

2014 -- S 2952

LC005453

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- CLIMATE CHANGE

Introduced By: Senators Conley, Sosnowski, Cool Rumsey, Goldin, and Archambault

Date Introduced: May 01, 2014

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 6.2

4 CLIMATE CHANGE COUNCIL

5 **42-6.2-1. Creation -- Members. --** There is hereby established within the executive
6 branch of state government a Rhode Island executive climate change council (the "council")
7 comprised of officials from state agencies with responsibility and oversight relating to assessing,
8 integrating and coordinating climate change efforts. The council shall include, but not be limited
9 to, the following members: the director of the department of environmental management; the
10 executive director of the coastal resources management council; the director of the department of
11 administration; the director of the department of transportation; the director of the department of
12 health; the executive director of the emergency management agency; the commissioner of the
13 office of energy resources; the director of the division of planning; and the executive director of
14 the Rhode Island commerce corporation.

15 **42-6.2-2. Purpose of the council. --** (a) The council shall be advisory to the governor and
16 shall have the following duties:

17 (1) Assess, integrate, and coordinate climate change efforts throughout state agencies to
18 reduce emissions, strengthen the resilience of communities, and prepare for the effects of climate
19 change, including, but not limited to, coordinating vulnerability assessments throughout state

1 government;

2 (2) No later than December 31, 2016, submit to the governor and general assembly a plan

3 that includes strategies, programs and measurable goals to meet targets for greenhouse gas

4 emissions of:

5 (i) Ten percent (10%) below 1990 levels by 2020;

6 (ii) Forty-five percent (45%) below 1990 levels by 2035;

7 (iii) Eighty percent (80%) below 1990 levels by 2050;

8 (3) Advance the state's understanding of the effects of climate change including, but not

9 limited to, sea level rise, coastal and shoreline changes, severe weather events, critical

10 infrastructure vulnerability, and ecosystem, economic, and health impacts;

11 (4) Identify strategies to prepare for these effects and communicate them to Rhode

12 Islanders;

13 (5) Work with municipalities to support the development of sustainable and resilient

14 communities;

15 (6) Identify and leverage federal, state, and private funding opportunities for emission

16 reduction and climate change preparedness work in Rhode Island;

17 (7) Advise the governor, the general assembly, and the public on ways to ensure that

18 Rhode Island continues to be a national leader in developing and implementing strategies that

19 effectively address the challenges of climate change;

20 (8) Work with other New England states to explore areas of mutual interest to achieve

21 common goals; and

22 (9) Identify and facilitate opportunities to educate the public about climate change and

23 efforts throughout state agencies and municipalities to address climate change.

24 (b) The council is encouraged to utilize the expertise of Rhode Island universities and

25 colleges in the measurement of compliance, mapping of emissions, and development of

26 interventions.

27 **42-6.2-3. Support for the council. -- To support the council's work, state agencies shall:**

28 (1) Assist the council in implementing the provisions of this chapter;

29 (2) Develop short and long-term greenhouse gas emission reduction strategies and track

30 the progress of these strategies;

31 (3) To the maximum extent feasible, purchase alternative fuel, hybrid, and electric

32 vehicles that produce lower total emissions of greenhouse gases, and develop programs to

33 encourage state employees to reduce their vehicle miles and use sustainable transportation

34 alternatives, including public transit systems;

1 (4) Implement programs to achieve energy savings in state and municipal buildings to
2 reduce greenhouse gases, reduce expenditures on energy, and stimulate economic and job
3 development;

4 (5) Increase the deployment of in-state generation of renewable energy and energy
5 efficiency;

6 (6) Support efforts to expand Rhode Island's green economy and develop green
7 infrastructure;

8 (7) Assess the vulnerability of infrastructure, including, but not limited to, roads, bridges,
9 dams, and wastewater and drinking water treatment facilities, to impacts of climate change and
10 recommend strategies to protect these assets;

11 (8) Work with relevant academic institutions and federal agencies to assess the threats of
12 sea level rise, erosion and storm surge, and communicate these assessments and threats, along
13 with potential tools to address them, to state agencies and affected communities;

14 (9) Develop plans, policies, and solutions based on the latest science to ensure the state
15 continues to have a vibrant coastal economy, including protection of critical infrastructure;

16 (10) Develop a climate and health profile report that documents the range of health
17 impacts associated with climate change and identifies the most vulnerable; and

18 (11) Encourages municipalities to incorporate climate change adaptation into local hazard
19 mitigation plans and, when feasible, into hazard mitigation projects.

20 **42-6.2-4. Advisory board established -- Members. --** (a) The Rhode Island executive
21 climate change council advisory board is hereby established. The advisory board shall have
22 eighteen (18) members. Each council member identified in § 42-6.2-1 shall select two (2)
23 advisory board members, provided that the advisory board shall consist of the chair of the energy
24 efficiency resource management council, or his or her designee from among the members of the
25 energy efficiency resource management council; and, members with experience in the following
26 areas: environmental science and policy; water management; renewable energy; higher education;
27 municipal planning; business, and health.

28 (b) Advisory board members shall serve two (2) year terms and are eligible to succeed
29 themselves. If an advisory board member resigns from his or her position or is unable to complete
30 his or her term, the council member responsible for the selection of that advisory board member
31 shall select his or her replacement in accordance with the experience requirements stipulated in
32 this section. The members of the advisory board shall receive no compensation.

33 (c) The advisory board shall elect annually one of its members as chairperson, and one of
34 its members as vice chairperson.

1 (d) The advisory board shall meet at least semi-annually or at the call of the chairperson
2 of the council. The chairperson of the council, or his or her designee from among the members of
3 the council, shall be present for all advisory board meetings.

4 (e) The advisory board shall advise the council on all matters pertaining to the duties and
5 powers of the council.

6 **42-6.2-5. Open government requirements.** -- The council and advisory board shall be
7 subject to the provisions of chapter 46 of title 42, the open meetings act, and chapter 2 of title 38,
8 the access to public records act. Any rules and regulations or any amendments to rules and
9 regulations to carry out the requirements of this chapter shall be adopted in accordance with the
10 provisions of chapter 35 of title 42, the administrative procedures act.

11 **42-6.2-6. Reporting.** -- No later than May 1, 2015, and annually thereafter, the council
12 shall issue a report of its findings, recommendations, and progress on achieving the purposes of
13 this chapter.

14 SECTION 2. Sections 42-11-2 and 42-11-10 of the General Laws in Chapter 42-11
15 entitled "Department of Administration" are hereby amended to read as follows:

16 **42-11-2. Powers and duties of department.** -- The department of administration shall
17 have the following powers and duties:

18 (1) To prepare a budget for the several state departments and agencies, subject to the
19 direction and supervision of the governor;

20 (2) To administer the budget for all state departments and agencies, except as
21 specifically exempted by law;

22 (3) To devise, formulate, promulgate, supervise, and control accounting systems,
23 procedures, and methods for the state departments and agencies, conforming to such accounting
24 standards and methods as are prescribed by law;

25 (4) To purchase or to contract for the supplies, materials, articles, equipment, printing,
26 and services needed by state departments and agencies, except as specifically exempted by law;

27 (5) To prescribe standard specifications for those purchases and contracts and to enforce
28 compliance with specifications;

29 (6) To supervise and control the advertising for bids and awards for state purchases;

30 (7) To regulate the requisitioning and storage of purchased items, the disposal of surplus
31 and salvage, and the transfer to or between state departments and agencies of needed supplies,
32 equipment, and materials;

33 (8) To maintain, equip, and keep in repair the state house, state office building, and other
34 premises owned or rented by the state for the use of any department or agency, excepting those

- 1 buildings, the control of which is vested by law in some other agency;
- 2 (9) To provide for the periodic inspection, appraisal or inventory of all state buildings
3 and property, real and personal;
- 4 (10) To require reports from state agencies on the buildings and property in their
5 custody;
- 6 (11) To issue regulations to govern the protection and custody of the property of the
7 state;
- 8 (12) To assign office and storage space and to rent and lease land and buildings for the
9 use of the several state departments and agencies in the manner provided by law;
- 10 (13) To control and supervise the acquisition, operation, maintenance, repair, and
11 replacement of state-owned motor vehicles by state agencies;
- 12 (14) To maintain and operate central duplicating and mailing service for the several state
13 departments and agencies;
- 14 (15) To furnish the several departments and agencies of the state with other essential
15 office services;
- 16 (16) To survey and examine the administration and operation of the state departments
17 and agencies, submitting to the governor proposals to secure greater administrative efficiency and
18 economy, to minimize the duplication of activities, and to effect a better organization and
19 consolidation of functions among state agencies;
- 20 (17) To operate a merit system of personnel administration and personnel management
21 as defined in section 36-3-3 in connection with the conditions of employment in all state
22 departments and agencies within the classified service;
- 23 (18) To assign or reassign, with the approval of the governor, any functions, duties, or
24 powers established by this chapter to any agency within the department;
- 25 (19) To establish, maintain, and operate a data processing center or centers, approve the
26 acquisition and use of electronic data processing services by state agencies, furnish staff
27 assistance in methods, systems and programming work to other state agencies, and arrange for
28 and effect the centralization and consolidation of punch card and electronic data processing
29 equipment and services in order to obtain maximum utilization and efficiency;
- 30 (20) To devise, formulate, promulgate, supervise, and control a comprehensive and
31 coordinated statewide information system designed to improve the data base used in the
32 management of public resources, to consult and advise with other state departments and agencies
33 and municipalities to assure appropriate and full participation in this system, and to encourage the
34 participation of the various municipalities of this state in this system by providing technical or

1 other appropriate assistance toward establishing, within those municipalities, compatible
2 information systems in order to obtain the maximum effectiveness in the management of public
3 resources;

4 (i) The comprehensive and coordinated statewide information system may include a
5 Rhode Island geographic information system of land-related economic, physical, cultural and
6 natural resources.

7 (ii) In order to ensure the continuity of the maintenance and functions of the geographic
8 information system, the general assembly may annually appropriate such sum as it may deem
9 necessary to the department of administration for its support.

10 (21) To administer a statewide planning program including planning assistance to the
11 state departments and agencies;

12 (22) To administer a statewide program of photography and photographic services;

13 (23) To negotiate with public or private educational institutions in the state, in
14 cooperation with the department of health, for state support of medical education;

15 (24) To promote the expansion of markets for recovered material and to maximize their
16 return to productive economic use through the purchase of materials and supplies with recycled
17 content by the state of Rhode Island to the fullest extent practically feasible;

18 (25) To approve costs as provided in section 23-19-32; and

19 (26) To provide all necessary civil service tests for child protective investigators and
20 social workers at least twice each year and to maintain an adequate hiring list for these positions
21 at all times.

