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ARTICLE 24

RELATING TO INFRASTRUCTURE BANK

SECTION 1. Sections 24-18-2 and 24-18-3 of the General Laws in Chapter 24-18 entitled "Municipal Road and Bridge Revolving Fund" are hereby amended to read as follows:

24-18-2. Legislative findings. – The general assembly finds and declares that:

(1) Transportation plays a critical role in enabling economic activity in the state of Rhode Island;

(2) Cities and towns can lower the costs of borrowing for road and bridge projects through cooperation with the ~~Clean Water Finance Agency~~ [Rhode Island infrastructure bank](#);

(3) The clean water and drinking water fund programs administered by the ~~Clean Water Finance Agency~~ [Rhode Island infrastructure bank](#) benefit from the highest bond rating of any public entity in the state of Rhode Island; and

(4) Greater coordination among cities and towns will enable more efficient allocation of infrastructure resources by the state of Rhode Island.

24-18-3. Definitions. – As used in this chapter, the following terms, unless the context requires a different interpretation, shall have the following meanings:

(1) "Agency" means the ~~Clean Water Finance Agency~~ [Rhode Island infrastructure bank](#) as set forth in chapter 46-12.2;

(2) "Annual construction plan" means the finalized list of approved projects to commence construction each calendar year;

(3) "Approved project" means any project approved by the agency for financial assistance;

(4) "Department" means the department of transportation, or, if the department shall be abolished, the board, body, or commission succeeding to the principal functions thereof or upon whom the powers given by chapter 5 of title 37 to the department shall be given by law.

(5) "Eligible project" means an infrastructure plan, or portion of an infrastructure plan, that meets the project evaluation criteria;

(6) "Financial assistance" means any form of financial assistance other than grants provided by the agency to a city or town in accordance with this chapter for all or any part of the cost of an approved project, including, without limitation, temporary and permanent loans, with

1 or without interest, guarantees, insurance, subsidies for the payment of debt service on loans,
2 lines of credit, and similar forms of financial assistance;

3 (7) "Infrastructure plan" means a project proposed by a city or town that would make
4 capital improvements to roads, bridges and appurtenances thereto consistent with project
5 evaluation criteria;

6 (8) "Market rate" means the rate the city or town would receive in the open market at the
7 time of the original loan agreement as determined by the agency in accordance with its rules and
8 regulations;

9 (9) "Project evaluation criteria" means the criteria used by the department to evaluate
10 infrastructure plans and rank eligible projects and shall include the extent to which the project
11 generates economic benefits, the extent to which the project would be able to proceed at an earlier
12 date, the likelihood that the project would provide mobility benefits, the cost effectiveness of the
13 project, the likelihood that the project would increase safety, and the project's readiness to
14 proceed within the forthcoming calendar year;

15 (10) "Project priority list" means the list of eligible projects ranked in the order in which
16 financial assistance shall be awarded by the agency pursuant to section 7 of this chapter;

17 (11) "Revolving fund" means the municipal road and bridge revolving fund established
18 under section 4 of this chapter; and

19 (12) "Subsidy assistance" means credit enhancements and other measures to reduce the
20 borrowing costs for a city or town.

21 SECTION 2. Section 35-3-7.2 of the General Laws in Chapter 35-3 entitled "State
22 Budget" is hereby amended to read as follows:

23 **35-3-7.2. Budget officer as capital development officer.** – The budget officer shall be a
24 capital development program officer who shall be responsible for:

25 (1) The review of all capital development requests submitted by the various state
26 departments, as set forth in chapter 6 of title 42, which shall include all independent boards and
27 commissions and the capital development plans of the Narragansett Bay Commission, ~~Rhode~~
28 ~~Island Clean Water Finance Agency~~ [Rhode Island infrastructure bank](#), the Lottery Commission,
29 and all other public corporations, as defined in chapter 18 of this title which plans would be
30 subject to the provisions of § 35-18-3; provided, that, except as provided for in this section,
31 nothing in this section shall be construed to limit the powers of the board of governors for higher
32 education as outlined in chapter 59 of title 16. Capital development requests and plans shall be
33 submitted in such form, with such explanation, in such number of copies, and by such date as the
34 budget officer may require. Copies shall also be provided directly to the house fiscal advisor and

1 the senate fiscal advisor.

2 (2) Preparation of a capital budget which shall specify which capital items are proposed
3 for presentation to the electorate at the next general election.

4 (3) The activities which will promote capital development planning and develop criteria
5 which can be used to determine appropriate levels of bonded indebtedness.

6 (4) Acting as chairperson of the capital development planning and oversight commission
7 which is to be appointed by the governor. The commission, in addition to recommending to the
8 governor the biennial capital budget, shall implement a long range capital development planning
9 process and shall be responsible for the development of an inventory of state assets to determine
10 the need and prioritization of capital improvements.

11 (5) Working with the board of governors for higher education in the development by the
12 board of that portion of the board's capital development program involving annual general
13 revenues.

14 SECTION 3. Section 35-18-3 of the General Laws in Chapter 35-18 entitled "Public
15 Corporation Debt Management" is hereby amended to read as follows:

16 **35-18-3. Approval by the general assembly.** – (a) No elected or appointed state official
17 may enter into any financing lease or into any guarantee with any person without the prior
18 approval of the general assembly unless:

19 (1) The governor certifies that federal funds will be available to make all of the payments
20 which the state is or could be obligated to make under the financing lease or guarantee; or

21 (2) The general assembly has adjourned for the year with the expectation that it will not
22 meet again until the following year and the governor certifies that action is necessary, because of
23 events occurring after the general assembly has adjourned, to protect the physical integrity of an
24 essential public facility, to ensure the continued delivery of essential public services, or to
25 maintain the credit worthiness of the state in the financial markets.

26 (b) No bonds may be issued or other obligation incurred by any public corporation to
27 finance, in whole or in part, the construction, acquisition, or improvement of any essential public
28 facility without the prior approval of the general assembly, unless:

29 (1) The governor certifies that federal funds will be available to make all of the payments
30 required to be made by the public corporation in connection with the bond or obligation. The
31 certification shall be transmitted to the speaker of the house and the president of the senate with
32 copies to the chairpersons of the respective finance committees and fiscal advisors; or

33 (2) The general assembly has adjourned for the year with the expectation that it will not
34 meet again until the following year and the governor certifies that action is necessary, because of

1 events occurring after the general assembly has adjourned, to protect the physical integrity of an
2 essential public facility, to ensure the continued delivery of essential public services, or to
3 maintain the credit worthiness of the state in the financial markets. The certification shall be
4 transmitted to the speaker of the house and the president of the senate, with copies to the
5 chairpersons of the respective finance committees and fiscal advisors.

