 limited;

15 ~~(9)~~ (9) To cooperate with the water resources board and to provide to the board facilities,
16 administrative support, staff services, and such other services as the board shall reasonably
17 require for its operation and, in cooperation with the board and the statewide planning program to
18 formulate and maintain a long range guide plan and implementing program for development of
19 major water sources transmissions systems needed to furnish water to regional and local
20 distribution systems;

21 ~~(10)~~ (10) To cooperate with the solid waste management corporation and to provide to the
22 corporation such facilities, administrative support, staff services and such other services within
23 the department as the corporation shall reasonably require for its operation;

24 ~~(11)~~ (11) To provide for the maintenance of waterways and boating facilities, consistent
25 with chapter 6.1 of title 46, by: ~~(1)~~ (1) establishing minimum standards for upland beneficial use and
26 disposal of dredged material; ~~(2)~~ (2) promulgating and enforcing rules for water quality, ground
27 water protection, and fish and wildlife protection pursuant to § 42-17.1-24; ~~(3)~~ (3) planning for the
28 upland beneficial use and/or disposal of dredged material in areas not under the jurisdiction of the
29 council pursuant to § 46-23-6(2); and ~~(4)~~ (4) cooperating with the coastal resources management
30 council in the development and implementation of comprehensive programs for dredging as
31 provided for in §§ 46-23-6(1)(ii)(H) and 46-23-18.3; and ~~(5)~~ (5) monitoring dredge material
32 management and disposal sites in accordance with the protocols established pursuant to § 46-6.1-
33 5(3) and the comprehensive program provided for in § 46-23-6(1)(ii)(H); no powers or duties
34 granted herein shall be construed to abrogate the powers or duties granted to the coastal resources

1 management council under chapter 23 of title 46, as amended;

2 ~~(12)~~ (12) To establish minimum standards, subject to the approval of the environmental
3 standards board, relating to the location, design, construction and maintenance of all sewage
4 disposal systems;

5 ~~(13)~~ (13) To enforce, by such means as provided by law, the standards for the quality of
6 air, and water, and the design, construction and operation of all sewage disposal systems; any
7 order or notice issued by the director relating to the location, design, construction or maintenance
8 of a sewage disposal system shall be eligible for recordation under chapter 13 of title 34. The
9 director shall forward the order or notice to the city or town wherein the subject property is
10 located and the order or notice shall be recorded in the general index by the appropriate municipal
11 official in the land evidence records in the city or town wherein the subject property is located.
12 Any subsequent transferee of that property shall be responsible for complying with the
13 requirements of the order or notice. Upon satisfactory completion of the requirements of the order
14 or notice, the director shall provide written notice of the same, which notice shall be similarly
15 eligible for recordation. The original written notice shall be forwarded to the city or town wherein
16 the subject property is located and the notice of satisfactory completion shall be recorded in the
17 general index by the appropriate municipal official in the land evidence records in the city or
18 town wherein the subject property is located. A copy of the written notice shall be forwarded to
19 the owner of the subject property within five (5) days of a request for it, and, in any event, shall
20 be forwarded to the owner of the subject property within thirty (30) days after correction;

21 ~~(14)~~ (14) To establish minimum standards for the establishment and maintenance of
22 salutary environmental conditions, including standards and methods for the assessment and the
23 consideration of the cumulative effects on the environment of regulatory actions and decisions,
24 which standards for consideration of cumulative effects shall provide for: (i) evaluation of
25 potential cumulative effects that could adversely effect public health and/or impair ecological
26 functioning; (ii) analysis of such other matters relative to cumulative effects as the department
27 may deem appropriate in fulfilling its duties, functions and powers; which standards and methods
28 shall only be applicable to ISDS systems in the town of Jamestown in areas that are dependent for
29 water supply on private and public wells, unless broader use is approved by the general assembly.
30 The department shall report to the general assembly not later than March 15, 2008 with regard to
31 the development and application of such standards and methods in Jamestown.

32 ~~(15)~~ (15) To establish and enforce minimum standards for permissible types of septage,
33 industrial waste disposal sites and waste oil disposal sites;

34 ~~(16)~~ (16) To establish minimum standards subject to the approval of the environmental

1 standards board for permissible types of refuse disposal facilities, the design, construction,
2 operation, and maintenance of disposal facilities; and the location of various types of facilities;

3 ~~(+)~~(17) To exercise all functions, powers, and duties necessary for the administration of
4 chapter 19.1 of title 23 entitled "Rhode Island Hazardous Waste Management Act";

5 ~~(+)~~(18) To designate in writing any person in any department of the state government or
6 any official of a district, county, city, town, or other governmental unit, with that official's
7 consent, to enforce any rule, regulation, or order promulgated and adopted by the director under
8 any provision of law; ~~;~~ provided, however, that enforcement of powers of the coastal resources
9 management council shall be assigned only to employees of the department of environmental
10 management, except by mutual agreement or as otherwise provided in chapter 23 of title 46. ~~;~~

11 ~~(+)~~(19) To issue and enforce such rules, regulations, and orders as may be necessary to
12 carry out the duties assigned to the director and the department by any provision of law; and to
13 conduct such investigations and hearings and to issue, suspend, and revoke such licenses as may
14 be necessary to enforce those rules, regulations, and orders; ~~;~~

15 ~~(+)~~Notwithstanding the provisions of § 42-35-9 to the contrary, no informal disposition
16 of a contested licensing matter shall occur where resolution substantially deviates from the
17 original application unless all interested parties shall be notified of said proposed resolution and
18 provided with opportunity to comment upon said resolution pursuant to applicable law and any
19 rules and regulations established by the director.

20 ~~(+)~~(20) To enter, examine or survey at any reasonable time such places as the director
21 deems necessary to carry out his or her responsibilities under any provision of law subject to the
22 following provisions:

23 (i) For criminal investigations, the director shall, pursuant to chapter 5 of title 12, seek a
24 search warrant from an official of a court authorized to issue warrants, unless a search without a
25 warrant is otherwise allowed or provided by law;

26 (ii) (A) All administrative inspections shall be conducted pursuant to administrative
27 guidelines promulgated by the department in accordance with chapter 35 of title 42.

28 (B) A warrant shall not be required for administrative inspections if conducted under the
29 following circumstances, in accordance with the applicable constitutional standards:

30 (i) I) For closely regulated industries;

31 (ii) II) In situations involving open fields or conditions that are in plain view;

32 (iii) III) In emergency situations;

33 (iv) IV) In situations presenting an imminent threat to the environment or public health,
34 safety or welfare;

1 (✘ V) If the owner, operator, or agent in charge of the facility, property, site or location
2 consents; or

3 (✘ VI) In other situations in which a warrant is not constitutionally required.

4 (C) Whenever it shall be constitutionally or otherwise required by law, or whenever the
5 director in his or her discretion deems it advisable, an administrative search warrant, or its
6 functional equivalent, may be obtained by the director from a neutral magistrate for the purpose
7 of conducting an administrative inspection. The warrant shall be issued in accordance with the
8 applicable constitutional standards for the issuance of administrative search warrants. The
9 administrative standard of probable cause, not the criminal standard of probable cause, shall
10 apply to applications for administrative search warrants.

11 (I) The need for, or reliance upon, an administrative warrant shall not be construed as
12 requiring the department to forfeit the element of surprise in its inspection efforts.

13 (II) An administrative warrant issued pursuant to this subsection must be executed and
14 returned within ten (10) days of its issuance date unless, upon a showing of need for additional
15 time, the court orders otherwise.

16 (III) An administrative warrant may authorize the review and copying of documents that
17 are relevant to the purpose of the inspection. If documents must be seized for the purpose of
18 copying, and the warrant authorizes such seizure, the person executing the warrant shall prepare
19 an inventory of the documents taken. The time, place and manner regarding the making of the
20 inventory shall be set forth in the terms of the warrant itself, as dictated by the court. A copy of
21 the inventory shall be delivered to the person from whose possession or facility the documents
22 were taken. The seized documents shall be copied as soon as feasible under circumstances
23 preserving their authenticity, then returned to the person from whose possession or facility the
24 documents were taken.

25 (IV) An administrative warrant may authorize the taking of samples of air, water or soil
26 or of materials generated, stored or treated at the facility, property, site or location. Upon request,
27 the department shall make split samples available to the person whose facility, property, site or
28 location is being inspected.

29 (V) Service of an administrative warrant may be required only to the extent provided for
30 in the terms of the warrant itself, by the issuing court.

31 (D) *Penalties.* Any willful and unjustified refusal of right of entry and inspection to
32 department personnel pursuant to an administrative warrant shall constitute a contempt of court
33 and shall subject the refusing party to sanctions, which in the court's discretion may result in up
34 to six (6) months imprisonment and/or a monetary fine of up to ten thousand dollars (\$10,000)

1 per refusal.

2 ~~(20)~~(21) To give notice of an alleged violation of law to the person responsible therefor
3 whenever the director determines that there are reasonable grounds to believe that there is a
4 violation of any provision of law within his or her jurisdiction or of any rule or regulation adopted
5 pursuant to authority granted to him or her, unless other notice and hearing procedure is
6 specifically provided by that law. Nothing in this chapter shall limit the authority of the attorney
7 general to prosecute offenders as required by law.

8 (i) The notice shall provide for a time within which the alleged violation shall be
9 remedied, and shall inform the person to whom it is directed that a written request for a hearing
10 on the alleged violation may be filed with the director within ten (10) days after service of the
11 notice. The notice will be deemed properly served upon a person if a copy thereof is served him
12 or her personally, or sent by registered or certified mail to his or her last known address, or if he
13 or she is served with notice by any other method of service now or hereafter authorized in a civil
14 action under the laws of this state. If no written request for a hearing is made to the director
15 within ten (10) days of the service of notice, the notice shall automatically become a compliance
16 order.

17 (ii) (A) Whenever the director determines that there exists a violation of any law, rule, or
18 regulation within his or her jurisdiction which requires immediate action to protect the
19 environment, he or she may, without prior notice of violation or hearing, issue an immediate
20 compliance order stating the existence of the violation and the action he or she deems necessary.
21 The compliance order shall become effective immediately upon service or within such time as is
22 specified by the director in such order. No request for a hearing on an immediate compliance
23 order may be made.

24 (B) Any immediate compliance order issued under this section without notice and prior
25 hearing shall be effective for no longer than forty-five (45) days; provided, however, that for
26 good cause shown the order may be extended one additional period not exceeding forty-five (45)
27 days.

28 (iii) If a person upon whom a notice of violation has been served under the provisions of
29 this section or if a person aggrieved by any such notice of violation requests a hearing before the
30 director within ten (10) days of the service of notice of violation, the director shall set a time and
31 place for the hearing, and shall give the person requesting that hearing at least five (5) days
32 written notice thereof. After the hearing, the director may make findings of fact and shall sustain,
33 modify, or withdraw the notice of violation. If the director sustains or modifies the notice, that
34 decision shall be deemed a compliance order and shall be served upon the person responsible in

1 any manner provided for the service of the notice in this section.

2 (iv) The compliance order shall state a time within which the violation shall be remedied,
3 and the original time specified in the notice of violation shall be extended to the time set in the
4 order.

5 (v) Whenever a compliance order has become effective, whether automatically where no
6 hearing has been requested, where an immediate compliance order has been issued, or upon
7 decision following a hearing, the director may institute injunction proceedings in the superior
8 court of the state for enforcement of the compliance order and for appropriate temporary relief,
9 and in that proceeding the correctness of a compliance order shall be presumed and the person
10 attacking the order shall bear the burden of proving error in the compliance order, except that the
11 director shall bear the burden of proving in the proceeding the correctness of an immediate
12 compliance order. The remedy provided for in this section shall be cumulative and not exclusive
13 and shall be in addition to remedies relating to the removal or abatement of nuisances or any
14 other remedies provided by law.

15 (vi) Any party aggrieved by a final judgment of the superior court may, within thirty (30)
16 days from the date of entry of such judgment, petition the supreme court for a writ of certiorari to
17 review any questions of law. The petition shall set forth the errors claimed. Upon the filing of the
18 petition with the clerk of the supreme court, the supreme court may, if it sees fit, issue its writ of
19 certiorari;

20 ~~(w)~~(22) To impose administrative penalties in accordance with the provisions of chapter
21 17.6 of this title and to direct that such penalties be paid into the account established by
22 ~~subsection (z)~~ subdivision (26) of this section; and

23 ~~(w)~~(23) The following definitions shall apply in the interpretation of the provisions of
24 this chapter:

25 (i) *Director*: The term director shall mean the director of environmental management of
26 the state of Rhode Island or his or her duly authorized agent.

27 (ii) *Person*: The term person shall include any individual, group of individuals, firm,
28 corporation, association, partnership or private or public entity, including a district, county, city,
29 town, or other governmental unit or agent thereof, and in the case of a corporation, any individual
30 having active and general supervision of the properties of such corporation.

31 (iii) *Service*: (A) Service upon a corporation under this section shall be deemed to include
32 service upon both the corporation and upon the person having active and general supervision of
33 the properties of such corporation.

34 (B) For purposes of calculating the time within which a claim for a hearing is made

1 pursuant to subdivision ~~(19)~~(1) (21)(i) of this section heretofore, service shall be deemed to be the
2 date of receipt of such notice or three (3) days from the date of mailing of said notice, whichever
3 shall first occur.

4 ~~(24)~~ (24) (i) To conduct surveys of the present private and public camping and other
5 recreational areas available and to determine the need for and location of such other camping and
6 recreational areas as may be deemed necessary and in the public interest of the state of Rhode
7 Island and to report back its findings on an annual basis to the general assembly on or before
8 March 1 of every year;

9 (ii) Additionally, the director of the department of environmental management shall take
10 such additional steps, including but not limited to, matters related to funding as may be necessary
11 to establish such other additional recreational facilities and areas as are deemed to be in the public
12 interest.

13 ~~(25)~~ (25) (i) To apply for and accept grants and bequests of funds with the approval of the
14 director of administration from other states, interstate agencies and independent authorities, and
15 private firms, individuals and foundations, for the purpose of carrying out his or her lawful
16 responsibilities. The funds shall be deposited with the general treasurer in a restricted receipt
17 account created in the Natural Resources Program for funds made available for that program's
18 purposes or in a restricted receipt account created in the Environmental Protection Program for
19 funds made available for that program's purposes. All expenditures from the accounts shall be
20 subject to appropriation by the general assembly, and shall be expended in accordance with the
21 provisions of the grant or bequest. In the event that a donation or bequest is unspecified or in the
22 event that the trust account balance shows a surplus after the project as provided for in the grant
23 or bequest has been completed, the director may utilize said appropriated unspecified or
24 appropriated surplus funds for enhanced management of the department's forest and outdoor
25 public recreation areas, or other projects or programs that promote the accessibility of recreational
26 opportunities for Rhode Island residents and visitors.

27 (ii) The director shall submit to the house fiscal advisor and the senate fiscal advisor, by
28 October 1 of each year, a detailed report on the amount of funds received and the uses made of
29 such funds.

30 ~~(26)~~ (26) To establish fee schedules by regulation with the approval of the governor for the
31 processing of applications and the performing of related activities in connection with the
32 department's responsibilities pursuant to subdivision ~~(19)~~ (12) of this section, chapter 19.1 of title
33 23 as it relates to inspections performed by the department to determine compliance with chapter
34 19.1 and rules and regulations promulgated in accordance therewith, chapter 18.9 of title 23 as it

1 relates to inspections performed by the department to determine compliance with chapter 18.9
2 and the rules and regulations promulgated in accordance therewith, chapters 19.5 and 23 of title
3 23; chapter 12 of title 46 insofar as it relates to water quality certifications and related reviews
4 performed pursuant to provisions of the federal Clean Water Act, the regulation and
5 administration of underground storage tanks and all other programs administered under chapter
6 12 of title 46 and § 2-1-18 et seq., and chapter 13.1 of title 46 and chapter 13.2 of title 46 insofar
7 as they relate to any reviews and related activities performed under the provisions of the
8 Groundwater Protection Act, chapter 23-24.9 as it relates to the regulation and administration of
9 mercury-added products, and chapter 17.7 of this title insofar as it relates to administrative
10 appeals of all enforcement, permitting and licensing matters to the administrative adjudication
11 division for environmental matters. Two (2) fee ranges shall be required: for "Appeal of
12 enforcement actions", a range of fifty dollars (\$50) to one hundred dollars (\$100), and for
13 "Appeal of application decisions", a range of five hundred dollars (\$500) to ten thousand dollars
14 (\$10,000). The monies from the administrative adjudication fees will be deposited as general
15 revenues and the amounts appropriated shall be used for the costs associated with operating the
16 administrative adjudication division.

17 There is hereby established an account within the general fund to be called the water and
18 air protection program. The account shall consist of sums appropriated for water and air pollution
19 control and waste monitoring programs and the state controller is hereby authorized and directed
20 to draw his or her orders upon the general treasurer for the payment of such sums or such portions
21 thereof as may be required from time to time upon receipt by him or her of properly authenticated
22 vouchers. All amounts collected under the authority of this subdivision for the sewage disposal
23 system program and fresh waters wetlands program will be deposited as general revenues and the
24 amounts appropriated shall be used for the purposes of administering and operating the programs.
25 The director shall submit to the house fiscal advisor and the senate fiscal advisor by January 15 of
26 each year a detailed report on the amount of funds obtained from fines and fees and the uses made
27 of such funds.

28 ~~(aa)~~(27) To establish and maintain a list or inventory of areas within the state worthy of
29 special designation as "scenic" to include, but not be limited to, certain state roads or highways,
30 scenic vistas and scenic areas, and to make the list available to the public.

31 ~~(bb)~~(28) To establish and maintain an inventory of all interests in land held by public and
32 private land trust and to exercise all powers vested herein to insure the preservation of all
33 identified lands.

34 (i) The director may promulgate and enforce rules and regulations to provide for the

1 orderly and consistent protection, management, continuity of ownership and purpose, and
2 centralized records-keeping for lands, water, and open spaces owned in fee or controlled in full or
3 in part through other interests, rights, or devices such as conservation easements or restrictions,
4 by private and public land trusts in Rhode Island. The director may charge a reasonable fee for
5 filing of each document submitted by a land trust.

6 (ii) The term "public land trust" means any public instrumentality created by a Rhode
7 Island municipality for the purposes stated herein and financed by means of public funds
8 collected and appropriated by the municipality. The term "private land trust" means any group of
9 five (5) or more private citizens of Rhode Island who shall incorporate under the laws of Rhode
10 Island as a nonbusiness corporation for the purposes stated herein, or a national organization such
11 as the nature conservancy. The main purpose of either a public or a private land trust shall be the
12 protection, acquisition, or control of land, water, wildlife, wildlife habitat, plants, and/or other
13 natural features, areas, or open space for the purpose of managing or maintaining, or causing to
14 be managed or maintained by others, the land, water, and other natural amenities in any
15 undeveloped and relatively natural state in perpetuity. A private land trust must be granted
16 exemption from federal income tax under Internal Revenue Code 501c(3) [26 U.S.C. § 501(c)(3)]
17 within two (2) years of its incorporation in Rhode Island or it may not continue to function as a
18 land trust in Rhode Island. A private land trust may not be incorporated for the exclusive purpose
19 of acquiring or accepting property or rights in property from a single individual, family,
20 corporation, business, partnership, or other entity. Membership in any private land trust must be
21 open to any individual subscribing to the purposes of the land trust and agreeing to abide by its
22 rules and regulations including payment of reasonable dues.

23 (iii) (A) Private land trusts will, in their articles of association or their by-laws, as
24 appropriate, provide for the transfer to an organization created for the same or similar purposes
25 the assets, lands and land rights and interests held by the land trust in the event of termination or
26 dissolution of the land trust.

27 (B) All land trusts, public and private, will record in the public records of the appropriate
28 towns and cities in Rhode Island all deeds, conservation easements or restrictions or other
29 interests and rights acquired in land and will also file copies of all such documents and current
30 copies of their articles of association, their ~~by-laws~~ bylaws, and annual reports with the secretary
31 of state, and with the director of the Rhode Island department of environmental management. The
32 director is hereby directed to establish and maintain permanently a system for keeping records of
33 all private and public land trust land holdings in Rhode Island.

34 ~~(ee)~~(29) The director will contact in writing, not less often than once every two (2) years,

1 each public or private land trust to ascertain: that all lands held by the land trust are recorded with
2 the director; the current status and condition of each land holding; that any funds or other assets
3 of the land trust held as endowment for specific lands have been properly audited at least once
4 within the two (2) year period; the name of the successor organization named in the public or
5 private land trust's ~~by laws~~ bylaws or articles of association; and any other information the
6 director deems essential to the proper and continuous protection and management of land and
7 interests or rights in land held by the land trust. In the event that the director determines that a
8 public or private land trust holding land or interest in land appears to have become inactive, he or
9 she shall initiate proceedings to effect the termination of the land trust and the transfer of its
10 lands, assets, land rights, and land interests to the successor organization named in the defaulting
11 trust's ~~by laws~~ bylaws or articles of association or to another organization created for the same or
12 similar purposes. Should such a transfer not be possible, then the land trust, assets, and interest
13 and rights in land will be held in trust by the state of Rhode Island and managed by the director
14 for the purposes stated at the time of original acquisition by the trust. Any trust assets or interests
15 other than land or rights in land accruing to the state under such circumstances will be held and
16 managed as a separate fund for the benefit of the designated trust lands.

17 ~~(dd)~~(30) Consistent with federal standards, issue and enforce such rules, regulations and
18 orders as may be necessary to establish requirements for maintaining evidence of financial
19 responsibility for taking corrective action and compensating third parties for bodily injury and
20 property damage caused by sudden and non-sudden accidental releases arising from operating
21 underground storage tanks.

22 ~~(ee)~~(31) To enforce, by such means as provided by law, the standards for the quality of
23 air, and water, and the location, design, construction and operation of all underground storage
24 facilities used for storing petroleum products or hazardous materials; any order or notice issued
25 by the director relating to the location, design construction, operation or maintenance of an
26 underground storage facility used for storing petroleum products or hazardous materials shall be
27 eligible for recordation under chapter 13 of title 34. The director shall forward the order or notice
28 to the city or town wherein the subject facility is located, and the order or notice shall be recorded
29 in the general index by the appropriate municipal officer in the land evidence records in the city
30 or town wherein the subject facility is located. Any subsequent transferee of that facility shall be
31 responsible for complying with the requirements of the order or notice. Upon satisfactory
32 completion of the requirements of the order or notice, the director shall provide written notice of
33 the same, which notice shall be eligible for recordation. The original written notice shall be
34 forwarded to the city or town wherein the subject facility is located, and the notice of satisfactory

1 completion shall be recorded in the general index by the appropriate municipal official in the land
2 evidence records in the city or town wherein the subject facility is located. A copy of the written
3 notice shall be forwarded to the owner of the subject facility within five (5) days of a request for
4 it, and, in any event, shall be forwarded to the owner of the subject facility within thirty (30) days
5 after correction.

6 ~~(ff)~~(32) To manage and disburse any and all funds collected pursuant to § 46-12.9-4, in
7 accordance with § 46-12.9-5, and other provisions of the Rhode Island Underground Storage
8 Tank Financial Responsibility Act, as amended.

9 ~~(gg)~~(33) To support, facilitate and assist the Rhode Island Natural History Survey, as
10 appropriate and/or as necessary, in order to accomplish the important public purposes of the
11 survey in gathering and maintaining data on Rhode Island natural history, making public
12 presentations and reports on natural history topics, ranking species and natural communities,
13 monitoring rare species and communities, consulting on open space acquisitions and management
14 plans, reviewing proposed federal and state actions and regulations with regard to their potential
15 impact on natural communities, and seeking outside funding for wildlife management, land
16 management and research.

17 **42-17.1-6. Advisory council on environmental affairs.** -- (a) There shall be established
18 an advisory council on environmental affairs consisting of sixteen (16) members who shall be
19 appointed by the governor. It shall be the responsibility of the council to advise the governor, the
20 environmental standards board and the director on matters involving environmental management
21 and natural resources. The respective chairpersons of the solid waste management council, the
22 coastal resources council, the water resources board, the joint committee on environment of the
23 general assembly and the chief of the statewide planning program shall be ex officio members.

24 (b)(1) The governor shall appoint at least one member to represent local conservation
25 commissions, one member representing established environmental action groups within the state,
26 one member representing hunting or sports fishing groups, one member representing the
27 commercial fisheries industry, and one member representing agriculture. The remaining six (6)
28 members shall be appointed from the general public having regard, among other factors, to their
29 qualifications, experience, and interest in some one or more aspects of natural resources and
30 environmental management and public or environmental health.

31 (2) When this chapter shall take effect, the governor shall appoint three (3) members of
32 the council to serve until the first day of March, 1978, four (4) members to serve until the first of
33 March, 1979, and four (4) members to serve until the first day of March, 1980, and all to serve
34 until their successors are appointed and qualified. In the month of February, 1978, and in the

1 month of February in each year thereafter, the governor shall appoint successors to the members
2 of the council whose terms shall expire in such year, to hold office commencing on the first day
3 of March in said years for a two-year term and until their respective successors are appointed and
4 qualified.

5 (3) Any vacancy which may occur in the council shall be filled by the governor for the
6 remainder of the unexpired term.

7 (c) The members of the council shall meet initially at the call of the governor and shall at
8 their first meeting elect a chairman, a secretary, and any other officers which they may find
9 necessary. Thereafter, the council shall meet at least quarterly. The council shall make
10 suggestions to and shall advise the governor, the environmental standards board, and the director
11 of the department concerning the policies, plans, and goals of the department and concerning the
12 problems of the state within the scope of the functions of the department and shall, at least as
13 often as annually and not later than January 15 of each year, make recommendations as to the
14 policies, objectives, and programs of the department, such recommendations to be submitted to
15 the governor, the general assembly, and the department.

16 (d) The director of the department of environmental management shall provide
17 appropriate staff and clerical support to the council.

18 **42-17.1-9.1. User fees at state beaches, parks, and recreation areas.** -- (a) The
19 department of environmental management in pursuance of its administrative duties and
20 responsibilities may charge a user fee for any state beach, or recreational area under its
21 jurisdiction, and fees for the use of its services or facilities.

22 (b) The fee may be on a daily or annual basis, or both, and may be based on vehicle
23 parking or other appropriate means. The fees may recognize the contribution of Rhode Island
24 taxpayers to support the facilities in relation to other users of the state's facilities. The fee
25 structure may acknowledge the need to provide for all people, regardless of circumstances.

26 (c) ~~[Deleted by P.L. 1998, ch. 31, art. 8, § 2.]~~

27 ~~(d)~~—An additional fee for camping and other special uses may be charged where
28 appropriate. Rates so charged should be comparable to equivalent commercial facilities.

29 ~~(e)~~ (d) All such fees shall be established after a public hearing.

30 ~~(f)~~ (e) All daily fees from beach parking, which shall also include fees charged and
31 collected at Ninigret conservation area and Charlestown breachway, shall be shared with the
32 municipality in which the facility is located on the basis of seventy-three percent (73%) retained
33 by the state and twenty-seven percent (27%) remitted to the municipality.

34 ~~(g)~~ (f) Fifty percent (50%) of all user and concession fees received by the state shall be

1 deposited as general revenues. For the year beginning July 1, 1979, the proportion of user and
2 concession fees to be received by the state shall be sixty-five percent (65%); for the year
3 beginning July 1, 1980, eighty-five percent (85%); and for the year beginning July 1, 1981, and
4 all years thereafter, one hundred percent (100%). The general revenue monies appropriated are
5 hereby specifically dedicated to meeting the costs of development, renovation of, and acquisition
6 of state-owned recreation areas and for regular maintenance, repair and operation of state owned
7 recreation areas. Purchases of vehicles and equipment and repairs to facilities shall not exceed
8 four hundred thousand dollars (\$400,000) annually. Notwithstanding the provisions of § 37-1-1 or
9 any other provision of the general laws, the director of the department of environmental
10 management is hereby authorized to accept any grant, devise, bequest, donation, gift, or
11 assignment of money, bonds, or other valuable securities for deposit in the same manner as
12 provided above for user and concession fees retained by the state.

13 (h) (g) No fee shall be charged to any school or other nonprofit organization provided
14 that a representative of the school or other organization gives written notice of the date and time
15 of their arrival to the facility.

16 SECTION 20. Section 42-17.1-9.2 of the General Laws in Chapter 42-17.1 entitled
17 "Department of Environmental Management" is hereby repealed.

18 ~~**42-17.1-9.2. Administrative expenses on behalf of open space and recreational areas.**~~
19 ~~-- For the period beginning May 1, 1988 and ending November 6, 1990, personnel and operating~~
20 ~~costs may be expended from the recreation area development fund for expenses incurred by the~~
21 ~~department of environmental management in the administration of the so called "open space and~~
22 ~~recreational area" grant program to the various cities and towns under the provisions of chapter~~
23 ~~425, Public Law 1987.~~

24 SECTION 21. Section 42-17.2-4 of the General Laws in Chapter 42-17.2 entitled "Ski
25 Tramways" is hereby amended to read as follows

26 ~~**42-17.2-4. Rules, regulations, and codes.**~~ -- (a) The director of environmental
27 management may adopt reasonable rules, regulations, and codes relating to public safety in the
28 construction, operation, maintenance, and inspection of passenger tramways. The rules,
29 regulations, and codes authorized hereunder shall conform as nearly as practicable to established
30 standards, if any, and shall not be discriminatory in their application to operators of passenger
31 tramways.

32 (1) The rules, regulations, and codes shall be adopted only after public hearing, notice of
33 which shall be published in a newspaper of general circulation in this state at least fourteen (14)
34 days before holding the hearing. The director of environmental management shall also give notice

1 of the hearing by mail to each registered operator at least fourteen (14) days before holding it.

2 (2) At the hearing the director of environmental management shall permit any interested
3 person to present information, views, and arguments with respect to the rules, regulations, or
4 codes, either orally or in written form. A summary of the text of the rules, regulations, and codes
5 adopted by the director of environmental management shall be published by the department in
6 two (2) newspapers of general circulation in the state and each registered operator shall be
7 furnished with two (2) copies thereof. The rules, regulations, and codes shall become effective
8 upon such date subsequent to publication as required in this section.

