

2013 -- H 6099

=====  
LC02424  
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

—————  
A N A C T

RELATING TO WATERS AND NAVIGATION -- THE OCEAN STATE REGIONAL WATER  
AUTHORITY

Introduced By: Representatives Blazejewski, Ucci, E Coderre, Slater, and Johnston

Date Introduced: May 09, 2013

Referred To: House Municipal Government

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 THE OCEAN STATE REGIONAL WATER AUTHORITY

5 **46-32-1. Short title.** -- This act shall be known and may be cited as the "Ocean State  
6 Regional Water Authority Act."

7 **46-32-2. Legislative findings.** -- (a) The purpose of this chapter is to create a regional  
8 water authority having existence separate and apart from the state, with the power and authority  
9 to acquire, lease, manage, sell, contract, develop, operate and maintain all properties, water and  
10 water supply systems which shall be necessary for the purposes set forth herein.

11 (b) It is hereby found and declared that there is a need in the state for a regional water  
12 system to efficiently maintain, preserve, and supply water for the benefit of the state, its  
13 economy, its municipalities, and the health and prosperity of its citizens.

14 (c) It is hereby found and declared that periodically there exists in the southern areas of  
15 the state a condition of water shortages which causes hardship to many individuals and families,  
16 impedes economic and physical development of the municipalities within the state, and adversely  
17 affects the welfare and prosperity of the people resident in said areas; that a regional water  
18 authority may facilitate the provision of alternative water supplies to such areas from the northern

1 areas of the state.

2 (d) It is hereby found and declared that water is a statewide natural resource, and that  
3 while the Providence water supply board system has grown to serve approximately sixty percent  
4 (60%) of the people in the state, and has been recognized as providing some of the highest quality  
5 water in the country, it is in the best interest of the state that a regional water authority be  
6 established in the event that the city of Providence desires to sell, lease or otherwise convey all or  
7 any portion of the Providence water supply board system to such regional water authority.

8 (e) It is hereby found and declared that the creation of a regional water authority would  
9 also present an opportunity for other cities, municipalities and regional water supply systems to  
10 consider if it is in their best interests to lease, sell, or otherwise convey all or any portion of their  
11 water supply systems to a regional water authority.

12 **46-32-3. Definitions. --** As used in this chapter, the following words and terms shall have  
13 the following meanings unless the context shall indicate another or different meaning or intent:

14 (1) "Authority" means the corporation created by section 46-32-4.

15 (2) "Board" means the board created pursuant to section 46-32-5.

16 (3) "Bonds and notes" means the bonds and notes or other obligations or evidences of  
17 indebtedness issued by the authority pursuant to this chapter.

18 (4) "District" means:

19 (i) On and after the date the authority first is granted an interest in real and personal  
20 property constituting a water supply system, the area served by the water supply system;

21 (ii) Any other portions of those municipalities as may by resolution request to be served  
22 by the authority and which are accepted by the authority as part of the district; and

23 (iii) Any other cities or towns or water districts in Rhode Island or portions thereof as  
24 may, from time to time, join the district pursuant to agreement with the authority, providing for  
25 the acquisition of the water supply system of such city, town, or district, or the merger and  
26 consolidation of such district into the authority, or the management and operation of the water  
27 supply system of such city, town or district by the authority.

28 (5) "Property" means any or all of the properties whether tangible or intangible of any  
29 water supply system or part thereof, including plants, works, and instrumentalities, and all  
30 properties used or useful in connection therewith, and all parts thereof and all appurtenances  
31 thereto, including lands, easements, rights in land and water rights whether legal or equitable,  
32 rights-of-way, contract rights, franchises, approaches, connections, dams, reservoirs, wells and  
33 well sites, water mains and pipelines, water storage tanks, pumping stations, equipment, fixtures,  
34 disposal facilities, laboratories, aeration systems and intake structures or any other property

1 incidental to and included in the water supply system or part thereof situated within or without the  
2 authority.

3 (6) "State public body" means the state, or any city or town or any other subdivision or  
4 public body of the state or of any city or town.

5 (7) "Water supply system" means all property (as defined in subdivision (5) above) any  
6 and all real estate or interests in real estate held in connection with those, all equipment and  
7 improvements held in connection with those, and any and all other property or interests in them,  
8 real, personal or mixed, used or held to be used in connection with those and all appurtenances  
9 thereto.

10 **46-32-4. Authority created.** -- There is hereby created a regional authority to be known  
11 as the Ocean State Regional Water Authority. The ocean state regional water authority shall be a  
12 body corporate and politic and a political subdivision of the state having a distinct legal existence  
13 from the state and not constituting a department of the state government. The authority is hereby  
14 constituted an independent public instrumentality and the exercise by the authority of the powers  
15 conferred by this chapter shall be deemed and held to be the performance of an essential public  
16 function.

17 **46-32-5. Board created.** -- A board to be known as the ocean state regional water  
18 authority board is hereby created. The powers of the authority shall be vested in and exercised by  
19 a majority of the members of the board then in office.

20 **46-32-6. Composition of board.** -- (a) The board shall consist of nine (9) members. The  
21 governor shall appoint three (3) members as follows: the speaker of the house of representatives  
22 shall within thirty (30) days of passage of this act submit to the governor a list of names of three  
23 (3) individuals to which the governor shall give due consideration in appointing one person from  
24 the list for an initial term of two (2) years; the president of the senate shall within thirty (30) days  
25 of passage of this act submit to the governor a list of names of three (3) individuals to which the  
26 governor shall give due consideration in appointing one person from the list for an initial term of  
27 two (2) years; the governor shall also appoint one individual without regard to the lists submitted  
28 by the speaker of the house or the president of the senate, for an initial term of three (3) years.  
29 The governor shall make his or her appointments within sixty (60) days of passage of this act.  
30 The mayor of the city of Providence shall appoint three (3) members, each of whom shall be a  
31 resident of Providence, one for an initial term of three (3) years, one for an initial term of two (2)  
32 years and one for an initial term of one year; the mayor of the city of Cranston and the mayor of  
33 the town of North Providence shall each appoint one member for an initial term of one year, each  
34 of whom shall be a resident of Cranston or North Providence, as applicable. All appointments by

1 the mayors of Providence, Cranston and North Providence shall be made within sixty (60) days of  
2 the passage of this act. Once wholesale customers of the authority are established, the board shall  
3 appoint one member for a three (3) year term who shall be a representative of such wholesale  
4 customers. In the event that the city of Pawtucket and/or the city of Woonsocket enter into a  
5 transaction with the authority pursuant to which all or substantially all of the assets of the water  
6 system, but not a transaction pursuant to a water supply service agreement limited to the  
7 wholesale purchase or sale of water, of the city of Woonsocket or Pawtucket, as applicable, are  
8 sold, leased, conveyed or assigned to the authority, the number of board members shall be  
9 increased to ten (10) members or eleven (11) members, as applicable, and such additional  
10 member or members shall be appointed to the board for a three (3) year term by the mayor of  
11 Woonsocket or Pawtucket, as applicable, and each such additional member shall be a resident of  
12 Woonsocket or Pawtucket, as applicable. In such event, notwithstanding subsection (c) below, six  
13 (6) members of the board shall constitute a quorum.