6 (c) In addition to, and not by way of limitation on, the exemptions provided in
7 subsections (a) and (b), prior approval by the general assembly shall not be required under this
8 chapter for bonds or other obligations issued by, or financing leases or guarantee agreements
9 entered into by:

10 (1) The Rhode Island industrial facilities corporation; provided financing leases, bonds or
11 other obligations are being issued for an economic development project;

12 (2) The ~~Rhode Island Clean Water Finance Agency~~ [Rhode Island infrastructure bank](#);

13 (3) The Rhode Island housing and mortgage finance corporation;

14 (4) The Rhode Island student loan authority;

15 (5) Any public corporation to refund any bond or other obligation issued by the public
16 corporation to finance the acquisition, construction, or improvement of an essential public facility
17 provided that the governor certifies to the speaker of the house and the president of the senate,
18 with copies to the chairpersons of the respective finance committees and fiscal advisors that the
19 refunding shall provide a net benefit to the issuer; provided, however, obligations of the Rhode
20 Island resource recovery corporation outstanding on July 31, 1999, may be refunded by the
21 issuance of obligations on or before August 1, 1999;

22 (6) The Narragansett Bay water quality management district commission;

23 (7) The Rhode Island health and educational building corporation, except bonds or other
24 obligations issued in connection with the acquisition, construction, or improvement of any facility
25 used by any state agency, department, board, or commission, including the board of governors for
26 higher education, to provide services to the public pursuant to the requirements of state or federal
27 law, and all fixtures for any of those facilities; and

28 (8) The state to refund any financing leases entered into with the authorization of the
29 general assembly, provided that the governor certifies to the speaker of the house and the
30 president of the senate, with copies to the chairpersons of the respective finance committees and
31 fiscal advisors, that the refunding shall provide a net benefit to the state.

32 (d) Nothing contained in this section applies to any loan authorized to be borrowed under
33 Article VI, § 16 or 17 of the Rhode Island Constitution.

34 (e) Nothing in this section is intended to expand in any way the borrowing authority of

1 any public corporation under its charter.

2 (f)(1) Any certification made by the governor under subsection (a), (b), or (c) of this
3 section may be relied upon by any person, including without limitation, bond counsel.

4 (2) The certifications shall be transmitted to the speaker of the house and the president of
5 the senate with copies to the chairpersons of the respective finance committees and fiscal
6 advisors.

7 (g) Except as provided for in this chapter, the requirements of this chapter supersede any
8 other special or general provision of law, including any provision which purports to exempt sales
9 or leases between the state and a public corporation from the operation of any law.

10 SECTION 4. Section 39-1-27.7 of the General Laws in Chapter 39-1 entitled "Public
11 Utilities Commission" is hereby amended to read as follows:

12 **39-1-27.7. System reliability and least-cost procurement.** – Least-cost procurement
13 shall comprise system reliability and energy efficiency and conservation procurement as provided
14 for in this section and supply procurement as provided for in § 39-1-27.8, as complementary but
15 distinct activities that have as common purpose meeting electrical and natural gas energy needs in
16 Rhode Island, in a manner that is optimally cost-effective, reliable, prudent and environmentally
17 responsible.

18 (a) The commission shall establish not later than June 1, 2008, standards for system
19 reliability and energy efficiency and conservation procurement, which shall include standards and
20 guidelines for:

21 (1) System reliability procurement, including but not limited to:

22 (i) Procurement of energy supply from diverse sources, including, but not limited to,
23 renewable energy resources as defined in chapter 26 of this title;

24 (ii) Distributed generation, including, but not limited to, renewable energy resources and
25 thermally leading combined heat and power systems, which is reliable and is cost-effective, with
26 measurable, net system benefits;

27 (iii) Demand response, including, but not limited to, distributed generation, back-up
28 generation and on-demand usage reduction, which shall be designed to facilitate electric customer
29 participation in regional demand response programs, including those administered by the
30 independent service operator of New England ("ISO-NE") and/or are designed to provide local
31 system reliability benefits through load control or using on-site generating capability;

32 (iv) To effectuate the purposes of this division, the commission may establish standards
33 and/or rates (A) for qualifying distributed generation, demand response, and renewable energy
34 resources; (B) for net-metering; (C) for back-up power and/or standby rates that reasonably

1 facilitate the development of distributed generation; and (D) for such other matters as the
2 commission may find necessary or appropriate.

3 (2) Least-cost procurement, which shall include procurement of energy efficiency and
4 energy conservation measures that are prudent and reliable and when such measures are lower
5 cost than acquisition of additional supply, including supply for periods of high demand.

6 (b) The standards and guidelines provided for by subsection (a) shall be subject to
7 periodic review and as appropriate amendment by the commission, which review will be
8 conducted not less frequently than every three (3) years after the adoption of the standards and
9 guidelines.

10 (c) To implement the provisions of this section:

11 (1) The commissioner of the office of energy resources and the energy efficiency and
12 resources management council, either or jointly or separately, shall provide the commission
13 findings and recommendations with regard to system reliability and energy efficiency and
14 conservation procurement on or before March 1, 2008, and triennially on or before March 1,
15 thereafter through March 1, 2017~~38~~. The report shall be made public and be posted electronically
16 on the website to the office of energy resources.

17 (2) The commission shall issue standards not later than June 1, 2008, with regard to plans
18 for system reliability and energy efficiency and conservation procurement, which standards may
19 be amended or revised by the commission as necessary and/or appropriate.

20 (3) The energy efficiency and resources management council shall prepare by July 15,
21 2008, a reliability and efficiency procurement opportunity report which shall identify
22 opportunities to procure efficiency, distributed generation, demand response and renewables,
23 which report shall be submitted to the electrical distribution company, the commission, the office
24 of energy resources and the joint committee on energy.

25 (4) Each electrical and natural gas distribution company shall submit to the commission
26 on or before September 1, 2008, and triennially on or before September 1, thereafter through
27 September 1, 2017~~38~~, a plan for system reliability and energy efficiency and conservation
28 procurement. In developing the plan, the distribution company may seek the advice of the
29 commissioner and the council. The plan shall include measurable goals and target percentages for
30 each energy resource, pursuant to standards established by the commission, including efficiency,
31 distributed generation, demand response, combined heat and power, and renewables. The plan
32 shall be made public and be posted electronically on the website to the office of energy resources,
33 and shall also be submitted to the general assembly.

34 (5) The commission shall issue an order approving all energy efficiency measures that are

1 cost effective and lower cost than acquisition of additional supply, with regard to the plan from
2 the electrical and natural gas distribution company, and reviewed and approved by the energy
3 efficiency and resources management council, and any related annual plans, and shall approve a
4 fully reconciling funding mechanism to fund investments in all efficiency measures that are cost
5 effective and lower cost than acquisition of additional supply, not greater than sixty (60) days
6 after it is filed with the commission.

7 (6)(i) Each electrical and natural gas distribution company shall provide a status report,
8 which shall be public, on the implementation of least cost procurement on or before December
9 15, 2008, and on or before February 1, 2009, to the commission, the division, the commissioner
10 of the office of energy resources and the energy efficiency and resources management council
11 which may provide the distribution company recommendations with regard to effective
12 implementation of least cost procurement. The report shall include the targets for each energy
13 resource included in the order approving the plan and the achieved percentage for energy
14 resource, including the achieved percentages for efficiency, distributed generation, demand
15 response, combined heat and power, and renewables as well as the current funding allocations for
16 each eligible energy resource and the businesses and vendors in Rhode Island participating in the
17 programs. The report shall be posted electronically on the website of the office of energy
18 resources.

19 (ii) Beginning on November 1, 2012 or before, each electric distribution company shall
20 support the installation and investment in clean and efficient combined heat and power
21 installations at commercial, institutional, municipal, and industrial facilities. This support shall be
22 documented annually in the electric distribution company's energy efficiency program plans. In
23 order to effectuate this provision, the energy efficiency and resource management council shall
24 seek input from the public, the gas and electric distribution company, the economic development
25 corporation, and commercial and industrial users, and make recommendations regarding services
26 to support the development of combined heat and power installations in the electric distribution
27 company's annual and triennial energy efficiency program plans.

