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LC02791
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2006

A N A C T

RELATING TO AN AMENDMENT OF CHAPTER 330 OF THE PUBLIC LAWS OF 1997
ENTITLED "AN ACT TO CREATE A SEWER AUTHORITY FOR THE TOWN OF
COVENTRY AND TO AUTHORIZE SAID TOWN TO PLAN, CONSTRUCT, FINANCE,
OPERATE AND MAINTAIN SEWAGE WORKS"

Introduced By: Senators Blais, and Raptakis

Date Introduced: March 23, 2006

Referred To: Senate Commerce, Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 1, 9, 14 and 23 of Chapter 330 of the public laws of 1997 as
2 amended entitled, "An Act to Create A Sewer Authority For The Town Of Coventry And To
3 Authorize Said Town, To Plan, Construct, Finance, Operate And Maintain Sewage Works" are
4 further amended to read as follows:

5 Sec. 1. The Town of Coventry is authorized and empowered in accordance with the
6 provisions of this act, to plan, lay out, construct, finance, operate and maintain sewage works for
7 a part or the whole of its territory and for such purposes to take by eminent domain or otherwise
8 any lands, water rights, rights-of-way, or easements, public or private, in said town necessary for
9 accomplishing any purpose mentioned in this act. Such sewage works may include sewers and
10 sewer service connections, pumping stations, sewage treatment works, sewage disposal works,
11 and other works essential to the proper collection and disposal of the sewage of said town.

12 As used in this act, unless the context otherwise requires:

13 "Preliminary plans" shall mean engineering reports which shall conform to all applicable
14 state and federal guidelines and shall include detailed scope and area to be considered with
15 recommendations, preliminary and feasibility investigation, environmental assessment, cost
16 studies, economic comparisons of alternatives and all application and pre-application work and
17 other work necessary or desirable before undertaking working plans.

1 "Working plans" shall mean final design plans of facilities, detailed construction
2 drawings, specifications, detailed estimate of cost of construction, and shall include all other
3 engineering work which may be required or advisable for actual construction of sewage works.

4 "Town" means the Town of Coventry.

5 "Council" means the town council of the Town of Coventry.

6 "Highways" means any state or other highway and any public street, alley, park, parkway,
7 driveway, bridge or public place.

8 "Sewage works" means all constructions for collection, transportation, pumping,
9 treatment and final disposal of sewage.

10 "Common sewer" means a sewer in which all abutters have equal rights of entrance and
11 use.

12 "Force main" means a sewer wherein sewage is moved by pressure.

13 "Sewer service connection" means a pipe to convey sewage and wastes from a building to
14 a common sewer.

15 "Sewage" shall mean wastewater, water-carried wastes, or a combination of them,
16 discharged into and conveyed by sewers or intended or customarily so discharged and conveyed.
17 Sewage may be further classified as follows:

18 "Sanitary sewage" shall mean the common wastewater and water-carried wastes from
19 human dwellings and from toilet and lavatory fixtures, kitchens, laundries, and similar facilities
20 of business and industrial buildings. In general, sanitary sewage shall not include storm water
21 from roofs, yards, streets or open spaces, water from land surfaces or brooks, clean waste
22 overflows from springs, wells, or subsoil drainage, large volumes of clean water from air
23 conditioning or other cooling or condensing facilities, clean wastewater from hydraulically
24 operated contrivances and those wastes included within the definition of "industrial wastes" next
25 following.

26 "Industrial wastes" shall include the liquid or water-carried wastes of any industrial
27 process not clearly included within the definitions of sanitary sewage, storm water, cooling water
28 or subsoil drainage herein. In general, wastewaters carrying any quantity of oils, grease, fats,
29 abrasives, chemicals, residues of manufacturing processes, wastes from commercial food
30 preserving or canning, from slaughterhouses or meat processing plants, and similar substances,
31 whether dissolved, in suspension, or mechanically carried by water, shall be considered as
32 industrial wastes.

33 "Storm water" shall include the runoff or discharge of rain and melted snow or other
34 clean water from roofs, surfaces of public or private lands or elsewhere. For most purposes within

1 the scope of this act, storm water shall not include the flow of any natural brook, rivulet or stream
2 even if the source of such water is storm runoff from land or other property once that runoff has
3 entered the channel of such brook or natural watercourse. In general, storm water shall include
4 only water which is sufficiently clean and unpolluted to admit of being discharged, without
5 treatment or purification, into any natural open stream or watercourse without offense.

