

2019 -- H 5390

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO WATERS AND NAVIGATION -- THE MUNICIPAL WATER SUPPLY
SYSTEMS TRANSACTIONS ACT

Introduced By: Representatives Slater, Hull, Almeida, and Diaz

Date Introduced: February 14, 2019

Referred To: House Finance

It is enacted by the General Assembly as follows:

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

3 CHAPTER 32

4 MUNICIPAL WATER SUPPLY SYSTEMS TRANSACTIONS ACT

5 **46-32-1. Short title.**

6 This act shall be known and may be cited as the "Municipal Water Supply Systems
7 Transactions Act."

8 **46-32-2. Legislative findings.**

9 (a) The purpose of this chapter is to authorize municipal water supply systems and
10 regional water quality management district commissions to enter into transactions with other
11 municipal water supply systems and regional water quality management district commissions as
12 well as any public or private operator of a water supply system or water quality management
13 system, notwithstanding, the provisions of any charter, other laws or ordinances, general, special,
14 or local, or of any rule or regulation of any state public body, restricting or regulating in any
15 manner the power of any municipal water supply system, regional water quality management
16 district commission, or public or private operator of a water supply system or water quality
17 management system.

18 (b) It is hereby found and declared that:

1 (1) Municipal water supply systems and regional water quality management district
2 commissions providing the protection, development, management, financial security, and use of
3 water should be integrated with each other or with other public or private operators of water
4 supply systems or water quality management systems in a manner that serves the citizens of
5 Rhode Island most efficiently and cost-effectively.

6 (2) It is in the state's economic and environmental interests to coordinate the efforts of
7 municipal water supply systems and regional water quality management district commissions
8 with each other or with other public or private operators of water supply systems or water quality
9 management systems to collect, treat, distribute, store and protect water supplies, and to collect,
10 dispose and treat sewage and waste water.

11 (3) Coordination of municipal water supply systems and regional water quality
12 management district commissions with each other or with other public or private operators of
13 water supply systems or water quality management systems provides efficiencies inuring to the
14 benefit of the state's citizens in the form of reliable, cost-effective, high-quality water and water
15 disposal systems that protect public health, promote environmental stewardship, reduce
16 redundancy, maintain customer confidence, and support a prosperous economy.

17 (4) It is in the economic and environmental interests of Rhode Island citizens to develop
18 and facilitate efficient planning for the delivery of drinking water and sewage collection, disposal,
19 and treatment services vested with the operating, financing and regulatory powers to provide
20 appropriate means for addressing such needs.

21 **46-32-3. Powers to enter into transactions.**

22 (a) Notwithstanding the provisions of any charter, other laws or ordinances, general,
23 special, or local, or of any rule or regulation restricting or regulating in any manner the power of
24 municipal water supply systems or regional water quality management district commissions, such
25 municipal water supply systems and regional water quality management district commissions are
26 authorized to enter into transactions ("transactions") with other municipal water supply systems,
27 regional water quality management district commissions, and public or private operators of water
28 supply systems or water quality management systems to facilitate the coordination of their
29 operations for the purposes aforesaid.

30 (b) Upon the consummation of a transaction, subject to § 46-32-5, the surviving entity
31 shall be considered a "public utility" as defined in § 39-1-2.

32 (c) Notwithstanding the foregoing, §§ 39-3-24, 39-3-25 or any other general law to the
33 contrary, neither the Rhode Island public utilities commission nor the Rhode Island division of
34 public utilities and carriers shall have any jurisdiction, authority, or other power to approve,

1 reject, review, or in any way affect any transaction.

2 **46-32-4. Rate determinations.**

3 (a) Any existing rates and charges, which are in effect at the time a transaction is
4 consummated, shall continue in full force and effect until otherwise determined by this section.

5 (b) Subsequent to a transaction, rates and charges shall be established such as to provide
6 revenues sufficient at all times to pay, as the same shall become due, any and all payments
7 required to be made to a municipality that has entered into a transaction, the principal and interest
8 on any notes or bonds, together with the maintenance of proper reserves therefore, in addition to
9 paying, as the same shall become due, all expenses of operating and maintaining the water supply
10 system, together with proper reserves for depreciation, maintenance, and contingencies and all
11 other obligations and indebtedness.

12 (c) The Rhode Island public utilities commission and the Rhode Island division of public
13 utilities and carriers shall recognize and apply all payments made to a municipality pursuant to a
14 transaction in its review and approval of rates, including, but not limited to, those payments and
15 fees referenced in §§ 46-32-3 and 46-32-5, respectively.

16 (d) Subject to the foregoing, during the five (5) years subsequent to the effective date of a
17 transaction, neither the Rhode Island public utilities commission nor the Rhode Island division of
18 public utilities and carriers shall have any jurisdiction, authority or power to approve or in any
19 way affect an increase in rates applicable to affected residential, commercial, industrial or
20 wholesale ratepayers such that during said five (5) year period would exceed, in total, the
21 percentage rate increase for such water ratepayers during the five (5) year period prior to the
22 effective date of the transaction. Notwithstanding the foregoing, the Rhode Island public utilities
23 commission and the Rhode Island division of public utilities and carriers shall have the authority
24 to increase such rate to cure, avoid, or otherwise respond to a water shortage or other water
25 emergency. Nothing herein shall be construed to limit any party to a transaction from recovering
26 all payments, rates, rents, assessments, fees and other costs or charges of all costs of service from
27 all water users in its system.

28 **46-32-5. Special provisions applicable to transactions.**

29 (a) Each party to a transaction shall pay its own reasonably incurred fees, costs and
30 expenses, including, but not limited to, legal, accounting, and engineering fees. Notwithstanding
31 the foregoing, in the event a transaction is consummated, the terms of such transaction may
32 provide for reimbursement of the aforesaid fees, costs, and expenses, which may be financed to
33 the extent permitted under applicable law. In the event that the transacting parties' costs are
34 financed, payment of such costs shall not be subject to review and approval by the Rhode Island

1 [public utilities commission or the Rhode Island division of public utilities and carriers.](#)

2 [\(b\) In any transaction, the transacting parties are authorized to assume such debts related](#)
3 [to such properties and assets being transferred as such parties shall deem appropriate. Such debts](#)
4 [may include notes, bonds, and any other outstanding debts.](#)

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO WATERS AND NAVIGATION -- THE MUNICIPAL WATER SUPPLY
SYSTEMS TRANSACTIONS ACT

1 This act would authorize any municipal water supply system and any regional water
2 quality management district commission to enter into a transaction with municipal water supply
3 systems or regional water quality management district commissions notwithstanding any charter,
4 other laws or ordinances, general, special, or local, or of any rule or regulation of any state public
5 body to the contrary.

6 This act would take effect upon passage.

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