9 (b) The foregoing procedure shall be followed by the director of environmental
10 management in amending or appealing any of its rules, regulations, or codes. Rules, regulations,
11 or codes adopted by the director of environmental management shall in no way reduce or
12 diminish the standard of care imposed upon passenger tramway operators under existing law.

13 SECTION 22. Sections 42-17.6-3 and 42-17.6-4 of the General Laws in Chapter 42-
14 17.6 entitled "Administrative Penalties for Environmental Violations" are hereby amended to
15 read as follows:

16 **42-17.6-3. Notice of violation and assessment of penalty.** -- (a) Whenever the director
17 seeks to assess an administrative penalty on any person, the director shall cause to be served upon
18 the person, either by service, in hand, or by certified mail, return receipt requested, a written
19 notice of its intent to assess an administrative penalty which shall include:

20 (1) A concise statement of the alleged act or omission for which the administrative
21 penalty is sought to be assessed;

22 (2) Each law, rule, regulation, order, permit, license, or approval which has not been
23 complied with as a result of the alleged act or omission;

24 (3) The amount which the director seeks to assess as an administrative penalty for each
25 alleged act or omission;

26 (4) A statement of the person's right to an adjudicatory hearing on the proposed
27 assessment;

28 (5) The requirements the person must comply with to avoid being deemed to have
29 waived the right to an adjudicatory hearing; and

30 (6) The manner of payment thereof if the person elects to pay the penalty and waive an
31 adjudicatory hearing.

32 (b) After written notice of noncompliance or intent to assess an administrative penalty
33 has been given, each day thereafter during which the noncompliance occurs or continues shall
34 constitute a separate offense and shall be subject to a separate administrative penalty if reasonable

1 efforts have not been made to promptly come into compliance.

2 **42-17.6-4. Right to adjudicatory hearing.** -- (a) Whenever the director seeks to assess
3 an administrative penalty on any person, the person shall have the right to an adjudicatory hearing
4 under chapter 35 of this title, the provisions of which shall apply except when they are
5 inconsistent with the provisions of this chapter.

6 (a) (b) A person shall be deemed to have waived his or her right to an adjudicatory
7 hearing unless, within ten (10) days of the date of the director's notice that he or she seeks to
8 assess an administrative penalty, the person files with the director or the clerk of the
9 administrative adjudication division a written statement denying the occurrence of any of the acts
10 or omissions alleged by the director in the notice, or asserting that the money amount of the
11 proposed administrative penalty is excessive. In any adjudicatory hearing authorized pursuant to
12 chapter 35 of title 42, the director shall, by a preponderance of the evidence, prove the occurrence
13 of each act or omission alleged by the director.

14 (b) (c) If a person waives his or her right to an adjudicatory hearing, the proposed
15 administrative penalty shall be final immediately upon the waiver.

16 SECTION 23. Sections 42-17.7-1 and 42-17.7-8 of the General Laws in Chapter 42-17.7
17 entitled "Administrative Adjudication for Environmental Matters" are hereby amended to read as
18 follows:

19 **42-17.7-1. Establishment.** -- ~~Prior to January 1, 1990, there~~ There shall be established a
20 division for administrative adjudication ~~with~~ within the department of environmental
21 management. Such division shall exercise its functions under the control of the director of
22 environmental management.

23 **42-17.7-8. Oaths — Subpoenas — Powers of hearing officers.** -- (a) The hearing
24 officers are hereby severally authorized and empowered to administer oaths; and the hearing
25 officers, in all cases of every nature pending before them, are hereby authorized and empowered
26 to summon and examine witnesses and to compel the production and examination of papers,
27 books, accounts, documents, records, certificates, and other legal evidence that may be necessary
28 or proper for the determination and decision of any question before or the discharge of any duty
29 required by law of the hearing officer.

30 (b) All subpoenas and subpoena duces tecum shall be signed by a hearing officer or the
31 clerk and shall be served as subpoenas are served in civil cases in the superior court; and
32 witnesses so subpoenaed shall be entitled to the same fees for attendance and travel as are
33 provided for witnesses in civil cases in the superior court. In cases of contumacy or refusal to
34 obey the command of the subpoena so issued, the superior court shall have jurisdiction upon

1 application of the director with proof by affidavit of the fact, to issue a rule or order returnable in
2 not less than two (2) nor more than five (5) days directing such person to show cause why he or
3 she should not be adjudged in contempt.

4 (c) Upon return of such order, the justice before whom the matter is brought for hearing
5 shall examine under oath such person, and such person shall be given an opportunity to be heard,
6 and if the justice shall determine that this person has refused without reasonable cause or legal
7 excuse to be examined or to answer a legal or pertinent question, he or she may impose a fine
8 upon this offender or forthwith commit the offender to the adult correctional institutions until he
9 or she submits to do the act which he or she was so required to do, or is discharged according to
10 law.

11 SECTION 24. Section 42-17.9-5 of the General Laws in Chapter 42-17.9 entitled
12 "Preservation of State Open Space" is hereby amended to read as follows:

13 **42-17.9-5. Rulemaking by the department.** -- (a) The department of environmental
14 management, in consultation with the department of administration, shall by March 15, 2007,
15 establish by rule, integrated standards and guidelines for preserving and protecting the state's
16 interest in open space values; the department shall report on or before January 15, 2007, to the
17 speaker of the house, the president of the senate, the chairperson of the house committee on
18 environment and natural resources and the chairperson of the senate committee on environment
19 and agriculture on the status of the development of said standards and guidelines.

20 (a)(b) Said standards and guidelines shall set forth and provide for the implementation of
21 criteria for evaluating actions that would convey or amend state interests or constitute changes in
22 use of state-owned and managed property requiring the approval of the department of
23 administration or the state properties committee. Said criteria shall provide at a minimum:

24 (1) That any conveyance or amendment affecting the state's interest in open space values
25 of such property shall serve a necessary public interest and is the minimum needed to achieve the
26 purposes of the conveyance, amendment, or change in use; and

27 (2) That to the extent reasonably feasible there is no net loss of open space values as a
28 result of such conveyance, amendment, or change in use; and

29 (3) That prior to any sale, transfer, conveyance and/or amendment of interests, which
30 would adversely affect open space values, in state-owned property that was acquired and/or
31 dedicated to and managed for open space purposes, a new and not yet conserved parcel at least
32 equal in open space values and acreage shall be acquired by the state for conservation purposes
33 provided this criterion shall not apply in instances of declared disasters or emergencies or in
34 instances of imminent threat to public health or public safety.

1 ~~(b)~~(c) Said standards and guidelines may provide for a determination that a parcel other
2 than a parcel acquired or managed for open space purposes or natural resources values does not
3 have significant open space value or that a specific amendment or change in use or type of use
4 would not have a significant impact on open space values, in which case the use of standards,
5 guidelines, and evaluation criteria as provided for in §§ 42-17.9-6 and 42-17.9-7 shall not be
6 required.

7 ~~(e)~~(d) Said standards and guidelines shall be reviewed by the department at least once
8 every five (5) years and shall either be amended or affirmed by the department as appropriate.

9 SECTION 25. Section 42-24-1 of the General Laws in Chapter 42-24 entitled
10 “Commission on Uniform State Laws” is hereby amended to read as follows

11 **42-24-1. Composition of commission — Expenses.** -- (a) Membership. There shall be a
12 commission on uniform state laws consisting of:

13 (i) Seven (7) qualified electors, including three (3) members appointed by the speaker of
14 the house of representatives, not more than two (2) from the same political party;

15 (ii) Three (3) members appointed by the president of the senate, not more than two (2)
16 from the same political party; and

17 (iii) The director of legislative council or his or her designee.

18 (b) Qualifications. Members of the commission must be attorneys who are members of a
19 state bar, qualified to practice law. The general assembly members of the commission shall be ex
20 officio members with full voting powers. The commission shall also consist of any qualified
21 electors who, because of long service in the case of uniformity of state legislation, shall have been
22 elected life members of the national conference of commissioners on uniform state laws.

23 (c) Terms. Beginning on January 1, 2006 the speaker and the president shall each appoint
24 one member to serve a term of one year, one member to serve a term of two (2) years, one
25 member to serve a term of three (3) years. Terms shall commence with the date of appointment
26 and expire on the 30th day of June thereafter corresponding with the number of years of the term
27 to which appointed. Thereafter appointments shall be made for terms of three (3) years
28 commencing on July 1st in the year of appointment and end on June 30th of the third year
29 thereafter.

30 (d) Vacancies. Any vacancy in the board shall be filled in the same manner as the
31 original appointment for the remainder of the unexpired term. Appointed members of the
32 commission shall continue to assume the duties now performed by this commission in accordance
33 with this chapter and such other duties as may be set forth by the governor or by act of the general
34 assembly.

1 (e) Compensation. The commission shall serve without compensation, but shall be
2 reimbursed for their travel and necessary expenses in accordance with the rates from time to time
3 established by the legislative department in its rules and regulations and may expend such sums
4 of money as may be appropriated from time to time by the general assembly. Elected life
5 members of the commission may be reimbursed for travel and necessary expenses subject to
6 funding availability and the approval of the joint committee on legislative services.

7 ~~(f)~~(f) Expiration of term. Terms of current members of the commission appointed by the
8 governor shall expire December 31, 2005.

9 SECTION 26. Sections 42-26-3, 42-26-6, 42-26-13, and 42-26-19 of the General Laws in
10 Chapter 42-26 entitled “Rhode Island Justice Commission” is hereby amended to read as follows:

11 **42-26-3. Commission created — Composition.** -- (a) There is hereby created within the
12 executive branch the Rhode Island justice commission, hereinafter called the commission, which
13 shall be under the jurisdiction of the governor.

14 (b) The commission shall consist of: (1) a criminal justice policy board, (2) a full-time
15 administrator and staff, and (3) such permanent and ad hoc committees and task forces as the
16 board deems necessary.

17 **42-26-6. Criminal justice policy board — Appointment of members.** -- The criminal
18 justice policy board shall consist of:

- 19 (1) The attorney general;
- 20 (2) The superintendent of the state police;
- 21 (3) The public defender;
- 22 (4) The director of the department of corrections;
- 23 (5) The director of the department of human services;
- 24 (6) The director of the department of mental health, retardation, and hospitals;
- 25 (7) The chairperson of the state board of regents;
- 26 (8) The director of the department for children and their families;
- 27 (9) The chief justice of the family court;
- 28 (10) The president of the Rhode Island police chiefs association;
- 29 (11) One police chief selected by the Rhode Island police chiefs association;
- 30 (12) The chief justice of the Rhode Island Supreme Court;
- 31 (13) The presiding justice of the superior court;
- 32 (14) The chief judge of the district court;
- 33 (15) Seven (7) members of the general assembly; four (4) from the house of
34 representatives at least one of whom shall be a member of the minority to be appointed by the

1 speaker, and three (3) from the senate at least one of whom shall be a member of the minority to
2 be appointed by the president of the senate;

3 (16) The executive director of the Rhode Island league of cities and towns;

4 (17) The director of health;

5 (18) The director of the division of fire safety;

6 (19) One university or college faculty member with a research background in criminal
7 justice appointed by the governor;

8 (20) Four (4) citizens appointed by the governor;

9 (21) Three (3) representatives appointed by the governor from community service
10 organizations.

11 **42-26-13. Committee created — Purpose and composition.** -- (a) There is hereby
12 created within the Rhode Island justice commission pursuant to the provisions of § 42-26-7 of
13 this chapter the criminal justice oversight committee for the purpose of maintaining the secure
14 facilities at the adult correctional institutions within their respective population capacities as
15 established by court order, consent decree or otherwise.

16 (b) The criminal justice oversight committee (hereinafter referred to as the committee)
17 shall consist of the following members who shall assemble no less than four (4) times annually or
18 more often at the call of the chairperson or upon petition of a majority of its members:

19 (1) The presiding justice of the superior court;

20 (2) The chief judge of the district court;

21 (3) The attorney general;

22 (4) The public defender;

23 (5) The superintendent of state police;

24 (6) The director of the department of corrections;

25 (7) The chairman of the parole board;

26 (8) The executive director of the Rhode Island justice commission;

27 (9) A member of the governor's staff selected by the governor;

28 (10) Four (4) members of the general assembly, one of whom shall be appointed by the
29 speaker and one of whom shall be appointed by the president of the senate, one of whom shall be
30 appointed by the house minority leader and one of whom shall be appointed by the senate
31 minority leader.

32 (11) A qualified elector of this state who shall be appointed by the governor and
33 designated as chairperson of the committee.

34 (12) A member of the victim's rights group, appointed by the Speaker of the House.

1 Each member of the committee may appoint a permanent designee to attend committee
2 meetings in his/her absence. A quorum at meetings of the committee shall consist of a majority of
3 its current membership.

4 **42-26-19. After school alternative program — Legislative intent.** -- ~~(a)~~ The legislature
5 hereby finds and declares the following:

6 (1) There is greater threat to public safety resulting from gang and drug-related activity in
7 and near Rhode Island's inner cities.

8 (2) Young people, especially at-risk youth, are more vulnerable to gang and drug-related
9 activity during the potentially unsupervised hours between the end of school and the time their
10 parents or guardians return home from work.

11 (3) Without local prevention and treatment efforts, hard drugs will continue to threaten
12 and destroy families and communities in and near the inner cities. Drug-related violence may then
13 escalate dramatically in every community, and thereby burden the criminal justice system to the
14 point that it cannot function effectively.

15 (4) It is the intent of the legislature that a pilot program, the "After School Alternative
16 Program" (ASAP), be established and implemented within a specified Rhode Island community.
17 This community program would utilize the public schools, businesses, and community facilities
18 to provide supportive programs and activities to young people during the time between the end of
19 school and the return home of their parents or guardians (from approximately 2 p.m. to 7 p.m.).

20 SECTION 27. Sections 42-28-3, 42-28-22.1, 42-28-25, and 42-28-47 of the General
21 Laws in Chapter 42-28 entitled "State Police" are hereby amended to read as follows:

22 **42-28-3. Scope of responsibilities.** -- (a) The Rhode Island state police and the
23 superintendent shall be charged with the responsibility of:

- 24 ~~(a)~~(1) Providing a uniformed force for law enforcement;
 - 25 ~~(b)~~(2) Preparing rules and regulations for law enforcement;
 - 26 ~~(c)~~(3) Maintaining facilities for crime detection and suppression; and
 - 27 ~~(d)~~(4) Controlling traffic and maintaining safety on the highways.
- 28 (b) The superintendent shall be ex-officio state fire marshal.

29 **42-28-22.1. Retirement contribution.** -- (a) Each member of the state police initially
30 hired after July 1, 1987 shall have deducted from "compensation" as defined in § 36-8-1(11)
31 beginning July 1, 1989, an amount equal to a rate percent of such compensation as specified in §
32 36-10-1 relating to member contributions to the state retirement system. The receipts collected
33 from members of the state police shall be deposited in a restricted revenue account entitled "state
34 police retirement benefits". The proceeds deposited in this account shall be held in trust for the

1 purpose of paying retirement benefits to participating members of the state police or their
2 beneficiaries. The retirement board shall establish rules and regulations to govern the provisions
3 of this section.

4 (b) A member of the state police who withdraws from service or ceases to be a member
5 for any reason other than death or retirement, shall be paid on demand a refund consisting of the
6 accumulated contributions standing to his or her credit in his or her individual account in the state
7 police retirement benefits account. Any member receiving a refund shall thereby forfeit and
8 relinquish all accrued rights as a member of the system together with credits for total service
9 previously granted to the member; provided, however, that if any member who has received a
10 refund shall subsequently reenter the service and again become a member of the system, he or she
11 shall have the privilege of restoring all moneys previously received or disbursed to his or her
12 credit as refund of contributions.

13 (c) Upon the repayment of the refund as herein provided, the member shall again receive
14 credit for the amount of total service which he or she had previously forfeited by the acceptance
15 of the refund.

16 **42-28-25. State and municipal police training school established** -- (a) Within the
17 Rhode Island state police there is hereby created and established a state and municipal police
18 training school.

19 (b) The superintendent of the state police shall have supervision of the state and
20 municipal police training academy and shall establish standards for admission and a course of
21 training. The superintendent shall report to the governor and general assembly a plan for a state
22 and municipal police training academy on or before December 31, 1993. The superintendent
23 shall, in consultation with the police chiefs association and the chairperson of the Rhode Island
24 commission on standards and training make all necessary rules and regulations relative to the
25 admission, education, physical standards and personal character of the trainees and such other
26 rules and regulations as shall not be inconsistent with law.

27 (c) Applicants to the state and municipal police training academy shall pay an
28 application fee in the amount of fifty dollars (\$50.00), provided, however, the superintendent may
29 waive such application fee if payment thereof would be a hardship to the applicant.

30 (d) Trainees shall pay to the division an amount equal to the actual cost of meals
31 consumed at the state police and municipal police training academy and the actual cost of such
32 training uniforms which remain the personal property of the trainees.

33 (e) All fees and payments received by the division pursuant to this section shall be
34 deposited as general revenues.

1 **42-28-47. Stolen or fire damaged vehicle report forms.** -- (a) The state police shall
2 draft a uniform statewide report form to be utilized by all the police departments in the state when
3 a motor vehicle is reported stolen or is damaged by fire. Once drafted, the report shall be made
4 available to the several police departments within the state. Every owner of a motor vehicle which
5 is stolen or damaged by fire shall be required to complete the standardized report form according
6 to the instructions contained therein upon the request of any police department within the state.
7 Any person ~~wilfully~~ willfully failing to complete and submit a report form as required by this
8 section may be fined one hundred dollars (\$100).

9 (b) No payment shall be made by an insurer for loss or damage to an insured's vehicle
10 until the insured has filed a report in conformity with the provisions of this section and the insurer
11 has within thirty (30) days received said report and determined that there is no fraud involved.

12 SECTION 28. Section 42-28.1-5 of the General Laws in Chapter 42-28.1 entitled
13 “Municipal Police – Incentive Pay” is hereby amended to read as follows

14 **42-28.1-5. Eligible expenses.** -- (a) Upon presentation of evidence of successful
15 completion of any course or courses as mentioned in § 42-28.1-4 to the chief of the department in
16 which any police officer is a member, then the respective town or city in which the officer is
17 employed shall reimburse him or her all his or her eligible expenses incurred by taking the
18 courses within a period of ninety (90) days from the submission. For the purposes of this section,
19 the words "eligible expenses" shall include the cost of tuition, books, and supplies but shall not
20 include any expenses related to courses in a program leading to a Bachelor of Laws (LLB) or a
21 Juris Doctor (JD) degree.

22 (b) Any city or town may enter into an agreement with any police officer upon
23 acceptance to law school while in the employ of said city or town.

24 Said agreement may require the police officer to remain employed one month for each
25 month the officer received reimbursement for law school.

26 Failure to meet said employment shall mandate the officer reimburse the city or town the
27 full amount paid by the city or town for law school.

28 SECTION 29. Sections 42-28.2-3 and 42-28.2-8 of the General Laws in Chapter 42-28.2
29 entitled “Police Officers – Commission on Standards and Training” are hereby amended to read
30 as follows:

31 **42-28.2-3. Commission established — Appointment and terms.** -- ~~The governor shall~~
32 ~~appoint five (5) persons to the commission on standards and training, two (2) of whom shall serve~~
33 ~~a term expiring January 31, 1970, two (2) of whom shall serve a term expiring January 31, 1971,~~
34 ~~and one of whom shall serve a term expiring January 31, 1972, and until their respective~~

1 ~~successors shall be appointed and qualified in the month of January, 1970 and~~

2 (a) Starting in January, 1970 and annually thereafter the governor shall appoint members
3 to the commission to serve a term of three (3) years commencing the first day of February next
4 following their respective appointment(s) and until their respective successors shall be appointed
5 and qualified to succeed the person or persons whose term next expires. At least one person
6 serving on the commission shall be appointed from a list of five (5) names submitted to the
7 governor by the Rhode Island league of cities and towns and at least three (3) persons serving on
8 the commission shall be chiefs of local police departments.

9 (b) Members of the commission shall be eligible for reappointment.

10 **42-28.2-8. Establishment of standards.** -- (a) The commission on standards and
11 training shall prepare and publish mandatory training standards, not applicable to the city of
12 Providence, and to be promulgated with due consideration to varying factors and special
13 requirements of local police agencies, the division of enforcement of the department of
14 environmental management and the board of regents relative to:

15 ~~(a)~~(1) Minimum standards of physical, educational, mental and moral fitness which shall
16 govern the recruitment, selection, and apportionment of police officers; provided, however, that
17 the minimum height and weight standards for local police officers shall be determined by each
18 municipality.

19 ~~(a)~~(2) The commission with the approval of the governor will establish the courses of
20 training, and set rules and regulations relative to the education, physical standards, and personal
21 character of candidates and trainees.

22 ~~(a)~~(3) Minimum course of study, attendance requirements, equipment, and facilities
23 required at the municipal police training school, or other approved training schools certified
24 pursuant to § 42-28.2-6.

25 ~~(a)~~(4) Minimum qualification for instructors at the municipal police training school, or
26 other approved training schools certified pursuant to § 42-28.2-6.

27 ~~(a)~~(5) Minimum basic training requirements which police officers appointed to
28 probationary terms shall complete before being eligible for continued or permanent employment,
29 and the term within which that basic training must be completed following such appointment to a
30 probationary term.

31 ~~(a)~~(6) Minimum basic training requirements which police officers not appointed for
32 probationary terms but appointed on other than a permanent basis shall complete before being
33 eligible for continued employment.

34 ~~(a)~~(7) Categories or classifications of advanced in-service training programs and

1 minimum courses of study and attendance requirements for those categories or classifications.

2 ~~(8)~~ (8) The establishment of subordinate regional training centers in strategic geographic
3 locations in order to serve the greatest number of local police agencies that are unable to support
4 their own training programs.

5 ~~(b)~~ (b) The commission shall establish a schedule of sessions of the school, of which there
6 shall be a minimum of one session per year.

7 ~~(c)~~ (c) The commission shall authorize the establishment of police training schools by any
8 municipality which demonstrates that it can satisfactorily meet the minimum standards
9 established for police training schools.

10 SECTION 30. Section 42-28.3-1 of the General Laws in Chapter 42-28.3 entitled
11 “Aptitude and Psychological Tests for Law Enforcement Candidates” is hereby amended to read
12 as follows:

13 **42-28.3-1. Test to be given.** -- (a) In addition to any other requirement, no person shall
14 be appointed a probationary or permanent state, city or town policeman, boating safety officer,
15 conservation officer or park police officer within the department of environmental management,
16 or correctional officer at the adult correctional institution or at the training schools for boys or
17 girls, after May 8, 1973, or a boating safety officer, conservation officer or park officer, within
18 the department of environmental management after July 1, 1979, or civilian security specialist at
19 any national guard facility after January 31, 1984, a Rhode Island state deputy marshal appointed
20 on or after July 1, 1990, until he or she shall have been tested and evaluated with standardized
21 procedures by a psychologist certified in accordance with the provisions of chapter 44 of title 5.
22 The cost of the test and evaluation shall be borne by the appointing authority.

23 (b) The psychologist shall provide a report in writing of his or her evaluation together
24 with pertinent recommendations for the guidance of the appointing authority in considering the
25 total fitness of said person for the appointment. Any candidate who receives an unsatisfactory
26 rating shall be ineligible for any of the above specified positions.

27 SECTION 31. Section 42-28.6-13 of the General Laws in Chapter 42-28.6 entitled “Law
28 Enforcement Officers’ Bill of Rights” is hereby amended to read as follows

29 **42-28.6-13. Suspensions.** -- (a) The provisions of this chapter are not intended to prohibit
30 suspensions by the chief or the highest ranking officer of the law enforcement agency.

31 (b) Summary punishment of two (2) days' suspension without pay may be imposed for
32 minor violations of departmental rules and regulations. Appeals of suspension under this
33 subsection shall be subject to the grievance provisions of any applicable collective bargaining
34 agreement.

1 (c) Suspension may be imposed by the chief or the highest ranking sworn officer of the
2 law enforcement agency when the law enforcement officer is under investigation for a criminal
3 felony matter. Any suspension shall consist of the law enforcement officer being relieved of duty,
4 and he or she shall receive all ordinary pay and benefits as he or she would receive if he or she
5 were not suspended. Suspension under this subsection shall not exceed one hundred eighty (180)
6 days.

7 (d) Suspension may be imposed by the chief or highest ranking sworn officer of the law
8 enforcement agency when the law enforcement officer in under investigation for a misdemeanor
9 criminal matter. Any such suspension shall consist of the law enforcement officer being relieved
10 of duty, and he or she shall receive all ordinary pay and benefits as he or she would receive if he
11 or she were not suspended. Suspension under this subsection shall not exceed thirty (30) days;
12 provided, however, that if an officer is charged with a misdemeanor offense the chief or highest
13 ranking sworn officer of the law enforcement agency may continue said suspension with pay up
14 to a total of one hundred and eighty (180) days. If the disposition of the criminal matter does not
15 take place within one hundred eighty (180) days of the commencement of such suspension, the
16 law enforcement officer may be suspended without pay and benefits; provided, however, that the
17 officer's entitlement to such medical insurance, dental insurance, disability insurance and life
18 insurance as is available to all other officers within the agency shall not be suspended. The law
19 enforcement officer may petition the presiding justice of the superior court for a stay of the
20 suspension without pay, and such stay shall be granted upon a showing that said delay in the
21 criminal disposition was outside the law enforcement officer's control. In the event the law
22 enforcement officer is acquitted of any misdemeanor related thereto, the officer shall be forthwith
23 reinstated and reimbursed all salary and benefits that have not been paid during the suspension
24 period.

25 (e) Suspension may be imposed by the chief or highest ranking sworn officer of the law
26 enforcement agency when the law enforcement officer is under investigation for a noncriminal
27 matter. Any such suspension shall consist of the law enforcement officer being relieved of duty,
28 and he or she shall receive all ordinary pay and benefits as he or she would receive if he or she
29 were not suspended. Suspension under this subsection shall not exceed fifteen (15) days or any
30 other time frame established under the provisions of any applicable collective bargaining
31 agreement.

32 (f) Suspension may be imposed by the chief or highest ranking sworn officer of the law
33 enforcement agency upon receipt of notice or disciplinary action in accordance with § 42-28.6-
34 4(b) of this chapter in which termination or demotion is the recommended punishment. Any such

1 suspension shall consist of the law enforcement officer being relieved of duty, and he or she shall
2 receive all ordinary pay and benefits as he or she would receive if he or she were not so
3 suspended.

4 (g) Any law enforcement officer who is charged, indicted or informed against for a
5 felony or who is convicted of and incarcerated for a misdemeanor may be suspended without pay
6 and benefits at the discretion of the agency or chief or highest ranking sworn officers; provided,
7 however, that the officer's entitlement to medical insurance, dental insurance, disability insurance
8 and life insurance as is available to all other officers within the agency shall not be suspended. In
9 the event that the law enforcement officer is acquitted of any felony related thereto, the officer
10 shall be reinstated and reimbursed forthwith for all salary and benefits that have not been paid
11 during the suspension period.

12 (h) Any law enforcement officer who is convicted of a felony shall, pending the
13 prosecution of an appeal, be suspended without pay and benefits; provided, however, that the
14 officer's entitlement to such medical insurance, dental insurance, disability insurance and life
15 insurance as is available to all other officers within the agency shall not be suspended. Whenever,
16 upon appeal, such conviction is reversed, the suspension under this subsection shall terminate and
17 the law enforcement officer shall forthwith be paid the salary and benefits that would have been
18 paid to him or her during that period of suspension.

19 (i) Any law enforcement [officer](#) who pleads guilty or no contest to a felony charge or
20 whose conviction of a felony has, after or in the absence of a timely appeal, become final may be
21 dismissed by the law enforcement agency and, in the event of such dismissal, other provisions of
22 this chapter shall not apply.

23 SECTION 32. Sections 42-29-10, 42-29-22, and 42-29-23 of the General Laws in
24 Chapter 42-29 entitled "Sheriffs" are hereby amended to read as follows:

25 **42-29-10. Removal of deputies by court.** -- Any deputy sheriff may be removed for
26 misdemeanor in office by the [Rhode Island](#) supreme court or by the superior court sitting for the
27 county to which the officer belongs, upon complaint made.

28 **42-29-22. Execution of writs and precepts.** -- The sheriff of every county, by ~~him~~
29 [himself](#) or herself or his or her deputy, shall serve and execute all writs and ~~precepts to him or her~~
30 [as](#) directed, within his or her county or wherever he or she may be authorized by law, or by
31 special order of the court issuing the writ or precept.

32 **42-29-23. Mandates in writs and precepts.** -- Every officer to whom any writ or
33 precept lawfully issued shall be delivered shall execute the mandates therein contained as
34 commanded, and shall make return of his or her ~~doings~~ [action](#) thereon. In case he or she ~~be~~ [is](#)

1 unable to execute the mandates, he or she shall set forth the reason ~~of~~ for ~~his or her~~ failure in his
2 or her return.

3 SECTION 33. Section 42-30-14 of the General Laws in Chapter 42-30 entitled “Notaries
4 Public and Justices of the Peace” is hereby amended to read as follows:

5 ~~**42-30-14. Public officers having notarial powers**~~ **Public officers having notary**
6 **powers.** -- (a) Every state senator, state representative, member of a city or town council, chief,
7 deputy, and assistant clerk of any state court, clerks of the board of canvassers, and worker's
8 compensation court, and municipal clerk and the board of canvassers registrar during the period
9 for which he or she has been elected or appointed, shall, upon completion of the certificate of
10 engagement as set forth in § 42-30-4, have the power to act as a notary public as provided in this
11 chapter.