22 (27) To prepare a report every three (3) months by all current property leases or rentals
23 by any state or quasi-state agency to include the following information:

24 (i) Name of lessor;

25 (ii) Description of the lease (purpose, physical characteristics, and location);

26 (iii) Cost of the lease;

27 (iv) Amount paid to date;

28 (v) Date initiated;

29 (vi) Date covered by the lease.

30 (28) To provide by December 31, 1995 the availability of automatic direct deposit to any
31 recipient of a state benefit payment, provided that the agency responsible for making that
32 payment generates one thousand (1,000) or more such payments each month.

33 (29) To operate the Rhode Island division of sheriffs as provided in section 42-11-21.

34 (30) To encourage municipalities, school districts, and quasi-public agencies to achieve

1 cost savings in health insurance, purchasing, or energy usage by participating in state contracts, or
2 by entering into collaborative agreements with other municipalities, districts, or agencies. To
3 assist in determining whether the benefit levels including employee cost sharing and unit costs of
4 such benefits and costs are excessive relative to other municipalities, districts, or quasi-public
5 agencies as compared with state benefit levels and costs.

6 [\(31\) The department shall consider, when feasible and appropriate, the impacts of climate](#)
7 [change in the undertaking of all powers and duties set forth in this chapter.](#)

8 **42-11-10. Statewide planning program.** -- (a) Findings. - The general assembly finds
9 that the people of this state have a fundamental interest in the orderly development of the state;
10 the state has a positive interest and demonstrated need for establishment of a comprehensive
11 strategic state planning process and the preparation, maintenance, and implementation of plans
12 for the physical, economic, and social development of the state; the continued growth and
13 development of the state presents problems that cannot be met by the cities and towns
14 individually and that require effective planning by the state; and state and local plans and
15 programs must be properly coordinated with the planning requirements and programs of the
16 federal government.

17 (b) Establishment of statewide planning program.

18 (1) A statewide planning program is hereby established to prepare, adopt, and amend
19 strategic plans for the physical, economic, and social development of the state and to recommend
20 these to the governor, the general assembly, and all others concerned.

21 (2) All strategic planning, as defined in subsection (c) of this section, undertaken by all
22 departments and agencies of the executive branch unless specifically exempted, shall be
23 conducted by or under the supervision of the statewide planning program. The statewide planning
24 program shall consist of a state planning council, and the division of planning, which shall be a
25 division within the department of administration.

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

27 (1) Establishing or identifying general goals.

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

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

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

33 (5) Preparing functional short-range plans or programs that are consistent with
34 established or desired goals, objectives, and policies, and with long-range or system plans or

1 comprehensive programs where applicable, and that establish measurable intermediate steps
2 toward their accomplishment of the goals, objectives, policies, and/or long-range system plans.

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

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

9 (d) State guide plan. - Components of strategic plans prepared and adopted in accordance
10 with this section may be designated as elements of the state guide plan. The state guide plan shall
11 be comprised of functional elements or plans dealing with land use; physical development and
12 environmental concerns; economic development; housing production; energy supply, including
13 the development of renewable energy resources in Rhode Island, and energy access, use, and
14 conservation; human services; and other factors necessary to accomplish the objective of this
15 section. The state guide plan shall be a means for centralizing, integrating, and monitoring long-
16 range goals, policies, plans, and implementation activities related thereto. State agencies
17 concerned with specific subject areas, local governments, and the public shall participate in the
18 state guide planning process, which shall be closely coordinated with the budgeting process.

19 (e) Membership of state planning council. - The state planning council shall consist of
20 the following members:

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

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

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

24 (4) The budget officer;

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

26 (6) The highest-ranking administrative officer of the division of planning, as secretary;

27 (7) The president of the League of Cities and Towns or his or her designee and one
28 official of local government, who shall be appointed by the governor from a list of not less than
29 three (3) submitted by the Rhode Island League Cities and Towns;

30 (8) The executive director of the League of Cities and Towns;

31 (9) One representative of a nonprofit community development or housing organization
32 appointed by the governor;

33 (10) Six (6) public members, appointed by the governor, one of whom shall be an
34 employer with fewer than fifty (50) employees, and one of whom shall be an employer with

1 greater than fifty (50) employees;

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

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

5 (13) The director of the department of transportation;

6 (14) The director of the department of environmental management;

7 (15) The director of the department of health;

8 (16) The executive director of the economic development corporation;

9 (17) The commissioner of the Rhode Island office of energy resources;

10 (18) The chief executive officer of the Rhode Island public transit authority; and

11 (19) The executive director of Rhode Island housing.

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

14 (1) To adopt strategic plans as defined in this section and the long-range state guide plan,
15 and to modify and amend any of these, following the procedures for notification and public
16 hearing set forth in section 42-35-3, and to recommend and encourage implementation of these
17 goals to the general assembly, state and federal agencies, and other public and private bodies;
18 approval of strategic plans by the governor; and to ensure that strategic plans and the long-range
19 state guide plan are consistent with the findings, intent, and goals set forth in section 45-22.2-3,
20 the "Rhode Island Comprehensive Planning and Land Use Regulation Act";

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

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

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

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

31 (i) Public members from different geographic areas of the state representing diverse
32 interests, ~~and~~ ;

33 [\(ii\) Members with expertise in planning for and/or addressing the impacts of climate](#)
34 [change; and](#)

1 ~~(ii)~~(iii) Officials of state, local and federal government, which shall review all proposed
2 elements of the state guide plan, or amendment or repeal of any element of the plan, and shall
3 advise the state planning council thereon before the council acts on any such proposal. This
4 committee shall also advise the state planning council on any other matter referred to it by the
5 council;~~and~~ .

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

9 (7) To adopt, amend and maintain as an element of the state guide plan or as an
10 amendment to an existing element of the state guide plan, standards and guidelines for the
11 location of eligible renewable energy resources and renewable energy facilities in Rhode Island
12 with due consideration for the location of such resources and facilities in commercial and
13 industrial areas, agricultural areas, areas occupied by public and private institutions, and property
14 of the state and its agencies and corporations, provided such areas are of sufficient size, and in
15 other areas of the state as appropriate.

16 (8) To act as the single statewide metropolitan planning organization for transportation
17 planning, and to promulgate all rules and regulations that are necessary thereto.

18 (g) Division of planning.

19 (1) The division of planning shall be the principal staff agency of the state planning
20 council for preparing and/or coordinating strategic plans for the comprehensive management of
21 the state's human, economic, and physical resources. The division of planning shall recommend
22 to the state planning council specific guidelines, standards, and programs to be adopted to
23 implement strategic planning and the state guide plan and shall undertake any other duties
24 established by this section and amendments thereto. When feasible and appropriate, the division
25 shall consider the impacts of climate change in the undertaking of all powers and duties set forth
26 in this chapter.

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

31 (3) The division of planning shall manage and administer the Rhode Island geographic
32 information system of land-related resources, and shall coordinate these efforts with other state
33 departments and agencies, including the University of Rhode Island, which shall provide
34 technical support and assistance in the development and maintenance of the system and its

1 associated data base.

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

8 (h) [Deleted by P.L. 2011, ch. 215, section 4, and by P.L. 2011, ch. 313, section 4].

9 (i) The division of planning shall be the principal staff agency of the water resources
10 board established pursuant to chapter 46-15 ("Water Resources Board") and the water resources
11 board corporate established pursuant to chapter 46-15.1 ("Water Supply Facilities").

12 SECTION 3. Section 42-13-1 of the General Laws in Chapter 42-13 entitled "Department
13 of Transportation" is hereby amended to read as follows:

14 **42-13-1. Establishment -- Head of departments -- Powers.** -- (a) There shall be a
15 department of transportation. The head of the department shall be the director of transportation,
16 appointed by the governor with the advice and consent of the senate, who shall carry out the
17 provisions of this chapter and, except as otherwise provided by this title, the provisions of
18 chapters 2 and 4 of title 1; chapters 8 and 10 of title 24; chapter 13 of title 31; chapter 12 of title
19 37; and of all other general laws heretofore carried out by the director of public works and the
20 department of public works, the Rhode Island turnpike and bridge authority, and the council on
21 highway safety. The director shall also be responsible for preparation of short-range plans, project
22 plans, and implementation programs for transportation; for port and waterways facilities where
23 the principal purpose is transportation and management of port properties, warehouses, and state
24 piers which function primarily as transportation facilities; and for maintaining an adequate level
25 of rail passenger and freight services, including the administration of any financial or technical
26 assistance which may be made available to operators of railroad transportation facilities;
27 provided, however, that all contracts for the construction, reconstruction, maintenance, and
28 repairs of all public roads and bridges, public buildings and all other properties of the state
29 government, and the purchase of all equipment, materials, and supplies used in accordance
30 therewith shall be negotiated by the purchasing agent in the department of administration. [The](#)
31 [department shall consider, when feasible and appropriate, the impacts of climate change in the](#)
32 [undertaking of all powers and duties set forth in this chapter.](#)

33 (b) The director shall adopt and promulgate state regulations which will set standards for
34 future state, city and town construction and maintenance of sidewalks and curbs, in a manner

1 which will make the use of the sidewalks more easily accessible to people who are disabled. Said
2 standards shall require the installation of curb cuts and/or ramps at both ends of any pedestrian
3 crosswalk.

4 The director shall adopt and promulgate a procedure to process all claims pursuant to
5 section 24-8-35, for damages to motor vehicles caused by potholes on state highways and in all
6 instances have the final determination as to the merits of each claim.

7 (c) The director shall promulgate and adopt regulations which will prohibit any
8 contractors who have been convicted of fraud, bid-rigging, or a violation of any state or federal
9 antitrust law from bidding on any construction projects administered by the department for a
10 period of five (5) years from the date of any of the above convictions.