14 (b) After the initial term, appointments to the board shall be for three (3) years, and board  
15 members may serve a maximum of two (2) consecutive three (3) year terms, except that no  
16 member may exceed a total of eight (8) consecutive years service on the board. Any vacancy on  
17 the board shall be filled by the governor, the applicable mayor or by the board with respect to the  
18 wholesale customer representative in the same manner prescribed for the original appointments  
19 including those seats by recommendation of the speaker of the house or president of the senate  
20 being selected from a similar prepared list from those parties. A member appointed to fill a  
21 vacancy in the board shall be appointed for the unexpired portion of the term of office of the  
22 member whose vacancy is to be filled. A member shall hold office until his or her successor has  
23 been duly appointed and qualified; provided, however, that a majority of the board may remove a  
24 member for willful misconduct or failure to attend a majority of the full board meetings each  
25 year. Each member of the board shall take an oath to administer the duties of his or her office  
26 faithfully and impartially, and the oath shall be filed in the office of the secretary of state.

27 (c) Subject to subsection (a) above, five (5) members of the board shall constitute a  
28 quorum. No vacancy in the membership of the board shall impair the right of a quorum to  
29 exercise all the rights and perform all the duties of the board.

30 (d) In the month of January of each year, the board shall make an annual report to the city  
31 and town councils of all communities served at retail by the authority of its activities for the  
32 preceding fiscal year. Each report shall set forth a complete operating and financial statement  
33 covering its operations during the fiscal year. The board shall cause an annual audit of the books,  
34 records, and accounts of the authority to be made.

1           **46-32-7. Officers and employees of board.** -- The chairperson of the board shall be  
2 selected by the majority vote of the members of the board. The chairperson of the board shall  
3 appoint one member of the board to serve as vice chairperson, who shall serve at the pleasure of  
4 the chairperson. The board shall appoint by majority vote the treasurer who shall be a member of  
5 the board. The board shall also appoint by majority vote a secretary who may or may not be a  
6 member of the board, and may from time to time hire, transfer or otherwise appoint or employ  
7 other officers, legal counsel, financial advisors and such other experts, engineers, agents,  
8 accountants, clerks, and other consultants and employees as it deems necessary and determine  
9 their duties and shall fix their compensation. In the event of a vacancy occurring in the office of  
10 chairperson, treasurer or secretary by reason of the death, resignation, or removal for willful  
11 misconduct of the chairperson, treasurer or secretary, the board shall appoint a new chairperson,  
12 treasurer or secretary, as applicable. The chairperson of the authority shall appoint the executive  
13 director or general manager of the authority with the approval of the board, provided that the  
14 position of the executive director or general manager must be advertised and the appointment  
15 must be approved at a public meeting of the board. Notwithstanding the preceding sentence, in  
16 the event that the initial transaction entered into by the authority is consummated with the city of  
17 Providence and the Providence water supply board, the initial executive director or general  
18 manager of the authority shall be the then general manager of the Providence water supply board  
19 to ensure continuity of management and for such period of time as the board may determine in its  
20 discretion. The board may provide, subject to section 46-32-32, in the fixing of compensation, for  
21 a retirement program, commonly known as a pension plan, funded by individual or group  
22 insurance or annuity contracts or otherwise, for health and accident insurance, for life insurance,  
23 for hospital services, and for physicians services for any one or more or all of its employees; and  
24 the board is hereby authorized to expend the moneys of the authority for such purposes and  
25 programs as it may deem advisable. These programs and purposes may be financed in full or in  
26 part by the moneys of the authority.

27           **46-32-8. Compensation of members and agents.** -- The members of the board shall  
28 receive no compensation for the performance of their duties, but shall be entitled to  
29 reimbursement for actual and necessary expenses incurred in the performance of official duties.  
30 The salaries, compensation, and expenses of all members, officers, employees, and agents shall  
31 be paid solely out of the funds of the authority. No part of the earnings of the authority shall inure  
32 to the benefit of any private person.

33           **46-32-9. Business prohibited to members.** -- No member of the board shall directly or  
34 indirectly engage in any contract or agreement for labor or for the supply of materials for

1 construction or reconstruction of the physical assets of the authority or replacements or additions  
2 thereto.

3 **46-32-10. Powers of authority. --** The authority shall have all the rights and powers  
4 necessary or convenient to carry out and effectuate this chapter, including, but without limiting  
5 the generality of the foregoing, the rights and powers:

6 (1) To acquire, within or outside of the state, by voluntary purchase, lease, lease-  
7 purchase, sale and leaseback, gift or devise, any existing water system, any water or water rights  
8 and any other property, real, personal, or mixed, tangible or intangible, or interest therein, from  
9 the owner or owners thereof; and if the authority deems it advisable, to acquire any of the  
10 properties through the purchase of stock and obligations of a corporation owning the property and  
11 the dissolution of the corporation. The owner or owners of any property which the authority is  
12 herein authorized to acquire are hereby authorized to sell, lease, or otherwise transfer the same to  
13 the authority, and in the case of a sale, lease, or other transfer of property pursuant to this  
14 provision, it shall be lawful to dissolve the corporation, any other provision of law to the contrary  
15 notwithstanding.

16 (2) To own and operate, construct, maintain, repair, improve, enlarge, and extend, in  
17 accordance with the provisions of this chapter, any property acquired hereunder, all of which,  
18 together with the acquisition of the property, are hereby declared to be public purposes.

19 (3) To produce, distribute, and sell water.

20 (4) To sue and be sued and to prosecute and defend actions relating to its properties and  
21 affairs; provided that only property of the authority other than revenues pledged to the payment of  
22 bonds and notes shall be subject to attachment or levied upon execution or otherwise.

23 (5) To adopt and alter a corporate seal.

24 (6) To maintain an office at such place or places as it may determine.

25 (7) To hold, use, lease, sell, transfer and dispose of any property, real, personal, or mixed,  
26 tangible or intangible, or interest therein for its corporate purposes, and to mortgage, pledge, or  
27 lease any such property; provided, however, that in the case of any sale or proposed sale of any  
28 real property hereunder, which is not otherwise governed by contracts, including, but not limited  
29 to, any lease or purchase and sale agreement, the authority shall first grant to the city or town in  
30 which the real property, or any part thereof, is situated the right to purchase the real property, or  
31 portion thereof situated within its boundaries, upon the same terms and conditions as the authority  
32 offers or proposes to offer or has conditionally agreed to sell to any other prospective purchaser.

33 (8) Mortgage, exchange, transfer or otherwise dispose of, or to grant options for any such  
34 purposes with respect to, any water, water rights, and any other property, real or personal,

1 tangible or intangible, or any interest therein.

2 (9) To make bylaws for the management and regulation of its affairs, to promulgate rules,  
3 regulations and procedures in connection with the performance of its functions and duties and to  
4 fix, enforce and collect penalties for the violation thereof, and such bylaws may contain  
5 provisions indemnifying any person who is or was a board member, officer, employee or agent of  
6 the authority in the manner and to the extent provided in the Rhode Island Business Corporation  
7 Act, Title 7, Chapter 1.1.

8 (10) To borrow money for any of its corporate purposes, including the creation and  
9 maintenance of working capital, and to issue negotiable bonds, notes, or other obligations and to  
10 fund or refund the same.

11 (11) To pledge or assign any money, fees, charges, or other revenues of the authority and  
12 any proceeds derived by the authority from the sale of property, insurance or condemnation  
13 awards.

14 (12) To lend money for its purposes, invest and reinvest its funds and at its option to take  
15 and hold real and personal property as security for the funds so loaned or invested.