12 (b) Two police officers from each state and local police department, as identified in
13 writing by the chief of police, shall, upon completion of the certificate of engagement as set forth
14 in § 42-30-4, have the power to act as a notary public as provided in this chapter. No office holder
15 set forth in this section shall be required to pay the commission fee as provided in § 42-30-5. The
16 office holders must complete the certificate of engagement as set forth in § 42-30-4.

17 SECTION 34. Sections 42-34-6 and 42-34-10 of the General Laws in Chapter 42-34
18 entitled “Industrial-Recreational Building Authority” are hereby amended to read as follows:

19 **42-34-6. Definitions.** -- As used in this chapter, the following words and terms shall
20 have the following meanings unless the context shall indicate another or different meaning or
21 intent:

22 (1) (a) "Cost of project" ~~shall mean~~ means, in the case of an industrial project described
23 in subdivision (3)(a), the cost or fair market value of acquisition, whichever is lower, or the cost
24 of construction, alteration, reconstruction, expansion or rehabilitation of an industrial project by a
25 local industrial development corporation or by a project owner, and in the case of an industrial
26 project described in subdivision (3)(b), the cost of acquisition by a local development corporation
27 or by a project owner. There may be included in cost of project the costs of all financing charges,
28 existing encumbrances, interest during construction period, engineering, architectural and legal
29 services, plans, specifications, surveys, cost estimates, studies, and other expenses as may be
30 necessary or incident to the development, construction, financing, and placing in operation of an
31 industrial project.

32 (b) "Cost of project" ~~shall~~, in the case of a recreational project described in subdivision
33 ~~(3)(e)~~ (4) ~~mean~~ means the cost or fair market value (4) of new construction (including renovations or
34 remodeling of existing structures if the authority determines that such renovation or remodeling

1 adds fifty percent (50%) or more to the fair market value of the structure exclusive of the value of
2 the land upon which it rests), lands, property rights, machinery, easements, franchises, fixtures,
3 financing charges, interest, engineering and legal services, plans, specifications, surveys, cost
4 estimates, studies, and other expenses as may be necessary or incident to the development,
5 construction, financing, and placing in operation of a recreational project; provided, however, that
6 in the expense of any renovations or remodeling of existing structures shall not be included in
7 "cost of project" to the extent that expense exceeds the fair market value of the structure
8 (exclusive of the land upon which it rests) as so renovated or remodeled.

9 (2) "Federal agency" ~~shall-mean~~ means and include the United States of America, the
10 President of the United States of America, and any department of, or corporation, agency, or
11 instrumentality heretofore or hereafter created, designated, or established by the United States of
12 America.

13 (3) (a) "Industrial project" ~~shall-mean~~ means lands or buildings or other real estate
14 improvements in Rhode Island, or any interest therein, acquired and constructed, reconstructed,
15 improved, expanded, renovated, or rehabilitated by a local development corporation or by a
16 project owner, together with all easements and other interests in the property, provided that the
17 industrial project is to be used:

18 (i) by any industry for the manufacturing, processing, or assembling of raw materials or
19 manufactured products, or \

20 (ii) for the providing of research or warehousing facilities for the benefit of any such
21 industry, or

22 (iii) an office and/or wholesale and/or retail facility, which facility is to be at least fifty-
23 one percent (51%) owner-occupied, and provided further that the authority has determined that
24 the industrial project or other real estate improvement will tend to provide gainful employment
25 for the people of Rhode Island, or to prevent, eliminate, or reduce unemployment in Rhode
26 Island, increase the tax base of the economy, diversify and expand industry so that periods of
27 large scale unemployment and distressed times may be avoided, and generally benefit economic
28 development in Rhode Island. An industrial project as defined herein may be located on leased
29 land provided the term of the lease extends at least until the maturity date, as defined in this
30 section.

31 (b) "Industrial project" ~~shall-also mean~~ means any machinery and equipment provided:

32 (i) the machinery and equipment has been acquired for use in connection with any
33 building new or otherwise, or other real estate improvement in Rhode Island, used for the
34 manufacturing, processing, or assembling of raw materials or manufactured products or for the

1 providing of research facilities in connection therewith, furniture and/or fixtures, or used for
2 office and/or wholesale and/or retail purposes in a facility which is at least fifty-one percent
3 (51%) owner-occupied;

4 (ii) the authority has determined that the machinery and equipment will tend to provide
5 gainful employment for the people of Rhode Island or to prevent, eliminate, or reduce
6 unemployment in Rhode Island, increase the tax base of the economy and diversify and expand
7 industry so that periods of large scale unemployment and distressed times may be avoided, and
8 generally benefit economic development in Rhode Island;

9 (iii) the owner therefore has agreed not to remove the machinery and equipment from the
10 building or real estate improvement until the principal obligation of any mortgage on the
11 machinery and equipment, the mortgage payments under which are insured by the authority
12 pursuant to § 42-34-10, has been paid in full, except that the machinery and equipment may be
13 removed from the building or real estate improvement with the prior written consent of the
14 authority if such owner has agreed to substitute in place thereof other machinery and equipment
15 approved by the authority and the mortgage within such reasonable period of time as the authority
16 shall prescribe.

17 (c) An industrial project as defined herein shall cost more than one hundred thousand
18 dollars (\$100,000); provided, however, where the authority commences to insure mortgage
19 payments on an industrial project defined in subdivision (3)(b) at the same time as it commences
20 to insure mortgage payments on an industrial project defined in subdivision (3)(a) it shall have
21 the power to commence insuring mortgage payments on such industrial project defined in
22 subdivision (3)(b) without limitation as to the minimum amount of one hundred thousand dollars
23 (\$100,000) provided for herein.

24 (d) An industrial project under the provisions of subdivisions (3)(a) and (3)(b) may
25 include a real estate improvement or machinery and equipment suitable for the abatement or
26 control of industrial pollution to be used in connection with any buildings, real estate
27 improvement, or machinery and equipment, provided, however, that the determinations under the
28 provisions of subdivisions (3)(a) and (3)(b) need not be made by the authority.

29 (4) "Recreational project" ~~shall mean~~ means any building, facility, development, or
30 improvement in Rhode Island and the interest of the owner of such building, facility,
31 development, or improvement in and to the land upon which it may be located, provided that the
32 owner's interest be in fee simple or be a leasehold interest in land owned by the state of Rhode
33 Island having a term expiring not less than ten (10) years after the date of recording the mortgage
34 hereinafter defined, and provided the building, facility, development, or improvement is designed

1 in whole or in part to attract tourists to this state and including, without limiting in any way the
2 generality of the foregoing, marinas, beaches, bathing facilities, ski facilities, convention
3 facilities, hotels, motels, golf courses, camp grounds, arenas, theaters, lodges, guest cottages, and
4 all types of facilities, and furniture and/or fixtures, related thereto as may be determined from
5 time to time by the authority and which the authority has determined will contribute to the health
6 and welfare of the people or will tend to improve the economy of the state, increase employment,
7 or provide a wider tax base. A recreational project as defined herein shall cost more than twenty-
8 five thousand dollars (\$25,000).

9 (5) "Industrial pollution" ~~shall mean~~ means any gaseous, liquid, or solid waste substance,
10 or combination thereof, resulting from the operations of an industry referred to in subdivision
11 (3)(a), which pollute the land, water, or air of Rhode Island.

12 (6) "Local development corporation" ~~shall mean~~ means any corporation or foundation
13 organized and operated primarily for the purposes of fostering, encouraging, and assisting the
14 physical location, settlement, and resettlement of industrial and manufacturing enterprises or
15 recreational enterprise within the state or promoting the industry or recreational promotion of the
16 state, including, for recreational purposes, the Rhode Island industrial facilities corporation no
17 part of the net earnings of which inures to the benefit of any private shareholder or individual.

18 (7) "Maturity date" ~~shall mean~~ means the date on which the mortgage indebtedness
19 would be extinguished if paid in accordance with periodic payments provided for in the
20 mortgage.

21 (8) (a) "Mortgage" ~~shall mean~~ means for a subdivision (3)(a) or (3)(b) project a first
22 mortgage or security agreement on an industrial project creating and constituting a first lien of
23 record, together with bonds, notes, evidences of indebtedness, or other credit instruments issued
24 by a mortgagor to finance such project and secured thereby; provided, however, a first mortgage
25 shall include a second or subsequent mortgage or security agreement on an industrial project if:

26 (i) the holder of such second or subsequent mortgage or security agreement is also the
27 holder of a prior mortgage or security agreement on such industrial project under which prior
28 mortgage or security agreement the authority is already insuring mortgage payments and;

29 (ii) no other person or legal entity holds an intervening mortgage, security interest or lien
30 on such industrial project prior to such second or subsequent mortgage or security interest; and
31 provided further, that "mortgage" shall also mean a second mortgage or security agreement that
32 (i) is issued by a project owner to a local development corporation and (ii) involves a principal
33 obligation that does not exceed forty percent (40%) of the cost of project. Industrial projects
34 described in subdivisions (3)(a), (3)(b), and (3)(d) may be financed and secured together if the

1 requirements of § 42-34-10 are met.

2 (b) "Mortgage" ~~shall-mean~~ means for the purpose of a subdivision ~~(3)(e)~~ (4) project , a
3 first mortgage on a recreational project together with bonds, notes, evidences of indebtedness, or
4 other credit instruments issued by a mortgagor to finance such project and secured thereby.

5 (9) "Mortgagee" ~~shall-mean~~ means the original lender approved by the authority under a
6 mortgage, and its successors and assigns and may include all insurance companies, trust
7 companies, banks, building and loan associations, credit unions, savings and loan associations,
8 investment companies, savings banks, local development corporations, individuals, executors,
9 administrators, guardians, conservators, trustees, and other fiduciaries; including pension,
10 retirement and profit-sharing funds; provided, however, that where there has been appointed a
11 trustee under an indenture of trust or other similar document for the benefit of the holders of
12 bonds or notes issued to finance an industrial project secured by a mortgage, "mortgagee" shall
13 mean such trustee. A local development corporation can be a second mortgagee only for a
14 subdivision (3)(a) or (3)(b) project if the second mortgage or security agreement is issued by the
15 project owner to the local development corporation and the principal obligation of the second
16 mortgage does not exceed forty percent (40%) of the cost of the project.

17 (10) "Project owner" ~~shall-mean~~ means any business entity, other than a local
18 development corporation, that owns an industrial project.

19 (11) "Mortgagor" ~~shall-mean~~ means a local development corporation as defined herein.

20 (12) "Mortgage payments" ~~shall-mean~~ means periodic payments by the mortgagor to the
21 mortgagee required by the mortgage, and may include interest, installments of principal, taxes
22 and assessments, land lease rentals, mortgage insurance premiums and hazard insurance
23 premiums, or any of them as the authority may prescribe.

24 **42-34-10. Insurance of mortgages.** -- (a) The authority is authorized, upon application
25 of the proposed mortgagee, to insure mortgage payments required by a mortgage on any
26 industrial and/or recreational project, upon such terms and conditions as the authority may
27 prescribe, provided the aggregate amount of the unpaid principal balance of all obligations of all
28 mortgages so insured outstanding at any one time shall not exceed eighty million dollars
29 (\$80,000,000).

30 (b) To be eligible for insurance under the provisions of this chapter a mortgage shall:

31 (1) Be one which is made to and held by a mortgagee approved by the authority;

32 (2) Involve a principal obligation, including initial service charges and appraisal,
33 inspection and other fees approved by the authority, not to exceed five million dollars
34 (\$5,000,000) for any one project and not to exceed ninety percent (90%) of the cost of any project

1 described in § 42-34-6(3)(a) and not to exceed eighty percent (80%) of the cost of any project
2 described in § 42-34-6(3)(b), and not to exceed seventy-five percent (75%) of the cost of any
3 project described in § 42-34-6(4);

4 (3) Have a maturity date satisfactory to the authority but in no case later than twenty-five
5 (25) years from the date of the mortgage for any project described in § 42-34-6(3)(a) and (4) and
6 twenty (20) years from the date of the mortgage for any project described in § 42-34-6(3)(b);

7 (4) Contain complete amortization provisions satisfactory to the authority requiring
8 periodic payments, costs of local property taxes and assessments, land lease rentals, if any, and
9 hazard insurance on the property and such mortgage insurance premiums as are required under §
10 42-34-11, all as the authority shall from time to time prescribe or approve;

11 (5) Be in such form and contain such terms and provisions, with respect to property,
12 insurance, repairs, alterations, payment of taxes and assessments, restrictions as to location of
13 machinery and equipment, default reserves, delinquency charges, default remedies, anticipation
14 of maturity, additional and secondary liens, and other matters as the authority may prescribe. No
15 mortgage for any project described in § 42-34-6(4) shall be insured under the provisions of this
16 chapter unless the authority shall have made affirmative determinations in accordance with
17 subdivisions (15) and (16) of § 42-34-7.

18 SECTION 35. Section 42-35-11 of the General Laws in Chapter 42-35 entitled
19 “Administrative Procedures” is hereby amended to read as follows:

20 **42-35-11. Examination of evidence by agency.** – (a) Whenever in a contested case a
21 majority of the officials of the agency who are to render the final decision have not heard the case
22 or read the record, the decision, if adverse to a party to the proceeding other than the agency
23 itself, shall not be made until a proposal for decision is served upon the parties, and an
24 opportunity is afforded to each party adversely affected to file exceptions and present briefs and
25 oral argument to the officials who are to render the decision.

26 (b) The proposal for decision shall contain a statement of reasons and include the
27 determination of each issue of fact or law necessary to the proposed decision, prepared by the
28 person who conducted the hearing or one who has read the record. The parties by written
29 stipulation may waive compliance with this section.

30 SECTION 36. Sections 42-45-2 and 42-45-12 of the General Laws in Chapter 42-45
31 entitled “Rhode Island Historical Preservation and Heritage Commission” are hereby amended to
32 read as follows:

33 **42-45-2. Creation of commission — Members.** -- (a) There is hereby created within
34 the executive department an historical preservation and heritage commission consisting of fifteen

1 (15) members as follows:

2 (1) Ten (10) shall represent the public and shall be appointed by the governor as herein
3 provided. Of the ten (10) public members, at least one shall possess background and
4 qualifications of an historian, one an archaeologist, one an architect, or an architectural historian,
5 one a museologist, and one an anthropologist, one a landscape historian or landscape architect,
6 and one a representative of a private nonprofit historic preservation organization.

7 (2) Five (5) members shall consist of: the director of the Rhode Island Economic
8 Development Corporation; the director of the department of environmental management; the
9 associate director of administration for planning; the state building commissioner, and the state
10 historic preservation officer, each of whom shall serve as nonvoting ex-officio members.

11 (3) The governor shall appoint the public members of the commission as follows: two (2)
12 members to serve until the first day of June, 1970, three (3) members to serve until the first day of
13 June, 1971, and four (4) members to serve until the first day of June, 1972, and all members shall
14 serve until their successors are appointed and qualified.

15 (4) In the month of May, 1970, and in the month of May in each year thereafter, the
16 governor shall appoint successors to the public members of the commission whose terms shall
17 expire in that year, to hold office commencing on the first day of June in the year of appointment
18 and until the first day of June in the third year after their respective appointments or until their
19 respective successors are appointed and qualified.

20 (5) Any vacancy of a public member which may occur in the commission shall be filled
21 by appointment by the governor for the remainder of the unexpired term. All gubernatorial
22 appointments made pursuant to this subsection after the effective date of this act [July 15, 2005]
23 shall be subject to the advice and consent of the senate. No person shall be eligible for
24 appointment to the commission unless he or she is a resident of the state. Each ex-officio member
25 of the commission may designate a subordinate within his or her department or agency to
26 represent him or her at all meetings of the commission. Members of the commission shall be
27 eligible to succeed themselves.

28 (b) Members of the commission shall be removable by the governor pursuant to § 36-1-7
29 and for cause only, and any removal solely for partisan or personal reasons unrelated to capacity
30 or fitness for the office shall be unlawful.

31 **42-45-12. Eisenhower House — Rental fees.** -- (a) The Historical Preservation and
32 Heritage Commission is hereby authorized to collect rental fees for use of the Eisenhower House
33 and surrounding grounds. The rental fees shall be established by regulation. All fees collected
34 under this section shall be deposited as general revenues. The Historical Preservation and

1 Heritage Commission may require certain attendants to be present during rental hours and may
2 require the lessees to reimburse the cost of such service provided such cost reflect the actual cost
3 of the commission. The commission may also require reasonable amounts of liability insurance to
4 be obtained by the lessee.

5 (b) The Historical Preservation and Heritage Commission and the state shall not be
6 civilly liable for the acts or omissions of the lessees of the Eisenhower House.

7 SECTION 37. Section 42-46-4 of the General Laws in Chapter 42-46 entitled “Open
8 Meetings” is hereby amended to read as follows:

9 **42-46-4. Closed meetings.** – (a) By open call, a public body may hold a meeting
10 closed to the public upon an affirmative vote of the majority of its members. A meeting closed to
11 the public shall be limited to matters allowed to be exempted from discussion at open meetings by
12 § 42-46-5. The vote of each member on the question of holding a meeting closed to the public
13 and the reason for holding a closed meeting, by a citation to a subdivision of § 42-46-5(a), and a
14 statement specifying the nature of the business to be discussed, shall be recorded and entered into
15 the minutes of the meeting. No public body shall discuss in closed session any public matter
16 which does not fall within the citations to § 42-46-5(a) referred to by the public body in voting to
17 close the meeting, even if these discussions could otherwise be closed to the public under this
18 chapter.

19 (b) All votes taken in closed sessions shall be disclosed once the session is reopened;
20 provided, however, a vote taken in a closed session need not be disclosed for the period of time
21 during which its disclosure would jeopardize any strategy, negotiation or investigation undertaken
22 pursuant to discussions conducted under § 42-46-5(a).

23 SECTION 38. Sections 46-4-2, 46-4-6.2, 46-4-6.4, 46-4-6.5, 46-4-6.7, 46-4-6.8, 46-4-
24 6.9, 46-4-6.12, 46-4-6.13, 42-4-6.14, 46-4-6.15, 42-4-6.16, and 46-4-6.17 of the General Laws in
25 Chapter 46-4 entitled “Harbors and Harbor Lines” are hereby amended to read as follows:

26 **46-4-2. City and town control of harbors — Harbormasters — Extension of**
27 **Providence jurisdiction.**

28 (a) The council of any city or town is hereby authorized and empowered to appoint a
29 harbormaster for the harbors within the confines of the city or town, and to ordain and establish
30 such bylaws and ordinances and establish such fees and compensation as the city council or town
31 council may deem necessary and expedient for carrying out the provisions of this section;
32 provided, that the jurisdiction, powers, and duties of the harbormaster of the city of Providence
33 shall include all the public waters westerly of the easterly sides of the ship channels in Seekonk
34 River, Providence River and Harbor and Narragansett Bay from the Pawtucket-Providence city

1 line southerly to the point of intersection of the ship-channel side with a straight line drawn from
2 Rumstick Point on the east shore to Rocky Point on the west shore, excluding that area subject to
3 jurisdiction of the city of Cranston, pursuant to the provisions of § 46-4-5.1, and all acts of the
4 general assembly and ordinances of the city of Providence, now or hereafter passed, relative to
5 the harbor of the city of Providence, shall apply to and be in force relative to the public waters.

6 (b) The council of the town of Little Compton is hereby authorized and empowered to
7 enact ordinances to regulate or ban the setting of lobster pots, fish nets, or cribs, within the harbor
8 at Little Compton to prevent interference with the use of moorings or navigation therein;
9 provided, further, that all harbormasters shall receive education and training in first aid and CPR
10 from any entity which is authorized or licensed to conduct the training or education; provided,
11 further, that all harbormasters shall attend The Rhode Island Harbormaster Training Academy.

12 **46-4-6.2. Town of Bristol — Powers conferred.** -- (a) The provisions of § 46-22-14 or
13 any other provisions of the general laws notwithstanding and in addition to any authority and
14 powers conferred upon the town council of the town of Bristol, authority shall also be granted to
15 the town council of the town of Bristol to enact ordinances as the town council may deem
16 necessary or desirable for the enforcement and supervision of any rules and regulations
17 established by the town council governing the public waters and harbors within its jurisdiction,
18 and to regulate by ordinance the speed, management, and control of all vessels and the size, type,
19 location, and use of all anchorages and moorages within the public waters within the confines of
20 the town, including, without limiting the generality of the foregoing, the authority and power to
21 regulate waterskiing upon any of the public waters; to designate upon a map of the public waters
22 within the town the places where permanent or temporary moorings or anchorages may be
23 maintained; to assign moorings; to remove moorings; to collect fees for the use of moorings; to
24 provide for minimum mooring specifications; to provide for inspection of moorings; to provide
25 regulations for houseboats that are not self-propelled; to provide regulations for regattas, races,
26 marine parades, tournaments, and exhibitions; and to provide for the removal of wrecks or
27 derelict or abandoned boats or docks; to provide for the regulation of skin diving and scuba
28 diving; and to impose penalties for violation of the ordinances not exceeding in amount one
29 hundred dollars (\$100) or imprisonment not exceeding ten (10) days in some jail or house of
30 correction for any one offense and the fines to be recovered to the use of the town.

31 (b) No powers or duties granted herein shall be construed to abrogate the powers or
32 duties granted to the coastal resources management council as provided in chapter 23 of this title,
33 as amended.

34 **46-4-6.4. Town of North Kingstown — Powers conferred.** -- (a) The provisions of §

1 46-22-14, or any other provisions of the general laws notwithstanding, and in addition to any
2 authority and powers conferred upon the town council of the town of North Kingstown authority
3 shall also be granted to the town council of the town of North Kingstown to authorize for the
4 appointment of a harbormaster and by ordinance grant such authority as the town council may
5 deem necessary to the harbormaster for the enforcement and supervision of any ordinances, rules,
6 and regulations governing the public waters within its jurisdiction, to regulate by ordinance the
7 speed, management, and control of all vessels and the size, type, location, and use of all
8 anchorages and moorings within the public waters within the confines of the town including,
9 without limiting the generality of the foregoing, the authority and power to prohibit waterskiing
10 on any of the public waters, to provide for the regulation of skin diving, and scuba diving, to
11 designate upon a map of the public waters within the town the places where permanent or
12 temporary moorings or anchorages may be maintained, to assign moorings, to remove moorings,
13 to set and collect a fee for the use of moorings, to provide for minimum mooring specifications,
14 to provide regulations for houseboats that are not self-propelled, to provide regulations for
15 regattas, races, marine parades, tournaments, and exhibitions, to provide for the removal of
16 wrecks or derelict or abandoned boats or docks, and to impose penalties for violation of the
17 ordinances, not exceeding in amount one hundred dollars (\$100) or imprisonment not exceeding
18 ten (10) days in some jail or house of correction, for any one offense, the fines to be recovered to
19 the use of the town.

20 (b) No powers or duties granted herein shall be construed to abrogate the powers or
21 duties granted to the coastal resources management council as provided in chapter 23 of this title.

22 **46-4-6.5. Town of Tiverton — Powers conferred.** -- (a) The provisions of § 46-22-14
23 or any other provisions of the general laws notwithstanding and in addition to any authority and
24 powers conferred upon the town council of the town of Tiverton, authority shall also be granted
25 to the town council of the town of Tiverton to authorize for the appointment of a harbor
26 commission and by ordinance grant such authority as the town council may deem necessary or
27 desirable to the harbor commission for the enforcement and supervision of any ordinances, rules,
28 and regulations governing the public waters within its jurisdiction, and to regulate by ordinance
29 the speed, management, and control of all vessels and the size, type, location, and use of all
30 anchorages and moorages within the public waters within the confines of the town, including,
31 without limiting the generality of the foregoing, the authority and power to regulate waterskiing
32 upon any of the public waters; to designate upon a map of the public waters within the town the
33 places where permanent or temporary moorings or anchorages may be maintained; to assign
34 moorings; to remove moorings; to collect fees for the use of moorings; to provide for minimum

1 mooring specifications; to provide for inspection of moorings; to provide regulations for
2 houseboats that are not self-propelled; to provide regulations for regattas, races, marine parades,
3 tournaments, and exhibitions; to provide for the removal of wrecks or derelict or abandoned boats
4 or docks; to provide for the regulation of skin diving, and scuba diving; and to impose penalties
5 for violation of the ordinances not exceeding in amount one hundred dollars (\$100) or
6 imprisonment not exceeding ten (10) days in some jail or house of correction for any one offense
7 and the fines to be recovered to the use of the town.

8 (b) No powers or duties granted herein shall be construed to abrogate the powers or
9 duties granted to the coastal resources management council as provided in chapter 23 of this title,
10 as amended.

11 **46-4-6.7. Town of Little Compton — Powers conferred.** -- (a) The provisions of §
12 46-22-14, or any other provisions of the general laws notwithstanding, and in addition to any
13 authority and powers conferred upon the town council of the town of Little Compton, authority
14 shall also be granted to the town council of the town of Little Compton to enact ordinances as the
15 town council may deem necessary or desirable for the enforcement of any rules and regulations
16 established by the town council governing the public waters within its jurisdiction, and to regulate
17 by ordinance the speed, management, and control of all vessels and objects and the size, type,
18 location, and use of all anchorages and moorages within the public waters within the confines of
19 the town, including, without limiting the generality of the foregoing, the authority and power to
20 regulate waterskiing upon any of the public waters; to designate upon a map of the public waters
21 within the town the places where permanent or temporary moorings or anchorages may be
22 maintained; to assign moorings; to remove moorings; to collect fees for the use of moorings, the
23 fees to be recovered for use by the town of Little Compton; to provide for minimum mooring
24 specifications, to provide for inspection of moorings; to provide regulations for houseboats that
25 are not self-propelled; to regulate the location and placement of lobster pots, fish traps, and other
26 fishing gear; to provide regulations for regattas, races, marine parades, tournaments, and
27 exhibitions; to provide for the removal of wrecks and derelicts or abandoned boats or docks; to
28 provide for the regulation of skin diving and scuba diving; to prevent littering and pollution of its
29 public waters; and to impose penalties for violation of the ordinances not exceeding in amount
30 one hundred dollars (\$100) or imprisonment not exceeding ten (10) days in some jail or house of
31 correction for any one offense and the fines to be recovered to the use of the town.

32 (b) No powers or duties granted herein shall be construed to abrogate the powers or
33 duties granted to the coastal resources management council as provided in chapter 23 of this title.

34 **46-4-6.8. Town of Narragansett — Powers conferred.** -- (a) The provisions of § 46-

1 22-14 or any other provisions of the general laws notwithstanding and in addition to any authority
2 and powers conferred upon the town council of the town of Narragansett, authority shall also be
3 granted to the town council of the town of Narragansett to authorize the appointment of a
4 harbormaster, assistant harbormasters, and a Harbor Management Committee and to enact such
5 ordinances as the town council may deem necessary or desirable for the enforcement and
6 supervision of any ordinances, rules, and regulations governing the public waters within its
7 jurisdiction, to regulate by ordinance the speed, management, and control of all vessels and the
8 size, type, location, and use of all anchorages and moorings within the public waters within the
9 confines of the town including, without limiting the generality of the foregoing, the authority and
10 power to prohibit waterskiing of any of the public waters, to provide for the regulation of skin
11 diving, and scuba diving, to designate upon a map of the public waters within the town the places
12 where permanent or temporary moorings or anchorages may be maintained, to assign moorings,
13 to remove moorings, to set and collect a fee for the use of moorings, to provide for minimum
14 mooring specifications, to provide regulations for houseboats that are not self-propelled, to
15 provide regulations for regattas, races, marine parades, tournaments, and exhibitions, to provide
16 for the removal of wrecks or derelicts or abandoned boats or docks, and to impose penalties for
17 violation of the ordinances, not exceeding in amount one hundred dollars (\$100) or imprisonment
18 not exceeding ten (10) days for any one offense, the fines to be recovered to the use of the town.
19 The town council shall also have the authority to recover the cost of removing any wreck or
20 derelicts or abandoned boats or docks from the owner or persons responsible for the wrecks,
21 derelicts, abandoned boats, or docks by suit in either the district court or the superior court of
22 Washington County.

23 (b) No powers or duties granted herein shall be construed to abrogate the powers or
24 duties granted to the coastal resources management council as provided in chapter 23 of this title.

25 **46-4-6.9. Town of Jamestown — Powers conferred.** -- (a) The provisions of § 46-22-
26 14, or any other provisions notwithstanding, and in addition to any authority and powers
27 conferred upon the town council of the town of Jamestown, authority shall also be granted to the
28 town council of the town of Jamestown to enact ordinances as the town council may deem
29 necessary or desirable for the enforcement and supervision of any rules and regulations
30 established by the town council governing the public waters within its jurisdiction, and to regulate
31 by ordinance the speed, management, and control of all vessels and the size, type, location, and
32 use of all anchorages and moorages within the public waters within the confines of the town,
33 including, without limiting the generality of the foregoing, the authority and power to regulate
34 waterskiing upon any of the public waters; to designate upon a map of the public waters within

1 the town the places where permanent or temporary moorings or anchorages may be maintained;
2 to assign moorings; to remove moorings; to collect fees for the use of moorings; to provide for
3 minimum mooring specifications; to provide for inspection of moorings; to provide regulations
4 for houseboats that are not self-propelled; to provide regulations for regattas, races, marine
5 parades, tournaments, and exhibitions; to provide for the removal of wrecks or derelict or
6 abandoned boats or docks; to provide for the regulation of skin diving and scuba diving; and to
7 impose penalties for violation of the ordinances not exceeding in amount one hundred dollars
8 (\$100) or imprisonment not exceeding ten (10) days in some jail or house of correction for any
9 one offense and the fines to be recovered to the use of the town.

10 (b) No powers or duties granted herein shall be construed to abrogate the powers or
11 duties granted to the coastal resources management council as provided in chapter 23 of this title,
12 as amended.

