

2021 -- S 0078 SUBSTITUTE A

LC001231/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- 2021 ACT ON CLIMATE

Introduced By: Senators Euer, Ruggerio, McCaffrey, Goodwin, Sosnowski, Coyne,
Cano, Murray, Valverde, and Kallman

Date Introduced: January 26, 2021

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. The title of Chapter 42-6.2 of the General Laws entitled "Resilient Rhode
2 Island Act of 2014 - Climate Change Coordinating Council" is hereby amended to read as follows:

3 ~~CHAPTER 42-6.2~~

4 ~~Resilient Rhode Island Act of 2014 - Climate Change Coordinating Council~~

5 CHAPTER 42-6.2

6 2021 ACT ON CLIMATE

7 SECTION 2. Sections 42-6.2-1, 42-6.2-2, 42-6.2-3, 42-6.2-7 and 42-6.2-8 of the General
8 Laws in Chapter 42-6.2 entitled "Resilient Rhode Island Act of 2014 - Climate Change
9 Coordinating Council" are hereby amended to read as follows:

10 **42-6.2-1. Creation -- Members.**

11 There is hereby established within the executive branch of state government a Rhode Island
12 executive climate change coordinating council (the "council") comprised of officials from state
13 agencies with responsibility and oversight relating to assessing, integrating, and coordinating
14 climate change efforts. The council shall include, but not be limited to, the following members: the
15 director of the department of environmental management; the executive director of the coastal
16 resources management council; the director of the department of administration; the director of the
17 department of transportation; the director of the department of health; the director of the emergency
18 management agency; the commissioner of the office of energy resources; the director of the
19 division of planning; the executive director of the Rhode Island infrastructure bank; the

1 administrator of the division of public utilities and carriers; the chief executive officer of the Rhode
2 Island public transit authority; the secretary of the executive office of health and human services;
3 and the ~~chief executive officer~~ secretary of the Rhode Island commerce corporation.

4 **42-6.2-2. Purpose of the council.**

5 (a) The council shall have the following duties:

6 (1) Assess, integrate, and coordinate climate change efforts throughout state agencies to
7 reduce emissions, strengthen the resilience of communities and infrastructure, and prepare for the
8 effects on climate change, including, but not limited to, coordinating vulnerability assessments
9 throughout state government;

10 (2)(i) No later than ~~December 31, 2017~~ December 31, 2025, and every five (5) years
11 thereafter, submit to the governor and general assembly ~~a~~ an updated plan, following an opportunity
12 for public comment, that includes strategies, programs, and actions to meet economy-wide
13 enforceable targets for greenhouse gas emissions reductions as follows:

14 (A) Ten percent (10%) below 1990 levels by 2020;

15 (B) Forty-five percent (45%) below 1990 levels by ~~2035~~ 2030;

16 (C) Eighty percent (80%) below 1990 levels by ~~2050~~ 2040;

17 (D) Net-zero emissions by 2050.

18 No action shall be brought pursuant to: subsection (a)(2)(i)(B) of this section before 2031,
19 pursuant to subsection (a)(2)(i)(C) of this section before 2041, and pursuant to subsection
20 (a)(2)(i)(D) of this section before 2051.

21 (ii) The plan shall also include procedures and public metrics for periodic measurement,
22 not less frequently than once every five (5) years, of progress necessary to meet these targets and
23 for evaluating the possibility of meeting higher targets through cost-effective measures.

24 ~~(ii) The plan shall specifically study the effectiveness of the state and/or multi-state carbon~~
25 ~~pricing program to incentivize institutions and industry to reduce carbon emissions. The study shall~~
26 ~~include the effectiveness of allocating revenues generated from such carbon pricing program to~~
27 ~~fund enhanced incentives to institutions and industry for targeted efficiency measures; projected~~
28 ~~emissions reductions; economic impact to businesses; any economic benefits to Rhode Island; and~~
29 ~~impacts to the state's economic competitiveness if the program were implemented.~~

30 (iii) The plan shall address in writing the annual input that is provided to the council by its
31 advisory board, as set forth in § 42-6.2-4, and its science and technical advisory board, as set forth
32 in § 42-6.2-5, in their reports to the council.