11 SECTION 4. Section 42-17.1-2 of the General Laws in Chapter 42-17.1 entitled
12 "Department of Environmental Management" is hereby amended to read as follows:

13 **42-17.1-2. Powers and duties.** -- The director of environmental management shall have
14 the following powers and duties:

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

19 (2) To exercise all functions, powers, and duties heretofore vested in the department of
20 agriculture and conservation, and in each of the divisions of the department, such as the
21 promotion of agriculture and animal husbandry in their several branches, including the inspection
22 and suppression of contagious diseases among animals, the regulation of the marketing of farm
23 products, the inspection of orchards and nurseries, the protection of trees and shrubs from
24 injurious insects and diseases, protection from forest fires, the inspection of apiaries and the
25 suppression of contagious diseases among bees, prevention of the sale of adulterated or
26 misbranded agricultural seeds, promotion and encouragement of the work of farm bureaus in
27 cooperation with the University of Rhode Island, farmers' institutes and the various organizations
28 established for the purpose of developing an interest in agriculture, together with such other
29 agencies and activities as the governor and the general assembly may from time to time place
30 under the control of the department, and as heretofore vested by such of the following chapters
31 and sections of the general laws as are presently applicable to the department of environmental
32 management and which were previously applicable to the department of natural resources and the
33 department of agriculture and conservation or to any of its divisions: chapters 1 through 22,
34 inclusive, as amended, in title 2 entitled "Agriculture and Forestry;" chapters 1 through 17,

1 inclusive, as amended, in title 4 entitled "Animals and Animal Husbandry;" chapters 1 through
2 19, inclusive, as amended, in title 20 entitled "Fish and Wildlife;" chapters 1 through 32,
3 inclusive, as amended, in title 21 entitled "Food and Drugs;" chapter 7 of title 23 as amended,
4 entitled "Mosquito Abatement;" and by any other general or public law relating to the department
5 of agriculture and conservation or to any of its divisions or bureaus;

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

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

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

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

27 (7) To cooperate with, advise, and guide conservation commissions of cities and towns
28 created under chapter 35 of title 45 entitled "Conservation Commissions", as enacted by chapter
29 203 of the Public Laws, 1960;

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

33 (9) To cooperate with the water resources board and to provide to the board facilities,
34 administrative support, staff services, and such other services as the board shall reasonably

1 require for its operation and, in cooperation with the board and the statewide planning program to
2 formulate and maintain a long range guide plan and implementing program for development of
3 major water sources transmissions systems needed to furnish water to regional and local
4 distribution systems;

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

8 (11) To provide for the maintenance of waterways and boating facilities, consistent with
9 chapter 6.1 of title 46, by: (i) establishing minimum standards for upland beneficial use and
10 disposal of dredged material; (ii) promulgating and enforcing rules for water quality, ground
11 water protection, and fish and wildlife protection pursuant to section 42-17.1-24; (iii) planning for
12 the upland beneficial use and/or disposal of dredged material in areas not under the jurisdiction of
13 the council pursuant to section 46-23-6(2); and (iv) cooperating with the coastal resources
14 management council in the development and implementation of comprehensive programs for
15 dredging as provided for in sections 46-23-6(1)(ii)(H) and 46-23-18.3; and (v) monitoring dredge
16 material management and disposal sites in accordance with the protocols established pursuant to
17 section 46-6.1-5(3) and the comprehensive program provided for in section 46-23-6(1)(ii)(H); no
18 powers or duties granted herein shall be construed to abrogate the powers or duties granted to the
19 coastal resources management council under chapter 23 of title 46, as amended;

20 (12) To establish minimum standards, subject to the approval of the environmental
21 standards board, relating to the location, design, construction and maintenance of all sewage
22 disposal systems;

23 (13) To enforce, by such means as provided by law, the standards for the quality of air,
24 and water, and the design, construction and operation of all sewage disposal systems; any order or
25 notice issued by the director relating to the location, design, construction or maintenance of a
26 sewage disposal system shall be eligible for recordation under chapter 13 of title 34. The director
27 shall forward the order or notice to the city or town wherein the subject property is located and
28 the order or notice shall be recorded in the general index by the appropriate municipal official in
29 the land evidence records in the city or town wherein the subject property is located. Any
30 subsequent transferee of that property shall be responsible for complying with the requirements of
31 the order or notice. Upon satisfactory completion of the requirements of the order or notice, the
32 director shall provide written notice of the same, which notice shall be similarly eligible for
33 recordation. The original written notice shall be forwarded to the city or town wherein the subject
34 property is located and the notice of satisfactory completion shall be recorded in the general index

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

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

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

18 (16) To establish minimum standards subject to the approval of the environmental
19 standards board for permissible types of refuse disposal facilities, the design, construction,
20 operation, and maintenance of disposal facilities; and the location of various types of facilities;

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

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

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

33 Notwithstanding the provisions of section 42-35-9 to the contrary, no informal
34 disposition of a contested licensing matter shall occur where resolution substantially deviates

1 from the original application unless all interested parties shall be notified of said proposed
2 resolution and provided with opportunity to comment upon said resolution pursuant to applicable
3 law and any rules and regulations established by the director.

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

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

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

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

14 (I) For closely regulated industries;

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

16 (III) In emergency situations;

17 (IV) In situations presenting an imminent threat to the environment or public health,
18 safety or welfare;

19 (V) If the owner, operator, or agent in charge of the facility, property, site or location
20 consents; or

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

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

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

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

34 (III) An administrative warrant may authorize the review and copying of documents that

1 are relevant to the purpose of the inspection. If documents must be seized for the purpose of
2 copying, and the warrant authorizes such seizure, the person executing the warrant shall prepare
3 an inventory of the documents taken. The time, place and manner regarding the making of the
4 inventory shall be set forth in the terms of the warrant itself, as dictated by the court. A copy of
5 the inventory shall be delivered to the person from whose possession or facility the documents
6 were taken. The seized documents shall be copied as soon as feasible under circumstances
7 preserving their authenticity, then returned to the person from whose possession or facility the
8 documents were taken.

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

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

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

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

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

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

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

12 (iii) The director may, at his or her discretion and for the purposes of timely and
13 effective resolution and return to compliance, cite a person for alleged noncompliance through the
14 issuance of an expedited citation in accordance with subsection 42-17.6-3(c).

15 (iv) If a person upon whom a notice of violation has been served under the provisions of
16 this section or if a person aggrieved by any such notice of violation requests a hearing before the
17 director within ten (10) days of the service of notice of violation, the director shall set a time and
18 place for the hearing, and shall give the person requesting that hearing at least five (5) days
19 written notice thereof. After the hearing, the director may make findings of fact and shall sustain,
20 modify, or withdraw the notice of violation. If the director sustains or modifies the notice, that
21 decision shall be deemed a compliance order and shall be served upon the person responsible in
22 any manner provided for the service of the notice in this section.

23 (v) The compliance order shall state a time within which the violation shall be remedied,
24 and the original time specified in the notice of violation shall be extended to the time set in the
25 order.

26 (vi) Whenever a compliance order has become effective, whether automatically where
27 no hearing has been requested, where an immediate compliance order has been issued, or upon
28 decision following a hearing, the director may institute injunction proceedings in the superior
29 court of the state for enforcement of the compliance order and for appropriate temporary relief,
30 and in that proceeding the correctness of a compliance order shall be presumed and the person
31 attacking the order shall bear the burden of proving error in the compliance order, except that the
32 director shall bear the burden of proving in the proceeding the correctness of an immediate
33 compliance order. The remedy provided for in this section shall be cumulative and not exclusive
34 and shall be in addition to remedies relating to the removal or abatement of nuisances or any

1 other remedies provided by law.

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

7 (22) To impose administrative penalties in accordance with the provisions of chapter
8 17.6 of this title and to direct that such penalties be paid into the account established by
9 subdivision (26); and

10 (23) The following definitions shall apply in the interpretation of the provisions of this
11 chapter:

12 (i) Director: - The term "director" shall mean the director of environmental management
13 of the state of Rhode Island or his or her duly authorized agent.

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

18 (iii) Service: - (A) Service upon a corporation under this section shall be deemed to
19 include service upon both the corporation and upon the person having active and general
20 supervision of the properties of such corporation.

21 (B) For purposes of calculating the time within which a claim for a hearing is made
22 pursuant to subdivision (21)(i) of this section heretofore, service shall be deemed to be the date of
23 receipt of such notice or three (3) days from the date of mailing of said notice, whichever shall
24 first occur.

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

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

34 (25) (i) To apply for and accept grants and bequests of funds with the approval of the

1 director of administration from other states, interstate agencies and independent authorities, and
2 private firms, individuals and foundations, for the purpose of carrying out his or her lawful
3 responsibilities. The funds shall be deposited with the general treasurer in a restricted receipt
4 account created in the Natural Resources Program for funds made available for that program's
5 purposes or in a restricted receipt account created in the Environmental Protection Program for
6 funds made available for that program's purposes. All expenditures from the accounts shall be
7 subject to appropriation by the general assembly, and shall be expended in accordance with the
8 provisions of the grant or bequest. In the event that a donation or bequest is unspecified or in the
9 event that the trust account balance shows a surplus after the project as provided for in the grant
10 or bequest has been completed, the director may utilize said appropriated unspecified or
11 appropriated surplus funds for enhanced management of the department's forest and outdoor
12 public recreation areas, or other projects or programs that promote the accessibility of recreational
13 opportunities for Rhode Island residents and visitors.

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

17 (26) To establish fee schedules by regulation with the approval of the governor for the
18 processing of applications and the performing of related activities in connection with the
19 department's responsibilities pursuant to subdivision (12) of this section, chapter 19.1 of title 23
20 as it relates to inspections performed by the department to determine compliance with chapter
21 19.1 and rules and regulations promulgated in accordance therewith, chapter 18.9 of title 23 as it
22 relates to inspections performed by the department to determine compliance with chapter 18.9
23 and the rules and regulations promulgated in accordance therewith, chapters 19.5 and 23 of title
24 23; chapter 12 of title 46 insofar as it relates to water quality certifications and related reviews
25 performed pursuant to provisions of the federal Clean Water Act, the regulation and
26 administration of underground storage tanks and all other programs administered under chapter
27 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
28 insofar as they relate to any reviews and related activities performed under the provisions of the
29 Groundwater Protection Act, chapter 23-24.9 as it relates to the regulation and administration of
30 mercury-added products, and chapter 17.7 of this title insofar as it relates to administrative
31 appeals of all enforcement, permitting and licensing matters to the administrative adjudication
32 division for environmental matters. Two (2) fee ranges shall be required: for "Appeal of
33 enforcement actions", a range of fifty dollars (\$50) to one hundred dollars (\$100), and for
34 "Appeal of application decisions", a range of five hundred dollars (\$500) to ten thousand dollars

1 (\$10,000). The monies from the administrative adjudication fees will be deposited as general
2 revenues and the amounts appropriated shall be used for the costs associated with operating the
3 administrative adjudication division.

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

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

18 (28) To establish and maintain an inventory of all interests in land held by public and
19 private land trust and to exercise all powers vested herein to insure the preservation of all
20 identified lands.

