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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO WATERS AND NAVIGATION - THE COASTAL RESOURCES
MANAGEMENT COUNCIL - FISHERIES ADMINISTRATIVE FUND FOR RENEWABLE
ENERGY PROJECTS

Introduced By: Representatives Martin, Tanzi, Keable, Abney, and Finn

Date Introduced: June 12, 2014

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 46-23-1 of the General Laws in Chapter 46-23 entitled "Coastal
2 Resources Management Council" is hereby amended to read as follows:

3 **46-23-1. ~~Legislative findings~~ Legislative findings, duties and responsibilities.** -- (a)

4 (1) Under article 1, section 17 of the Rhode Island Constitution, the people shall continue to enjoy
5 and freely exercise all the rights of fishery, and the privileges of the shore, to which they have
6 been heretofore entitled under the charter and usages of this state, including, but not limited to,
7 fishing from the shore, the gathering of seaweed, leaving the shore to swim in the sea and passage
8 along the shore; and they shall be secure in their rights to use and enjoyment of the natural
9 resources of the state with due regard for the preservation of their values; and it is the duty of the
10 general assembly to provide for the conservation of the air, land, water, plant, animal, mineral and
11 other natural resources of the state, and to adopt all means necessary and proper by law to protect
12 the natural environment of the people of the state by providing adequate resource planning for the
13 control and regulation of the use of the natural resources of the state and for the preservation,
14 regeneration, and restoration of the natural environment of the state.

15 (2) The general assembly recognizes and declares that the coastal resources of Rhode
16 Island, a rich variety of natural, commercial, industrial, recreational, and aesthetic assets, are of
17 immediate and potential value to the present and future development of this state; that unplanned
18 or poorly planned development of this basic natural environment has already damaged or

1 destroyed, or has the potential of damaging or destroying, the state's coastal resources, and has
2 restricted the most efficient and beneficial utilization of these resources; that it shall be the policy
3 of this state to preserve, protect, develop, and, where possible, restore the coastal resources of the
4 state for this and succeeding generations through comprehensive and coordinated long range
5 planning and management designed to produce the maximum benefit for society from these
6 coastal resources; and that preservation and restoration of ecological systems shall be the primary
7 guiding principle upon which environmental alteration of coastal resources will be measured,
8 judged, and regulated.

9 (b) (1) That effective implementation of these policies is essential to the social and
10 economic well-being of the people of Rhode Island because the sea and its adjacent lands are
11 major sources of food and public recreation, because these resources are used by and for industry,
12 transportation, waste disposal, and other purposes, and because the demands made on these
13 resources are increasing in number, magnitude, and complexity; and that these policies are
14 necessary to protect the public health, safety, and general welfare. Pursuant to 16 U.S.C. section
15 1452 ("The Coastal Zone Management Act"), the general assembly hereby directs the council
16 (referred to as "CRMC") to exercise effectively its responsibilities in the coastal zone through the
17 development and implementation of management programs to achieve wise use of the land and
18 water resources of the coastal zone.

19 (2) Furthermore, that implementation of these policies is necessary in order to secure the
20 rights of the people of Rhode Island to the use and enjoyment of the natural resources of the state
21 with due regard for the preservation of their values, and in order to allow the general assembly to
22 fulfill its duty to provide for the conservation of the air, land, water, plant, animal, mineral, and
23 other natural resources of the state, and to adopt all means necessary and proper by law to protect
24 the natural environment of the people of the state by providing adequate resource planning for the
25 control and regulation of the use of the natural resources of the state and for the preservation,
26 regeneration, and restoration of the natural environment of the state.

27 (c) That these policies can best be achieved through the creation of a coastal resources
28 management council as the principal mechanism for management of the state's coastal resources.

29 (d) The general assembly recognizes and declares that maintenance dredging is required
30 to remove natural silt accumulations; Rhode Island has not had a general maintenance dredging
31 policy and programs for ports, port facilities, channels, harbors, public and private marinas and
32 boating facilities, recreational facilities and habitat areas; other major coastal states have
33 maintenance dredging policies and in-water maintenance dredge disposal sites; as a result of the
34 lack of a general maintenance dredging policy and program and as a result there has been:

1 (1) A decrease in the depth of the Providence Channel from forty-four (44) feet in 1971
2 to twenty-four (24) feet in 1996;

3 (2) Navigational restrictions on ocean going vessels through the state's waterways and
4 channels; and

5 (3) A decrease in the number of available slips and moorings at marinas throughout the
6 state; and the lack of a maintenance dredging policy and programs have significant adverse
7 environmental and economic effects on the state and therefore it is in the best interest of the state,
8 the cities and towns of the state, and the citizens thereof for the state to have a general
9 maintenance dredging policy and programs to resolve issues related to dredge maintenance and
10 disposal and avoid future significant direct and indirect adverse impact on the environment and
11 economy of the state.