33 (iv) If a plan directs an agency to promulgate regulations, then the agency must do so by
34 either issuing an advance notice of proposed rulemaking, as set forth in § 42-35-2.5, no later than

1 six (6) months after the plan is released or by issuing a notice of proposed rulemaking, as set forth
2 in § 42-35-2.7, no later than one year after the plan is released, unless the plan specifies another
3 timeframe for an advance notice of rulemaking or a notice of rulemaking.

4 (v) The plan shall include an equitable transition to climate compliance for environmental
5 justice populations, redress past environmental and public health inequities, and include a process
6 where the interests of and people from populations most vulnerable to the effects of climate change
7 and at risk of pollution, displacement, energy burden, and cost influence such plan.

8 (vi) The plan shall identify support for workers during this equitable transition to address
9 inequity in the state by creating quality and family-sustaining clean energy jobs that pay wages and
10 benefits consistent with or that exceed area wage and labor standards. The plan shall provide for
11 the development of programs that directly recruit, train, and retain those underrepresented in the
12 workforce, including women, people of color, indigenous people, veterans, formerly incarcerated
13 people, and people living with disabilities.

14 (vii) The requirements under this subsection shall be subject to the enforcement provisions
15 of § 42-6.2-10 effective in 2026.

16 (viii) No later than December 31, 2022, the council shall submit to the governor and the
17 general assembly an update to the greenhouse gas emission's reduction plan dated "December
18 2016" which shall not be subject to the requirements of § 42-6.2-2(a)(2)(ii) through (a)(2)(vi). No
19 action shall be brought pursuant to subsection (a)(2)(viii) of this section before 2023.

20 (3) Advance the state's understanding of the effects on climate change including, but not
21 limited to, sea level rise, coastal and shoreline changes, severe weather events, critical infrastructure
22 vulnerability, food security, and ecosystem, economic, and health impacts, including the effects of
23 carbon pollution on children's health;

24 (4) Identify strategies to prepare for these effects and communicate them to Rhode
25 Islanders, including strategies that incentivize businesses, institutions, and industry to adapt to
26 climate change;

27 (5) Work with municipalities to support the development of sustainable and resilient
28 communities;

29 (6) Identify and leverage federal, state, and private funding opportunities for emission
30 reduction and climate change preparedness and adaptation work in Rhode Island;

31 (7) Advise the governor, the general assembly, and the public on ways to ensure that Rhode
32 Island continues to be a national leader in developing and implementing strategies that effectively
33 address the challenges on climate change;

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

1 common goals; and

2 (9) Identify and facilitate opportunities to educate the public about climate change and
3 efforts throughout state agencies and municipalities to address climate change.

4 (b) The council is encouraged to utilize the expertise of Rhode Island universities and
5 colleges in carrying out the duties described in subsection (a) of this section, specifically to ensure
6 that the state's efforts to mitigate and adapt to climate change are based on the best available
7 scientific and technical information, and to optimize the contribution by the universities and
8 colleges of their expertise and experience in research, analysis, modeling, mapping, applications to
9 on-the-ground situations, technical assistance, community outreach, and public education.

10 **42-6.2-3. Support for the council.**

11 To support the council's work, state agencies shall:

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

13 (2) Develop short-and long-term greenhouse gas emission reduction strategies and track
14 the progress of these strategies;

15 (3) ~~To~~ Lead by example and, to the maximum extent feasible, purchase alternative fuel,
16 hybrid, and electric vehicles that produce lower total emissions of greenhouse gases and develop
17 programs to encourage state employees to reduce their vehicle miles and use sustainable
18 transportation alternatives, including public transit systems;

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

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

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

26 (7) Assess the vulnerability of infrastructure and natural systems, including, but not limited
27 to, roads, bridges, dams, and wastewater and drinking water treatment facilities, and riverine and
28 coastal habitats, to impacts on climate change and ~~recommend~~ implement strategies to relocate or
29 protect and adapt these assets;

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

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

1 vibrant and resilient food system that can provide affordable access to healthy food for all Rhode
2 Islanders;

3 (10) ~~Develop a climate and health profile report that documents the range of~~ Address
4 recommendations to reduce health impacts associated with climate change and ~~identifies~~ protect
5 the ~~most vulnerable~~ populations most vulnerable to the effects of climate change and at risk of
6 pollution, displacement, energy burden, and cost;

7 (11) Encourages municipalities to incorporate climate change adaptation into local hazard
8 mitigation plans and, when feasible, into hazard mitigation projects; ~~and~~

9 (12) Take affirmative steps to eliminate and avoid duplication of effort through consistent
10 coordination between agencies and programs, and pooling of resources, so as to make the most
11 cost-efficient use of the state resources and provide the most effective services; ~~and~~ and

12 (13) Foster public transparency by developing public metrics and an online public
13 dashboard that shall track both emissions reductions and sources of energy consumed by the state.
14 The metrics and the dashboard shall be updated at least annually.

