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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2007

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A N A C T

RELATING TO WATERS AND NAVIGATION

Introduced By: Senators Lenihan, Sosnowski, J Montalbano, Paiva-Weed, and Ruggerio

Date Introduced: June 08, 2007

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 46 of the General Laws entitled "WATERS AND NAVIGATION" is
2 hereby amended by adding thereto the following chapter:

3 CHAPTER 32

4 WATER SUPPLY DEVELOPMENT, PLANNING, AND PROTECTION ACT OF 2007

5 **46-32-1. Short title.** – This act shall be known and may be cited as the "Water Supply
6 Development, Planning, and Protection Act of 2007."

7 **46-32-2. Legislative findings and purpose.** – (a) The general assembly finds and
8 declares that as of 2007:

9 (1) Rhode Island currently has high quality water that is readily available under normal
10 conditions for drinking and other purposes.

11 (2) Rhode Island has many of the organizational capabilities that are needed to finance,
12 manage and expand water supplies provided that there is realignment and restructuring of these
13 capabilities.

14 (3) Rhode Island knows which water sources and water supply systems are stressed.

15 (4) Rhode Island has experience in effective water education, water reuse and water
16 conservation activities.

17 (b) The general assembly further finds and declares that as of 2007:

18 (1) Rhode Island has very limited or no back-up supplies to augment existing water
19 supplies in the event of periods of drought, contamination, infrastructure failures or inefficient

1 use. Ground water supplies can be the first to be impacted by these events due to the nature of
2 the hydrology of a watershed area, the storage capacity of a groundwater supply and the recharge
3 rates when that water is withdrawn from the ground. Surface waters are impacted differently by
4 many but not all of these events. However, a majority and significant portion of the state's water
5 users rely on a sole surface reservoir for water supplies.

6 (2) Rhode Island's water supply, storage and distribution infrastructure is aging and will
7 require significant financial reinvestment to rebuild to be reliable in the current century. While
8 every water supply system has different infrastructure characteristics, a reoccurring condition is a
9 greater financial need to rebuild infrastructure than current water rates can support within the
10 timeframe the improvements are needed.

11 (3) Rhode Island governance and management of water is fragmented and there are
12 varying degrees of regulatory enforcement at federal, state, and local levels. This fragmentation
13 has resulted in institutional hurdles to approving new water supplies, confusion and hesitation
14 from business wanting to relocate or expand in the state, piecemeal implementation of state
15 programs and regulations regarding water supply management and distribution, and patchwork
16 solutions to problems that have statewide impact.

17 (c) Purposes. The purposes of this act are:

18 (1) To provide for reasonable, needed and adequate future water supplies planning by:

19 (i) Developing back-up and supplemental water supplies;

20 (ii) Preserving the storage capacity of the Scituate reservoir as the principal water supply
21 in the state;

22 (iii) Utilizing surplus capacity where it exists in water supply systems in Rhode Island;

23 (iv) Reducing leakage and non-account water; and

24 (v) Controlling seasonal demand.

25 (2) To strengthen water resources and supply planning by:

26 (i) Integrating land-use and water resource and water supply planning in state planning;

27 (ii) Effectuating watershed-based planning and management within the department of
28 environmental management as a means of planning for and protecting the ecological values of
29 water resources; and

30 (iii) Implementing, effectively and efficiently, water rates and water supply management
31 plans that are designed to achieve appropriate demand management.

32 (3) To increase the efficient and effective administration of government responsibilities
33 by:

34 (i) Improving utility rate making by setting forth principles and procedures conducive to

- 1 the sound and efficient operation of water suppliers in the 21st century;
- 2 (ii) Establishing municipal water departments, boards and authorities as self sustaining
3 enterprise funds;
- 4 (iii) Strengthening the state planning, by placing the water resources board within the
5 department of administration, division of planning, and by assigning the duties of the rivers
6 council to the state planning council;
- 7 (iv) Providing an independent existence to the water resources board corporate and
8 reconstituting that entity as the water supply facilities corporation, with the powers and funding
9 capacity needed to undertake water supply projects, such as well field development in the big
10 river management area; and
- 11 (v) Creating a water system development board with the purposes of establishing a
12 coordinated water supply facility application process, adopting a state water facility development
13 plan, and acting as siting board for major water supply projects.

14 SECTION 2. Sections 2-1-21 and 2-1-22 of the General Laws in Chapter 2-1 entitled
15 "Agricultural Functions of Department of Environmental Management" are hereby amended to
16 read as follows:

17 **2-1-21. Approval of director.** -- (a) (1) No person, firm, industry, company, corporation,
18 city, town, municipal or state agency, fire district, club, nonprofit agency, or other individual or
19 group may excavate; drain; fill; place trash, garbage, sewage, highway runoff, drainage ditch
20 effluents, earth, rock, borrow, gravel, sand, clay, peat, or other materials or effluents upon; divert
21 water flows into or out of; dike; dam; divert; change; add to or take from or otherwise alter the
22 character of any fresh water wetland as defined in section 2-1-20 without first obtaining the
23 approval of the director of the department of environmental management.

24 (2) Approval will be denied if in the opinion of the director granting of approval would
25 not be in the best public interest. Approval shall not be granted if the city council or town council
26 of the municipality within whose borders the project lies disapproves within the forty-five (45)
27 days provided for objections set forth in section 2-1-22. Disapproval does not preclude the
28 director of the department of environmental management from granting an approval of alterations
29 of wetlands relating to a public water supply project approved by the Rhode Island water system
30 development board in accordance with section 46-32-7, or to a state highway project proposed by
31 the department of transportation that passes through or crosses two (2) or more municipalities.

32 (3) Appeal from a denial may be made to the superior court.

33 (4) In the event of any alteration by a city or town, or any water district, public water
34 authority or water company that is subject to section 46-15.3-5.1 of surface water impoundments

1 and ground water supplies used for public drinking water supply, limited to maintenance within
2 existing boundary perimeters of the impoundment or well head protection area, no approval shall
3 be required. The city or town or the chief administrative official of the water district, public water
4 authority or water company advises the director at least twenty (20) days prior to commencing the
5 maintenance work. The city or town or the chief administrative official of the water district,
6 public water authority or water company shall advise the director in writing, describing the
7 location and nature of the work, anticipated times of commencement and completion, and
8 methods to be used to reduce adverse impacts on the wetland. The director shall advise the city or
9 town or the chief administrative official of the water district, public water authority or water
10 company of any concerns with the impact of the proposed maintenance on the wetland and water
11 quality.

12 (b) Whenever a landowner is denied approval to alter a wetland by the director, or by the
13 city or town within whose borders the wetland lies under subsection (a), the landowner may elect
14 to have the state, or the city or town, acquire the land involved by petitioning to the superior
15 court. If the court determines that the proposed alteration would not essentially change the natural
16 character of the land, would not be unsuited to the land in the natural state, and would not injure
17 the rights of others, the court shall, upon determining the fair market value of the wetland, based
18 upon its value as a wetland, direct the state, if approval was denied by the director, or the city or
19 town, if approval was denied by the city or town, or both, if they concur in the disapproval, to pay
20 to the landowner the fair market value of the wetland. If the state, or the city or town, or both,
21 where both are ordered to pay, declines the acquisition, the landowner may proceed to alter the
22 wetland as initially requested. Any amount paid by the state shall be paid from any funds in the
23 treasury not otherwise appropriated. If the director of environmental management alone denied
24 approval under subsection (a), then the state shall make payment. If the city or town alone denied
25 approval under subsection (a), then the city or town shall make payment. If both the state and the
26 city or town denied approval, then payment shall be shared equally by the state and the city or
27 town.

28 **2-1-22. Procedure for approval by director -- Notice of change of ownership --**
29 **Recordation of permit.** -- (a) Application for approval of a project to the director of
30 environmental management shall be made in a form to be prescribed by the director and provided
31 by the director upon request. Prior to the application, a request may be made for preliminary
32 determination as to whether this chapter applies. A preliminary determination shall be made by
33 the director only after an on-site review of the project and the determination shall be made within
34 thirty (30) days of the request. This chapter shall be determined to apply if a significant alteration

1 appears to be contemplated and an application to alter a wetland will be required. Within fourteen
2 (14) days after receipt of the completed application accompanied by plans and drawings of the
3 proposed project, the plans and drawings to be prepared by the registered professional engineer to
4 a scale of not less than one inch (1") to one hundred feet (100'), the director shall notify all
5 landowners whose properties are within two hundred feet (200') of the proposed project and the
6 director will also notify the city or town council, the conservation commission, the planning
7 board, the zoning board, and any other individuals and agencies in any city or town within whose
8 borders the project lies who may have reason in the opinion of the director to be concerned with
9 the proposal. The director may also establish a mailing list of all interested persons and agencies
10 who may wish to be notified of all applications.

11 (b) If the director receives any objection to the project within forty-five (45) days of the
12 mailing of the notice of application from his or her office, the objection to be in writing and of a
13 substantive nature, the director shall then schedule a public hearing in an appropriate place as
14 convenient as reasonably possible to the site of the proposed project. The director shall inform by
15 registered mail all objectors of the date, time, place, and subject of the hearing to be held. The
16 director shall further publish notice of the time, place, date, and subject of the hearing in one local
17 newspaper circulated in the area of the project and one statewide newspaper, the notices to appear
18 once per week for at least two (2) consecutive weeks prior to the week during which the hearing
19 is scheduled. The director shall establish a reasonable fee to cover the costs of the investigations,
20 notifications, and publications, and hearing and the applicant shall be liable for the fee.

21 (c) If no public hearing is required, or following a public hearing, the director shall make
22 his or her decision on the application and notify the applicant by registered mail and the
23 applicant's attorney and any other agent or representative of the applicant by mail of this decision
24 within a period of six (6) weeks. If a public hearing was held, any persons who objected, in
25 writing, during the forty-five (45) day period provided for objections shall be notified of the
26 director's decision by first class mail.

27 (d) In the event of a decision in favor of granting an application, the director shall issue a
28 permit for the applicant to proceed with the project, and shall require the applicant to pay a permit
29 fee of one hundred dollars (\$100). The permit may be issued upon any terms and conditions,
30 including time for completion, that the director may require. Permits shall be valid for a period of
31 one year from the date of issue and shall expire at the end of that time unless renewed. A permit
32 may be renewed for up to three (3) additional one year periods upon application by the original
33 permit holder or a subsequent transferee of the property subject to permit, unless the original
34 permit holder or transferee has failed to abide by the terms and conditions of the original permit

1 or any prior renewal. The director may require new hearings if, in his or her judgment, the
2 original intent of the permit is altered or extended by the renewal application or if the applicant
3 has failed to abide by the terms of the original permit in any way. In addition, in the event a
4 project authorized by a permit was not implemented by the permit holder or transferee because
5 approval of the project by a federal agency, for which application had been timely made, had not
6 been received or a federal agency had stopped the project from proceeding, prior to the expiration
7 of the permit, the permit holder or transferee may apply for a renewal of the permit at any time
8 prior to the tenth (10th) anniversary of the original issuance, and the application shall be deemed
9 to be an insignificant alteration subject to expedited treatment. The request for renewal of a
10 permit shall be made according to any procedures and form that the director may require.

11 (e) The original permittee or subsequent transferee shall notify the director, in writing, of
12 any change of ownership that occurs while an original or renewal permit is in effect by
13 forwarding a certified copy of the deed of transfer of the property subject to the permit to the
14 director.

15 (f) A notice of permit and a notice of completion of work subject to permit shall be
16 eligible for recordation under chapter 13 of title 34 and shall be recorded at the expense of the
17 applicant in the land evidence records of the city or town where the property subject to permit is
18 located, and any subsequent transferee of the property shall be responsible for complying with the
19 terms and conditions of the permit.

20 (g) The director shall notify the person requesting a preliminary determination and the
21 person's attorney, agent, and other representative of his or her decision by letter, copies of which
22 shall be sent by mail to the city or town clerk, the zoning board, the planning board, the building
23 official, and the conservation commission in the city or town within which the project lies.

24 (h) The director shall report to the general assembly on or before February 1 of each
25 calendar year on his or her compliance with the time provisions contained in this chapter.

26 (i) Normal farming activities shall be considered insignificant alterations and, as normal
27 farming activities, shall be exempted from the provisions of this chapter in accordance with the
28 following procedures:

29 (1) Normal farming and ranching activities are those carried out by farmers as defined in
30 this title, including plowing, seeding, cultivating, land clearing for routine agriculture purposes,
31 harvesting of agricultural products, pumping of existing farm ponds for agricultural purposes,
32 upland soil and water conservation practices, and maintenance of existing farm drainage
33 structures, existing farm ponds and existing farm roads are permissible at the discretion of
34 farmers in accordance with best farm management practices which assure that the adverse effects

1 to the flow and circulation patterns and chemical and biological characteristics of fresh water
2 wetlands are minimized and that any adverse effects on the aquatic environment are minimized.

3 (2) In the case of construction of new farm ponds, construction of new drainage
4 structures and construction of new farm roads, the division of agriculture shall be notified by the
5 filing of a written application for the proposed construction by the property owner. The
6 application shall include a description of the proposed construction and the date upon which
7 construction is scheduled to begin, which date shall be no earlier than thirty (30) calendar days
8 after the date of the filing of the application. The division of agriculture shall review such
9 applications to determine that they are submitted for agricultural purposes and to assure that
10 adverse effects to the flow and circulation patterns and chemical and biological characteristics of
11 fresh water wetlands are minimized and that any adverse effects on the aquatic environment are
12 minimized and will not result in a significant alteration to the wetlands. Pursuant to this review,
13 the division shall notify the applicant, in writing, whether the proposal is an insignificant
14 alteration. This notice shall be issued not later than thirty (30) days after the date that the
15 application was filed with the division. In the event notice is given by the division as required, the
16 application shall be conclusively presumed to be an insignificant alteration. If no notice is given
17 as required, or if an application is approved as an insignificant alteration, the applicant may cause
18 construction to be done in accordance with the application, and neither the applicant nor the
19 applicant's agents or employees who cause or perform the construction in accordance with the
20 application shall be liable for any criminal, civil, administrative or other fine, fee, or penalty,
21 including restoration costs for violations alleged to arise from the construction.

22 (3) The division of agriculture shall, in coordination with the agricultural council's
23 advisory committee, adopt regulations for subdivision (i)(2), and shall determine whether a
24 proposed activity, other than an activity listed in subdivision (i)(1), constitutes a normal farming
25 activity, or involves the best farm management practices.

26 (4) Except as otherwise provided for farm road construction, filling of wetlands
27 conforms to the provisions of this chapter.

28 (j) For the purposes of this section, a "farmer" is an individual, partnership or
29 corporation who operates a farm and has filed a 1040F U.S. Internal Revenue Form with the
30 Internal Revenue Service, has a state farm tax number and has earned ten thousand dollars
31 (\$10,000) gross income on farm products in each of the preceding four (4) years.

32 (k) The director shall consider the adequacy and reliability of public drinking water
33 supply as a matter of public interest and necessary to the health, safety and welfare of the people
34 of the state and shall consider applications made under this chapter in the following manner:

1 (1) A public drinking water supply well that is of a capacity of one million two hundred
2 fifty thousand (1,250,000) gallons per day or less and is either a replacement or a back-up well
3 shall be considered an insignificant alteration, provided, however, that the director may impose as
4 a condition of the finding of insignificant alteration that total withdrawals and maximum
5 withdrawals from the well field will not be increased, except as may be necessary in emergency
6 conditions or on a temporary basis for the maintenance and/or repair of other components of the
7 water supply system.

8 (2) A public drinking supply water well that is either of a capacity of more than one
9 million two hundred fifty thousand (1,250,000) gallons per day or is a well intended to increase
10 water supply derived from a well field, shall be conclusively presumed to be in the public interest,
11 provided the well has been included in the state water system development plan adopted by the
12 water supply development board pursuant to section 46-32-9, and the basic need for the water and
13 alternative locations for the well shall not be matters for determination under this chapter. The
14 director may deny the application if the director determines by a preponderance of the evidence
15 that the impact on wetland resources protected by this chapter are unacceptable notwithstanding
16 the public interest in the water supply. The director may impose such reasonable conditions on
17 the operation of the well as may be necessary to reasonably protect the value and functioning of
18 wetlands.

19 SECTION 3. Sections 39-1-1 and 39-1-2 of the General Laws in Chapter 39-1 entitled
20 "Public Utilities Commission" are hereby amended to read as follows:

21 **39-1-1. Declaration of policy -- Purposes.** -- (a) The general assembly finds and
22 therefore declares that:

23 (1) The businesses of distributing electrical energy, producing and transporting
24 manufactured and natural gas, operating water works and furnishing supplies of water for
25 domestic, industrial, and commercial use, offering to the public transportation of persons and
26 property, furnishing and servicing telephonic and wireless audio and visual communication
27 systems, and operation of community antenna television systems are affected with a public
28 interest;

29 (2) Supervision and reasonable regulation by the state of the manner in which such
30 businesses construct their systems and carry on their operations within the state are necessary to
31 protect and promote the convenience, health, comfort, safety, accommodation, and welfare of the
32 people, and are a proper exercise of the police power of the state;

33 (3) Preservation of the state's resources, commerce, and industry requires the assurance
34 of adequate public transportation and communication facilities, water supplies, and an abundance

1 of energy, all supplied to the people with reliability, at economical cost, and with due regard for
2 the preservation and enhancement of the environment, the conservation of natural resources,
3 including scenic, historic, and recreational assets, and the strengthening of long-range, land-use
4 planning.

5 (b) It is hereby declared to be the policy of the state to provide fair regulation of public
6 utilities and carriers in the interest of the public, to promote availability of adequate, efficient and
7 economical energy, communication, and transportation services and water supplies to the
8 inhabitants of the state, to provide just and reasonable rates and charges for such services and
9 supplies, without unjust discrimination, undue preferences or advantages, or unfair or destructive
10 competitive practices, and to co-operate with other states and agencies of the federal government
11 in promoting and coordinating efforts to achieve realization of this policy.

12 (c) To this end, there is hereby vested in the public utilities commission and the division
13 of public utilities and carriers the exclusive power and authority to supervise, regulate, and make
14 orders governing the conduct of companies offering to the public in intrastate commerce energy,
15 communication, and transportation services and water supplies for the purpose of increasing and
16 maintaining the efficiency of the companies, according desirable safeguards and convenience to
17 their employees and to the public, and protecting them and the public against improper and
18 unreasonable rates, tolls and charges by providing full, fair, and adequate administrative
19 procedures and remedies, and by securing a judicial review to any party aggrieved by such an
20 administrative proceeding or ruling.

21 (d) The legislature also finds and declares, as of 1996, the following:

22 (1) That lower retail electricity rates would promote the state's economy and the health
23 and general welfare of the citizens of Rhode Island;

24 (2) That current research and experience indicates that greater competition in the
25 electricity industry would result in a decrease in electricity rates over time;

26 (3) That greater competition in the electricity industry would stimulate economic growth;

27 (4) That it is in the public interest to promote competition in the electricity industry and
28 to establish performance based ratemaking for regulated utilities;

29 (5) That in connection with the transition to a more competitive electric utility industry,
30 public utilities should have a reasonable opportunity to recover transitional costs associated with
31 commitments prudently incurred in the past pursuant to their legal obligations to provide reliable
32 electric service at reasonable costs;

33 (6) That it shall be the policy of the state to encourage, through all feasible means and
34 measures, states where fossil-fueled electric generating units producing air emissions affecting

1 Rhode Island air quality are located to reduce such emissions over time to levels that enable cost
2 effective attainment of environmental standards within Rhode Island;

3 (7) That in a restructured electrical industry the same protections currently afforded to
4 low income customers shall continue.

5 (e) The legislature further finds and declares as of 2006:

6 (1) That prices of energy, including especially fossil-fuels and electricity, are rising
7 faster than the cost of living and are subject to sharp fluctuations, which conditions create
8 hardships for many households, institutions, organizations, and businesses in the state;

9 (2) That while utility restructuring has brought some benefits, notably in transmission
10 and distribution costs and more efficient use of generating capacities, it has not resulted in
11 competitive markets for residential and small commercial industrial customers, lower overall
12 prices, or greater diversification of energy resources used for electrical generation;

13 (3) That the state's economy and the health and general welfare of the people of Rhode
14 Island benefit when energy supplies are reliable and least-cost; and

15 (4) That it is a necessary move beyond basic utility restructuring in order to secure for
16 Rhode Island, to the maximum extent reasonably feasible, the benefits of reasonable and stable
17 rates, least-cost procurement, and system reliability that includes energy resource diversification,
18 distributed generation, and load management.

19 (f) The general assembly also finds and declares, as of 2007, the following:

20 (1) That during the previous fifty (50) years the state has become increasingly dependent
21 on the Scituate reservoir of the Providence water supply board as the primary source of water
22 supply, and that there is a need to develop and implement for supplemental and back-up water
23 supplies and use surplus capacity in other systems in order to provide prudently for future
24 demand for water in the state;

25 (2) That the water supply, transmission, and distribution infrastructure of water suppliers
26 is aging and needs reinvestment, including but not limited to, reinvestment to accomplish goals
27 for reducing leakage and non-account water;

28 (3) That seasonal use of water has increased dramatically in some communities and is
29 taxing the capacity of some systems thereby creating pressure to utilize existing water supplies
30 and to develop additional water supplies;

31 (4) That regulatory processes governing water supply in conjunction with each other have
32 become increasingly complex, expensive, uncertain and time consuming; and

33 (5) That it is necessary to provide, through a process that is reasonable and efficient, rates
34 that facilitate development and use of supplemental and back-up water supplies, that support

1 infrastructure reinvestment, and that fairly distribute the system of costs of seasonal and peak
2 discretionary use of water within classes of customers in a manner that enables management of
3 demand, with the overall purposes of providing water supply system reliability and cost-
4 effectiveness.

5 **39-1-2. Definitions.** -- Terms used in this title shall be construed as follows, unless
6 another meaning is expressed or is clearly apparent from the language or context:

7 (1) "Administrator" means the administrator of the division of public utilities and
8 carriers;

9 (2) "Airport" and "landing field" mean and include all airports and landing fields other
10 than those owned by the state;

11 (3) "Chairperson" means the chairperson of the public utilities commission;

12 (4) "Charter carrier" means and includes all carriers for hire or compensation within this
13 state not included in the definition of common carrier;

14 (5) "Commission" means the public utilities commission;

15 (6) "Commissioner" means a member of the public utilities commission;

16 (7) "Common carrier", except when used in chapters 12, 13, and 14 of this title, means
17 and includes all carriers for hire or compensation including railroads, street railways, express,
18 freight and freight line companies, dining car companies, steam boat, motor boat, power boat,
19 hydrofoil, and ferry companies and all other companies operating any agency or facility for
20 public use in this conveyance over fixed routes, or between fixed termini within this state or
21 persons or property by or by a combination of land, air, or water;

22 (8) "Company" means and includes a person, firm, partnership, corporation, quasi-
23 municipal corporation, association, joint stock association or company, and his, her, its, or their
24 lessees, trustees, or receivers appointed by any court;

25 (9) "Customer" means a company taking service from an electric distribution company at
26 a single point of delivery or meter location;

27 (10) "Distribution facility" means plant or equipment used for the distribution of
28 electricity and which is not a transmission facility;

29 (11) "Division" means the division of public utilities and carriers;

30 (12) "Electric distribution company" means a company engaging in the distribution of
31 electricity or owning, operating, or controlling distribution facilities and shall be a public utility
32 pursuant to section 39-1-2(20);

33 (13) "Electric transmission company" means a company engaging in the transmission of
34 electricity or owning, operating, or controlling transmission facilities. An electric transmission

1 company shall not be subject to regulation as a public utility except as specifically provided in the
2 general laws, but shall be regulated by the federal energy regulatory commission and shall
3 provide transmission service to all nonregulated power producers and customers, whether
4 affiliated or not, on comparable, nondiscriminatory prices and terms. Electric transmission
5 companies shall have the power of eminent domain exercisable following a petition to the
6 commission pursuant to section 39-1-31;

7 (14) "Liquefied natural gas" means a fluid in the liquid state composed predominantly of
8 methane and which may contain minor quantities of ethane, propane, nitrogen, or other
9 components normally found in natural gas;

10 (15) "Manufacturing customers" means all customers that have on file with an electric
11 distribution company a valid certificate of exemption from the Rhode Island sales tax indicating
12 the customer's status as a manufacturer pursuant to section 44-18-30;

13 (16) "Motor carriers" means any carrier regulated by the administrator pursuant to
14 Chapters 3, 11, 12, 13 and 14 of this title;

15 (17) "Natural gas" means the combustible gaseous mixture of low-molecular-weight,
16 paraffin hydrocarbons, generated below the surface of the earth containing mostly methane and
17 ethane with small amounts of propane, butane, and hydrocarbons, and sometimes nitrogen,
18 carbon dioxide, hydrogen sulfide, and helium;

19 (18) "Nonprofit housing development corporation" means a nonprofit corporation, which
20 has been approved as a section 501(c)(3), 26 U.S.C. section 501(c)(3), corporation by the internal
21 revenue service, and which is organized and operated primarily for the purpose of providing
22 housing for low and moderate income persons;

23 (19) "Nonregulated power producer" means a company engaging in the business of
24 producing, manufacturing, generating, buying, aggregating, marketing or brokering electricity for
25 sale at wholesale or for retail sale to the public; provided however, that companies which
26 negotiate the purchase of electric generation services on behalf of customers and do not engage in
27 the purchase and resale of electric generation services shall be excluded from this definition. A
28 nonregulated power producer shall not be subject to regulation as a public utility except as
29 specifically provided in the general laws;

30 (20) "Public utility" means and includes every company that is an electric distribution
31 company and every company operating or doing business in intrastate commerce and in this state
32 as a railroad, street railway, common carrier, gas, liquefied natural gas, water [supplier as defined](#)
33 [in this section](#), telephone, telegraph, and pipeline company, and every company owning, leasing,
34 maintaining, managing, or controlling any plant or equipment or any part of any plant or

1 equipment within this state for manufacturing, producing, transmitting, distributing, delivering, or
2 furnishing natural or manufactured gas, directly or indirectly to or for the public, or any cars or
3 equipment employed on or in connection with any railroad or street railway for public or general
4 use within this state, or any pipes, mains, poles, wires, conduits, fixtures, through, over, across,
5 under, or along any public highways, parkways or streets, public lands, waters, or parks for the
6 transmission, transportation, or distribution of gas for sale to the public for light, heat, cooling, or
7 power for providing audio or visual telephonic or telegraphic communication service within this
8 state ~~or any pond, lake, reservoir, stream, well, or distributing plant or system employed for the~~
9 ~~distribution of water to the consuming public within this state including the water supply board of~~
10 ~~the city of Providence; provided, that, except as provided in section 39-16-9 and in chapter 2072~~
11 ~~of the public laws, 1933, as amended, this definition shall not be construed to apply to any public~~
12 ~~waterworks or water service owned and furnished by any city, town, water district, fire district, or~~
13 ~~any other municipal or quasi-municipal corporation, excepting the water supply board of the city~~
14 ~~of Providence, unless any city, town, water district, fire district, municipal, or quasi-municipal~~
15 ~~corporation obtains water from a source owned or leased by the water resources board, either~~
16 ~~directly or indirectly, or obtains a loan from the board pursuant to the provisions of chapter 15 of~~
17 ~~title 46, or sells water, on a wholesale or retail basis, inside and outside the territorial limits of the~~
18 ~~city or town, water district, fire district, municipal or quasi-municipal corporation, except,~~
19 ~~however, that a public waterworks or water service owned and furnished by any city, town, water~~
20 ~~district, fire district, or any other municipal or quasi-municipal corporation which sells water, on~~
21 ~~a wholesale or retail basis, inside and outside its territorial limits shall not be construed as a~~
22 ~~public utility if it has fewer than one thousand five hundred (1500) total customer service~~
23 ~~connections and provided outside sales do not exceed ten percent (10%) of the total water service~~
24 ~~connections or volumetric sales and provided the price charged to outside customers, per unit of~~
25 ~~water, is not greater than the price charged to inside customers for the same unit of water, nor to~~
26 the Rhode Island public transit authority, or to the production and/or distribution of steam, heat,
27 or water by Rhode Island port authority and economic development corporation in the town of
28 North Kingstown; and the term "public utility" shall also mean and include the Narragansett Bay
29 water quality management district commission; and provided that the ownership or operation of a
30 facility by a company which dispenses alternative fuel or energy sources at retail for use as a
31 motor vehicle fuel or energy source, and the dispensing of alternative fuel or energy sources at
32 retail from such a facility, does not make the company a public utility within the meaning of this
33 title solely because of that ownership, operation, or sale; and provided further that this exemption
34 shall not apply to presently regulated public utilities which sell natural gas or are dispensers of

1 other energy sources; and provided further, that the term "public utility" shall not include any
2 company;

3 (i) Producing or distributing steam or heat from a fossil fuel fired cogeneration plant
4 located at the university of Rhode Island South Kingstown, Rhode Island and

5 (ii) Producing and/or distributing thermal energy and/or electricity to a state owned
6 facility from a plant located on an adjacent site regardless of whether steam lines cross a public
7 highway.

