

2012 -- H 7333

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO WATERS AND NAVIGATION - SEPARATION OF POWERS - COASTAL
RESOURCES MANAGEMENT COUNCIL

Introduced By: Representatives Ehrhardt, Malik, and Walsh

Date Introduced: February 02, 2012

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 46-23-2, 46-23-2.1 and 46-23-4 of the General Laws in Chapter
2 46-23 entitled "Coastal Resources Management Council" are hereby amended to read as follows:

3 **46-23-2. Coastal resources management council created -- Appointment of**
4 **members. --** (a) There is hereby created the coastal resources management council; which shall
5 consist of twelve (12) members as follows:

6 ~~(1) The coastal resources management council shall consist of sixteen (16) members, two~~
7 ~~(2) of whom shall be members of the house of representatives, at least one of the members shall~~
8 ~~represent a coastal municipality, appointed by the speaker, two (2) of whom shall be members of~~
9 ~~the senate, each of whom shall represent a coastal municipality, appointed by the president of the~~
10 ~~senate, two (2) of whom shall be from the general public appointed by the speaker of the house~~
11 ~~for a term of two (2) years, two (2) of whom shall be from a coastal municipality appointed by the~~
12 ~~speaker of the house for a term of three (3) years.~~

13 ~~(2) In addition, (1) four~~ Four (4) of the members shall be appointed or elected officials of
14 local government appointed by the governor, with the advice and consent of the senate one of
15 whom shall be from a municipality of less than twenty-five thousand (25,000) population,
16 ~~appointed to serve until January 31, 1972,~~ one of whom shall be from a coastal municipality of
17 more than twenty-five thousand (25,000) population ~~appointed to serve until January 31, 1973,~~
18 and one of whom shall be from a coastal municipality of less than twenty-five thousand (25,000)

1 population ~~appointed to serve until January 31, 1974,~~ and one of whom shall be from a coastal
2 community of more than twenty-five thousand (25,000) population. ~~appointed to serve until~~
3 ~~January 31, 1975, the populations are to~~ Population shall be determined by the latest federal
4 census; ~~all~~ All municipal members shall serve until their successors are appointed and qualified;
5 during the month of January, the governor shall appoint a municipal member to succeed the
6 member whose term will then next expire for a term of four (4) years commencing on the first
7 day of February then next following and until his or her successor is named and qualified; ~~each~~
8 ~~municipal appointment shall cease if the appointed or elected official shall no longer hold or~~
9 ~~change the office which he or she held upon appointment,~~ and further, each appointee shall be
10 eligible to succeed him or herself.

11 ~~(3)~~ (2) ~~Three~~ (3) ~~Seven~~ (7) members shall be appointed by the governor from the general
12 public, with the advice and consent of the senate, ~~one of whom shall serve until January 1, 1972,~~
13 ~~one of whom shall serve until January 1, 1973 and one of whom shall serve until January 1, 1974;~~
14 ~~the members and their successors~~ at least four (4) of whom shall represent a coastal community.

15 (3) Appointments to the council shall be made to provide knowledge and experience in a
16 diverse range of coastal interests. The members of the council shall serve and act on the council
17 solely for the best interests of the public and the public trust, and shall bring their particular
18 knowledge and experience to the council for that end alone. In making appointments to the
19 council, the governor shall: (i) Provide for a range and diversity of skills, backgrounds, and
20 geographic and stakeholder perspectives; (ii) Include a majority of members from coastal
21 communities; and (iii) Provide for representation from communities of varying sizes and
22 character.

23 (4) Those members of the council as of the effective date of this act who were appointed
24 by the governor shall continue to serve for the balance of their current terms. Those members of
25 the council as of the effective date of this act who are members of the general assembly or who
26 were appointed to the council by the speaker of the house of representatives shall cease to be
27 members of the council on the effective date of this act, and the governor shall thereupon
28 nominate four (4) new members.

29 (5) Two (2) of those new members first appointed by the governor pursuant to
30 subdivision (a)(4) shall serve initial terms of three (3) years; one of those new members first
31 appointed by the governor pursuant to subdivision (a)(4) shall serve an initial term of two (2)
32 years and one of those new members, appointed by the governor pursuant to subdivision (a)(4),
33 shall serve an initial term of one year. Thereafter, all non-municipal appointed members of the
34 council shall be appointed to serve for terms of three (3) years.