13 **46-4-6.12. Town of Middletown — Powers conferred.** -- (a) The provisions of § 46-
14 22-14, or any other provisions of the general laws notwithstanding, and in addition to any
15 authority and powers conferred upon the town council of the town of Middletown, authority shall
16 also be granted to the town council of the town of Middletown to authorize for the appointment of
17 a harbor master and by ordinance grant such authority as the town council may deem necessary to
18 the harbor master for the enforcement and supervision of any ordinances, rules, and regulations
19 governing the public waters within its jurisdiction, to regulate by ordinance the speed,
20 management, and control of all vessels, both wind and power, and the number, size, type,
21 location, and use of all anchorages and moorings within the public waters within the confines of
22 the town including, without limiting the generality of the foregoing, the authority and power to
23 prohibit waterskiing on any of the public waters, to provide for the regulation of skin diving and
24 scuba diving, to designate upon a map of the public waters within the towns the places where
25 permanent or temporary moorings or anchorages may be maintained, to assign moorings, to
26 remove moorings, to set and collect a fee for the use of moorings, to provide for minimum
27 mooring specifications, to provide regulations for houseboats that are not self-propelled, to
28 provide regulations for regattas, races, marine parades, tournaments, and exhibitions, to provide
29 for the removal of wrecks or derelict or abandoned boats or docks, and to impose penalties for
30 violation of the ordinances, not exceeding in amount one hundred dollars (\$100) or imprisonment
31 not exceeding ten (10) days in some jail or house of correction, for any one offense, the fines to
32 be recovered to the use of said town.

33 (b) No powers or duties granted herein shall be construed to abrogate the powers or
34 duties granted to the coastal resources management council as provided in chapter 23 of this title.

1 **46-4-6.13. Town of Portsmouth — Powers conferred.** -- (a) The provisions of § 46-
2 22-14 or any other provisions of the general laws notwithstanding, and in addition to any
3 authority and powers conferred upon the town council of the town of Portsmouth authority shall
4 also be granted to the town council of the town of Portsmouth to authorize for the appointment of
5 a harbor master and by ordinance grant such authority as the town council may deem necessary to
6 the harbor master for the enforcement and supervision of any ordinances, rules, and regulations
7 governing the public waters within its jurisdiction, to regulate by ordinance the speed,
8 management, and control of all vessels, both wind and power, and the number, size, type,
9 location, and use of all anchorages and moorings within the public waters within the confines of
10 the town, including, without limiting the generality of the foregoing, the authority and power to
11 prohibit waterskiing on any of the public waters, to provide for the regulation of skin diving and
12 scuba diving, to designate upon a map of the public waters within the town the places where
13 permanent or temporary moorings or anchorages may be maintained, to assign moorings, to
14 remove moorings, to set and collect a fee for the use of moorings, to provide for minimum
15 mooring specifications, to provide regulations for houseboats that are not self-propelled, to
16 provide regulations for regattas, races, marine parades, tournaments, and exhibitions, to provide
17 for the removal of wrecks or derelict or abandoned boats or docks, and to impose penalties for
18 violation of the ordinances, not exceeding in amount one hundred dollars (\$100) or imprisonment
19 not exceeding ten (10) days in some jail or house of correction, for any one offense, the fines to
20 be recovered to the use of the town.

21 (b) No powers or duties granted herein shall be construed to abrogate the powers or
22 duties granted to the coastal resources management council as provided in chapter 23 of this title
23 and, further, the provisions of this section shall not affect the location or assignment of any
24 moorings existing on June 27, 1986, except that those deemed by the harbor master to be located
25 at an unacceptable site shall be moved should he or she so order.

26 **46-4-6.14. Town of East Greenwich — Powers conferred.** -- (a) The provisions of §
27 46-22-14, or any other provisions of the general laws notwithstanding, and in addition to any
28 authority and powers conferred upon the town council of the town of East Greenwich, authority
29 shall also be granted to the town council of the town of East Greenwich to authorize for the
30 appointment of a harbor master and by ordinance grant such authority as the town council may
31 deem necessary to the harbor master for the enforcement and supervision of any ordinances,
32 rules, and regulations governing the public waters within its jurisdiction, to regulate by ordinance
33 the speed, management, and control of all vessels, both wind and power, and the number, size,
34 type, location, and use of all anchorages and moorings within the public waters within the

1 confines of the town including, without limiting the generality of the foregoing, the authority and
2 power to prohibit waterskiing on any of the public waters, to provide for the regulation of
3 skindiving and scubadiving, to designate upon a map of the public waters within the town the
4 places where permanent or temporary moorings or anchorages may be maintained, to assign
5 moorings, to remove moorings, to set and collect a fee for the use of moorings, to provide for
6 minimum mooring specifications, to provide regulations for houseboats that are not self-
7 propelled, to provide regulations for regattas, races, marine parades, tournaments, and
8 exhibitions, to provide for the removal of wrecks or derelict or abandoned boats or docks, and to
9 impose penalties for violation of the ordinances, not exceeding in amount one hundred dollars
10 (\$100) or imprisonment not exceeding ten (10) days in some jail or house of correction, for any
11 one offense, the fines to be recovered to the use of the town.

12 (b) No powers or duties granted herein shall be construed to abrogate the powers or
13 duties granted to the coastal resources management council as provided in chapter 23 of this title.

14 **46-4-6.15. Town of Cranston — Powers conferred.** -- (a) The provisions of § 46-22-
15 14, or any other provisions of the general laws notwithstanding, and in addition to any authority
16 and powers conferred upon the city council of the city of Cranston, authority shall also be granted
17 to the city council of the city of Cranston to authorize for the appointment of a harbor master and
18 by ordinance grant such authority as the said city council may deem necessary to the harbor
19 master for the enforcement and supervision of any ordinances, rules and regulations governing
20 the public waters within its jurisdiction, to regulate by ordinance the speed, management and
21 control of all vessels, both wind and power, and the number, size, type, location and use of all
22 anchorages and moorings within the public waters within the confines of the city including,
23 without limiting the generality of the foregoing, the authority and power to prohibit waterskiing
24 on any of the public waters, to provide for the regulation of skin diving and scuba diving, to
25 designate upon a map of the public waters within the city the places where permanent or
26 temporary moorings or anchorages may be maintained, to assign moorings, to remove moorings,
27 to set and collect a fee for the use of moorings, to provide for minimum mooring specifications,
28 to provide regulations for houseboats that are not self-propelled, to provide regulations for
29 regattas, races, marine parades, tournaments, and exhibitions, to provide for the removal of
30 wrecks or derelict or abandoned boats or docks, and to impose penalties for violation of the
31 ordinances, not exceeding in an amount of one hundred dollars (\$100) or imprisonment not
32 exceeding ten (10) days in some jail or house of correction, for any one offense, the fines to be
33 recovered to the use of the city.

34 (b) No powers or duties granted herein shall be construed to abrogate the powers or

1 duties granted to the coastal resources management council as provided in chapter 23 of this title.

2 **46-4-6.16. Town of Warren — Powers conferred.** -- (a) The provision of § 46-22-14
3 or any other provisions of the general laws notwithstanding and in addition to any authority and
4 powers conferred upon the town council of the town of Warren, authority shall also be granted to
5 the town council of the town of Warren to authorize for the appointment of a harbor master and
6 by ordinance grant such authority as the town council may deem necessary to the harbor master
7 for the enforcement and supervision of any ordinances, rules, and regulations governing the
8 public waters within its jurisdiction, to regulate by ordinance the speed, management, and control
9 of all vessels, both wind and power, and the number, size, type, location, and use of all
10 anchorages and moorings within the public waters within the confines of the town including,
11 without limiting the generality of the foregoing, the authority and power to prohibit waterskiing
12 on any of the public waters, to provide for the regulation of skin diving and scuba diving, to
13 designate upon a map of the public waters within the town the places where permanent or
14 temporary moorings or anchorages may be maintained, to assign moorings, to remove moorings,
15 to set and collect a fee for the use of moorings, to provide for minimum mooring specifications,
16 to provide regulations for houseboats that are not self-propelled, to provide regulations for
17 regattas, races, marine parades, tournaments, and exhibitions, to provide for the removal of
18 wrecks or derelict or abandoned boats or docks, and to impose penalties for violation of the
19 ordinances, not exceeding in amount one hundred dollars (\$100) or imprisonment not exceeding
20 ten (10) days in some jail or house of correction, for any one offense, the fines to be recovered to
21 the use of said town.

22 (b) No powers or duties granted herein shall be construed to abrogate the powers or
23 duties granted to the coastal resources management council as provided in chapter 23 of this title.

24 **46-4-6.17. Town of Westerly — Powers conferred.** -- (a) The provisions of § 46-22-
25 14, or any other provisions of the general laws notwithstanding, and in addition to any authority
26 and powers conferred upon the town council of the town of Westerly, authority shall also be
27 granted to the town council of the town of Westerly to authorize for the appointment of a harbor
28 master and by ordinance grant such authority as the town council may deem necessary to the
29 harbor master for the enforcement and supervision of any ordinances, rules, and regulations
30 governing the public waters within its jurisdiction, to regulate by ordinance the speed,
31 management, and control of all vessels, both wind and power, and the number, size, type,
32 location, and use of all anchorages and moorings within the public waters within the confines of
33 the town including, without limiting the generality of the foregoing, the authority and power to
34 prohibit water-skiing on any of the public waters, to provide for the regulation of skin diving and

1 scuba diving, to designate upon a map of the public waters within the towns the places where
2 permanent or temporary moorings or anchorages may be maintained, to assign moorings, to
3 remove moorings, to set and collect a fee for the use of moorings, to provide for minimum
4 mooring specifications, to provide regulations for houseboats that are not self-propelled, to
5 provide regulations for regattas, races, marine parades, tournaments, and exhibitions, to provide
6 for the removal of wrecks or derelict or abandoned boats or docks, and to impose penalties for
7 violation of the ordinances, not exceeding in amount one hundred dollars (\$100) or imprisonment
8 not exceeding ten (10) days in some jail or house of correction, for any one offense, the fines to
9 be recovered to the use of said town.

10 (b) No powers or duties granted herein shall be construed to abrogate the powers or
11 duties granted to the coastal resources management council as provided in chapter 23 of this title.

12 SECTION 39. Sections 46-5-1.1 and 46-5-12 of the General Laws in Chapter 46-5
13 entitled "Construction of Port Facilities" are hereby amended to read as follows:

14 **46-5-1.1. Permission to conduct filling activity distinguished from grants of rights**

15 **and property interest in the filled area.** -- (a) It is the policy of the state of Rhode Island that
16 the state's permission to fill tidelands is separate and distinct from the state's granting of a right,
17 title, or interest in and to the resulting filled area. Furthermore, it is the policy of the state of
18 Rhode Island that the state permission to use tidal lands is separate and distinct from the state's
19 conveyance of its fee title estate, or any real estate interest, in the tidal lands. Any title to a free
20 hold estate may be conveyed only by a valid legislative grant for public trust purposes by direct
21 enactment of the general assembly as specified in this chapter. Moreover, any leasehold interest
22 or license to use those lands may only arise under the authority of the general assembly whether
23 exercised by the general assembly itself or exercised pursuant to a valid delegation to a duly
24 authorized instrumentality of the state. Any state permission to use tidal lands belonging to the
25 state shall be deemed to create only a revocable license interest unless a greater interest is clearly
26 intended by the permission and the requirements of this chapter for the creation of that greater
27 interest are met.

28 (b) It is intended that there shall be no acquiring of any right or title whatsoever to these
29 public lands by adverse possession or by a acquiescence of the sovereign. It is further intended
30 that there shall be no acquiring of any right or title to any freehold estate to these public lands by
31 any permit or approval to conduct fill activity, however denominated or manifested, or by any
32 other means, including through the leasing and licensing of these public lands, except solely by
33 grant and enactment of the general assembly as provided in this chapter for a use that benefits the
34 public under the public trust doctrine. Without impairing any right, title, or interest that may have

1 previously vested, any placement of fill to a harbor line or other filling of tidal lands, which has
2 not been commenced and completed as of the date of the enactment of this section, [July 18,
3 2000] shall not be effective as conveying the state's title nor as a limitation on the public trust.

4 (c) Nothing in this section shall be construed to limit, impair, increase, or add to the
5 ownership rights or title in any filled lands which vested prior to the enactment of this section
6 [July 18, 2000].

7 **46-5-12. Rules and regulations — Penalty for violation.** -- (a) The director shall
8 establish and enforce such proper rules and regulations for the government and proper care of all
9 the property acquired under this chapter, whether improved or unimproved, as the director shall
10 deem best, and shall furnish a copy of the rules and regulations to all persons using or occupying
11 the land, property, or any portion thereof, and shall make all needful orders necessary to carry out
12 the provisions of this chapter, and shall fix penalties for disobeying the rules, regulations, or
13 orders, and shall also file in his or her office a copy of all rules, regulations, and orders adopted
14 by the director.

15 (b) Any person who shall violate any rule, regulation, or order of the department, a copy
16 thereof shall have been theretofore filed in the office of the director of environmental
17 management, shall, upon conviction thereof, be fined not exceeding five hundred dollars (\$500),
18 or imprisoned not exceeding thirty (30) days, or both, in the discretion of the court.

19 SECTION 40. Sections 46-6.1-4, 46-6.1-5, 46-6.1-7, and 46-6.1-9 of the General Laws
20 in Chapter 46-6.1 entitled "Maintenance of Marine Waterways and Boating Facilities" are hereby
21 amended to read as follows:

22 **46-6.1-4. Definitions.** -- For the purposes of this chapter, the following terms shall mean:

23 (1) "Beneficial use" ~~shall mean~~ means the placement or use of dredged material for some
24 productive purpose, and shall include, but not be limited to, uses such as beach nourishment,
25 habitat creation and enhancement, brownfields redevelopment, landscaping, construction projects,
26 and landfill cover.

27 (2) "Coastal zone" ~~shall mean~~ means the coastal waters of the state and adjacent lands
28 and other areas that are under the regulatory jurisdiction of the coastal resources management
29 council pursuant to chapter 23 of this title or the federal Coastal Zone Management Act [16
30 U.S.C. § 1451 et seq.].

31 (3) "Council" ~~shall mean~~ means the coastal resources management council.

32 (4) "Dewatering" ~~shall mean~~ means actively or passively removing water from dredged
33 material to facilitate its beneficial use or disposal.

34 (5) "Department" ~~shall mean~~ means the department of environmental management.

1 (6) "Director" ~~shall-mean~~ means the director of the department of environmental
2 management.

3 (7) "Disposal" ~~shall-mean~~ means nontemporary relocation and placement of dredged
4 material other than a beneficial use.

5 (8) "Disposal site" ~~shall-mean~~ means a precise geographic area within which dredged
6 material is disposed.

7 (9) "Dredged material" ~~shall-mean~~ means material excavated from the waters of the state,
8 including rock, gravel, sand, clay, silt, mud, organic material, and material discarded by humans.

9 (10) "Executive director" ~~shall-mean~~ means the executive director of the coastal resources
10 management council.

11 (11) "Habitat" ~~shall-mean~~ means the specific area or environment in which a particular
12 plant or animal lives.

13 (12) "Person" ~~shall-mean~~ means any individual, group of individuals, firm, corporation,
14 association, partnership or private or public entity, including a district, county, city, town, or other
15 governmental unit or agent thereof, and in the case of a corporation, any individual having active
16 and general supervision of the properties of such corporation.

17 (13) "Site" ~~shall-mean~~ means all contiguous land, structures, and appurtenances and
18 improvements.

19 (14) "Site operator" ~~shall-mean~~ means the person who is responsible for the operation of
20 activities at a beneficial use, dewatering, or disposal site for dredged materials.

21 (15) "Site owner" ~~shall-mean~~ means the person who owns all or a part of a beneficial use,
22 dewatering, or disposal site for dredged materials.

23 (16) "Upland areas" ~~shall-mean~~ means areas that are not in the coastal zone.

24 **46-6.1-5. Comprehensive plan for dredged material management.** -- (a) The council
25 shall prepare, adopt and maintain, pursuant to § 46-23-1(e), a comprehensive plan for dredged
26 material management for dredging that takes place in the coastal zone. The plan shall include,
27 among other matters:

28 (1) Coastal zone and upland areas that are deemed suitable, depending on the nature and
29 characteristics of the dredged material, for the beneficial use and disposal of dredged material;

30 (2) Approved sites and/or types of areas suitable for dewatering; and

31 (3) Protocols for monitoring dredged material disposal sites in the coastal zone.

32 (b) The director shall by January 31, 2002, adopt by rule a list of upland sites and types
33 of areas suitable for beneficial use and disposal of dredged materials, and shall adopt such
34 revisions as may be necessary to the list no less frequently than biennially thereafter, which list

1 shall be incorporated in the comprehensive plan for dredged material management.

2 **46-6.1-7. Applications for approval of dredging, beneficial use, and disposal.** -- (a)

3 Any person proposing to dredge in the coastal zone, or to dewater or to engage in the beneficial
4 use or disposal of dredged material from the coastal zone, shall be required to obtain approval
5 from the council, and from the department pursuant to § 42-17.1-24 as appropriate, before
6 undertaking such activity. An application for approval or approvals shall be made to the council
7 and shall include, among any other matters that may be required, a statement of how it addresses
8 the priorities for dredged material management set forth in § 46-6.1-2 and of how it is consistent
9 with a plan adopted by the council pursuant to § 46-6.1-5. Any application for maintenance
10 dredging of dredged material that is suitable for in-water disposal or appropriate for a beneficial
11 use provided for in the comprehensive plan for dredged material management shall be considered
12 as having the priority assigned to a project of critical economic concern pursuant to chapter 117
13 of title 42 and shall be provided, in order to accomplish the purpose set forth in § 46-6.1-2(2),
14 expeditious agency review according to procedures established under § 42-117-8, as appropriate.

15 (b) Notwithstanding the provisions of any rule, resolution, or ordinance, adopted under §
16 31-25-26, to the contrary, approval by the council shall constitute approval to operate appropriate
17 motor vehicles in a manner necessary to implement the provisions of an approved application.

18 **46-6.1-9. Cooperation of other agencies.** -- (a) In order to accomplish the purposes of
19 this chapter to provide for beneficial use, dewatering, and disposal of dredged material:

20 (1) State agencies, departments, corporations, authorities, boards, commissions,
21 including, but not limited to, the department of administration, the department of transportation,
22 the clean water finance agency, the economic development corporation, the Narragansett Bay
23 commission, and the Rhode Island resource recovery corporation, and political subdivisions, shall
24 cooperate with the council in developing and implementing the comprehensive plan for dredged
25 material management;

26 (2) The council shall seek federal acceptance of the comprehensive plan for dredged
27 material management as an element of the state's coastal zone management program and shall
28 pursue such federal approvals and general permits as may facilitate expeditious action on
29 dredging applications that are consistent with the plan;

30 (3) The economic development corporation shall:

31 (i) Make available by October 31, 2004, a site to use as a dewatering site for dredged
32 material, which site shall be available for dewatering dredged material until at least September
33 30, 2012, and may continue to be available thereafter for periods of not less than six (6) months,
34 upon the request of the council and the approval of the corporation; and

1 (ii) With advice from the council and the department, develop and implement a program
2 to market dredged material for beneficial use by private persons, including but limited to
3 brownfield reclamation projects; and

4 (4) The council, with the cooperation of the department and the Rhode Island clean water
5 finance agency, shall develop a proposal for a fund, which may be used as provided for in § 46-
6 12.2-4.1, to support projects for dewatering dredged material for beneficial use and disposal of
7 dredged material at sites above mean high water and for confined aquatic disposal of dredged
8 materials, which proposal shall be submitted to the general assembly not later than February 15,
9 2002.

10 (b) The fund shall not be established or go into effect unless it has been approved by the
11 general assembly.

12 SECTION 41. Section 46-12-7 of the General Laws in Chapter 46-12 entitled “Water
13 Pollution” is hereby amended to read as follows:

14 **46-12-7. Subpoena of witnesses — Enforcement.** -- (a) All subpoenas shall be served
15 as subpoenas in civil cases in superior court, and witnesses so subpoenaed shall be entitled to the
16 same fees for attendance and travel as are provided witnesses in civil cases in superior court. In
17 cases of contumacy or refusal to obey the command of the subpoena so issued, the superior court
18 shall have jurisdiction upon application of the director, with proof by affidavit of the fact, to issue
19 a rule or order returnable in not less than two (2) nor more than five (5) days directing the person
20 to show cause why he or she should not be adjudged in contempt.

21 (b) Upon return of the order, the justice before whom the matter is brought for hearing
22 shall examine under oath the person, and the person shall be given an opportunity to be heard,
23 and if the justice shall determine that the person has refused without reasonable cause or legal
24 excuse to be examined or to answer a legal or pertinent question, the justice may impose a fine
25 upon the offender or forthwith commit the offender to the adult correctional institutions, there to
26 remain until the offender submits to do the act which the offender was so required to do, or is
27 discharged according to law.

28 SECTION 42. Section 46-12.5-2 of the General Laws in Chapter 46-12.5 entitled “Oil
29 Pollution Control” is hereby amended to read as follows:

30 **46-12.5.1-2. Powers and duties of the director.** -- (a) In addition to the other powers
31 granted the director of environmental management, the director shall have and may exercise these
32 powers and duties:

33 (a)(1) To exercise general supervision of the administration and enforcement of this
34 chapter and all rules and regulations and orders promulgated hereunder;

1 ~~(2)~~(2) To promulgate rules and regulations for the transportation of oil on the waters and
2 over the land of this state; for the emergency response for the containment, cleanup, and
3 abatement of a discharge of oil; for the assessment of penalties and recovery of costs and of
4 damages as set forth in this chapter; and for any other procedures necessary for the
5 implementation of this chapter;

6 ~~(3)~~(3) To promulgate rules and regulations for oil discharge contingency plans. The rules
7 and regulations may at the minimum:

8 ~~(i)~~(i) Prohibit the transfer of oil to or from a tank vessel or oil barge without an oil
9 discharge contingency plan that the appropriate authority has approved;

10 ~~(ii)~~(ii) Require proof of financial responsibility by the owner or operator of the tank
11 vessel or oil barge; and

12 ~~(iii)~~(iii) Address catastrophic oil discharges.

13 ~~(4)~~(4) To exercise all incidental powers necessary to carry out the purposes of this
14 chapter;

15 ~~(b)~~(b) Nothing in this chapter shall be construed to abridge the powers and duties of the
16 director over water pollution, including the discharge of oil, as established in this title, or in
17 chapter 17.1 or 35 of title 42, or in title 23.

18 SECTION 43. Sections 46-12.7-3.1, 46-12.7-4.1, and 64-12.7-8.1 of the General Laws in
19 Chapter 46-12.7 entitled “Oil Spill Prevention, Administration and Response Fund” are hereby
20 amended to read as follows:

21 **46-12.7-3.1. Financing of the fund.** -- The fund shall consist of the following sources:

22 (1) Sums the legislature may appropriate;

23 (2) Moneys received from federal, state, or other sources for the purpose of response,
24 containment, abatement, rehabilitation, and monitoring costs from an oil spill in marine or
25 estuarine waters;

26 (3) Moneys received from any private donor for the oil spill prevention, administration,
27 and response fund;

28 (4) Costs recovered or otherwise received from parties responsible for the containment
29 and cleanup of oil at a specific site, but excluding funds from performance bonds and other forms
30 of financial responsibility held in escrow pending satisfactory performance of a privately funded
31 response action;

32 (5) Fines, penalties, or damages recovered under any sections of this chapter, chapter
33 12.5 of this title, or other law as a result of the release or threatened release of oil;

34 (6) The fee required pursuant to § ~~46-12.7-4.1~~; and

1 (7) Any interest earned on the moneys in the fund.

2 **46-12.7-4.1. Uniform oil response and prevention fee. --**

3 (a) A uniform oil spill response and prevention fee in an amount not exceeding five cents
4 (\$.05) for each barrel of petroleum products, as set by the director pursuant to subsection (d) of
5 this section, shall be imposed upon every person owning petroleum products at the time the
6 petroleum products are received at a marine terminal within this state by means of a vessel from a
7 point of origin outside this state. The fee shall be remitted to the division of taxation on the 30th
8 day of each month based upon the number of barrels of petroleum products received during the
9 preceding month.

10 (b) Every owner of petroleum products shall be liable for the fee until it has been paid to
11 the state, except that payment to a marine terminal operator registered under this chapter is
12 sufficient to relieve the owner from further liability for the fee; provided, however that the fee for
13 asphalt products and asphalt derivatives shall be one cent (\$.01) per barrel of asphalt products or
14 derivatives.

15 (c) Whenever the director, in consultation with the department and the division of
16 taxation, estimates that the amount in the fund will reach the amount specified in subsection (e) of
17 this section, and the money in the fund is not required for the purposes specified in § 46-12.7-5.1,
18 the director shall instruct the division of taxation to cease collecting the fee.

19 (d) The director shall set the amount of the oil spill prevention and response fees. The
20 administrator, except for the fee set out in subsection (b), shall not set the amount of the fee at
21 less than five cents (\$.05) for each barrel of petroleum products or crude oil, unless the director
22 finds that the assessment of a lesser fee will cause the fund to reach the designated amount within
23 six (6) months.

24 (e) For the purposes of this chapter, "designated amount" means an amount equal to ten
25 million dollars (\$10,000,000), adjusted for inflation after January 1, 1998, according to an index
26 which the director may reasonably choose.

27 (f) All fees collected pursuant to this section shall be deposited in the oil spill prevention,
28 administration, and response fund, and shall be disbursed according to the purposes expressed in
29 § 46-12.7-5.1.

30 (g) Notwithstanding the provisions of subsection (f) of this section, ~~on July 1, 2002, July~~
31 ~~1, 2004 and~~ each July 1st ~~thereafter~~, two hundred and fifty thousand dollars (\$250,000) of the
32 fees collected under this section shall be deposited into the coastal and estuarine habitat
33 restoration trust fund (the "trust").

34 **46-12.7-8.1. Expenditure of fund money. --** ~~(+)~~(a) The director may only expend

1 money from the fund for post-spill activities when a discharge of oil has occurred, or the threat of
2 a discharge has led the state to take appropriate response, or for pre-spill activities and research,
3 development, and monitoring activities if the following determinations have been made:

4 ~~(a)~~(1) A responsible party does not exist or the responsible party is unable or unwilling to
5 provide adequate and timely cleanup or to pay for the damages resulting from the spill. The
6 director shall make a reasonable effort to have the responsible party remove the oil or agree to
7 pay for any actions resulting from the spill that may be required by law.

8 ~~(b)~~(2) Federal oil spill funds are not available or will not be available in an adequate
9 period of time. Notwithstanding this paragraph, the director may expend money from the fund for
10 authorized expenditures when a reimbursement procedure is in place to receive reimbursements
11 from federal oil spill funds.

12 ~~(c)~~(b) Disbursements may be made from the fund for the following purposes:

13 ~~(a)~~(1) Administrative expenses, personnel expenses and equipment costs of the
14 department related to the enforcement of this ~~subchapter~~ chapter;

15 ~~(b)~~(2) All costs, including without limitation personnel undertaking oil spill response
16 activities and equipment expenses, involved in the removal of oil, the abatement of pollution and
17 the implementation of remedial measures including restoration of water supplies, related to the
18 release of oil, petroleum products, and their by-products;

19 ~~(c)~~(3) ~~[Deleted by P.L. 2002, ch. 62, § 2.]~~

20 ~~(d)~~(3) Payment of all damage claims awarded in accordance with this section;

21 ~~(e)~~(4) Payment of costs of arbitration and arbitrators in accordance with this section;

22 ~~(f)~~(5) Payment of costs of insurance by the state to extend or implement the benefits of
23 the fund; and

24 ~~(g)~~(6) Payment of costs for the collection of overdue reimbursements.

25 SECTION 44. Sections 46-12.8-1 and 46-12.8-13 of the General Laws in Chapter 46-
26 12.8 entitled “Water Projects Revolving Loan Fund” are hereby amended to read as follows:

27 **46-12.8-1. Legislative findings.** -- (a) It is hereby found that there exists and will in the
28 future exist within the state of Rhode Island the need to construct and reconstruct facilities related
29 to and acquire watershed protection land in connection with the provision of safe drinking water
30 throughout the state of Rhode Island.

31 (b) It is hereby further found that to provide financial assistance for the acquisition,
32 design, planning, construction, enlargement, repair, protection or improvement of public drinking
33 water supplies or treatment facilities, including any of those actions required under the federal
34 Safe Drinking Water Act of 1974, 42 U.S.C., §§ 300f — 300j-9, including the Safe Drinking

1 Water Act (SDWA) amendments of 1996 (Pub. L. 104-182) and any amendments thereto, it is
2 necessary to establish a revolving loan fund program to provide a perpetual source of low cost
3 financing for safety drinking water projects.

4 (c) It is hereby further found that to secure maximum benefit to the state from a safe
5 drinking water revolving loan fund, it is necessary to place such fund within the jurisdiction and
6 control of the Rhode Island Clean Water Protection Finance Agency, which agency presently runs
7 the state's revolving fund with respect to the state's wastewater pollution abatement program,
8 which agency shall exclusively administer the financing portion of the safe drinking water
9 revolving loan fund, but which shall nevertheless work, as necessary, with the department of
10 environmental management, the water resources board, the Rhode Island department of health,
11 the division of public utilities and carriers and any other agency or instrumentality of the state or
12 federal government with responsibility for the development or supervision of water supply
13 facilities within the state.

14 **46-12.8-13. Bonds eligible for investment.** -- Bonds issued by the agency under this
15 chapter and local governmental obligations issued hereunder are hereby made securities in which
16 all public officers and agencies of the state and its political subdivisions, all insurance companies,
17 trust companies in their commercial departments, savings banks, cooperative banks, banking
18 associations, investment companies, executors, administrators, trustees, and other fiduciaries may
19 properly invest funds, including capital in their control or belonging to them. The bonds and local
20 governmental obligations are hereby made securities which may properly be deposited with and
21 received by any state or municipal officer of any agency or political subdivision of the state for
22 any purpose for which the deposit of bonds or obligations of the state or any political subdivision
23 is now or may hereafter be ~~authority~~ authorized by law.