8 (21) "Purchasing cooperatives" shall mean any association of electricity consumers
9 which join for the purpose of negotiating the purchase of power from a nonregulated power
10 producer, provided however, that purchasing cooperatives shall not be required to be legal entities
11 and are prohibited from being engaged in the re-sale of electric power;

12 (22) "Railroad" means and includes every railroad other than a street railway, by
13 whatsoever power operated for public use in the conveyance in this state of persons or property
14 for compensation, with all bridges, ferries, tunnels, switches, spurs, tracks, stations, wharves, and
15 terminal facilities of every kind, used, operated, controlled, leased, or owned by or in connection
16 with any railroad;

17 (23) "Retail access" means the use of transmission and distribution facilities owned by
18 an electric transmission company or an electric distribution company to transport electricity sold
19 by a nonregulated power producer to retail customers pursuant to section 39-1-27.3;

20 (24) "Street railway" means and includes every railway by whatsoever power operated or
21 any extension or extensions, branch, or branches thereof, for public use in the conveyance in this
22 state of persons or property for compensation, being mainly upon, along, above, or below any
23 street, avenue, road, highway, bridge, or public place in any city or town, and including all
24 switches, spurs, tracks, rights of trackage, subways, tunnels, stations, terminals and terminal
25 facilities of every kind, used, operated, controlled, or owned by or in connection with any street
26 railway;

27 (25) "Transmission facility" means plant or equipment used for the transmission of
28 electricity as determined by the federal energy regulatory commission pursuant to federal law as
29 of the date of the property transfers pursuant to section 39-1-27(c);

30 (26) Notwithstanding any provision of this section or any provision of the act entitled,
31 "An Act Relating to the Utility Restructuring Act of 1996" (hereinafter "Utility Restructuring
32 Act"), upon request by the affected electric utility, the commission may exempt from the Utility
33 Restructuring Act or any provision(s) thereof, an electric utility which meets the following
34 requirements: (i) the utility is not selling or distributing electricity outside of the service territory

1 in effect for that utility on the date of passage of the Utility Restructuring Act; and (ii) the number
2 of kilowatt hours sold or distributed annually by the utility to the public is less than five percent
3 (5%) of the total kilowatt hours consumed annually by the state. Provided however that nothing
4 contained in this section shall prevent the commission from allowing competition in the
5 generation of electricity in service territories of utilities exempted in whole or in part from the
6 Utility Restructuring Act pursuant to this section, as long as such allowance of competition is
7 conditioned upon payment to the exempted electric utility of a nonbypassable transition charge
8 calculated to recover the elements comparable in nature to the elements in section 39-1-27.4(b)
9 and (c) taking into consideration any unique circumstances applicable to the exempted electric
10 utility.

11 (27) "Water supplier" means and includes any company, district authority, municipal
12 department, agency authority or board, or any department, agency or corporation of the state that
13 has water supply as a statutory purpose, that supplies, treats, transmits, and/or distributes water
14 and is a water supply system as defined in section 46-15-1.1 and shall include any pond, lake,
15 reservoir, stream, well, or distributing plant or system employed for the distribution of water to
16 the consuming public within this state including the water supply board of the city of Providence;
17 however, except as provided in section 39-16-9 and in chapter 2072 of the public laws, 1933, as
18 amended, this definition shall not be construed to apply to any public waterworks or water service
19 exempted by law from this title or to any public waterworks or water service owned and furnished
20 by any city, town, water district, fire district, or any other municipal or quasi-municipal
21 corporation which shall not be construed as a public utility if it has fewer than one thousand five
22 hundred (1,500) total customer service connections and provided outside sales do not exceed ten
23 percent (10%) of the total water service connections or volumetric sales and provided the
24 commodity price charged to outside customers, per unit of water, is not greater than the price
25 charged to inside customers for the same unit of water.

26 SECTION 4. Title 39 of the General Laws entitled "PUBLIC UTILITIES AND
27 CARRIERS" is hereby amended by adding thereto the following chapter:

28 CHAPTER 15.1

29 WATER SUPPLIERS SUBJECT TO COMMISSION RATE REGULATION

30 **39-15.1-1. Purposes --** The purposes of this chapter are to:

31 (a) Augment current principles for setting the rates of public utilities that are water
32 suppliers that are subject to commission rate regulation in a manner that facilitates:

33 (1) Managing demand especially seasonal demand in a manner that allows for fair
34 distribution costs to users that cause high levels of seasonal demand for water, and conserving

1 water;

2 (2) Investing in infrastructure repair and replacement;

3 (3) Recovering the full costs of water systems through water system revenues; and

4 (4) Establishing operating capital, and debt service of sufficient size.

5 (b) Provide an optional system for multi-year water rates that are adjustable in
6 accordance with an approved rate plan.

7 **39-15.1-2. Definitions** – For the purposes of this chapter, the following definitions shall
8 apply:

9 (a) “Commission” shall mean the public utilities commission established by chapter 39-1,
10 with all powers set forth in chapter 39-1, including but not limited to the powers set forth in
11 sections 39-1-3 and 39-1-7, and in chapter 39-4, and subject to chapter 39-5.

12 (b) “Division” shall mean the division of public utilities and carriers.

13 (c) “Fiscal year” shall mean July 1 to June 30.

14 (d) “Water resources board” shall mean the water resources board established by chapter
15 46-15.

16 (e) “Water supply facilities corporation” shall mean the water supply facilities
17 corporation established by chapter 46-15.1

18 (f) “Water supplier” shall mean a water supplier as defined in section 39-1-2.

19 (g) “Water supply systems management plan” shall mean a water supply systems
20 management plan prepared in accordance with section 46-15.3-5.1 and found by the water
21 resources board, pursuant to section 46-15.3-7.6, to be in compliance with the requirements for
22 such plans.

23 (h) “Water system development board” shall mean the water supply facilities siting board
24 established by chapter 46-32.

25 **39-15.1-3. Rates --** (a) Adequacy. The rates of water suppliers subject to commission
26 rate regulation shall be reasonable and adequate to pay for all costs associated with water supply
27 including but not limited to the costs of:

28 (1) Acquisition, treatment, transmission, distribution, and availability of water;

29 (2) System administration and overhead, including the cost and/or value of all services
30 and facilities provided by the city or town to the water supplier, including but not limited to
31 testing, operation, maintenance, replacement, repair, debt service, and reasonable compensation
32 to the city or town for the fair value of all facilities provided by the city or town, including but not
33 limited to supply, production, treatment, transmission, and administration facilities;

34 (3) Annual operating reserves of at least two and one-half percent (2.5%) of annual gross

1 revenues by the conclusion of fiscal year 2009 and at least five percent (5%) of annual gross
2 revenues by the conclusion of fiscal year 2010;

3 (4) Capital reserves as are reasonable to provide for system maintenance and repair and
4 replacement; and

5 (5) Such debt service reserves as are reasonable.

6 (b) Equitability. Except for service charges and other fixed fees and charges approved as
7 reasonable by the commission, where practicable, rates:

8 (1) Shall be based on metered usage and fairly set among and within the classes and/or
9 types of users;

10 (2) Shall provide that within any class of users the full cost of system capacity,
11 administration, operations, and water supply costs for peak and seasonal use is borne by the users
12 that contribute to such peak and seasonal use; and

13 (3) May provide a basic residential use rate for water use that is designed to make a basic
14 level of water use affordable. Infrastructure and water supplied and/or used for public safety shall
15 be considered a water system cost to be incorporated into the rates of metered users. Rates shall
16 include temporary adjustment clauses to provide for adequacy during periods when sales decline
17 by five percent (5%) or more from the previous three (3) year running average due to
18 circumstances beyond the reasonable control of the water supplier, including but not limited to
19 the weather, drought or restrictions on water use.

20 (c) Billing. Billing shall be not less frequently than quarterly by fiscal year 2011, and not
21 less frequently than monthly by fiscal year 2016. Rates for seasonal use shall be put into effect as
22 provided for in an approved water supply management plan, or with the approval of the
23 commission upon implementation of monthly billing.

24 **39-15.1.4. Optional multi-year rate plans --** (a) Water suppliers, other than the water
25 supply facilities corporation, may file with the commission a rate plan for a period not to exceed
26 six (6) years, which rate plan shall set forth proposed rates:

27 (1) That are adequate, as described in subsection 39-15.1-3(a) to pay for all reasonable
28 costs of service associated with water supply during the period of the plan, and may include
29 projections of cost increases and are equitable as described in subsection 39-15.1-3(b);

30 (2) That attribute the cost of increased seasonal demand to customers that contribute to
31 increased seasonal demand;

32 (3) That provide for infrastructure maintenance, repair, and replacement, especially in
33 order to meet goals for reduction of leakage and non-account water, that are included in a water
34 supply system management plan or a water supply facilities plan approved by the water supply

1 facilities siting board; and

2 (4) That provide for the establishment and maintenance of operating reserves, capital
3 reserves, and debt service reserves as described in subsection 39-15.1-3(a).

4 (b) The commission shall approve or reasonably amend the plan and the rates proposed
5 therein.

6 (c) A water supplier with a multi-year plan approved by the commission may change its
7 rates consistent with the plan, provided that a forty-five (45) day notice is given to the
8 commission and the division, which notice shall state the amount of the proposed rate changes,
9 the manner in which the proposed rate is consistent with the approved plan, and the purpose of
10 the proposed rate change. The proposed rate change shall be effective sixty (60) days after the
11 notice to the commission and the division, unless the commission shall decide that the proposed
12 rate increase may be unreasonable or inconsistent with the approved plan, in which case the
13 commission shall hold a hearing on the proposed rate increase and may approve, or reasonably
14 amend the proposed rate increase. Notwithstanding the foregoing notice provision, the
15 commission shall be bound by the maximum six (6) month suspension period set forth in section
16 39-3-11.

17 (d) A water supplier may petition the commission for a modification to an approved plan,
18 and the commission in hearing and deciding the petition need only consider those portions or
19 elements of the plan affected by the proposed modification. The commission shall approve or
20 reasonably modify the proposed modification. An approved modification shall become part of
21 the plan for purposes of subsection 39-15.1-4(c)

22 (e) Each water supplier with an approved plan shall report annually to the commission
23 and the division with regard to:

24 (1) Performance under the plan, including rates, revenues derived from rates,
25 expenditures necessary to pay for all reasonable costs of service; and

26 (2) The level and status of operating reserves, capital reserves, and debt services reserves.

27 SECTION 5. Section 42-11-10 of the General Laws in Chapter 42-11 entitled
28 "Department of Administration" is hereby amended to read as follows:

29 **42-11-10. Statewide planning program.** -- (a) Findings. - The general assembly finds
30 that the people of this state have a fundamental interest in the orderly development of the state;
31 the state has a positive interest and demonstrated need for establishment of a comprehensive
32 strategic state planning process and the preparation, maintenance, and implementation of plans
33 for the physical, economic, and social development of the state; the continued growth and
34 development of the state presents problems that cannot be met by the cities and towns

1 individually and that require effective planning by the state; and state and local plans and
2 programs must be properly coordinated with the planning requirements and programs of the
3 federal government.

4 (b) Establishment of statewide planning program. - (1) A statewide planning program is
5 hereby established to prepare, adopt, and amend strategic plans for the physical, economic, and
6 social development of the state and to recommend these to the governor, the general assembly,
7 and all others concerned.

8 (2) All strategic planning, as defined in subsection (c) of this section, undertaken by the
9 executive branch for those departments and other agencies enumerated in subsection (g) of this
10 section, shall be conducted by or under the supervision of the statewide planning program. The
11 statewide planning program shall consist of a state planning council, and the office of strategic
12 planning and the office of systems planning of the division of planning, which shall be a division
13 within the department of administration.

14 (c) Strategic planning. - Strategic planning includes the following activities:

15 (1) Establishing or identifying general goals.

16 (2) Refining or detailing these goals and identifying relationships between them.

17 (3) Formulating, testing, and selecting policies and standards that will achieve desired
18 objectives.

19 (4) Preparing long-range or system plans or comprehensive programs that carry out the
20 policies and set time schedules, performance measures, and targets.

21 (5) Preparing functional short-range plans or programs that are consistent with
22 established or desired goals, objectives, and policies, and with long-range or system plans or
23 comprehensive programs where applicable, and that establish measurable intermediate steps
24 toward their accomplishment of the goals, objectives, policies, and/or long-range system plans.

25 (6) Monitoring the planning of specific projects and designing of specific programs of
26 short duration by the operating departments, other agencies of the executive branch, and political
27 subdivisions of the state to insure that these are consistent with and carry out the intent of
28 applicable strategic plans.

29 (7) Reviewing the execution of strategic plans and the results obtained and making
30 revisions necessary to achieve established goals.

31 (d) State guide plan. - Components of strategic plans prepared and adopted in accordance
32 with this section may be designated as elements of the state guide plan. The state guide plan shall
33 be comprised of functional elements or plans dealing with land use; physical development and
34 environmental concerns; economic development; housing production; energy supply, including

1 the development of renewable energy resources in Rhode Island, and energy access, use, and
2 conservation; human services; and other factors necessary to accomplish the objective of this
3 section. The state guide plan shall be a means for centralizing, integrating, and monitoring long-
4 range goals, policies, plans, and implementation activities related thereto. State agencies
5 concerned with specific subject areas, local governments, and the public shall participate in the
6 state guide planning process, which shall be closely coordinated with the budgeting process.

7 (e) Membership of state planning council. - The state planning council shall consist of:

8 (1) The director of the department of administration as chairperson;

9 (2) The director, policy office, in the office of the governor, as vice-chairperson;

10 (3) The governor, or his or her designee;

11 (4) The budget officer;

12 (5) The chairperson of the housing resources commission;

13 (6) The chief of statewide planning, as secretary;

14 (7) The president of the league of cities and towns or his or her designee and one official

15 of local government, who shall be appointed by the governor from a list of not less than three (3)

16 submitted by the Rhode Island league of cities and towns; and

17 (8) The executive director of the league of cities and towns;

18 (9) One representative of a nonprofit community development or housing organization;

19 (10) Four (4) public members, appointed by the governor;

20 (11) Two (2) representatives of a private, nonprofit environmental advocacy
21 organization, both to be appointed by the governor; and

22 (12) The director of planning and development for the city of Providence; and

23 (13) The general manager of the water resources board.

24 (f) Powers and duties of state planning council. - The state planning council shall have
25 the following powers and duties:

26 (1) To adopt strategic plans as defined in this section and the long-range state guide plan,
27 and to modify and amend any of these, following the procedures for notification and public
28 hearing set forth in section 42-35-3, and to recommend and encourage implementation of these
29 goals to the general assembly, state and federal agencies, and other public and private bodies;
30 approval of strategic plans by the governor;

31 (2) To coordinate the planning and development activities of all state agencies, in
32 accordance with strategic plans prepared and adopted as provided for by this section;

33 (3) To review and comment on the proposed annual work program of the statewide
34 planning program;

1 (4) To adopt rules and standards and issue orders concerning any matters within its
2 jurisdiction as established by this section and amendments to it;

3 (5) To establish advisory committees and appoint members thereto representing diverse
4 interests and viewpoints as required in the state planning process and in the preparation or
5 implementation of strategic plans. The state planning council shall appoint a permanent
6 committee comprised of:

7 (i) Public members from different geographic areas of the state representing diverse
8 interests, and

9 (ii) Officials of state, local and federal government, which shall review all proposed
10 elements of the state guide plan, or amendment or repeal of any element of the plan, and shall
11 advise the state planning council thereon before the council acts on any such proposal. This
12 committee shall also advise the state planning council on any other matter referred to it by the
13 council; and

14 (6) To establish and appoint members to an executive committee consisting of major
15 participants of a Rhode Island geographic information system with oversight responsibility for its
16 activities.

17 (7) To adopt on or before July 1, 2007, and to amend and maintain as an element of the
18 state guide plan or as an amendment to an existing element of the state guide plan, standards and
19 guidelines for the location of eligible renewable energy resources and renewable energy facilities
20 in Rhode Island with due consideration for the location of such resources and facilities in
21 commercial and industrial areas, agricultural areas, areas occupied by public and private
22 institutions, and property of the state and its agencies and corporations, provided such areas are of
23 sufficient size, and in other areas of the state as appropriate.

24 (8) To adopt and maintain integrated strategic plans for water supply policy, plan,
25 emergency response, drought management, rivers policy and classification, water supply
26 facilities, and watershed-based management, which incorporates watershed hydrological data of
27 the U.S. geological survey and facilitates the use of such data in comprehensive plans prepared
28 pursuant to chapter 45-22.2.

29 (g) Division of planning. - (1) The division of planning shall be the principal staff
30 agency of the state planning council for preparing and/or coordinating strategic plans for the
31 comprehensive management of the state's human, economic, and physical resources. The division
32 of planning shall recommend to the state planning council specific guidelines, standards, and
33 programs to be adopted to implement strategic planning and the state guide plan and shall
34 undertake any other duties established by this section and amendments thereto.

1 (2) The division of planning shall maintain records (which shall consist of files of
2 complete copies) of all plans, recommendations, rules, and modifications or amendments thereto
3 adopted or issued by the state planning council under this section. The records shall be open to
4 the public.

5 (3) The division of planning shall manage and administer the Rhode Island geographic
6 information system of land-related resources, and shall coordinate these efforts with other state
7 departments and agencies, including the University of Rhode Island, which shall provide
8 technical support and assistance in the development and maintenance of the system and its
9 associated data base.

10 (4) The division of planning shall coordinate and oversee the provision of technical
11 assistance to political subdivisions of the state in preparing and implementing plans to accomplish
12 the purposes, goals, objectives, policies, and/or standards of applicable elements of the state guide
13 plan and shall make available to cities and towns data and guidelines that may be used in
14 preparing comprehensive plans and elements thereof and in evaluating comprehensive plans and
15 elements thereby.

16 (h) Transfer determinations. - (1) The director of administration, with the approval of the
17 governor, shall make the conclusive determination of the number of positions, personnel, physical
18 space, property, records, and appropriation balances, allocations and other funds of the
19 department of mental health, retardation, and hospitals, department of health, department of
20 human services, department of corrections, department of labor and training, department of
21 environmental management, department of business regulation, department of transportation,
22 department of state library services, Rhode Island Economic Development Corporation,
23 department of elderly affairs, department for children and their families, historical preservation
24 commission, water resources board, and the defense civil preparedness/emergency management
25 agency of the executive department to be transferred to the department of administration in
26 connection with the functions transferred there into by the provisions of this article.

27 (2) In order to ensure continuity of the strategic planning process of the department
28 specified heretofore, the actual transfer of functions or any part thereof to the department of
29 administration may be postponed after July 1, 1985 until such time as, by executive order of the
30 governor, the transfer herein provided can be put into force and effect but no later than December
31 31, 1985.

32 SECTION 6. Sections 42-17.1-2 and 42-17.1-2.3 of the General Laws in Chapter 42-17.1
33 entitled "Department of Environmental Management" are hereby amended to read as follows:

34 **42-17.1-2. Powers and duties.** -- The director of environmental management shall have

1 the following powers and duties:

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

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

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

32 (d) To exercise all the functions, powers, and duties heretofore vested in the division of
33 harbors and rivers of the department of public works, or in the department itself by such as were
34 previously applicable to the division or the department, of chapters 1 through 22 and sections

1 thereof, as amended, in title 46 entitled "Waters and Navigation"; and by any other general or
2 public law relating to the division of harbors and rivers;

3 (e) To exercise all the functions, powers and duties heretofore vested in the department
4 of health by chapters 25, 18.9, and 19.5 of title 23, as amended, entitled "Health and Safety;" and
5 by chapters 12 and 16 of title 46, as amended, entitled "Waters and Navigation"; by chapters 3, 4,
6 5, 6, 7, 9, 11, 13, 18, and 19 of title 4, as amended, entitled "Animals and Animal Husbandry;"
7 and those functions, powers, and duties specifically vested in the director of environmental
8 management by the provisions of section 21-2-22, as amended, entitled "Inspection of Animals
9 and Milk;" together with other powers and duties of the director of the department of health as are
10 incidental to or necessary for the performance of the functions transferred by this section;

11 (f) To cooperate with the Rhode Island Economic Development Corporation in its
12 planning and promotional functions, particularly in regard to those resources relating to
13 agriculture, fisheries, and recreation;

14 (g) To cooperate with, advise, and guide conservation commissions of cities and towns
15 created under chapter 35 of title 45 entitled "Conservation Commissions", as enacted by chapter
16 203 of the Public Laws, 1960;

17 (h) To assign or reassign, with the approval of the governor, any functions, duties, or
18 powers established by this chapter to any agency within the department, except as hereinafter
19 limited;

20 (i) To cooperate with the water resources board ~~and to provide to the board facilities,~~
21 ~~administrative support, staff services, and such other services as the board shall reasonably~~
22 ~~require for its operation and, in cooperation with the board~~ and the statewide planning program to
23 formulate and maintain a ~~long range~~ guide plan and implementing program for development of
24 major water [supply](#) sources [and water](#) transmissions systems needed to furnish water to regional
25 and local distribution systems; [which plan and implementing program may include directly or by](#)
26 [reference the state water system development plan adopted by the water system development](#)
27 [board, pursuant to chapter 46-32.](#)

28 (j) To cooperate with the solid waste management corporation and to provide to the
29 corporation such facilities, administrative support, staff services and such other services within
30 the department as the corporation shall reasonably require for its operation;

31 (k) To provide for the maintenance of waterways and boating facilities, consistent with
32 chapter 6.1 of title 46, by: (1) establishing minimum standards for upland beneficial use and
33 disposal of dredged material; (2) promulgating and enforcing rules for water quality, ground
34 water protection, and fish and wildlife protection pursuant to section 42-17.1-24; (3) planning for

1 the upland beneficial use and/or disposal of dredged material in areas not under the jurisdiction of
2 the council pursuant to section 46-23-6(2); and (4) cooperating with the coastal resources
3 management council in the development and implementation of comprehensive programs for
4 dredging as provided for in sections 46-23-6(1)(ii)(H) and 46-23-18.3; and (5) monitoring dredge
5 material management and disposal sites in accordance with the protocols established pursuant to
6 section 46-6.1-5(3) and the comprehensive program provided for in section 46-23-6(1)(ii)(H); no
7 powers or duties granted herein shall be construed to abrogate the powers or duties granted to the
8 coastal resources management council under chapter 23 of title 46, as amended;

9 (l) To establish minimum standards, subject to the approval of the environmental
10 standards board, relating to the location, design, construction and maintenance of all sewage
11 disposal systems;

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

28 (n) To establish minimum standards for the establishment and maintenance of salutary
29 environmental conditions, including standards and methods for the assessment and the
30 consideration of the cumulative effects on the environment of regulatory actions and decisions,
31 which standards for consideration of cumulative effects shall provide for: (1) evaluation of
32 potential cumulative effects that could adversely effect public health and/or impair ecological
33 functioning; (2) analysis of such other matters relative to cumulative effects as the department
34 may deem appropriate in fulfilling its duties, functions and powers; which standards and methods

1 shall only be applicable to ISDS systems in the town of Jamestown in areas that are dependent for
2 water supply on private and public wells, unless broader use is approved by the general assembly.
3 The department shall report to the general assembly not later than March 15, 2008 with regard to
4 the development and application of such standards and methods in Jamestown.