15 **42-6.2-7. Reporting.**

16 No later than May 1, 2015, and annually thereafter, the council shall issue a report of its
17 findings, recommendations, and progress on achieving the purposes and requirements of this
18 chapter.

19 **42-6.2-8. Powers and duties of state agencies -- Exercise of existing authority.**

20 ~~Consideration of~~ Addressing the impacts on climate change shall be deemed to be within
21 the powers, ~~and~~ duties, and obligations of all state departments, agencies, commissions, councils,
22 and instrumentalities, including quasi-public agencies, and each shall ~~be deemed to have and to~~
23 exercise among its purposes in the exercise of its existing authority, the purposes set forth in this
24 chapter pertaining to climate change mitigation, ~~adaption~~ adaptation, and resilience in so far as
25 climate change affects ~~the~~ its mission, duties, responsibilities, projects, or programs ~~of the entity.~~
26 Each agency shall have the authority to promulgate rules and regulations necessary to meet the
27 greenhouse gas emission reduction mandate established by § 42-6.2-9.

28 SECTION 3. Chapter 42-6.2 of the General Laws entitled "Resilient Rhode Island Act of
29 2014 - Climate Change Coordinating Council" is hereby amended by adding thereto the following
30 sections:

31 **42-6.2-9. Statewide greenhouse gas emission reduction mandate.**

32 Mandatory targets for emissions reduction:

33 It is hereby established that the state shall reduce its statewide greenhouse gas emissions
34 to the targets set forth in § 42-6.2-2(a)(2)(i), as those targets may be from time to time be revised,

1 and that achieving those targets shall be mandatory under the provisions of this chapter. The targets
2 at the time of the enactment of this act are that greenhouse gas emissions shall be ten percent (10%)
3 below 1990 levels by 2020, shall be forty-five percent (45%) below 1990 levels by 2030; eighty
4 percent (80%) below 1990 levels by 2040, and shall be net-zero emissions by 2050.

5 **42-6.2-10. Enforcement.**

6 (a) The provisions of this chapter may be enforced by means of an action in the superior
7 court seeking either injunctive relief, a declaratory judgment, a writ of mandamus or any
8 combination thereof, for:

9 (1) Climate plans required by § 42-6.2-2(a)(2); or

10 (2) The greenhouse gas emissions reduction mandate required by § 42-6.2-9.

11 (b) No such action may be commenced without the plaintiff providing written notice of the
12 violations of this chapter to defendants at least sixty (60) days prior to filing a legal action in
13 superior court. Where the defendant is a government entity, no costs or fees shall be awarded if a
14 court determines that substantive action was taken during the sixty (60) day period. No such action
15 shall be brought before 2026.

16 (c) Unless otherwise authorized in this chapter, no such action shall be brought prior to
17 2026.

18 (d) Venue for such actions shall be proper in the superior court.

19 (e) The Rhode Island attorney general, any Rhode Island resident and any Rhode Island
20 corporation, company, organization, nonprofit or other Rhode Island legal entity or organization
21 registered with the Rhode Island secretary of state may bring a civil action to enforce this chapter.

22 (f) The court may award costs of litigation (including reasonable attorney and expert
23 witness fees) to any substantially prevailing party. Provided, however, nothing in this section shall
24 restrict any right which any person (or class of persons) may have under any statute or common
25 law.

26 **42-6.2-11. Liberal construction.**

27 This chapter, being necessary for the welfare of the state and its inhabitants, shall be
28 liberally construed so as to effectuate its purposes.

29 **42-6.2-12. Severability.**

30 If any clause, sentence, paragraph, section, or part of this chapter shall be adjudged by any
31 court of competent jurisdiction to be invalid, that judgment shall not affect, impair, or invalidate
32 the remainder of the chapter but shall be confined in its operation to the clause, sentence, paragraph,
33 section, or part directly involved in the controversy in which that judgment shall have been
34 rendered.

1 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- 2021 ACT ON CLIMATE

- 1 This act would establish a statewide greenhouse gas emission reduction mandate.
- 2 This act would take effect upon passage.

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