24 SECTION 45. Sections 46-12.9-5, 46-12.9-6, 46-12.9-7, and 46-12.9-11 of the General
25 Laws in Chapter 46-12.9 entitled "Rhode Island Underground Storage Tank Financial
26 Responsibility Act" are hereby amended to read as follows:

27 **46-12.9-5. Purpose of fund.** -- (a) The purpose of the fund shall be to facilitate the
28 clean-up of releases from leaking underground storage tanks, underground storage tank systems,
29 including those located on sites or government sites in order to protect the environment including
30 drinking water supplies and public health and to take necessary action to proactively prevent such
31 releases.

32 (b) The fund shall provide reimbursement to responsible parties for the eligible costs
33 incurred by them as a result of releases of certain petroleum from underground storage tanks or
34 underground storage tank systems as provided herein. Monies in the fund shall be dispensed only

1 upon the order of the review board or its designee for the following purposes.

2 (1) The fund shall pay not more than one million dollars (\$1,000,000) per incident and up
3 to two million dollars (\$2,000,000) in the aggregate for damages of eligible costs, as defined in
4 regulations promulgated hereunder and, as further defined in § 46-12.9-3 excluding legal costs
5 and expenses, incurred by a responsible party as a result of a release of petroleum from an
6 underground storage tank or underground storage tank system; provided, however, that a
7 responsible party shall be responsible for the first twenty thousand dollars (\$20,000) of said
8 eligible costs;

9 ~~(2) [Deleted by P.L. 2001, ch. 328, § 1.]~~

10 ~~(3)~~(2) Reimbursement for any third party claim including, but not limited to, claims for
11 bodily injury, property damage and damage to natural resources which are asserted against a
12 responsible party and which have arisen as a result of a release of petroleum from an underground
13 storage tank or underground storage tank system in an amount not to exceed one million dollars
14 (\$1,000,000) for each release as set forth in subsection (2) of this section; provided, that such
15 claims are found by the review board to be justified, reasonable, related to the release of
16 petroleum and not excessive or spurious in nature; and

17 ~~(4)~~(3) Eligible costs incurred by the department in carrying out the investigative,
18 remedial and corrective action activities at sites of a petroleum release associated with an
19 underground storage tank or underground storage tank system where the responsible party fails to
20 comply with an order of the department to take such corrective action. In the event of such
21 failure, the department may access the fund to perform the ordered work and shall proceed to
22 recover from the responsible party on behalf of the fund any amount expended from the fund by
23 the department.

24 ~~(5)~~(4) Nothing contained in this chapter shall be construed to prevent subrogation by the
25 state of Rhode Island against any responsible party other than the owner and/or operator for all
26 sums of money which the fund shall be obligated to pay hereunder plus reasonable attorneys' fees
27 and costs of litigation and such right of subrogation is hereby created.

28 ~~(6) [Deleted by P.L. 2001, ch. 328, § 1.]~~

29 ~~(7)~~(5) Eligible costs incurred by the department to support the fund, including, but not
30 limited to, all personnel support to process and review of claims in order to formulate
31 recommendations for reimbursement for consideration by the review board, and providing
32 meeting space for Board meetings provided, however, that no more than five hundred and fifty
33 thousand dollars (\$550,000) shall be dispensed from the fund for administrative purposes during
34 any fiscal year. The department shall directly access the fund, pursuant to the limits set forth in §

1 46-12.9-5(1) above, to pay for such expenses.

2 ~~(8)~~(6) Grants to any third party for purposes of removal of underground storage tanks
3 and/or replacement of underground storage tanks with other fuel storage and distribution systems,
4 including aboveground storage tanks, when such removal and/or replacement will minimize the
5 potential future exposure of the fund to major expenses related to reimbursement of costs incurred
6 in response or remediation should a future release occur. Grants under this section shall be limited
7 to fifty thousand dollars (\$50,000) per site and shall be in addition to any eligible reimbursement
8 for clean up expenses at that site.

9 **46-12.9-6. Eligibility.** -- (a) In order to be eligible for reimbursement from the fund for
10 eligible costs a responsible party must be subject to financial responsibility as required by the
11 EPA (40 CFR part 280 subpart H) and:

12 (1) Have substantially complied with all state technical requirements for underground
13 storage tanks and underground storage tank systems as promulgated by the department of
14 environmental management pursuant to chapter 12 of this title and chapter 17.1 of title 42,
15 including but not limited to, requirements for registration, proper installation, spill containment,
16 line leak detection, corrosion protection, leak detection, tank tightness testing, inventory control,
17 closure and leak or spill reporting;

18 (2) Have incurred an eligible cost in excess of the deductible amount specified in § 46-
19 12.9-5(2) whether for clean-up or related matters or for claims of third parties as set forth in § 46-
20 12.9-3 resulting from a release of petroleum, subject to the motor and special fuels tax from an
21 underground storage tank or underground storage tank system. In order to apply for
22 reimbursement from the fund, it shall not be necessary that the third party and the responsible
23 party complete adjudication of any claim before submission to the review board; provided,
24 however, that all such claims shall be reasonably verified and must be demonstrated to the
25 reasonable satisfaction of the review board in order to be considered eligible for reimbursement.

26 ~~(b) [Deleted by P.L. 2001, ch. 328, § 1.]~~

27 ~~(c) [Deleted by P.L. 2001, ch. 328, § 1.]~~

28 ~~(d)~~(b) Notwithstanding the financial responsibility requirement of this section,
29 responsible parties may be eligible for reimbursement of eligible costs incurred for government
30 sites provided that:

31 (1) A city, town, the state or a state agency is the responsible party for a release at the
32 government site and was the owner of the site at the time of the release;

33 (2) A city, town, the state or a state agency is the responsible party and owner of the
34 government site at the time of application on which a release occurred prior to the city, town or

1 state agency's ownership, provided that the government entity purchased the property prior to
2 March 1, 1998; or

3 (3) A city, town, the state or a state agency was the responsible party at the time of the
4 release and the government site is owned by a successor in interest at the time of application.

5 ~~(e)~~(c) Notwithstanding the requirement that the released petroleum be subject to the
6 motor and special fuels tax, underground storage tanks containing petroleum products for which
7 the motor and special fuels tax is inapplicable including, but not limited to, underground storage
8 tanks used for the distribution of No. 2 heating oil, used/waste oil, kerosene or other materials as
9 deemed appropriate by the review board may be eligible for reimbursement with the following
10 exceptions:

11 (1) Underground storage tanks containing heating or fuel oils used solely for onsite
12 consumption shall not be eligible.

13 (2) Underground storage tanks exempted from the department's "regulations for
14 underground storage facilities used for petroleum products and hazardous materials" under
15 Section 5.03 and Section 9.01 (A-D) shall not be eligible.

16 **46-12.9-7. Rules and regulations.** -- The department is hereby authorized to promulgate,
17 implement and amend regulations, in accordance with the provisions of chapter 35 of title 42,
18 providing for the submission of claims to the fund and the timely disbursement of monies from
19 the fund. Such regulations shall include, but not be limited to, the following:

20 (1) A means of notifying all eligible parties of the existence and functioning of the fund;

21 (2) The record keeping required of eligible parties for submission to and reimbursement
22 from the fund;

23 (3) A set criteria which establishes the eligibility for reimbursement of specific costs,
24 expenses and other obligations;

25 ~~(4)~~ [Deleted by P.L. 2001, ch. 328, § 1.]

26 ~~(5)~~(4) A method of providing periodic reimbursement for eligible costs incurred by an
27 eligible party after July 8, 1994;

28 ~~(6)~~(5) A requirement that the review board render its decisions to an eligible party upon
29 the receipt of a complete claim for reimbursement within ninety (90) days following its receipt of
30 completed claim;

31 ~~(7)~~(6) Establishing procedures for verifying claims presented under this chapter;

32 ~~(8)~~(7) Establishing procedures for approving, modifying or denying claims;

33 ~~(9)~~(8) The eligibility of claims shall be determined by the review board, provided
34 however, that no claims shall be considered for costs incurred prior to January 1, 1994 by

1 responsible parties who are owners or operators of no more than one location containing
2 underground storage tanks and July 8, 1994 by all other responsible parties.

3 ~~(10)~~(9) Empowering the department to recognize and arrange for performance-based and
4 other contracts with the responsible party and contractor for the remediation of a release.

5 ~~(11)~~(10) Empowering the department to arrange for the establishment of alternate means
6 of financial responsibility.

7 **46-12.9-11. Fundings.** -- (a) There is hereby imposed an environmental protection
8 regulatory fee of at the rate of one cent (\$0.01) per gallon payable of motor fuel, to be collected
9 by distributors of motor fuel when the product is sold to owners and/or operators of underground
10 storage tanks. Each distributor shall be responsible to the tax administrator for the collection of
11 the regulatory fee, and if the distributor is unable to recover the fee from the person who ordered
12 the product, the distributor shall nonetheless remit to the tax administrator the regulatory fee
13 associated with the delivery. In accordance with the regulations to be promulgated hereunder, the
14 fee shall be collected, reported, and paid to the Rhode Island division of taxation as a separate
15 line item entry, on a quarterly tax report by those persons charged with the collection, reporting,
16 and payment of motor fuels taxes. This fee shall be administered and collected by the division of
17 taxation. Notwithstanding the provisions of this section, the fee shall not be applicable to
18 purchases by the United States government.

19 ~~(b) [As amended by P.L. 2006, ch. 44, § 1, effective January 1, 2006, until July 1, 2006.]~~
20 ~~All fees derived under the provisions of this chapter, including tank registration fees assessed~~
21 ~~pursuant to § 46-12.9-7(9), shall be paid to and received by the review board, which shall keep~~
22 ~~such money in a distinct interest bearing restricted receipt account to the credit of and for the~~
23 ~~exclusive use of the fund provided that for the period January 1, 2006 through June 30, 2006, all~~
24 ~~revenues generated by the environmental protection regulatory fee up to a maximum of two~~
25 ~~million dollars (\$2,000,000) shall be deposited into the general fund. All fees collected may be~~
26 ~~invested as provided by law and all interest received on such investment shall be credited to the~~
27 ~~fund.~~

28 ~~(b) [As redesignated by P.L. 2006, ch. 246, art. 27, § 3, effective July 1, 2006.]~~ When
29 the fund reaches the sum of eight million dollars (\$8,000,000), the imposition of the fee set forth
30 in this chapter shall be suspended, and the division of taxation shall notify all persons responsible
31 for the collection, reporting and payments of the fee of the suspension. In the event that the
32 account balance of the fund subsequently is reduced to a sum less than five million dollars
33 (\$5,000,000) as a result of fund activity, the fee shall be reinstated by the division of taxation,
34 following proper notice thereof, and once reinstated, the collection, reporting, and payment of the

1 fee shall continue until the account balance again reaches the sum of eight million dollars
2 (\$8,000,000).

3 (c) Upon the determination by the review board and the department that the fund has
4 reached a balance sufficient to satisfy all pending or future claims, the review board shall
5 recommend to the general assembly the discontinuation of the imposition of the fee created in this
6 section.

7 SECTION 46. Sections 46-13-2.1, 46-13-18, and 46-13-21 of the General Laws in
8 Chapter 46-13 entitled "Public Drinking Water Supply" are hereby amended to read as follows:

9 **46-13-2.1. Approval required.** -- (a) No person shall operate or maintain a public
10 water supply system unless the system is approved by the director of health. Applications for
11 approval shall be made to the director on forms provided for this purpose.

12 (b) Upon receipt of an application, the director shall review the application, supporting
13 documents, and conduct an inspection of the public water supply system to determine if it meets
14 the requirements for approval set forth in this chapter and the regulations adopted hereunder. If,
15 after review, the director determines that the public water supply system complies with the
16 requirements of this chapter and the regulations adopted hereunder, approval of the application to
17 operate or maintain a public water supply system shall be granted.

18 (c) An approval, unless sooner suspended or revoked, shall expire on the 30th day of
19 June following its issuance and may be reviewed from year to year. Each approval shall be issued
20 only for the public water supply system and persons named on the application, and shall not be
21 transferable or assignable.

22 (d) The initial fee for any approval and the approval renewal fee shall be established by
23 the director by regulation. The fees as established by the director shall be related to the costs
24 incurred in operating the program and may include administrative, personnel, equipment,
25 laboratory services and such other related costs necessary to carry out the provisions of this
26 section of the law. All fees collected under this section shall be deposited as general revenues.

27 **46-13-18. Adoption of regulations.** -- (a) The director is hereby authorized to adopt
28 regulations consistent with the provisions of this chapter, the federal Safe Drinking Water Act, 42
29 U.S.C. § 300f et seq., and the federal regulations adopted under that act. All new and existing
30 public water supply systems subject to the provisions of this chapter must comply with the
31 provisions of this chapter and with all the regulations adopted under this chapter in order to obtain
32 and/or maintain approval by the director as a public water supply system. The director is further
33 authorized to establish by regulation a schedule of fees for applications, approvals, and renewals
34 required by this chapter.

1 (b) (1) Any community water system serving a population of 10,000 or more shall
2 directly deliver a full copy of the consumer confidence report, which is required by the U.S.
3 environmental protection agency under the federal Safe Drinking Water Act, 42 U.S.C. § 300f et
4 seq., to each ~~household~~ household within the water system's service area that receives water
5 from that system. The method of delivery shall be determined by the water system but can
6 include delivery via either:

- 7 (i) Postal patron mailing;
- 8 (ii) A community newsletter that is directly delivered to each household;
- 9 (iii) A community calendar that is directly delivered to each household; or
- 10 (iv) Any other method that will directly reach each household within the water system's
11 service area that receives water from that system.

12 (2) In the event that within the service area there are buildings with five (5) or more
13 residential units, the system will not be required to deliver directly to each of these units. Instead,
14 the water system shall mail multiple copies of the report to the building manager or other
15 appropriate individual, noting that the reports should be distributed to residents and/or posted in a
16 common area. Additionally, colleges and universities will be exempted from this requirement but
17 are still responsible for meeting all federal requirements.

18 ~~(2)~~(3) The department of health shall serve as the repository for all consumer confidence
19 reports and shall direct inquiries for copies of the report to the appropriate water system in order
20 to obtain a copy of the report.

21 **46-13-21. Advisory council.** -- (a) There is hereby created an advisory council, to be
22 known as the public drinking water supply advisory council, and whose purpose it shall be to
23 advise the director and public drinking water suppliers concerning fees and the implementation of
24 the provisions of this chapter.

25 (b) The council shall be composed of seven (7) members.

26 (1) Two (2) members shall be members of the house of representatives appointed by the
27 speaker, not more than one from the same political party; ;

28 (2) One member of the senate appointed by the president of the senate; ;

29 (3) One member to be the director, or his or her designee; ;

30 (4) One officer of a community public drinking water supplier appointed by the
31 governor; ;

32 (5) One officer of a nontransient noncommunity public water supplier appointed by the
33 governor; ; and

34 (6) One member of the general public, to be appointed by the governor.

1 (c) The legislative members of the council shall serve for a term of two (2) years. Each
2 member may be reappointed for two (2) additional terms.

3 (d) The member of the general public, appointed by the governor, shall be appointed for
4 a term of three (3) years and may be reappointed for one additional term.

5 (e) The members, appointed by the governor, who are officers of a public drinking water
6 supplier, shall be appointed for a one year term, and may be reappointed for three (3) additional
7 terms.

8 (f) The director, or his or her designee, shall serve upon the council without removal.

9 (g) On the third Monday in July after the enactment of this chapter, the members of the
10 council shall meet at the call of the speaker of the house and organize. The speaker shall appoint a
11 chairperson from among the legislative members. The vice chairperson shall be elected by the
12 membership of the council.

13 SECTION 47. Section 46-14-2.2 of the General Laws in Chapter 46-14 entitled
14 "Contamination of Drinking Water" is hereby amended to read as follows:

15 **46-14-2.2. Contamination of local water supply — Notice to city or town.** -- ~~(a)~~ If
16 the state department of health discovers that a water supply to a municipality has become
17 contaminated, which contamination may pose a potential danger to the public, the director of
18 health shall, within forty-eight (48) hours of the discovery of the contamination, notify the city or
19 town council of every city and town whose water supply is affected by the contamination.

20 ~~(b) [Deleted by P.L. 1996, ch 296, § 1.]~~

21 SECTION 48. Sections 46-15-6 and 46-15-21 of the General Laws in Chapter 46-15
22 entitled "Water Resources Board" are hereby amended to read as follows:

23 **46-15-6. Supply of water to other water supply systems.** -- (a) On any application for
24 a new or additional water supply or source of water supply, the water resources board, after
25 obtaining the recommendations of the director of the department of health and the division of
26 planning, may require or authorize any applicant to make provisions for the supply and to supply
27 water to any area of the state which, as determined by the water resources board in its decision on
28 that application, properly should be supplied with water from the source or sources of water
29 supply sought by the applicant.

30 (b) Any municipal water department or agency, special water district, or private water
31 company within the area may apply to the water resources board for the right to take water from
32 that source of water supply or from any part of the water supply system of the applicant supplied
33 in whole or in part from that source. If the water resources board requires, or if it approves the
34 application, it shall be the duty of the applicant to supply water, subject to such requirements as

1 the water resources board may impose.

2 (c) The amount of water to be taken and the price to be paid therefor may be agreed upon
3 between the applicant and the taker of the water, or if they cannot agree, fair and reasonable
4 amounts and rates shall be fixed by the administrator of public utilities and carriers; provided,
5 further, that nothing contained in this section shall be construed as diminishing the powers of the
6 administrator of public utilities and carriers in respect to rates of water suppliers subject to his or
7 her jurisdiction.

8 **46-15-21. Reporting requirements.** -- (a) Within ninety (90) days after the end of each
9 fiscal year, the board shall approve and submit an annual report to the governor, the speaker of
10 the house of representatives, and the president of the senate and the secretary of state of its
11 activities during that fiscal year. The report shall provide:

12 (i) A summary of the board's meetings including when the board and its committees met,
13 subjects addressed, decisions rendered and meeting minutes; a summary of the board's actions
14 including a listing of the proposals and plans for public water supply systems received; hearings
15 held, findings, assessments, recommendations, and decisions rendered concerning proposed
16 projects for public water supply systems; water supply studies conducted; consents issued for
17 transport of water to another state; decisions rendered requiring or authorizing a water supplier to
18 provide water to other water supply systems; rules and regulations promulgated; violations and
19 penalties assessed; actions taken to abate nuisances or restrain or prevent violations, and any
20 actions taken to investigate the activities of municipal water departments, special water districts
21 or private water companies; a synopsis of the hearings, complaints, suspensions, or other legal
22 matters related to the authority of the board; a summary of any training courses held pursuant to
23 subdivision 46-15.1-5.2(2); a consolidated financial statement of all funds received and expended
24 by the board including the source of the funds; a listing of the staff and/or consultants employed
25 by the board; and a listing of findings and recommendation derived from board activities.

26 (ii) The report shall be posted electronically as prescribed in § 42-20-8.2. The director of
27 the department of administration shall be responsible for the enforcement of the provisions of this
28 subsection.

29 (b) Forthwith upon passage of this act, and within ninety (90) days of the end of the
30 fiscal year 2006, the board shall submit to the governor, the speaker of the house of
31 representatives, and the president of the senate an annual work plan for the upcoming fiscal year.
32 Said annual work plan shall list the tasks the board plans on working on over the course of the
33 upcoming fiscal year including a description of how the elements are consistent with and
34 supportive of the systems level plan developed and implemented by the Rhode Island Bays,

1 Rivers, and Watersheds Coordination Team, as prescribed in § 46-31-5.

2 (c) Within ninety (90) days of the end of the fiscal year 2006, and within ninety (90)
3 days after the end of each fiscal year thereafter, the board shall submit to the governor, the
4 speaker of the house of representatives, the president of the senate and the secretary of state an
5 annual performance report for hat fiscal year. Said report shall describe and evaluate the
6 successes and shortcomings of the implementation of the annual work plan pertaining to that
7 fiscal year, and shall include a summary of progress made in the following areas: formulation and
8 maintenance of a long range guide plan and implementing program for the development of major
9 water resources and transmission systems, as prescribed in § 46-15-13; promulgation of an
10 emergency plan for water supplies in the event of a water emergency declaration by the governor,
11 as prescribed in § 46-15-14; and actions undertaken for the cooperative development,
12 conservation, and use of state water resources, as prescribed in § 46-15-13. The report shall be
13 posted electronically as prescribed in § 42-20-8.2. The director of the department of
14 administration shall be responsible for the enforcement of the provisions of this subsection.

15 SECTION 49. Sections 46-15.1-2, 46-15.1-5, 46-15.1-5.2, 46-15.1-7, 46-15.1-11, and
16 46-15.1-17 of the General Laws in Chapter 46-15.1 entitled "Water Supply Facilities" are hereby
17 amended to read as follows:

18 **46-15.1-2. Board created - Appointment of members.** -- (a) There is hereby
19 authorized, created and established a water resources board consisting of fifteen (15) members as
20 follows:

21 (1) Eleven (11) members shall represent the public and shall be appointed by the
22 governor with advice and consent of the senate as herein provided,

23 (i) One of whom shall be a person who is actively engaged in the agricultural business,
24 preferably an owner and/or operator of an agricultural business, with respect to which
25 appointment the governor shall give due consideration to the recommendation of the Rhode
26 Island Agricultural Council established pursuant to the provisions of chapter 3 of title 2;

27 (ii) One of whom shall be a representative of a conservation organization, with respect to
28 which appointment the governor shall give due consideration to the recommendation of the
29 Environment Council of Rhode Island;

30 (iii) One of whom shall be a professional with expertise in one or more of the following
31 fields: geology, hydrology, or engineering;

32 (iv) One of whom shall be a representative of a large public water system;

33 (v) One of whom shall be a representative of a small public water system; one of whom
34 shall be a representative of a large water user; and

1 (vi) One of whom shall be a representative of small water user; one of who shall be a
2 professional with expertise in financial planning and/or investment; and

3 (vii) Three (3) of whom shall be members of the general public. The public members
4 shall be chosen as far as is reasonably practicable to represent the drought regions of the state as
5 specified in the Rhode Island Drought Management Plan.

6 (2) No person shall be eligible for appointment to the board unless he or she is a resident
7 of this state. The remaining four (4) members are the director of environmental management, the
8 director of the Rhode Island economic development corporation who shall serve as a nonvoting
9 ex officio member, the chief of the division of planning within the department of administration
10 who shall serve as a nonvoting ex officio member, and the director of the department of health.

11 (3) Members shall serve until their successors are appointed and qualified and shall be
12 eligible to succeed themselves. In the month of February in each year, the governor, with the
13 advice and consent of the senate, shall appoint successors to the public members of the board
14 whose terms shall expire in such year, to hold office commencing on the day they are qualified
15 and until the first day of March in the third year after their respective appointments and until their
16 respective successors are appointed and qualified.

17 (b) (1) Those members of the board as of the effective date of this act [June 16, 2006]
18 who were appointed to the board by members of the general assembly and the chairperson of the
19 joint committee on water resources shall cease to be members of the board on the effective date
20 of this act [June 16, 2006], and the governor shall thereupon appoint five (5) new public members
21 pursuant to this section.;

22 (i) One of whom shall be a professional with expertise in financial planning and/or
23 investment;

24 (ii) One of whom shall be a professional with expertise in one or more of the following
25 fields: geology, hydrology or engineering; and

26 (iii) One of whom shall be a representative of a conservation organization appointed by
27 the governor as prescribed in this section.

28 (2) The member of the board selected by the Rhode Island Agricultural Council shall
29 continue to serve the balance of his or her term. Upon expiration of his or her term, the governor
30 shall appoint one member who is actively engaged in the agricultural business, preferably an
31 owner and/or operator of an agricultural business as prescribed in this section. Those members of
32 the board as of the effective date of this act [June 16, 2006] who were appointed to the board by
33 the governor shall continue to serve the balance of their current terms. Thereafter, the
34 appointment shall be made by the governor as prescribed in this section.

1 (c) Any vacancy which may occur in the board for a public member shall be filled by the
2 governor, with the advice and consent of the senate, for the remainder of the unexpired term in
3 the same manner as the members predecessor as prescribed in this section. Each ex officio
4 member of the board may designate a subordinate within his or her department to represent him
5 or her at all meetings of the board.

6 (d) Members of the board shall be removable by the governor pursuant to ~~section~~ § 36-1-
7 7 of the general laws and for cause only, and removal solely for partisan or personal reasons
8 unrelated to capacity or fitness for the office shall be unlawful.

9 (e) The water resources board is designated to carry out the provisions of this chapter. In
10 exercising its powers under this chapter the board constitutes a body politic and corporate and a
11 public instrumentality of the state having a distinct legal existence from the state and not
12 constituting a department of the state government. The board may take action under this chapter
13 at any meeting of the board. A member of the board who is affiliated with a public water system
14 in Rhode Island, as provided in § 46-15-2, shall not thereby be disqualified from acting as a
15 member of the board on a transaction under this chapter with a public water system. Upon the
16 enactment of this chapter, and annually in the month of March thereafter, the board shall choose a
17 treasurer to act as such under this chapter. The treasurer need not be a member of the board or of
18 its staff and shall serve until his or her successor is chosen and takes office, unless sooner
19 removed by the board with or without cause. In the event of a vacancy in the office of treasurer,
20 the board shall fill the vacancy for the unexpired term.

21 (f) Nothing contained herein shall be construed as terminating or discontinuing the
22 existence of the water resources board as it exists prior to July 1, 1993 for purposes of chapters
23 15.1, 15.2, and 15.3 of this title, and the water resources board created hereby shall be and shall
24 be deemed to be a continuation of the water resources board as it existed prior to July 1, 1993 for
25 the purposes enumerated in chapters 15.1, 15.2, and 15.3 of this title. Nothing contained herein
26 shall affect the bonding or financing authority of the water resources board as it exists prior to
27 July 1, 1993 nor shall anything contained herein be construed as terminating, altering,
28 discontinuing, or in any way impairing the bonding or financing power of the water resources
29 board as it exists under chapters 15.1, 15.2, and 15.3 of this title prior to July 1, 1993.

30 **46-15.1-5. Powers.** -- (a) The board shall carry out its functions and shall have the
31 following powers:

32 (1) To adopt a seal and to alter the seal from time to time;

33 (2) To sue and be sued;

34 (3) To purchase, hold, and dispose of real and personal property, or interests therein, and

- 1 to lease the property as lessee or lessor;
- 2 (4) To make or cause to be made such surveys and borings as it may deem necessary;
- 3 (5) To engage engineering, legal, accounting, and other professional services;
- 4 (6) To make contracts;
- 5 (7) To employ personnel and fix their rates of compensation;
- 6 (8) To borrow money and issue its bonds and notes as hereinafter provided;
- 7 (9) To apply and contract for and to expend assistance from the United States or other
8 sources, whether in the form of a grant or loan or otherwise;
- 9 (10) To adopt and amend bylaws for the regulation of its affairs and the conduct of its
10 business;
- 11 (11) To invest or deposit funds in demand deposits, savings deposits, and time deposits in
12 any bank or trust company which is a member of the federal deposit insurance corporation or in
13 any obligations issued or guaranteed by the United States or any agency or instrumentality
14 thereof, or as provided in § 35-10-11;
- 15 (12) To establish, operate, and maintain or lease to others, or contract with others for the
16 use of, such water supply facilities as may be reasonably required for the fulfillment of its
17 purposes;
- 18 (13) To purchase and sell water;
- 19 (14) To exercise such other powers as may be necessary or incidental to the exercise of
20 the foregoing powers or to the accomplishment of the purposes of the board;
- 21 (15) To acquire, within the limitation of funds therefor, the sites, appurtenant marginal
22 lands, dams, waters, water rights, rights of way, easements, and other property in interests in
23 property for reservoirs, groundwater wells, well sites, and for such pipe lines, aqueducts, pumping
24 stations, filtration plants, and auxiliary structures as may be necessary or desirable for the
25 treatment and distribution of water from those reservoirs, groundwater wells, and well sites.
26 Lands acquired under the provisions of this section shall be acquired with the approval of the
27 governor by purchase, gift, devise, or otherwise on such terms and conditions as the board shall
28 determine, or by the exercise of eminent domain, in accordance with the provisions of chapter 6
29 of title 37, as amended, insofar as those provisions are consistent with the provisions hereof;
- 30 (16) To construct or purchase water reservoirs, wells and well sites, processing facilities,
31 transmission or distribution systems, and other facilities, including existing facilities of municipal
32 water agencies or departments, special water districts, or private water companies, necessary to
33 accomplish the purposes of this chapter and to implement its plans and program;
- 34 (17) To acquire the assets, assume the liabilities, or to effect the merger into itself of any

1 corporation or other organization, including public or private water supply systems incorporated
2 or organized under the laws of this state, which corporation or organization has as its principal
3 business the establishment of water supply facilities or provision of related services, all upon such
4 terms and for such consideration as the board shall deem to be appropriate;

5 (18) To lease, sell, or otherwise convey any reservoir sites or other water supply or
6 distribution facilities acquired, constructed, or purchased by the board to any municipal water
7 agency or department or special water district or private water company, upon such terms as the
8 board shall deem appropriate;

9 (19) To provide for cooperative development, conservation, and use of water resources
10 by the state, municipal agencies or departments, special water districts or privately owned water
11 systems, the board may:

12 (i) Authorize publicly or privately owned water supply agencies to build structures or
13 install equipment on land owned or leased by the board.

14 (ii) Enter into contracts with publicly or privately owned water supply agencies for
15 operation of any facilities owned or leased by the board or operate any such facility by itself.