5 (o) To establish and enforce minimum standards for permissible types of septage,
6 industrial waste disposal sites and waste oil disposal sites;

7 (p) To establish minimum standards subject to the approval of the environmental
8 standards board for permissible types of refuse disposal facilities, the design, construction,
9 operation, and maintenance of disposal facilities; and the location of various types of facilities;

10 (q) To exercise all functions, powers, and duties necessary for the administration of
11 chapter 19.1 of title 23 entitled "Rhode Island Hazardous Waste Management Act";

12 (r) To designate in writing any person in any department of the state government or any
13 official of a district, county, city, town, or other governmental unit, with that official's consent, to
14 enforce any rule, regulation, or order promulgated and adopted by the director under any
15 provision of law, provided, however, that enforcement of powers of the coastal resources
16 management council shall be assigned only to employees of the department of environmental
17 management, except by mutual agreement or as otherwise provided in chapter 23 of title 46.

18 (s) To issue and enforce such rules, regulations, and orders as may be necessary to carry
19 out the duties assigned to the director and the department by any provision of law; and to conduct
20 such investigations and hearings and to issue, suspend, and revoke such licenses as may be
21 necessary to enforce those rules, regulations, and orders;

22 (1) Notwithstanding the provisions of section 42-35-9 to the contrary, no informal
23 disposition of a contested licensing matter shall occur where resolution substantially deviates
24 from the original application unless all interested parties shall be notified of said proposed
25 resolution and provided with opportunity to comment upon said resolution pursuant to applicable
26 law and any rules and regulations established by the director.

27 (t) To enter, examine or survey at any reasonable time such places as the director deems
28 necessary to carry out his or her responsibilities under any provision of law subject to the
29 following provisions:

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

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

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

- 3 (i) For closely regulated industries;
- 4 (ii) In situations involving open fields or conditions that are in plain view;
- 5 (iii) In emergency situations;
- 6 (iv) In situations presenting an imminent threat to the environment or public health,
7 safety or welfare;
- 8 (v) If the owner, operator, or agent in charge of the facility, property, site or location
9 consents; or
- 10 (vi) In other situations in which a warrant is not constitutionally required.

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

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

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

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

32 (iv) An administrative warrant may authorize the taking of samples of air, water or soil
33 or of materials generated, stored or treated at the facility, property, site or location. Upon request,
34 the department shall make split samples available to the person whose facility, property, site or

1 location is being inspected.

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

4 (D) Penalties. - Any willful and unjustified refusal of right of entry and inspection to
5 department personnel pursuant to an administrative warrant shall constitute a contempt of court
6 and shall subject the refusing party to sanctions, which in the courts discretion may result in up to
7 six (6) months imprisonment and/or a monetary fine of up to ten thousand dollars (\$10,000) per
8 refusal.

9 (u) To give notice of an alleged violation of law to the person responsible therefor
10 whenever the director determines that there are reasonable grounds to believe that there is a
11 violation of any provision of law within his or her jurisdiction or of any rule or regulation adopted
12 pursuant to authority granted to him or her, unless other notice and hearing procedure is
13 specifically provided by that law. Nothing in this chapter shall limit the authority of the attorney
14 general to prosecute offenders as required by law.

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

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

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

34 (3) If a person upon whom a notice of violation has been served under the provisions of

1 this section or if a person aggrieved by any such notice of violation requests a hearing before the
2 director within ten (10) days of the service of notice of violation, the director shall set a time and
3 place for the hearing, and shall give the person requesting that hearing at least five (5) days
4 written notice thereof. After the hearing, the director may make findings of fact and shall sustain,
5 modify, or withdraw the notice of violation. If the director sustains or modifies the notice, that
6 decision shall be deemed a compliance order and shall be served upon the person responsible in
7 any manner provided for the service of the notice in this section.

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

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

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

26 (v) To impose administrative penalties in accordance with the provisions of chapter 17.6
27 of this title and to direct that such penalties be paid into the account established by subsection (z)
28 of this section; and

29 (w) The following definitions shall apply in the interpretation of the provisions of this
30 chapter:

31 (1) Director: The term director shall mean the director of environmental management of
32 the state of Rhode Island or his or her duly authorized agent.

33 (2) Person: The term person shall include any individual, group of individuals, firm,
34 corporation, association, partnership or private or public entity, including a district, county, city,

1 town, or other governmental unit or agent thereof, and in the case of a corporation, any individual
2 having active and general supervision of the properties of such corporation.

3 (3) Service: (a) Service upon a corporation under this section shall be deemed to include
4 service upon both the corporation and upon the person having active and general supervision of
5 the properties of such corporation.

6 (b) For purposes of calculating the time within which a claim for a hearing is made
7 pursuant to subdivision (u)(1) of this section heretofore, service shall be deemed to be the date of
8 receipt of such notice or three (3) days from the date of mailing of said notice, whichever shall
9 first occur.

10 (x) (1) To conduct surveys of the present private and public camping and other
11 recreational areas available and to determine the need for and location of such other camping and
12 recreational areas as may be deemed necessary and in the public interest of the state of Rhode
13 Island and to report back its findings on an annual basis to the general assembly on or before
14 March 1 of every year;

15 (2) Additionally, the director of the department of environmental management shall take
16 such additional steps, including but not limited to, matters related to funding as may be necessary
17 to establish such other additional recreational facilities and areas as are deemed to be in the public
18 interest.

19 (y) (1) To apply for and accept grants and bequests of funds with the approval of the
20 director of administration from other states, interstate agencies and independent authorities, and
21 private firms, individuals and foundations, for the purpose of carrying out his or her lawful
22 responsibilities. The funds shall be deposited with the general treasurer in a restricted receipt
23 account created in the Natural Resources Program for funds made available for that program's
24 purposes or in a restricted receipt account created in the Environmental Protection Program for
25 funds made available for that program's purposes. All expenditures from the accounts shall be
26 subject to appropriation by the general assembly, and shall be expended in accordance with the
27 provisions of the grant or bequest. In the event that a donation or bequest is unspecified or in the
28 event that the trust account balance shows a surplus after the project as provided for in the grant
29 or bequest has been completed, the director may utilize said appropriated unspecified or
30 appropriated surplus funds for enhanced management of the department's forest and outdoor
31 public recreation areas, or other projects or programs that promote the accessibility of recreational
32 opportunities for Rhode Island residents and visitors.

33 (2) The director shall submit to the House Fiscal Advisor and the Senate Fiscal Advisor,
34 by October 1 of each year, a detailed report on the amount of funds received and the uses made of

1 such funds.

2 (z) To establish fee schedules by regulation with the approval of the governor for the
3 processing of applications and the performing of related activities in connection with the
4 department's responsibilities pursuant to subdivision (1) of this section, chapter 19.1 of title 23 as
5 it relates to inspections performed by the department to determine compliance with chapter 19.1
6 and rules and regulations promulgated in accordance therewith, chapter 18.9 of title 23 as it
7 relates to inspections performed by the department to determine compliance with chapter 18.9
8 and the rules and regulations promulgated in accordance therewith, chapters 19.5 and 23 of title
9 23; chapter 12 of title 46 insofar as it relates to water quality certifications and related reviews
10 performed pursuant to provisions of the federal Clean Water Act, the regulation and
11 administration of underground storage tanks and all other programs administered under chapter
12 12 of title 46 and section 2-1-18 et seq., and chapter 13.1 of title 46 and chapter 13.2 of title 46
13 insofar as they relate to any reviews and related activities performed under the provisions of the
14 Groundwater Protection Act, chapter 23-24.9 as it relates to the regulation and administration of
15 mercury-added products, and chapter 17.7 of this title insofar as it relates to administrative
16 appeals of all enforcement, permitting and licensing matters to the administrative adjudication
17 division for environmental matters. Two fee ranges shall be required: for "Appeal of enforcement
18 actions", a range of fifty dollars (\$50) to one hundred dollars (\$100), and for "Appeal of
19 application decisions", a range of five hundred dollars (\$500) to ten thousand dollars (\$10,000).
20 The monies from the administrative adjudication fees will be deposited as general revenues and
21 the amounts appropriated shall be used for the costs associated with operating the administrative
22 adjudication division.

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

34 (aa) To establish and maintain a list or inventory of areas within the state worthy of

1 special designation as "scenic" to include but not be limited to certain state roads or highways,
2 scenic vistas and scenic areas, and to make the list available to the public.

3 (bb) To establish and maintain an inventory of all interests in land held by public and
4 private land trust and to exercise all powers vested herein to insure the preservation of all
5 identified lands.

6 (1) The director may promulgate and enforce rules and regulations to provide for the
7 orderly and consistent protection, management, continuity of ownership and purpose, and
8 centralized records-keeping for lands, water, and open spaces owned in fee or controlled in full or
9 in part through other interests, rights, or devices such as conservation easements or restrictions,
10 by private and public land trusts in Rhode Island. The director may charge a reasonable fee for
11 filing of each document submitted by a land trust.

12 (2) The term "public land trust" means any public instrumentality created by a Rhode
13 Island municipality for the purposes stated herein and financed by means of public funds
14 collected and appropriated by the municipality. The term "private land trust" means any group of
15 five (5) or more private citizens of Rhode Island who shall incorporate under the laws of Rhode
16 Island as a nonbusiness corporation for the purposes stated herein, or a national organization such
17 as the nature conservancy. The main purpose of either a public or a private land trust shall be the
18 protection, acquisition, or control of land, water, wildlife, wildlife habitat, plants, and/or other
19 natural features, areas, or open space for the purpose of managing or maintaining, or causing to
20 be managed or maintained by others, the land, water, and other natural amenities in any
21 undeveloped and relatively natural state in perpetuity. A private land trust must be granted
22 exemption from federal income tax under Internal Revenue Code 501c(3) [26 U.S.C. section
23 501(c)(3)] within two (2) years of its incorporation in Rhode Island or it may not continue to
24 function as a land trust in Rhode Island. A private land trust may not be incorporated for the
25 exclusive purpose of acquiring or accepting property or rights in property from a single
26 individual, family, corporation, business, partnership, or other entity. Membership in any private
27 land trust must be open to any individual subscribing to the purposes of the land trust and
28 agreeing to abide by its rules and regulations including payment of reasonable dues.

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

33 (B) All land trusts, public and private, will record in the public records of the appropriate
34 towns and cities in Rhode Island all deeds, conservation easements or restrictions or other

1 interests and rights acquired in land and will also file copies of all such documents and current
2 copies of their articles of association, their by-laws, and annual reports with the secretary of state,
3 and with the director of the Rhode Island department of environmental management. The director
4 is hereby directed to establish and maintain permanently a system for keeping records of all
5 private and public land trust land holdings in Rhode Island.

6 (cc) The director will contact in writing, not less often than once every two (2) years,
7 each public or private land trust to ascertain: that all lands held by the land trust are recorded with
8 the director; the current status and condition of each land holding; that any funds or other assets
9 of the land trust held as endowment for specific lands have been properly audited at least once
10 within the two (2) year period; the name of the successor organization named in the public or
11 private land trust's by-laws or articles of association; and any other information the director
12 deems essential to the proper and continuous protection and management of land and interests or
13 rights in land held by the land trust.

14 In the event that the director determines that a public or private land trust holding land or
15 interest in land appears to have become inactive, he or she shall initiate proceedings to effect the
16 termination of the land trust and the transfer of its lands, assets, land rights, and land interests to
17 the successor organization named in the defaulting trust's by-laws or articles of association or to
18 another organization created for the same or similar purposes. Should such a transfer not be
19 possible, then the land trust, assets, and interest and rights in land will be held in trust by the state
20 of Rhode Island and managed by the director for the purposes stated at the time of original
21 acquisition by the trust. Any trust assets or interests other than land or rights in land accruing to
22 the state under such circumstances will be held and managed as a separate fund for the benefit of
23 the designated trust lands.

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

29 (ee) To enforce, by such means as provided by law, the standards for the quality of air,
30 and water, and the location, design, construction and operation of all underground storage
31 facilities used for storing petroleum products or hazardous materials; any order or notice issued
32 by the director relating to the location, design construction, operation or maintenance of an
33 underground storage facility used for storing petroleum products or hazardous materials shall be
34 eligible for recordation under chapter 13 of title 34. The director shall forward the order or notice

1 to the city or town wherein the subject facility is located, and the order or notice shall be recorded
2 in the general index by the appropriate municipal officer in the land evidence records in the city
3 or town wherein the subject facility is located. Any subsequent transferee of that facility shall be
4 responsible for complying with the requirements of the order or notice. Upon satisfactory
5 completion of the requirements of the order or notice, the director shall provide written notice of
6 the same, which notice shall be eligible for recordation. The original written notice shall be
7 forwarded to the city or town wherein the subject facility is located, and the notice of satisfactory
8 completion shall be recorded in the general index by the appropriate municipal official in the land
9 evidence records in the city or town wherein the subject facility is located. A copy of the written
10 notice shall be forwarded to the owner of the subject facility within five (5) days of a request for
11 it, and, in any event, shall be forwarded to the owner of the subject facility within thirty (30) days
12 after correction.

13 (ff) To manage and disburse any and all funds collected pursuant to section 46-12.9-4, in
14 accordance with section 46-12.9-5, and other provisions of the Rhode Island Underground
15 Storage Tank Financial Responsibility Act, as amended.

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

24 **42-17.1-2.3. Watershed-based management.** -- (a) In order to accomplish the duties and
25 responsibilities for the protection, development, planning, and utilization of the natural resources
26 of the state, the director is authorized: (1) to plan, coordinate, integrate, manage, exercise and/or
27 implement the powers set forth in this chapter on a watershed basis for the purposes of preserving
28 and/or improving ecosystem functionality, protecting public health, safety and welfare, and
29 providing for the use of natural resources, including for recreational and agricultural purposes; (2)
30 to work in conjunction with the [state planning council and the](#) Rhode Island Rivers Council and
31 in cooperation with federal, interstate, state, local and private agencies and community
32 organizations and watershed groups and associations and persons to effectuate watershed-based
33 management, as appropriate and desirable; (3) to cooperate with the coastal resources
34 management council in the preparation and adoption of a marine resources development plan as

1 provided for in section 46-23-6(1)(v)(A); and (4) to coordinate and administer the activities of the
2 department to achieve the purposes of systems level planning by the state; and within areas
3 subject to the jurisdiction of the coastal resources management council, to administer its programs
4 and exercise its powers and duties consistent with the marine resources development plan and in
5 those areas which are not subject to the jurisdiction of the coastal resources management council
6 to administer its programs and exercise its powers and duties in a manner that contributes to
7 meeting the purposes and goals of the marine resources development plan.

8 (b) Cumulative effects and potential cumulative effects of regulatory actions, including,
9 but not limited to, the issuance of permits and approvals, on a geographic basis, shall be
10 incorporated, subject to the limitations set forth in subsection 42-17.1-2(n), to the extent
11 practicable and reasonable by the department into watershed-based management and planning.

12 (c)(1) The director is hereby authorized and directed to develop by January 1, 2009, a
13 plan for watershed based management of the fresh water resources of the state that:

14 (i) utilizes so far as feasible existing authority, programs, and implementation
15 mechanisms of state and local government;

16 (ii) recognizes the different priorities that have been established by the state for water use
17 including but not limited to drinking water supply, public safety, agriculture, economic
18 development, recreation, and ecological functioning and the different quality and uses of fresh
19 water resources of the state;

20 (iii) incorporates watershed ecological and hydrological data and data sources; and

21 (iv) considers and, to the extent feasible, quantifies or provides methods to quantify the
22 effects of water withdrawals and changes in groundwater recharge in watersheds.

23 (2) The purpose of the plan shall be to guide actions necessary to secure the long-term
24 quality and functioning of the freshwater resources of the state. Implementation activities that
25 would, in a manner consistent with other laws, use existing authority, programs, and
26 implementation mechanisms of state and local government, shall be put into effect by the
27 appropriate state or local authorities upon the approval of the plan by the water system
28 development board and subject to the availability of resources necessary to undertake the
29 implementation activity. Implementation activities that would depend on new authority or
30 programs shall be recommended to the general assembly on or before February 1, 2009.

31 (3) The director shall establish by rule an advisory committee, representing diverse
32 interests in water resources, including but not limited to economic development, local planning,
33 water supply, agriculture, recreational use, and environmental advocacy, to provide advice with
34 regard to development of the plan for watershed based management of the fresh water resources.

1 SECTION 7. Section 45-22.2-6 of the General Laws in Chapter 45-22.2 entitled "Rhode
2 Island Comprehensive Planning and Land Use Act" is hereby amended to read as follows:

3 **45-22.2-6. Required elements of comprehensive plan.** -- The comprehensive plan is a
4 statement (in text, maps, illustrations, or other media of communication) that is designed to
5 provide a basis for rational decision making regarding the long term physical development of the
6 municipality. The definition of goals and policies relative to the distribution of future land uses,
7 both public and private, forms the basis for land use decisions to guide the overall physical,
8 economic, and social development of the municipality. The comprehensive plan must be
9 internally consistent in its policies, forecasts, and standards, and include the following elements:

10 (1) Goals and policies statement. - Identifies the goals and policies of the municipality
11 for its future growth and development. The statement enumerates how the plan is consistent with
12 the overall goals and policies of this chapter, the state guide plan, and related elements.

13 (2) Land use plan element. - Designates the proposed general distribution and general
14 location and interrelationship of land use for residential, commercial, industry, open space,
15 recreation facilities, and other categories of public and private uses of land. The land use element
16 is based upon the other elements contained in this section, and it relates the proposed standards of
17 population density and building intensity to the capacity of the land and available or planned
18 facilities and services. A land use plan map, illustrating the future strategy and land use policy of
19 the municipality, as defined by the comprehensive plan, is required. The land use plan must
20 contain an analysis of the inconsistency of existing zoning districts, if any, with the land use plan.
21 The land use plan should specify the process by which the zoning ordinance and zoning map shall
22 be amended to conform to the comprehensive plan.

23 (3) Housing element. - Consists of identification and analysis of existing and forecasted
24 housing needs and objectives including programs for the preservation, including, but not limited
25 to, the preservation of federally insured or assisted housing, improvement, and development of
26 housing for all citizens. The housing element enumerates local policies and implementation
27 techniques to promote the production and rehabilitation of housing that achieves a balance of
28 housing choices, recognizing local, regional, and statewide needs for all income levels and for all
29 age groups, including, but not limited to, the affordability of housing and the preservation of
30 federally insured or assisted housing. The element identifies specific programs and policies for
31 inclusion in the implementation program necessary to accomplish this purpose and takes into
32 account growth management and the need to phase and pace development in areas of rapid
33 growth. The housing element includes an affordable housing plan that identifies housing needs in
34 the community, including, but not limited to, the needs for low and moderate income housing,

1 establishes goals and policies to address those needs, consistent with available resources and the
2 need to protect public health, including drinking water supplies and safety and environmental
3 quality. The affordable housing plan includes an implementation program of actions to be taken
4 to effectuate the policies and goals of the affordable housing plan.

5 (4) Economic development element. - Includes the identification of economic
6 development policies and strategies, either existing or proposed by the municipality, in
7 coordination with the land use plan element [and the services and facilities element](#). These policies
8 should reflect local, regional, and statewide concerns for the expansion and stabilization of the
9 economic base and the promotion of quality employment opportunities and job growth. The
10 policies and implementation techniques must be identified for inclusion in the implementation
11 program element.

12 (5) Natural and cultural resources element. - Provides an inventory of the significant
13 natural resource areas as water [which shall incorporate to the extent reasonably feasible](#)
14 [watershed hydrological data and analysis from the U.S. geological survey, the state, and other](#)
15 [sources](#), soils, prime agricultural lands, natural vegetation systems, wildlife, watersheds,
16 wetlands, aquifers, coastal features, flood plains, and other natural resources, and the policies for
17 the protection and management of these areas. The element includes policies for the protection of
18 the historic and cultural resources of the municipality and the state. The policies and
19 implementation techniques must be identified for inclusion in the implementation program
20 element.

21 (6) Services and facilities element. - Provides an inventory of existing and forecasted
22 needs for facilities and services used by the public as, but not limited to, educational facilities,
23 public safety, water, sanitary sewers, libraries, and community facilities. The policies and
24 implementation techniques must be identified for inclusion in the implementation program
25 element. [Where a water supply systems management plan, prepared pursuant to section 46-15.3-](#)
26 [5.1 and approved in accordance with section 46-15.3-7.6 is applicable to any portion of the](#)
27 [municipality, the water supply systems management plan shall be, as appropriate, incorporated as](#)
28 [required by subdivision 46-15.3-5.1\(a\)\(1\) into the services and facilities element.](#)

29 (7) Open space and recreation element. - Includes an inventory of recreational resources,
30 open space areas, and recorded access to these resources and areas. The element must also
31 contain an analysis of forecasted needs and policies for the management and protection of these
32 resources and areas. The policies and implementation techniques must be identified for inclusion
33 in the implementation program element.

34 (8) Circulation element. - Consists of the inventory and analysis of existing and proposed

1 major circulation systems, street patterns, and any other modes of transportation in coordination
2 with the land use element. The policies and implementation techniques must be identified for
3 inclusion in the implementation program element.

4 (9) Implementation program.

5 (i) A statement which defines and schedules for a period of five (5) years or more the
6 specific public actions to be undertaken in order to achieve the goals and objectives of each
7 element of the comprehensive plan. Scheduled expansion or replacement of public facilities, and
8 the anticipated costs and revenue sources proposed to meet those costs reflected in a
9 municipality's capital improvement program, must be included in the implementation program.

10 (ii) The implementation program identifies the public actions necessary to implement the
11 objectives and standards of each element of the comprehensive plan that require the adoption or
12 amendment of codes and ordinances by the governing body of the municipality.

13 (iii) The implementation program identifies other public authorities or agencies owning
14 water supply facilities or providing water supply services to the municipality, and coordinates the
15 goals and objectives of the comprehensive plan with the actions of public authorities or agencies
16 with regard to the protection of watersheds as provided in section 46-15.3-1, et seq.

17 (iv) The implementation program must detail the timing and schedule of municipal
18 actions required to amend the zoning ordinance and map to conform to the comprehensive plan.

19 SECTION 8. Section 45-24-30 of the General Laws in Chapter 45-24 entitled "Zoning
20 Ordinances" is hereby amended to read as follows:

21 **45-24-30. General purposes of zoning ordinances.** -- Zoning regulations shall be
22 developed and maintained in accordance with a comprehensive plan prepared, adopted, and as
23 may be amended, in accordance with chapter 22.2 of this title and shall be designed to address the
24 following purposes. The general assembly recognizes these purposes, each with equal priority and
25 numbered for reference purposes only.

26 (1) Promoting the public health, safety, and general welfare.

27 (2) Providing for a range of uses and intensities of use appropriate to the character of the
28 city or town and reflecting current and expected future needs [and the availability of services and](#)
29 [facilities](#).

30 (3) Providing for orderly growth and development which recognizes:

31 (i) The goals and patterns of land use contained in the comprehensive plan of the city or
32 town adopted pursuant to chapter 22.2 of this title;

33 (ii) The natural characteristics of the land, including its suitability for use based on soil
34 characteristics, topography, [hydrology](#) and susceptibility to surface or groundwater pollution;

- 1 (iii) The values and dynamic nature of coastal and freshwater ponds, the shoreline, and
2 freshwater and coastal wetlands;
- 3 (iv) The values of unique or valuable natural resources and features;
- 4 (v) The availability and capacity of existing and planned public and/or private services
5 and facilities;
- 6 (vi) The need to shape and balance urban and rural development; and
- 7 (vii) The use of innovative development regulations and techniques.
- 8 (4) Providing for the control, protection, and/or abatement of air, water, groundwater,
9 and noise pollution, and soil erosion and sedimentation.
- 10 (5) Providing for the protection of the natural, historic, cultural, and scenic character of
11 the city or town or areas in the municipality.
- 12 (6) Providing for the preservation and promotion of agricultural production, forest,
13 silviculture, aquaculture, timber resources, and open space.
- 14 (7) Providing for the protection of public investment in transportation, water, stormwater
15 management systems, [groundwater recharge](#), sewage treatment and disposal, solid waste
16 treatment and disposal, schools, recreation, public facilities, open space, and other public
17 requirements.
- 18 (8) Promoting a balance of housing choices, for all income levels and groups, to assure
19 the health, safety and welfare of all citizens and their rights to affordable, accessible, safe, and
20 sanitary housing.
- 21 (9) Providing opportunities for the establishment of low and moderate income housing.
- 22 (10) Promoting safety from fire, flood, and other natural or unnatural disasters.
- 23 (11) Promoting a high level of quality in design in the development of private and public
24 facilities.
- 25 (12) Promoting implementation of the comprehensive plan of the city or town adopted
26 pursuant to chapter 22.2 of this title.
- 27 (13) Providing for coordination of land uses with contiguous municipalities, other
28 municipalities, the state, and other agencies, as appropriate, especially with regard to resources
29 and facilities that extend beyond municipal boundaries or have a direct impact on that
30 municipality.
- 31 (14) Providing for efficient review of development proposals, to clarify and expedite the
32 zoning approval process.
- 33 (15) Providing for procedures for the administration of the zoning ordinance, including,
34 but not limited to, variances, special-use permits, and, where adopted, procedures for

1 modifications.

2 (16) Providing opportunities for reasonable accommodations in order to comply with the
3 Rhode Island Fair Housing Practices Act, chapter 37 of title 34, the United States Fair Housing
4 Amendments Act of 1988 (FHAA), the Rhode Island Civil Rights of Persons with Disabilities
5 Act, chapter 87 of title 42, and the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C.
6 section 12101 et seq.

7 SECTION 9. Title 45 of the General Laws entitled "TOWNS AND CITIES" is hereby
8 amended by adding thereto the following chapter:

9 CHAPTER 39.1

10 MUNICIPAL WATER SUPPLIES

11 **45-39.1-1. Findings.** – The general assembly finds and declares that:

12 (a) Municipal water supplies are a critical part of the infrastructure of Rhode Island and
13 are vital to health, safety, and welfare of the people of the state.