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

27 (ii) The term "public land trust" means any public instrumentality created by a Rhode
28 Island municipality for the purposes stated herein and financed by means of public funds
29 collected and appropriated by the municipality. The term "private land trust" means any group of
30 five (5) or more private citizens of Rhode Island who shall incorporate under the laws of Rhode
31 Island as a nonbusiness corporation for the purposes stated herein, or a national organization such
32 as the nature conservancy. The main purpose of either a public or a private land trust shall be the
33 protection, acquisition, or control of land, water, wildlife, wildlife habitat, plants, and/or other
34 natural features, areas, or open space for the purpose of managing or maintaining, or causing to

1 be managed or maintained by others, the land, water, and other natural amenities in any
2 undeveloped and relatively natural state in perpetuity. A private land trust must be granted
3 exemption from federal income tax under Internal Revenue Code 501c(3) [26 U.S.C. section
4 501(c)(3)]within two (2) years of its incorporation in Rhode Island or it may not continue to
5 function as a land trust in Rhode Island. A private land trust may not be incorporated for the
6 exclusive purpose of acquiring or accepting property or rights in property from a single
7 individual, family, corporation, business, partnership, or other entity. Membership in any private
8 land trust must be open to any individual subscribing to the purposes of the land trust and
9 agreeing to abide by its rules and regulations including payment of reasonable dues.

10 (iii) (A) Private land trusts will, in their articles of association or their bylaws, as
11 appropriate, provide for the transfer to an organization created for the same or similar purposes
12 the assets, lands and land rights and interests held by the land trust in the event of termination or
13 dissolution of the land trust.

14 (B) All land trusts, public and private, will record in the public records of the appropriate
15 towns and cities in Rhode Island all deeds, conservation easements or restrictions or other
16 interests and rights acquired in land and will also file copies of all such documents and current
17 copies of their articles of association, their bylaws, and annual reports with the secretary of state,
18 and with the director of the Rhode Island department of environmental management. The director
19 is hereby directed to establish and maintain permanently a system for keeping records of all
20 private and public land trust land holdings in Rhode Island.

21 (29) The director will contact in writing, not less often than once every two (2) years,
22 each public or private land trust to ascertain: that all lands held by the land trust are recorded with
23 the director; the current status and condition of each land holding; that any funds or other assets
24 of the land trust held as endowment for specific lands have been properly audited at least once
25 within the two (2) year period; the name of the successor organization named in the public or
26 private land trust's bylaws or articles of association; and any other information the director deems
27 essential to the proper and continuous protection and management of land and interests or rights
28 in land held by the land trust. In the event that the director determines that a public or private land
29 trust holding land or interest in land appears to have become inactive, he or she shall initiate
30 proceedings to effect the termination of the land trust and the transfer of its lands, assets, land
31 rights, and land interests to the successor organization named in the defaulting trust's bylaws or
32 articles of association or to another organization created for the same or similar purposes. Should
33 such a transfer not be possible, then the land trust, assets, and interest and rights in land will be
34 held in trust by the state of Rhode Island and managed by the director for the purposes stated at

1 the time of original acquisition by the trust. Any trust assets or interests other than land or rights
2 in land accruing to the state under such circumstances will be held and managed as a separate
3 fund for the benefit of the designated trust lands.

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

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

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

30 (33) To support, facilitate and assist the Rhode Island Natural History Survey, as
31 appropriate and/or as necessary, in order to accomplish the important public purposes of the
32 survey in gathering and maintaining data on Rhode Island natural history, making public
33 presentations and reports on natural history topics, ranking species and natural communities,
34 monitoring rare species and communities, consulting on open space acquisitions and management

1 plans, reviewing proposed federal and state actions and regulations with regard to their potential
2 impact on natural communities, and seeking outside funding for wildlife management, land
3 management and research.

4 (34) To promote the effective stewardship of lakes and ponds including collaboration
5 with associations of lakefront property owners on planning and management actions that will
6 prevent and mitigate water quality degradation, the loss of native habitat due to infestation of
7 non-native species and nuisance conditions that result from excessive growth of algal or non-
8 native plant species. By January 31, 2012, the director shall prepare and submit a report to the
9 governor and general assembly that based upon available information provides: (a) an assessment
10 of lake conditions including a description of the presence and extent of aquatic invasive species in
11 lakes and ponds; (b) recommendations for improving the control and management of aquatic
12 invasives species in lakes and ponds; and (c) an assessment of the feasibility of instituting a boat
13 sticker program for the purpose of generating funds to support implementation actions to control
14 aquatic invasive species in the freshwaters of the state.

15 [\(35\) The director shall consider, when feasible and appropriate, the impacts of climate](#)
16 [change in the undertaking of all powers and duties set forth in this chapter.](#)

17 SECTION 5. Section 42-64-7 of the General Laws in Chapter 42-64 entitled "Rhode
18 Island Commerce Corporation" is hereby amended to read as follows:

19 **42-64-7. Additional general powers. [Effective January 1, 2014.]** -- In addition to the
20 powers enumerated in section 42-64-6, except to the extent inconsistent with any specific
21 provision of this chapter, the Rhode Island commerce corporation shall have power:

22 (1) To undertake the planning, development, construction, financing, management,
23 operation of any project, and all activities in relation thereto.

24 (2) (i) To sell, mortgage, lease, exchange, transfer, or otherwise dispose of or encumber
25 any port project, (or in the case of a sale, to accept a purchase money mortgage in connection
26 with any port project) or to grant options for any purposes with respect to any real or personal
27 property or interest in real or personal property, all of the foregoing for consideration as the
28 corporation shall determine. Any lease by the corporation to another party may be for any part of
29 the corporation's property, real or personal, for any period, upon any terms or conditions, with or
30 without an option on the part of the lessee to purchase any or all of the leased property for any
31 consideration, at or after the retirement of all indebtedness incurred by the corporation on account
32 thereof, as the corporation shall determine.

33 (ii) Without limiting the generality of the foregoing, the corporation is expressly
34 empowered to lease or sell any part of the real or personal property owned or controlled by the

1 corporation to the state, or any department of the state or to any municipality. The provisions of
2 this section or of any other laws of this state (other than this chapter) restricting the power of the
3 state, its departments or any municipality, to lease or sell property, or requiring or prescribing
4 publication of notice of intention to lease or sell, advertising for bids, the terms of contracts of
5 lease or sale, that would in any manner interfere with the purpose of this section, which is to
6 provide for the mutual cooperation by and between the corporation and the state, its departments
7 or any municipality, to the fullest extent possible, are not applicable to leases and sales made
8 pursuant to this section.

9 (3) To prepare or cause to be prepared plans, specifications, designs, and estimates of
10 costs for the construction, reconstruction, rehabilitation, improvement, alteration, or repair of any
11 project, and from time to time to modify those plans, specifications, designs, or estimates.

12 (4) To manage any project, whether then owned or leased by the corporation, and to
13 enter into agreements with the state or any municipality or any agency or their instrumentalities,
14 or with any person, firm, partnership, or corporation, either public or private, for the purpose of
15 causing any project to be managed.

16 (5) To provide advisory, consultative, training, and educational services, technical
17 assistance, and advice to any person, firm, partnership, or corporation, whether it is public or
18 private, in order to carry out the purposes of this chapter.

19 (6) Subject to the provisions of any contract with note holders or bond holders to consent
20 to the modification, with respect to rate of interest, time of payments of any installment of
21 principal or interest, security or any other term of any mortgage, mortgage loan, mortgage loan
22 commitment, contract, or agreement of any kind to which the corporation is a party.

23 (7) In connection with any property on which it has made a mortgage loan, to foreclose
24 on that property or commence an action to protect or enforce any right conferred upon it by law,
25 mortgage, contract, or other agreement and to bid for and purchase the property at any foreclosure
26 or any other sale, or to acquire or take possession of the property; and in that event the
27 corporation may complete, administer, pay the principal of, or interest on any obligations incurred
28 in connection with the property, dispose of, and otherwise deal with the property in a manner as
29 may be necessary or desirable to protect the interest of the corporation therein.

30 (8) As security for the payment of principal and interest on any bonds or notes or any
31 agreements made in connection therewith, to mortgage and pledge any or all of its projects and
32 property, whether then owned or thereafter acquired, and to pledge the revenues and receipts from
33 all or part thereof, and to assign or pledge the leases, sales contracts or loan agreements or other
34 agreements on any portion or all of its projects and property and to assign or pledge the income

1 received by virtue of the lease, sales contracts, loan agreements or other agreements.

2 (9) To invest any funds of the corporation, including funds held in reserve or sinking
3 funds, or any moneys not required for immediate use or disbursement at the discretion of the
4 corporation, in: (i) obligations of the state or the United States, (ii) obligations of the principal
5 and interest of which are guaranteed by the state or the United States, (iii) obligations of agencies
6 and instrumentalities of the state or the United States, or (iv) certificates of deposits of banks and
7 trust companies or shares of building loan associations organized under the laws of the state or
8 doing business in the state or (v) any obligations, securities, and other investments as shall be
9 specified in resolutions of the corporation.

10 (10) To engage the services of consultants on a contract basis for rendering professional
11 and technical assistance and advice, and to employ architects, engineers, attorneys, accountants,
12 construction, and financial experts and any other advisors, consultants, and agents as may be
13 necessary in his or her judgment, and to fix their compensation.

14 (11) To contract for and to accept any gifts or grants or loans or funds or property or
15 financial or other assistance in any form from the United States or any agency or instrumentality
16 of the United States or from the state or any agency or instrumentality of the state or from any
17 other source and to comply, subject to the provisions of this chapter, with the terms and
18 conditions of this contract.

19 (12) To enter into agreements with any municipality or political subdivision, either
20 directly or on behalf of any other party which holds legal title to all or any portion of a project as
21 the lessee from the corporation designated pursuant to section 42-64-20(c), providing that the
22 corporation or the lessee shall pay annual sums in lieu of taxes to the municipality or political
23 subdivision of the state in respect to any real or personal property which is owned by the
24 corporation or the lessee and is located in the municipality or political subdivision.

25 (13) To borrow money and to issue negotiable bonds and notes, and to provide for the
26 rights of the holders of these bonds and notes, for the purpose of providing funds to pay all or any
27 part of the cost of any port project or for the purpose of refunding any of these bonds issued.

28 (14) To construct, acquire, own, repair, develop, operate, maintain, extend, and improve,
29 rehabilitate, renovate, furnish, and equip one or more port projects and to pay all or any part of
30 the costs of these bonds and notes from the proceeds of bonds of the corporation or from any
31 contribution, gift, or donation or other funds made available to the corporation for those purposes.

32 (15) To fix, charge and collect rents, fees, tolls, and charges for the use of any port
33 project and to alter and investigate rates, and practices of charging, which affect port projects so
34 as to increase commerce in the state.