16 (13) To establish rates and collect charges for the use of the facilities of or services  
17 rendered by or any commodities furnished by the authority, such as to provide revenues sufficient  
18 at all times to pay, as the same shall become due, the principal and interest on the bonds of the  
19 authority, together with the maintenance of proper reserves therefor, in addition to paying, as the  
20 same shall become due, all expenses of operating and maintaining the properties of the authority,  
21 together with proper reserves for depreciation, maintenance, and contingencies and all other  
22 obligations and indebtedness of the authority. The authority shall charge any city, county, or town  
23 for the use of any facility of or service rendered by or any commodities furnished to it by the  
24 authority at rates applicable to other users taking similar service.

25 (14) To contract in its own name for any lawful purpose which would effectuate the  
26 provisions of this chapter for such term of years as is necessary to carry out the purpose of the  
27 contract and which term shall not be limited to the term of board members set forth in section 46-  
28 32-6; to execute all instruments necessary to carry out the purposes of this chapter; and to do all  
29 things necessary or convenient to carry out the powers expressly granted by this chapter;  
30 provided, however, that the full faith, credit, and taxing power of the state or of any city, county,  
31 town, or other political subdivision shall never be pledged, nor shall any bond, note, or other  
32 evidence of indebtedness of the authority constitute the obligation of the state or of any city,  
33 county, town, or other political subdivision, but shall be solely the obligation of the authority. It is  
34 the intention of the legislature that any property acquired by the authority pursuant to the

1 provisions of this chapter shall be financed as a self-liquidating enterprise, and that any  
2 indebtedness incurred by the authority shall be payable solely from the earnings or revenues  
3 derived from all or part of the property acquired by the authority.

4 (15) To enter into cooperative agreements or water supply service agreements with cities,  
5 counties, towns, or water companies within or without the state for the interconnection of  
6 facilities, to provide for the joint operation of water supply activities, to provide for the wholesale  
7 purchase or sale of water or for any other lawful corporate purposes necessary or desirable to  
8 effect the purposes of this chapter.

9 (16) To apply for, receive, accept, administer, expend and comply with the conditions,  
10 obligations and requirements respecting any grant, gift, loan, including, without limitation any  
11 grant, gift or loan from agencies of local, state and federal governments, donation or  
12 appropriation of any property or money in aid of the purposes of the authority and to accept  
13 contributions of money, property, labor or other things of value.

14 (17) To enter onto any land to make surveys, borings, soundings and examinations  
15 thereon, provided that said authority shall make reimbursements for any injury or actual damage  
16 resulting to such lands and premises caused by any act of its authorized agents or employees and  
17 shall so far as possible restore the land to the same condition as prior to making of such surveys,  
18 borings, soundings and examinations; and to acquire by eminent domain any interest in real  
19 property in the name of the authority in accordance with the provisions of this chapter with the  
20 consent of the city or town council of the municipality wherein the property lies. The authority is  
21 not authorized to acquire any existing water system without the agreement of such water system.

22 (18) Without limiting the generality of the preceding, the authority is expressly  
23 empowered to lease or sell any property to a state public body. Any lease by the authority to the  
24 state public body may be for a period, upon terms and conditions, with or without an option to  
25 purchase, that the authority may determine.

26 (19) The provisions of any charter, other laws or ordinances, general, special, or local, or  
27 of any rule or regulation of and state public body, restricting or regulating in any manner the  
28 power of any state public body to lease (as lessee or lessor) or sell property, real, personal, or  
29 mixed, shall not apply to leases and sales made with the authority pursuant to this chapter.

30 (20) Any municipality, notwithstanding any contrary provision of any charter, other laws  
31 or ordinances, general, special or local (including, but not limited to, Chapter 30 of Title 46), or  
32 of any rule or regulations of the state or any municipality, is authorized and empowered to lease,  
33 lend, pledge, grant, or convey to the authority, at its request, upon terms and conditions that the  
34 chief executive officer of the municipality has negotiated with the authority, with the approval of



1 the city or town council of the municipality and, if applicable, the approval of any municipal  
2 water authority, board or commission, or where no chief executive officer exists, upon the terms  
3 and conditions that the city or town council has negotiated with the authority, with the approval  
4 of the city or town council of the municipality and, if applicable, the approval of any municipal  
5 water authority, board or commission, may deem reasonable and fair and without the necessity  
6 for any advertisement, order of court, or other action or formality, any real property or personal  
7 property which may be necessary or convenient to the effectuation of the authorized purpose of  
8 the authority, including public roads and other real property already devoted to public use; and,  
9 subject to what has been stated, the municipality consents to the use of all lands owned by the  
10 municipality which are deemed by the authority to be necessary for the construction or operation  
11 of any project.

12 (21) The authority is authorized and empowered to contract for the acquisition of any of  
13 its projects or portions of them by the federal government; and to contract with any state, federal,  
14 or municipal agencies for the performance of any services essential or convenient to its purposes  
15 under this chapter.

16 **46-32-11. Rate determinations.** -- (a) Until otherwise established by the board pursuant  
17 to any purchase and sale agreement or lease agreement entered into by the authority, any existing  
18 rates and charges which are in effect at the time when the authority acquires properties of any  
19 existing water system pursuant to the provisions of section 46-32-10, shall continue in full force  
20 and effect.

21 (b) Subject to sections 46-32-21 and 46-32-30, the fees, rates, rents, assessments and  
22 other charges established by the authority pursuant to any purchase and sale agreement or lease  
23 agreement in accordance with subsection (a) shall be so fixed and adjusted in respect to the  
24 aggregate thereof so as to provide revenues, which, are at least sufficient:

25 (1) To pay the expenses of the authority as described in subsection 46-32-30(a);

26 (2) To pay the principal of, premium, if any, and interest on bonds, notes, or other  
27 evidences of indebtedness issued by the authority to finance the purchase price or lease payments  
28 required pursuant to any purchase and sale agreement or lease agreement as the same become due  
29 and payable;

30 (3) To create and maintain such reasonable reserves as may be reasonably required by  
31 any trust agreement or resolution securing such bonds and notes;

32 (4) To provide funds for paying the cost of all necessary repairs, replacements and  
33 renewals of the water supply system to the extent specified in such purchase and sale agreement  
34 or lease agreement; and

1           (5) To pay or provide for any amounts which the authority may be obligated to pay or  
2 provide for by law or contract including any resolution or contract with or for the benefit of the  
3 holders of its bonds and notes. No purchase and sale agreement or lease agreement shall  
4 materially alter the allocation on a percentage basis of the obligation to pay rates and charges  
5 which are in effect when the authority acquires properties of any existing water supply system  
6 between different classes of rate payers.

7           (c) After the establishment of rates and charges and issuance of any indebtedness or  
8 assumption of any indebtedness or lease payment obligation by the authority pursuant to  
9 subsections (a) and (b) above, subject to sections 46-32-21 and 46-32-30, the authority shall be  
10 considered a "public utility" as defined in section 39-1-2 and, shall be subject to the provisions of  
11 title 39 dealing with public utilities and carriers including, but not limited to, the establishment of  
12 any additional rates and charges and approvals for evidence of additional indebtedness.