16 (20) To enter into contracts to supply raw or processed water to publicly or privately
17 owned water supply agencies, which shall be approved as to substance by the director of
18 administration and as to form by the attorney general;

19 (21) To review all plans and proposals for construction or installation of facilities for
20 water supply in accordance with the applicable sections of chapter 15 of this title; and

21 (22) To make loans to publicly owned water supply agencies for acquisition,
22 construction, and renovation of water supply facilities from funds which may be appropriated for
23 this purpose by the general assembly, from bonds issued for this purpose, or from other funds
24 which may become available to the board for this purpose;

25 (23) To borrow money temporarily from the water development fund, for the purposes of
26 this chapter, and to implement its plans and programs relating to reservoir development, exclusive
27 of the acquisition of sites for the development of surface reservoirs, in anticipation of revenue or
28 federal aid;

29 (24) To enter into contracts and/or agreements with such departments, divisions,
30 agencies, or boards of the state as are directed by the governor to regulate, manage, or perform
31 related functions on any lands or waters acquired under the provisions of the Big River - Wood
32 River Reservoir Site Acquisition Act (P.L. of 1964, chapter 133);

33 (25) To compensate the departments, divisions, agencies, or boards from the water
34 development fund in an amount equal to the cost of providing the functions or services as are

1 directed to be performed by the governor. The compensation shall be mandatory and shall be
2 provided according to procedures established by the department of administration.

3 (b) The board as a body politic and corporate and public instrumentality created pursuant
4 to this chapter is subject to § 46-15.1-5(1) through (25). The board as the state agency pursuant to
5 chapter 15 of this title is subject to § 46-15.1-5(15) through (25).

6 **46-15.1-5.2. Duties of the board.** -- (a) The board shall have the following additional
7 duties:

8 ~~(a)~~(1) Within ninety (90) days after the end of each fiscal year, the board (corporate) shall
9 submit an annual report to the governor, the speaker of the house of representatives, the president
10 of the senate, and the secretary of state of its activities during that fiscal year. The report shall
11 provide:

12 (i) A summary of the board's (corporate) meetings including when the board (corporate)
13 met, subjects addressed, and decisions rendered; a summary of the board's (corporate) actions
14 including a listing of entities for which water supply facilities were established, leased, contracted
15 for the use of, or which received water sold from such facilities; bonds and notes issued; grants or
16 loans applied or contracted for; funds invested or deposited; assets acquired; assets sold, leased,
17 or conveyed to municipal water agencies, departments, special water districts, or private water
18 companies; contracts entered into to supply raw or processed water; trust agreements entered into
19 with corporate trustees; actions taken in support of the work of the Rhode Island Rivers Council;
20 a synopsis of any law suits or other legal matters related to the authority of the board (corporate);
21 a consolidated financial statement of all funds received and expended by the board (corporate)
22 including the source of the funds; a listing of the staff and/or consultants employed by the board
23 (corporate); a summary of performance during the previous fiscal year including
24 accomplishments, shortcomings and remedies; and a listing of findings and recommendation
25 derived from board (corporate) activities.

26 (ii) The report shall be posted electronically on the general assembly and the secretary of
27 state's website as prescribed in § 42-20-8.2. The director of the department of administration shall
28 be responsible for the enforcement of the provisions of this section.

29 ~~(a)~~(2) The board shall conduct a training course for newly appointed and qualified
30 members and new designees of ex-officio members within six (6) months of their qualification or
31 designation. The course shall be developed by the general manager, approved by the board, and
32 conducted by the general manager. The board may approve the use of any board or staff members
33 or other individuals to assist with training. The training course shall include instruction in the
34 following areas: the provisions of chapters 46-13, 46-14, 46-15, 46-15.1, 46-15.2, 46-15.3, 46-

1 15.4, 46-15.5, 46-15.6, 46-15.7, 42-46, 38-2 and 36-14; and the board's rules and regulations.

2 (b) The director of the department of administration shall, within ninety (90) days of the
3 effective date of this act [June 16, 2006], prepare and disseminate training materials relating to
4 the provisions of chapters 42-46, 36-14 and 38-2

5 **46-15.1-7. Purchases from and leases, pledges and sales to others.** -- (a) Any city,
6 town, district, or other municipal, quasi municipal, or public or private corporation or company
7 engaged in the water supply business in Rhode Island is authorized, from time to time, to sell or
8 otherwise convey to the board any water supply facilities held by that entity, and to lease from the
9 board with or without an option to purchase, or contract with the board for the use of any water
10 supply facilities, or any interest therein, held by the board under this chapter, or to contract to
11 purchase water to be supplied by the board under this chapter. Any city, town, district, or other
12 municipal, quasi municipal, or public or private corporation or company engaged in the water
13 supply business in Rhode Island and constituting a "public utility" within the meaning of § 39-1-
14 2(20) is further authorized to pledge to the board water fees and charges. The provisions of any
15 other laws or ordinances, general, special, or local, or of any rule or regulation of the state or any
16 municipality, or of any municipal charter provision, restricting or regulating in any manner the
17 power of the state or any municipality to lease (as lessee or lessor) or sell or convey property,
18 real, personal, or mixed, or to pledge water fees and charges shall not apply to leases and sales
19 made with the board pursuant to this chapter.

20 (b) Any city, town, district, or other municipal, quasi municipal, or public or private
21 corporation or company which so leases water facilities from the board, or so contracts with the
22 board for the use thereof, is authorized, from time to time, to contract with any other public or
23 private water system for the purchase or sale of water to be conveyed or processed through or in
24 such facilities, and the latter is similarly authorized to enter into a contract with the former.

25 (c) Any lease, pledge agreement or contract under this section shall be for a term not
26 exceeding fifty (50) years. A lease, pledge agreement, or contract may be made by a city, town, or
27 district hereunder, either prior or subsequent to the making of any appropriations which may be
28 needed to carry out the obligations of the city, town, or district under the lease, pledge agreement,
29 or contract. Any such lease, pledge agreement, or contract shall provide for cooperative
30 undertakings between the city, town or district and the board regarding the construction or
31 installation of facilities for water supply being financed.

32 (1) Notwithstanding any contrary provisions of any other laws or ordinances, general,
33 special or local, or of any rule or regulation of the state or any municipality, or any municipal
34 charter provision, restricting in any manner the power of a municipality to incur debt, the

1 obligations of any city, town, or district, under any lease, pledge agreement or contract shall not
2 be considered indebtedness within the meaning of any limitation of indebtedness or of any
3 provision relating to the manner of authorizing or incurring indebtedness.

4 (2) Pledges or grants of security interests by a city, town or district hereunder shall be
5 valid and binding from the time when the pledge or grant in security interest is made; the water
6 fees and charges or other monies so pledged and then held or thereafter received by such city,
7 town or district shall be immediately subject to the lien of the pledge without any physical
8 delivery thereof, or further act; and the lien of any such pledge or grant of a security interest shall
9 be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise
10 against such city, town or district, irrespective of whether the parties have notice thereof.

11 (3) The agreement by which a pledge or grant of a security interest is created need not be
12 filed or recorded except in the records of the board, and no filing need be made under the
13 Uniform Commercial Code.

14 **46-15.1-11. Pledge of revenues and other funds.** -- (a)(1) In the discretion of the board,
15 any bonds or notes issued by it may be secured by a trust agreement between the board and a
16 corporate trustee, which may be any trust company or bank whose principal office is within or
17 without the state. The trust agreement or the resolution providing for the issue of the bonds or
18 notes may pledge or assign, in whole or in part, the revenues and other moneys held or to be
19 received by the board under this chapter or chapter 15.3 of this title, and may convey, mortgage,
20 or grant or assign a security interest in any water supply facilities pledge agreement or lease
21 thereof in connection with which those bonds shall have been authorized.

22 (2) The trust agreement or resolution may contain such provisions for protecting and
23 enforcing the rights and remedies of the bondholders or noteholders as may be reasonable and
24 proper and not in violation of law, including provisions defining defaults and providing for
25 remedies in the event thereof (which may include the acceleration of maturities), and covenants
26 setting forth the duties of, and limitations on, the board in acting under this chapter in relation to
27 the purchase or leasing of property, construction, improvement, enlargement, alteration,
28 equipping, furnishing, maintenance, operation, repair, insurance, and disposition of property, the
29 custody, safeguarding, investment, and application of monies, the issue of additional bonds or
30 notes, the fixing, revision, and collection of rates and rents, the use of any surplus bond or note
31 proceeds, the establishment of reserves, and the making and amending of leases, pledge
32 agreements and contracts.

33 (3) The board is authorized to fix, revise, and collect rates and rents for water furnished
34 by it or facilities leased by it to others. The rates and rents shall not be subject to supervision or

1 regulation by any other commission, board, bureau, or agency of the state or of any municipality
2 or other political subdivision of the state, but the rates and rents shall be subject to the terms of
3 any applicable contracts and leases.

4 (b)(1) It shall be lawful for any bank or trust company to act as a depository or trustee of
5 the proceeds of bonds or notes or of revenues or other moneys under any such trust agreement or
6 resolution, and to furnish such indemnifying bonds or to pledge such securities as may be
7 required by the board. The trust agreement or resolution may set forth the rights and remedies of
8 the bondholders or noteholders and of the trustee, and may restrict the individual right of action
9 by bondholders or noteholders. In addition to the foregoing, the trust agreement or resolution may
10 contain such other provisions as the board may deem reasonable and proper for the security of the
11 bondholders or noteholders.

12 (2) All expenses incurred in carrying out the provisions of the trust agreement or
13 resolution may be treated as part of the board's cost of operation and maintenance under this
14 chapter.

15 (3) The pledge or mortgage or grant of a security interest by the trust agreement or
16 resolution shall be valid and binding from the time when the pledge or mortgage or grant of a
17 security interest is made; the revenues or other moneys so pledged and then held or thereafter
18 received by the board shall immediately be subject to the lien of the pledge without any physical
19 delivery thereof or further act; and the lien of any such pledge or mortgage or grant of a security
20 interest shall be valid and binding as against all parties having claims of any kind in tort, contract,
21 or otherwise against the board, irrespective of whether the parties have notice thereof.

22 (4) Neither the resolution nor any trust agreement by which a pledge or mortgage or grant
23 of a security interest is created need be filed or recorded except in the records of the board, and no
24 filing need be made under the Uniform Commercial Code.

25 **46-15.1-17. Refunding bonds.** -- (a) The board may issue refunding bonds for the
26 purpose of paying any of its bonds issued hereunder at maturity or upon acceleration or
27 redemption. The refunding bonds may be issued in sufficient amounts to pay or provide the
28 principal of the bonds being refunded, together with any redemption premium thereon, any
29 interest accrued or to accrue to the date of payment of the bonds, the expenses of issue of the
30 refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt
31 service or other capital or current expenses from the proceeds of the refunding bonds as may be
32 required by a trust agreement or resolution securing bonds or notes. The refunding bonds may be
33 issued at such time or times simultaneous with or prior to the maturity, acceleration, or
34 redemption date of the bonds being refunded as the board may determine to be in the public

1 interest.

2 (b) The proceeds of bonds or notes issued for the purpose of refunding outstanding bonds
3 or notes may be applied, in the discretion of the board, to the purchase, retirement at maturity, or
4 redemption of those outstanding bonds or notes either on their earliest or a subsequent redemption
5 date, and may, pending that application, be placed in escrow. Any escrowed proceeds may be
6 invested and reinvested in obligations of or guaranteed by the United States, or in certificates of
7 deposit, time deposits, or repurchase agreements fully secured or guaranteed by the state or the
8 United States, or an instrumentality of either, maturing at such time or times as shall be
9 appropriate to assure the prompt payment, as to principal, interest and redemption premium, if
10 any, of the outstanding bonds and notes to be so refunded. The interest, income, and profits, if
11 any, earned or realized on any investment may also be applied to the payment of the outstanding
12 bonds or notes to be so refunded. After the terms of the escrow have been fully satisfied and
13 carried out, any balance of the proceeds and interest, income, and profits, if any, earned or
14 realized on the investments thereof may be returned to the board for use by it in furtherance of its
15 purposes.

16 (c) The issue of refunding bonds, the maturities and other details thereof, the security
17 therefor, the rights of the holders thereof, and the rights, duties, and obligations of the board in
18 respect of the same shall be governed by the provisions of this chapter relating to the issue of
19 bonds, other than refunding bonds, insofar as the provisions may be applicable, but no bonds shall
20 be refunded to a date more than forty (40) years from the date of their original issue.

21 SECTION 50. Section 46-15.2-4 of the General Laws in Chapter 46-15.2 entitled "Water
22 Facilities Assistance Program" is hereby amended to read as follows:

23 **46-15.2-4. Water facilities assistance program established - Eligibility.** -- (a) There is
24 hereby established in the water resources board a Rhode Island water facilities assistance
25 program. The board shall administer this program so as to ensure the proper and systematic
26 development of coordinated water supply and transmission facilities and shall expend the funds
27 available under this chapter in a manner that accomplishes this objective.

28 (b) This program shall provide twenty-five percent (25%) of the cost of approved water
29 transmission facilities designed and constructed to serve a single water system, and shall provide
30 fifty percent (50%) of the cost of approved intersystem facilities. Only the construction of water
31 transmission and intersystem facilities and the acquisition of land or rights-of-way, together with
32 necessary engineering and design, are eligible for assistance under this program. Costs of
33 borrowing, amortization costs, legal, and all other costs attendant to the funding of water
34 transmission and intersystem facilities are not eligible for financial assistance under this program

1 and must be fully borne by the project applicant. The cost of distribution facilities as defined in
2 this chapter are not eligible for financial assistance under this program. Determinations of project
3 eligibility shall be made by the water resources board.

4 (c) Only municipalities and quasi municipal water agencies are eligible to apply for
5 assistance under this program. Determinations of applicant eligibility shall be made by the water
6 resources board.

7 (d) Only projects reviewed and approved by the water resources board, the division of
8 public utilities and carriers, and the state planning council may be funded. Each project supported
9 by this program must be consistent with a plan adopted and kept current by the water resources
10 board in accordance with § 46-15-6 and with applicable elements of the state guide plan, as
11 adopted and kept current by the state planning council in accordance with § 42-11-10(c);
12 provided, however, that with respect to any project which has been approved by the board and
13 which thereafter becomes eligible to participate as an intersystem facilities project, the
14 submission to, and approval by, the public utilities commission and statewide planning council
15 shall not be required.

16 (e) Each transmission facility supported by this program must link a water source with a
17 water distribution system, both of which are complete and operational or will be so at the time
18 that the transmission facility is completed or is projected for future construction. The capacity of
19 both the water source and the distribution system must be adequate to meet present and future
20 needs, considering all other demands that may be placed on the same sources and distribution
21 systems. All determinations required under this subsection shall be made in a timely fashion by
22 the water resources board.

23 (f) The quality of water to be conveyed through the proposed transmission system must
24 meet the Rhode Island department of health requirements for the most restrictive current or
25 planned use. All reasonable measures to assure that this level of water quality will be maintained
26 must have been taken.

27 (g) The design and construction of an approved transmission facility must ensure that it
28 will remain operational for its design life with routine maintenance, and that it will resist all
29 external and internal forces that can be reasonably anticipated as determined by the water
30 resources board.

31 (h) The water resources board will ensure that maintenance of the transmission facility is
32 performed in a manner that ensures that it will remain operational throughout its design life and is
33 assured by a dedicated revenue such as a user fee or some other equally reliable means.

34 (i) ~~[Deleted by P.L. 1999, ch. 461, § 3.]~~

1 SECTION 51. Sections 46-15.3-1.1, 46-15.3-2, 46-15.3-7.5, 46-15.3-7.6, 46-15.3-9, 46-
2 15.3-23. and 46-15.3-24 of the General Laws in Chapter 46-15.3 entitled “Public Drinking Water
3 Supply System Protection” are hereby amended to read as follows:

4 **46-15.3-1.1. Legislative findings.** -- (a) The general assembly hereby recognizes and
5 declares that:

6 (1) Water is vital to life and comprises an invaluable natural resource which is not to be
7 abused by any segment of the state's population or its economy. It is the policy of this state to
8 restore, enhance, and maintain the chemical, physical, and biological integrity of its waters to
9 protect public health;

10 (2) That Rhode Island has abundant supplies of surface and groundwater and an average
11 level of precipitation adequate to replenish these supplies under normal conditions, and that these
12 supplies are sufficient in quantity and quality to meet the present needs of the people and
13 economy of this state, but that sources of drinking water are not always located where they are
14 needed, are subject to contamination making them unfit for drinking purposes, may be used for
15 purposes not requiring water suitable for drinking, and may not be adequate to meet all future
16 needs;

17 ~~(2)~~(3) The waters of this state are a critical renewable resource which must be protected
18 to insure the availability of safe and potable drinking water for present and future needs;

19 (4) That systematic management of the state's drinking water supplies is essential to the
20 proper conservation, development, utilization, and protection of this finite natural resource, if the
21 present and future needs of the state are to be met on a continuing and sustainable basis;

22 ~~(3)~~(5) It is a paramount policy of the state to protect the purity of present and future
23 drinking water supplies by protecting aquifers, recharge areas, and watersheds;

24 ~~(4)~~(6) It is the policy of the state to restore and maintain the quality of its waters to a
25 quality consistent with its use for drinking supplies and other designated beneficial uses without
26 treatment as feasible;

27 ~~(5)~~(7) Development of land areas near to supplies of drinking water and related
28 construction can threaten the quality of those supplies and, therefore, can endanger public health;
29 thus it is necessary to take immediate and continuing steps to protect the watersheds of surface
30 waters and the reservoirs and recharge areas of ground waters from land uses and activities which
31 may degrade the quality of public drinking water;

32 ~~(6)~~(8) Protection of water quality is necessary from the collection source through the
33 point of delivery to the ultimate consumer;

34 ~~(7)~~(b) That the objectives of this chapter are:

1 ~~(a)~~(1) To insure that water supply system management plans are prepared, maintained,
2 and carried out by each municipality and by each municipal department, agency, district,
3 authority, or other entity engaged in or authorized to engage in the supply, treatment,
4 transmission, or distribution of drinking water, and

5 ~~(b)~~(2) That the said plans and their execution achieve the effective and efficient
6 conservation, development, utilization, and protection of this finite natural resource in ways that
7 meet the present and future needs of the state and its people.

8 **46-15.3-2. Designation of water resources board - Selection of treasurer. -- (a)**

9 Except as specified in § 46-15.3-9, the water resources board is designated to carry out the
10 provisions of this chapter in its capacity as designated in § 46-15.1-2. In exercising its powers
11 under this chapter the board shall constitute a body politic and corporate and a public
12 instrumentality of the state having a distinct legal existence from the state and not constituting a
13 department of the state government, but this shall not affect the status of the board when
14 exercising other powers. The board may take action under this chapter at any meeting of the
15 board. A member of the board who is affiliated with a public water system in Rhode Island as
16 provided in § 46-15-2 shall not thereby be disqualified from acting as a member of the board on a
17 transaction under this chapter with the public water system.

18 (b) The treasurer, chosen pursuant to § 46-15.1-2 shall act as such under this chapter. If a
19 treasurer has not been chosen by the board pursuant to § 46-15.1-2, the board shall at any time,
20 and annually in the month of March thereafter, choose a treasurer to act as such under this
21 chapter. The treasurer need not be a member of the board or of its staff and shall serve until his or
22 her successor is chosen and taken office, unless sooner removed by the board with or without
23 cause. In the event of a vacancy in the office of treasurer, the board shall fill the vacancy for the
24 unexpired term.

25 **46-15.3-7.5. Completion and filing of water supply system management plans. -- (a)**

26 Each party required by this chapter to prepare and maintain a water supply system management
27 plan shall complete and adopt an initial plan adhering to the schedule as previously approved by
28 the water resources board.

29 ~~(a)~~(b) Municipalities and water suppliers subject to the requirements of § 46-15.3-5.1 of
30 this chapter shall file a copy of all plans and amendments thereto with the water resources board.
31 The plans shall be treated as confidential documents.

32 (c) The water resources board shall establish procedures that permit parties that review
33 the plans under rules adopted by the water resources board to obtain sensitive information
34 essential to performance of their reviews, including minimum measures necessary to transmit,

1 use, store, and maintain such sensitive information under conditions that insure its security to the
2 maximum possible. These procedures may include designation of those persons within each
3 reviewing agency authorized to use or inspect sensitive information, and exclusion of all others.

4 An executive summary containing an:

- 5 (1) Introduction;
- 6 (2) Background;
- 7 (3) A general system description containing:
 - 8 (i) Water supply sources;
 - 9 (ii) Water treatment facilities;
 - 10 (iii) Storage facilities;
 - 11 (iv) Pumping stations;
 - 12 (v) Raw water and finished water transmission facilities;
 - 13 (vi) Distribution facilities including low to high service;
 - 14 (vii) Planned extensions;
 - 15 (viii) Interconnections;
 - 16 (ix) Populations served and projections;
 - 17 (x) Major users;
 - 18 (xi) Metering;
 - 19 (xii) Legal agreements;
 - 20 (xiii) Nonaccount water;
 - 21 (xiv) Demand management;
 - 22 (xv) Supply management;
 - 23 (xvi) Available water;
 - 24 (xvii) Safe yield;
 - 25 (xviii) Anticipated future demands;
 - 26 (xix) Capital improvement;
 - 27 (xx) Rate structure;
 - 28 (xxi) Financial management;
 - 29 (xxii) Emergency management;
 - 30 (xxiii) Water supply source protection; and
 - 31 (xxiv) General policies shall be developed.

32 [\(4\)](#) This summary shall be distributed as the public document. The water resources board
33 shall be authorized to recover and secure water supply management plans and water supply
34 system management plans previously distributed to other than water resources board and

1 designated review agencies and replaced by executive summaries as provided herein.

2 ~~(d)~~(d) Municipalities and water suppliers subject to § 46-15.3-5.1 shall review their plans
3 at least once every five (5) years, and shall amend or replace their plan so as to remain current.

4 (e) Additionally, on a thirty (30) month basis, each supplier shall report to the water
5 resources board on the status of their plan implementation and shall provide the following
6 information; metered source production; wholesale water sales and purchases; gross retail water
7 sales; retail water sales by customer category beginning no later than first scheduled five (5) year
8 plan update; calculation of non-account water; and number of customers served.

9 ~~(f)~~(f) A municipality or water supplier subject to § 46-15.3-5.1 of this chapter may
10 request, in writing, that the water resources board extend the time in which to complete and
11 submit filings required by this chapter, not to exceed one year. A request shall be approved only
12 upon demonstration that an extension is justified by extraordinary circumstances beyond the
13 control of the municipality or water supplier. An extension, if approved, shall not waive any of
14 the requirements of § 46-15.3-7.6. This provision does not apply to the section on emergency
15 management. Should a municipality or water supplier fail to submit a filing as provided herein, a
16 determination of non-compliance shall be made by the water resources board.

17 **46-15.3-7.6. Expeditious review of water supply system management plans. -- (a)**

18 The water resources board shall coordinate the expeditious review of water supply system
19 management plans, replacements and amendments thereto prepared by water suppliers and all
20 other subject to § 46-15.3-5.1 of this chapter.

21 ~~(b)~~(b) Upon filing of water supply system management plans, replacements and
22 amendments thereto prepared by water suppliers under this chapter the department of
23 environmental management, the department of health, the division of planning of the department
24 of administration, and the division of public utilities and carriers, shall have ninety (90) days to
25 review said filings and submit comments thereon to the water resources board.

26 ~~(c)~~(c) Upon consideration of written comments by all agencies designated herein the
27 water resources board shall determine whether the plan complies with the requirements of this
28 chapter. Should any reviewing agency find that substantive deficiencies prevent the water supply
29 system management plan from meeting the requirements of this chapter, a determination of
30 noncompliance shall be made by the water resources board. This determination, unless otherwise
31 extended pursuant to this chapter, shall be made within one hundred eighty (180) days of the
32 initial submission. A thirty (30) day public comment period shall be included in this one hundred
33 eighty (180) day review period. Failure by the water resources board to notify the water supplier
34 or municipality of its determination within said time limit shall constitute approval.

1 (d) Should the water resources board find that the water supply system management plan
2 is in noncompliance, or deficient due to incorrect, inconsistent or missing data or information but
3 is in substantial compliance with the objectives of this chapter, the water resources board shall
4 issue a first notice of deficiencies. The water supplier or municipality shall have one hundred and
5 twenty (120) days within which to correct the deficiencies and resubmit its filing addressing the
6 comments of the water resources board. Thereafter the water resources board shall have ninety
7 (90) days from the date of the resubmission to determine whether or not the new submission is in
8 compliance with this chapter. Failure by the water resources board to notify the water supplier of
9 its determination, in writing within ninety (90) days of the date of resubmission shall constitute
10 acknowledgement of compliance.

11 ~~(e)~~(e) Upon the submission of plans or plan amendments prior to the scheduled submittal
12 date, as established by the water resources board, the scheduled submittal date may be used for
13 purposes of initiating the one hundred eighty (180) day review period. The time period for review
14 of water supply system management plans, replacements, or amendments thereto submitted after
15 the scheduled submittal date, shall be as determined by the water resources board.

16 **46-15.3-9. Collection of charges.** -- (a) A record shall be maintained by every supplier
17 showing the amounts of water sold, and the amounts of water quality protection charges billed.
18 The records shall be subject to public review. The water quality protection charges shall be
19 deemed to be trust funds for the purposes of this chapter and shall be held in a separate account.

20 (1) For all suppliers, other than the city of Providence acting through the Providence
21 water supply board, or suppliers purchasing water from the city of Providence acting through the
22 Providence water supply board, thirty six and one tenth percent (36.1%) of the amount billed each
23 month shall be remitted to the treasurer of the water resources board on or before the twentieth
24 (20th) day of the second month following the month of billing.

25 (2) For suppliers purchasing water from the city of Providence acting through the
26 Providence water supply board, for that portion of such supplier's retail billings representing
27 water furnished to the purchasers from the Providence water supply board, thirty six and one
28 tenth percent (36.1%) of the amount billed each month shall be remitted to the Providence water
29 supply board, on or before the twentieth (20th) day of the second month following the month of
30 billing, and for that portion of such supplier's retail billings representing water furnished to the
31 purchasers from sources other than the Providence water supply board, thirty six and one tenth
32 percent (36.1%) of the amount billed each month shall be remitted to the treasurer of the water
33 resources board on or before the twentieth (20th) day of the second month following the month of
34 billing.

1 **(3)** The amounts remitted by suppliers purchasing water from the city of Providence to
2 the Providence water supply board and treasurer of the water resources board pursuant to the
3 previous sentence shall be based pro rata on metered water production originating from the
4 Providence water supply board and from all other sources in accordance with rules and
5 regulations to be finally promulgated by the water resources board on or before September 1,
6 1992.

7 **(b)** For all suppliers, including the city of Providence acting through the Providence water
8 supply board, fifty seven percent (57.0%) of the amount billed each month shall be remitted
9 through the water resources board to the general treasurer of the state of Rhode Island on or
10 before the twentieth (20th) day of the second month following the month of billing and shall be
11 deposited as general revenues.

12 **(c)** All suppliers may disburse the six and nine tenths percent (6.9%) of the charges
13 collected and retained by the supplier as an administrative charge for any purpose relating to the
14 operation of the supplier. All suppliers shall use or pledge the thirty six and one tenth percent
15 (36.1%) of the charges to pay principal or interest on bonds, notes, or other obligations issued for
16 the purposes of this chapter or lease payments in connection with any bonds, notes, or
17 obligations. It shall not be necessary for any supplier of public drinking water whose rates may be
18 regulated by the public utilities commission, pursuant to chapter 1 of title 39, to obtain approval
19 from the commission for billing of the water quality protection charge. The public utilities
20 commission shall not, in determining rates for any supplier hereunder, consider the funds billed
21 hereunder when determining revenue requirements for the supplier.

22 **(d)** In no event shall any supplier be responsible to collect or pay more than a single
23 water quality protection charge with respect to water sold by such supplier, whether the date of
24 sale was on, before, or after July 1, 1992.

25 **46-15.3-23. Sanitary device retrofitting.** -- **(a)** Water supply system management shall
26 include retrofitting existing water users not in conformance with the state plumbing code
27 standards for new or replacement sanitary devices with water-saving plumbing equipment,
28 including but not limited to low-flow faucet aerators and shower heads, toilet displacement
29 equipment, and materials for toilet tank leak detection.

30 **(b)** A water utility may act as a central purchaser and supplier of water efficiency devices
31 which comply with state plumbing codes and may enter into cooperative agreements with other
32 water suppliers or other agencies to facilitate bulk purchases of water efficiency devices required
33 to implement, approved retrofit plans. A retrofitting program shall include, without limitation:

34 (1) Annual notification to each residential class user of the objectives and

1 accomplishments of the retrofit program and of the availability of water-saving plumbing devices
2 at cost or at no direct cost;

3 (2) Installation of water saving plumbing equipment for residential class users by the
4 water supplier at cost or at no direct cost as scheduled in the water supply system management
5 plan;

6 (3) Technical assistance and water audits to formulate and implement retrofit programs
7 for major multiple unit housing areas or developments and commercial and industrial users.
8 Water suppliers may enter into cooperative agreements with the owners or management of such
9 users for the preparation of specifications, bulk purchase, and installation of sanitary device
10 retrofit equipment for the purpose of implementing retrofit programs.

11 **46-15.3-24. Financing water supply system management.** -- (a) The cost of water
12 supply system management planning and water supply system management as required by this
13 chapter shall be financed as follows:

14 (1) The cost of preparing and maintaining water supply system management plans as
15 required by § 46-15.3-5.1(A)(1) shall be paid by the municipality from any funds made available
16 under chapter 22.2 of title 45 or from any other funds used to prepare, maintain, and amend local
17 comprehensive plans. Expenses incurred in conducting these activities are exempt from
18 reimbursement as a state mandate under §§ 45-13-6 through 45-13-10;

19 (2) The cost of preparing and maintaining water supply system management plans and
20 carrying out water supply system management programs as required by § 46-15.3-5.1(A)(2), shall
21 be paid from charges against water users. Such charges shall be limited to those necessary and
22 reasonable to undertake the actions required by this chapter, and shall be included in bills
23 rendered in accordance with § 46-15.3-21(b);

24 ~~(b)~~(b) A public or private utility, under the jurisdiction of the public utilities commission,
25 providing water service may file with the public utilities commission proposed rates and charges,
26 including emergency rate relief, so as to provide for the necessary and reasonable costs of
27 carrying out the requirements of this chapter. The public utilities commission shall hear and
28 decide such requests as provided by title 39, and shall allow adjustments in rates necessary to
29 offset necessary and reasonable reductions in revenues resulting from implementation of a water
30 supply system management program;

31 ~~(c)~~(c) Water utilities will be operated as financially self-supporting agencies and shall
32 maintain revenue levels sufficient to cover all fixed and variable capital and operating costs of
33 conservation, use, management, protection, development and other costs of water supply and may
34 be allowed a reasonable profit.