1 (16) To prescribe rules and regulations deemed necessary or desirable to carry out the
2 purposes of this chapter including rules and regulations to insure maximum use and proper
3 operation of port projects.

4 (17) To establish penalties for violations of any order, rule, or regulation of the
5 corporation, and a method of enforcing these penalties.

6 (18) To develop, maintain, and operate foreign trade zones under those terms and
7 conditions that may be prescribed by law.

8 (19) To impose administrative penalties in accordance with the provisions of section 42-
9 64-9.2.

10 (20) To make assessments and impose reasonable and just user charges, and to pay for
11 those expenses that may be required by law or as may be determined by the corporation to be
12 necessary for the maintenance and operation of the sewage treatment facility.

13 (21) To establish a sewage pretreatment program, and to require as a condition to the
14 grant or re-issuance of any approval, license, or permit required under the program that the person
15 applying for the approval, license or permit, pay to the corporation a reasonable fee based on the
16 cost of reviewing and acting upon the application and based on the costs of implementing the
17 program. In addition, where a violation of any of the provisions of this title or any permit, rule,
18 regulation, or order issued pursuant to this title have occurred, the violator shall reimburse the
19 corporation for the actual costs of implementing and enforcing the terms of the permit, rule,
20 regulation or order as a condition to the grant or re-issuance of any approval.

21 (22) To assist urban communities revitalize their local economics.

22 (23) To provide assistance to minority businesses and to neighborhoods where there is
23 insufficient economic and business investment.

24 (24) To support and assist entrepreneurial activity by minorities and by low and
25 moderate income persons.

26 (25) To issue bonds and notes of the type and for those projects and for those purposes
27 specified in any Joint Resolution of the General Assembly adopted by the Rhode Island house of
28 representatives and the Rhode Island senate; pursuant to section 18 of title 35 of the general laws
29 entitled "the Rhode Island Public Corporation Debt Management Act"; and to make such
30 determinations, enter into such agreements, to deliver such instruments and to take such other
31 actions as it shall deem necessary or desirable to effectuate the financing of such projects.

32 [\(26\) The department shall consider, when feasible and appropriate, the impacts of climate](#)
33 [change in the undertaking of all powers and duties set forth in this chapter.](#)

34 SECTION 6. Section 42-140-3 of the General Laws in Chapter 42-140 entitled "Rhode

1 Island Energy Resources Act" is hereby amended to read as follows:

2 **42-140-3. Purposes.** -- The purposes of the office shall be to:

3 (1) Develop and put into effect plans and programs to promote, encourage, and assist the
4 provision of energy resources for Rhode Island in a manner that enhances economic well-being,
5 social equity, and environmental quality;

6 (2) Monitor, forecast, and report on energy use, energy prices, and energy demand and
7 supply forecasts, and make findings and recommendations with regard to energy supply diversity,
8 reliability, and procurement, including least-cost procurement;

9 (3) Develop and to put into effect plans and programs to promote, encourage and assist
10 the efficient and productive use of energy resources in Rhode Island, and to coordinate energy
11 programs for natural gas, electricity, and heating oil to maximize the aggregate benefits of
12 conservation and efficiency of investments;

13 (4) Monitor and report technological developments that may result in new and/or
14 improved sources of energy supply, increased energy efficiency, and reduced environmental
15 impacts from energy supply, transmission and distribution;

16 (5) Administer the programs, duties, and responsibilities heretofore exercised by the state
17 energy office, except as these may be assigned by executive order or the general laws to other
18 departments and agencies of state government;

19 (6) Develop, recommend and, as appropriate, implement integrated and/or
20 comprehensive strategies, including at regional and federal levels, to secure Rhode Island's
21 interest in energy resources, their supply and efficient use, and as necessary to interact with
22 persons, private sector, non-profit, regional, federal entities and departments and agencies of
23 other states to effectuate this purpose;

24 (7) Cooperate with agencies, departments, corporations, and entities of the state and of
25 political subdivisions of the state in achieving its purposes;

26 (8) Cooperate with and assist the state planning council and the division of state planning
27 in developing, maintaining, and implementing state guide plan elements pertaining to energy and
28 renewable energy;

29 (9) Coordinate the energy efficiency, renewable energy, least cost procurement, and
30 systems reliability plans and programs with the energy efficiency resource management council
31 and the renewable energy coordinating board;

32 (10) Participate in, monitor implementation of, and provide technical assistance for the
33 low-income home energy assistance program enhancement plan established pursuant to section
34 39-1-27.12;

1 (11) Participate in and monitor the distributed generation standard contracts program
2 pursuant to chapter 39-26-2;

3 (12) Coordinate opportunities with and enter into contracts and/or agreements with the
4 economic development corporation associated with the energy efficiency, least-cost procurement,
5 system reliability, and renewable energy fund programs;

6 (13) Provide support and information to the division of planning and the state planning
7 council in development of a ten (10) year Rhode Island Energy Guide Plan, which shall be
8 reviewed and amended if necessary every five (5) years;

9 (14) Provide funding support if necessary to the renewable energy coordinating board
10 and/or the advisory council to carry out the objectives pursuant to chapter 42-140-3;

11 (15) Advise and provide technical assistance to state and federally funded energy
12 program to support:

13 (i) The federal low-income home energy assistance program which provides heating
14 assistance to eligible low-income persons and any state funded or privately funded heating
15 assistance program of a similar nature assigned to it for administration;

16 (ii) The weatherization assistance program which offers home weatherization grants and
17 heating system upgrades to eligible persons of low-income;

18 (iii) The emergency fuel program which provides oil deliveries to families experiencing
19 a heating emergency;

20 (iv) The energy conservation program, which offers service and programs to all sectors;
21 and

22 (v) [Deleted by P.L. 2008, ch. 228, section 2, and P.L. 2008, ch. 422, section 2.]

23 (16) Advise the economic development corporation in the development of standards and
24 rules for the solicitation and award of renewable energy program investment funds in accordance
25 with section 42-64-13.2;

26 (17) Develop, recommend, and evaluate energy programs for state facilities and
27 operations in order to achieve and demonstrate the benefits of energy-efficiency, diversification
28 of energy supplies, energy conservation, and demand management; and

29 (18) Advise the governor and the general assembly with regard to energy resources and
30 all matters relevant to achieving the purposes of the office.

31 (19) The department shall consider, when feasible and appropriate, the impacts of climate
32 change in the undertaking of all powers and duties set forth in this chapter.

33 SECTION 7. Section 46-23-6 of the General Laws in Chapter 46-23 entitled "Coastal
34 Resources Management Council" is hereby amended to read as follows:

1 **46-23-6. Powers and duties -- Rights-of-way. --** In order to properly manage coastal
2 resources the council has the following powers and duties:

3 (1) Planning and management.

4 (i) The primary responsibility of the council shall be the continuing planning for and
5 management of the resources of the state's coastal region. The council shall be able to make any
6 studies of conditions, activities, or problems of the state's coastal region needed to carry out its
7 responsibilities and shall consider, when feasible and appropriate, the impacts of climate change
8 in the undertaking of all powers and duties set forth in this chapter.

9 (ii) The resources management process shall include the following basic phases:

10 (A) Identify all of the state's coastal resources, water, submerged land, air space, fin fish,
11 shellfish, minerals, physiographic features, and so forth.

12 (B) Evaluate these resources in terms of their quantity, quality, capability for use, and
13 other key characteristics.

14 (C) Determine the current and potential uses of each resource.

15 (D) Determine the current and potential problems of each resource.

16 (E) Formulate plans and programs for the management of each resource, identifying
17 permitted uses, locations, protection measures, and so forth.

18 (F) Carry out these resources management programs through implementing authority and
19 coordination of state, federal, local, and private activities.

20 (G) Formulation of standards where these do not exist, and reevaluation of existing
21 standards.

22 (H) To develop comprehensive programs for dredging in tidal waters and related
23 beneficial use, disposal, monitoring dewatering and transportation of dredge materials.

24 (I) To accept and administer loans and grants from the federal government and from
25 other sources, public or private, for the carrying out of any of its functions, which loans or grants
26 shall not be expended for other than the purposes for which provided.

27 (J) To encourage, participate in, or conduct studies, investigations, research, and
28 demonstrations relating to dredging, disposal of dredge materials and transportation thereof in the
29 tidal waters of the state as the coastal resources management council may deem advisable and
30 necessary for the discharge of its duties under this chapter.

31 (K) To collect and disseminate information relating to dredging, disposal of dredge
32 materials and transportation thereof within the tidal waters of the state.

33 (L) To work with the appropriate federal and state agencies to develop as provided for in
34 this chapter and in chapter 6.1 of this title, a comprehensive plan for dredging in tidal waters and

1 related beneficial use, disposal, monitoring dewatering and transportation of dredge materials.

2 (M) To apply for, accept and expend grants and bequests of funds, for the purpose of
3 carrying out the lawful responsibilities of the coastal resources management council.

4 (iii) An initial series of resources management activities shall be initiated through this
5 basic process, then each phase shall continuously be recycled and used to modify the council's
6 resources management programs and keep them current.

7 (iv) Planning and management programs shall be formulated in terms of the
8 characteristics and needs of each resource or group of related resources. However, all plans and
9 programs shall be developed around basic standards and criteria, including:

10 (A) The need and demand for various activities and their impact upon ecological
11 systems.

12 (B) The degree of compatibility of various activities.

13 (C) The capability of coastal resources to support various activities.

14 (D) Water quality standards set by the director of the department of environmental
15 management.

16 (E) Consideration of plans, studies, surveys, inventories, and so forth prepared by other
17 public and private sources.

18 (F) Consideration of contiguous land uses and transportation facilities.

19 (G) Whenever possible consistency with the state guide plan.

20 (v) The council shall prepare, adopt, administer, and cause to be implemented, including
21 specifically through its powers of coordination as set forth in subdivision (3) of this section, a
22 marine resources development plan and such special area management plans as the council may
23 determine to be appropriate or desirable as follows:

24 (A) Marine resources development plan.

25 (I) The purpose of the marine resources development plan shall be to provide an
26 integrated strategy for: (a) improving the health and functionality of Rhode Island's marine
27 ecosystem; (b) providing for appropriate marine-related economic development; and (c)
28 promoting the use and enjoyment of Rhode Island's marine resources by the people of the state.

29 (II) The marine resources development plan shall include specific goals and objectives
30 necessary to accomplish its purposes, performance measures to determine progress toward
31 achieving such goals and objectives, and an implementation program.