13           (d) In order to provide for the collection and enforcement of its fees, rates, rents,  
14 assessments and other charges, the authority is hereby granted all the powers and privileges with  
15 respect to such collection and enforcement held by a city or town of liens for unpaid taxes;  
16 provided, however, that the authority may charge interest on delinquent payments at a rate of not  
17 more than eighteen percent (18%) per annum. In addition to the other enforcement powers and  
18 remedies provided in this chapter, if any fees, rates, rents, assessments or other charges billed by  
19 the authority against any premises which are connected with the water supply system remain  
20 unpaid for a period of more than sixty (60) days from the due date thereof, and following such  
21 period notice and demand have been posted on such premises and have been given to the owner  
22 of said premises, by mail addressed to said premises and to the address of said owner as shown on  
23 the records of the assessor of the municipality where the premises is located, to pay the same  
24 within fifteen (15) days from the date of mailing of said notice, and such fees, rates, rents,  
25 assessments or other charges remain unpaid, the authority shall have the power and is hereby  
26 authorized to shut off the supply of water to said premises until said fees, rates, rents, assessments  
27 or other charges and penalties are paid, together with interest thereon at the applicable rate and  
28 the standard charge of the authority for restoring water service to said premises.

29           **46-32-12. Condemnation power.** -- (a) If for any of the purposes of this chapter, the  
30 board shall find it necessary to acquire any real property, whether for immediate or future use, the  
31 board may find and determine that such property, whether a fee simple absolute or a lesser  
32 interest, is required for the acquisition, construction, operation or watershed of a water supply  
33 system, and upon such determination, the said property shall be deemed to be required for such  
34 public use until otherwise determined by the board; and with the exceptions hereinafter

1 specifically noted, the said determination shall not be affected by the fact that such property has  
2 theretofore been taken for, or is then devoted to, a public use; provided further, however, that no  
3 real property or interest, estate or right therein belonging to the state shall be acquired without  
4 consent of the state; and no real property or interest, estate or right therein belonging to any  
5 municipality shall be acquired without the consent of such municipality.

6 (b) The board may proceed to acquire and is hereby authorized to and may proceed to  
7 acquire such property, whether a fee simple absolute or a lesser interest, by the exercise of the  
8 right of eminent domain in the manner prescribed in this chapter.

9 (c) The necessity for the acquisition of property under this chapter shall be conclusively  
10 presumed upon the adoption of a vote by the board and a vote of the city or town council of the  
11 municipality in which such property is located determining that the acquisition of such property  
12 or any interest therein described in such vote is necessary for the acquisition, construction,  
13 operation or watershed of a water supply system. Within six (6) months after the passage of the  
14 vote of the city or town council, the board shall cause to be filed in the appropriate land evidence  
15 records a copy of the two (2) votes together with a statement signed by the chairperson of the  
16 authority that such property is taken pursuant to this chapter, and also a description of such real  
17 property indicating the nature and extent of the estate or interest therein taken as aforesaid and a  
18 plat thereof which copies of the votes and statement of the chairperson shall be certified by the  
19 secretary of the authority and the description and plat shall be certified by the town clerk for the  
20 town within which the real property lies.

21 (d) Forthwith thereafter the board shall cause to be filed in the superior court in and for  
22 the county within which the real property lies a statement of the sum of money estimated to be  
23 just compensation for the property taken, and shall deposit in said superior court for the use of the  
24 persons entitled thereto the sum set forth in such statement. The board shall satisfy the court that  
25 the amount so deposited with the court is sufficient to satisfy the just claims of all persons having  
26 an estate or interest in such real property. Whenever the board satisfies the court that the claims of  
27 all persons interested in the real property taken have been satisfied, the unexpended balance shall  
28 be ordered repaid forthwith to the authority.

29 (e) Upon the filing of the copy of the votes, statement, description and plat in the land  
30 evidence records and upon the making of the deposit in accordance with the order of the superior  
31 court, title to said real property in fee simple absolute or such lesser estate or interest therein  
32 specified in said resolution shall vest in the authority, and said real property shall be deemed to be  
33 condemned and taken for the use of the authority and the right to just compensation for the same  
34 shall vest in the persons entitled thereto, and the authority thereupon may take possession of said

1 real property. No sum so paid into the court shall be charged with clerks' fees of any nature.

2 (f) After the filing of the copy of the votes, statement, description and plat, notice of the  
3 taking of such land or other real property shall be served upon the owners or persons having any  
4 estate or interest in such real property by the sheriff or sheriff's deputies of the county in which  
5 the real estate is situated by leaving a true and attested copy of the votes, statement, description  
6 and plat with each of such persons personally, or at the last and usual place of abode in this state  
7 with some person living there, and in case of any such persons are absent, from this state and  
8 have no last and usual place of abode therein occupied by any person, such copy shall be left with  
9 the person or persons, if any, in charge of, or having possession of such real property taken of  
10 such absent persons, and another copy thereof shall be mailed to the address of such person, if the  
11 same is known to the officer serving such notice.

12 (g) After the filing of such votes, description and plat, the board shall cause a copy of the  
13 votes and description to be published in some newspaper having general circulation in the town in  
14 which the real property lies at least once a week for three (3) successive weeks.

15 (h) If any party shall agree with the board upon the price to be paid for the value of the  
16 real property so taken and of appurtenant damage to any remainder or for the value of his or her  
17 estate, right or interest therein, the court, upon application of the parties in interest, may order that  
18 the sum agreed upon be paid forthwith from the money deposited, as the just compensation to be  
19 awarded in said proceedings.

20 (i) Any owner of, or person entitled to any estate or right in, or interested in any part of  
21 the real property so taken, who cannot agree with the board upon the price to be paid for his or  
22 her estate, right or interest in such real property so taken and the appurtenant damage to the  
23 remainder, may, within three (3) months after personal notice of said taking, or if he/she has no  
24 personal notice, may within one year from the time the sum of money estimated to be just  
25 compensation is deposited in the superior court to the use of the persons entitled thereto, apply by  
26 petition to the superior court for the county in which said real property is situated, setting forth  
27 the taking of his/her land or his estate or interest therein and paying for an assessment or damages  
28 by the court or by a jury. Upon the filing of such petition the court shall cause twenty (20) days'  
29 notice of the pendency thereof to be given to the authority by serving the chairperson of the  
30 authority with a certified copy thereof.

31 (j) After the service of such notice the court may proceed to the trial thereof. Such trial  
32 shall be conducted as other civil actions at law are tried. Such trial shall determine all questions of  
33 fact relating to the value of such real property, and any estate or interest therein, and the amount  
34 thereof and the appurtenant damage to any remainder and the amount thereof, and such trial and

1 decision or verdict of the court or jury shall be subject to all rights to except to rulings, to move  
2 for new trial, and to appeal, as are provided by law. Upon the entry of judgment in such  
3 proceedings execution shall be issued against the money so deposited in court and in default  
4 thereof against any other property of the authority.

5 (k) If any real property or any estate or interest therein, in which any infant or other  
6 person not capable in law to act in his/her own behalf is interested, is taken under the provisions  
7 of this chapter, said superior court, upon the filing therein of a petition by or in behalf of such  
8 infant or person or by the board may appoint a guardian ad litem for such infant or other person.  
9 Guardians may, with the advice and consent of said superior court, and upon such terms as said  
10 superior court may prescribe, release to the authority all claims for damages for the land of such  
11 infant or other person or for any such estate or interest therein. Any lawfully appointed, qualified  
12 and acting guardian or other fiduciary of the estate of any such infant or other person, with the  
13 approval of the court of probate within this state having jurisdiction to authorize the sale of lands  
14 and properties within this state of such infant or other person, may before the filing of any such  
15 petition, agree with such infant or other person for any taking of his/her real property or of his/her  
16 interest or estate therein, and may upon receiving such amount, release to the authority all claims  
17 for damages for such infant or other person for such taking.