6 "Cooling water" shall include the clean wastewater from air conditioning, industrial
7 cooling, condensing and similar apparatus and from hydraulically powered equipment. In general,
8 cooling water will include only water which is sufficiently clean and unpolluted to admit of being
9 discharged, without treatment or purification, into any natural open stream or watercourse without
10 offense.

11 "Seepage" or "subsoil drainage" shall include water from the soil percolating into subsoil
12 drains and through foundation walls, basement floors, or underground pipes or from similar
13 sources.

14 "Lateral sewer" means a sewer which does not receive the sewage from any other
15 common sewer.

16 "Submain sewer" means a sewer into which the sewage from two (2) or more lateral
17 sewers is discharged.

18 "Main sewer" means a sewer into which the sewage from two (2) or more submain
19 sewers is discharged.

20 "Land" means and includes any land, including building and other improvements thereon,
21 estate, riparial or other right, easement, interest or waterway.

22 The Town of Coventry may provide for the construction of sewers and for other sewage
23 works for said town and may raise funds therefor by borrowing or otherwise, and for that purpose
24 may issue bonds or notes of the town in accordance with the provisions hereinafter stated or
25 under other authority.

26 The town council shall provide that annual charges shall be made upon the owners of the
27 lands using the sewage works and that sewer assessments shall be made upon the owners of lands
28 for which the use of sewage works is available. The receipts from annual charges and sewer
29 assessments shall be appropriated for and applied to the payment of the charges and expenses
30 incident to the planning, construction, financing, operation and maintenance of the sewage works,
31 and to the payment of principal costs for any bonds or notes issued for sewage works; ~~and any~~
32 ~~deficiency of said receipts in any year for said purposes shall be met by appropriation by the town~~
33 ~~council and assessment in the regular town tax. The receipts from annual charges shall, however,~~
34 ~~be held in a separate account and said receipts shall be used solely for the maintenance and~~

1 ~~operations of the treatment plant.~~ Nothing in this act shall limit or affect the rights or obligations
2 of the town of Coventry, including obligations of the town acting by and through its financial
3 town meeting or its town council, to appropriate monies from its regular town tax to fund its
4 obligations under the intermunicipal agreement in wastewater services between the town of West
5 Warwick and the town of Coventry, as amended and restated from time to time, and the Loan and
6 Trust Agreement among the Rhode Island economic development corporation, the town of
7 Coventry and J.P. Morgan Trust Company, National Association dated as of December 1, 2003,
8 as amended from time to time.

9 Sec. 9. ~~The council shall determine that proportion of the cost of constructing, operating~~
10 ~~and maintaining the sewage works, provided for in section 1 of this act, the town shall pay by~~
11 ~~general taxation and what portions shall be paid by assessments and annual charges against~~
12 ~~individual parcels of property, and shall pay at least one fourth and not more than two thirds of~~
13 ~~the cost of constructing, operating and maintaining said sewage works. Costs not assessed by~~
14 ~~reason of section 12 or 13 shall be borne by the town in addition to the proportion determined~~
15 ~~above.~~ The council shall prescribe just and equitable sewer assessment rates on account of the
16 construction costs, to be levied against owners of property abutting on that portion of any
17 highway in which a common sewer is laid under this act and also rates of annual charge, on
18 account of operating and maintenance costs, to be levied against owners of property which is
19 connected to a common sewer.

20 Sewer assessments shall be levied at a uniform rate based upon the estimated cost of
21 constructing all sewers, sewer service connections and other sewage works belonging to the town.
22 Annual charges shall be computed according to water consumption or other factors deemed
23 equitable by the council. Such annual charges herein referred to shall be paid annually by every
24 property owner or institution whose property is connected to the town sewage works.

25 The sewer assessments may be determined according to the number of units for
26 residential dwellings and property valuation for non-residential buildings. The council may, from
27 time to time, redetermine the rates fixed for sewer assessments, if construction costs warrant, and
28 may redetermine rates for annual charges if costs so warrant.

29 The sewer assessments herein referred to shall be paid by every property owner or
30 institution whose property is abutting on that portion of any highway in which a common sewer is
31 laid under this act or is connected to the town's sewage works. Sewer assessments levied
32 hereunder may be paid in as many as twenty (20) annual installments, upon application by the
33 property owner and approval of the council. In the case of installment payments, interest at a rate

1 not to exceed eight percent (8%) per annum, shall be charged annually on the unpaid balance of
2 the total sewer assessment.