32 (III) The marine resources development plan shall be prepared in cooperation with the
33 department of environmental management, the statewide planning program, and the economic
34 development corporation, with the involvement of such other state agencies as may be

1 appropriate, and with such technical support as may be necessary and appropriate from the
2 Narragansett Bay Estuary Program, the Coastal Institute at the University of Rhode Island, and
3 Rhode Island Sea Grant.

4 (IV) The plan shall be responsive to the requirements and principles of the federal
5 coastal zone management act as amended, including, but not limited to, the expectations of the act
6 for incorporating the federal Clean Water Act into coastal zone management programs.

7 (V) The marine resources development plan shall take into account local land use
8 management responsibilities as provided for under title 45 and harbor management
9 responsibilities, and the preparation of the plan shall include opportunities for involvement and/or
10 comment by cities and towns.

11 (VI) The marine resources development plan shall be adopted by the council in
12 accordance with the provisions of this subsection by July 1, 2005, shall as appropriate incorporate
13 the recommendations of the Governor's Narragansett Bay and Watershed Planning Commission,
14 and shall be made consistent with systems level plans as appropriate, in order to effectuate the
15 purposes of systems level planning. The council shall update the marine resources development
16 plan at least once every five (5) years.

17 (VII) The council shall administer its programs, regulations, and implementation
18 activities in a manner consistent with the marine resources development plan.

19 (VIII) The marine resources development plan and any updates thereto shall be adopted
20 as appropriate as elements of the state guide plan pursuant to section 42-11-10.

21 (B) Special area management plans.

22 (I) The council shall adopt such special area management plans as deemed necessary and
23 desirable to provide for the integration and coordination of the protection of natural resources, the
24 promotion of reasonable coastal-dependent economic growth, and the improved protection of life
25 and property in the specific areas designated council as requiring such integrated planning and
26 coordination.

27 (II) The integrated planning and coordination herein specified shall include, but not be
28 limited to, federal agencies, state agencies, boards, commissions, and corporations, including
29 specifically the economic development corporation, and cities and towns, shall utilize to the
30 extent appropriate and feasible the capacities of entities of higher education, including Rhode
31 Island Sea Grant, and shall provide for the participation of advocacy groups, community-based
32 organizations, and private persons.

33 (III) The council shall administer its programs, regulations, and implementation
34 activities in a manner consistent with special area management plans.

1 (IV) Special area management plans and any updates thereto shall be adopted as
2 appropriate as elements of the state guide plan pursuant to section 42-11-10.

3 (2) Implementation.

4 (i) The council is authorized to formulate policies and plans and to adopt regulations
5 necessary to implement its various management programs. With respect to such policies and
6 plans which relate to matters where the coastal resources management council and the department
7 of environmental management have concurrent jurisdiction and upon formulation of the plans and
8 regulations, the council shall, prior to adoption, submit the proposed plans or regulations to the
9 director of the department of environmental management for the director's review. The director
10 shall review and submit comments to the council within thirty (30) days of submission to the
11 director by the council. The comments of the director shall include findings with regard to the
12 consistency of the policies, plans and/or regulations with the requirements of laws administered
13 by the department. The council shall consider the director's comments prior to adoption of any
14 such policies, plans or regulations and shall respond in writing to findings of the director with
15 regard to the consistency of said policies, plans and/or regulations with the requirements of laws
16 administered by the department.

17 (ii) (A) The council shall have exclusive jurisdiction below mean high water for all
18 development, operations, and dredging, consistent with the requirements of chapter 6.1 of this
19 title and except as necessary for the department of environmental management to exercise its
20 powers and duties and to fulfill its responsibilities pursuant to sections 42-17.1-2 and 42-17.1-24,
21 and any person, firm, or governmental agency proposing any development or operation within,
22 above, or beneath the tidal water below the mean high water mark, extending out to the extent of
23 the state's jurisdiction in the territorial sea, shall be required to demonstrate that its proposal
24 would not:

25 (I) Conflict with any resources management plan or program;

26 (II) Make any area unsuitable for any uses or activities to which it is allocated by a
27 resources management plan or program adopted by the council; or

28 (III) Significantly damage the environment of the coastal region.

29 (B) The council shall be authorized to approve, modify, set conditions for, or reject any
30 such proposal.

31 (iii) The authority of the council over land areas (those areas above the mean high water
32 mark) shall be limited to two hundred feet (200') from the coastal physiographic feature or to that
33 necessary to carry out effective resources management programs. This shall be limited to the
34 authority to approve, modify, set conditions for, or reject the design, location, construction,

1 alteration, and operation of specified activities or land uses when these are related to a water area
2 under the agency's jurisdiction, regardless of their actual location. The council's authority over
3 these land uses and activities shall be limited to situations in which there is a reasonable
4 probability of conflict with a plan or program for resources management or damage to the coastal
5 environment. These uses and activities are:

6 (A) Power generating over forty (40) megawatts and desalination plants.

7 (B) Chemical or petroleum processing, transfer, or storage.

8 (C) Minerals extraction.

9 (D) Shoreline protection facilities and physiographical features, and all directly
10 associated contiguous areas which are necessary to preserve the integrity of the facility and/or
11 features.

12 (E) Coastal wetlands and all directly associated contiguous areas which are necessary to
13 preserve the integrity of the wetlands including any freshwater wetlands located in the vicinity of
14 the coast. The actual determination of freshwater wetlands located in coastal vicinities and under
15 the jurisdiction of the coastal resources management council shall be designated on such maps
16 that are agreed to in writing and made available for public use by the coastal resources
17 management council and the director, department of environmental management, within three (3)
18 months of [August 6, 1996] The CRMC shall have exclusive jurisdiction over the wetlands areas
19 described in this section notwithstanding any provision of chapter 1, title 2 or any other provision,
20 except as provided in subsection (iv) of this section. Within six (6) months of [August 6, 1996]the
21 council in cooperation with the director shall develop rules and regulations for the management
22 and protection of freshwater wetlands, affected by an aquaculture project, outside of those
23 freshwater wetlands located in the vicinity of the coast and under the exclusive jurisdiction of the
24 director of the department of environmental management. For the purpose of this chapter, a
25 "coastal wetland" means any salt marsh bordering on the tidal waters of this state, whether or not
26 the tidal waters reach the littoral areas through natural or artificial watercourses, and those
27 uplands directly associated and contiguous thereto which are necessary to preserve the integrity
28 of that marsh. Marshes shall include those areas upon which grow one or more of the following:
29 smooth cordgrass (*spartina alterniflora*), salt meadow grass (*spartina patens*), spike grass
30 (*distichlis spicata*), black rush (*juncus gerardi*), saltworts (*salicornia spp.*), sea lavender
31 (*limonium carolinianum*), saltmarsh bulrushes (*scirpus spp.*), hightide bush (*iva frutescens*), tall
32 reed (*phragmites communis*), tall cordgrass (*spartina pectinata*), broadleaf cattail (*typha latifolia*),
33 narrowleaf cattail (*typha angustifolia*), spike rush (*eleocharis rostellata*), chairmaker's rush
34 (*scirpus americana*), creeping bentgrass (*agrostis palustris*), sweet grass (*hierochloe odorata*), and

1 wild rye (*etlymus virginicus*).

2 (F) Sewage treatment and disposal and solid waste disposal facilities.

3 (G) Beneficial use, dewatering, and disposal of dredged material of marine origins,
4 where such activities take place within two hundred (200) feet of mean high water or a coastal
5 physiographic feature, or where there is a reasonable probability of conflict with a plan or
6 program for resources management or damage to the coastal environment.

7 (iv) Notwithstanding the provisions of subsections (ii) and (iii) above, the department of
8 environmental management shall maintain jurisdiction over the administration of chapter 1, title
9 2, including permitting of freshwater wetlands alterations and enforcement, with respect to all
10 agricultural activities undertaken by a farmer, as that term is defined in subsection 2-1-22(j),
11 wherever located; provided, however, that with respect to activities located partially or
12 completely within two hundred feet (200') of the coastal physiographic feature, the department
13 shall exercise jurisdiction in consultation with the council.

14 (3) Coordination. - The council has the following coordinating powers and duties:

15 (i) Functioning as a binding arbitrator in any matter of dispute involving both the
16 resources of the state's coastal region and the interests of two (2) or more municipalities or state
17 agencies.

18 (ii) Consulting and coordinating actions with local, state, regional, and federal agencies
19 and private interests.

20 (iii) Conducting or sponsoring coastal research.

21 (iv) Advising the governor, the general assembly, and the public on coastal matters.

22 (v) Serving as the lead state agency and initial and primary point of contact for dredging
23 activities in tidal waters and in that capacity, integrating and coordinating the plans and policies
24 of other state agencies as they pertain to dredging in order to develop comprehensive programs
25 for dredging as required by subparagraph (1)(ii)(H) of this section and chapter 6.1 of this title.
26 The Rhode Island resource recovery corporation prior to purchasing cover material for the state
27 landfill shall first contact the CRMC to see if there is a source of suitable dredged material
28 available which shall be used in place of the purchase cover material. Other state agencies
29 engaged in the process of dump closures shall also contact the CRMC to see if there is a source of
30 suitable dredged material available, which shall be used in place of the purchase cover material.
31 In addition, cities and towns may contact the CRMC prior to closing city or town controlled
32 dump sites to see if there is a source of suitable dredge material available, which may be used in
33 place of the purchase cover material.

34 (vi) Acting as the state's representative to all bodies public and private on all coastal and

1 aquaculture related matters.

2 (4) Operations. - The council is authorized to exercise the following operating functions,
3 which are essential to management of coastal resources:

4 (i) Issue, modify, or deny permits for any work in, above, or beneath the areas under its
5 jurisdiction, including conduct of any form of aquaculture.

6 (ii) Issue, modify, or deny permits for dredging, filling, or any other physical alteration
7 of coastal wetlands and all directly related contiguous areas which are necessary to preserve the
8 integrity of the wetlands, including, but not limited to, the transportation and disposal of dredge
9 materials in the tidal waters.

10 (iii) Grant licenses, permits, and easements for the use of coastal resources which are
11 held in trust by the state for all its citizens, and impose fees for private use of these resources.

12 (iv) Determining the need for and establishing pierhead, bulkhead, and harbor lines.

13 (v) Enforcing and implementing riparian rights in the tidal waters after judicial decisions.