12 (e) The coastal resources management council is hereby designated as the lead state
13 agency for purposes of dredging in tidal waters and as such shall have the following duties and
14 responsibilities:

15 (1) To coordinate the interest of the state with regard to dredging;

16 (2) To formulate and adopt a state policy with regard to dredging which integrates those
17 interests;

18 (3) To cooperate with, negotiate, and to enter into agreements on behalf of the state with
19 the federal government and with other public bodies and private parties with regard to dredging;

20 (4) To act as the initial and primary point of contact for all applications to the state for
21 dredging projects in tidal waters;

22 (5) To develop, prepare, adopt pursuant to section 46-23-11, implement, and maintain a
23 comprehensive plan for dredge material management; and

24 (6) To cooperate and coordinate with the departments of environmental management,
25 transportation, administration, and health, and the economic development corporation in the
26 conduct of these duties and responsibilities.

27 (f) (1) The legislature recognizes that under Article I, section 17, the submerged lands of
28 the state are impressed with a public trust and that the state is responsible for the protection of the
29 public's interest in these lands. The state maintains title in fee to all soil within its boundaries that
30 lies below the high water mark, and it holds that land in trust for the use of the public. In
31 benefiting the public, the state preserves certain public rights which include, but are not limited
32 to, fishery, commerce, and navigation in these waters and the submerged lands that they cover.

33 (2) Since its establishment in 1971, the CRMC has had the authority to manage and plan
34 for the preservation of the coastal resources of the state including, but not limited to, submerged

1 lands. The legislature hereby declares that, in light of the unique size, scope, and overall potential
2 impact upon the environment of large scale filling projects involving twenty-five (25) acres or
3 more, any lease of tidal lands, or any license to use those lands, is subject to approval,
4 disapproval, or conditional approval by the direct enactment of the general assembly by
5 legislative action. The CRMC shall review all requests for leases, licenses to use the land, and
6 other authority to use the land made by any applicant prior to presentation of the request to the
7 general assembly, and the CRMC shall make recommendations on the request to the general
8 assembly. With the exception of any and all projects to fill land of twenty-five (25) acres or more,
9 the general assembly hereby recognizes and declares that the CRMC is delegated the sole and
10 exclusive authority for the leasing of submerged and filled lands and giving licenses for the use of
11 that land. Accordingly, the CRMC will develop, coordinate, and adopt a system for the leasing of
12 submerged and filled lands, and licenses for the use of that land, and will ensure that all leases
13 and licenses are consistent with the public trust. Pursuant thereto, the CRMC shall impose a
14 maximum fee of eighty thousand dollars (\$80,000) per annum for any transatlantic cable that
15 makes landfall in Rhode Island. All such fees collected shall be deposited into the Bays, Rivers
16 and Watersheds Fund, established pursuant to section 46-31-12.1, and shall be disbursed
17 according to the purposes of that fund. The CRMC shall impose a lease fee of one hundred fifty
18 thousand dollars (\$150,000) for each year of commercial operation for any renewable energy
19 projects with a project cost exceeding five million dollars (\$5,000,000); provided, however, that
20 in lieu of such leasing fee the developer of a renewable energy project may elect to support the
21 Rhode Island fishing community as determined by the fisherman's advisory board established
22 pursuant to the Rhode Island ocean special area management plan. Nothing contained in this
23 subsection negates, repeals, or alters the provisions, processes, and requirements for the leasing of
24 submerged land for the conduct of aquaculture as set out under chapter 10 of title 20. Therefore,
25 nothing in this chapter shall be construed to limit or impair the authority of the state, or any duly
26 established agency of the state, to regulate filling or dredging affecting tidal lands owned by the
27 state or any other entity, and nothing in this chapter shall be construed to limit or impair the
28 obligation of the applicant to obtain all applicable regulatory approvals. Specifically, and without
29 limiting the foregoing, nothing in this subsection negates, repeals, or alters the provisions,
30 processes, and requirements for water quality certification contained in chapter 12 of this title.

31 (3) Definitions.

32 (i) "Filled land" means portions of tidal lands which have been rendered by the acts of
33 man to be no longer subject to tidal action or beneath tidal waters.

34 (ii) "Tidal Lands" means those lands that are below the mean high water.

1 (iii) "Mean high water" means a line of contour representing the 18.6 year average as
2 determined by the metonic cycle and/or its equivalent as evidenced by the records, tidal datum,
3 and methodology of the United States Coastal Geodetic Survey within the National Oceanic and
4 Atmospheric Administration.

5 SECTION 2. 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 - THE COASTAL RESOURCES
MANAGEMENT COUNCIL - FISHERIES ADMINISTRATIVE FUND FOR RENEWABLE
ENERGY PROJECTS

1 This act would impose a lease fee of \$150,000 per year for any renewable energy project
2 with a cost exceeding five million dollars, but in lieu of that leasing fee the developer may enter
3 into a private agreement to fund a fisheries liaison position selected by the fisherman's advisory
4 board.

5 This act would take effect upon passage.

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