3 The council shall annually certify to the town treasurer all the annual charges and sewer
4 assessments made by it under the authority of this act. Each charge or assessment made by said
5 council pursuant to this act shall be a lien upon the lands, buildings and improvements upon
6 which it is made in the same way and manner as taxes assessed on real estate, but such liens shall
7 not expire until the charge or assessment with all interest, costs and penalties thereon is paid in
8 full, and, if the charge or assessment is not paid as required, it shall be collected in the same
9 manner that taxes assessed on real estate are by law collected. Such annual charges and sewer
10 assessments shall be due and payable at the time the regular town taxes are first due and payable
11 next after the date of receipt by the town treasurer of the aforesaid certificate of said annual
12 charges and sewer assessments from the council. The town treasurer, after receiving a list of
13 charges or assessments under this section, shall forthwith, at the expense of the town, send to
14 each person assessed or charged notice of the amount of his or her assessment or charge. The
15 notice shall substantially identify the person assessed, state the amount of the assessment or
16 charge and refer to the remedy available under section 19 of this act. The notice shall be mailed
17 postpaid and directed to the last known address of the person assessed. If there are persons whose
18 addresses are unknown, a similar notice covering the assessments against such persons shall be
19 published in a newspaper of general circulation in the town and such published notice may be a
20 single collective notice for all such persons. No irregularity in the notice required by this section
21 shall excuse the nonpayment of the assessment or charge or affect its validity or any proceedings
22 for the collection thereof as long as there is substantial compliance with the provisions hereof. No
23 deficiency in the notice to the person assessed shall excuse the nonpayment by others of the
24 assessment or charges assessed against them or affect the validity thereof or any proceedings for
25 the collection thereof. The tax collector shall without further warrant collect such annual charges
26 and assessments in the same manner and at the same time as the regular taxes of the town are first
27 payable. Interest at the rate per annum fixed for nonpayment of town taxes shall be charged and
28 collected upon all overdue charges and assessment from the date they become payable until paid.

29 The council may at any time cancel in whole or in part any charge or assessment to the
30 extent the council determines such charge or assessment to have been improperly imposed.

31 Sec. 14. The council in behalf of the town may acquire by agreement, purchase or
32 condemnation such land or right or easement in land as may be necessary for the purposes of this
33 act. Whenever the council desires to take any such land or right or easement in land by
34 condemnation, it shall file with the town clerk a plat, description, and statement of such land or

1 right or easement in land to be taken and a statement that such land or right or easement in land is
2 taken pursuant to the provisions of this act.

3 Upon the recording of said plat, description and statement in the office of the town clerk,
4 the land or easement in land defined in such plat, description and statement to the extent and
5 according to the nature of the interest therein taken, shall vest in the town and shall be subject to
6 the use of the council for the purposes of this act, and said council may thereupon enter upon and
7 enjoy the rights, interests and easements taken as aforesaid; and after the filing of such plat,
8 description and statement, notice of such taking shall be served upon the owners of and persons
9 having an estate in and interested in such land by any police officer of the town of Coventry
10 leaving a true and attested copy of such description and statement with each of such persons
11 personally, or at their last and usual place of abode in this state with some person living therein,
12 and, in case any of such persons are absent from this state and have no last and usual place of
13 abode therein occupied by any person, such copy shall be left with the persons, if any, in charge
14 of or having possession of such land of such absent persons, and another copy thereof shall be
15 mailed to the address of such absent persons if the same is known to said officer; and after the
16 filing of such description and statement, the town clerk of said town shall cause a copy of such
17 description and statement to be published in some newspaper or newspapers published or
18 circulated in said town at least twice a week for three (3) successive weeks; and if any party shall
19 agree with said council for the price of the rights, interests or easements so taken, the same shall
20 be paid to him or her forthwith by said council.

21 The council shall have general authority to represent the town and to make any
22 agreements for said town under the authority of this section and to do any acts or things necessary
23 or incidental to executing settlements and agreements, and shall have authority to agree with the
24 owner for the price of land so taken and the same shall be paid by the town treasurer out of the
25 proceeds of bonds or notes issued hereunder or other funds made available for the purpose, upon
26 vouchers approved by the majority of the council and the town treasurer.