14 (b) It is necessary to maintain, improve, and, as appropriate, to extend municipal water
15 supply services in a manner that is sustainable in terms of costs and resource protection,
16 consonant with requirements for protecting public health and safety.

17 **45-39.1-2. Purposes.** – (a) The purposes of this chapter are:

18 (1) To clarify the powers of city and town councils with regard to water suppliers; and

19 (2) To establish municipal water supplies as enterprise funds.

20 (b) It is not a purpose of this chapter either to alter, abrogate, or diminish the duties of
21 water suppliers established elsewhere in general or public laws or to supersede, alter or abrogate
22 powers and duties set forth in chapter 39-15.1.

23 **45-39.1-3. Definitions.** – (a) "Approved public water supply project" means a public
24 water supply project included in the water system development plan by the water system
25 development board pursuant to section 46-32-9.

26 (b) "Commission" means the public utilities commission established by chapter 39-1.

27 (c) "Council" means the city council of any city and the town council of any town.

28 (d) "Municipal water supply" means a department, board, commission, authority, or
29 agency of a city or town, which does not have a separate corporate existence from the city or
30 town, that is a large public water system as defined in section 46-15.1-1.1.

31 (e) "Water resources board" means the water resources board established pursuant to
32 chapter 46-15.

33 (f) "Water supply facilities corporation" means the water supply facilities corporation
34 established pursuant to chapter 46-15.1.

1 (g) "Water supply systems management plan" means a water supply systems
2 management plan prepared in accordance with sections 46-15.3-5.1 through 46-15.3-7.7
3 inclusive.

4 (h) "Water systems development board" means the water systems development board
5 established pursuant to chapter 46-32.

6 **45-39.1-4. Powers of councils.** – In addition to and consistent with any power provided
7 by a law or charter provisions, councils shall have the power to:

8 (a) Plan, in a manner consistent with chapter 45-22.2, and provide for water supply or
9 municipal water supply within the city or town or any portion or area thereof;

10 (b) Adopt, fix, and amend rates as set forth by section 45-39.1-6, unless such rates are
11 subject to the approval of the commission or are governed by another law;

12 (c) Restrict water usage within the city or town in order to provide for the adequacy,
13 availability, and/or safety of water supply; and adopt such measures as may be necessary to make
14 such restrictions effective; such restrictions shall not be less than or inconsistent with any
15 standards adopted by the water resources board pursuant to subdivision 46-15.3-5.1(C)(1)(d).

16 (d) Approve the submission, by the city or town, of a water supply management plan to
17 the water resources board pursuant to section 46-15.3-5.1;

18 (e) Apply in the name of the city or town for approval of a water supply project by the
19 water system development board as an approved water supply project; and

20 (f) Enter into agreement with regard to water supply with the water supply facilities
21 corporation. Nothing in this section shall be deemed to abrogate or diminish the power, duties, or
22 functions of any local official, board, commission, or authority, elsewhere set forth in law.

23 **45-39.1-5. Organization** – Notwithstanding any law to the contrary, not later than July 1,
24 2009, each municipal water supply shall be organized, operated and accounted for as an
25 enterprise fund, provided, however, that this section shall not be deemed to abrogate or impair
26 any agreement, decision, rate, or order in effect on July 1, 2007.

27 **45-39.1-6. Rates.** – (a) Adequacy. The rates of municipal water supplies shall be
28 adequate and prudent to pay for all costs associated with the municipal water supply including,
29 but not limited to, the costs of acquisition, treatment, transmission, distribution, and availability
30 of water, and of system administration and overhead, including the cost and/or value any services
31 or facilities provided by the city or town to the municipal water supply, testing, operation,
32 maintenance, replacement, repair, debt service, and of providing for operating reserves of least
33 two and one-half percent (2.5%) by the conclusion of fiscal year 2009 and at least five percent
34 (5%) by the conclusion of fiscal year 2010, capital reserves as reasonable to provide for system

1 maintenance and repair and replacement, and such debt service reserves as may be required.

2 (b) Equitability. Rates: (1) shall be based on metered usage and fairly set among and
3 within the classes and/or types of users; and (2) shall provide that within any class of users the
4 full cost of system capacity, administration, operation, and water supply costs for peak and/or
5 seasonal use is borne by the users that contribute to such peak and/or seasonal use and may
6 provide a basic residential use rate for water use that is designed to make a basic level of water
7 use affordable. Water supplied and/or used for public safety shall be considered a system cost.
8 Rates may be temporarily adjusted to provide for adequacy during periods when use declines
9 significantly due to drought or other restrictions on water use.

10 (c) Billing. Billing shall be not less frequently than quarterly by fiscal year 2011, and not
11 less frequently than monthly by fiscal year 2016. Rates for peak and/or seasonal use as provided
12 for in subdivision 45-39.1-6(b)(2) shall be put into effect for fiscal year 2010, or upon
13 implementation of quarterly or monthly billing as required by this section whichever time period
14 is the later.

15 SECTION 10. Section 46-12.8-4 of the General Laws in Chapter 46-12.8 entitled "Water
16 Projects Revolving Loan Fund" is hereby amended to read as follows:

17 **46-12.8-4. Establishment of safe drinking water revolving loan fund, sources of**
18 **funds, permitted uses.** -- (a) The agency shall be the instrumentality of the state for
19 administration of the safe drinking water revolving loan fund, and such other funds it holds or for
20 which it is responsible, and, in conjunction with the department, is empowered to and shall take
21 all action necessary or appropriate to secure to the state the benefits of any other federal or state
22 legislation pertaining to the funds and to the financing of approved projects. Without limiting the
23 generality of the foregoing and other powers of the agency provided in this chapter, the agency is
24 empowered to and shall:

25 (1) Cooperate with any appropriate federal agencies in all matters related to
26 administration of the safe drinking water revolving loan fund and, pursuant to the provisions of
27 this chapter, administer the fund and receive and disburse such funds from any such agencies and
28 from the state as may be available for the purpose of the safe drinking water revolving loan fund.

29 (2) In cooperation with the department, prepare and submit to any appropriate federal
30 agencies, the department and the governor, annual and other reports and audits required by law.

31 (3) Subject to the provisions of this chapter, make, and enter into binding commitments
32 to provide financial assistance to local governmental units and private water companies from
33 amounts on deposit in the safe drinking water revolving loan fund and from other funds of the
34 agency.

1 (4) Establish and maintain fiscal controls and accounting procedures conforming to
2 generally accepted government accounting standards sufficient to ensure proper accounting for
3 receipts and disbursements from the safe drinking water revolving loan fund and other funds it
4 holds or for which it is responsible and, with the approval of the department, adopt such rules,
5 regulations, procedures, and guidelines which it deems necessary to assure that local
6 governmental units and private water companies administer and maintain approved project
7 accounts and other funds and accounts relating to financial assistance in accordance with
8 generally accepted government accounting standards.

9 (b) The agency shall establish and set up on its books a special fund, designated the safe
10 drinking water revolving loan fund, to be held in trust and to be administered by the agency solely
11 as provided in this chapter and in any trust agreement securing bonds of the agency issued under
12 the chapter. The agency shall credit to the safe drinking water revolving loan fund or one or more
13 accounts therein:

14 (1) All amounts appropriated or designated to the agency by the state or federal
15 government for purposes of the fund;

16 (2) All loan repayments and other payments received by the agency on any loans, local
17 governmental obligations and the obligations of private water companies;

18 (3) All investment earnings on amounts credited to the fund;

19 (4) All sums collected as water quality protection charges as provided in chapter 15.3 of
20 this title;

21 (5) All sums paid to the water development fund established pursuant to chapter 15.1 of
22 this title;

23 (6) All proceeds of bonds of the agency issued under this chapter to the extent required
24 by any trust agreement for such bonds;

25 (7) All other monies which are specifically designated for this fund, including, amounts
26 from gifts, bequests, administrative, civil and criminal penalties, or other funds from any public
27 or private sources; and

28 (8) Any other amounts required by the provisions of this chapter, or any other law or by
29 any trust agreement pertaining to bonds to be credited to the fund or which the agency in its
30 discretion shall determine to credit thereto.

31 (c) Except to the extent limited by law, and subject to the provisions of this chapter, and
32 to any agreements with the holders of any bonds of the agency or any trustee therefor, amounts
33 held by the agency for the account of the safe drinking water revolving loan fund shall be applied
34 by the agency, either by direct expenditure, disbursement, or transfer to one or more other funds

1 and accounts held by the agency or maintained under any trust agreement pertaining to bonds,
2 either alone or with other funds of the agency, to the following purposes:

3 (1) To provide financial assistance to local governmental units and to private water
4 companies to finance costs of approved projects, and to refinance the costs of such projects,
5 subject to terms and conditions, if any, as are determined by the department and to establish as
6 appropriate a small grants program to assist a community water systems that serve predominantly
7 low and moderate income households where there is: (i) a need to improve the water system in
8 order to assure the integrity and safety of the system; and (ii) an inability to fund the project in a
9 manner that is reasonably affordable by users of the system.

10 (2) To purchase or refinance debt obligations of the local governmental units and private
11 water companies, or to provide guarantees, insurance or similar forms of financial assistance for
12 such obligations;

13 (3) To fund reserves for bonds of the agency and to purchase insurance and pay the
14 premiums therefor, and pay fees and expenses of letters or lines of credit and costs of
15 reimbursement to the issuers thereof for any payments made thereon or on any insurance, and to
16 otherwise provide security for, and a source of payment for, by pledge, lien, assignment, or
17 otherwise bonds of the agency issued in accordance with this chapter; and

18 (4) (i) To pay expenses of the agency and the department in administering the fund and
19 the financial assistance programs of the agency authorized by this chapter. As part of the annual
20 appropriations bill, the department shall set forth the gross amount of expenses received from the
21 agency and a complete, specific breakdown of the sums retained and/or expended for
22 administrative expenses.

23 (ii) By way of illustration, not by limitation, in the personnel area, the breakdown of
24 administrative expenses should contain the number of personnel paid, the position numbers of the
25 personnel, and whether or not the position is a new position or a position which had been funded
26 previously by federal funds or a position which had been previously created but unfunded.

27 (d) Subject to any express limitation of this chapter pertaining to expenditure or
28 disbursement of funds or accounts held by the agency, funds or accounts held by the agency may
29 be transferred to any other fund or account held by the agency for the purposes of this chapter and
30 expended or disbursed for purposes permitted by such fund or account.

31 SECTION 11. Sections 46-13-2 and 46-13-4 of the General Laws in Chapter 46-13
32 entitled "Public Drinking Water Supply" are hereby amended to read as follows:

33 **46-13-2. Definitions.** -- For the purpose of this chapter, the following definitions shall
34 apply:

1 (1) "Director" shall mean the director of the department of health or a subordinate to
2 whom the director has assigned his or her functions.

3 (2) "Person" shall include an individual, partnership, association, or corporation, or any
4 town or city or any agency thereof, or the state or any agency thereof, or any other legal entity.

5 (3) "Public water supply system" shall mean: (i) a system for the provision to the public
6 of water for human consumption through pipes or other constructed conveyances, if the system
7 has at least fifteen (15) service connections or regularly serves at least twenty-five (25)
8 individuals daily at least sixty (60) days out of the year, ~~(A)~~ (A) any collection, treatment, storage
9 and distribution facilities under control of the operator of the system used primarily in connection
10 with the system, and ~~(B)~~ (B) any collection or pretreatment storage facilities not under the control
11 of the operator which are used primarily in connection with the system; and (ii) a system of
12 multiple wells serving fifteen (15) or more dwelling units with a density of one-quarter (1/4) acre
13 or less that are planned as a major subdivision pursuant to chapter 45-23.

14 (4) "Safe and potable" shall mean suitable or fit for human consumption as drinking
15 water.

16 **46-13-4. Approval of new water sources and treatment works required.** -- No source
17 of water shall hereafter be developed for a public water supply system until a site plan has been
18 approved by the director, and no public water supply system shall hereafter be constructed or
19 substantially altered until the plans and specifications for the system have been approved by the
20 director. Plans and specifications submitted shall be prepared by an engineer registered in the
21 state of Rhode Island. The approval required by this section shall be the only section of this
22 chapter, other than the power to enforce this section, including by the imposition of penalties,
23 applicable to public water supply as defined in section 46-13-2.

24 SECTION 12. Section 46-13.1-5 of the General Laws in Chapter 46-13.1 entitled
25 "Groundwater Protection" is hereby amended to read as follows:

26 **46-13.1-5. Groundwater protection study.** -- (a) The department of environmental
27 management is hereby authorized to conduct, and to maintain as part of a plan for watershed
28 based management of fresh water resources, as provided for in subsection 42-17.1-2.3(c), a
29 statewide groundwater protection study to include:

30 (1) A complete and updated hydrogeologic study depicting the quantities and qualities of
31 groundwater that could be available to specific areas for private or public drinking water;

32 (2) Present and projected demands for water for specific areas;

33 (3) Recommendations for the utilization of the state's groundwater resources, including
34 integrated use with surface waters, for their greatest benefits;

1 (4) Recommendations for such major engineering works or special districts which may
2 be necessary, including the need, timing, and general cost thereof;

3 (5) Recommendations for land use and other measures where appropriate. Pursuant to
4 groundwater classifications as specified in section 46-13.1-4, to insure the desired quality and
5 abundance of water;

6 (6) Consideration of the land and water resource needs of residential, recreational,
7 agricultural, industrial, and commercial interests; and

8 (7) Recommendations for regional and local planning and programs for water use and
9 management of land resources interfacing with groundwater resources.

10 (b) The director shall report the findings and recommendations of the groundwater
11 protection study to the general assembly on or before February 28, 1988.

12 (c) The department of environmental management is hereby directed to make
13 recommendations to identify the physical location of significant aquifers and the identification of
14 any actual or potential harms to those aquifers, and the development of a plan to protect the
15 aquifers from the identifiable harms.

16 (d) The director shall report the findings and recommendations of this portion of the
17 groundwater protection study to the general assembly on or before February 28, 1987.

18 SECTION 13. Section 46-13.1-7 of the General Laws in Chapter 46-13.1 entitled
19 "Groundwater Protection" is hereby repealed.

20 ~~46-13.1-7. Commission established.--- (a) There is hereby created a commission to be~~
21 ~~known as the clean drinking water and groundwater standards commission and whose purpose it~~
22 ~~shall be to review the entire field of groundwater and drinking water quality standards.~~

23 ~~-(b) The commission shall be composed of one member of the house of representatives~~
24 ~~appointed by the speaker, one member of the senate appointed by the president of the senate, the~~
25 ~~director of the department of environmental management or his or her designee, the director of~~
26 ~~the department of health or his or her designee, the chairperson of the water resources board or~~
27 ~~his or her designee, seven (7) members of the academic community from local universities and~~
28 ~~colleges appointed by the governor representing the fields of medicine, hydrogeology, toxicology,~~
29 ~~environmental engineering, plant and soil science economics, and epidemiology, and three (3)~~
30 ~~members of the business community affected by this legislation, one appointed by the speaker of~~
31 ~~the house, one appointed by the president of the senate, and one appointed by the governor.~~

32 ~~-(c) Forthwith, on June 26, 1986, the members of the commission shall meet at the call of~~
33 ~~the speaker of the house and organize. The speaker shall appoint a chairperson from among the~~
34 ~~members. The vice chairperson shall be elected by the membership of the commission on an~~

1 ~~annual basis. Vacancies shall be filled in like manner as the original appointment.~~

2 ~~-(d) The commission shall meet at least once annually and report its findings and~~
3 ~~recommendations to the general assembly annually on the second Wednesday of June.~~

4 SECTION 14. Sections 46-15-2, 46-15-3, 46-15-4, 46-15-6, 46-15-6.1, 46-15-13 and 46-
5 15-22 of the General Laws in Chapter 46-15 entitled "Water Resources Board" are hereby
6 amended to read as follows:

7 **46-15-2. Approval of public water supply facilities.** -- (a) No municipal water

8 department or agency, public water system, including special water districts or private water
9 company, engaged in the distribution of water for potable purposes shall have any power:

10 (1) To acquire or take a water supply or an additional water supply from an existing
11 approved source;

12 (2) To take or condemn lands for any new or additional sources of water supply or for
13 the utilization of supplies;

14 (3) To extend its supply or distribution mains into a municipality or special water district
15 wherein it has not heretofore legally supplied water;

16 (4) To construct any extension of its transmission mains;

17 (5) To extend the boundaries of a special water district; or

18 (6) To supply water in or for use in any other municipality or civil division of the state
19 which owns and operates a water supply system therein, or in any duly organized special water
20 district supplied with water by another municipal water department or agency, special water
21 district, or private water company, until the municipal water department or agency, special water
22 district, or private water company has first submitted the maps and plans therefor to the director
23 of the department of health, the state planning council and the board, as hereinafter provided, and
24 until the water resources board, after receiving the recommendations of the director of the
25 department of health and the division of statewide planning, shall have approved the
26 recommendations or approved the recommendation with modifications as it may determine to be
27 necessary; provided, however, this subsection shall not apply to any area presently served by any
28 municipal water department or agency, or special water district. This section shall not apply to
29 any sale of water through an agreement with or by order of the water supply facilities corporation
30 in which instance the agreement or order shall set forth the manner in which the
31 recommendations and the approval required by this section shall be obtained.

32 (b) Approval shall not be necessary of any plan or work for the extension of supply or
33 distributing mains or pipes of a municipal water supply plant or special district or private water
34 company into and for the purpose of supplying water in any territory within the limits of the

1 municipality or special district or within the franchise area of the private water company, owning
2 the plant, including territory within the municipal special district or franchise limits which has not
3 been heretofore supplied with the water by the plant, nor for the reconstruction or replacement of
4 existing facilities in connection with an existing plant, wherein the capacity of the plant is in no
5 way increased, nor for the construction of filtration or other treatment facilities which will not in
6 any way increase the amount of water which can be made available from the present sources of
7 supply.

8 (c) The water resources board shall enforce the provisions of this section, and the
9 superior court by injunction may, upon application of the water resources board, prevent any
10 action to be taken by any municipal water agency or department, special district, or private water
11 company without the approval of the water resources board as required by this section.

12 **46-15-3. Review of public water supply facilities.** -- The water resources board shall
13 review all proposals and plans for public water supply systems in accordance with the procedures
14 established in this chapter [or in chapter 46-32](#) and shall, with respect to each proposal:

15 (1) Make findings concerning the location of existing and potential sources of
16 contamination of the public water supply system;

17 (2) Assess the actual and potential impact of existing and potential sources of
18 contamination of the public water supply system;

19 (3) Prepare recommendations concerning the location, construction, and treatment of the
20 public water supply system; and

21 (4) Report its findings, assessment, and recommendation to the directors of health and
22 the division of planning.

23 **46-15-4. Procedure for approval of maps and plans.** -- (a) Whenever the approval of
24 any project as provided in this chapter is required, the application shall be made by the petitioner
25 in writing, [in the manner herein set forth or as may be prescribed by the water system](#)
26 [development board in accordance with chapter 46-32](#), the application shall be accompanied by
27 proof of adequate authorization for the project, and such exhibits as may be necessary clearly to
28 indicate the scope of the proposed project, including, but not limited to, a map of the lands to be
29 acquired, if any, and preliminary plans of the works proposed to be constructed. The application
30 shall also show, where applicable, the need for the particular source or sources of supply and the
31 reasons therefor, and shall also indicate the method of determining and providing for the payment
32 of the proper compensation for any and all legal damages to persons or property, whether direct
33 or indirect, which will result from the acquiring of the lands and the execution of the plans. The
34 petition shall also be accomplished by such proof as to the character and purity of the water

1 supply proposed to be acquired or used as the director of the department of health shall require
2 and any proposed method of treatment of the supply.

3 (b) The water resources board shall thereupon cause public notice to be given in a
4 newspaper of general circulation, at least seven (7) days prior, that on a day and at a place therein
5 specified it will hold a public hearing for the purpose of receiving evidence and hearing
6 arguments from all persons and organizations that may be affected by the proposed project,
7 including the recommendations of the director of the department of health and of the state
8 planning council.

9 (c) The water resources board shall, upon the day specified in the notice, or upon such
10 subsequent day or days to which it may adjourn the hearing, proceed to examine the maps and
11 plans and to hear the proofs and arguments submitted in support of and in opposition to the
12 proposed project. The water resources board, after a hearing, shall determine whether the plans
13 proposed are justified by public necessity, whether they provide for the proper and safe
14 construction of all work connected therewith, whether they provide for the proper protection of
15 the supply and the watershed from contaminations or provide for the proper treatment of an
16 additional supply, whether the plans are just and equitable to the other municipalities affected
17 thereby and to the inhabitants thereof, particular consideration being given to their present and
18 future necessities for sources of water supply, and whether the plans make fair and equitable
19 provisions for the determination and payment of any and all legal damages to persons and
20 property, both direct and indirect, which will result from the execution of the plans or the
21 acquiring of those lands.

22 (d) The water resources board shall within ninety (90) days after the close of the hearing,
23 and after consideration of the recommendations of the director of the department of health and of
24 the state planning council, make a final decision in writing, either approving the application,
25 maps, and plans as presented, or under such conditions or with such modifications in the
26 application, maps, and plans as may be determined to be necessary to provide satisfactory
27 compliance by the applicant with any and all of the subjects and matters required to be
28 determined by the water resources board in this subsection, or to bring into cooperation all
29 persons, municipal water departments or agencies, special water districts, or private water
30 companies which may be affected by the project; or it may reject the application entirely or
31 permit another to be filed in lieu thereof, but it shall, however, make a reasonable effort to meet
32 the needs of the applicant, with due regard to the actual or prospective needs, interests, and rights
33 of others which may be affected by the proposed projects.

34 **46-15-6. Supply of water to other water supply systems.** -- On any application for a

1 new or additional water supply or source of water supply, the water resources board, after
2 obtaining the recommendations of the director of the department of health and the division of
3 planning, may, [consistent with any applicable provisions of the state water system development](#)
4 [plan, adopted pursuant to section 46-32-9](#), require or authorize any applicant to make provisions
5 for the supply and to supply water to any area of the state which, as determined by the water
6 resources board in its decision on that application, properly should be supplied with water from
7 the source or sources of water supply sought by the applicant. Any municipal water department or
8 agency, special water district, or private water company within the area may apply to the water
9 resources board for the right to take water from that source of water supply or from any part of
10 the water supply system of the applicant supplied in whole or in part from that source. If the
11 water resources board requires, or if it approves the application, it shall be the duty of the
12 applicant to supply water, subject to such requirements as the water resources board may impose.
13 The amount of water to be taken and the price to be paid therefor may be agreed upon between
14 the applicant and the taker of the water, or if they cannot agree, fair and reasonable amounts and
15 rates shall be fixed by the administrator of public utilities and carriers; provided, further, that
16 nothing contained in this section shall be construed as diminishing the powers of the
17 administrator of public utilities and carriers in respect to rates of water suppliers subject to his or
18 her jurisdiction.

19 **46-15-6.1. Assistants and employees and support provided.** -- The board shall appoint
20 a general manager, who shall not be subject to the provisions of chapter 4 of title 36; and shall set
21 his or her compensation and terms of employment. The general manager shall appoint such
22 subordinates, assistants, and employees as may be required for the proper performance of the
23 powers and duties of the board. All those subordinates, assistants, and employees shall be subject
24 to the provisions of chapter 4 of title 36. [The board may by mutual agreement provide staff](#)
25 [support and professional assistance to the water supply facilities corporation established by](#)
26 [chapter 46-15.1 and to the water system development board established by chapter 46-32.](#)

27 **46-15-13. Water supply planning.** -- The division of planning shall study and evaluate
28 the needs of the state for current and future water supply and shall have the following powers:

29 (1) To formulate and maintain a long range guide plan and implementing program for
30 development of major water resources and transmission systems needed to furnish water to
31 regional or local public water systems as part of the state guide plan adopted pursuant to section
32 42-11-10.

33 (2) To provide [planning and development guidelines and standards](#) for ~~cooperative~~
34 ~~development~~, conservation, and [efficient use, reuse and recharge](#) of water resources by the state,

1 municipal agencies or departments, water resources board, and public water systems, including
2 special water districts and privately owned public water systems. ~~the division of planning may:~~

- 3 ~~(i) Divide the state into areas for the purpose of providing water supply facilities;~~
- 4 ~~(ii) Designate municipal water departments or agencies, special districts, or privately~~
5 ~~owned public water systems to perform area wide water supply operations within each area.~~

6 (3) To review all plans and proposals for construction or installation of facilities for
7 water supply for conformance with the state guide plan in accordance with ~~section~~ sections 46-
8 15-2 and 46-32-9, and report its findings to the water resources board.

9 **46-15-22. Transfer of powers and functions to the water resources board.** -- There
10 are hereby transferred to the water resources board:

11 (1) Those functions of the department of administration which were administered
12 through or with respect to board programs in the performance of strategic planning as defined in
13 section 42-11-10(c); and

14 (2) All officers, employees, agencies, advisory councils, committees, commissions, and
15 task forces who were performing strategic planning functions as defined in section 42-11-10(c);
16 ~~and~~

17 ~~(3) Those duties and functions of the statewide planning program for support to the~~
18 ~~Rhode Island Rivers Council.~~

19 SECTION 15. Chapter 46-15 of the General Laws entitled "Water Resources Board" is
20 hereby amended by adding thereto the following section:

21 **46-15-1.2. Water resources board created.** – (a) Appointment of members. (1) There is
22 hereby authorized, created and established within the department of administration, division of
23 planning, a water resources board consisting of fifteen (15) members as follows: Eleven (11)
24 members shall represent the public and shall be appointed by the governor with advice and
25 consent of the senate as herein provided, one of whom shall be a person who is actively engaged
26 in the agricultural business, preferably an owner and/or operator of an agricultural business, with
27 respect to which appointment the governor shall give due consideration to the recommendation of
28 the Rhode Island Agricultural Council established pursuant to chapter 3 of title 2; one of whom
29 shall be a representative of a conservation organization, with respect to which appointment the
30 governor shall give due consideration to the recommendation of the environment council of
31 Rhode Island; one of whom shall be a professional with expertise in one or more of the following
32 fields: geology, hydrology, or engineering; one of whom shall be a representative of a large
33 public water system; one of whom shall be a representative of small public water system; and one
34 of whom shall be a representative of a large water user; and one of whom shall be a representative

1 of a small water user; one of who shall be a professional with expertise in financial planning
2 and/or investment; and three (3) of whom shall be members of the general public. The public
3 members shall be chosen as far as is reasonably practicable to represent the drought regions of the
4 state as specified in the Rhode Island drought management plan. No person shall be eligible for
5 appointment to the board unless he or she is a resident of this state. The remaining four (4)
6 members are the director of environmental management, the director of the Rhode Island
7 economic development corporation, the chief of the division of planning within the department of
8 administration, and the director of the department of health. Members shall serve until their
9 successors are appointed and qualified and shall be eligible to succeed themselves. In the month
10 of February in each year, the governor, with the advice and consent of the senate, shall appoint
11 successors to the public members of the board whose terms shall expire in such year to hold
12 office commencing on the day they are qualified and until the first day of March in the third (3rd)
13 year after their respective appointments and until their respective successors are appointed and
14 qualified.