1 SECTION 52. Sections 46-15.5-3, 46-15.5-5, and 46-15.5-6 of the General Laws in
2 Chapter 46-15.5 entitled “Bristol County Water Supply” are hereby amended to read as follows:

3 **46-15.5-3. Pipeline connection.** -- (a) The Bristol County water authority shall design,
4 plan, permit, and construct an additional connection to the City of Providence water supply
5 system and to construct a new water transmission line to its existing reservoirs. The additional
6 connection to Providence will be constructed north of Fields Point across the Providence River
7 through subterranean excavation, directional drilling or micro tunneling for a pipe not to exceed
8 thirty (30) inches in diameter and without any excavation of the river bed and to extend its
9 transmission mains into and through the city of East Providence to connect with the distribution
10 system of the Bristol County water authority to effect a regular and emergency connection at such
11 places and on such terms and pursuant to such plans as the water resources board shall approve
12 pursuant to the provisions of § 46-15-7.

13 (1) In addition, the Bristol County water authority shall design, plan, permit, and
14 construct an emergency connection to the City of East Providence water supply system at such
15 point and upon such terms and conditions as the authority, the city and the water resources board
16 shall agree upon.

17 (2) It is hereby being determined that such connections are just and equitable to all the
18 municipalities affected thereby and that such connections are justified by public necessity and are
19 desirable, and will not adversely affect present and future necessities for sources of water supply,
20 including an adequate flow to the Pawtuxet River.

21 (3) The Providence water supply board shall release a minimum of nine million
22 (9,000,000) gallons of water per day into the Pawtuxet River from the Scituate Reservoir, thereby
23 assisting the cities of Cranston and Warwick and the towns of Coventry and West Warwick to
24 achieve its wastewater treatment plan permit limits and enable the Pawtuxet River to meet EPA
25 Class C water quality standards.

26 (4) The water resources board shall give priority consideration to the application, when
27 and if filed by the Bristol County water authority pursuant to the provisions of § 46-15-7, but the
28 application need only address the plans and specifications for the connections and the means by
29 which the connections will be effected. There shall be no requirement that the Bristol County
30 water authority demonstrate public necessity, or whether the plans and specifications give
31 consideration to present and future necessities for the sources of water supply. The design
32 contained in the plans and specifications shall afford Bristol County water authority a capacity
33 not to exceed 7.5 million (7,500,000) gallons per day maximum day demand. The provisions of §
34 46-15.3-7.6 or chapter 15.3 of this title shall not apply to any approval of the connection.

1 (b) The design, of both the new raw water transmission line and the additional
2 connections to the City of Providence water supply system including the emergency connection
3 to the City of East Providence water supply system shall be commenced simultaneously, and such
4 projects shall be simultaneously pursued to completion with all reasonable diligence.

5 **46-15.5-5. Financing.** -- (a) The Bristol County water authority extension of its
6 transmission system to connect to the Providence water supply system through the additional
7 connection together with the emergency connection as set forth in § 46-15.5-3 and the cost of
8 planning, design and permitting the improvements to the Bristol County water authority's existing
9 system as set forth in § 46-15.5-6 (the "existing system" enhancement) as directed by the water
10 resources board shall be deemed an approved intersystem facility as that term is defined in § 46-
11 15.2-3 and fifty percent (50%) of the cost thereof shall be considered eligible for funding
12 pursuant to the provisions of chapter 15.2 of this title. There is hereby included in the 1994
13 capital budget an amount equal to \$14.8 million (\$14,800,000) to be used to fund such additional
14 connections, the emergency connection and the existing system enhancement. The water
15 resources board is hereby directed to take such steps as shall be necessary to transfer any funds
16 heretofore set aside or designated for purposes of providing funding to the Bristol County water
17 authority for the cross-bay pipeline to the East Providence connection authorized and directed by
18 this chapter.

19 (b) The Bristol County water authority is deemed to have met the provisions of § 46-
20 15.2-5(d)(2), (3), (4), (5), (6), (8), (e) and (f) with respect to the connections authorized by this
21 chapter. The water resources board shall give priority to the application filed by the Bristol
22 County water authority in accordance with chapter 15.2 of this title and this chapter and shall
23 approve the project based upon its findings of fact as provided in §§ 46-15.2-5(d)(1) and (7)
24 without the necessity of meeting any other conditions precedent set forth in §§ 46-15.2-4(e) and
25 46-15.2-6(a).

26 (c) All other state agencies having jurisdiction over the Bristol County water authority
27 with respect to any permit required to design and construct the additional and emergency
28 connections authorized by this chapter shall give administrative, hearing and decisional priority to
29 any application for any such permit.

30 **46-15.5-6. Existing facilities of the Bristol County water authority.** -- (a) The Bristol
31 County water authority will continue to maintain its reservoirs, wells and well sites, transmission
32 lines and water treatment plants in good, sound and safe condition in accordance with its past
33 practices. The Bristol County water authority shall continue to take all steps necessary to protect
34 its legal right to withdraw water from its existing reservoirs, wells and well sites, and shall protect

1 the watershed surrounding said reservoirs to the extent it has legal authority to do so and shall
2 maintain its transmission lines from its existing reservoirs, wells, well sites and water treatment
3 facilities; provided, however, that if in order to protect its legal authority to withdraw water from
4 the existing reservoirs, the Bristol County water authority shall be required to maintain all or part
5 of its facilities in accordance with federal Safe Drinking Water Act standards, 42 U.S.C. § 300f et
6 seq., the capital cost thereof shall be paid for by the state water resources board.

7 (b) The Bristol County water authority in co-operation with the water resources board
8 shall prepare a plan to protect, enhance and improve its existing reservoirs, wells, well sites,
9 transmission lines and treatment plants. Upon approval of such plan, the authority shall cause to
10 be prepared definitive construction plans and drawings and shall apply for and prosecute to
11 completion all federal, state and local permits necessary to permit such construction to be
12 lawfully undertaken; provided, however, if at any time, the Bristol County water authority shall
13 have satisfied the limitation on its financial commitment as set forth in § 46-15.5-6.1, then it shall
14 no longer be required to undertake such planning, design and permitting unless the water
15 resources board shall lawfully provide one hundred percent (100%) of the cost thereof.

16 (c) Upon completion of the construction authorized by such plan, the Bristol County
17 water authority shall utilize the existing system as so improved in the overall management of its
18 water supply and distribution system in compliance with its water supply management plan
19 approved pursuant to chapter 15.4 of this title. If, after all permits for such improvements and
20 enhancements have been received the water resources board shall determine to purchase such
21 existing reservoirs, wells, well sites, transmission lines, and distribution of water treatment
22 facilities, the Bristol County water authority is authorized to sell or lease any one or more of such
23 reservoirs, wells, well sites, transmission lines, or treatment facilities to the board pursuant to the
24 provision of § 46-15.1-7 and the board is authorized to the extent not otherwise permitted by law
25 to acquire such facilities and improve such facilities under the provisions of chapter 15.3 of this
26 title except as specifically provided for in this section. From and after the date of the activation of
27 the additional and emergency connection, the Bristol County water authority shall have no further
28 obligation to expend funds for improvements to its reservoirs, pipelines connecting any one or
29 more of such reservoirs and water treatment facilities unless and to the extent that such funds
30 shall be provided by the water resources board pursuant to existing provisions of the general laws
31 or such provisions as may be hereinafter enacted.

32 (d) The state water resources board shall provide funding necessary to maintain the
33 reservoirs, wells and well sites and pipelines connecting any one or more of such reservoirs, wells
34 and well sites, and water treatment facilities of the Bristol County water authority system so as to

1 meet all federal standards related to safe drinking water. Notwithstanding any other provision of
2 law, any amounts so expended by the state water resources board shall be deemed eligible
3 expenditures within the meaning of § 46-15.3-4(4).

4 SECTION 53. Section 46-15.6-2 of the General Laws in Chapter 46-15.6 entitled “Clean
5 Water Infrastructure” is hereby amended to read as follows:

6 **46-15.6-2. Legislative findings, intent, and objectives.** -- (a) The general assembly
7 hereby recognizes and declares that:

8 (1) Water is vital to life and comprises an invaluable natural resource which is not to be
9 abused by any segment of the state's population or its economy. It is the policy of this state to
10 restore, enhance, and maintain the chemical, physical, and biological integrity of its waters to
11 protect health;

12 (2) The waters of this state are a critical renewable resource which must be protected to
13 insure the availability of safe and potable drinking water for present and future needs.

14 (3) It is a paramount policy of the state to protect the purity of present and future drinking
15 water supplies by protecting the infrastructure of potable water, including treatment plants, pipes,
16 valves, pumping stations, storage facilities, interconnections, and water mains.

17 (4) It is imperative to provide a uniform and valid mechanism to base assistance for the
18 construction, repair, protection, and/or improvement of potable water infrastructure replacement.

19 (5) The decay of infrastructure and related construction due to deterioration or functional
20 obsolescence can threaten the quality of supplies and, therefore, can endanger public health; thus
21 it is necessary to take immediate and continuing steps to repair and replace the infrastructure used
22 to deliver water supplies in order to restore water system facilities.

23 (6) Failure to replace the infrastructure used to deliver water supplies may cause and
24 probably will continue to degrade the quality of public drinking water.

25 (7) Protection of water quality is necessary from the collection source through the point
26 of delivery to the ultimate consumer.

27 (8) The potable threat to public health caused by unsafe drinking water far outweighs the
28 economic costs for the construction of the potable water infrastructure replacement.

29 ~~(a)~~(b) That the objectives of this chapter are:

30 ~~(1)~~(1) To establish a funding mechanism to insure that infrastructure replacement
31 programs are carried out by each municipality and by each municipal department, agency,
32 district, authority, or other entity engaged in or authorized to engage in the supply, treatment,
33 transmission, or distribution of drinking water, and

34 ~~(2)~~(2) That the plans and their execution achieve and insure that the investment of the

1 public in such facilities is not eroded.

2 SECTION 54. Section 46-17.1-2 of the General Laws in Chapter 46-17.1 entitled
3 “Conservation of Marine Resources” is hereby amended to read as follows:

4 **46-17.1-2. Issuance of permit to transport dredge or waste materials over state**

5 **waters.** -- (a) The director of the department of environmental management may issue a permit
6 for the transporting and disposal of waste materials within the territorial waters of this state,
7 provided, that upon receiving an application for the permit, the director shall hold a public
8 hearing and give complete details as to the nature of the transporting and dumping request. After
9 the hearing and appropriate investigation, if the director determines that the movement and
10 disposal of the materials as set forth in the application would not be in conflict with the marine
11 ecology within or adjacent to the state's territorial waters, and that existing fishing grounds would
12 not be damaged or destroyed, he or she may then issue the permit to the applicant; provided,
13 further, that a state inspector be on board the tow vessel at all times during transporting and
14 dumping operations to assure compliance with the terms contained in the permit. The state
15 inspector shall be a qualified sailor selected by the director of environmental management.
16 Inspector's wages will be determined on the basis of the current rate for comparable work. Wages
17 will be paid to inspectors from the general treasury. However, all wages to be paid to inspectors
18 will be paid to the state in advance by the person or firm requesting the permit. The director may
19 revoke the permit at any time for sufficient cause.

20 (b) The provisions of this chapter shall be enforced by state conservation officers within
21 the department of environmental management. Nothing herein shall be deemed to apply to
22 dredging, disposal of dredge materials and/or the transportation thereof regulated under § 46-23-
23 18 and/or 46-23-18.1.

24 SECTION 55. Section 46-19-5 of the General Laws in Chapter 46-19 entitled “Inspector
25 of Dams and Reservoirs” is hereby amended to read as follows:

26 **46-19-5. Judicial enforcement of order to make dam or reservoir safe.** -- (a) If the

27 owner or person having the control of any dam or reservoir, who shall be required to draw off the
28 water, or a portion of the water, in any reservoir, or to make alterations in any reservoir, or repairs
29 thereon or additions thereto, in the manner prescribed in § 46-19-4, shall not forthwith proceed to
30 comply with the requirement, or shall not prosecute the work, when commenced, with reasonable
31 expedition, the director of environmental management shall make out a complaint in which he or
32 she shall set forth the condition of the dam or reservoir, and the steps he or she has taken to cause
33 the water to be drawn off therefrom and for the alteration or repair thereof, or to have additions
34 made thereto to secure the safety of the dam or reservoir, and the default of the owner or person

1 having control thereof in drawing off the water, repairing, altering, or in making an addition to
2 the dam or reservoir, and that the safety of life and property is endangered by the default, and
3 shall subscribe the default, and deliver the complaint to the attorney general or to an assistant
4 attorney general, who shall present the complaint to the supreme court or the superior court, with
5 a petition in the nature of an information ex officio, praying that the person owning or controlling
6 the dam or reservoir may be required and ordered forthwith to comply with the requirements of
7 the director of environmental management theretofore made in the premises, or with such other
8 orders as may be made by the court, to secure all persons having reasonable cause to apprehend
9 injury to life or property from the unsafe condition of the dam or reservoir.

10 (b) Upon the filing of the petition, a citation shall issue to the person controlling or
11 owning the dam, commanding him or her to appear at a time and place therein named, to show
12 cause, if any exists, why the relief prayed for shall not be granted; and the court shall summarily
13 proceed to hear the cause, and upon hearing the parties, or by proceeding ex parte, if the
14 respondent fail to appear, the court may pass such order and decree in the premises as will
15 effectually secure the persons interested from danger or loss from the breaking of the dam or
16 reservoir complained of; and the court may enforce the orders and decrees by injunction, process
17 for contempt, by sequestration, or by such other process as may be applicable in those cases.

18 SECTION 56. Section 46-22-3, 46-22-9.5, 46-22-13, and 46-22-18 of the General Laws
19 in Chapter 46-22 entitled "Regulation of Boats" are hereby amended to read as follows:

20 **46-22-3. Operation of unnumbered motorboats prohibited.** -- (a) Every motorboat on
21 the waters of this state shall be numbered.

22 (b) No person shall operate or give permission for the operation of any motorboat on
23 those waters unless the motorboat is numbered in accordance with this chapter, or in accordance
24 with applicable federal law, or in accordance with a federally approved numbering system of
25 another state, and unless:

- 26 (1) The certificate of number awarded to the motorboat is in full force and effect, and
27 (2) The identifying number set forth in the certificate of number is displayed on each side
28 of the bow of the motorboat.

29 **46-22-9.5. Speeding.** -- (a) No person shall operate any motor-boat or vessel in any
30 harbor or inlet or any pond or other confined body of water in this state in excess of forty-five
31 (45) miles per hour during the hours from sunrise to sunset and twenty-five (25) miles per hour
32 during periods of darkness or other periods of restricted visibility; provided, however, nothing
33 herein shall prohibit the posting of lesser speed limits where deemed necessary by the appropriate
34 state or local authority.

1 (b) Violations of this section shall be as follows:

2 (1) The first violation, if no greater than ten (10) miles per hour over the speed limit, shall
3 be a civil offense which shall require payment of a twenty-five dollar (\$25.00) assessment fee and
4 the violator may be required to attend a boating safety course.

5 (2) Any violation in excess of ten (10) miles per hour over the speed limit shall be
6 deemed a misdemeanor with fines as follows:

7 (i) 11-15 miles per hour in excess of speed limit \$50.00

8 (ii) 16-20 miles per hour in excess of speed limit \$75.00

9 (iii) 21-25 miles per hour in excess of speed limit ~~\$100.00~~

10 (iv) Greater than 25 miles per hour Fine of five dollars in excess of speed limit:
11 (\$5.00) per mile in excess of speed limit.

12 (v) The violator shall also be required to attend a boating safety course.

13 (3) State, federal, and local law enforcement and rescue agencies may exceed this speed
14 limit when responding to an emergency or law enforcement action: provided that this speed does
15 not endanger any person not involved in this action.

16 (c) The operation of personal watercrafts, as defined, use, speed, age of operator, and
17 area of operation shall be regulated by the department of environmental management. Rules and
18 regulations shall be promulgated by the department within three (3) months of June 16, 1991.

19 **46-22-13. Regattas, races, marine parades, tournaments, or exhibitions.** -- (a) No
20 regatta, motorboat or other boat race, marine parade, tournament, or exhibition (but not
21 including a navigational or piloting contest), in which vessels participating are to be
22 propelled by machinery, may be held on any waters of this state unless authorized by the
23 department of environmental management, as set forth in this section. The department
24 shall adopt and may, from time to time, amend regulations concerning the safety of
25 motorboats and other vessels and persons thereon, either observers or participants.

26 (1) Whenever a regatta, motorboat or other boat race, marine parade, tournament,
27 or exhibition is proposed to be held, the person in charge thereof, shall, at least fifteen
28 (15) days prior thereto, file an application with the department of environmental
29 management for permission to hold the regatta, motorboat or other boat race, marine
30 parade, tournament, or exhibition. The application shall set forth the date, time, and
31 location where it is proposed to hold the regatta, motorboat or other boat race, marine
32 parade, tournament, or exhibition, and it shall not be conducted without authorization of

1 the department of environmental management in writing.

2 (2) No application for a motorboat race (not including a navigational or a piloting
3 contest), in which vessels participating are to be propelled by machinery on any waters of
4 this state, shall be approved by the department of environmental management until the
5 applicant shall furnish proof to the department that the applicant has in force regatta
6 liability insurance in the following amounts:

7 (i) Bodily injury to one person \$10,000

8 (ii) Bodily injury to two or more persons \$20,000

9 (iii) Property damage — one accident \$5,000

10 (iv) Property damage — aggregate \$10,000

11 (b) A special permit shall be obtained from the department of environmental
12 management for authorization to engage in a trial run (other than a trial run held under the
13 provisions of § 46-22-8) for a motorboat regatta or race, with or without cutouts and/or mufflers,
14 the permit setting forth the time, place, and other conditions under which the trial run may be
15 made.

16 (c) Motorboats used exclusively for racing, operating on the waters of this state, other
17 than when competing in a duly authorized regatta or race, or making trial runs as set forth in this
18 chapter, shall comply with all the provisions of this chapter.

19 (d) The provisions of this section shall not exempt any person from compliance with
20 applicable federal law or regulation, but nothing contained herein shall be construed to require the
21 securing of a state permit pursuant to this section if a permit therefor has been obtained from an
22 authorized agency of the United States.

23 **46-22-18. Funds. --** All money collected under the provisions of this chapter shall be
24 paid into a restricted receipt account of the Department of Environmental Management to be
25 made available and shall be allocated, distributed and used in amounts sufficient to fully fund:

26 (1) Expenses of the department of environmental management, incurred in the
27 administration and enforcement of this chapter;

28 (2) Expenses of boating safety, boating safety services and programs, boating education,
29 marine patrols, enforcement training programs, and promotion and publicity relating to boating
30 and boating safety and equipment related to boating safety;

31 (3) Grants for the purpose set forth in ~~subsection (a)(1)(ii)~~ subdivision (2) above;

32 (4) Maintenance and improvement of recreational, commercial and navigational facilities
33 relating to boating safety; including, but not limited to, the installation, financing, improvement,

1 and maintenance of aids to navigation, and support facilities; and

2 (5) Expenses incurred in cooperation with the government of the United States in boating
3 and boating safety matters.

4 (6) To the extent otherwise authorized by the general laws, funding services to mariners.

5 SECTION 57. Section 46-23.1-5 of the General Laws in Chapter 46-23.1 entitled “The
6 Coastal and Estuary Habitat Restoration Program and Trust Fund” is hereby amended to read as
7 follows:

8 **46-23.1-5. The Rhode Island coastal and estuarine habitat restoration program —**

9 **Established.** -- (a) The council shall develop and implement a coastal and estuarine habitat
10 restoration program for the state of Rhode Island. The program shall consist of the following
11 elements and perform the listed tasks:

12 (1) *Develop a statewide coastal and estuarine habitat restoration strategy.* Within one
13 year of enactment [June 13, 2002], the program, with the assistance from the technical advisory
14 committee, shall adopt a statewide coastal and estuarine habitat restoration plan that provide for
15 the conservation and restoration of the state's coastal and estuarine habitats. The plan shall be
16 developed with comprehensive public, agency, legislative and stakeholder participation, and shall
17 include the following elements:

18 (i) A description of the state's coastal and estuarine habitats, including a consideration of
19 their importance to the economy, ecology and quality of life in the state and in local communities;

20 (ii) Quantitative and qualitative restoration goals pertaining to coastal wetlands, eelgrass
21 beds, and anadromous fish runs;

22 (iii) An inventory of coastal and estuarine restoration projects, along with criteria for
23 prioritizing and selecting projects for implementation;

24 (iv) A projected comprehensive budget and timeline necessary to accomplish the goals of
25 the plan;

26 (v) Identification of municipal, state, federal, private, or other funding and resources to
27 assist in the development or implementation of the plan;

28 (vi) An outreach element to educate municipal officials, civic and nonprofit
29 organizations, educational institutions and the general public about the availability of restoration
30 grants; and

31 (vii) Provisions for updating the plan and project inventory periodically.

32 (2) *Restoration grants.*

33 (i) The program shall establish and execute an annual process for the solicitation,
34 evaluation and award of restoration grants for projects that seek to restore coastal and estuarine

1 habitats. The technical advisory committee or a subcommittee of it shall serve as an advisory
2 board to the council and the program staff throughout this process. Entities qualified to apply for
3 and receive grants for design, planning, construction or monitoring under this section include all
4 of the following: cities and towns; any committee, board, or commission chartered by a city or
5 town; nonprofit corporations; civic groups, educational institutions; and state agencies.

6 (ii) The program shall submit to the governor and the general assembly during annual
7 budget preparations a list of restoration project proposals that have received a positive review by
8 the technical advisory committee and require funds from the trust to proceed with design,
9 planning, construction or monitoring during the ensuing year.

10 (b) Nothing contained in this section is intended to abrogate or effect the existing powers
11 of the department of environmental management or the coastal resources management council.

12 SECTION 58. Section 46-25-19 of the General Laws in Chapter 46-25 entitled
13 "Narragansett Bay Commission" is hereby amended to read as follows:

14 **46-25-19. Sewer connections.** -- (a) The commission shall have full and complete power
15 and authority to limit, deny, or cause appropriate direct or indirect connections to be made
16 between any building or property located in the district generating sanitary or industrial
17 wastewater, and any public sewer or appurtenance thereof discharging to the project. The
18 commission shall prescribe such rules and regulations for sewer connections as in the opinion of
19 the commission are necessary and appropriate for the maintenance and operation of the project.
20 No person shall make any connection from any structure to any sewer or appurtenance thereto
21 discharging to the project without first being granted a written permit from the commission, in
22 accordance with the rules and regulations. The commission shall also have full and complete
23 power and authority to compel any person in the district, for the purpose of sewage disposal, to
24 establish a direct connection on his or her property, or at the boundary thereof, to any publicly
25 owned sewer discharging to the district sewer project, and to cause the connection to be made at
26 the expense of the person, firm, or corporation.

27 (b) The term "appurtenance", as used herein, shall be construed to include adequate
28 pumping facilities, whenever the pumping facilities shall be necessary to deliver sewage into the
29 project.

30 SECTION 59. Section 46-25-46 of the General Laws in Chapter 46-25 entitled
31 "Narragansett Bay Commission" is hereby repealed.

32 ~~**46-25-46. Referendum. Obsolete.** -- At the next general state election, to be held on the
33 Tuesday next after the first Monday in November 1980, there shall be submitted to the people of
34 the State of Rhode Island for their approval or rejection the following proposition: "Shall the Act~~

~~passed by the General Assembly at the January 1980 Session entitled 'An Act Creating the Narragansett Bay Water Quality Management District Commission and Authorizing the State of Rhode Island to Issue General Obligation Bonds and Notes in an Amount not to Exceed Eighty-seven Million Seven Hundred Thousand Dollars (\$87,700,000) for the Purpose of Providing Financial Aid to the District Commission for the Acquisition, Planning, Construction, Financing, Extension and Improvement of Sewerage Treatment Facilities' be approved?"~~

SECTION 60. Section 46-25.1-1.1 of the General Laws in Chapter 46-25.1 entitled "Merger of Blackstone Valley District Commission and Narragansett Bay Water Quality Management District Commission" is hereby amended to read as follows:

46-25.1-1. Merger — Effective date — Transfer of assets and assumption of liabilities. -- (a) Subject to the approval of the Narragansett Bay water quality management district commission, the Blackstone Valley district commission shall be merged with and into the Narragansett Bay water quality management district commission. Upon such merger, the Blackstone Valley district commission shall cease to exist; provided, however, that all actions shall be taken which are necessary to preserve any federal funds or federal assistance currently available or expected to become available to the Blackstone Valley district commission and all actions shall be taken which are necessary to preserve any available funds of the state currently available or expected to become available to the Blackstone Valley district commission for tort liability for acts occurring on or prior to the effective date of the merger. In addition, the resulting, surviving entity shall be eligible to receive the proceeds of any bonds or notes issued pursuant to chapter 289 of the public laws of 1986, chapter 1837 of the public laws of 1947, as amended by chapter 2515 of the public laws of 1950, as amended by chapter 2966 of the public laws of 1952, as amended by chapter 267 of the public laws of 1966 and as amended by chapter 92 of public laws of 1971, and/or chapter 434 of the public laws of 1990. The existence of the Narragansett Bay water quality management district commission shall continue unaffected and unimpaired by said merger, and the Narragansett Bay water quality management district shall continue to be governed by chapter 25 of this title.

(b) The Blackstone Valley district commission is hereby authorized to and shall pass such resolutions, enter into such agreements and do all things deemed useful and necessary by it to effectuate the merger; and the Narragansett Bay water quality management district commission is hereby authorized and may pass such resolutions, enter into such agreements and do all things useful and necessary by it to effectuate the merger.

(c) The merger shall be effective no later than December 31, 1991, provided, however, that in its sole discretion the Narragansett Bay water quality management district commission

1 may extend the effective date of the merger up to and including June 30, 1992. Upon completion,
2 the merger shall be certified to the secretary of state by the executive director of the Narragansett
3 Bay water quality management district commission.

4 (d) Upon the merger of the Blackstone Valley district commission and the Narragansett
5 Bay water quality management district commission, the Narragansett Bay water quality
6 management district commission shall assume responsibility for the planning, construction,
7 operation and maintenance of combined sewer overflow facilities and appropriate facilities for
8 dealing with the sewage and industrial wastes originating in the municipalities and industries
9 located in the Blackstone and Moshassuck Valleys and discharged into the waters of the state.

10 (e)(1) On the date of the merger, all property, real, personal and mixed, and all debts due
11 on whatever account, and all other choses in action, including, but not limited to, any enterprise
12 fund held by the state for the benefit of the Blackstone Valley district commission, and all and
13 every other interest of or belonging to or due to the Blackstone Valley district commission, shall
14 be taken and deemed to be transferred to and vested in the Narragansett Bay water quality
15 management district commission without further act or deed; all persons employed by the
16 Blackstone Valley district commission on the date of the merger shall be deemed employees of
17 the Narragansett Bay water quality management district commission; and the title to any real
18 estate, or any interest therein, vested in the Blackstone Valley district commission shall not revert
19 or be in any way impaired by reason of the merger.

20 (2) The Narragansett Bay water quality management district commission shall also be
21 responsible and liable for all the liabilities and obligations of the Blackstone Valley district
22 commission; and any claim existing or action or proceeding pending by or against the Blackstone
23 Valley district commission may be prosecuted as if the merger had not taken place, or the
24 Narragansett Bay water quality management district commission may be substituted in its place.
25 Neither the rights of creditors nor any liens upon the property of the Blackstone Valley district
26 commission shall be impaired by the merger. The merger as provided for herein shall not impair
27 the obligation of any contract or agreement or alter existing bargaining units nor abate any suit,
28 action or other proceeding lawfully commenced by or against the Blackstone Valley district
29 commission, or any of its commissioners in relation to the discharge of their official duties, but a
30 court of competent jurisdiction may, on motion filed within twelve (12) months after the effective
31 date of the merger, allow such a suit, action or proceeding to be maintained by or against the
32 Narragansett Bay water quality management district commission or any of its commissioners in
33 relation to the discharge of their official duties.

34 (3) Upon completion of the merger, all user charges, fees or rates assessed by the

1 Narragansett Bay water quality management district commission as a result of the merger shall be
2 subject to the approval of the public utilities commission.

3 (f) Upon completion of the merger, as certified to the secretary of state by the executive
4 director of the Narragansett Bay water quality management district commission, chapter 21 of
5 this title entitled, "Blackstone Valley sewer district" shall be repealed in its entirety.

6 SECTION 61. Section 46-25.2-1 of the General Laws in Chapter 46-25.2 entitled
7 "Acquisition, Merger, and Consolidation of Sewer Treatment Facilities of Cities, Towns, and
8 Districts and the Narragansett Bay Water Quality Management District Commission" is hereby
9 amended to read as follows:

10 **46-25.2-1. Merger — Effective date — Transfer of assets and assumption of**
11 **liabilities.** -- (a) Subject to the agreement of the Narragansett Bay water quality management
12 district commission and a city, town or district, the sewage treatment facilities of such city, town,
13 or district may be merged with and into the Narragansett Bay water quality management district
14 commission or acquired by the Narragansett Bay water quality management district commission;
15 provided, however, the acquisition of any sewage treatment facility requires the approval of the
16 city or town council in the municipality where the facility is located. Upon the merger or
17 acquisition, the district or any commission or other governing authority established by such city
18 or town or the state to manage and operate the sewage treatment facilities shall cease to have
19 control and authority over the facilities acquired; provided, however, that all actions shall be
20 taken which are necessary to preserve any federal funds or federal assistance currently available
21 to or expected to become available to the city, town, or district for sewage treatment facilities.
22 The existence of the Narragansett Bay water quality management district commission shall
23 continue unaffected and unimpaired by said merger or acquisition, and the Narragansett Bay
24 water quality management district commission shall continue to be governed by chapter 25 of this
25 title.

