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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO WATERS AND NAVIGATION -- RHODE ISLAND CLEAN WATER
FINANCE AGENCY

Introduced By: Representatives Marshall, Kennedy, O'Brien, Almeida, and Gallison

Date Introduced: February 27, 2013

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 46-12.2-6 of the General Laws in Chapter 46-12.2 entitled "Rhode
2 Island Clean Water Finance Agency" is hereby amended to read as follows:

3 **46-12.2-6. Establishment of the water pollution control revolving fund, the Rhode**
4 **Island water pollution control revolving fund and the local interest subsidy trust fund --**
5 **Sources of funds -- Permitted uses. --** (a) The agency shall be the instrumentality of the state for
6 administration of the water pollution control revolving fund, the Rhode Island water pollution
7 control revolving fund, and the local interest subsidy trust fund, and such other funds it holds or
8 for which it is responsible, and, in conjunction with the department, is empowered to and shall
9 take all action necessary or appropriate to secure to the state the benefits of title VI of the Clean
10 Water Act, 33 U.S.C. section 1381 et seq., and other federal or state legislation pertaining to the
11 funds and to the financing of approved projects. Without limiting the generality of the foregoing
12 and other powers of the agency provided in this chapter, the agency is empowered to and shall:

13 (1) Cooperate with appropriate federal agencies in all matters related to administration of
14 the water pollution control revolving fund and, pursuant to the provisions of this chapter,
15 administer the fund and receive and disburse such funds from any such agencies and from the
16 state as may be available for the purpose of the fund.

17 (2) Administer the Rhode Island water pollution control revolving fund and the local
18 interest subsidy trust fund, and receive and disburse such funds from the state as may be available

1 for the purpose of the funds subject to the provisions of this chapter.

2 (3) In cooperation with the department, prepare, and submit to appropriate federal
3 agencies applications for capitalization grants under title VI of the Clean Water Act, 33 U.S.C.
4 section 1381 et seq., and enter into capitalization grant agreements, operating agreements, and
5 other agreements with appropriate federal and state agencies, and accept and disburse, as
6 provided herein, any capitalization grant awards made under title VI of the Clean Water Act, 33
7 U.S.C. section 1381 et seq.

8 (4) Cooperate with the department in the preparation and submission to appropriate
9 federal and state agencies of intended use plans identifying the use of capitalization grant awards
10 and other moneys in the water pollution control revolving fund.

11 (5) In cooperation with the department, prepare and submit to appropriate federal
12 agencies, the department and the governor, annual and other reports and audits required by law.

13 (6) Subject to the provisions of this chapter, make, and enter into binding commitments
14 to provide financial assistance to local governmental units from amounts on deposit in the water
15 pollution control revolving fund, the Rhode Island water pollution control revolving fund and
16 from other funds of the agency; and provide, and enter into binding commitments to provide
17 subsidy assistance for loans and local governmental obligations from amounts on deposit in the
18 local interest subsidy trust fund.

19 (7) Establish and maintain fiscal controls and accounting procedures conforming to
20 generally accepted government accounting standards sufficient to ensure proper accounting for
21 receipts in and disbursements from the water pollution control revolving fund, the Rhode Island
22 water pollution control revolving fund, the local interest subsidy trust fund and other funds it
23 holds or for which it is responsible and, adopt such rules, regulations, procedures, and guidelines
24 which it deems necessary to assure that local governmental units administer and maintain
25 approved project accounts and other funds and accounts relating to financial assistance in
26 accordance with generally accepted government accounting standards.