15 (b) Any vacancy which may occur in the board for a public member shall be filled by the
16 governor, with the advice and consent of the senate, for the remainder of the unexpired term in
17 the same manner as the member's predecessor as prescribed in this section. Each ex-officio
18 member of the board may designate a subordinate within his or her department to represent him
19 or her at all meetings of the board.

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

23 (d) The water resources board is designated to carry out this chapter. The board may take
24 action under this chapter at any meeting of the board. A member of the board, who is affiliated
25 with a public water system in Rhode Island, as provided in section 46-15-2, shall not thereby be
26 disqualified from acting as a member of the board on a transaction under this chapter with a
27 public water system. Upon the enactment of this chapter, and annually in the month of March
28 thereafter, the board shall choose a treasurer to act as such under this chapter. The treasurer need
29 not be a member of the board or of its staff and shall serve until his or her successor is chosen and
30 takes office, unless sooner removed by the board with or without cause. In the event of a vacancy
31 in the office of treasurer, the board shall fill the vacancy for the unexpired term.

32 (e) Qualifications of members. (1) Each public member of the board, before entering
33 upon his or her duties, shall take an oath to administer the duties of his or her office faithfully and
34 impartially, and the oath shall be filed in the office of the secretary of state.

1 (2) No member of the board shall be in the employ of, or own any stock in, or be in any
2 way directly or indirectly financially interested in any private corporation or company engaged in
3 the supply, storage, distribution, or sale of water. No member shall, either personally or through a
4 partner or agent, render any professional service or make or perform any business contract with or
5 for any such corporation or company; nor shall any member, directly or indirectly, receive a
6 commission, bonus, discount, present, or reward from any such corporation or company,
7 provided, however, that the limitation set forth herein shall not apply in the case of those public
8 members affiliated with public water systems who receive directors' fees or other payments for
9 their services with a public water system.

10 (f) Officers of the board – Quorum and vote required for action. Forthwith, and upon the
11 enactment of this chapter, and annually in the month of March, the board shall elect one of its
12 public members as chairperson, one of its public members as vice chairperson, and shall also
13 elect a secretary either from its membership or its technical staff. The board may elect from
14 among its members such other officers as it deems necessary. Eight (8) members of the board
15 constitute a quorum. A majority vote of those present and voting shall be required for action. No
16 vacancy in the membership of the board shall impair the right of a quorum to exercise all the
17 rights and perform all of the duties of the board.

18 (g) Compensation of members. (1) The members of the board shall serve without
19 compensation.

20 (2) The members of the board may also be reimbursed for their actual expenses
21 necessarily incurred in the performance of their duties.

22 (h) Transitional provisions. Members of the water resources board as of June 30, 2007,
23 appointed to the board pursuant to section 46-15.1-2 that were in effect on June 30, 2007, shall
24 continue as members of the board under this section until their terms are completed and their
25 successors are duly appointed and qualified. Members of the board who were non-voting
26 members under subsection 46-15.1-2(a) shall be voting members of the board as provided for in
27 subsection (a) of this section as of July 1, 2007.

28 (i) Continuity of functions, actions and obligations. All powers, duties, functions and
29 responsibilities heretofore vested in the Rhode Island water resources board, created pursuant to
30 subsection 46-15.1-2(a) as it functioned as a state agency shall be vested in the Rhode Island
31 water resources board as constituted by this section; all rules, regulations, programs, actions,
32 decisions, agreements, obligations, and approvals of the Rhode Island water resources board as a
33 state agency in effect or in force on June 30, 2007, shall be deemed to be rules, regulations,
34 programs, actions, decisions, agreements, obligations and approvals of the Rhode Island water

1 resources board as established by this section, and shall remain in full force and effect until
2 performed and/or satisfied, superseded, amended, revised, or rescinded by the board. The Rhode
3 Island water resources board shall be deemed to be a continuation of the water resources board as
4 it existed as a state agency prior to July 1, 1993 for the purposes enumerated in chapters 15.2 and
5 15.3 of this title as they pertain to the purposes, powers, and duties set forth in this chapter.
6 Nothing contained herein shall affect the bonding or financing authority of the water resources
7 board as it existed prior to July 1, 1993, nor shall anything contained herein be construed as
8 terminating, altering, discontinuing, or in any way impairing the bonding or financing power of
9 the water resources board as it existed under chapters 15.1, 15.2 and 15.3 of this title prior to July
10 1, 1993.

11 (j) Powers and duties. (1) Powers. The board shall carry out its functions and shall have
12 the following powers:

13 (i) To be entitled to ask for and receive from any commission, board, officer, or agency
14 of the state such information, cooperation, assistance, and advice as shall be reasonable and
15 proper in view of the nature of the following functions;

16 (ii) To assess, evaluate and coordinate with federal, regional and state agencies the
17 current programs and policies as they relate to the water resources of the state; and to participate
18 in coordination mechanisms to achieve systems level planning for the state;

19 (iii) To make findings and recommendations among state agencies and political
20 subdivisions by participating in administrative proceedings and by reporting to the governor
21 regarding disputes and conflicts on river and watershed issues;

22 (iv) To make findings and recommendations to state agencies and political subdivisions
23 regarding measures necessary to protect river quality and to promote river uses consistent with
24 the state's river policy and river classification plan;

25 (v) To provide grants and administer loans and other assistance for water resource and
26 supply and related activities;

27 (vi) To foster public involvement in water resources and decision making processes;

28 (vii) To conduct public education programs about water resources;

29 (viii) To recommend programs, policies and proposals to the governor, the speaker of the
30 house and president of the senate;

31 (ix) To establish such committees, which shall include a finance committee, and
32 subcommittees as may be needed to carry out the purposes of this chapter;

33 (x) To promulgate regulations and procedures, and to issue approvals, including
34 approvals with conditions, and denials, and make orders with regard to all matters assigned to it

1 by law;

2 (xi) To apply for and accept grants, donations, loans of funds and contributions of money,
3 services, materials or otherwise from any federal, state or local agency, from any public or private
4 foundation, or individual or from any other source, in order to carry out the purposes of this
5 chapter; and

6 (xii) To exercise such other powers as may be necessary or incidental to the exercise of
7 the foregoing powers or to the accomplishment of the purposes of the board.

8 SECTION 16. Sections 46-15.1-1, 46-15.1-2, 46-15.1-4, 46-15.1-5, 46-15.1-19 and 46-
9 15.1-19.1 of the General Laws in Chapter 46-15.1 entitled "Water Supply Facilities" are hereby
10 amended to read as follows:

11 ~~**46-15.1-1. Legislative declaration -- Water resources board (corporate) -- Applicable**~~
12 ~~**sections. Legislative declaration -- Water supply facilities corporation -- Applicable sections.**~~

13 ~~--~~ The findings and declarations made by section 46-15-1 are hereby made applicable to this
14 chapter.

15 The water ~~resources board (corporate)~~ supply facilities corporation under this chapter
16 constitutes a body politic and corporate and a public instrumentality of the state having a distinct
17 legal existence from the state and not constituting a department of state government. Whenever in
18 any general or public law or regulation, reference is made to the "water resources board
19 (corporate)" the reference shall be deemed to refer to and mean the "Rhode Island water supply
20 facilities corporation," which may also be referred to as the "water supply facilities corporation."

21 (a) There is authorized, created, and established a public corporation of the state having a
22 distinct legal existence from the state and not constituting a department of state government,
23 which is a governmental agency and public instrumentality of the state, to be known as the
24 "Rhode Island water supply facilities corporation," and which may be referred to as the "water
25 supply facilities corporation," with those powers that are set forth in this chapter, for the purposes
26 of acquiring and developing water supply facilities, and providing financing to others as set forth
27 in this chapter, providing and promoting and encouraging the preservation, expansion as
28 appropriate and sound development of new and existing water supply facilities.

29 (b) The exercise by the corporation of the powers conferred by this chapter shall be
30 deemed and held to be the performance of an essential governmental function of the state for
31 public purposes. It is the intent of the general assembly by the passage of this chapter to vest in
32 the corporation all powers, authority, rights, privileges, and titles which may be necessary to
33 enable it to accomplish the purposes herein set forth, and this chapter and the powers granted
34 hereby shall be liberally construed in conformity with those purposes.

1 (c) The corporation and its corporate existence shall continue until terminated by law or
2 until the corporation shall cease entirely and continuously to conduct or be involved in any
3 business whatsoever in furtherance of its purposes; provided, that no termination shall take effect,
4 so long as the corporation shall have bonds, notes, or other obligations outstanding, unless
5 adequate provision shall have been made for the payment thereof pursuant to the documents
6 securing the obligations or to the terminating law. Upon termination of the existence of the
7 corporation, all of its rights and properties shall pass to and be vested in the state. At no time
8 shall the assets or other property of the corporation inure to the benefit of any person or other
9 corporation or entity.

10 (d) All powers, duties, functions, and responsibilities heretofore vested in the Rhode
11 Island water resources board (corporate) shall be vested in the Rhode Island water supply
12 facilities corporation; all rules, regulations, programs, actions, decisions, agreements, obligations,
13 and approvals of the Rhode Island water resources board (corporate), in effect or in force on June
14 30, 2007, shall be deemed to be rules, regulations, programs, actions, decisions, agreements,
15 obligations, and approvals of the Rhode Island water supply facilities corporation effective July 1,
16 2007, and shall remain in full force and effect until performed and/or satisfied, superseded,
17 amended, revised, or rescinded by the corporation. The Rhode Island water supply facilities
18 corporation created hereby shall be deemed to be a continuation of the water resources board
19 (corporate) as it existed prior to July 1, 1993 for the purposes enumerated in chapters 15.1, 15.2
20 and 15.3 of this title as they pertain to the purposes, powers, and duties set forth in this chapter.
21 Nothing contained herein shall affect the bonding or financing authority of the water resources
22 board as it existed prior to July 1, 1993, nor shall anything contained herein be construed as
23 terminating, altering, discontinuing, or in any way impairing the bonding or financing power of
24 the water resources board as it existed under chapters 15.1, 15.2, and 15.3 of this title prior to July
25 1, 1993.

26 The following sections also apply to the water resources board, the state agency: sections
27 46-15.1-1.1, 46-15.1-2(a), 46-15.1-2.2, 46-15.2-3, 46-15.1-2.4, 46-15.1-4.1, 46-15.1-5(15) -- (25),
28 46-15.1-20 and 46-15.1-21.

29 **46-15.1-2. Board created --- Appointment of members Board established --**
30 **Appointment of members. --** (a) ~~There is hereby authorized, created and established a water~~
31 ~~resources board consisting of fifteen (15) members as follows: Eleven (11) members shall~~
32 ~~represent the public and shall be appointed by the governor with advice and consent of the senate~~
33 ~~as herein provided, one of whom shall be a person who is actively engaged in the agricultural~~
34 ~~business, preferably an owner and/or operator of an agricultural business, with respect to which~~

1 ~~appointment the governor shall give due consideration to the recommendation of the Rhode~~
2 ~~Island Agricultural Council established pursuant to the provisions of chapter 3 of title 2; one of~~
3 ~~whom shall be a representative of a conservation organization, with respect to which appointment~~
4 ~~the governor shall give due consideration to the recommendation of the Environment Council of~~
5 ~~Rhode Island; one of whom shall be a professional with expertise in one or more of the following~~
6 ~~fields: geology, hydrology, or engineering; one of whom shall be a representative of a large~~
7 ~~public water system; one of whom shall be a representative of a small public water system; one of~~
8 ~~whom shall be a representative of a large water user; and one of whom shall be a representative of~~
9 ~~small water user; one of who shall be a professional with expertise in financial planning and/or~~
10 ~~investment; and three (3) of whom shall be members of the general public. The public members~~
11 ~~shall be chosen as far as is reasonably practicable to represent the drought regions of the state as~~
12 ~~specified in the Rhode Island Drought Management Plan. No person shall be eligible for~~
13 ~~appointment to the board unless he or she is a resident of this state. The remaining four (4)~~
14 ~~members are the director of environmental management, the director of the Rhode Island~~
15 ~~economic development corporation who shall serve as a nonvoting ex officio member, the chief~~
16 ~~of the division of planning within the department of administration who shall serve as a~~
17 ~~nonvoting ex officio member, and the director of the department of health. Members shall serve~~
18 ~~until their successors are appointed and qualified and shall be eligible to succeed themselves. In~~
19 ~~the month of February in each year, the governor, with the advice and consent of the senate, shall~~
20 ~~appoint successors to the public members of the board whose terms shall expire in such year, to~~
21 ~~hold office commencing on the day they are qualified and until the first day of March in the third~~
22 ~~year after their respective appointments and until their respective successors are appointed and~~
23 ~~qualified.~~

24 ~~(b) Those members of the board as of the effective date of this act — June 16, 2006] who~~
25 ~~were appointed to the board by members of the general assembly and the chairperson of the joint~~
26 ~~committee on water resources shall cease to be members of the board on the effective date of this~~
27 ~~act — June 16, 2006] and the governor shall thereupon appoint five (5) new public members~~
28 ~~pursuant to this section, one of whom shall be a professional with expertise in financial planning~~
29 ~~and/or investment; one of whom shall be a professional with expertise in one or more of the~~
30 ~~following fields: geology, hydrology or engineering; and one of whom shall be a representative of~~
31 ~~a conservation organization appointed by the governor as prescribed in this section. The member~~
32 ~~of the board selected by the Rhode Island Agricultural Council shall continue to serve the balance~~
33 ~~of his or her term. Upon expiration of his or her term, the governor shall appoint one member~~
34 ~~who is actively engaged in the agricultural business, preferably an owner and/or operator of an~~

1 ~~agricultural business as prescribed in this section. Those members of the board as of the effective~~
2 ~~date of this act — June 16, 2006] who were appointed to the board by the governor shall continue~~
3 ~~to serve the balance of their current terms. Thereafter, the appointment shall be made by the~~
4 ~~governor as prescribed in this section.~~ The powers of the Rhode Island water supply facilities
5 corporation shall be vested in a board of directors consisting of nine (9) members as follows: the
6 chairman of the Rhode Island water resources board, the finance committee chairman of the
7 Rhode Island water resources board, the executive director of the clean water finance agency, and
8 six (6) public members appointed by the governor with the advice and consent of the senate. No
9 one shall be eligible for appointment unless he or she is a resident of this state. Of the initial
10 appointments, three (3) of the public members shall be appointed to terms of three (3) years, and
11 three (3) of the public members shall be appointed to terms of two (2) years; thereafter terms of
12 public members shall be three (3) years; no person shall be appointed to more than four (4) terms
13 as a public member of the board. Of the public members, one shall be appointed by the governor
14 to serve as chairperson of the board.

15 ~~(e)~~(b) Any vacancy which may occur in the board for a public member shall be filled by
16 the governor, with the advice and consent of the senate, for the remainder of the unexpired term
17 in the same manner as the members predecessor as prescribed in this section. Each ex officio
18 member of the board may designate a subordinate within his or her department to represent him
19 or her at all meetings of the board.

20 ~~(d)~~(c) Members of the board shall be removable by the governor pursuant to section 36-
21 1-7 of the general laws and for cause only, and removal solely for partisan or personal reasons
22 unrelated to capacity or fitness for the office shall be unlawful.

23 ~~(e)~~(d) The water resources board established pursuant to subsection 46-15-1.2 is
24 designated to carry out the provisions of this chapter until the members of the board of directors
25 of the Rhode Island water supply facilities corporation are appointed, as provided for in
26 subsection 46-15.1-2(a), in a number sufficient to satisfy a quorum are confirmed by the senate.
27 In exercising its powers under this chapter the water resources board constitutes a body politic
28 and corporate and a public instrumentality of the state having a distinct legal existence from the
29 state and not constituting a department of the state government. The board may take action under
30 this chapter at any meeting of the board. A member of the board who is affiliated with a public
31 water system in Rhode Island, as provided in section 46-15-2, shall not thereby be disqualified
32 from acting as a member of the board on a transaction under this chapter with a public water
33 system.

34 (e) Upon the enactment of this chapter and the appointment and qualification of

1 members, as provided for in subsection 46-15.1-2(a), in a number sufficient to satisfy a quorum,
2 and annually in the month of March thereafter, the board shall choose a vice-chairperson, a
3 secretary, and a treasurer to act as such under this chapter. The treasurer need not be a member of
4 the board or of its staff and shall serve until his or her successor is chosen and takes office, unless
5 sooner removed by the board with or without cause. In the event of a vacancy in the office of
6 treasurer, the board shall fill the vacancy for the unexpired term.

7 ~~-(f) Nothing contained herein shall be construed as terminating or discontinuing the~~
8 ~~existence of the water resources board as it exists prior to July 1, 1993 for purposes of chapters~~
9 ~~15.1, 15.2, and 15.3 of this title, and the water resources board created hereby shall be and shall~~
10 ~~be deemed to be a continuation of the water resources board as it existed prior to July 1, 1993 for~~
11 ~~the purposes enumerated in chapters 15.1, 15.2, and 15.3 of this title. Nothing contained herein~~
12 ~~shall affect the bonding or financing authority of the water resources board as it exists prior to~~
13 ~~July 1, 1993 nor shall anything contained herein be construed as terminating, altering,~~
14 ~~discontinuing, or in any way impairing the bonding or financing power of the water resources~~
15 ~~board as it exists under chapters 15.1, 15.2, and 15.3 of this title prior to July 1, 1993.~~

16 **46-15.1-4. Purposes.** -- The purposes of the ~~water resources board~~ corporation under this
17 chapter shall be:

18 (1) to carry out the powers and duties of the board set forth in this chapter, including,
19 without limitation, to establish, operate, and maintain water supply facilities ~~and, to~~ lease those
20 facilities to cities, towns, districts, and other municipal, quasi municipal or private corporations or
21 companies engaged in the water supply business in Rhode Island, or to contract for the use of the
22 facilities by the parties, or to sell to those parties the water derived from, carried by, or processed
23 in the facilities: or otherwise acquired by the corporation;

24 (2) to undertake a program of actions to develop back-up and supplemental water
25 supplies and to provide for fuller use of supplies that are under-utilized, as necessary and
26 desirable to provide adequate and reliable water supplies to meet current and future water demand
27 for water; and

28 (3) to provide assistance to water suppliers.

29 **46-15.1-5. Powers.** -- The board shall carry out its functions and shall have the following
30 powers:

- 31 (1) To adopt a seal and to alter the seal from time to time;
- 32 (2) To sue and be sued;
- 33 (3) To purchase, hold, and dispose of real and personal property, or interests therein, and
34 to lease the property as lessee or lessor;

- 1 (4) To make or cause to be made such surveys and borings as it may deem necessary;
- 2 (5) To engage engineering, legal, accounting, and other professional services;
- 3 (6) To make contracts;
- 4 (7) To employ personnel and fix their rates of compensation;
- 5 (8) To borrow money and issue its bonds and notes as hereinafter provided;
- 6 (9) To apply and contract for and to expend assistance from the United States or other
7 sources, whether in the form of a grant or loan or otherwise;
- 8 (10) To adopt and amend bylaws for the regulation of its affairs and the conduct of its
9 business;
- 10 (11) To invest or deposit funds in demand deposits, savings deposits, and time deposits
11 in any bank or trust company which is a member of the federal deposit insurance corporation or
12 in any obligations issued or guaranteed by the United States or any agency or instrumentality
13 thereof, or as provided in section 35-10-11;
- 14 (12) To establish, operate, and maintain or lease to others, or contract with others for the
15 use of, such water supply facilities as may be reasonably required for the fulfillment of its
16 purposes;
- 17 (13) To purchase [from any water supplier](#) and sell water [to any water supplier, by](#)
18 [agreement or in accordance with rates approved by the public utilities commission](#);
- 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~~ [corporation](#);
- 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 The board as a body politic and corporate and public instrumentality created pursuant to
4 this chapter is subject to section 46-15.1-5(1) through (25). The board as the state agency
5 pursuant to chapter 15 of this title is subject to section 46-15.1-5(15) through (25); and

6 (26) To participate without limitation in the coordinated application, the water system
7 development plan, and the siting board processes of the water system development board,
8 established in chapter 46-32.

9 **46-15.1-19. Surface reservoirs.** -- Notwithstanding the foregoing, no provision of this
10 chapter, nor any language contained therein, shall allow or permit any funds, proceeds, revenues,
11 or other sums of money derived by, through, or from the issuance of revenue bonds as authorized
12 under this chapter, to be used for the design or construction of any new surface reservoirs,
13 without the approval of the general assembly, or to be used in connection with the acquisition of
14 sites for the development of new surface reservoirs through the exercise by the water resources
15 board of the power of eminent domain as provided under section 46-15.1-5(15) and in accordance
16 with the provisions of chapter 6 of title 37.

17 **46-15.1-19.1. Big River Reservoir -- Administration.** -- The Rhode Island water
18 resources board established pursuant to this chapter ~~and chapter 15 of this title~~ shall be the only
19 designated agency which will administer those lands acquired for the Big River Reservoir as
20 established under section 23 of chapter 133 of the Public Laws of 1964. The director of the
21 department of environmental management and the director's authorized agents, employees, and
22 designees shall, together with the water ~~resources board~~ supply facilities corporation in
23 accordance with the Big River management area land use plan for the lands, protect the natural
24 resources of the Big River Reservoir lands. The lands of the Big River Reservoir are subject to
25 enforcement authority of the department of environmental management, as provided for in
26 chapter 17.1 of title 42, and as provided for in title 20 of the General Laws.

27 SECTION 17. Chapter 46-15.1 of the General Laws entitled "Water Supply Facilities" is
28 hereby amended by adding thereto the following section:

29 **46-15.1-8.1. Water supply facility development charge.** – (a) There is hereby imposed,
30 with the approval of the corporation, on each supplier of water, for the purpose of assuring the
31 safety and reliability of the public water supply, a charge to be known as a "water supply security
32 charge" based upon billings for sales of every supplier of public drinking water at the rate, set by
33 the corporation, not to exceed two cents (\$.02) per one hundred (100) gallons of each sale,
34 whether the water be used for drinking or other purposes. No supplier shall impose a water

1 quality protection charge upon sales to other suppliers of drinking water. Except as provided in
2 subsections (c), (d) and (e) hereof, the supplier shall add any water quality protection charge
3 imposed hereunder to the sale price and when added the water quality protection charge shall
4 constitute a part of the price and shall also be a debt from the purchaser to the supplier and be
5 collectible in the same manner and have the benefit of any lien provided for the amounts due for
6 water charges from the purchaser to the supplier. Provided, however, the water quality protection
7 charge shall not be subject to the sales and use tax. Subject to section 39-1.1-1 for those suppliers
8 which are public utilities, all suppliers may terminate service for failure of purchasers to pay the
9 water quality protection charge.

10 (b) The corporation shall only impose on a water supplier a charge provided for in this
11 section, if the revenue to be derived from the charge will be used for the development water
12 supplies, including back-up and supplemental supplies, or the purchase of water from suppliers,
13 which will augment water supply capacity within a water supply service area that includes the
14 water supplier; and the amount of the charge shall be limited to that which is necessary to support
15 this activity, and shall not exceed the amount per hundred gallons set forth in subsection 46-15.1-
16 8.1(a).

17 (c) No water supply security charge shall be imposed on that portion of such supplier's
18 retail billing representing potable water furnished to customers by purchase of water in its
19 finished, potable form from sources outside the state. The supply security charge imposed by a
20 supplier purchasing potable water from outside the state shall be pro rata imposed on such
21 supplier's retail billings for that portion of potable water supplied from within the state.

22 (d) If any supplier of water fails to pay the water supply security charge imposed upon it,
23 upon determination by the corporation of failure to pay the amount unpaid, there shall be
24 withheld from any state aid or grants of any nature due such supplier an equivalent amount and
25 such monies shall be transferred to the appropriate water supply security fund administered by the
26 corporation.

27 SECTION 18. Sections 46-15.2-2, 46-15.2-4, 46-15.2-5, and 46-15.2-6 of the General
28 Laws in chapter 46-15.2 entitled "Water Facilities Assistance Program" are hereby amended to
29 read as follows:

30 **46-15.2-2. Legislative findings.** -- The general assembly finds and declares that:

31 (1) A number of Rhode Island municipalities periodically suffer water shortages severe
32 enough to require usage curtailments as a result of droughts.

33 (2) The limited water supply systems and sources of these municipalities, burdened by
34 rising water usage caused by growth and development, will encounter increasing difficulties

1 coping with short-term climatologically caused shortages.

2 (3) The quality of water supplies of a number of municipalities are threatened by
3 development and by contamination.

4 (4) Population growth, commercial and industrial development, and patterns of higher
5 water consumption have forced some communities to abandon or supplement their inadequate or
6 contaminated original sources of water, and to develop new supplies of water often located
7 beyond their borders and outside their original service areas.

8 (5) It has become evident that individual water systems serving the public often no
9 longer have the financial resources to find and develop adequate new water supplies. The costs of
10 constructing aqueducts, major transmission lines, and pumping stations to deliver water to
11 communities from remote sources, and the difficulties in acquiring rights-of-way, overwhelm
12 most communities and indicate the need for state involvement.