18 (l) In case any owner of or any person having an estate or interest in such real property  
19 shall fail to file his/her petition as above provided, the superior court for the county in which the  
20 real property is situated, in its discretion, may permit the filing of such petition within one year  
21 subsequent to the year following the time of the deposit in the superior court of the sum of money  
22 estimated to be just compensation for the property taken; provided, such person shall have had no  
23 actual knowledge of the taking of such land in season to file such petition; and provided, no other  
24 person or persons claiming to own such real property or estate or interest therein shall have been  
25 paid the value thereof; and provided, no judgment has been rendered against the authority for the  
26 payment of such value to any other person or persons claiming to own such real estate.

27 (m) If any real property or any estate or interest therein is unclaimed or held by a person  
28 or persons whose whereabouts are unknown, after making inquiry satisfactory to the superior  
29 court for the county in which the real property lies, the board, after the expiration of two (2) years  
30 from the first publication of the copy of the votes, statement and description, may petition such  
31 court that the value of the estate or interest or such unknown person or persons be determined.  
32 After such notice by publication to such person or persons as the court in its discretion may order,  
33 and after hearing on said petition, the court shall fix the value of said estate or interest and shall  
34 order said sum to be deposited in the registry of such court in a special account to accumulate for

1 the benefit of the person or persons, if any, entitled thereto. The receipt of the clerk of the  
2 superior court therefor shall constitute a discharge of the authority from all liability in connection  
3 with such taking.

4 (n) The superior court shall have power to make such orders with respect to  
5 encumbrances, liens, taxes and other charges on the land, if any, as shall be just and equitable.

6 (o) Whenever in the opinion of the board a substantial saving in the cost of acquiring title  
7 can be effected by conveying other real property, title to which is in the authority, to the person or  
8 persons from whom the estate or interest in real property is being purchased or taken, or by the  
9 construction or improvement by the authority of any work or facility upon the remaining real  
10 property of the person or persons from whom the estate or interest in real property is being  
11 purchased or taken, the board shall be and hereby is authorized to convey such other real property  
12 to the person or persons from whom the estate or interest in real property is being purchased or  
13 taken and to construct or improve any work or facility upon the remaining land of such person or  
14 persons.

15 **46-32-13. Issuance of bonds and notes. --** For the purpose of raising money to carry out  
16 the provisions of this chapter, the authority is authorized and empowered to issue bonds and notes  
17 in anticipation of bonds. Such bonds and notes shall be issued hereunder as special obligations  
18 payable solely from revenues. Without limiting the generality of the foregoing, such bonds and  
19 notes may be issued to pay or refund notes issued in anticipation of the issuance of bonds, to pay  
20 the cost of any acquisition, construction, extension, enlargement, or improvement of the water  
21 supply system, to pay expenses of issuance of the bonds and the notes, to provide such reserves  
22 for debt service, repairs and replacements or other costs or current expenses as may be required  
23 by a trust agreement or resolution securing bonds or notes of the authority, or for any  
24 combination of the foregoing purposes. The bonds of each issue shall be dated, bear interest at a  
25 rate or rates, and mature at a time or times not exceeding forty (40) years from their dates of  
26 issue, as maybe determined by the officers of the authority, and may be made redeemable before  
27 maturity at a price or prices and under terms and conditions that may be fixed by the officers of  
28 the authority prior to the issue of the bonds. The officers of the authority shall determine the form  
29 of the bonds and notes, including interest coupons, if any, to be attached to them, and the manner  
30 of their execution, and shall fix the denomination or denominations of the bonds and notes and  
31 the place or places of payment of the principal and interest, which may be at any bank or trust  
32 company within or without the state. The bonds shall bear the seal of the authority or a facsimile  
33 of the seal. In case any officer whose signature or a facsimile of whose signature shall appear on  
34 any notes, bonds or coupons shall cease to be such officer before the delivery thereof, such

1 signature or such facsimile shall nevertheless be valid and sufficient for all purposes as if he/she  
2 had remained in office until after such delivery. The authority may also provide for authentication  
3 of bonds or notes by a trustee or fiscal agent. Bonds shall be issued in registered form, and, if  
4 notes, may be made payable to bearer or to order, as the authority may determine, and provision  
5 may be made for the registration of any coupon bonds as to principal alone and also as to both  
6 principal and interest, for the reconversion into coupon bonds of bonds registered as to both  
7 principal and interest and for the interchange of bonds registered as to both principal and interest.  
8 The issue of notes shall be governed by the provisions of this chapter relating to the issue of  
9 bonds in anticipation of bonds as the same may be applicable. Notes issued in anticipation of the  
10 issuance of bonds including any renewals, shall mature no later than five (5) years from the date  
11 of the original issue of such notes. The authority may by resolution delegate to any member of the  
12 board or any combination of them the power to determine any of the matters set forth in this  
13 section including the power to award such bonds or notes to a purchaser or purchasers at public  
14 sale. The authority may sell its bonds and notes in such manner, either at public or private sale,  
15 for such price, at such rate or rates of interest, or at such discount in lieu of interest, as it may  
16 determine will best effect the purposes of this chapter.

17 **46-32-14. Issuance of notes in anticipation of revenue or receipt of grants or other**  
18 **aid. --** The authority may also provide by resolution for the issuance from time to time of  
19 temporary notes in anticipation of the revenues to be collected or received by the authority in any  
20 year, or in anticipation of the receipt of federal, state or local grants or other aid. Notes issued in  
21 anticipation of revenues, including any renewals thereof shall mature no later than one year from  
22 their respective dates, and issued in anticipation of federal, state or local grants or other aid  
23 including any renewals thereof shall mature no later than three (3) years from their respective  
24 dates. The issue of such notes shall be governed by the provisions of this chapter relating to the  
25 issue of bonds or other notes as the same may be applicable.

26 **46-32-15. Payment of bonds and notes. --** The principal of, premium, if any, and  
27 interest on all bonds and notes issued under the provisions of this chapter, unless otherwise  
28 provided herein, shall be payable solely from the funds provided therefor from revenues as herein  
29 provided.

30 In the discretion of the board, any bonds and notes issued hereunder may be secured by a  
31 resolution of the board or by a trust agreement between the authority and a corporate trustee,  
32 which may be any trust company or bank having the powers of a trust company within or without  
33 the state, and such trust agreement shall be in such form and executed in such manner as may be  
34 determined by the authority. Such trust agreement or resolution may pledge or assign, in whole or

1 in part, the revenues and other moneys held or to be received by the authority, including the  
2 revenues from any facilities already existing when the pledge or assignment is made, and any  
3 contract or other rights to receive the same, whether then existing or thereafter coming into  
4 existence and whether then held or thereafter acquired by the authority, and the proceeds thereof.  
5 In the discretion of the board any bonds or notes issued under authority of this chapter, may be  
6 issued by the authority in the form of lines of credit, loans, or other banking arrangements and  
7 under such terms and conditions, not inconsistent with this chapter, and under such agreements  
8 with the purchasers or makers thereof, as the board may determine to be in the best interest of the  
9 authority. Notwithstanding anything to the contrary in section 39-16-8, in addition to other  
10 security provided herein or otherwise by law, bonds or notes issued by the authority under any  
11 provision of this chapter may be secured, in whole or in part, by insurance or letters or lines of  
12 credit or other credit facilities, and the authority may pledge or assign any of its revenues as  
13 security for the reimbursement by the authority to the issuers of such insurance, letters or lines of  
14 credit or other credit facilities of any payments made under the insurance or letters or lines of  
15 credit or other credit facilities.