28 (iii) The energy efficiency annual plan shall include, but not be limited to, a plan for
29 identifying and recruiting qualified combined heat and power projects, incentive levels, contract
30 terms and guidelines, and achievable megawatt targets for investments in combined heat and
31 power systems. In the development of the plan, the energy efficiency and resource management
32 council and the electric distribution company shall factor into the combined heat and power plan
33 and program, the following criteria: (A) Economic development benefits in Rhode Island,
34 including direct and indirect job creation and retention from investments in combined heat and

1 power systems; (B) Energy and cost savings for customers; (C) Energy supply costs; (D)
2 Greenhouse gas emissions standards and air quality benefits; and (E) System reliability benefits.

3 (iv) The energy efficiency and resource management council shall conduct at least one
4 public review meeting annually, to discuss and review the combined heat and power program,
5 with at least seven (7) business day's notice, prior to the electric and gas distribution utility
6 submitting the plan to the commission. The commission shall evaluate the submitted combined
7 heat and power program as part of the annual energy efficiency plan. The commission shall issue
8 an order approving the energy efficiency plan and programs within sixty (60) days of the filing.

9 (d) If the commission shall determine that the implementation of system reliability and
10 energy efficiency and conservation procurement has caused or is likely to cause under or over-
11 recovery of overhead and fixed costs of the company implementing said procurement, the
12 commission may establish a mandatory rate adjustment clause for the company so affected in
13 order to provide for full recovery of reasonable and prudent overhead and fixed costs.

14 (e) The commission shall conduct a contested case proceeding to establish a performance
15 based incentive plan which allows for additional compensation for each electric distribution
16 company and each company providing gas to end-users and/or retail customers based on the level
17 of its success in mitigating the cost and variability of electric and gas services through
18 procurement portfolios.

19 SECTION 5. Section 39-2-1.2 of the General Laws in Chapter 39-2 entitled "Duties of
20 Utilities and Carriers" is hereby amended as follows:

21 **39-2-1.2. Utility base rate -- Advertising, demand side management and renewables -**

22 (a) In addition to costs prohibited in section 39-1-27.4(b), no public utility distributing or
23 providing heat, electricity, or water to or for the public shall include as part of its base rate any
24 expenses for advertising, either direct or indirect, which promotes the use of its product or
25 service, or is designed to promote the public image of the industry. No public utility may furnish
26 support of any kind, direct, or indirect, to any subsidiary, group, association, or individual for
27 advertising and include the expense as part of its base rate. Nothing contained in this section shall
28 be deemed as prohibiting the inclusion in the base rate of expenses incurred for advertising,
29 informational or educational in nature, which is designed to promote public safety conservation of
30 the public utility's product or service. The public utilities commission shall promulgate such rules
31 and regulations as are necessary to require public disclosure of all advertising expenses of any
32 kind, direct or indirect, and to otherwise effectuate the provisions of this section.

33 (b) Effective as of January 1, 2008, and for a period of ~~ten~~ **thirty** (~~10~~ **30**) years thereafter,
34 each electric distribution company shall include a charge ~~s~~ per kilowatt-hour delivered to fund

1 demand side management programs ([the “electric demand side charge”](#)). Effective as of January
2 [1, 2008, and for a period of ten \(10\) years thereafter, each electric distribution company shall](#)
3 [include a charge of](#) 0.3 mills per kilowatt-hour delivered to fund renewable energy programs. The
4 electric distribution company shall establish and, after July 1, 2007, maintain two (2) separate
5 accounts, one for demand side management programs ([the “demand side account”](#)), which shall
6 be [funded by the electric demand side charge and](#) administered ~~and implemented~~ by the
7 distribution company, subject to the regulatory reviewing authority of the commission, and one
8 for renewable energy programs, which shall be administered by the economic development
9 corporation pursuant to § 42-64-13.2 and, shall be held and disbursed by the distribution company
10 as directed by the economic development corporation for the purposes of developing, promoting
11 and supporting renewable energy programs.

12 During the ~~ten (10) year period~~ [time periods established in section 39-2-1.2\(b\)](#), the
13 commission may, in its discretion, after notice and public hearing, increase the sums for demand
14 side management and renewable resources; ~~thereafter,~~ [In addition,](#) the commission shall, after
15 notice and public hearing, determine the appropriate charges for these programs. The office of
16 energy resources and/or the administrator of the renewable energy programs may seek to secure
17 for the state an equitable and reasonable portion of renewable energy credits or certificates
18 created by private projects funded through those programs. As used in this section, "renewable
19 energy resources" shall mean: (1) power generation technologies as defined in § 39-26-5,
20 "eligible renewable energy resources", including off grid and on-grid generating technologies
21 located in Rhode Island as a priority; (2) research and development activities in Rhode Island
22 pertaining to eligible renewable energy resources and to other renewable energy technologies for
23 electrical generation; or (3) projects and activities directly related to implementing eligible
24 renewable energy resources projects in Rhode Island. Technologies for converting solar energy
25 for space heating or generating domestic hot water may also be funded through the renewable
26 energy programs. Fuel cells may be considered an energy efficiency technology to be included in
27 demand sided management programs. Special rates for low-income customers in effect as of
28 August 7, 1996 shall be continued, and the costs of all of these discounts shall be included in the
29 distribution rates charged to all other customers. Nothing in this section shall be construed as
30 prohibiting an electric distribution company from offering any special rates or programs for low-
31 income customers which are not in effect as of August 7, 1996, subject to the approval by the
32 commission.

33 (1) The renewable energy investment programs shall be administered pursuant to rules
34 established by the ~~economic development corporation.~~ [Rhode Island commerce corporation](#). Said

1 rules shall provide transparent criteria to rank qualified renewable energy projects, giving
2 consideration to:

- 3 (i) the feasibility of project completion;
 - 4 (ii) the anticipated amount of renewable energy the project will produce;
 - 5 (iii) the potential of the project to mitigate energy costs over the life of the project; and
 - 6 (iv) the estimated cost per kilo-watt hour (kwh) of the energy produced from the project.
- 7 (c) [Deleted by P.L. 2012, ch. 241, § 14].

8 ~~(d) The executive director of the economic development corporation is authorized and~~
9 ~~may enter into a contract with a contractor for the cost effective administration of the renewable~~
10 ~~energy programs funded by this section. A competitive bid and contract award for administration~~
11 ~~of the renewable energy programs may occur every three (3) years and shall include as a~~
12 ~~condition that after July 1, 2008 the account for the renewable energy programs shall be~~
13 ~~maintained and administered by the economic development corporation as provided for in~~
14 ~~subdivision (b) above.~~

15 (d) ~~(e)~~ Effective January 1, 2007, and for a period of ~~eleven~~ thirty-one (~~131~~) years
16 thereafter, each gas distribution company shall include, with the approval of the commission, a
17 charge per deca therm delivered to fund demand side management programs (the “gas demand
18 side charge”), including, but not limited to, programs for cost effective energy efficiency, energy
19 conservation, combined heat and power systems, and weatherization services for low income
20 households.

21 (e) ~~(f)~~ The Each gas company shall establish a separate account for demand side
22 management programs (the “gas demand side account”), which shall be funded by the gas
23 demand side charge and administered and implemented by the distribution company, subject to
24 the regulatory reviewing authority of the commission. The commission may establish
25 administrative mechanisms and procedures that are similar to those for electric demand side
26 management programs administered under the jurisdiction of the commissions and that are
27 designed to achieve cost-effectiveness and high life-time savings of efficiency measures
28 supported by the program.