27 Any owner of or person entitled to any estate in or interested in any part of the land in
28 which such fee, rights, interests or easements are so taken who cannot agree with said town for
29 the price such fee, rights, interests or easements so as taken in which he or she is interested as
30 aforesaid, may, within one (1) year from the filing of the plat, description and statement referred
31 to in this section of this act, apply by petition to the superior court in and for the county of Kent,
32 setting forth the taking of such fee, rights, interests or easements in his or her land and praying for
33 an assessment of damages by a jury. Upon the filing of said petition the court shall cause twenty
34 (20) days' notice of the pendency thereof to be given to said town by serving the town treasurer of

1 said town with a certified copy thereof, and may proceed after such notice to the trial thereof, and
2 such trial shall determine all questions of fact relating to the value of such fee, rights, interests or
3 easements and the amount thereof, and judgment shall be entered upon the verdict of such jury
4 and execution shall be issued therefor.

5 In case any owner of or person having an estate in or interested in such land, shall fail to
6 receive personal notice of the taking as aforesaid, and shall fail to file the petition as provided in
7 this section, said court in its discretion may permit the filing of such petition subsequent to said
8 period of one (1) year from the filing of such description and statement; provided, such person
9 shall have no actual knowledge of the taking of such fee, right, interest or easement in season to
10 file such petition.

11 If any lands, or any fee, rights, interests or easements therein, in which any infant or other
12 person not capable in law to act in his or her own behalf is interested, are taken by said council
13 under the provisions of this act, said superior court, upon the filing thereof any such petition by or
14 in behalf of such infant or other person, may appoint a guardian ad litem for such infant or other
15 person, and such guardian may appear and be heard in behalf of such infant or other person; and
16 such guardian may also with the advice and consent of said superior court may prescribe, release
17 to said town or council all claims for damages for the fee, rights, interests or easements in the
18 lands of such infant or other person. Any lawfully appointed, qualified and acting guardian of the
19 estate of such infant or other person with the approval of the court of probate within this state
20 having jurisdiction to authorize the sale of lands within this state of any such infant or person,
21 may, before the filing of any such petition, agree with said council upon the amount of damages
22 suffered by such infant or other person by any such taking and may, upon receiving such amount,
23 release to said town or council all claims of damages of such infant or other person for such
24 taking.

25 Any damages assessed as the result of petition to the superior court shall be paid by the
26 town treasurer provided, however, that nothing in this act shall authorize the council to condemn
27 any portion of the land or right-of-way of any railroad, street railway or other public service
28 company, except for the purpose of crossing the same below grade and of building and
29 maintaining necessary manholes at such crossing in such manner as not to render unsafe, or to
30 impair the usefulness of such land or right-of-way for railroad or street railway purposes or the
31 purposes of such other public service company. If said council and such railroad, street railway or
32 other public service company are unable to agree as to the method of the construction and
33 maintenance of such sewer and manholes at any such crossing, either party may apply to the
34 division of public utilities for a determination thereof, and, after hearing, such sewer and

1 manholes shall be constructed and maintained in such method and manner as may be ordered by
2 said division. Either party aggrieved by such order of said division may appeal to the supreme
3 court.

4 Prior to any taking hereunder, the council shall provide specific funds for payment of
5 compensation, the use of such funds for such purpose shall be fixed obligation of the town, ~~and,~~
6 payable from assessments and annual charges; provided, that notwithstanding anything to the
7 contrary herein, the council may determine that the full faith and credit of the town shall be
8 deemed pledged to pay such compensation.

9 Sec. 23. This act shall not affect any other power which the town may have under any
10 other provisions of law to incur indebtedness.

11 Sections 8.18 and 8.19 of the Coventry Home Rule Charter shall not apply to capital
12 improvement programs or projects for the sewage works, if the town finances such programs or
13 projects through the issuance of bonds or notes as local government obligations payable from
14 wastewater system revenues, assessments and annual charges pursuant to title 46-12.2 of the
15 general laws, and not as general obligations secured by the full faith and credit and taxing power
16 of the town.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO AN AMENDMENT OF CHAPTER 330 OF THE PUBLIC LAWS OF 1997
ENTITLED "AN ACT TO CREATE A SEWER AUTHORITY FOR THE TOWN OF
COVENTRY AND TO AUTHORIZE SAID TOWN TO PLAN, CONSTRUCT, FINANCE,
OPERATE AND MAINTAIN SEWAGE WORKS"

- 1 This act would amend the Town of Coventry's sewer system enabling legislation to
- 2 permit the town to issue bonds and notes secured solely by sewer system revenues to the Rhode
- 3 Island Clean Water Finance Agency.
- 4 This act would take effect upon passage.

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