27 [\(8\) Utilize monies in the fund for general repairs and improvements to the infrastructure.](#)

28 (b) The agency shall establish and set up on its books a special fund, designated the
29 water pollution control revolving fund, to be held in trust and to be administered by the agency
30 solely as provided in this chapter and in any trust agreement securing bonds of the agency. The
31 agency shall credit to the water pollution control revolving fund or one or more accounts therein:

32 (1) All federal capitalization grant awards received under title VI of the Clean Water
33 Act, 33 U.S.C. section 1381 et seq., provided the agency shall transfer to the department the
34 amount allowed by section 603(d)(7) of the Water Quality Act, 33 U.S.C. section 1383(d)(7), to

1 defray administration expenses;

2 (2) All amounts appropriated or designated to the agency by the state for purposes of the
3 fund;

4 (3) To the extent required by federal law, loan repayments and other payments received
5 by the agency on any loans and local governmental obligations;

6 (4) All investment earnings on amounts credited to the fund to the extent required by
7 federal law;

8 (5) All proceeds of bonds of the agency to the extent required by any trust agreement for
9 such bonds;

10 (6) All other monies which are specifically designated for this fund, including, amounts
11 from the Rhode Island Clean Water Act environmental trust fund, gifts, bequests, administrative,
12 civil and criminal penalties, or other funds from any public or private sources; and

13 (7) (i) Any other amounts required by the provisions of this chapter, agreement, or any
14 other law or by any trust agreement pertaining to bonds to be credited to the fund or which the
15 agency in its discretion shall determine to credit thereto.

16 (ii) At the request of the governor, the agency shall take all action necessary to transfer
17 the state's allotment under title II of the Clean Water Act, 33 U.S.C. section 1281 et seq., for
18 federal fiscal year 1989 and each federal fiscal year thereafter, to the purposes of the water
19 pollution control revolving fund, provided that any portion of any allotment which, under the
20 provisions of the Clean Water Act, 33 U.S.C. section 1251 et seq., may not be transferred to or
21 used for the purposes of the water pollution control revolving fund, shall continue to be received
22 and administered by the department as provided by law.

23 (c) The agency shall establish and set up on its books a special fund, designated the
24 Rhode Island water pollution control revolving fund, to be held in trust and to be administered by
25 the agency solely as provided in this chapter and in any trust agreement securing bonds of the
26 agency. The agency shall credit to the Rhode Island water pollution control revolving fund or one
27 or more accounts therein:

28 (1) All amounts appropriated or designated to the agency by the state for purposes of the
29 fund;

30 (2) At its discretion, and to the extent allowed by law, loan repayments and other
31 payments received by the agency on any loans and local governmental obligations;

32 (3) At its discretion, all investment earnings and amounts credited to the fund;

33 (4) All proceeds of bonds of the agency to the extent required by any trust agreement for
34 such bonds;

1 (5) All other monies which are specifically designated for this fund, including, amounts
2 from the Rhode Island Clean Water Act environmental trust fund, gifts, bequests, administrative,
3 civil and criminal penalties, or other funds from any public or private sources; and

4 (6) Any other amounts required by provisions of this chapter or agreement, or any other
5 law or any trust agreement pertaining to bonds to be credited to the fund or which the agency in
6 its discretion shall determine to credit thereto.

7 (d) Except to the extent limited by federal law, and subject to the provisions of this
8 chapter, to the provisions of any agreement with the state authorized by section 46-12.2-7, and to
9 any agreements with the holders of any bonds of the agency or any trustee therefor, amounts held
10 by the agency for the account of either the water pollution control revolving fund or the Rhode
11 Island water pollution control revolving fund shall be applied by the agency, either by direct
12 expenditure, disbursement, or transfer to one or more other funds and accounts held by the
13 agency or maintained under any trust agreement pertaining to bonds, either alone or with other
14 funds of the agency, to the following purposes:

15 (1) To provide financial assistance to local governmental units to finance costs of
16 approved projects, and to refinance the costs of the projects, subject to such terms and conditions,
17 if any, as are determined by the department and/or the agency in accordance with section 46-12.2-
18 8;

19 (2) To purchase or refinance debt obligations of the local governmental units, or to
20 provide guarantees, insurance or similar forms of financial assistance for the obligations;

21 (3) To fund reserves for bonds of the agency and to purchase insurance and pay the
22 premiums therefor, and pay fees and expenses of letters or lines of credit and costs of
23 reimbursement to the issuers thereof for any payments made thereon or on any insurance, and to
24 otherwise provide security for, and a source of payment for, by pledge, lien, assignment, or
25 otherwise as provided in section 46-12.2-14, bonds of the agency issued in accordance with this
26 chapter; and

27 (4) (i) To pay expenses of the agency and the department in administering the funds and
28 the financial assistance programs of the agency authorized by this chapter. As part of the annual
29 appropriations bill, the department shall set forth the gross amount of expenses received from the
30 agency and a complete, specific breakdown of the sums retained and/or expended for
31 administrative expenses.