29 (f) ~~(g)~~ The commission may, if reasonable and feasible, except from this demand side
30 management charge:

- 31 (i) gas used for distribution generation; and
- 32 (ii) gas used for the manufacturing processes, where the customer has established a self
33 directed program to invest in and achieve best effective energy efficiency in accordance with a
34 plan approved by the commission and subject to periodic review and approval by the

1 commission, which plan shall require annual reporting of the amount invested and the return on
2 investments in terms of gas savings.

3 (g) ~~(h)~~ The commission may provide for the coordinated and/or integrated administration
4 of electric and gas demand side management programs in order to enhance the effectiveness of
5 the programs. Such coordinated and/or integrated administration may after March 1, 2009, upon
6 the recommendation of the office of energy resources, be through one or more third-party entities
7 designated by the commission pursuant to a competitive selection process.

8 (h) ~~(i)~~ Effective January 1, 2007, the commission shall allocate from demand-side
9 management gas and electric funds authorized pursuant to this section 39-2-1.2, an amount not to
10 exceed two percent (2%) of such funds on an annual basis for the retention of expert consultants,
11 and reasonable administration costs of the energy efficiency and resources management council
12 associated with planning, management, and evaluation of energy efficiency programs, renewable
13 energy programs, system reliability, least-cost procurement, and with regulatory proceedings,
14 contested cases, and other actions pertaining to the purposes, powers and duties of the council,
15 which allocation may by mutual agreement, be used in coordination with the office of energy
16 resources to support such activities.

17 (i) ~~(j)~~ Effective January 1, 201~~3~~6, the commission shall annually allocate from the
18 administrative funding amount allocated in (i) from the demand-side management program as
19 described in subsection (i) as follows: fifty ~~sixty~~ percent (~~56~~0%) for the purposes identified in
20 subsection (i) and ~~forty~~ fifty percent (~~40~~50%) annually to the office of energy resources for
21 activities associated with planning management, and evaluation of energy efficiency programs,
22 renewable energy programs, system reliability, least-cost procurement, and with regulatory
23 proceedings, contested cases, and other actions pertaining to the purposes, powers and duties of
24 the office of energy resources.

25 (j) ~~(k)~~ On April 15, of each year the office and the council shall submit to the governor,
26 the president of the senate, and the speaker of the house of representatives, separate financial and
27 performance reports regarding the demand-side management programs, including the specific
28 level of funds that were contributed by the residential, municipal, and commercial and industrial
29 sectors to the overall programs; ~~the businesses, vendors, and institutions that received funding~~
30 from demand-side management gas and electric funds used for the purposes in section 39-2-1.2;
31 and the businesses, vendors, and institutions that received the administrative funds for the
32 purposes in sections 39-2-1.2(i) and 39-2-1.2(j). These reports shall be posted electronically on
33 the websites of the office of energy resources and the energy efficiency resources management
34 council.

1 (k) Effective August 1, 2015 each electric distribution company shall remit five (5)
2 percent of the monthly programmatic proceeds of the electric demand side charge to the Rhode
3 Island infrastructure bank. These proceeds shall be returned to the remitting electric distribution
4 company to fund that electric distribution company's demand side management programs in
5 accordance with Section 46-12.2-14.1.

6 (l) Effective August 1, 2015 each gas distribution company shall remit five (5) percent of
7 the monthly programmatic proceeds of the gas demand side charge to the Rhode Island
8 infrastructure bank. These proceeds shall be returned to the remitting gas distribution company to
9 fund that gas distribution company's demand side management programs in accordance with
10 Section 46-12.2-14.1.

11 SECTION 6. Section 39-26-7 of the General Laws in Chapter 39-26 entitled "Renewable
12 Energy Standard" is hereby amended to read as follows:

13 **39-26-7. Renewable energy development fund --** (a) There is hereby authorized and
14 created within the ~~economic development corporation~~ Rhode Island commerce corporation a
15 renewable energy development fund for the purpose of increasing the supply of NE-GIS
16 certificates available for compliance in future years by obligated entities with renewable energy
17 standard requirements, as established in this chapter. The fund shall be located at ~~and~~
18 ~~administered by the Rhode Island economic development corporation~~ the Rhode Island
19 commerce corporation ~~in accordance with § 42-64-13.2.~~ The ~~economic development corporation~~
20 Rhode Island commerce corporation shall:

21 Administer the fund and ~~A~~adopt plans and guidelines for the management and use of the
22 fund in ~~accordance with § 42-64-13.2~~ coordination with the office of energy resources and the
23 Rhode Island infrastructure bank ~~accordance with section 42-64-13.2,~~ and

24 (b) The ~~economic development corporation~~ Rhode Island commerce corporation shall
25 enter into agreements with obligated entities to accept alternative compliance payments,
26 consistent with rules of the commission and the purposes set forth in this section; and alternative
27 compliance payments received pursuant to this section shall be trust funds to be held and applied
28 solely for the purposes set forth in this section.

29 (c) The uses of the fund shall include but not be limited to:

30 (1) Stimulating investment in renewable energy development by entering into
31 agreements, including multi-year agreements, for renewable energy certificates;

32 (2) Establishing and maintaining a residential renewable energy program using eligible
33 technologies in accordance with § 39-26-5;

34 (3) Providing technical and financial assistance to municipalities for interconnection and

1 feasibility studies, and/or the installation of renewable energy projects;

2 [\(4\) Implementing and supporting commercial and residential property assessed clean](#)
3 [energy projects;](#)

4 ~~(45)~~ Issuing assurances and/or guarantees to support the acquisition of renewable energy
5 certificates and/or the development of new [renewable](#) energy sources for Rhode Island;

6 ~~(56)~~ Establishing escrows, reserves, and/or acquiring insurance for the obligations of the
7 fund;

8 ~~(67)~~ Paying administrative costs of the fund incurred by the [Rhode Island commerce](#)
9 ~~corporation, economic development corporation, the board of trustees, or the Rhode Island~~
10 [infrastructure bank and the](#) office of energy resources, not to exceed ten percent (10%) of the
11 income of the fund, including, but not limited to, alternative compliance payments. All funds
12 transferred from the ~~economic development corporation~~ [Rhode Island commerce corporation](#) to
13 support the [Rhode Island infrastructure bank and the](#) office of energy resources' administrative
14 costs shall be deposited as restricted receipts.

15 [\(d\) All applications received for the use of the fund shall be reviewed by the Rhode](#)
16 [Island commerce corporation in consultation with the office of energy resources and the Rhode](#)
17 [Island infrastructure bank.](#)

18 ~~(de)~~ NE-GIS certificates acquired through the fund may be conveyed to obligated entities
19 or may be credited against the renewable energy standard for the year of the certificate provided
20 that the commission assesses the cost of the certificates to the obligated entity, or entities,
21 benefiting from the credit against the renewable energy standard, which assessment shall be
22 reduced by previously made alternative compliance payments and shall be paid to the fund.

23 SECTION 7. Chapter 39-26.5 of the General Laws entitled “Property Assessed Clean
24 Energy -- Residential Program” is hereby renamed “Property Assessed Clean Energy Program”.