14 (vi) The council may require an owner or operator of a commercial wharf or pier of a
15 marine commercial facility, as defined in 300.3 of the Rhode Island coastal resources
16 management program, but not including those facilities defined in 300.4 of the Rhode Island
17 coastal resources management program, and which is capable of offloading cargo, and is or will
18 be subject to a new use or a significant intensification of an existing use, to demonstrate that the
19 commercial wharf or pier is fit for that purpose. For the purposes of this subsection, a
20 "commercial wharf or pier" means a pier, bulkhead, wharf, docking facility, or underwater
21 utilities. The council may order said owner or operator to provide an engineering certification to
22 the council's satisfaction that the commercial wharf or pier is fit for the new use or intensification
23 of an existing use. If the council determines that the commercial wharf or pier is not fit, it may
24 order the owner or operator to undertake the necessary work to make the commercial wharf or
25 pier safe, within a reasonable time frame. If the council determines that the commercial wharf or
26 pier, because of its condition, is an immediate threat to public health and safety it may order the
27 commercial wharf or pier closed until the necessary work to make the commercial wharf or pier
28 safe has been performed and approved by the council. All work performed must conform to the
29 council's management program. The council is also given the authority to develop regulations to
30 carry out this provision and to impose administrative penalties of five thousand dollars (\$5,000)
31 per day up to a maximum of twenty thousand dollars (\$20,000) consistent with section 46-23-7.1
32 where there has been a violation of the orders under this provision.

33 (5) Rights-of-way.

34 (i) The council is responsible for the designation of all public rights-of-way to the tidal

1 water areas of the state, and shall carry on a continuing discovery of appropriate public rights-of-
2 way to the tidal water areas of the state.

3 (ii) The council shall maintain a complete file of all official documents relating to the
4 legal status of all public rights-of-way to the tidal water areas of the state.

5 (iii) (A) The council has the power to designate for acquisition and development, and
6 posting, and all other functions of any other department for tidal rights-of-way and land for tidal
7 rights-of-way, parking facilities, and other council related purposes.

8 (B) Further, the council has the power to develop and prescribe a standard sign to be
9 used by the cities and towns to mark designated rights-of-way.

10 (iv) In conjunction with this subdivision, every state department controlling state-owned
11 land close to or adjacent to discovered rights-of-way is authorized to set out the land, or so much
12 of the land that may be deemed necessary for public parking.

13 (v) No use of land for public parking shall conflict with existing or intended use of the
14 land, and no improvement shall be undertaken by any state agency until detailed plans have been
15 submitted to and approved by the governing body of the local municipality.

16 (vi) In designating rights-of-way, the council shall consider the following matters in
17 making its designation:

18 (A) Land evidence records;

19 (B) The exercise of domain over the parcel such as maintenance, construction, or
20 upkeep;

21 (C) The payment of taxes;

22 (D) The creation of a dedication;

23 (E) Public use;

24 (F) Any other public record or historical evidence such as maps and street indexes;

25 (G) Other evidence as set out in section 42-35-10.

26 (vii) A determination by the council that a parcel is a right-of-way shall be decided by
27 substantial evidence.

28 (viii) The council shall be notified whenever by the judgment of the governing body of a
29 coastal municipality, a public right-of-way to tidal water areas located in such municipality has
30 ceased to be useful to the public, and such governing body proposes an order of abandonment of
31 such public right-of-way. Said notice shall be given not less than sixty (60) days prior to the date
32 of such abandonment.

33 (6) Pre-existing residential boating facilities.

34 (i) The council is hereby authorized and empowered to issue assent for pre-existing

1 residential boating facilities constructed prior to January 1, 1985. These assents may be issued for
2 pre-existing residential boating facilities, even though such facilities do not meet current
3 standards and policies of the council; provided, however, that the council finds that such facilities
4 do not pose any significant risk to the coastal resources of the state of Rhode Island and do not
5 endanger human safety.

6 (ii) In addition to the above criteria, the applicant shall provide clear and convincing
7 evidence that:

8 (A) The facility existed in substantially the same configuration as it now exists prior to
9 January 1, 1985;

10 (B) The facility is presently intact and functional; and

11 (C) The facility presents no significant threat to the coastal resources of the state of
12 Rhode Island or human safety.

13 (iii) The applicant, to be eligible for this provision, shall apply no later than January 31,
14 1999.

15 (iv) The council is directed to develop rules and regulations necessary to implement this
16 subdivision.

17 (v) It is the specific intent of this subsection to require that all pre-existing residential
18 boating facilities constructed on January 1, 1985 or thereafter conform to this chapter and the
19 plans, rules and regulations of the council.

20 (7) Lease of filled lands which were formerly tidal lands to riparian or littoral owners.

21 (i) Any littoral or riparian owner in this state who desires to obtain a lease from the state
22 of Rhode Island of any filled lands adjacent to his or her upland shall apply to the council, which
23 may make the lease. Any littoral or riparian owner who wishes to obtain a lease of filled lands
24 must obtain pre-approval, in the form of an assent, from the council. Any lease granted by the
25 council shall continue the public's interest in the filled lands including, but not limited to, the
26 rights of navigation, fishery, and commerce. The public trust in the lands shall continue and run
27 concurrently with the leasing of the lands by the state to private individuals, corporations, or
28 municipalities. Upon the granting of a lease by the council, those rights consistent with the public
29 trust and secured by the lease shall vest in the lessee. The council may approve a lease of filled
30 lands for an initial term of up to fifty (50) years, with, or without, a single option to renew for an
31 additional term of up to fifty (50) years.

32 (ii) The lessor of the lease, at any time, for cause, may by express act cancel and annul
33 any lease previously made to the riparian owner when it determines that the use of the lands is
34 violating the terms of the lease or is inconsistent with the public trust, and upon cancellation the

1 lands, and rights in the land so leased, shall revert to the state.

2 (8) "Marinas" as defined in the coastal resources management program in effect as of
3 June 1, 1997, are deemed to be one of the uses consistent with the public trust. Subdivision (7) is
4 not applicable to:

5 (i) Any riparian owner on tidal waters in this state (and any successor in interest to the
6 owner) which has an assent issued by the council to use any land under water in front of his or her
7 lands as a marina, which assent was in effect on June 1, 1997;

8 (ii) Any alteration, expansion, or other activity at a marina (and any successor in interest)
9 which has an assent issued by the council, which assent was in effect on June 1, 1997; and

10 (iii) Any renewal of assent to a marina (or successor in interest), which assent was issued
11 by the council and in effect on June 1, 1997.

12 (9) "Recreational boating facilities" including marinas, launching ramps, and recreational
13 mooring areas, as defined by and properly permitted by the council, are deemed to be one of the
14 uses consistent with the public trust. Subdivision (7) is not applicable to:

15 (i) Any riparian owner on tidal waters in this state (and any successor in interest to the
16 owner) which has an assent issued by the council to use any land under water in front of his or her
17 lands as a recreational boating facility; any alteration, expansion or other activity at a recreational
18 boating facility (and any successor in interest) which has an assent issued by the council, which
19 assent was in effect as of June 1, 1997; and

20 (ii) Any renewal of assent to a recreational boating facility (or successor in interest),
21 which assent was issued by the council and in effect on June 1, 1997.

22 SECTION 8. Section 23-1-1 of the General Laws in Chapter 23-1 entitled "Department
23 of Health" is hereby amended to read as follows:

24 **23-1-1. General functions of department.** -- The department of health shall take
25 cognizance of the interests of life and health among the peoples of the state; shall make
26 investigations into the causes of disease, the prevalence of epidemics and endemics among the
27 people, the sources of mortality, the effect of localities, employments and all other conditions and
28 circumstances on the public health, and do all in its power to ascertain the causes and the best
29 means for the prevention and control of diseases or conditions detrimental to the public health,
30 and adopt proper and expedient measures to prevent and control diseases and conditions
31 detrimental to the public health in the state. [The department shall consider, when feasible and](#)
32 [appropriate, the impacts of climate change in the undertaking of all powers and duties set forth in](#)
33 [this chapter.](#) It shall publish and circulate, from time to time, information that the director may
34 deem to be important and useful for diffusion among the people of the state, and shall investigate

1 and give advice in relation to those subjects relating to public health that may be referred to it by
2 the general assembly or by the governor when the general assembly is not in session, or when
3 requested by any city or town. The department shall adopt and promulgate rules and regulations
4 that it deems necessary, not inconsistent with law, to carry out the purposes of this section;
5 provided, however, that the department shall not require all nonprofit volunteer ambulance,
6 rescue service, and volunteer fire departments to have two (2) or more certified emergency
7 medical technicians manning ambulances or rescue vehicles.

8 SECTION 9. Section 23-27.3-100.1.3 of the General Laws in Chapter 23-27.3 entitled
9 "State Building Code" is hereby amended to read as follows:

10 **23-27.3-100.1.3. Creation of the state building code standards committee.** -- (a) There
11 is created as an agency of state government a state building code standards committee who shall
12 adopt, promulgate, and administer a state building code for the purpose of regulating the design,
13 construction, and use of buildings or structures previously erected, in accordance with a
14 rehabilitation building and fire code for existing buildings and structures developed pursuant to
15 chapter 29.1 of this title, and to make any amendments to them as they, from time to time, deem
16 necessary or desirable, the building code to include any code, rule, or regulation incorporated in
17 the code by reference. [The department shall consider, when feasible and appropriate, the impacts](#)
18 [of climate change in the undertaking of all powers and duties set forth in this chapter.](#)

19 (b) A standing subcommittee is made part of the state building code standards committee
20 to promulgate and administer a state housing and property maintenance code for the purpose of
21 establishing minimum requirements and standards and to regulate the occupancy and use of
22 existing premises, structures, buildings, equipment, and facilities, and to make amendments to
23 them as deemed necessary.

24 (c) A joint committee, with membership as set forth in section 23-29.1-2(a) from the
25 state building code standards committee, shall develop and recommend for adoption and
26 promulgation, a rehabilitation building and fire code for existing buildings and structures, which
27 code shall include building code elements to be administered by the state building code standards
28 committee as the authority having jurisdiction over the elements.