16 It shall be lawful for any bank or trust company to act as a depository or trustee of the  
17 proceeds of bonds, notes, revenues or other moneys under any such trust agreement or resolution  
18 and to furnish such indemnification or to pledge such securities and issue such letters of credit as  
19 may be required by the authority. Any pledge of revenues or other property made by the authority  
20 under this chapter shall be valid and binding and shall be deemed continuously perfected from the  
21 time when the pledge is made; the revenues, moneys, rights and proceeds so pledged and then  
22 held or thereafter acquired or received by the authority shall immediately be subject to the lien of  
23 such pledge without any physical delivery or segregation thereof or further act; and the lien of  
24 any such pledge shall be valid and binding against all parties having claims of any kind in tort,  
25 contract or otherwise against the authority, irrespective of whether such parties have notice  
26 thereof. Neither the resolution, any trust agreement nor any other agreement by which a pledge is  
27 created need be filed or recorded except in the records of the authority.

28 Any holder of a bond or note issued by the authority under the provisions of this chapter  
29 or of any of the coupons appertaining thereto and any trustee under a trust agreement or  
30 resolution securing the same, except to the extent the rights herein given may be restricted by  
31 such trust agreement or resolution securing the same, may bring suit upon the bonds or notes or  
32 coupons and may, either at law or in equity, by suit, action, mandamus, or other proceedings for  
33 legal or equitable relief, including proceedings for the appointment of a receiver to take  
34 possession and control of the business and properties of the authority, to operate and maintain the



1 same, to make any necessary repairs, renewals and replacements in respect thereof and to fix,  
2 revise and collect fees and charges, protect and enforce any and all rights under such trust  
3 agreement, resolution or other agreement, and may enforce and compel the performance of all  
4 duties required by this chapter or by such trust agreement or resolution to be performed by the  
5 authority or by any officer thereof.

6 **46-32-16. Refunding bonds and notes.** -- The authority may issue refunding bonds and  
7 notes for the purpose of paying any of its bonds or notes at maturity or redemption. Refunding  
8 bonds and notes may be issued at such time prior to the maturity or redemption of the refunded  
9 bonds or notes as the authority deems to be in the public interest. Refunding bonds and notes may  
10 be issued in sufficient amounts to pay or provide the principal of the bonds or notes being  
11 refunded, together with any redemption premium thereon, any interest accrued or to accrue to the  
12 date of payment of such bonds or notes, the expenses of issue of refunding bonds or notes, the  
13 expenses of redeeming bonds or notes being refunded and such reserves for debt service or other  
14 capital or current expenses from the proceeds of such refunding bonds or notes as may be  
15 required by a trust agreement or resolution securing bonds or notes. The issue of refunding bonds  
16 or notes, the maturities and other details thereof, the security therefor, the rights of the holders  
17 thereof, and the rights, duties and obligations of the authority in respect of the same shall be  
18 governed by the provisions of this chapter relating to the issue of bonds or notes other than  
19 refunding bonds or notes insofar as the same may be applicable.

20 **46-32-17. Defeasance of bonds or notes.** -- The authority may at any time deposit with a  
21 trustee, a sum sufficient, with amounts then on deposit, including the debt service reserve fund, to  
22 purchase direct or guaranteed obligations of the United States of America which are adequate to  
23 pay the entire principal amount of the bonds or notes of a series, together with the interest to  
24 maturity, or to an applicable redemption date specified by the authority to the trustee and any  
25 applicable redemption premium; or the authority may deposit direct or guaranteed obligations of  
26 the United States of America in lieu of money for their purchase. The obligations are deemed  
27 adequate if the principal and interest payable on them are sufficient to pay the previously  
28 mentioned sums when due. Upon any deposit of money and a request by the authority, the trustee  
29 shall purchase direct or guaranteed obligations of the United States of America. When adequate  
30 direct or guaranteed obligations of the United States of America are held by the trustee pursuant  
31 to this section, the bond resolution or indenture shall cease to be in effect with respect to such  
32 series of bonds or notes. The obligations and their proceeds shall be held in trust for the benefit of  
33 the bondholders or noteholders, and the trustee shall, on behalf of the authority, call bonds or  
34 notes for redemption on the applicable redemption date. Any compensation or expenses of the

1 trustee in carrying out this section shall be paid by the authority, and any surplus funds held by  
2 the trustee under this section shall be remitted by the trustee to the authority.

3 **46-32-18. Covenants permissible in trust agreement or bond resolution. -- Any trust**  
4 agreement or resolution authorizing any bonds or any issue of bonds may contain provisions  
5 which shall be a part of the contract with the holders of the bonds thereby authorized, as to:

6 (1) Pledging all or any part of the money, earnings, income, and revenues derived from  
7 all or any part of the property of the authority to secure the payment of any bonds or of any issue  
8 of bonds subject to such agreements with bondholders as may then exist;

9 (2) The rates to be fixed and the charges to be collected and the amounts to be raised in  
10 each year, and the use and disposition of the earnings and other revenues;

11 (3) The setting aside of reserves and the creation of sinking funds and the regulation and  
12 disposition thereof;

13 (4) Limitations on the right of the authority to restrict and regulate the use of the  
14 properties in connection with which the bonds are issued;

15 (5) Limitations on the purposes to which the proceeds of sale of any issue of bonds may  
16 be applied;

17 (6) Limitations on the issuance of additional bonds, including refunding bonds and the  
18 terms upon which additional bonds may be issued and secured;

19 (7) The procedure, if any, by which the terms of any contract with bondholders may be  
20 amended or abrogated, the amount of bonds the holders of which must consent thereto, and the  
21 manner in which consent may be given;

22 (8) The creation of special funds into which any earnings or revenues of the authority  
23 may be deposited, and the investment of the funds;

24 (9) The appointment of a fiscal agent and the determination of its powers and duties;

25 (10) Limitations on the power of the authority to sell, lease or otherwise dispose of its  
26 properties;

27 (11) The preparation of annual budgets by the authority and the employment of  
28 consulting engineers and auditors;

29 (12) The rights and remedies of bondholders in the event of failure on the part of the  
30 authority to perform any agreement;

31 (13) Covenanting that as long as any bonds are outstanding the authority shall establish  
32 and maintain its rates and charges adequate at all times to pay and provide for all operating  
33 expenses of the authority, all payments of principal, redemption premium, if any, and interest on  
34 bonds, notes or other evidences of indebtedness of or assumed by the authority, all renewals,

1 repairs, or replacements to the property of the authority deemed necessary, and all other amounts  
2 which the authority may by law, resolution or contract be obligated to pay. On or before the last  
3 day of the authority's fiscal year, the authority shall review the adequacy of its rates and charges  
4 to satisfy the above requirements for the next succeeding fiscal year. If the review indicates that  
5 the rates and charges are, or are likely to be, insufficient to meet the requirements of this chapter,  
6 the authority shall promptly take such steps as are necessary to cure or avoid the deficiency,  
7 including, but not limited to, making an emergency request to raise its rates and charges;

8 (14) Any other matters, of like or different character which in any way affect the security  
9 or protection of the bonds.