26 (b) The district, the city or town and any commission or governing authority established
27 by the city or town or the state to manage and operate the sewage treatment facilities are hereby
28 authorized to and may pass such resolutions, enter into such agreements and do all things deemed
29 useful and necessary by it to effectuate the merger or acquisition; and the Narragansett Bay water
30 quality management district commission is hereby authorized and may pass such resolutions,
31 enter into such agreements and do all things useful and necessary by it to effectuate the merger or
32 acquisition.

33 (c) Upon completion, the merger or acquisition shall be certified to the secretary of state
34 by the executive director of the Narragansett Bay water quality management district commission.

1 (d)(1) In accordance with the terms of the merger or acquisition agreement, on the
2 effective date of the merger or acquisition, all property, real, personal, and mixed, and all debts
3 due on whatever account, all other choses in action, and all and every other interest of or
4 belonging to or due to the district or city or town related to the sewage treatment facilities, shall,
5 unless otherwise agreed to, be taken and deemed to be transferred to and vested in the
6 Narragansett Bay water quality management district commission without further act or deed; all
7 persons employed by the district or city or town related to the sewage treatment facilities on the
8 date of the merger or acquisition may be deemed employees of the Narragansett Bay water
9 quality management district commission; and the title to any real estate, or any interest therein,
10 vested in the district or city or town related to the sewage treatment facilities shall not revert or be
11 in any way impaired by reason of the merger or acquisition.

12 (2) In accordance with the terms of the merger or acquisition agreement, the Narragansett
13 Bay water quality management district commission shall, unless otherwise agreed to, also be
14 responsible and liable for all the liabilities and obligations of the district or city or town related to
15 such sewage treatment facilities; and any claim existing or action or proceeding pending by or
16 against the district or city or town related to such sewage treatment facilities shall be prosecuted
17 as if the merger or acquisition had not taken place. Neither the rights of creditors nor any liens
18 upon the property of the district or city or town related to such sewage treatment facilities shall be
19 impaired by the merger or acquisition. The merger or acquisition as provided for herein shall not
20 impair the obligation of any contract or agreement nor abate any suit, action, or other proceeding
21 lawfully commenced by or against the district or city or town related to the sewage treatment
22 facilities, or any of its members or officers in relation to the discharge of their official duties, but
23 a court of competent jurisdiction may, on motion filed within twelve (12) months after the
24 effective date of the merger or acquisition, allow such a suit, action, or proceeding to be
25 maintained by or against the Narragansett Bay water quality management district commission or
26 any of its commissioners in relation to the discharge of their official duties.

27 (3) Upon a merger or acquisition as provided herein, should the employees of the merged
28 facility ("*merged employees*") have been represented by a local, subsidiary or affiliate labor
29 organization of one of the parent labor organizations already representing Narragansett Bay water
30 quality management district commission employees, then the merged employees shall be eligible,
31 if appropriate, for accretion into the existing local, subsidiary or affiliate of the Narragansett Bay
32 water quality management district commission employees; and provided further, the Narragansett
33 Bay water quality management district commission shall have no obligation to recognize or
34 bargain with any labor organization which had represented the merged employees when they

1 were employed by the merged facility.

2 (e) Upon completion of the acquisition, merger, or consolidation, the district or any
3 commission or other governing authority established by a city or town or the state to manage and
4 operate the sewage treatment facilities shall cease to have control and authority over the facilities
5 acquired and any ordinance, charter provision, public law, general law, or bylaw governing the
6 district's, commission's or governing authority's control over the facilities acquired shall be
7 repealed in its entirety.

8 (f) Subject to the terms of the merger or acquisition agreement employees of the sewage
9 treatment facility, district, commission, or other governing authority who subsequently become
10 employees of the Narragansett Bay water quality management district commission as a result of
11 the acquisition, merger or consolidation, shall be subject to the provisions of §§ 46-25-8 and 36-
12 9-36, and may be able to utilize their term of service with the sewage treatment facility, district,
13 commission, or other governing authority, as determined by the executive director, for the
14 purposes of longevity computation as it applies to wages, vacation time, and longevity increases.
15 Provided, however, accrued vacation, sick leave, and all other benefits with the municipality,
16 sewage treatment facility, district, or other governing authority may be transferred.

17 (g) Any sewer use fees, charges, and assessments in effect prior to the merger or
18 acquisition shall remain in effect and may be assessed and collected by the commission in
19 accordance with §§ 46-25-5(9), 46-25-5(10), 46-25-21, 46-25-22 and 46-25-22.1. Any change in
20 the sewer use fees, charges and assessments shall be subject to the approval of the public utilities
21 commission.

22 SECTION 62. Sections 46-28-4, 46-28-8, and 46-28-9 of the General Laws in Chapter
23 46-28 entitled "The Rhode Island Rivers Council" are hereby amended to read as follows:

24 **46-28-4. Establishment of council — Purpose.** -- (a) There is hereby authorized,
25 created, and established within the executive department as an associated function, as defined in §
26 46-28-10, of the water resources board, established pursuant to chapters 15 and 15.1 of this title, a
27 Rhode Island Rivers Council known as "the Rhode Island Rivers Council," with such powers as
28 are set forth in this chapter, for the purposes of coordinating, overseeing, and reviewing efforts to
29 improve and preserve the quality of rivers and to develop plans to increase the utilization of river
30 areas throughout the state, and to support and strengthen grassroots watershed organizations as
31 local implementers of the plans.

32 (b) The rivers policy and classification plan prepared and recommended as provided for
33 in § 46-28-7(3) and as adopted by the state planning council shall be the principal means of
34 management and protection by the Rivers Council. The Rivers Council shall work in conjunction

1 with watershed councils and all affected federal, regional and state agencies, including, but not
2 limited to, the Rhode Island bays, rivers and watersheds coordination team, the water resources
3 board, the coastal resources management council, the department of environmental management,
4 the department of health, the statewide planning program of the department of administration, and
5 the economic development corporation, municipal governments, private organizations and
6 persons in achieving the purposes set forth in this section, and implementing systems level
7 planning for the state.

8 **46-28-8. Local watershed councils.** -- (a) The rivers council shall establish and
9 recognize local watershed councils to implement the rivers policy as adopted in accordance with
10 the provisions of this chapter and set forth in the state guide plan. Unless a watershed is solely
11 within one municipality's boundaries, each local watershed council shall be comprised of
12 members from each municipality within the watershed area as designated by the department of
13 environmental management. Such local watershed councils may be existing organizations where
14 appropriate.

15 (b) Local watershed councils shall have standing to present testimony in all state and
16 local administrative proceedings which impact on rivers and water quality and shall receive
17 notice, pursuant to rules adopted by the council, from state or city and town agencies regarding
18 proposed actions pertaining to projects, developments and activities located wholly or partially
19 within the watershed represented by the local watershed council.

20 (c) Each local watershed council shall be a body corporate and politic, having a distinct
21 legal existence from the state and any municipality within the watershed area in which such local
22 watershed council is located. Each local watershed council shall have power:

23 (1) To advise and make recommendations for the watershed in the municipality where
24 such watershed is located for the preparation or revision by the municipality of its comprehensive
25 land use plan pursuant to the Rhode Island Comprehensive Planning and Land Use Regulation
26 Act with regard to achieving and maintaining classifications assigned by the rivers council;

27 (2) To advise the municipalities with regard to public access to rivers for the preparation
28 or revision by the municipality of a comprehensive land use plan pursuant to the Rhode Island
29 Comprehensive Planning and Land Use Regulation Act;

30 (3) To establish and support river watch programs for the protection of the watershed in
31 which it is located;

32 (4) To negotiate payments between two (2) or more of the municipalities within the
33 watershed for the conduct of services or the erection of projects necessary for the purposes of the
34 local watershed council, subject to majority vote of each of the city and town councils

1 participating in each program or project;

2 (5) To acquire, hold, use, lease, sell, transfer, and dispose of any property, real, personal,
3 or mixed, or interest or interests thereon;

4 (6) To own, operate, maintain, repair, improve, enlarge, and extend, in accordance with
5 the provisions of this chapter, any property acquired hereunder, all of which, together with the
6 acquisition of such property, are hereby declared to be public purposes; and

7 (7) To sell, lease, convey, or otherwise dispose of to any of the municipalities within the
8 watershed any property or improvements thereto, which the local watershed council may
9 hereafter acquire or construct; provided, however, that any sale, lease, conveyance, or other
10 disposition of the property shall not prejudice or adversely affect any service which the local
11 watershed council is providing to any other participating city or town;

12 (8) To sue and be sued in connection with any contracts made by, real estate or personal
13 property owned by or leases or conveyances made by the local watershed council;

14 (9) To adopt and order a corporate seal;

15 (10) To make by-laws for the management and regulation of its affairs;

16 (11) To borrow money for any of its corporate purposes including the creation and
17 maintenance of working capital;

18 (12) To fix rates and collect charges for the use of the facilities of or services rendered by
19 or any commodities furnished by the local watershed council; and to pay as the same shall
20 become due the expenses of operating and maintaining the properties of the river watershed
21 council;

22 (13) To contract in its own name for any lawful purpose which would effectuate the
23 purposes of this chapter; to execute all the instruments necessary to carry out the purposes of this
24 chapter; to do all things necessary or convenient to carry out the powers expressly granted by this
25 chapter. It is the intention of the legislature that any property acquired by the local watershed
26 councils pursuant to the provisions of this chapter shall be financed as a self-liquidating
27 enterprise, and that any indebtedness incurred by the local watershed councils shall be payable
28 solely from the earnings or revenues derived from all or part of the property acquired by such
29 river watershed council. Any indebtedness incurred by the local watershed councils shall not be
30 deemed to constitute a debt or a pledge of the faith and credit of the state or of any municipality;

31 (14) To enter into cooperative agreements with other cities and towns, for any lawful
32 corporate purposes necessary and desirable to effect the purposes of this chapter;

33 (15) In the performance of its functions the local watershed council may recommend to
34 municipalities land and water conservation programs consistent with the state rivers policy

1 provided for in § 46-28-7;

2 (16) To apply for, contract for, and expend any federal or state advances or grants or
3 assistance which may be made available for purposes of this chapter.

4 **46-28-9. Annual council report and special reports.** -- (a) *Annual report.* The council
5 shall make an annual report to the governor and the general assembly on or before February 1 of
6 each year. The report shall include a summary of the activities of the council and of each
7 designated local watershed council and a consolidated financial statement of all funds received by
8 and expended by the Rivers Council during the reporting period.

9 (1) Within ninety (90) days after the end of each fiscal year, the council shall approve and
10 submit an annual report to the governor, the speaker of the house of representatives, the president
11 of the senate, and the secretary of state of its activities during that fiscal year. The report shall
12 provide: an operating statement summarizing meetings or hearings held, including meeting
13 minutes, subjects addressed, decisions rendered, rules or regulations promulgated, studies
14 conducted, policies and plans developed, approved, or modified, and programs administered or
15 initiated; a summary of the activities of each designated local watershed; a consolidated financial
16 statement of all funds received and expended including the source of the funds, a listing of any
17 staff supported by these funds, and a summary of any clerical, administrative or technical support
18 received; a summary of performance during the previous fiscal year including accomplishments,
19 shortcomings and remedies; a synopsis of hearings, complaints, suspensions or other legal matters
20 related to the authority of the council; a summary of any training courses held pursuant to
21 subsection 46-28-7(13); a briefing on anticipated activities in the upcoming fiscal year; findings
22 and recommendations for improvements; and a summary of progress made by the council in the
23 implementation of the system-level plan as described in § 46-31-5.

24 (2) The report shall be posted electronically as prescribed in § 42-20-8.2. The director of
25 the department of administration shall be responsible for the enforcement of this provision.

26 (b) *Special reports.* The council shall prepare such special reports as may be requested
27 by the general assembly, or either branch thereof, the governor, or as may be determined by the
28 council.

29 ~~(e) [Deleted by P.L. 2006, ch. 22, § 8 and P.L. 2006, ch. 27, § 8].~~

30 SECTION 63. Section 46-30-2 of the General Laws in Chapter 46-30 entitled "Public
31 Water Supply Systems" is hereby amended to read as follows:

32 **46-30-2. Legislative findings, intent, and objectives.** -- (a) It is hereby found and
33 declared that:

34 (1) Water is vital to life and comprises an invaluable natural resource which is not to be

1 abused by any segment of the state's population or its economy. It is the policy of the state to
2 restore, enhance, and maintain the chemical, physical, and biological integrity of its waters to
3 protect health;

4 (2) It is further found and declared that the waters of this state are a critical renewable
5 resource which must be protected to insure the availability of safe and potable drinking water for
6 present and future needs;

7 (3) It is further found and declared that public water supply system have the
8 responsibility to provide safety and potable drinking water to the state's population;

9 (4) It is further found and declared that financial and regulatory pressures may force some
10 small public water supply systems into economically losing propositions;

11 (5) It is further found and declared that economy and efficiency dictate the desirability to
12 combine small public water supply systems with other public water supply systems;

13 ~~(b)~~(b) The objectives of this chapter are:

14 ~~(1)~~(1) To establish a mechanism to combine small public water supply systems and/or
15 annex small systems to adjacent water supplies in order to provide viable water supplies capable
16 of meeting federal and state drinking water regulations current at all times.

17 ~~(2)~~(2) To enable each local jurisdiction, city, town, water authority, water district, small
18 supplier, or small public water supply system to petition the adjacent supplier for the purpose of
19 merging or annexing with the supplier in an economically fair method.

20 ~~(3)~~(3) No merger nor annexation shall proceed without the consent of the governing
21 board of each respective entity or, in the case of a municipally owned system, a vote of the
22 majority of the entire town or city council or, in the case of a private supplier, the consent of the
23 owner of the facilities in question and the governing board of the petitioned governing agency.

24 SECTION 64. Section 47-1-2 of the General Laws in Chapter 47-1 entitled "Duties of
25 Director of Labor and Training" is hereby amended to read as follows:

26 **47-1-2. Custody and maintenance of state standards — Testing of standards.** -- (a)

27 The director of labor and training shall have the exclusive custody and control of the standards so
28 received by the state from the United States, which standards shall be kept in a suitable fireproof
29 place to be provided by the state. The director shall have the oversight of all the standards
30 furnished by the state to the various towns and cities, and shall keep a complete list of the
31 standards and shall see that they are kept in good order and repair. The director shall also keep the
32 standards belonging to the state, furnished by the United States, in perfect order, and shall keep a
33 complete list of the standards, and shall take a receipt for the standards from his or her successor
34 in office.

1 (b) The director may, if he or she deems it desirable, and shall, upon request by private
2 industry and for law enforcement agencies, test any weights, measures, instruments, or
3 mechanical devices of any kind used or intended to be used in standardizing the production of any
4 manufactured article by controlling processes or by determining the dimensions, proportions, or
5 properties of materials or products, in determining wages or compensation for labor performed, in
6 determining the dimensions or capacity of any tank, can, or other container, or in determining the
7 accuracy of any automatic weighing or measuring device. When any weight, measure, instrument,
8 or mechanical device has been tested and found correct by the director, the director may seal the
9 same. If the director finds it inaccurate, the director may, in his or her discretion, either condemn
10 it or the director may furnish the owner or user with a certificate indicating the amount and
11 direction of any errors found by him or her. This section shall not give to the director or his or her
12 inspectors the power to seal any of the devices which are required by law to be sealed by local
13 sealers.

14 (c) The director of labor and training shall by regulation establish a fee schedule for
15 services rendered under this section.

16 SECTION 65. Section 47-3-3.1 of the General Laws in Chapter 47-3 entitled “Criminal
17 Offenses” is hereby amended to read as follows:

18 **47-3-3.1. Delivery of fuel oil — Fraud — Penalty.** -- (a) (1) Whoever sells or delivers
19 fuel oil in quantities of twenty (20) gallons or over shall cause a delivery ticket, which shall
20 consist of an original and at least one carbon copy thereof, to be issued. The ticket shall be
21 serially numbered for the purpose of identification and shall have:

- 22 (i) Delivery date;
- 23 (ii) Name and address of the seller; and
- 24 (iii) Name of purchaser legibly recorded on the ticket prior to delivery of the fuel oil.
- 25 (2) Upon completion of delivery, the ticket should include:
- 26 (i) Statement of quantity of fuel delivered by sealed meter device in gallons and fractions
27 thereof, if any.
- 28 (ii) Price per gallon unless purchaser has requested that price not be shown; ~~and~~
- 29 (iii) Grade of fuel oil; and
- 30 (iv) Identity of person making the delivery.

31 (3) One copy of the ticket shall be delivered to the purchaser or his or her agent at the
32 time of delivery of the oil, unless the purchaser has requested or initiates a request that the vendor
33 deliver the ticket to another person or location, or that the delivery of the ticket be made at
34 another time. Another copy of the ticket shall be retained by the seller for a period of three (3)

1 years to be in compliance with division of taxation regulations of the state.

2 (b) The director of labor shall be authorized to enter and go into or upon, at the time of
3 delivery of fuel oil, without warrant, any vehicle to inspect or examine the metering system,
4 vehicle tank compartments, and delivery tickets then in the actual possession or under the control
5 of the person making the delivery and may seize, without warrant, any delivery tickets suspected
6 of constituting a deceptive or fraudulent practice. No copy of the retained delivery ticket shall be
7 destroyed, but may be voided and kept on file.

8 (c) (1) On deliveries of fuel oils made through a meter, the quantity determinations of the
9 oil delivered shall be mechanically printed on the ticket at the time of delivery. A sales sequence
10 number shall also be mechanically printed on the ticket by the ticket printing mechanism of the
11 metering system unless the printing mechanism is of the cumulative type. The sales sequence
12 number shall not be returnable to zero until it has reached its highest attainable number.

13 (2) Only one delivery ticket may be inserted into the ticket printing mechanism, and in
14 the case of vehicle tank meters, the ticket shall not be inserted until immediately before a delivery
15 is begun, and in no case shall a ticket be left in the printing mechanism when the vehicle is in
16 motion while on a public street, highway, or thoroughfare. The possession of a preprinted ticket
17 imprinted with a ~~gallonage~~ gallon amount in advance of delivery shall be prima facie evidence of
18 intent to use the ticket in violation of this section.

19 (3) Deliveries of fuel oil made from vehicle tank compartments, not measured at the time
20 of sale by a sealed metering system, shall be made only from calibrated compartments which are
21 filled to an indicator that has been sealed by a sealer or inspector of weights and measures. The
22 preceding sentence shall not apply to the transfer, exchange, or sale of fuel oil which is being
23 transported between bulk storage facilities, or to a purchaser who initiates a request in writing that
24 he or she wishes to accept a carbon copy of the bulk storage metered loading ticket.

25 (d) Penalties. (1) Whoever violates any provision of this section shall be punished for the
26 first offense, by a fine of not more than one thousand dollars (\$1,000); for the second offense, by
27 a fine of two thousand dollars (\$2,000); and for each subsequent offense, by a fine of four
28 thousand dollars (\$4,000) and/or imprisonment for not more than six (6) months.

29 (2) Whoever alters or substitutes a delivery ticket for fraudulent or deceptive purposes
30 shall be punished by a fine of not less than one thousand dollars (\$1,000) nor more than three
31 thousand dollars (\$3,000), or by imprisonment for not more than three (3) years or both.

32 (3) In addition to the foregoing penalties, anyone found guilty of violating the provisions
33 of this section shall also be liable civilly to the person defrauded for an amount equal to three (3)
34 times the dollar amount of the cost of the fuel oil of which the party was defrauded.

1 (e) Definitions. Whenever in this section, unless otherwise defined, the words "fuel oil" or
2 "petroleum products" are used, they shall be construed to be home heating fuels.

3 SECTION 66. Section 47-4-1 of the General Laws in Chapter 47-4 entitled "Standard
4 Measures" is hereby amended to read as follows:

5 **47-4-1. Dimensions of bushel and half bushel boxes -- Marking. -- (a) Dimensions.** A
6 box which shall measure on the inside thereof seventeen and one-half inches ($17\frac{1}{2}$ ") by
7 seventeen and one-half inches ($17\frac{1}{2}$ ") in length and width, and which on the inside thereof shall
8 measure seven and one-sixteenth inches ($7\frac{1}{16}$ ") in depth, measured from the highest part of the
9 bottom thereof, is hereby declared to be a legal bushel box for the sale of farm produce. A box
10 which shall measure on the inside thereof thirteen by thirteen inches (13" x 13") in length and
11 width and which on the inside thereof shall measure six and one-sixteenth inches ($6\frac{1}{16}$ ") in
12 depth, measured from the highest part of the bottom thereof, is hereby declared to be a legal half
13 bushel box for the sale of farm produce.

14 (b) Marking. All bushel boxes of the dimensions specified by this section shall be marked
15 in letters not less than one inch in height with the words "standard bushel for farm produce". All
16 half bushel boxes of the dimensions specified by this section shall be marked in letters not less
17 than one inch in height with the words "standard half bushel for farm produce".

18 SECTION 67. Sections 47-8-1, 47-8-5, and 47-8-7 of the General Laws in Chapter 47-8
19 entitled "Gasoline and Petroleum Products" are hereby amended to read as follows:

20 **47-8-1. Testing of measuring devices — Forbidding use — Fee. -- (a)** The director of
21 the department of labor and training is hereby authorized and directed to have tested all gasoline
22 measuring devices used in the sale of gasoline, from time to time, as in his or her judgment it may
23 be deemed necessary, to prevent fraud or deception in the use of these devices or to insure the
24 accurate measurement of gasoline in the sale.

25 (b) Any town or city sealer of weights, measures, and balances shall have authority to
26 condemn and forbid the use of any gasoline measuring device for the sale of gasoline in his or her
27 respective town or city, or until the device has been duly tried and sealed, or until the gasoline
28 measuring device has been equipped with such an attachment, contrivance, or apparatus as will
29 insure the correct and proper functioning of the measuring device for the sale of the gasoline by
30 accurate measurement.

31 (c) For the testing and sealing of a gasoline measuring device, a fee of five dollars (\$5.00)
32 shall be paid unless otherwise stated in § 47-1-5.1, except in the city of Providence where the
33 sealer shall have the authority to remove and replace any lead seal on any gasoline measuring
34 device and to charge an additional fee of five dollars (\$5.00) for that service.

1 **47-8-5. Testing and marking of tank vehicles and meters.** -- (a) The capacity of every
2 tank vehicle used and each compartment thereof used for the transportation over the public
3 highways of this state of fuels, such as gasoline and other volatile and inflammable liquids
4 including oils used for heating purposes, when used as a measuring device shall be tested and
5 sealed at least once every three (3) years by the director of labor and training. The capacity, when
6 so determined, shall be plainly printed upon the right hand side of the vehicle tank dome in letters
7 and numerals not less than one inch in height. The meters of the vehicle tanks and the meters of
8 home delivery truck vehicles and loading rack meters shall be tested and sealed at least once a
9 year by the director of labor and training.

10 (b) The director of [the department of](#) labor and training shall assess a fee of one and eight
11 tenths cent (1.8¢) per gallon for measuring tank vehicles, and a fee of nine dollars and sixty cents
12 (\$9.60) for testing meters on tank vehicles, and home delivery truck vehicles, except, when those
13 meters are gravity fed, the fee shall be eighteen dollars (\$18.00), and a fee of eighteen dollars
14 (\$18.00) shall be assessed for testing loading rack meters at least once every year, and a fee of
15 twenty-four dollars (\$24.00) shall be assessed for testing and sealing of bottom loading rack
16 meters at least once every year.

17 (c) The director of [the department of](#) labor and training shall also receive reasonable
18 compensation for all adjustments which it may be necessary for the director to make. Reasonable
19 compensation shall not exceed the rates as provided herein.

20 **47-8-7. Liability insurance — Marking of vehicles.** -- (a) The owner of land or
21 facilities used to store petroleum products or who owns or leases vehicles used to transport
22 petroleum products for purposes of resale shall maintain a liability insurance policy which
23 includes pollution liability broad form coverage of no less than two million dollars (\$2,000,000).
24 The insurance policy shall be comprehensive in nature and include coverage for underground or
25 aboveground contamination due to leakage from any kind of a petroleum product stored on the
26 land or facility or which may be discharged from a vehicle transporting the petroleum product for
27 purposes of resale. The provisions of this section shall apply to owners of facilities that are
28 engaged in the business of selling petroleum products at wholesale or retail, and shall not apply to
29 leasing companies engaged in the business of leasing or renting vehicles used to transport
30 petroleum products.

31 (b) Any petroleum delivery vehicle carrying petroleum products must have certification,
32 on Rhode Island form GU-1338A or Rhode Island form DMU-1, of a two million dollar
33 (\$2,000,000) liability insurance policy which includes pollution liability broad form coverage
34 prior to registration of the vehicle in the state of Rhode Island. Proof of certification of the

1 insurance must be on file with wholesale suppliers and/or petroleum distributor terminals for
2 vehicles to obtain petroleum products in Rhode Island for marketing. A state of Rhode Island
3 resale certificate number must also be on file with the supplier and distributing terminal. The
4 provisions of this section relating to liability insurance do not apply in those cases where an
5 owner certifies that he or she is self insured, to at least the required amount, and provides
6 certification of the self insurance.

7 (c) (1) Any petroleum delivery vehicle carrying petroleum products must comply with
8 section 397.21 of the federal Motor Carriers Safety Regulations for the Transportation of
9 Hazardous Materials, entitled "Marking of Vehicles Operated by Private Carriers", prior to
10 registration of the vehicle, and maintain the registration of the vehicle by the motor vehicle
11 division of the department of ~~transportation~~ [administration](#) of the state of Rhode Island. The
12 marking shall include the following:

13 (i) Placarding in accordance with federal requirements.

14 (ii) The name of the enterprise, and the city or town in which the enterprise, maintains its
15 principal office or in which the vehicle or vehicles are customarily based.

16 (2) The markings must appear on both sides of the vehicle, be in letters that contrast
17 sharply in color with the background, be readily legible during daylight hours from a distance of
18 fifty feet (50') while the vehicle is stationary, and be kept and maintained in a manner that retains
19 the legibility required. The marking may consist of a removable device if that device meets the
20 identification and legibility requirements of this subsection, for a period not to exceed three (3)
21 months after registration of said vehicle.

22 (d) The director of the department of ~~transportation~~ [administration](#) is authorized and
23 empowered to promulgate rules and regulations for the enforcement and administration of the
24 provisions of this section.

25 SECTION 68. Sections 47-12-3 and 47-12-4 of the General Laws in Chapter 47-12
26 entitled "Firewood and Charcoal" are hereby amended to read as follows:

27 **47-12-3. Sale of firewood.** -- (a) Cordwood sold or offered or exposed for sale shall be
28 four feet (4') in length. The term "firewood" shall be construed to mean and include wood cut to
29 any lengths of less than four feet (4') and more than eight inches (8"). Cordwood and firewood
30 shall be advertised, offered for sale, and sold only in terms of cubic feet or cubic meters which
31 will be construed as indicating the closely stacked cubic foot or cubic meter content to be
32 delivered to the purchaser. The terms "cord", "face cord", "pile", "truckload", or terms of similar
33 import shall not be used in the advertising and sale of cordwood or firewood.

34 (b) The term "kindling wood" shall be construed to mean and include all split wood,

1 edgings, clippings, or other waste wood averaging eight inches (8") in length. The standard unit
2 of measure for kindling wood shall be the bushel of two thousand, one hundred and fifty and
3 forty-two hundredths cubic inches (2150.42 cu. in.).

4 **47-12-4. Fraudulent sale of firewood.** -- (a) Whoever, except as otherwise provided,
5 sells cordwood or firewood, shall cause a delivery ticket or sales invoice to be issued and
6 delivered to the purchaser or his or her agent at the time of delivery of the wood. The delivery
7 ticket or sales invoice shall include the name and address of the seller and the purchaser, the
8 quantity delivered to the purchaser in terms of cubic feet or cubic meters, the date delivered, and
9 the price of the quantity of wood delivered.

10 (b) Whoever violates any provision of this or the preceding sections shall be punished for
11 the first offense by a fine of fifty dollars (\$50.00), for the second offense by a fine of one hundred
12 dollars (\$100), and for each subsequent offense by a fine of two hundred dollars (\$200). Whoever
13 alters or substitutes a delivery ticket or sales invoice for fraudulent or deceptive purposes shall be
14 punished by a fine of not more than two hundred fifty dollars (\$250).

15 SECTION 69. Section 47-16-1 of the General Laws in Chapter 47-16 entitled "Public
16 Utilities Metering Devices" is hereby amended to read as follows:

17 **47-16-1. Testing of metering devices — Forbidding use.** -- (a) The administrator of the
18 division of public utilities and carriers is hereby authorized and directed to conduct spot tests of
19 all metering devices used in the sale of electricity, water, or natural gas at least once a year, and
20 the number of metering devices checked each year shall be such as in the administrator's
21 judgment is necessary to constitute a fair sampling of metering devices in use to prevent fraud or
22 deception in the use of the devices, or to insure the accurate measurement of those commodities
23 in any sale.

24 (b) Any town or city sealer of weights, measures, and balances shall have authority to
25 condemn and forbid the use of any metering device for the sale of electricity, water, or natural gas
26 in his or her respective town or city, or until the device has been duly tried and sealed, or until the
27 metering device has been equipped with such attachment, contrivance, or apparatus as will insure
28 the correct and proper functioning of the measuring device for the sale of the electricity, water, or
29 natural gas by accurate measurement.

30 SECTION 70. This act shall take effect upon passage.

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO STATUTES AND STATUTORY CONSTRUCTION

- 1 This act would make certain technical amendments and deletions to the general laws for
- 2 purposes of accurate statutory construction, as recommended by the law revision office.
- 3 This act would take effect upon passage.

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