13 (6) Water of high quality is a sufficiently abundant resource in Rhode Island that enough
14 water can be made available to meet all the needs of each Rhode Islander through the foreseeable
15 future provided that water can be conveyed to the communities and water systems in need from
16 remote sources.

17 (7) The water resources board was established in 1967 and charged with the
18 responsibility of acquiring and developing new major water supplies for the people of Rhode
19 Island. The Rhode Island water facilities assistance program enables the water resources board to
20 assist public water systems in obtaining and delivering potable water to meet present and future
21 needs throughout the state of Rhode Island.

22 (8) The water resources board, [together with the water supply facilities corporation](#), and
23 other existing agencies of state government have adequate capability and authority to carry out
24 this program ~~without the creation of new agencies.~~

25 **46-15.2-4. Water facilities assistance program established -- Eligibility.** -- (a) There is
26 hereby established in the water resources board a Rhode Island water facilities assistance
27 program. The board, [in conjunction with the water supply facilities corporation](#), shall administer
28 this program, [in accordance with the applicable provisions of the water system development plan,](#)
29 [provided for in chapter 46-32](#), so as to ensure the proper and systematic development of
30 coordinated water supply and transmission facilities and shall expend the funds available under
31 this chapter in a manner that accomplishes this objective.

32 (b) This program shall provide twenty-five percent (25%) of the cost of approved water
33 transmission facilities designed and constructed to serve a single water system, and shall provide
34 fifty percent (50%) of the cost of approved intersystem facilities. Only the construction of water

1 transmission and intersystem facilities and the acquisition of land or rights-of-way, together with
2 necessary engineering and design, are eligible for assistance under this program. Costs of
3 borrowing, amortization costs, legal, and all other costs attendant to the funding of water
4 transmission and intersystem facilities are not eligible for financial assistance under this program
5 and must be fully borne by the project applicant. The cost of distribution facilities as defined in
6 this chapter are not eligible for financial assistance under this program. Determinations of project
7 eligibility shall be made by the water resources board.

8 (c) Only municipalities and quasi municipal water agencies [and other public water](#)
9 [authorities](#) are eligible to apply for assistance under this program. Determinations of applicant
10 eligibility shall be made by the water resources board.

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

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

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

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

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

4 (i) [Deleted by P.L. 1999, ch. 461, section 3.]

5 **46-15.2-5. Application to assistance program.** -- (a) Applicants shall submit projects
6 proposed for assistance under this program to the water resources board, in the form and content
7 prescribed by the board, or by the water system supply board pursuant to the coordinated
8 application process established by the board. The board shall coordinate the review and
9 disposition of all applications by all agencies concerned in an expeditious manner. The board
10 shall incorporate the information required by all agencies to conduct their review of proposals in
11 its application documents.

12 (b) Upon receipt of an application, the board shall determine whether the application is
13 complete and contains all necessary information. Incomplete applications shall be returned to the
14 applicants. Complete applications shall be formally acknowledged by the board.

15 (c) The board shall forward a copy of each application accepted to the division of public
16 utilities and carriers, to the state planning council, the department of health and to the department
17 of environmental management. Review of applications by these agencies shall be conducted
18 concurrently.

19 (d) The water resources board shall evaluate each application to determine whether all
20 requirements of sections 46-15-1 and 46-15-3 have been met, and shall further ensure that:

21 (1) Design and engineering of the project are sound, as provided in section 46-15.2-4(g);

22 (2) The applicant has adequately demonstrated that a need exists in its community for the
23 water that would be provided by the project.

24 (3) The project links a water source with a water distribution system, as set forth in
25 section 46-15.2-4(e);

26 (4) The distribution system owned or to be owned by the applicant has or will continue
27 to have sufficient capacity to carry the projected volumes of water, as set forth in section 46-15.2-
28 4(e);

29 (5) The proposed water source is adequate to meet the applicant's needs and will have
30 sufficient capacity to serve all future demands imposed by the applicant in combination with all
31 other users, as set forth in section 46-15.2-4(e);

32 (6) The quality of the water meets the standards established by the Rhode Island
33 department of health water quality regulations for the purpose intended, as provided in section
34 46-15.2-4(f);

1 (7) The project incorporates sound conservation techniques as provided in section 46-
2 15.1-5; and

3 (8) The project is properly related to all other water systems serving adjacent or nearby
4 areas in terms of interconnections and mutual support.

5 (e) The division of public utilities and carriers shall review the financing aspects of all
6 projects, particularly with respect to costs that will be imposed on water users as a result of the
7 project. The division shall perform an analysis of the proposed costs and benefits of the project
8 and shall, on the basis of its findings, make a determination as to whether approval of the project
9 is in the best interests of the water users. If the division determines the project is in the best
10 interests of the water users, it shall approve the project. If the division determines that the project
11 is not in the best interests of the water users, it shall disapprove the project. Since the division's
12 review must be based on estimated costs and interest rates, the full financing costs will not be
13 precisely known. The absence of specificity concerning the finance of costs must be considered
14 by the division.

15 (f) The state planning council shall review all proposed projects to determine whether
16 they are consistent with all relevant elements of the state guide plan. Upon determination that a
17 project is consistent with all relevant elements of the state guide plan, the state planning council
18 shall render its approval. Upon a determination that the project is not consistent with all relevant
19 elements of the state guide plan, the council shall disapprove the project. The state planning
20 council will provide the policy framework necessary to guide this program through the state guide
21 plan.

22 **46-15.2-6. Decision on application and financing.** -- (a) Except as provided in section
23 46-15.2-4(d) with respect to intersystem facilities, no project shall be approved by the water
24 resources board unless the project has been approved by the division of public utilities and
25 carriers, as set forth in section 46-15.2-5(e), by the state planning council, as set forth in section
26 46-15.2-5(f), and by the department of ~~the environment~~ [environmental management](#). The water
27 resources board shall approve the project based upon its finding of fact, as provided in section 46-
28 15.2-5(d)(1) through (d)(8), and upon approval by the division of public utilities and carriers, the
29 state planning council, and the department of the environment. A project disapproved by either
30 the division of public utilities and carriers, the state planning council, the department of health or
31 the department of environmental management shall not be approved by the water resources board.

32 (b) The water resources board shall not approve a transmission facility project and
33 intersystem facility project unless the applicant first adequately demonstrates that its seventy-five
34 percent (75%) share or fifty percent (50%) share, as the case may be, of the project cost is

1 available and obligated to the project.

2 (c) The water resources board shall not approve a project unless sufficient state funds to
3 provide the state's share of the project cost are available.

4 (d) The water resources board shall ensure that the state's share of a project cannot be
5 used by or transferred to a private or investor-owned water company.

6 (e) Upon approval of a proposed project as set forth in section 46-15.2-5, the water
7 resources board shall so notify the applicant and shall establish the amount of state participation
8 in the project representing the appropriate state share of eligible costs as determined from the
9 application. Costs incurred in excess of those set forth in the application shall not automatically
10 increase the amount of state participation. However, the applicant may submit a subsequent
11 proposal, in accordance with section 46-15.2-4 and 46-15.2-5, that requests state participation in
12 those costs. If the project is completed at a cost below that set forth in the application, the amount
13 of state participation shall be reduced proportionately.

14 (f) The water resources board shall establish a schedule by which state funds shall be
15 paid to the applicant that ensures that funds are disbursed only when required for the project.

16 (g) The water resources board is empowered to issue rules and regulations to provide
17 proper security for the state's grant-in-aid for each approved project.

18 (h) The water resources board may condition the approval of any intersystem facilities
19 project on the applicant agreeing that it will not charge any water system which uses such a
20 facility an amount in excess of its costs for purchase, production, and transmission of water to the
21 user, and an appropriate portion of its cost of repair, maintenance, and replacement of the facility
22 based upon the capacity allocated to the user.

23 SECTION 19. Sections 46-15.3-2, 46-15.3-3, 46-15.3-4, 46-15.3-5.1, 46-15.3-9, 46-15.3-
24 10 and 46-15.3-11 of the General Laws in Chapter 46-15.3 entitled "Public Drinking Water
25 Supply System Protection" are hereby amended to read as follows:

26 ~~46-15.3-2. Designation of water resources board --- Selection of treasurer~~ **Designation**
27 **of water resources board and water supply facilities corporation -- Selection of treasurer. --**

28 (a) The water resources board is designated to carry out this chapter pertaining to standards for
29 and the review and approval of water supply management plans.

30 (b) Except as otherwise specified in section 46-15.3-9, the water ~~resources-board~~ supply
31 facilities corporation is designated to carry out the provisions of this chapter pertaining to the
32 administration of the water quality protection funds in its capacity as designated in section 46-
33 15.1-2. In exercising its powers under this chapter the board of directors of the corporation shall
34 constitute a body politic and corporate and a public instrumentality of the state having a distinct

1 legal existence from the state and not constituting a department of the state government, but this
2 shall not affect the status of the board when exercising other powers. The board of directors of the
3 corporation may take action under this chapter at any meeting of the board of directors. A
4 member of the board who is affiliated with a public water system in Rhode Island as provided in
5 section 46-15-2 shall not thereby be disqualified from acting as a member of the board of
6 directors on a transaction under this chapter with the public water system. The treasurer, chosen
7 pursuant to section 46-15.1-2 shall act as such under this chapter. If a treasurer has not been
8 chosen by the board of directors pursuant to section 46-15.1-2, the board of directors shall at any
9 time, and annually in the month of March thereafter, choose a treasurer to act as such under this
10 chapter. The treasurer need not be a member of the board of directors or of its staff and shall
11 serve until his or her successor is chosen and taken office, unless sooner removed by the board
12 with or without cause. In the event of a vacancy in the office of treasurer, the board shall fill the
13 vacancy for the unexpired term.

14 **46-15.3-3. Purposes and powers.** – (a) The purposes of the water resources board, the
15 water supply facilities corporation, and the suppliers under this chapter shall be to protect the
16 quality, reliability, and safety of the public drinking water supply.

17 (b) In carrying out the ~~foregoing~~ purposes ~~the board~~ assigned to it in this chapter the
18 corporation, shall have, in addition to the powers granted in this chapter, all of the powers
19 enumerated in chapter 15.1 of this title, and shall have the power to acquire interests in land in the
20 manner provided in section 46-15.1-5, but in exercising these powers, the board shall not be
21 subject to any limitation on the use of funds contained in section 46-15.1-19.

22 **46-15.3-4. Definitions.** -- As used in this chapter, the following words and phrases shall
23 have the following meanings, unless the context shall indicate another or different meaning or
24 intent:

25 (1) "Aquifer" means a geologic formation, group of formations, or part of a formation
26 capable of yielding a significant amount of groundwater to wells, springs, or surface water.

27 (2) "Commercial agricultural producers" shall mean purveyors of at least two thousand
28 five hundred dollars (\$2,500) of agricultural products during a calendar year.

29 (3) "Eligible expenditure" shall mean the acquisition of a fee simple interest or of a
30 conservation restriction, as that term is defined in section 34-39-2(a), or other interest in
31 watershed lands, including, but not limited to, costs and expenses relating to the improvement of
32 the lands or interests therein, maintenance of the lands or roads or interests therein, and taxes
33 thereon, or the funding of the construction of physical improvements that directly protect the
34 quality and safety of public drinking water supply. No funds under this section shall be used to

1 extend service lines or expand system capacity.

2 (4) "Groundwater" means water found underground which completely fills the open
3 spaces between particles of sand, gravel, clay, silt, and consolidated rock fractures. The zone of
4 materials filled with groundwater is called the zone of saturation.

5 (5) "Ground water recharge" means the processes of addition of water to the zone of
6 saturation, that zone beneath the water table.

7 (6) "Raw water" shall mean water in its natural state prior to any treatment.

8 (7) "Recharge area" means an area in which water is absorbed that eventually reaches the
9 zone of saturation.

10 (8) "Sale" shall mean all retail sales of potable water to end users for any purpose in the
11 ordinary course of business by a supplier, except for sales exempt pursuant to section 46-15.3-
12 5(c), (d) and (e).

13 (9) "Source" shall mean the raw water upon which a public water supply system
14 abounds, and refers to both groundwater and surface water.

15 (10) "Supplier(s) of public drinking water" and "supplier(s)" shall mean any city, town,
16 district, or other municipal, quasi municipal, or public or private corporation or company engaged
17 in the sale of potable water and the water supply business in Rhode Island, provided, however,
18 that only suppliers which withdraw water from wells, reservoirs, springs, or other original sources
19 in potable quality shall be entitled to disbursements pursuant to ~~section 46-15.3-11.~~ [subsections](#)
20 [46-15.3-11\(a\) through 46-15.3-11\(d\).](#)

21 (11) "The fund" shall mean the water quality protection funds as described in section 46-
22 15.3-10.

23 (12) "Watersheds" shall mean those land areas which, because of their topography, soil
24 type, and drainage patterns, act as collectors of raw waters which replenish or regorge existing or
25 planned public drinking water supplies.

26 [\(13\) "Board" shall mean the water resources board established pursuant to section 46-](#)
27 [15.1-2.](#)

28 [\(14\) "Corporation" shall mean the water supply facilities corporation established pursuant](#)
29 [to section 46-15.1-1.](#)

30 **46-15.3-5.1. Water supply systems management plans.** -- (A) All parties involved in
31 the supply, transmission, and/or distribution of drinking water shall prepare, maintain, and carry
32 out a water supply system management plan as described by this chapter. This requirement
33 applies, without limitations, to:

34 (1) All municipalities subject to chapter 22.2 of title 45, the Comprehensive Planning

1 and Land Use Regulation Act. The water supply management plan shall be part of the Services
2 and Facilities Element required by section 45-22.2-6(F);

3 (2) All municipalities, municipal departments and agencies, districts, authorities or other
4 entities engaged in or authorized to engage in the supply, treatment, transmission, or distribution
5 of drinking water on a wholesale or retail basis, referred to herein as "water suppliers", which
6 obtain, transport, purchase, or sell more than fifty million (50,000,000) gallons of water per year.

7 (B) A water supply system management plan shall be prepared in the format, and shall
8 address each of the topics, listed in this section, to the extent that each is relevant to the
9 municipality or water supplier, the water source(s), the water system(s), and the area served or
10 eligible to be served. Notwithstanding any other provisions of this chapter, water supply
11 management plans shall be in conformity with all applicable provisions of the Federal Safe
12 Drinking Water Act — 42 U.S.C. section 300f et seq.] chapter 13 of this title, Public Drinking
13 Water Supply and chapter 14 of this title, Contamination of Drinking Water, as administered by
14 the department of health. Any other topic of interest may be included.

15 (C) A water supply system management plan shall include, without limitation, the
16 following components:

17 (1) The water supply management component of the water supply system management
18 plan shall include, without limitation:

19 (a) A statement of the goals that the plan is designed to achieve; including but not be
20 limited to, goals for: (1) water resource protection; (2) demand management, which shall include
21 goals as appropriate for managing peak and seasonal use of water; (3) supply development as
22 necessary and appropriate; and (4) system management, including for goals for infrastructure
23 maintenance repair and reduction of non-account water to twelve and one-half percent (12.5%) of
24 water by December 31, 2012, and to ten percent (10%) of water by December 31, 2017.

25 (b) A description of the water system(s) covered, including sources of water, the service
26 area, present and anticipated future users, and other important characteristics;

27 (c) Data collection in a form that can be accepted directly into the Rhode Island
28 Geographic Information System. Monitoring of system operations shall be performed at intervals
29 approved by the director of the department of environmental management in coordination with
30 the office of strategic planning of the division of planning so as to evaluate all critical aspects of
31 the system, compare performance with capabilities and expectations, and provide a basis for
32 continuing water supply planning at the system, municipal, regional, and state levels;

33 (d) Demand management measures that will achieve a high level of efficiency in the use
34 of a limited resource, through the application of metering of one hundred percent (100%) of the

1 water used; sanitary device retrofit; technical assistance to and performance of water use audits
2 for major industrial, commercial, institutional, government, and agricultural and other outdoor
3 water users; education and information; ~~and~~ use of appropriate fees, rates, and charges to
4 influence use; demand management measures shall include such restrictions on seasonal use as
5 may be necessary to meet or exceed limitations on seasonal use that are established by the water
6 resources board; and the water resources board is hereby expressly directed and authorized to
7 establish and maintain, by rule, standards for such restrictions, which shall as appropriate take
8 into account differing conditions among watersheds and water supply areas;

9 (e) System management measures to insure that the following elements are optimally
10 operated and maintained, including: leak detection and repair; meter installation and replacement;
11 and frequency of reading meters. Maintenance or reduction of non-account water to stated goals
12 shall be considered an essential component of system management;

13 (f) Supply management measures to insure present and future availability of drinking
14 water in adequate quantity and quality, including protection of the capacity and quality of
15 drinking water sources; retaining water sources for standby or future use that are or can be
16 improved to drinking water quality; reactivation of any water sources not in use; interconnection
17 of systems for ongoing, standby, or emergency use; supply augmentation;

18 (g) Emergency management, including risk assessment; responses to temporary or
19 permanent loss of supplies due to natural or manmade causes; extraordinary treatment processes;
20 interruptions in the delivery system; and contamination of water sources or delivery systems;

21 (h) The water supply system management plans of water suppliers shall document that
22 coordination has been accomplished with those plans of other suppliers in the vicinity and with
23 operators of wastewater treatment and disposal facilities serving all or part of the same area or
24 that a good faith effort to do so has been made. Plans shall be consistent with applicable local
25 comprehensive plans and shall be integrated into the water supply plans of the municipality or
26 municipalities in which the service area is or is planned to be located. Conversely, the local
27 comprehensive plans shall be consistent with water supply plans;

28 (i) Water supply system management plans shall designate the person or organization
29 responsible for taking each action, others who must participate, and the time period in which each
30 action is to be taken. The capital, operating, and maintenance cost (if any) of each action shall be
31 estimated and the anticipated source of funds shall be identified;

32 (j) Water suppliers subject to this chapter shall utilize methods to implement
33 management measures necessary to achieve the findings, intent, and objectives of this chapter.
34 The water supplier may be required to document the validity or effectiveness of any management

1 measure, implementation method, or other provision or action included in its plan.

2 (2) The water quality protection component of the water supply system management
3 plan shall include, without limitations, those items enumerated in section 46-15.3-7.

4 (3) The leak detection and repair component of the water supply system management
5 plan shall include, without limitation:

6 (a) Methodology for leak detection;

7 (b) Detailed program for the conducting of required repairs to the water supply system;

8 (c) Impact assessment studies on the ability of the supplier to provide for peak demand
9 services;

10 (d) A priority list of actions for implementing these management measures;

11 (e) Every supplier of public water encompassed under this section shall conduct periodic
12 leak detection consistent with stated goals for non-account water, however no less frequently than
13 once every ten years.

14 **46-15.3-9. Collection of charges.** -- A record shall be maintained by every supplier
15 showing the amounts of water sold, and the amounts of water quality protection charges billed.
16 The records shall be subject to public review. The water quality protection charges shall be
17 deemed to be trust funds for the purposes of this chapter and shall be held in a separate account.
18 For all suppliers, other than the city of Providence acting through the Providence water supply
19 board, or suppliers purchasing water from the city of Providence acting through the Providence
20 water supply board, thirty six and one tenth percent (36.1%) of the amount billed each month
21 shall be remitted to the treasurer of the ~~water resources board~~ [corporation](#) on or before the
22 twentieth (20th) day of the second month following the month of billing. For suppliers purchasing
23 water from the city of Providence acting through the Providence water supply board, for that
24 portion of such supplier's retail billings representing water furnished to the purchasers from the
25 Providence water supply board, thirty six and one tenth percent (36.1%) of the amount billed each
26 month shall be remitted to the Providence water supply board, on or before the twentieth (20th)
27 day of the second month following the month of billing, and for that portion of such supplier's
28 retail billings representing water furnished to the purchasers from sources other than the
29 Providence water supply board, thirty six and one tenth percent (36.1%) of the amount billed each
30 month shall be remitted to the treasurer of the ~~water resources board~~ [corporation](#) on or before the
31 twentieth (20th) day of the second month following the month of billing. The amounts remitted
32 by suppliers purchasing water from the city of Providence to the Providence water supply board
33 and treasurer of the ~~water resources board~~ [corporation](#) pursuant to the previous sentence shall be
34 based pro rata on metered water production originating from the Providence water supply board

1 and from all other sources in accordance with rules and regulations to be finally promulgated by
2 the ~~water resources board~~ corporation on or before September 1, 1992. For all suppliers,
3 including the city of Providence acting through the Providence water supply board, fifty seven
4 percent (57.0%) of the amount billed each month shall be remitted, in the following proportions,
5 through the ~~water resources board~~ corporation to the general treasurer of the state of Rhode Island
6 on or before the twentieth (20th) day of the second month following the month of billing and
7 shall be deposited as general revenues- and the balance of the aforementioned fifty-seven percent
8 (57%) shall be deposited by the treasurer of the corporation in the infrastructure reinvestment
9 fund; for fiscal year 2008, the entire fifty-seven percent (57%) shall be remitted to the general
10 treasurer; for fiscal year 2009, thirty-eight percent (38%) shall be remitted to the general treasurer
11 and nineteen percent (19%) shall be deposited in the infrastructure reinvestment fund; for fiscal
12 year 2010, nineteen percent (19%) shall be remitted to the general treasurer and thirty-eight
13 percent (38%) shall be deposited in the infrastructure reinvestment fund; for fiscal year 2011 and
14 in each fiscal year thereafter, the entire fifty-seven percent (57%) shall be deposited in the
15 infrastructure reinvestment fund. All suppliers may disburse the six and nine tenths percent
16 (6.9%) of the charges collected and retained by the supplier as an administrative charge for any
17 purpose relating to the operation of the supplier. All suppliers shall use or pledge the thirty six
18 and one tenth percent (36.1%) of the charges to pay principal or interest on bonds, notes, or other
19 obligations issued for the purposes of this chapter or lease payments in connection with any
20 bonds, notes, or obligations. It shall not be necessary for any supplier of public drinking water
21 whose rates may be regulated by the public utilities commission, pursuant to chapter 1 of title 39,
22 to obtain approval from the commission for billing of the water quality protection charge. The
23 public utilities commission shall not, in determining rates for any supplier hereunder, consider the
24 funds billed hereunder when determining revenue requirements for the supplier. In no event shall
25 any supplier be responsible to collect or pay more than a single water quality protection charge
26 with respect to water sold by such supplier, whether the date of sale was on, before, or after July
27 1, 1992.

28 **46-15.3-10. Water quality protection funds.** -- (a) (1) There are hereby created ~~three (3)~~
29 four (4) water quality protection funds: one of which shall be administered by and be in the
30 custody of the treasurer of the water resources board, one of which shall be administered by and
31 be in the custody of the city of Providence acting through the Providence water supply board, and
32 one of which shall be in the custody of the general treasurer. The first two (2) mentioned funds
33 shall consist of such amounts as the state or the city of Providence may from time to time
34 appropriate, all water quality protection charges other than the six and nine tenths percent (6.9%)

1 and fifty seven percent (57.0%) portions referred to in section 46-15.3-9 [as remitted to the general](#)
2 [treasurer](#), proceeds from the sale of bonds and notes, as provided in subsection (b) below, and any
3 money which may have been obtained as grants, bequests, donations, gifts, or fines which are
4 intended to be used for purposes consistent with this chapter. This third mentioned fund shall be
5 hereby established as a general revenue receipt account known as the "water resources operating
6 fund". [The fourth mentioned fund shall be the infrastructure reinvestment fund, as described in](#)
7 [subsection 46-15.3-10\(f\)](#).

8 (2) The general revenue appropriations made available from the general revenue receipts
9 credited to "Water Resources Operating Fund" shall be used for the administration and support of
10 the water resources board.

11 (b) The water resources board shall borrow money and issue its notes and bonds therefor,
12 for the purposes set forth in this chapter, and pursuant to the authority and the procedures set forth
13 in chapter 15.1 of this title, which shall be secured by pledging or assigning, in whole or in part,
14 the revenues and other monies held or to be deposited in the water quality protection funds and
15 any other revenues derived under this chapter.

16 (c) Any supplier with its own water quality protection fund may borrow money, and/or
17 issue its bonds or notes therefor, or may lease public facilities or public equipment for the
18 purposes set forth in this chapter. The supplier must secure any borrowings, bonds, notes, or
19 leases by pledging or assigning, in whole or in part, the revenues and other monies held by it in
20 its own water quality protection fund.

21 (d) All amounts in the water quality protection fund, water quality protection charges,
22 and any other revenues of the water resources board, excluding those deposited as general
23 revenues, received under the provisions of this chapter shall be deemed to be trust funds to be
24 held and applied solely as provided in this chapter and chapter 15.1 of this title.

25 (e) Any money which may accumulate in the water quality protection funds, which is in
26 excess of that pledged to repayment of outstanding bonds or notes or lease payments or loan
27 repayments at any given time, may be used directly for eligible expenditures from the fund and
28 shall be disbursed for these purposes in accordance with section 46-15.3-11.

29 [\(f\) All amounts in the water quality protection fund that are derived from the allocation of](#)
30 [the fifty-seven percent \(57%\) not remitted to the general treasurer shall be deposited in an](#)
31 [infrastructure reinvestment fund; all powers of the corporation with regard to the water quality](#)
32 [protection fund other than those amounts remitted to the general treasurer shall be applicable to](#)
33 [the infrastructure reinvestment fund; the purpose of the infrastructure reinvestment fund shall be](#)
34 [to assist water suppliers in achieving goals for system management, with priority goals for](#)

1 infrastructure maintenance and repairs that are intended to reduce non-account water to twelve
2 and one-half percent (12.5%) of water by December 31, 2012, and to ten percent (10%) of water
3 by December 31, 2017. Disbursements from the infrastructure reinvestment fund shall be on a
4 pro-rata basis as set forth in subsection 46-15.3-11(e). Not more than five percent (5%) of the
5 infrastructure reinvestment fund may be used by the corporation for administrative purposes and
6 overhead that are attributable to the implementation of this chapter.