25 SECTION 8. Sections 39-26.5-1, 39-26.5-2, 39-26.5-3, 39-26.5-5, 39-26.5-6, 39-26.5-7,
26 39-26.5-8, 39-26.5-9, 39-26.5-10 and 39-26.5-11, of the General Laws in Chapter 39-26.5 entitled
27 “Property Assessed Clean Energy -- Residential Program” are hereby amended to read as follows:

28 **39-26.5-1. Legislative findings. --** It is hereby found and declared:

- 29 (1) Investing in energy efficiency and renewable energy improvements is financially
30 beneficial over time, as well as good for the environment;
- 31 (2) Upfront costs are a barrier to investments in major energy improvements [for both](#)
32 [commercial and residential property owners;](#)
- 33 (3) There are few financing options available that combine easy qualification, an
34 attractive interest rate, and a relatively long repayment term;

1 (4) Property-assessed clean energy, hereinafter referred to as PACE, is a voluntary
2 financing mechanism which allows ~~homeowners~~ both residential and commercial property
3 owners to access affordable, long-term financing for ~~energy upgrades to~~ renewable energy and
4 energy efficiency upgrades including system reliability upgrades, alternative fuel infrastructure
5 upgrades, and other eligible environmental and health and safety upgrades on their property;

6 (5) PACE financing offers incremental special assessment payments that are low and
7 fixed for up to twenty (20) years, with no upfront costs; the PACE special assessment fees
8 transfer to the new owner when a property is sold, or the assessment obligation can be paid in full
9 at transfer; and electricity and fuel bills are lower than they would be without the improvements;
10 and

11 (6) PACE financing will ~~allow~~ create a means for Rhode Island cities and towns to
12 ~~contribute in order to~~ provide a mechanism to ~~help meet~~ increase community sustainability,
13 greenhouse gas emissions reductions, and meet other energy goals and will also provide a
14 valuable service to the citizens of their communities.

15 **39-26.5-2. Definitions.** -- As used in this chapter, the following definitions apply:

16 (1) “Commercial property” means a property operated for commercial purposes, or a
17 residential property which contains five (5) or more housing units.

18 (2) “Distributed generation system” means an electrical generation facility located in the
19 electric distribution company’s load zone with a nameplate capacity no greater than five
20 megawatts (5 MW), using eligible renewable energy resources as defined by § 39-26-5, including
21 biogas created as a result of anaerobic digestion, but, specifically excluding all other listed
22 eligible biomass fuels, and connected to an electrical power system owned, controlled, or
23 operated by the electric distribution company.

24 (3) ~~(4)~~ “Dwelling” means a residential structure or mobile home which contains one to
25 four (4) family housing units, or individual units of condominiums or cooperatives,

26 (4) ~~(2)~~ “Eligible net metering system” means a facility generating electricity as defined in
27 § 39-26.4-2.

28 (5) ~~(3)~~ “Eligible renewable energy resources” means resources as defined in § 39-26-5.

29 (6) ~~(4)~~ “Energy efficient projects” means those projects that are eligible under § 39-1-
30 27.7 or projects that have been defined as eligible in the PACE rules and regulations.

31 (7) “Institution” means a private entity or quasi state agency.

32 (8) ~~(5)~~ “Loan loss reserve fund or “LRF” means funds set aside to cover losses in the
33 event of loan defaults.

34 (9) ~~(6)~~ “Municipality and towns and cities” means any Rhode Island town or city with

1 powers set forth in title 45 of the general laws.

2 ~~(7)~~ (10) “Net metering” means using electricity as defined in section 39-26.4-2.

3 ~~(8)“Office of energy resources” or “office” means the Rhode Island office of energy~~
4 ~~resources within the department of administration.~~

5 ~~(9)~~ (11) “PACE assessment” or “assessment” means the special assessment ~~placed~~ on a
6 PACE ~~property in accordance with § 39-26.5-4~~ owner’s property tax bill to be collected by the
7 PACE municipality in which that PACE property is located and remitted to the lender that has
8 financed that PACE property owner’s PACE Loan.

9 (12) “PACE lien” means the non-accelerating lien placed on a PACE property in
10 accordance with the rules and regulations promulgated by the office subject to Section 39-26.5-
11 11, in order to secure the repayment of a PACE loan made in connection to that PACE property
12 and to secure the payment of each PACE assessment to be made by that PACE property owner as
13 each assessment comes due.

14 (13) “PACE loan” means a loan, approved by the office, made in accordance with this
15 chapter and the rules and regulations promulgated by the office in accordance therewith.

16 ~~(10)~~ (14) “PACE municipality” means a municipality voluntarily designated by its city or
17 town council as a property-assessed clean energy municipality.

18 ~~(11) “PACE property” means any property which is the subject of a written agreement~~
19 ~~entered into pursuant to section 39-26.5-4~~

20 ~~(12)~~ (15) “PACE project” or ~~“P~~project” means a distinct installation of an eligible energy
21 efficiency system, renewable energy net metering system, distributed generation system,
22 alternative fuel infrastructure upgrade, and/or other eligible environmental and health and safety
23 upgrades.

24 (16) “PACE property” or “property” means any dwelling or commercial property which
25 is the subject of an application filed pursuant to section § 39-26.5-4.

26 (17) “Past due balances” means the sum of the due and unpaid assessments on a PACE
27 Property as of the time the ownership of that PACE property is transferred. “Past due balances”
28 does not mean the unaccelerated balance of the PACE loan at the time that property is transferred.

29 ~~(13)~~ (18) “Property-assessed clean energy” or “PACE” is a voluntary financing
30 mechanism which allows both residential and commercial property owners to access affordable,
31 long-term financing for energy ~~efficiency and renewable energy improvements to~~ upgrades, and
32 other eligible environmental and health and safety upgrades on their property.

33 (19) “Rhode Island infrastructure bank” means the Rhode Island infrastructure bank
34 (“RIIB”). For the purposes of this chapter, Rhode Island infrastructure bank shall include other

1 [related state agencies and/or third party administrators, as may be engaged by the Rhode Island](#)
2 [infrastructure bank for the purposes of providing the services envisioned by the rules and](#)
3 [regulations promulgated in accordance with section 39-26.5-11.](#)

4 **39-26.5-3. Property-Assessed Clean Energy Municipality.** – A town or city council by
5 resolution may designate the municipality as a ~~property assessed clean energy municipality, also~~
6 ~~referred to~~ as a “PACE municipality.”

7 **39-26.5-5. ~~Rights of dwelling owners PACE Property Owners Rights of PACE~~**
8 **Property Owners.** – A ~~dwelling~~ [PACE property owner](#) ~~who has entered into a written agreement~~
9 ~~with a municipality under section 39-26.5-4~~ may enter into a contract for the installation or
10 construction of a project relating to renewable energy as defined in section 39-26-5, or relating to
11 energy efficiency as defined in section 39-1-27.7 or as defined by the ~~office~~ [Rhode Island](#)
12 [infrastructure bank](#) under subsection 39-26.5-~~8(a)~~11.

13 **39-26.5-6. Priority of PACE assessment lien.** – (a) A ~~lien for a~~ PACE ~~assessment~~ [lien](#)
14 [on a dwelling](#) shall be: subordinate to all liens on the ~~property dwelling~~ in existence at the time
15 the ~~lien for the assessment in filed~~ [PACE lien is created](#); subordinate to a first mortgage on the
16 ~~property dwelling~~ recorded after such ~~filing~~ [PACE lien is created](#); and superior to any other lien
17 on the ~~property dwelling~~ recorded after such ~~filing~~ [PACE lien is created](#). This subsection shall not
18 affect the status or priority of any other municipal or statutory lien.