1 ~~(4)~~ (6) All nonmunicipal members shall serve until their successors are appointed and
2 qualified; during the month of January, the governor shall appoint, with advice and consent of
3 senate, a member to succeed ~~the~~ each member whose term will then next expire for a term of
4 three (3) years commencing on the first day of February next following and until his or her
5 successor is named and qualified. A member shall be eligible to succeed ~~him~~ himself or herself.
6 No more than two (2) persons on the council shall be from the same community.

7 ~~(5)~~ (7) ~~Appointments shall first be made by the governor, then by the president of the~~
8 ~~senate, and then by the speaker.~~ The director of the department of environmental management
9 ~~commissioner of the environmental protection branch~~ or his or her designee within the
10 department of environment shall serve ex-officio. The ex-officio member shall not be counted as
11 serving from any particular community.

12 ~~(b) In addition to the foregoing voting members, the council shall include a varying~~
13 ~~number of other members who shall serve in an advisory capacity without the right to vote and~~
14 ~~who shall be invited to serve by either the governor or the voting members. These advisory~~
15 ~~members shall represent the federal agencies such as the navy, coast guard, corps of engineers,~~
16 ~~public health service, and the federal water pollution control administration, and such regional~~
17 ~~agencies as the New England river basins commission and the New England regional commission~~
18 ~~and any other group or interest not otherwise represented.~~

19 ~~(c) There shall be established a coastal resources advisory committee which committee,~~
20 ~~appointed by the executive director of the coastal resources management council, shall include,~~
21 ~~but not be limited to, representation from the following groups: one of whom shall be a~~
22 ~~representative of the University of Rhode Island Graduate School of Oceanography and the~~
23 ~~College of Resources Development, one of whom shall be a representative of the Sea Grant~~
24 ~~National College Program, one of whom shall be a representative of the army corps of engineers,~~
25 ~~one of whom shall be a representative of the federal environmental protection agency's~~
26 ~~Narragansett Bay laboratory, one of whom shall be a representative of the coastal resources~~
27 ~~management council, one of whom shall be the director of environmental management; one of~~
28 ~~whom shall be a member of the Rhode Island Marine Trade Association and one of whom shall~~
29 ~~be a representative of a regional environmental group. The council shall have the authority to~~
30 ~~appoint such additional members to said advisory committee as is deemed necessary or advisable~~
31 ~~by the advisory committee or the council. It shall be the responsibility of the committee to advise~~
32 ~~the coastal resources management council on environmental issues relating to dredging and~~
33 ~~permitting related thereto, including but not limited to those issues defined in sections 46-23-18.1~~
34 ~~—46-23-18.3, inclusive.~~

1 ~~(d) The council shall have the authority to form committees of other advisory groups as~~
2 ~~needed from both its own members and others.~~

3 (d) The council shall have the authority to form committees of other advisory groups as
4 needed from both its own members and others.

5 **46-23-2.1. Members -- Term of office -- Vacancies.** ~~-- (a) The term of office of the~~
6 ~~appointed members shall be three (3) years, only so long as the members shall remain eligible to~~
7 ~~serve on the council under the appointment authority.~~

8 ~~(b)~~ (a) The members are eligible to succeed themselves.

9 ~~(c) (b) Elected or appointed municipal officials shall hold seats on the council, only so~~
10 ~~long as they remain in their elected or appointed office. Members of the senate and house shall~~
11 ~~serve at the pleasure of the appointing authority and shall not be subject to the provisions of~~
12 ~~subsection (b) of this section.~~

13 ~~(d)~~ (b) A vacancy other than by expiration shall be filled in the manner of the original
14 appointment but only for the unexpired portion of the term. ~~The appointing authority shall have~~
15 ~~the power to remove its appointee for just cause.~~

16 (c) Members of the council shall be removable by the governor pursuant to the provisions
17 of section 36-1-7 of the general laws and for cause only, and removal solely for partisan or
18 personal reasons unrelated to capacity or fitness for the office shall be unlawful.

19 **46-23-4. Officers of the council -- Quorum and vote required for action.** -- The
20 governor, ~~upon the appointment of the appointed members of the council,~~ shall select from the
21 appointed members a chairperson and vice chairperson. The council shall thereupon select a
22 secretary from among its membership or staff. The council may engage such staff, including legal
23 counsel, as it deems necessary. A quorum shall consist of seven (7) members of the council. A
24 majority vote of those present shall be required for action.