7 **46-15.3-11. Disbursements from the funds.** -- (a) Only suppliers which withdraw water
8 from wells, reservoirs, springs, or other original sources of potable water shall be entitled to
9 disbursements from the first of the two (2) mentioned funds created under section 46-15.3-10
10 administered by the water resources board. From amounts available from bond proceeds held by
11 the water resources board and/or its successor corporation, that ~~board~~ corporation shall disburse
12 to each supplier contributing to the fund a proportional amount based upon each supplier's pro
13 rata withdrawal of water by volume from wells, reservoirs, springs, or other original sources of
14 water averaged over the three (3) calendar years preceding disbursement as determined by the
15 water resources board. Suppliers shall be required to expend this money as follows:

16 (1) Not less than fifty-five percent (55%) shall be spent for acquisition of land or rights
17 in land or physical improvements to acquired land required to protect the quality of raw water of
18 the water supply system. Expenditures for maintenance, administration, and payment of taxes on
19 land acquired under this chapter shall be included within this subdivision.

20 (2) Any remaining funds may be used for any eligible expenditures as defined in section
21 46-15.3-4.

22 (b) The city of Providence shall make expenditures from amounts available in the fund
23 held by the city of Providence based on the same formula as in subdivisions (a)(1) and (a)(2)
24 above; provided, however, the city of Providence shall be exempt from participating in the use of
25 an alternate deicing mixture within the Scituate watershed unless drinking water supply sodium
26 levels exceed fifteen (15) ppm (parts per million) for three (3) consecutive years or seventeen
27 (17) ppm (parts per million) for one year. The city of Providence will monitor sodium levels and
28 report sodium testing results to the Rhode Island department of health and the public on a yearly
29 basis. If drinking water supply sodium levels exceed fifteen (15) ppm for three (3) consecutive
30 years or seventeen (17) ppm for one year, the city of Providence shall immediately participate in
31 the use of an alternative deicing mixture within the Scituate watershed. In December of 2008, the
32 city of Providence will provide a three (3) year report to the Rhode Island department of
33 environmental management, the general assembly and the public. Every three (3) years, the city
34 of Providence will submit a report to the general assembly on monitoring data for sodium levels

1 within the Scituate watershed. This report will include monitoring data from the previous three
2 (3) year period.

3 (c) In making decisions about the expenditure of money under ~~the provisions of this~~
4 ~~chapter, section 46-15.3-11 pertaining to acquisition of land or rights in land or physical~~
5 ~~improvements to acquired land required to protect the quality of raw water of the water supply~~
6 ~~system~~ suppliers shall take into account the following factors:

7 (1) The likelihood of development of the specific parcel proposed for acquisition;

8 (2) The existing land uses, as well as the likelihood of development, in the watershed;

9 (3) The potential threat to public drinking water sources posed by development in the
10 watershed including, but not limited to, the intensity of development, the types of land uses,
11 proximity to reservoirs and/or well heads, and the buffering and filtration capacity of the natural
12 systems;

13 (4) Whether alternative protection measures are available and/or have been attempted,
14 including local land use regulations;

15 (5) The number of persons who presently depend on the sources for their drinking water,
16 as well as the number of persons who may depend on it in the future;

17 (6) The anticipated cost of the parcel proposed to be purchased, and whether less than a
18 fee interest may be acquired which would reduce the cost significantly while still providing
19 protection to the source;

20 (7) Other cost effectiveness considerations, including whether protection of the source
21 can be provided by the construction of physical improvements;

22 (8) Whether acquisition of the specific parcel, and the protection of the watershed of
23 which it is a part, is consistent with other planning considerations;

24 (9) Proposed management techniques for the parcel proposed to be acquired which will
25 maximize its capacity to protect the source.

26 (d) The costs of issuance of notes and bonds authorized by section 46-15.3-10 may be
27 payable from any monies in the water quality protection funds.

28 (e) From amounts available from bond proceeds held by the corporation, the corporation
29 shall disburse to each supplier contributing to the fund a proportional amount based upon each
30 supplier's pro-rata contribution to the infrastructure reinvestment fund, water suppliers that are
31 wholesale water customers of the city of Providence acting through the Providence water supply
32 board shall have a distinct pro-rata share in order to accomplish goals for system management,
33 with priority goals for infrastructure maintenance and repairs that are intended to reduce non-
34 account water to twelve and one-half percent (12.5%) of water by December 31, 2012, and to ten

1 [percent \(10%\) of water by December 31, 2017.](#)

2 SECTION 20. Sections 46-28-2, 46-28-3, 46-28-4, 46-28-7, 46-28-7.1, 46-28-8 and 46-
3 28-9 of the General Laws in Chapter 46-28 entitled "The Rhode Island Rivers Council" are
4 hereby amended to read as follows:

5 **46-28-2. Legislative findings and declaration of public policy.** -- (a) Rhode Island
6 needs an affirmative, clearly articulated program to plan for, manage and protect its rivers and
7 watershed resources on an integrated, inter- agency basis, that supports systems level planning.

8 (b) Many of the rivers of Rhode Island or sections thereof and related adjacent land
9 possess outstanding aesthetic and recreational value of present and potential benefit to the citizens
10 of this state. The preservation and protection of these rivers and their immediate environment
11 together with their significant recreational, natural and cultural value is hereby declared to be a
12 public policy. It shall be the policy of the state of Rhode Island to protect these values and to
13 practice sound conservation policies and practices relative thereto. It is also recognized that it is
14 in the public interest to:

15 (1) Preserve open space, natural resources and features, and scenic landscapes;

16 (2) Preserve cultural and historic landscapes and features;

17 (3) Preserve opportunities for recreational use of rivers;

18 (4) Encourage the establishment of greenways, which link open spaces together;

19 (5) Establish a rivers policy consistent with the Rhode Island Comprehensive Planning
20 and Land Use Regulation Act, chapter 22.2 of title 45 as set forth in section 45-22.2-3(c);

21 (6) Continue the regional and comprehensive planning activities for rivers, water quality,
22 and land use conducted by the Rhode Island department of environmental management and the
23 Rhode Island department of administration; and

24 (7) Utilize the rivers policy and classification plan and other relevant elements of the
25 state guide plan, plans and programs of state and federal agencies, and watershed action plans to
26 coordinate the activities of the public and private sectors so as to achieve the objectives of this
27 section.

28 (c) It is, therefore, essential that a Rhode Island policy be developed so that these
29 purposes may be fulfilled. The general assembly affirms that it must assure the people of this
30 generation and their descendents the opportunity to appreciate aesthetic and [to](#) utilize the
31 recreational qualities and resources of the state's streams and rivers. ~~To implement these policies
32 is the purpose of this chapter and in furtherance thereof to establish the Rhode Island Rivers
33 Council which will coordinate and oversee the clean up and preservation of the quality of rivers
34 in Rhode Island.~~

1 **46-28-3. Definitions.** -- As used in this chapter, the following words and terms shall have
2 the following meanings unless the context shall indicate another or different meaning:

3 (1) "Council" shall mean the Rhode Island rivers council.

4 (2) "Department" shall mean the department of environmental management.

5 ~~(2)~~ (3) "River" shall mean a flowing body of water or estuary or a section, portion, or
6 tributary thereof, including streams, creeks, brooks, ponds, and small lakes.

7 (4) "State planning council" shall mean the state planning council established pursuant to
8 section 42-11-10.

9 ~~(3)~~ (5) "Watershed" shall mean a land area which because of its topography, soil type,
10 and drainage patterns acts as a collector of raw waters which regorge or replenish rivers and
11 existing or planned public water supplies.

12 **46-28-4. Establishment of council -- Purpose.** -- There is hereby authorized, created,
13 and established within the ~~executive department as an associated function, as defined in section~~
14 ~~46-28-10, of the water resources board, established pursuant to chapters 15 and 15.1 of this title~~
15 department of administration, division of planning, a Rhode Island Rivers Council known as "the
16 Rhode Island Rivers Council," with such powers as are set forth in this chapter, for the purposes
17 of coordinating, overseeing, and reviewing efforts to improve and preserve the quality of rivers
18 and to develop plans to increase the utilization of river areas throughout the state, and to support
19 and strengthen grassroots watershed organizations as local implementers of the plans. The rivers
20 policy and classification plan prepared and recommended as provided for in section 46-28-7(3)
21 and as adopted by the state planning council shall be the principal means of management and
22 protection by the Rivers Council. The Rivers Council shall work in conjunction with local
23 watershed councils and all affected federal, regional and state agencies, including, but not limited
24 to, the Rhode Island bays, rivers and watersheds coordination team, the water resources board, the
25 coastal resources management council, the department of environmental management, the
26 department of health, the statewide planning program of the department of administration, and the
27 economic development corporation, municipal governments, private organizations and persons in
28 achieving the purposes set forth in this section, and implementing systems level planning for the
29 state.

30 **46-28-7. Powers and duties.** -- The council shall have the following powers:

31 (1) To be entitled to ask for and receive from any commission, board, officer, or agency
32 of the state such information, cooperation, assistance, and advice as shall be reasonable and
33 proper in view of the nature of said functions;

34 (2) To assess, evaluate and coordinate with federal, regional and state agencies the

1 current programs and policies as they relate to efforts to clean up and preserve rivers and
2 watersheds throughout the state; and to participate in coordination mechanisms to achieve
3 systems level planning for the state;

4 (3) To prepare and recommend a rivers policy for the state of Rhode Island for adoption
5 by the state planning council as a part of the state guide plan as described in section 42-11-
6 10(c)(7), as amended, ~~following the procedures for notification and public hearing set forth in~~
7 ~~section 42-35-3, as amended~~. Said policy shall be consistent with federal water quality
8 requirements and shall give consideration to development, public or private, which has
9 commenced at the time of the adoption of a rivers policy. Such rivers policy shall treat rivers as
10 ecological systems;

11 (4) To prepare and recommend a plan for the classification of all rivers in the state of
12 Rhode Island for adoption by the state planning council as a part of the state guide plan, ~~following~~
13 ~~the procedures for notification and public hearing set forth in section 42-35-3, as amended~~. The
14 classifications shall identify characteristics of water bodies beyond their quality to reflect their
15 current or potential uses for drinking water sources, agricultural irrigation, industrial processes,
16 including cooling water sources, water-based recreation, aquatic habitat, aesthetic enhancement,
17 and others. The classification plan shall be consistent with current water quality classifications
18 adopted by the department of environmental management. Such classification plan shall contain a
19 minimum of three (3) classes of rivers, including: pristine rivers, recreational rivers, and working
20 rivers as set forth in subsection 46-28-7.1

21 ~~(A) Pristine rivers — those rivers or sections of rivers that are free of impoundments~~
22 ~~and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and~~
23 ~~water relatively unpolluted;~~

24 ~~(B) Recreational rivers — those rivers or sections of rivers that are readily accessible,~~
25 ~~that may have some development along their shorelines and may have undergone some~~
26 ~~impoundment or diversion in the past. These shall include sections of rivers along mill villages,~~
27 ~~but shall not include sections where development may be characterized as urban; and~~

28 ~~(C) Working rivers — those rivers or sections of rivers that are readily accessible, that~~
29 ~~have development along their shorelines, that have undergone impoundment or diversion, and~~
30 ~~where development may be classified as urban.~~

31 ~~In the classification of rivers, different sections of a single river may enjoy different~~
32 ~~classifications as appropriate.~~

33 (5) To make findings and recommendations among state agencies and political
34 subdivisions by participating in administrative proceedings and by reporting to the governor and

1 [other agencies, including the bays, rivers, and watersheds coordination team](#) regarding disputes
2 and conflicts on river and watershed issues;

3 (6) To make findings and recommendations to state agencies and political subdivisions
4 regarding measures necessary to protect river quality and to promote river uses consistent with
5 the state's river policy and river classification plan;

6 (7) To ~~formally recognize and to provide grants to~~ [recommend to the state planning](#)
7 [council the formal recognition of](#) local watershed councils;

8 (8) To foster public involvement in river planning and decision making processes by;

9 (i) Conducting public education programs about rivers and watersheds;

10 (ii) Promoting public access to and use of rivers, as appropriate;

11 (iii) Holding informal workshops prior to the adoption of (A) the state's rivers policy, (B)
12 the state's river classification plan or any portion thereof as provided for in subsection (d) of this
13 section and (C) the establishment of any local watershed council; and

14 (iv) Providing technical assistance to local watershed councils to participate in watershed
15 planning.

16 (9) To recommend programs, policies and proposals to the governor, the speaker of the
17 house and president of the senate;

18 (10) Establish subcommittees as may be needed to carry out the purpose of this chapter;

19 ~~(11) To promulgate regulations and procedures as may be needed to issue grants and~~
20 ~~approve watershed action plans, including rules requiring notice by state or city and town~~
21 ~~agencies to local watershed councils regarding proposed actions pertaining to projects,~~
22 ~~developments and activities located wholly or partially within the watershed represented by the~~
23 ~~local watershed council;~~

24 ~~(12)~~ [\(11\)](#) To apply for and accept grants, donations, loans of funds, and contributions of
25 money, services, materials or otherwise from any federal, state or local agency, from any public
26 or private foundation, or individual or from any other source, in order to carry out the purposes of
27 this chapter; and

28 ~~(13)~~ [\(12\)](#) To conduct a training course for newly appointed and qualified members of the
29 council and new designees of ex officio members within six (6) months of their qualification or
30 designation. The course shall be developed by the chair of the council, approved by the council
31 and conducted by the chair of the council. The council may approve the use of any council or
32 staff members or other individuals to assist with training. The course shall include instruction in
33 the following areas: the provisions of chapters 46-28, 42-46, 36-14 and 38-2; and the council's
34 operating procedures, rules and regulations. The director of the department of administration

1 shall, within ninety (90) days of the effective date of this act [April 20, 2006] prepare and
2 disseminate training materials relating to the provisions of chapters 42-46, 36-14 and 38-2.

3 **46-28-7.1. Power and duties of the state planning council.** -- In order to carry out the
4 purposes of this chapter, the state planning council shall ~~adopt~~ ;

5 (a) Adopt and maintain a rivers policy and a classification plan for the state of Rhode
6 Island as an elements of the state guide plan in accordance with the provisions of section 42-11-

7 ~~10. The procedure for adoption shall be as follows: Upon notification from the rivers council that~~
8 ~~it has completed preparation of the rivers policy or classification plan as set forth in section 46-~~
9 ~~28-7(c) and (d), respectively, the state planning council and rivers council shall jointly conduct a~~
10 ~~public hearing in the manner specified in chapter 35 of title 42. Following the public hearing, the~~
11 ~~rivers council shall, in consultation with the statewide planning program, make its~~
12 ~~recommendation to the state planning council. The state planning council may make any revisions~~
13 ~~or amendments to the rivers policy or classification plan as recommended by the rivers council~~
14 ~~that are necessary to carry out the purposes of this chapter, to achieve consistency with applicable~~
15 ~~provisions of law, or to consider comments made at the public hearing. The classifications shall~~

16 identify characteristics of water bodies beyond their quality to reflect their current or potential
17 uses for drinking water sources, agricultural irrigation, industrial processes, including cooling
18 water sources, water-based recreation, aquatic habitat, aesthetic enhancement, and others. The
19 classification plan shall be consistent with current water quality classifications adopted by the
20 department of environmental management. Such classification plan shall contain a minimum of
21 three (3) classes of rivers, including:

22 (1) Pristine rivers – those rivers or sections of rivers that are free of impoundments and
23 generally inaccessible except by trail, with watersheds or shorelines essentially primitive and
24 water relatively unpolluted;

25 (2) Recreational rivers – those rivers or sections of rivers that are readily accessible, that
26 may have some development along their shorelines and may have undergone some impoundment
27 or diversion in the past. These shall include sections of rivers along mill villages, but shall not
28 include sections where development may be characterized as urban; and

29 (3) Working rivers – those rivers or sections of rivers that are readily accessible, that have
30 development along their shorelines, that have undergone impoundment or diversion, and where
31 development may be classified as urban.

32 In the classification of rivers, different sections of a single river may enjoy different
33 classifications as appropriate.

34 (b) Formally recognize local watershed councils, as provided for in section 46-28-8.

1 (c) Exercise such powers as may be necessary to accomplish the purposes of this chapter.

2 (d) Make findings and recommendations to state agencies and political subdivisions
3 regarding measures necessary to protect river quality and to promote river uses consistent with
4 the state's river policy and river classification plan.

5 (e) In cooperation with the department of environmental management: (1) provide
6 support, including grants subject to the availability of funds for this purpose, and technical
7 assistance to local watershed councils to effectuate watershed based planning; (2) foster public
8 involvement in river planning and decision making processes; and (3) conduct public education
9 programs about rivers and watersheds.

10 (f) Transitional provisions. All rules, regulations, actions recognizing local watershed
11 councils, and programs of the rivers council that were in effect on December 31, 2007, shall
12 remain in effect as rules, regulations, actions, and programs of the state planning council until
13 modified, repealed, or terminated by the state planning council.

14 **46-28-8. Local watershed councils.** -- The ~~rivers~~ state planning council shall establish
15 and recognize local watershed councils to implement the rivers policy as adopted in accordance
16 with the provisions of this chapter and set forth in the state guide plan. Unless a watershed is
17 solely within one municipality's boundaries, each local watershed council shall be comprised of
18 members from each municipality within the watershed area as designated by the department of
19 environmental management. Such local watershed councils may be existing organizations where
20 appropriate. Local watershed councils shall have standing to present testimony in all state and
21 local administrative proceedings which impact on rivers and water quality and shall receive
22 notice, pursuant to rules adopted by the council, from state or city and town agencies regarding
23 proposed actions pertaining to projects, developments and activities located wholly or partially
24 within the watershed represented by the local watershed council. Each local watershed council
25 shall be a body corporate and politic, having a distinct legal existence from the state and any
26 municipality within the watershed area in which such local watershed council is located. Each
27 local watershed council shall have power:

28 (1) To advise and make recommendations for the watershed in the municipality where
29 such watershed is located for the preparation or revision by the municipality of its comprehensive
30 land use plan pursuant to the Rhode Island Comprehensive Planning and Land Use Regulation
31 Act with regard to achieving and maintaining classifications assigned by the rivers council;

32 (2) To advise the municipalities with regard to public access to rivers for the preparation
33 or revision by the municipality of a comprehensive land use plan pursuant to the Rhode Island
34 Comprehensive Planning and Land Use Regulation Act;

1 (3) To establish and support river watch programs for the protection of the watershed in
2 which it is located;

3 (4) To negotiate payments between two (2) or more of the municipalities within the
4 watershed for the conduct of services or the erection of projects necessary for the purposes of the
5 local watershed council, subject to majority vote of each of the city and town councils
6 participating in each program or project;

7 (5) To acquire, hold, use, lease, sell, transfer, and dispose of any property, real, personal,
8 or mixed, or interest or interests thereon;

9 (6) To own, operate, maintain, repair, improve, enlarge, and extend, in accordance with
10 the provisions of this chapter, any property acquired hereunder, all of which, together with the
11 acquisition of such property, are hereby declared to be public purposes; and

12 (7) To sell, lease, convey, or otherwise dispose of to any of the municipalities within the
13 watershed any property or improvements thereto, which the local watershed council may
14 hereafter acquire or construct; provided, however, that any sale, lease, conveyance, or other
15 disposition of the property shall not prejudice or adversely affect any service which the local
16 watershed council is providing to any other participating city or town;

17 (8) To sue and be sued in connection with any contracts made by, real estate or personal
18 property owned by or leases or conveyances made by the local watershed council;

19 (9) To adopt and order a corporate seal;

20 (10) To make by-laws for the management and regulation of its affairs;

21 (11) To borrow money for any of its corporate purposes including the creation and
22 maintenance of working capital;

23 (12) To fix rates and collect charges for the use of the facilities of or services rendered
24 by or any commodities furnished by the local watershed council; and to pay as the same shall
25 become due the expenses of operating and maintaining the properties of the river watershed
26 council;

27 (13) To contract in its own name for any lawful purpose which would effectuate the
28 purposes of this chapter; to execute all the instruments necessary to carry out the purposes of this
29 chapter; to do all things necessary or convenient to carry out the powers expressly granted by this
30 chapter. It is the intention of the legislature that any property acquired by the local watershed
31 councils pursuant to the provisions of this chapter shall be financed as a self-liquidating
32 enterprise, and that any indebtedness incurred by the local watershed councils shall be payable
33 solely from the earnings or revenues derived from all or part of the property acquired by such
34 river watershed council. Any indebtedness incurred by the local watershed councils shall not be

1 deemed to constitute a debt or a pledge of the faith and credit of the state or of any municipality;

2 (14) To enter into cooperative agreements with other cities and towns, for any lawful
3 corporate purposes necessary and desirable to effect the purposes of this chapter;

4 (15) In the performance of its functions the local watershed council may recommend to
5 municipalities land and water conservation programs consistent with the state rivers policy
6 provided for in section 46-28-7;

7 (16) To apply for, contract for, and expend any federal or state advances or grants or
8 assistance which may be made available for purposes of this chapter.

9 **46-28-9. Annual council report and special reports.** -- (a) Annual report. - The council
10 shall make an annual report to the governor and the general assembly on or before February 1 of
11 each year. The report shall include: (1) a summary of the activities of the council and of each
12 designated local watershed council; and (2) a consolidated financial statement of ~~all~~ any funds
13 received by and expended by the Rivers Council during the reporting period. Within ninety (90)
14 days after the end of each fiscal year, the council shall approve and submit an annual report to the
15 governor, the speaker of the house of representatives, the president of the senate, and the
16 secretary of state of its activities during that fiscal year. ~~The report shall provide: an operating
17 statement summarizing meetings or hearings held, including meeting minutes, subjects addressed,
18 decisions rendered, rules or regulations promulgated, studies conducted, policies and plans
19 developed, approved, or modified, and programs administered or initiated; a summary of the
20 activities of each designated local watershed; a consolidated financial statement of all funds
21 received and expended including the source of the funds, a listing of any staff supported by these
22 funds, and a summary of any clerical, administrative or technical support received; a summary of
23 performance during the previous fiscal year including accomplishments, shortcomings and
24 remedies; a synopsis of hearings, complaints, suspensions or other legal matters related to the
25 authority of the council; a summary of any training courses held pursuant to subsection 46-28-
26 7(13); a briefing on anticipated activities in the upcoming fiscal year; findings and
27 recommendations for improvements; and a summary of progress made by the council in the
28 implementation of the system level plan as described in section 46-31-5. The report shall be
29 posted electronically as prescribed in section 42-20-8.2. The director of the department of
30 administration shall be responsible for the enforcement of this provision.~~

31 (b) Special reports. - The council shall prepare such special reports as may be requested
32 by the general assembly, or either branch thereof, the governor, or as may be determined by the
33 council.

34 (c) [Deleted by P.L. 2006, ch. 22, section 8 and P.L. 2006, ch. 27, section 8].

1 SECTION 21. Section 46-28-10 of the General Laws in Chapter 46-28 entitled "The
2 Rhode Island Rivers Council" is hereby repealed.

3 ~~46-28-10. Administrative support and staffing. --- The water resources board shall be~~
4 ~~responsible for providing administrative support in carrying out the responsibilities charged to the~~
5 ~~Rhode Island Rivers Council; the water resources board, the department of environmental~~
6 ~~management, and the statewide planning program shall, as appropriate, provide the Rhode Island~~
7 ~~Rivers Council staff support as necessary to accomplish the purposes of this chapter.~~

8 SECTION 22. Title 46 of the General Laws entitled "WATERS AND NAVIGATION"
9 is hereby amended by adding thereto the following chapter:

10 CHAPTER 46-32

11 WATER SYSTEM DEVELOPMENT

12 46-32-1. Short title. -- This act shall be known and may be cited as the "Water System
13 Development Act."

14 46-32-2. Findings. -- The general assembly finds and declares:

15 (a) That safe, reliable, reasonably priced, water supplies are vital to the well-being and
16 prosperity of the people of this state; that water supply facilities require a major commitment of
17 funds and resources and require many years to build that the decision to permit or deny their
18 construction will have long term impact on the public health and welfare and the economy of the
19 state; that these decisions will affect the availability and long-term cost of water; and that the
20 evaluation of proposals must recognize and consider the need for these facilities in relation to the
21 overall impact of the facilities upon public health and safety, the environment and the economy of
22 the state;

23 (b) That the authority to regulate many aspects of the issues involved in the siting of
24 major water supply facilities currently exists in a variety of agencies within the government of the
25 state and the political subdivisions of the state; that there is overlapping jurisdiction among
26 several state agencies in the siting of water supply facilities; and that there is the potential for
27 conflicting decisions being issued by the various agencies having authority over the different
28 aspects of the siting of a major water supply facility;

29 (c) That the jurisdiction of each state agency should be defined, and the role of each
30 agency in water supply facility siting should be delineated, to eliminate overlap and duplication
31 and to insure that expeditious decisions are made within a time frame to be determined by law;
32 and that in addition to the existing regulation, statewide and regional planning for water resources
33 and the assessment of our state's need for water should be on-going activities within Rhode
34 Island;

1 (d) That there is need for a coordinated decision on any major water supply facility; the
2 technical expertise for this evaluation is available within existing agencies involved with the
3 siting process; and

4 (e) That there is a need for coordinating and expediting the review of each state agency
5 and that the authority and responsibility to perform that function should be established.

6 **46-32-3. Purposes.** – The purposes of this chapter are to:

7 (a) Provide for a coordinated application process for water supply projects;

8 (b) Establish a conclusive presumption of public interest in water supply projects that are
9 included in a state water supply development plan in order to provide, facilitate and expedite
10 decision making with regard to such projects by state and local regulatory entities; and

11 (c) Establish a siting board process available to major public water supply projects.

12 **46-32-4. Definitions.** – In this chapter the following terms shall have the following
13 meaning:

14 (a) "Board" shall mean the water system development board.

15 (b) "Major public water supply" shall mean a public water supply with a capacity of more
16 than two million (2,000,000) gallons of water per day.

17 (c) "Major public water supply system" shall mean any city, town, district, or other
18 municipal, quasi municipal, or public private or state corporation or company engaged in or
19 authorized to engage in the supply, treatment, transmission, or distribution of drinking water on a
20 wholesale or retail basis which obtains, transports, purchases, or sells more than fifty million
21 (50,000,000) gallons of water per year.

22 (d) "Public water supply system" shall mean a system for the provision to the public of
23 water for human consumption through pipes or other constructed conveyances, if the system has
24 at least fifteen (15) service connections.