10 **46-32-19. Credit of state and municipalities not pledged.** -- Bonds, notes and other  
11 evidences of indebtedness issued or entered into under the provisions of this chapter shall not be  
12 deemed to be a debt or a pledge of the faith and credit of the state or of any city or town, but shall  
13 be payable solely from the revenues of the authority. All bonds, notes and other evidences of  
14 indebtedness, shall contain on the face thereof a statement to the effect that neither the state nor  
15 any city or town shall be obligated to pay the same and that neither the faith and credit nor the  
16 taxing power of the state or of any city or town is pledged to the payment of the principal of or  
17 interest on such bonds or notes. Each bond or note shall also recite that it is a special obligation of  
18 the authority payable solely from particular funds pledged to its payment.

19 **46-32-20. Money received deemed to be trust funds.** -- All moneys received pursuant  
20 to the provisions of this chapter, whether as proceeds from the issue of bonds or notes or as  
21 revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided  
22 in this chapter.

23 **46-32-21. Bonds and notes issued without consent of other entities.** -- Bonds and notes  
24 may be issued under this chapter to finance the payment of any purchase or lease payment(s) by  
25 the authority or payment of any other expense specified in subsection 46-32-11(b) or to fund any  
26 reserve specified in subsection 46-32-11(b) pursuant to any purchase and sale agreement or lease  
27 agreement without obtaining the consent of any department, division, commission, board, bureau  
28 or agency of the state or any municipality, including the public utilities commission and the  
29 division of public utilities and carriers pursuant to Chapters 1-5 of Title 39 of the general laws,  
30 and without any other proceedings or the happening of any other conditions or things than those  
31 proceedings, conditions or things which are specifically required therefor by this chapter, and the  
32 validity of and security for any bonds and notes issued by the authority shall not be affected by  
33 the existence or nonexistence of any such consent or other proceedings, conditions or things.

34 **46-32-22. Tax exemption.** -- The authority shall not be required to pay taxes of any kind

1 or description, or any excise or special assessments or sums in lieu of taxes, except as provided in  
2 section 46-32-23, to the state or any political subdivision thereof upon any of the property  
3 acquired by it or under its jurisdiction, control, possession, or supervision or upon its activities in  
4 the operation and maintenance of the property or upon any earnings, revenues, moneys, or other  
5 income derived by the authority. Bonds and notes issued by the authority and their transfer and  
6 the income therefrom, including any profit made on the sale or exchange thereof, shall at all times  
7 be exempt from taxation by the state and all political subdivisions of the state. The authority shall  
8 not be required to pay any transfer tax of any kind on account of instruments recorded by it or on  
9 its behalf.

10 **46-32-23. Payments in lieu of taxes. --** Any and all tax agreements in force on the  
11 effective date of the enactment of this law shall remain in full force and effect until the expiration  
12 of such agreements, and any option to extend or renew. In any community in which no tax  
13 agreement is in effect on the effective date of the enactment of this act, the authority shall pay  
14 annually, having first made provision for the payment of principal and interest on any bonds  
15 outstanding and any other charges payable from revenues due in such year as may be provided in  
16 the resolution or resolutions authorizing any bonds, in lieu of any property tax, as a charge upon  
17 its earnings or revenues, to each city or town in which no tax agreement is in effect on the date of  
18 passage of this act, a sum equal in amount to the property tax lawfully levied on the property of  
19 the authority by or on behalf of the city or town during the year preceding the acquisition of such  
20 property by the authority, or if the city or town was not levying taxes on the properties acquired  
21 by the authority during the year preceding the acquisition, the amount of the payments shall be  
22 based on the levy established on the property in the year immediately after the transfer of  
23 property; provided, however, that in either case, the property tax lawfully levied on the property  
24 of the authority by or on behalf of the city or town shall be subject to property value revaluations  
25 conducted by such city or town in accordance with chapter 5 of title 44. Pipe lines and other  
26 water appurtenances including, but not limited to, pump stations, treatment and sub-treatment  
27 facilities and water storage tanks, of the authority shall be fully exempt from assessment and  
28 taxation of any kind, and they shall also be exempt from any calculation of payments in lieu of  
29 taxes. The authority shall be entitled to the full benefits of the Farm, Forest, And Open Space  
30 Land Act (Chapter 27 of Title 44) on any such assessment and shall be entitled to contest any  
31 such assessment as if it were a taxpayer. The authority shall have no power to levy or collect ad  
32 valorem property taxes.

33 **46-32-24. Pledge not to alter rights of authority. --** The state does hereby pledge to and  
34 agree with the holders of the bonds, notes, and other evidences of indebtedness of the authority

1 that the state will not limit or alter rights hereby vested in the authority until the bonds, notes, or  
2 other evidences of indebtedness, together with interest thereon, with interest on any unpaid  
3 installment of interest and all costs and expenses in connection with any actions or proceedings  
4 by or on behalf of the bondholders, are fully met and discharged.

5 **46-32-25. Bonds as legal investments. --** The bonds are hereby made securities in which  
6 all public officers and bodies of this state and all municipalities and municipal subdivisions, all  
7 insurance companies and associations and other persons carrying on an insurance business, all  
8 banks, bankers, trust companies, savings banks, and savings associations, including savings and  
9 loan associations, building and loan associations, investment companies and other persons  
10 carrying on a banking business, all administrators, guardians, executors, trustees, and other  
11 fiduciaries and all other persons, whomsoever who are now or may hereafter be authorized to  
12 invest in bonds or other obligations of the state, may properly and legally invest funds including  
13 capital in their control or belonging to them. The bonds are also hereby made securities which  
14 may be deposited with and shall be received by all public officers and bodies of this state, and all  
15 municipalities and municipal subdivisions, for any purpose for which the deposit of bonds or  
16 other obligations of this state is now or may hereafter be authorized.

17 **46-32-26. Right to alter, amend or repeal chapter. --** The right to alter, amend, or  
18 repeal this chapter is hereby expressly reserved, but no such alteration, amendment, or repeal  
19 shall operate to impair the obligation of any contract made by the authority under any power  
20 conferred by this chapter.

21 **46-32-27. Transfer on dissolution. --** If the authority shall be dissolved, title to all funds  
22 and other properties of the authority, not required for the payment of bonds or other debts of the  
23 authority, the disposition of which is not otherwise governed by contracts, including, but not  
24 limited to, any lease or purchase and sale agreement, to which the authority may be party shall  
25 vest in the municipalities wherein the properties lie, with such allocations of funds as may be  
26 agreed by the municipalities.

27 **46-32-28. Additional leasing provisions. --** In the event the authority shall acquire  
28 property by lease subject to sections 46-32-21 and 46-32-30, payments for the lease shall be as  
29 negotiated between the board of the authority and the person or entity agreeing to lease the  
30 property to the board. These payments may be based on such terms as may be negotiated by and  
31 between the board of the authority and the person or entity transferring property to the authority;  
32 provided, however, that the payments must be just and reasonable and based on an independent  
33 appraisal or appraisals obtained by the lessor and/or the authority and such other factors as  
34 determined by the board in its reasonable discretion. A lease agreement may include provisions to

1 the effect that the authority will pay to the lessor for deposit in the lessor's pension or retirement  
2 plan, an amount equal to the amount the lessor would otherwise have paid into such pension or  
3 retirement system for its water supply system's retirees as of the effective date of such lease  
4 agreement as an annual payment obligation of the authority, and such payments shall be in  
5 addition to any lease payments. The lease may be for a term up to ninety-nine (99) years, or for  
6 such term which the board of the authority deems necessary to carry out the governmental  
7 purpose of the lease, may be extended from time to time, and shall not be limited to the term of  
8 board members set forth in section 46-32-6. If property is acquired by lease, then the person or  
9 entity leasing the property to the authority shall remain the owner of the property. However, with  
10 regard to all improvements made to the property using funds of the authority after the inception of  
11 the lease, ownership of such improvements shall be vested in the authority.