19 (b) At the time of a transfer of property ownership [of a dwelling](#), including [by](#)
20 foreclosure, the past due balances of any special assessment under this chapter shall be due for
21 payment. ~~In the event of a foreclosure action, the past due balances shall include all payments on~~
22 ~~a PACE assessment that are due and unpaid as of the date of the foreclosure.~~ Unless otherwise
23 agreed [by the PACE lender, all payments on the PACE assessment that become due after the date](#)
24 [of transfer by foreclosure or otherwise shall continue to be secured by a lien on the PACE](#)
25 [property and shall be the responsibility of the transferee.](#)

26 (c) A PACE lien on a commercial property shall be: [senior to all liens on the commercial](#)
27 [property in existence at the time the PACE lien is created; senior to all liens created or recorded](#)
28 [after the time the PACE lien is created; and on parity with a municipal tax lien.](#)

29 (d) [At the time of a transfer of property ownership of a commercial property, including](#)
30 [by foreclosure, the past due balances of any special assessment under this chapter shall be due for](#)
31 [payment. Unless otherwise agreed by the PACE lender, all payments on the PACE assessment](#)
32 [that become due after the date of transfer by foreclosure or otherwise shall remain a lien on the](#)
33 [PACE property and shall be the responsibility of the transferee.](#)

34 **39-26.5-7 Loan loss reserve fund.** – (a) the ~~office shall~~ [Rhode Island infrastructure bank](#)

1 may contract with ~~an one or more approved institutions, approved financial institution~~ to create
2 one or more ~~L~~oan ~~L~~oss ~~r~~Reserve ~~F~~unds (LRF).

3 (b) In the event that there is a foreclosure of a PACE property and the proceeds resulting
4 from such a foreclosure are insufficient to pay the past due balances on the associated PACE
5 assessment, after all superior liens have been satisfied, ~~then~~ payment from the LRF shall be made
6 from the LRF in the amount of the past due balances on the PACE assessment. The LRF shall be
7 administered by the Rhode Island infrastructure bank or by the ~~financial~~ institution selected by
8 the ~~office~~ Rhode Island infrastructure bank; in the latter case ~~with~~ the ~~office~~ Rhode Island
9 infrastructure bank shall ~~providing~~ provide oversight of the LRF.

10 **39-26.5-8. Assistance to municipalities.** – The ~~office~~ Rhode Island infrastructure bank
11 shall:

12 ~~(1) (a) Commencing on/or before July 1, 2014 and thereafter publish~~ Publish on its
13 website a list of the types of PACE eligible energy efficiency, ~~and~~ renewable energy, other
14 projects as defined in rules and regulations promulgated under 39-26.5-11;

15 ~~(2) (b)~~ (b) Provide information concerning implementation of this chapter to each
16 municipality that requests such information;

17 ~~(3) (c)~~ (c) Offer administrative and technical assistance to and offer to manage the PACE
18 program on behalf of any PACE municipality that voluntarily participates in the PACE program;
19 and

20 ~~(4) (d)~~ (d) Develop and offer informational resources to help residents make best use of the
21 PACE program.

22 **39-26.5-9. Monitoring, reporting, compliance, underwriting criteria.** – The Rhode
23 Island infrastructure bank shall determine compliance with the underwriting criteria, standards,
24 and procedures established within this chapter and shall include an accounting of the PACE
25 program in the annual report due ~~on April 15th of~~ each year ~~to the general assembly under~~
26 ~~subsection 39-2-1.2(k)~~ under § 46-12.2-24.1. The report shall describe the implementation and
27 operation of the PACE program receipts, disbursements and earnings.

28 **39-26.5-11. Rules and regulations.** – The ~~office is authorized to~~ Rhode Island
29 infrastructure bank shall consult with the office of energy resources and other relevant state
30 agencies and shall promulgate necessary rules and regulations, including but not limited to those
31 listed in section 39-26.5-4, in order to assure that PACE programs shall be successfully instituted
32 in Rhode Island; ~~such~~ in accordance with the terms of this chapter. Such rules should ensure that
33 the PACE program does not adversely affect the implementation of any other energy program in
34 whose coordination the ~~office~~ Rhode Island infrastructure bank or the office of energy resources

1 is involved.

2 SECTION 9. Section 39-26.5-4 of Chapter 39-26.5 in the General Laws entitled
3 “Property Assessed Clean Energy – Residential Program” is hereby repealed.

4 ~~39-26.5-4. Written agreements, consent of dwelling owners, energy savings analysis.~~
5 ~~After January 1, 2014, a PACE municipality may enter into a written agreement with any~~
6 ~~dwelling owner within the municipality who has:~~

7 ~~(1) An energy savings analysis approved by the office or an analysis performed under~~
8 ~~plans approved by the commission pursuant to section 39-1-27.7;~~

9 ~~(2) An energy efficiency and/or renewable energy project description approved by the~~
10 ~~office; and~~

11 ~~(3) A commitment from a financial institution to provide funds to complete the project.~~

12 ~~The agreement will require the dwelling owner to consent to be subject to the terms of the~~
13 ~~lien as set forth in Section 39-26.5-6.~~

14 SECTION 10. Chapter 39-26.5 of the General Laws entitled, “Property Assessed Clean
15 Energy – Residential Program” is hereby amended by adding thereto the following section:

16 **39-26.5-4.1. Application, project eligibility, agreement with municipality. – (a) The**
17 **office, in consultation with the office of energy resources, shall be responsible for promulgating**
18 **regulations that establish:**

19 **The necessary application requirements and procedures for any dwelling owner or**
20 **commercial property owner seeking PACE financing.**

21 **The necessary qualifications and requirements for a proposed PACE project.**

22 **(b) The office shall be responsible for promulgating the agreements and forms, to be**
23 **signed by PACE property owners, PACE municipalities, and PACE lenders, necessary to**
24 **effectuate the PACE program.**

25 SECTION 11. Section 42-64-13.2 of chapter 42-64 of the General Laws entitled “Rhode
26 Island Commerce Corporation” is hereby repealed.

27 ~~42-64-13.2—Renewable energy investment coordination—(a) Intent.—To develop an~~
28 ~~integrated organizational structure to secure for Rhode Island and its people the full benefits of~~
29 ~~cost-effective renewable energy development from diverse sources.~~

30 ~~(b) Definitions.—For purposes of this section, the following words and terms shall have~~
31 ~~the meanings set forth in RIGL 42-64-3 unless this section provides a different meaning.~~

32 ~~Within this section, the following words and terms shall have the following meanings:~~

33 ~~(1) “Corporation” means the Rhode Island economic development corporation.~~

34 ~~(2) “Municipality” means any city or town, or other political subdivision of the state.~~

1 ~~(3) "Office" means the office of energy resources established by chapter 42-140.~~

2 ~~(c) Renewable energy development fund. — The corporation shall, in the furtherance of its~~
3 ~~responsibilities to promote and encourage economic development, establish and administer a~~
4 ~~renewable energy development fund as provided for in section 39-26-7, may exercise the powers~~
5 ~~set forth in this chapter, as necessary or convenient to accomplish this purpose, and shall provide~~
6 ~~such administrative support as may be needed for the coordinated administration of the renewable~~
7 ~~energy standard as provided for in chapter 39-26 and the renewable energy program established~~
8 ~~by section 39-2-1.2. The corporation may upon the request of any person undertaking a renewable~~
9 ~~energy facility project, grant project status to the project, and a renewable energy facility project,~~
10 ~~which is given project status by the corporation, shall be deemed an energy project of the~~
11 ~~corporation.~~

12 ~~(d) Duties. — The corporation shall, with regards to renewable energy project investment:~~