25 (e) "State plan" shall mean the state water system development plan.

26 **46-32-5. Basic jurisdiction of state agencies -- Delineation.** – As elsewhere set forth in
27 the general laws, the following agencies shall be understood to have primary jurisdiction for
28 matters, related to the regulation of water system development, as set forth below. Nothing
29 contained herein shall be deemed to abrogate, diminish or limit or to expand the functions,
30 powers, or duties assigned by other provisions of law to the state agencies listed below.
31 Furthermore, nothing contained in this section shall be deemed to abrogate, diminish or limit the
32 functions, powers, or duties assigned by other provisions of law to the state agencies, authorities
33 and corporations, to municipal councils, boards, authorities departments, to quasi-public
34 corporations, districts, and authorities, or private entities not listed below. This section shall be

1 deemed to be descriptive only and shall not otherwise have the force of law.

2 (a) The department of environmental management shall be considered to be the state
3 agency with primary responsibility for supervising and controlling the protection, development,
4 planning and utilization of water resources as a natural resource critical to the functioning of
5 ecological and natural systems.

6 (b) The department of health shall be considered to be the state agency with primary
7 responsibility for assuring safety and potability of public water supplies.

8 (c) The public utilities commission shall be considered to be the state agency with
9 primary responsibility for assuring the adequacy and fairness of the rates of public water systems
10 that are considered public utilities subject to the jurisdiction of the commission.

11 (d) The division of state planning in the department of administration shall be considered
12 to be the state agency with primary responsibility for integrating on an on-going basis planning
13 for water resources and water supply with other plans, especially for land use and development, at
14 the state and local levels.

15 (e) The water resources board shall be considered to be the state agency with primary
16 responsibility for overseeing the planning for and the development of: (i) water supply system
17 infrastructure; and (ii) water resources for public water supply.

18 (f) The water supply facilities corporation shall be considered to be the state agency with
19 primary responsibility for implementing water supply projects on behalf of the state, either in its
20 own name or by providing assistance to major public water supply systems from funds under the
21 control of the corporation.

22 **46-32-6. Water system development board.** – There is authorized, created, and
23 established a board, which shall be a part of state government, to be known as the "water system
24 development board," with those powers that are set forth in this chapter, for the purposes of: (i)
25 coordinating the responsibilities of state agencies with regulatory jurisdiction over public water
26 supply projects and providing an efficient coordinated application process for such projects; (ii)
27 preparing, adopting, and maintaining a state water system development plan; and (iii) acting, as
28 necessary, as a siting board for major water supply projects.

29 (a) The board shall consist of five (5) members, as follows: the chairperson of the public
30 utilities commission; the director of the department of environmental management; the director of
31 the department of health; the associate director of administration for planning, and the general
32 manager of the water resources board; any member of the board who recuses him or herself shall
33 designate his or her own successor from his or her respective agency. The governor shall
34 designate a member of the board to serve as the chairperson of the board and the board shall

1 annually elect a vice-chairperson.

2 (b) Each member of the board shall take an oath to administer the duties of office
3 faithfully and impartially and that oath shall be filed in the office of the secretary of state.

4 (c) The members of the board shall serve without compensation, but shall be reimbursed
5 for their actual expenses necessarily incurred in the performance of their duties. The board may
6 engage any consultants or expert witnesses that it deems necessary to implement its statutory
7 responsibilities; provided, however, that to the maximum extent possible, board staff be drawn
8 from existing state agencies. The board shall select a coordinator to be responsible for the
9 publication and distribution of all official minutes, reports, and documents and to further serve as
10 director of the board staff, which shall be located at the division of planning in the department of
11 administration. The coordinator, under the direction of the chairperson, shall coordinate and
12 expedite the work of the various agencies to ensure that decisions are made within the time frame
13 established by this chapter.

14 (d) A quorum shall consist of a majority of the board; provided, however, one member of
15 the board may conduct any hearings the board is authorized to conduct pursuant to this chapter.

16 (e) The board shall maintain and grant fee access to records and reports in its files to
17 members of the public during normal working hours and shall permit copies of those records and
18 reports to be made by interested members of the public at their expense; provided, however, that
19 the board shall not permit disclosure, other than to another government agency for the sole
20 purpose of rendering an advisory opinion, of any information obtained by or submitted to the
21 board pursuant to the provisions of this chapter, upon a showing, satisfactory to the board, that
22 the information is entitled to protection as trade secrets or as privileged, confidential, or
23 proprietary information. No other governmental agency shall disclose any trade secrets or
24 privileged, confidential, or proprietary information.

25 **46-32-7. General powers. --** The board shall be empowered:

26 (a) To promulgate regulations, procedures, bylaws and guidelines.

27 (b) To establish subcommittees with such composition and duties as the board may
28 determine as may be needed to effectuate the purpose of this chapter.

29 (c) To be entitled to ask for and receive from any commission, board, officer, or agency
30 of the state such information, cooperation, assistance, and advice as shall be reasonable and
31 proper in view of the duties and responsibilities of the board;

32 (d) To make findings and recommendations among state agencies and political
33 subdivisions by participating in administrative proceedings and by reporting to the governor
34 regarding disputes and conflicts on river and watershed issues.

1 **46-32-8. Coordinated application process.** -- (a) The board shall establish, by
2 December 31, 2008, and shall thereafter maintain a coordinated application process for public
3 water supply projects. The coordinated application process shall consist of the following:

4 (1) A common set of forms and requirements for information to be used by state agencies
5 with regulatory jurisdiction over public water supply projects; the common set of forms may be
6 supplemented by each agency by such other forms or requirements for information as may be
7 specifically necessary or desirable for the administration of the regulatory powers of the agency.

8 (2) A coordinated review process that provides for concurrent review, so far as is
9 reasonably feasible, by state agencies of public water supply project applications and for
10 exchange of information about applications among such agencies. The coordinated application
11 process may provide for joint hearings by state agencies on application, and unless such joint
12 hearings are otherwise prohibited by law, authority to hold such joint hearings under the
13 procedures set forth in chapter 42-35 is hereby granted.

14 (3) An expedited review process, that is inclusive of the requirements for a coordinated
15 review process set forth in subdivision (a) (2) of this section, for public water supply projects that
16 are included in the state water system development plan and are thereby conclusively presumed
17 by regulatory agencies to be in the public interest.

18 (4) Such other matters and procedures to facilitate an efficient and effective coordinated
19 application process as the board may deem appropriate.

20 (b) State agencies with regulatory jurisdiction over public water supply projects shall
21 implement the use of coordinated application process not later than July 1, 2009.

22 **46-32-9. State water system development plan.** -- The board shall adopt by July 1,
23 2009, and shall thereafter maintain a state water system development plan. The plan shall include,
24 but shall not be limited to, a list of public water supply projects that are needed to assure
25 adequacy and reliability of public water supply in the state. The inclusion of a public water
26 supply project in the plan shall constitute a conclusive presumption for purposes of state and local
27 agencies with regulatory authority over the location, construction, or operation of public water
28 supplies that the project is in the public interest.

29 (a) Any public water supplier may apply in a manner prescribed by the board to have a
30 public water supply project included in the plan. The application shall include the elements set
31 forth in this subdivision and may be required by the board to include such other elements as the
32 board may deem necessary to determine that the project is in the public interest.

33 (i) For a project involving an existing water supply, which at the time of the submission
34 of the application is operational or was operational within the prior five (5) years, the application

1 shall describe the location, capacity, nature of, and need for and cost effectiveness of the project,
2 shall document the relationship of the project to the water supply management plan of the agency,
3 if applicable, and shall set forth how the project is consistent with the priority of maintaining and
4 improving existing water supply infrastructure.

5 (ii) For a project involving restoration of a water supply, which at the time of the
6 submission of the application was operational within the prior fifteen (15) years, the application
7 shall describe the location, capacity, nature of, and need for and cost effectiveness of the project,
8 shall document the relationship of the project to the water supply management plan of the agency,
9 if applicable, and shall set forth how the project is consistent with the priority of infrastructure
10 reinvestment and with the applicable elements of the state guide plan and local comprehensive
11 plans, including pertaining to watershed management plans.

12 (iii) For a project involving a new water supply, which includes the restoration of a water
13 supply that has not been operational for fifteen (15) or more years prior to the submission of the
14 application, the application shall describe the location, capacity, nature of, and need for and cost
15 effectiveness of the project, shall document the relationship of the project to the water supply
16 management plan of the agency, if applicable, and shall set forth how the water supplier is
17 meeting goals for the reduction of non-account water and leakage, is managing demand,
18 including seasonal demand, how the project will conform with goals and standards for
19 maintaining environmental functioning and will not contribute to a level of water withdrawals
20 that have adverse effects on surface and groundwater resources, and how the project will be
21 consistent with land use policies and plans, including the applicable elements of the state guide
22 plan and local comprehensive plans, including plans pertaining to watershed management plans.

23 (b) For each of the three (3) classes of projects set forth above, the board shall establish
24 standards for determining whether the applicant has complied with the purposes of the application
25 requirements.

26 (c) The board shall adopt a schedule for applications from water suppliers to have
27 applications included in the plan, and shall consider amendments or additions to the plan at least
28 once annually commencing in 2010. The board may delegate the preparation of the plan to a
29 subcommittee of the board.

30 (d) Implementation activities that would, in a manner consistent with other provisions of
31 law, use existing authority, programs, and implementation mechanisms of state and local
32 government, shall be put into effect by the appropriate state or local authorities upon the approval
33 of the plan by the water system development board.

34 **46-32-10. Powers as a siting board. -- (a)(1) The board is the licensing and permitting**

1 authority for all licenses, permits, assents, or variances which, under any statute of the state or
2 ordinance of any political subdivision of the state, would be required for siting, construction or
3 alteration of a major public water supply in the state.

4 (2) Any agency, board, council, or commission of the state or political subdivision of the
5 state which, absent this chapter, would be required to issue a permit, license, assent, or variance
6 in order for the siting, construction, or alteration of a major water supply facility to proceed, shall
7 sit and function at the direction of the siting board. These agencies shall follow the procedures
8 established by statute, ordinance, and/or regulation provided for determining the permit, license,
9 assent, or variance, but, instead of issuing the permit, license, assent, or variance, shall forward its
10 findings from the proceeding, together with the record supporting the findings and a
11 recommendation for final action, to the board.

12 (3) Notwithstanding any provision in this chapter to the contrary, in those instances in
13 which the department of health exercises a permitting or licensing function under the federal safe
14 drinking water act 42 U.S.C. chapter 6A, subchapter XII section 300 et seq., and those state laws
15 and regulations which implement those federal laws, the department of health shall be the final
16 licensing and permitting authority; and notwithstanding any provision in this chapter to the
17 contrary, in those instances in which the department of environmental management exercises a
18 permitting or licensing function under the delegated authority of federal law, including, but not
19 limited to, the federal clean water act (33 U.S.C. section 1251 et seq.), the clean air act (42 U.S.C.
20 section 7401 et seq.), and those state laws and regulations which implement those federal laws,
21 the department of environmental management shall be the final licensing and permitting
22 authority. Moreover, final authority to issue licenses and permits delegated to the department of
23 environmental management pursuant to chapter 1 of title 2 and to the coastal resources
24 management council pursuant to chapter 23 of title 46, shall remain with those agencies, but in all
25 other respects the department of environmental management and the coastal resources
26 management council shall follow the procedures set forth in this chapter.

27 (b) The board is authorized and empowered to summon and examine witnesses and to
28 compel the production and examination of papers, books, accounts, documents, records,
29 certificates, and other legal evidence that may be necessary for the determination of its
30 jurisdiction and decision of any question before, or the discharge of any duty required by law of,
31 the board.

32 (c) The board is empowered to issue any order, rules, or regulations as may be required to
33 effectuate the purposes of this chapter.

34 (d) The board shall, by regulation, determine the standards for intervention.

1 (e) The board's proceedings shall in all respects comply with the requirements of the
2 administrative procedures act, chapter 35 of this title, except where otherwise explicitly provided.

3 **46-32-11. Applications – Contents – Acceptance for filing.** – (a) The rules and
4 regulations promulgated by the board shall prescribed the form and contents of applications under
5 this chapter. The applications shall contain at least the following information, where applicable:

6 (1) Identification of the proposed owner(s) of the major public water supply.

7 (2) Detailed description of the proposed major public water supply, including its function
8 and operating characteristics, and complete plans as to all structures, including underground
9 construction and transmission facilities, underground or aerial, associated with the proposed
10 facility. The complete plans shall be the basis for determining jurisdiction under this chapter and
11 shall be the plans submitted to all agencies whose permit is required under the law, including the
12 provisions of this chapter for a coordinated application process.

13 (3) A detailed description and analysis of the impact of the proposed major public water
14 supply on its physical and social environment together with a detailed description of all
15 environmental characteristics of the proposed site, and a summary of all studies prepared and
16 relied upon in connection therewith.

17 (4) All studies and forecasts, complete with the information, data, methodology, and
18 assumptions on which they are based, on which the applicant intends to rely in showing the need
19 for the proposed major public water supply.

20 (5) The estimated construction cost of the proposed major public water supply, the
21 projected maintenance and operation costs.

22 (6) A study of alternatives to the proposed major public water supply, including, but not
23 limited to, applicable demand management within the supply system of the applicant, including
24 seasonal demand, and reduction of the non-account water of the applicant.

25 (b) Within thirty (30) days of the filing of an application under this chapter, the board
26 shall notify the applicant whether the application is in the form and addresses the matters that are
27 required by this section and the rules and regulations of the board. An application meeting these
28 requirements shall then be docketed. Any application deemed to be deficient shall be returned to
29 the applicant, together with a concise and explicit statement of the application's deficiencies.
30 Within fifteen (15) days of the resubmission of an application following a rejection for
31 deficiency, the board shall docket the application together with specification of continuing
32 deficiencies noted by the board, if any.

33 **46-32-12. Applications – Procedures for review – Preliminary hearing.** -- (a) Within
34 sixty (60) days following the board's docketing of an application the board shall, on not less than

1 forty-five (45) days notice to all agencies, subdivisions of the state, and the public, convene a
2 preliminary hearing on the application to determine the issues to be considered by the board in
3 evaluating the application, and to designate those agencies of state government and of political
4 subdivisions of the state which shall act at the direction of the board for the purpose of rendering
5 advisory opinions on these issues, and to determine petitions for intervention.

6 (b) The board shall consider as issues in every proceeding the ability of the proposed
7 facility to meet the requirements of the laws, rules, regulations, and ordinances under which,
8 absent this chapter, the applicant would be required to obtain a permit, license, variance, or
9 assent. The agency of state government or of a political subdivision of the state which, absent this
10 chapter, would have statutory authority to grant or deny the permit, license, variance, or assent,
11 shall function at the direction of the board for hearing the issue and rendering an advisory opinion
12 thereon.

13 (c) The board shall limit the scope of any agency's investigation where it finds that more
14 than one agency has jurisdiction over a matter at issue in the licensing process. In these instances,
15 the board shall determine which agency shall make the necessary findings on the issue after
16 giving proper consideration to the expertise and resources available to each of the agencies
17 involved.

18 (d) A decision of the board under this section shall be issued within thirty (30) days
19 following the conclusion of the preliminary hearing and in any event within forty-five (45) days
20 of the commencement of the hearing.

21 **46-32-13. Public notice and hearings on construction projects in cities and towns**
22 **affected.** -- (a) Upon receiving an application the board shall immediately notify, in writing, the
23 councils of the towns and cities affected by the construction.

24 (b) The board shall have at least one public hearing in each town or city affected prior to
25 holding its own hearings and prior to taking final action on the application.

26 (c) The applicant shall notify the citizens in towns and cities affected thirty (30) days
27 prior to public meetings through local papers and an electronic posting approved by the board.

28 (d) The applicant shall notify abutting land owners individually, in writing, thirty (30)
29 days prior to the hearings, by certified mail, postage prepaid.

30 (e) Public input shall be a part of the decision making process.

31 **46-32-14. Agency procedures – Advisory opinion.** -- (a) Each agency of the state or
32 political subdivision of the state designated under section 46-32-12 shall proceed to consider the
33 issue or issues cosigned to it for review. Each agency shall conclude its consideration and issue
34 its advisory opinion not more than six (6) months following its designation under section 46-32-

1 12, or any lesser time that the board may require, or the right to exercise the function shall be
2 forfeited to the board.

3 (b) Advisory opinions issued by agencies designated under section 46-32-12 shall not be
4 considered as final decisions of the agencies making the opinions, and shall not be subject to
5 judicial review under section 46-32-16, or any other provision of the general laws.

6 (c) Failure or refusal of the applicant to provide requested information may be considered
7 as grounds for recommending denial.

8 (d) At the request of the board, the director of environmental management and the coastal
9 resources management council shall give priority to the review of permits for energy facilities.

10 **46-32-15. Final hearing – Standards – Decisions.** -- (a) Within forty-five (45) days
11 after the final date for submission of advisory opinions pursuant to section 46-32-14, the board
12 shall convene the final hearing on the application. The purpose of this hearing shall not be to
13 rehear the evidence which was presented previously in hearings before agencies designated under
14 section 46-32-12, but rather to provide the applicant, intervenors, the public, and all other parties
15 in the proceeding, the opportunity to address in a single forum, and from a consolidated,
16 statewide perspective, the issues reviewed, and the recommendations made in the proceedings
17 before the agencies designated under section 46-32-12. The board at this hearing may, at its
18 discretion, allow the presentation of new evidence by any party as to the issues considered by the
19 agencies designated under section 46-32-12. The board may limit the presentation of repetitive or
20 cumulative evidence. The hearing shall proceed on not less than thirty (30) days' notice to the
21 parties and the public, shall be concluded not more than sixty (60) days following its initiation,
22 and shall be conducted expeditiously.

23 (b) The board shall issue a decision granting a license only upon finding that the
24 applicant has shown that:

25 (1) Construction of the proposed facility is necessary to meet the needs of the state and/or
26 the service area of the public water system.

27 (2) The proposed major public water supply is cost-justified, that the construction and
28 operation of the proposed facility will be accomplished in compliance with all of the requirements
29 of the laws, rules, regulations, and ordinances, under which, absent this chapter, a permit, license,
30 variance, or assent would be required, or that consideration of the public health, safety, welfare,
31 security and need for the proposed facility justifies a waiver of some part of the requirements
32 when compliance cannot be assured.

33 (3) The proposed major public water supply will not cause unacceptable harm to the
34 environment and will enhance the socio-economic fabric of the state.

1 (c) Within sixty (60) days of the conclusion of the final hearing the board shall issue its
2 final decision on the application. A decision in favor of the application shall constitute a granting
3 of all permits, licenses, variances, or assents, which under any law, rule, regulation, or ordinance
4 of the state or of a political subdivision thereof which would, absent this chapter, be required for
5 the proposed major public water supply. The decision may be issued requiring any modification
6 or alteration of the proposed major public water supply, and may be issued on any condition the
7 board deems warranted by the record, and may be issued conditional upon the applicant's receipt
8 of permits required by federal law. The board's decision shall explicitly address each of the
9 advisory opinions received from agencies, and the board's reasons for accepting, rejecting, or
10 modifying, in whole or in part, any of those advisory opinions. The board shall, within ten (10)
11 days of granting a license, with or without conditions, deliver the decision to the speaker of the
12 Rhode Island house of representatives, and the president of the Rhode Island senate.

13 **46-32-16. Appeals and judicial review.** -- (a) The licensing decision issued by the board
14 shall constitute the sole, final, binding, and determinative regulatory decision within the state for
15 the purposes of siting, building, operating, or altering a major public water supply.

16 (b) Any person aggrieved by a decision of the board may within ten (10) days from the
17 date of ratification of the decision, obtain judicial review of the decision in the manner and
18 according to the standards and procedures provided in chapter 5 of title 39.

19 **46-32-17. Access to premises.** -- (a) Members of the board, or agents of the board, while
20 engaged in the performance of their duties, may at all reasonable times enter any premises,
21 buildings, or other places belonging to, or controlled by, an applicant for a license under this
22 chapter, and inspect the premises or any part of the premises. Reasonable notice of the inspection
23 shall be given to the owner and a representative of the owner shall accompany the members of the
24 board or its agent at all times during any inspection.

25 (b) Any person obstructing, hindering, or in any way, causing to be obstructed or
26 hindered, any board member or agent of the board, in the performance of his or her duties, or who
27 shall refuse to permit any board member or agent of the board entrance into any premises,
28 buildings, or other places belonging to, or controlled by an applicant, in the performance of his or
29 her duties, shall be deemed guilty of a misdemeanor and fined not more than five hundred dollars
30 (\$500).

31 **46-32-18. Discovery.** -- The filing of an application under this chapter constitutes consent
32 by the applicant(s) and its (their) affiliates to the jurisdiction of this state for the purposes of
33 discovery relevant to the application.

34 **46-32-19. Exemption.** -- The exercise of the powers granted by this chapter or the

1 provisions thereof shall not apply to any matter over which any agency, department, or
2 instrumentality of the federal government has exclusive jurisdiction or has jurisdiction concurrent
3 with that of the state and has exercised that jurisdiction to the exclusion of regulation of the
4 matter by the state.

5 **46-32-20. Violations. --** (a) Failure to comply with any promulgated board rule,
6 regulation, requirement or procedure for the licensing of a major public water supply shall
7 constitute grounds for suspension or dismissal, with or without prejudice in its discretion, of
8 licensing proceedings, provided that the applicant shall have a reasonable opportunity to show
9 cause for and remedy the lack of compliance.

10 (b) Failure to comply with any provision, condition or limitation contained in a board
11 license to site, build, or alter a major public water supply and/or failure to comply with a board
12 cease and desist order and/or a board order to remedy a non-complying action shall be grounds
13 for suspension or revocation of the license, and/or shall be punishable by a fine of not more than
14 twenty thousand dollars (\$20,000). Each day of continuing noncompliance shall be considered a
15 separate violation and so punished.

16 (c) The board may require the licensee to maintain those records as are reasonable and
17 necessary to monitor compliance with license provisions, and shall have the authority to enter
18 onto the property of licensees to investigate complaints of noncompliance and to perform routine
19 inspections.

20 (d) The board may designate officials or staff of any state agencies as its agents for the
21 purposes of investigating complaints, performing routine maintenance functions and issuing
22 written cease and desist order.

23 **46-32-21. Appropriation, fees and grants. --** (a) There is created an account to be
24 known as the "major public water supply account", an account within the water supply facilities
25 corporation, hereinafter referred to as the "account", for the purpose of providing the financial
26 means for the board to purchase materials and to employ on a contract or other basis legal
27 counsel, official stenographers, engineers, accountants, and expert witnesses and for other
28 necessary expenses of the board in investigations and hearings on applications for licensure under
29 this chapter. The water supply facility corporation shall annually appropriate to the account the
30 amounts as may be required to bring the balance of the account to the sum of one hundred
31 thousand dollars (\$100,000). The treasurer of the water supply facilities corporation is authorized
32 and directed draw his or her orders for the payment from the account of the sums as may be
33 required from time to time upon receipt of proper vouchers approved by the chairperson of the
34 board or the secretary.

1 (b) The board shall be authorized to establish reasonable fees for investigations,
2 applications and hearings. Applicants shall pay those fees in full prior to the hearing process
3 commencing unless the board agrees to an alternative payment schedule. All fees collected by the
4 board shall be deposited with the treasurer of the water supply facilities corporation. The treasurer
5 of the water supply facility corporation is authorized to pay any sum or sums as may be necessary
6 from time to time and upon receipt by him or her of authenticated vouchers presented by
7 coordinated of the board.

8 (c) Failure of the applicant to pay expenses lawfully assessed by the board shall constitute
9 grounds for suspension of licensing proceedings or revocation of any license granted, until the
10 applicant has paid the expenses.

11 (d) The board shall be empowered to draw upon this account and to distribute monies
12 from the fees to and bodies of state and local government participating in licensing actions or
13 acting as the board's agents for the purposes of insuring compliance with license provisions and
14 for employing staff or consultants and for carrying out the provisions of this chapter.

15 (f) The board shall be authorized to receive any grants made for the purpose of planning
16 for or regulating the major water supply and to disburse and administer the grants under the terms
17 of the grants.

18 **46-32-22. Reports. --** (a) Annual report. The council shall make an annual report to the
19 governor and the general assembly on or before February 1 of each year. The report shall include
20 a summary of the activities of the board and a consolidated financial statement of all funds
21 received by and expended by the board during prior fiscal year. The report shall provide: an
22 operating statement summarizing meetings or hearings held, including meeting minutes, subjects
23 addressed, decisions rendered, rules or regulations promulgated, studies conducted, policies and
24 plans developed, approved, or modified, and programs administered or initiated; a consolidated
25 financial statement of all funds received and expended including the source of the funds, a listing
26 of any staff supported by these funds, and a summary of any clerical, administrative or technical
27 support received; a summary of performance during the previous fiscal year including
28 accomplishments, shortcomings and remedies; a synopsis of hearings, complaints, suspensions or
29 other legal matters related to the authority of the board; a briefing on anticipated activities in the
30 upcoming fiscal year; findings and recommendations for improvements. The report shall be
31 posted electronically as prescribed in section 42-20-8.2. The director of the department of
32 administration shall be responsible for the enforcement of this provision.

33 (b) Special reports. The council shall prepare such special reports as may be requested by
34 the general assembly, or either branch thereof, the governor, or as may be determined by the

1 [council.](#)

2 **46-32-23. Construction.** -- This chapter, being necessary for the welfare of the state and
3 its inhabitants, shall be liberally construed so as to effectuate its purposes.

4 **46-32-24. Severability.** -- If any clause, sentence, paragraph, section, or part of this
5 chapter shall be adjudged by any court of competent jurisdiction to be invalid, that judgment shall
6 not affect, impair, or invalidate the remainder of the chapter but shall be confined in its operation
7 to the clause, sentence, paragraph, section, or part directly involved in the controversy in which
8 that judgment shall have been rendered.

9 SECTION 23. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO WATERS AND NAVIGATION

1 This act would make substantial changes to the general laws relating to the
2 administration, development, planning and protection of drinking water and water supply
3 throughout the state.

4 This act would take effect upon passage.

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LC03255
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