32 (ii) By way of illustration, not by limitation, in the personnel area, the breakdown of
33 administrative expenses should contain the number of personnel paid, the position numbers of the
34 personnel, and whether or not the position is a new position or a position which had been funded

1 previously by federal funds or a position which had been previously created but unfunded.

2 (e) The agency shall also establish and set up on its books a special fund, designated the
3 local interest subsidy trust fund, to be held in trust and to be administered by the agency solely as
4 provided in this chapter and in any trust agreement securing bonds of the agency. The agency
5 may maintain a separate account in the local interest subsidy trust fund for each local
6 governmental unit which has received a loan from the agency, in accordance with this chapter, to
7 separately account for or otherwise segregate all or any part of the amounts credited to the fund
8 and receipts in and disbursements from the fund. To the extent that the agency is required by this
9 chapter, by any loan agreement or by any trust agreement, it shall, and, to the extent that it is
10 permitted, it may in its discretion, credit to the local interest subsidy trust fund, and to one or
11 more of the accounts or subaccounts therein:

12 (1) All amounts appropriated or designated to the agency by the state for purposes of the
13 fund;

14 (2) Loan repayments and other payments received on loans and local governmental
15 obligations;

16 (3) Investment earnings on amounts credited to the local interest subsidy trust fund;

17 (4) Proceeds of agency bonds;

18 (5) All other monies which are specifically designated for this fund including, amounts
19 from the Rhode Island Clean Water Act environmental trust fund, gifts, bequests, administrative,
20 civil and criminal penalties, or other funds from any public or private sources; and

21 (6) Any other amounts permitted by law.

22 (f) Subject to any agreement with the state authorized by section 46-12.2-7, to the
23 provisions of section 46-12.2-8, and to any agreement with the holders of any bonds of the
24 agency or any trustee therefor, amounts held by the agency for the account of the local interest
25 subsidy trust fund shall be applied by the agency, either by direct expenditure, disbursement, or
26 transfer to one or more other funds and accounts held by the agency or maintained under any trust
27 agreement pertaining to bonds, either alone or with other funds of the agency, to the following
28 purposes:

29 (1) To pay or provide for all or a portion of the interest otherwise payable by local
30 governmental units on loans and local governmental obligations, in the amounts and on terms
31 determined by the agency in accordance with section 46-12.2-8;

32 (2) To provide a reserve for, or to otherwise secure, amounts payable by local
33 governmental units on loans and local governmental obligations outstanding in the event of
34 default thereof; amounts in any account in the local interest subsidy trust fund may be applied to

1 defaults on loans outstanding to the local governmental unit for which the account was
2 established and, on a parity basis with all other accounts, to defaults on any loans or local
3 governmental obligations outstanding; and

4 (3) To provide a reserve for, or to otherwise secure, by pledge, lien, assignment, or
5 otherwise as provided in section 46-12.2-14, any bonds of the agency.

6 (g) Subject to any express limitation of this chapter pertaining to expenditure or
7 disbursement of funds or accounts held by the agency, funds or accounts held by the agency may
8 be transferred to any other fund or account held by the agency and expended or disbursed for
9 purposes permitted by the fund or account.

10 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 WATERS AND NAVIGATION -- RHODE ISLAND CLEAN WATER
FINANCE AGENCY

- 1 This act would amend the general law on the clean water finance agency to permit use of
- 2 the money in the revolving fund to repair and improve the infrastructure.
- 3 This act would take effect upon passage.

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