12 **46-32-29. Purchase and sale provisions.** -- In the event property is acquired by the  
13 authority by purchase, payment for the property shall be as negotiated between the board of the  
14 authority and the person or entity selling the property; provided, however, that the payment must  
15 be just and reasonable and based upon an independent appraisal or appraisals obtained by the  
16 seller and/or the authority and such other factors as determined by the board in its discretion. The  
17 authority may also assume existing debt of property whether that debt be in the form of notes,  
18 bonds, or otherwise. If property is purchased by the authority, then the authority shall become the  
19 owner of the property upon completion of the purchase.

20 **46-32-30. Special provisions applicable to leasing and purchase and sale.** -- (a) Each  
21 party to a potential purchase and sale or lease agreement shall pay its own reasonably incurred  
22 fees, costs and expenses, including, but not limited to, legal, accounting, and engineering fees. In  
23 the event the purchase or lease is successfully consummated, then the purchase and sale or lease  
24 agreement may provide for reimbursement to the seller or lessor and the authority of the aforesaid  
25 fees, costs, and expenses, which may be financed to the extent permitted under applicable law. In  
26 the event that the authority's or the seller's or lessor's costs are financed pursuant to a purchase  
27 and sale or lease agreement, payment of such costs shall not be subject to review and approval by  
28 the Rhode Island public utilities commission or the Rhode Island division of public utilities and  
29 carriers.

30 (b) In any purchase or lease of property, the authority is authorized to assume such debts  
31 related to the properties being acquired or leased as the board of the authority shall deem  
32 appropriate. Such debts may include notes, bonds, and any other outstanding debts.

33 (c) Notwithstanding anything in the general laws to the contrary, and without limiting the  
34 provisions of section 46-32-11 set forth above, neither the Rhode Island public utilities

1 commission nor the Rhode Island division of public utilities and carriers shall have any  
2 jurisdiction, authority, or other power to approve, reject, review, or in any way affect any  
3 acquisition or the terms of any purchase and sale agreement or lease agreement. Moreover,  
4 payments to be made by the authority to the seller or to the lessor shall not be subject in any way  
5 to the review, approval, or jurisdiction of the public utilities commission or the division of public  
6 utilities and carriers, and the public utilities commission and the division of public utilities and  
7 carriers shall not have jurisdiction or authority of any kind to direct, order, or require that the  
8 purchase payments or the lease payments be made to or inure to benefit, directly or indirectly, of  
9 the water ratepayers of the entity being acquired or leased by the authority. Furthermore, the  
10 Rhode Island public utilities commission and the Rhode Island division of public utilities and  
11 carriers must recognize and apply all costs, debt service payments and lease payments related to a  
12 purchase and sale or lease agreement in its review and approval of any additional rates.

13 **46-32-31. Hydrant fees.** -- Subject to section 39-3-11.1, the authority shall not levy a  
14 charge against any municipality in its service area for the payment of rental fees for fire hydrants.  
15 Subject to section 45-39-4, the rental fees for fire hydrants shall be included in the rates and  
16 charges to the customers of the authority in the municipality in which the fire hydrants are  
17 located.

18 **46-32-32. Transfer of employees.** -- (a) Any employee of a city or town whose water  
19 supply system is acquired pursuant to a purchase and sale or lease agreement shall, with the  
20 consent of the entity by which he or she has been employed, be transferred to the authority. Each  
21 transferred employee shall be offered continued employment with the authority in accordance  
22 with the provisions of this section and based upon the terms of a collective bargaining agreement  
23 in effect with the transferring entity prior to the transfer, as modified by mutual agreement of the  
24 parties thereto. After such transfer, the salary or compensation of any employee shall be  
25 established and paid by the authority. Any purchase and sale or lease agreement of a water supply  
26 system shall provide, and the authority shall provide, following said acquisition by purchase or  
27 lease, that each transferred employee shall:

28 (1) Be offered employment with the authority in a position having the same or better  
29 wages as set forth in the collective bargaining agreement with the transferring entity;

30 (2) Be provided by the authority with a substantially equivalent or better package of  
31 wages and benefits, including, but not limited to, health insurance, dental insurance, sick days,  
32 vacation days, personal days, longevity pay, and recognition of prior years of service with the  
33 transferring entity; and

34 (3) Be provided with a substantially equivalent or better employee pension benefit plan,

1 provided that this requirement shall not be construed as an agreement by the authority or the  
2 transferring entity to any specific form of pension or retirement benefit plan, and provided that  
3 any contributions to any pension or retirement fund or system to be paid by the employer on the  
4 account of any employee shall be paid by the authority.

5 (b) The authority and the transferring entity shall in the contract for transfer of the water  
6 supply system by sale or lease provide that the labor union local unit that participated in the  
7 collective bargaining agreement with the transferring entity will be recognized by the authority as  
8 the exclusive bargaining agent for the transferred employees and that the authority will ensure the  
9 terms of employment described in subdivisions (a)(1), (2) and (3) above are included in the first  
10 collective bargaining agreement between the authority and the labor union local representing the  
11 employees under the provisions of the collective bargaining agreement with the transferring  
12 entity.

13 (c) The transferring entity shall negotiate and bargain with the labor union local unit  
14 representing the employees with respect to such matters and issues under the current collective  
15 bargaining agreement as may be necessary to assure the transfer of such employees to the  
16 authority.

17 (d) It is hereby declared that in the interest of efficiency and insofar as may be  
18 practicable, all employees engaged in the operation of any property or properties, except in an  
19 executive capacity, at the time such property or properties shall have been acquired by the  
20 authority, pursuant to the provisions of this chapter, shall become the employees of the authority.

21 **46-32-33. Labor agreements and other contracts not impaired. --** Subject to section  
22 46-32-32, any and all collective bargaining agreements and other contracts in force and effect at  
23 the time of any acquisition or lease by the authority shall remain in full force and effect according  
24 to the terms of said contracts, unless amended to the extent required pursuant to any purchase and  
25 sale or lease agreement, at which time all future collective bargaining agreements and contracts  
26 will be negotiated with the authority.

27 **46-32-34. Alteration, amendment, repeal or severability. --** The right to alter, amend  
28 or repeal this chapter is reserved to the state, but no such alteration, amendment or repeal shall  
29 operate to impair the obligation of any contract made by the ocean state regional water authority  
30 under any power conferred by this chapter. If any section, clause, provision or term of this  
31 chapter shall be declared unconstitutional, void, ultra vires or otherwise ineffective in whole or in  
32 part, such determination of invalidity shall not otherwise affect the validity or enforceability of  
33 any other provision of this chapter.



1 SECTION 2. This act shall take effect upon passage.

=====  
LC02424  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO WATERS AND NAVIGATION -- THE OCEAN STATE REGIONAL WATER  
AUTHORITY

\*\*\*

- 1 This act would establish the Ocean State Regional Water Authority.
- 2 This act would take effect upon passage.

=====  
LC02424  
=====