13 ~~(1) Establish by rule, in consultation with the office, standards for financing renewable~~
14 ~~energy projects from diverse sources.~~

15 ~~(2) Enter into agreements, consistent with this chapter and renewable energy investment~~
16 ~~plans adopted by the office, to provide support to renewable energy projects that meet applicable~~
17 ~~standards established by the corporation. Said agreements may include contracts with~~
18 ~~municipalities and public corporations.~~

19 ~~(e) Conduct of activities.~~

20 ~~(1) To the extent reasonable and practical, the conduct of activities under the provisions~~
21 ~~of this chapter shall be open and inclusive; the director shall seek, in addressing the purposes of~~
22 ~~this chapter, to involve the research and analytic capacities of institutions of higher education~~
23 ~~within the state, industry, advocacy groups, and regional entities, and shall seek input from~~
24 ~~stakeholders including, but not limited to, residential and commercial energy users.~~

25 ~~(2) By January 1, 2009, the director shall adopt:~~

26 ~~(A) Goals for renewable energy facility investment which is beneficial, prudent, and from~~
27 ~~diverse sources;~~

28 ~~(B) A plan for a period of five (5) years, annually upgraded as appropriate, to meet the~~
29 ~~forementioned goals; and~~

30 ~~(C) Standards and procedures for evaluating proposals for renewable energy projects in~~
31 ~~order to determine the consistency of proposed projects with the plan.~~

32 ~~(f) Reporting. — On March 1, of each year after the effective date of this chapter, the~~
33 ~~corporation shall submit to the governor, the president of the senate, the speaker of the house of~~
34 ~~representatives, and the secretary of state, a financial and performance report. These reports shall~~

1 ~~be posted electronically on the general assembly and the secretary of state's websites as~~
2 ~~prescribed in § 42-20-8.2. The reports shall set forth:~~

3 ~~(1) The corporation's receipts and expenditures in each of the renewable energy program~~
4 ~~funds administered in accordance with this section.~~

5 ~~(2) A listing of all private consultants engaged by the corporation on a contract basis and~~
6 ~~a statement of the total amount paid to each private consultant from the two (2) renewable energy~~
7 ~~funds administered in accordance with this chapter; a listing of any staff supported by these~~
8 ~~funds, and a summary of any clerical, administrative or technical support received; and~~

9 ~~(3) A summary of performance during the prior year including accomplishments and~~
10 ~~shortcomings; project investments, the cost effectiveness of renewable energy investments by the~~
11 ~~corporation; and recommendations for improvement.~~

12 SECTION 12. Section 42-155-3 of the General Laws in Chapter 42-155 entitled "Quasi-
13 Public Corporations Accountability and Transparency Act" is hereby amended to read as follows:

14 **42-155-3. Definitions. [Effective January 1, 2015].** – (a) As used in this chapter,
15 "quasi-public corporation" means any body corporate and politic created, or to be created,
16 pursuant to the general laws, including, but not limited to, the following:

- 17 (1) Capital center commission;
- 18 (2) Rhode Island convention center authority;
- 19 (3) Rhode Island industrial facilities corporation;
- 20 (4) Rhode Island industrial-recreational building authority;
- 21 (5) Rhode Island small business loan fund corporation;
- 22 (6) Quonset development corporation;
- 23 (7) Rhode Island airport corporation;
- 24 (8) I-195 redevelopment district commission;
- 25 (9) Rhode Island health and educational building corporation;
- 26 (10) Rhode Island housing and mortgage finance corporation;
- 27 (11) Rhode Island higher education assistance authority;
- 28 (12) Rhode Island student loan authority;
- 29 (13) Narragansett bay commission;
- 30 (14) ~~Rhode Island Clean Water Finance Agency~~ [Rhode Island infrastructure bank](#);
- 31 (15) Rhode Island water resources board;
- 32 (16) Rhode Island resource recovery corporation;
- 33 (17) Rhode Island public rail corporation;
- 34 (18) Rhode Island public transit authority;

1 (19) Rhode Island turnpike and bridge authority;

2 (20) Rhode Island tobacco settlement financing corporation; and

3 (21) Any subsidiary of the Rhode Island commerce corporation.

4 (b) Cities, towns, and any corporation created that is an instrumentality and agency of a
5 city or town, and any corporation created by a state law that has been authorized to transact
6 business and exercise its powers by a city or town pursuant to ordinance or resolution, and fire
7 and water districts are not subject to the provisions of this chapter.

8 (c) The Rhode Island commerce corporation, being subject to similar transparency and
9 accountability requirements set forth in chapter 64 of title 42; the Rhode Island public rail
10 corporation established in chapter 64.2 of title 42; Block Island power authority; and the Pascoag
11 utility district shall not be subject to the provisions of this chapter.

12 SECTION 13. Section 45-12-33 of the General Laws in Chapter 45-12 entitled
13 “Indebtedness of Towns and Cities” is hereby amended to read as follows:

14 **45-12-33. Borrowing for road and bridge projects financed through the "municipal**
15 **road and bridge revolving fund"**. – (a) In addition to other authority previously granted, during
16 calendar year 2014 a city or town may authorize the issuance of bonds, notes, or other evidences
17 of indebtedness to evidence loans from the municipal road and bridge revolving fund
18 administered by the ~~Rhode Island Clean Water Finance Agency~~ [Rhode Island infrastructure bank](#)
19 in accordance with chapter 18 of title 24 of the general laws.

20 (b) These bonds, notes, or other evidences of indebtedness are subject to the maximum
21 aggregate indebtedness permitted to be issued by any city or town under § 45-12-2.

22 (c) The denominations, maturities, interest rates, methods of sale, and other terms,
23 conditions, and details of any bonds or notes issued under the provisions of this section may be
24 fixed by resolution of the city or town council authorizing them, or if no provision is made in the
25 resolution, by the treasurer or other officer authorized to issue the bonds, notes or evidences of
26 indebtedness; provided, that the payment of principal shall be by sufficient annual payments that
27 will extinguish the debt at maturity, the first of these annual payments to be made not later than
28 three (3) years, and the last payment not later than twenty (20) years after the date of the bonds.

29 The bonds, notes, or other evidences of indebtedness may be issued under this section by
30 any political subdivision without obtaining the approval of its electors, notwithstanding the
31 provisions of §§ 45-12-19 and 45-12-20 and notwithstanding any provision of its charter to the
32 contrary.

33 SECTION 14. Sections 46-6.1-3 and 46-6.1-9 of the General Laws in Chapter 46-6.1
34 entitled “Maintenance of Marine Waterways and Boating Facilities” are hereby amended to read

1 as follows:

2 **46-6.1-3. Purpose.** – The purposes of this chapter are:

3 (1) To establish an integrated, coherent plan for dredging and dredge material
4 management, which includes beneficial use, dewatering, in-water disposal, and upland disposal as
5 appropriate, that sets forth the state's program for these activities and provides guidance to
6 persons planning to engage in these activities and to designate the council as the lead agency for
7 implementing the purposes of this chapter.

8 (2) To provide for coordinated, timely decision-making by state agencies on applications
9 for dredging, dewatering, and for the beneficial use and in-water and upland disposal of dredged
10 materials, with the goals of providing action, following a determination that the application is
11 complete, on applications for these activities within one hundred eighty (180) days for
12 applications pertaining to maintenance dredging projects and within five hundred forty (540) days
13 for expansion projects.