29 SECTION 10. Section 30-15-2 of the General Laws in Chapter 30-15 entitled
30 "Emergency Management" is hereby amended to read as follows:

31 **30-15-2. Purposes of provisions.** -- The purposes of this chapter are:

32 (1) To reduce vulnerability of people and communities of this state to damage, injury,
33 and loss of life and property resulting from natural or man-made catastrophes, riots, or hostile
34 military or paramilitary action or acts of bioterrorism;

1 (2) To prepare for prompt and efficient rescue, care, and treatment of persons victimized
2 or threatened by disaster;

3 (3) To provide a setting conducive to the rapid and orderly start of restoration and
4 rehabilitation of persons and property affected by disasters;

5 (4) To clarify and strengthen the roles of the governor, state agencies, and local
6 governments in prevention of, preparation for, and response to and recovery from disasters;

7 (5) To authorize and provide for cooperation in disaster prevention, preparedness,
8 response, and recovery;

9 (6) To authorize and provide for coordination of activities relating to disaster prevention,
10 preparedness, response, and recovery by agencies and officers of this state, and similar state-
11 local, interstate, federal-state, and foreign activities in which the state and its political
12 subdivisions may participate;

13 (7) To provide a disaster management system embodying all four (4) phases of
14 emergency management: mitigation; preparedness; response; and recovery;

15 (8) [Deleted by P.L. 2000, ch. 170, section 2];

16 (9) To prepare for emergency health threats, including those caused by acts of
17 bioterrorism, which require the exercise of extraordinary government functions;

18 (10) To provide the state with the ability to respond rapidly and effectively to potential
19 or actual public health emergencies or disaster emergencies; and

20 (11) The department shall consider, when feasible and appropriate, the impacts of climate
21 change in the undertaking of all powers and duties set forth in this chapter.

22 SECTION 11. Section 39-26-3 of the General Laws in Chapter 39-26 entitled
23 "Renewable Energy Standard" is hereby amended to read as follows:

24 **39-26-3. Purposes.** -- The purposes of this chapter are to define renewable energy
25 resources and to facilitate the development of new renewable energy resources to supply
26 electricity to customers in Rhode Island with goals of stabilizing long-term energy prices,
27 enhancing environmental quality, which may include reducing greenhouse emissions, and
28 creating jobs in Rhode Island in the renewable energy sector.

29 SECTION 12. Section 39-26.1-1 of the General Laws in Chapter 39-26.1 entitled "Long-
30 Term Contracting Standard for Renewable Energy" is hereby amended to read as follows:

31 **39-26.1-1. Purpose.** -- The purpose of this chapter is to encourage and facilitate the
32 creation of commercially reasonable long-term contracts between electric distribution companies
33 and developers or sponsors of newly developed renewable energy resources with the goals of
34 stabilizing long-term energy prices, enhancing environmental quality, reducing greenhouse gas

1 [emissions](#), creating jobs in Rhode Island in the renewable energy sector, and facilitating the
2 financing of renewable energy generation within the jurisdictional boundaries of the state or
3 adjacent state or federal waters or providing direct economic benefit to the state.

4 SECTION 13. Section 23-84-3 of the General Laws in Chapter 23-84 entitled "The
5 Rhode Island Climate Risk Reduction Act of 2010" is hereby repealed.

6 ~~**23-84-3. Creation of The Rhode Island Climate Change Commission.** (a) There is~~
7 ~~hereby created an independent commission known as "The Rhode Island Climate Change~~
8 ~~Commission" consisting of twenty nine (29) members as follows: three (3) of whom shall be~~
9 ~~members of the senate, to be appointed by the senate president, not more than two (2) from the~~
10 ~~same political party; three (3) of whom shall be members of the house of representatives, to be~~
11 ~~appointed by the speaker of the house not more than two (2) from the same political party; one of~~
12 ~~whom shall be the director of the department of environmental management, or his or her~~
13 ~~designee; one of whom shall be the executive director of the coastal resources management~~
14 ~~council, or his or her designee; one of whom shall be the director of the department of~~
15 ~~transportation, or his or her designee; one of whom shall be the chair of the Rhode Island bays,~~
16 ~~rivers, and watersheds coordination team; one of whom shall be the director of the Rhode Island~~
17 ~~department of health, or his or her designee; one of whom shall be the chief of staff of the water~~
18 ~~resources board, or his or her designee; one of whom shall be the director of the division of~~
19 ~~planning, or his or her designee; one of whom shall be the state building commissioner, or his or~~
20 ~~her designee; one of whom shall be the director of the Rhode Island emergency management~~
21 ~~agency, or his or her designee; two (2) of whom shall represent municipal governments of coastal~~
22 ~~municipalities one appointed by the senate president and one appointed by the speaker of the~~
23 ~~house; two (2) of whom shall be representatives of environmental non-profit organizations,~~
24 ~~appointed by the environment council of Rhode Island; two (2) of whom shall be representatives~~
25 ~~of business, one designated by the greater Providence chamber of commerce and one designated~~
26 ~~by the Rhode Island chamber of commerce coalition; two (2) of whom shall be representatives of~~
27 ~~higher education institutions, one appointed by the board of governors for higher education and~~
28 ~~one appointed by the association of independent colleges and universities of Rhode Island; one of~~
29 ~~whom shall be a representative of a utility distribution company having greater than one hundred~~
30 ~~thousand (100,000) customers to be appointed by the senate president; one of whom shall be the~~
31 ~~executive director of the Rhode Island realtors association, or his or her designee; one of whom~~
32 ~~shall be the executive director of the Rhode Island builders association, or his or her designee;~~
33 ~~one of whom shall be the executive director of the American institute of architects of Rhode~~
34 ~~Island, or his or her designee; one of whom shall represent the medical profession, including, but~~

1 ~~not limited to, a doctor or nurse, to be appointed by the speaker of the house; and one of whom~~
2 ~~shall represent the medical profession, including, but not limited to, a doctor or nurse, to be~~
3 ~~appointed by the speaker of the house; and one of whom shall be the director of the department of~~
4 ~~administration, or his or her designee, who shall serve as the chair.~~

5 ~~(b) The purposes of the commission shall be to study the projected impacts of climate~~
6 ~~change on Rhode Island, to identify and report methods of adapting to these climate change~~
7 ~~impacts in order to reduce likely harm and increase economic and ecosystem sustainability, and~~
8 ~~to identify potential mechanisms to mainstream climate adaptation into existing state and~~
9 ~~municipal programs including, but not limited to, policies plans, infrastructure development and~~
10 ~~maintenance.~~

11 ~~(c) The commission shall support its purposes by undertaking the following duties~~
12 ~~including but not limited to:~~

13 ~~(1) Recommending how to mainstream climate change, using a climate "lens", into~~
14 ~~existing state and local programs, policies and standards, and identify potential options to~~
15 ~~incorporate adaptation strategies.~~

16 ~~(2) Compiling existing studies, research and programs relevant to climate change trends~~
17 ~~and potential impacts in Rhode Island and identifying gaps in the research available.~~

18 ~~(3) Conducting a comprehensive overview of the risks Rhode Island may face as a result~~
19 ~~of rising air and water temperatures and sea level, increased storminess, and more intense~~
20 ~~droughts and rainfall events.~~

21 ~~(4) Investigating the vulnerability of critical roads, bridges, protection infrastructure such~~
22 ~~as hurricane barriers, dams, and revetments, and public facilities such as hospitals, schools,~~
23 ~~sewage treatment plants, parks and beaches and other critical utilities to sea level rise, increased~~
24 ~~flooding and extended extreme summer heat.~~

25 ~~(5) Exploring potential changes to floodplains and ways to notify homeowners, renters~~
26 ~~and commercial property owners of not only a property's flooding history but also its expected~~
27 ~~risk under projected levels of climate change and sea level rise.~~

28 ~~(6) Assessing ecosystem impacts such as salt marshes, forests, and urban tree canopy and~~
29 ~~researching tree and plant species that will be most resilient to climate change expected in Rhode~~
30 ~~Island, as well as ways to secure additional funding to support the expansion of urban tree canopy~~
31 ~~to thirty percent (30%).~~

32 ~~(7) Identifying potential ecosystem based adaptation options where conservation or~~
33 ~~restoration of natural ecosystems can provide key ecosystems services by minimizing risks and~~
34 ~~hazards from flooding and drought cycles.~~

1 ~~(8) Identifying ways to increase Rhode Islanders' access to critical community health~~
2 ~~services that are expected to become more important as a result of projected climate impacts.~~

3 ~~(9) Investigating potential impacts from non point source pollution due to hydrological~~
4 ~~changes including stormwater runoff options for the Phase 2 Narragansett Bay Commission's~~
5 ~~Combined Sewer Overflow project, and implementing small scale projects such as increasing the~~
6 ~~percentage of pervious surfaces in residential areas such as yards and gardens.~~

7 ~~(10) Exploring possibilities to make funds or low interest loans available for~~
8 ~~governmental entities, non profit entities and businesses to implement adaptation strategies,~~
9 ~~including green infrastructure projects on their properties, including green roofs, walls, and~~
10 ~~bioretention areas.~~

11 ~~(11) Investigating possibilities to expand energy efficiency and weatherization programs~~
12 ~~as an adaptation option.~~

13 ~~(12) Reviewing, among other things, existing local ordinances, provisions adopted by~~
14 ~~associations, deed restrictions, covenants, declarations or similar binding agreements, which~~
15 ~~prohibit or have the effect of prohibiting the installation of solar collectors, clotheslines,~~
16 ~~weatherization improvements, gardens or other energy devices based on renewable resources and~~
17 ~~proposing alternatives that would eliminate said prohibitions and authorize these types of uses as~~
18 ~~climate change mitigation and adaptation strategies for local implementation.~~

19 ~~(13) Reviewing possibilities to amend regulations to allow street parking to reduce~~
20 ~~impervious surfaces in urban areas and runoff.~~

21 ~~(14) Investigating how to support local agriculture including urban community gardens,~~
22 ~~and encouraging municipalities to foster neighborhood gardens in empty lots and parks.~~

23 ~~(15) Developing a plan to expand access to cooling and relief centers by extending hours~~
24 ~~at libraries, community centers and opening pools to the public.~~

25 ~~(16) Identifying examples and options for outreach and communication on climate~~
26 ~~change and adaptation options and recommending opportunities for coordinated outreach~~
27 ~~programs within Rhode Island.~~

28 ~~(d) Vacancies shall be filled in like manner as the original appointment. The membership~~
29 ~~of the commission shall receive no compensation for their services. All departments and agencies~~
30 ~~of the state shall furnish such advice and information, documentary and otherwise, to the~~
31 ~~commission and its agents as is deemed necessary or desirable by the commission to facilitate the~~
32 ~~purposes of this chapter. The joint committee on legislative services is hereby authorized and~~
33 ~~directed to provide suitable quarters for the commission.~~

34 ~~(e) The commission shall provide a report of its findings and recommendations to the~~

1 ~~governor and the general assembly no later than March 1, 2011, and every March 1 thereafter.~~

2 SECTION 14. This act shall take effect upon passage.

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LC005453
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO STATE AFFAIRS AND GOVERNMENT -- CLIMATE CHANGE

1 This act would repeal the Rhode Island climate change commission and would create a
2 climate change council in the executive department. It would suggest the impacts of climate
3 change be taken into consideration by department directors.

4 This act would take effect upon passage.

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LC005453
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