25 SECTION 2. Chapter 46-23 of the General Laws entitled "Coastal Resources
26 Management Council" is hereby amended by adding thereto the following sections:

27 **46-23-26. Reporting requirements.** ~~--~~ Within ninety (90) days after the end of each
28 fiscal year, the council shall approve and submit an annual report to the governor, the speaker of
29 the house of representatives, the president of the senate, and the secretary of state, of its activities
30 during that fiscal year. The report shall provide an operating statement, summarizing meetings or
31 hearings held, including meeting minutes, subjects addressed, decisions rendered, applications
32 considered and their disposition, rules or regulations promulgated, studies conducted, policies and
33 plans developed, approved, or modified, and programs administered or initiated; a consolidated
34 financial statement of all funds received and expended including the source of the funds, a listing

1 of any staff supported by these funds, and a summary of any clerical, administrative or technical
2 support received; a summary of performance during the previous fiscal year including
3 accomplishments, shortcomings and remedies; a synopsis of hearings, complaints, suspensions, or
4 other legal matters related to the authority of the council; a summary of any training courses held
5 pursuant to the provisions of this chapter; a briefing on anticipated activities in the upcoming
6 fiscal year, and findings and recommendations for improvements. The report shall be posted
7 electronically on the website of the secretary of state pursuant to the provisions of section 42-20-
8 8.2. The director of the department of administration shall be responsible for the enforcement of
9 this provision.

10 **46-23-27. Training requirements. --** The council shall conduct a training course for
11 newly appointed and qualified members within six (6) months of their qualification or
12 designation. The course shall be developed by the chair or the executive director of the council,
13 be approved by the council, and be conducted by the chair or the executive director of the
14 council. The council may approve the use of any council and/or staff member and/or individuals
15 to assist with training. The training course shall include instruction in the following areas: the
16 provisions of chapters 42-46, 36-14 and 38-2; and the council's rules and regulations. The director
17 of the department of administration shall, within ninety (90) days of the effective date of this act,
18 prepare and disseminate training materials relating to the provisions of chapters 42-46, 36-14, and
19 38-2.

20 SECTION 3. Title 22 of the General Laws entitled "GENERAL ASSEMBLY" is hereby
21 amended by adding thereto the following chapter:

22 CHAPTER 14.3

23 PERMANENT JOINT COMMITTEE ON COASTAL RESOURCES

24 **22-14.3-1. Permanent joint committee on coastal resources - Composition. --** (a)
25 There is hereby created a permanent joint committee on coastal resources. The permanent joint
26 committee on coastal resources shall consist of eight (8) members: four (4) of whom shall be
27 members of the senate, not more than three (3) from the same political party, to be appointed by
28 the senate president; and four (4) of whom shall be members of the house of representatives, not
29 more than three (3) from the same political party to be appointed by the speaker of the house.

30 (b) The senate president and the speaker of the house shall consult with the house and
31 senate minority leaders on the appointment of the minority members.

32 **22-14.3-2. Powers and duties of permanent joint committee on coastal resources. --**
33 The permanent joint committee on coastal resources shall have the authority to:

34 (1) Provide oversight of the coastal resources management council and of the department

1 of environmental management in all matters relating to the use, conservation, regulation and
2 management of the coastal resources of this state;

3 (2) Confer, as the committee deems desirable, with the chairperson and staff of the
4 coastal resources management council and with the director and staff of the department of
5 environmental management;

6 (3) Issue subpoenas, subpoenas duces tecum and orders for the production of books,
7 accounts, papers, records and documents, and;

8 (4) Make recommendations to the general assembly and propose legislation regarding (i)
9 The use, conservation, regulation and management of the coastal resources of this state; and (ii)
10 The operation of the coastal resources management council and/or the department of
11 environmental management.

12 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 WATERS AND NAVIGATION - SEPARATION OF POWERS - COASTAL
RESOURCES MANAGEMENT COUNCIL

1 This act would change the method by which members to the Coastal Resource
2 Management Council are appointed to comply with the Separation of Powers Constitutional
3 Amendment.

4 This act would take effect upon passage.

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