14 (3) To establish, for the purposes of this chapter and consistent with the requirements of
15 the Marine Infrastructure Maintenance Act of 1996, the following in order of priority in planning
16 for and management of dredged material, depending on the nature and characteristics of the
17 dredged material and on reasonable cost.

18 (i) Beneficial use, including specifically beach nourishment and habitat restoration and
19 creation, in the coastal zone;

20 (ii) Beneficial use in upland areas;

21 (iii) Disposal.

22 (4) To encourage the development of the infrastructure needed to dewater dredged
23 materials, and to facilitate beneficial use of dredged materials in upland areas.

24 (5) To encourage and facilitate the beneficial use of dredged materials by private parties.

25 (6) To authorize the establishment of a means of supporting projects for dewatering
26 dredged material and for beneficial use and disposal of dredged material at sites above mean high
27 water by the ~~Rhode Island Clean Water Finance Agency~~ [Rhode Island infrastructure bank](#).

28 **46-6.1-9. Cooperation of other agencies.** – (a) In order to accomplish the purposes of
29 this chapter to provide for beneficial use, dewatering, and disposal of dredged material:

30 (1) State agencies, departments, corporations, authorities, boards, commissions,
31 including, but not limited to, the department of administration, the department of transportation,
32 the ~~Rhode Island Clean Water Finance Agency~~ Rhode Island infrastructure bank, the economic
33 development corporation, the Narragansett Bay commission, and the Rhode Island resource
34 recovery corporation, and political subdivisions, shall cooperate with the council in developing

1 and implementing the comprehensive plan for dredged material management;

2 (2) The council shall seek federal acceptance of the comprehensive plan for dredged
3 material management as an element of the state's coastal zone management program and shall
4 pursue such federal approvals and general permits as may facilitate expeditious action on
5 dredging applications that are consistent with the plan;

6 (3) The economic development corporation shall:

7 (i) Make available by October 31, 2004, a site to use as a dewatering site for dredged
8 material, which site shall be available for dewatering dredged material until at least September
9 30, 2012, and may continue to be available thereafter for periods of not less than six (6) months,
10 upon the request of the council and the approval of the corporation; and

11 (ii) With advice from the council and the department, develop and implement a program
12 to market dredged material for beneficial use by private persons, including but limited to
13 brownfield reclamation projects; and

14 (4) The council, with the cooperation of the department and the ~~Clean Water Finance~~
15 ~~Agency~~ [Rhode Island infrastructure bank](#), shall develop a proposal for a fund, which may be used
16 as provided for in § 46-12.2-4.1, to support projects for dewatering dredged material for
17 beneficial use and disposal of dredged material at sites above mean high water and for confined
18 aquatic disposal of dredged materials, which proposal shall be submitted to the general assembly
19 not later than February 15, 2002.

20 (b) The fund shall not be established or go into effect unless it has been approved by the
21 general assembly.

22 SECTION 15. Section 46-12.10-1 of the General Laws in Chapter 46-12.10 entitled
23 "Commission to Study Feasibility and Funding of Homeowners Assistance Fund for Septic
24 Systems" is hereby amended to read as follows:

25 **46-12.10-1. Legislative findings.** – The General Assembly hereby recognizes and
26 declares that:

27 (a) There exists and will continue to exist within the state of Rhode Island the need to
28 construct, maintain and repair facilities and projects for the abatement of pollution caused by
29 domestic wastewater discharges, including, but not limited to, septic systems and cesspools.

30 (b) It is found that there are presently ninety thousand (90,000) cesspools within the State
31 of Rhode Island.

32 (c) Failed and poorly functioning ISDS systems contribute directly to pollution in such
33 environmentally sensitive areas as Greenwich Bay, coastal salt ponds and other water resources.

34 (d) It is further found that there is a need to establish a fund that shall provide to

1 communities financial assistance to create and adopt a community septic system management
2 plan and provide the corpus of a fund within the existing State SRF as administered by the ~~Clean~~
3 ~~Water Finance Agency~~ Rhode Island infrastructure bank that shall enable communities to offer to
4 homeowners within those communities the opportunity to access low-cost loans for repair or
5 replacement of failed or poorly functioning septic systems.

6 SECTION 16. Chapter 46-12.2 of the General Laws entitled “Rhode Island Clean Water
7 Financing Agency” is hereby renamed “Rhode Island Infrastructure Bank”.

8 SECTION 17. Sections 46-12.2-1, 46-12.2-2, 46-12.2-3, 46-12.2-4, 46-12.2-6, 46-12.2-8,
9 46-12.2-9, 46-12.2-10 and 46-12.2-11 of the General Laws in Chapter 46-12.2 entitled “Rhode
10 Island Clean Water Financing Agency” are hereby amended to read as follows:

11 **46-12.2-1. Legislative findings.** – (a) It is hereby found that there exists and will in the
12 future exist within the state of Rhode Island the need to construct facilities and to facilitate
13 projects for the abatement of pollution caused by wastewater ~~and~~ for the enhancement of the
14 waters of the state, and for the completion of renewable energy and energy efficiency projects in
15 order to save property owners money and to encourage job and business growth in Rhode Island.
16 ~~And that the traditional source for funding construction of such facilities and projects under the~~
17 ~~grant program of title II of the Clean Water Act, 33 U.S.C. §§1281-1299, will terminate at the end~~
18 ~~of fiscal year 1990.~~

19 (b) It is hereby further found that to meet water quality goals under federal and state law,
20 and to secure maximum benefit of funding programs available under federal and state law
21 pertaining to wastewater pollution abatement projects, it is necessary to establish a revolving loan
22 fund program in accordance with federal and state law to provide a perpetual source of low cost
23 financing for water pollution abatement projects.

24 (c) It is hereby further found that to secure maximum benefit to the state from funding
25 programs available under federal and state law and, to the extent permissible to attract private
26 capital, for water pollution abatement projects, for safe drinking water projects, for municipal
27 road and bridge projects, and other infrastructure related projects, it is necessary to establish a
28 finance agency to administer the revolving loan funds and other financing mechanisms, and for
29 the finance agency to work with the department of environmental management, Rhode Island
30 department of transportation, the Rhode Island office of energy resources and other federal and
31 state agencies for proper administration of ~~the~~ revolving loan funds and other financing
32 mechanisms.

33 (d) It is hereby further found that cities and towns can lower the costs of borrowing for
34 road and bridge projects through cooperation with the Rhode Island infrastructure bank and that

1 [greater coordination among cities and towns will enable more efficient allocation of infrastructure](#)
2 [resources by the state of Rhode Island.](#)

3 [\(e\) It is hereby further found that the geographic size of and population of Rhode Island,](#)
4 [while often derided as an impediment to economic growth, are potential assets, not handicaps, to](#)
5 [better infrastructure development.](#)

6 [\(f\) It is hereby further found that initiatives for infrastructure finance can best be](#)
7 [accomplished through a new, streamlined entity that seeks to foster and develop a public-private](#)
8 [sector partnership that takes advantage of all of Rhode Island's strengths.](#)

9 [\(g\) It is hereby further found that expanding the Rhode Island clean water finance agency](#)
10 [and renaming it the Rhode Island infrastructure bank provides the best avenue towards fostering](#)
11 [the creation of jobs and the realization of energy cost savings through the facilitation of](#)
12 [infrastructure improvements.](#)

13 **46-12.2-2. Definitions.** – As used in this chapter, unless the context clearly indicates
14 otherwise, the following words and phrases shall have the following meanings:

15 (1) "Agency" means the ~~Rhode Island clean water finance agency~~ [Rhode Island](#)
16 [infrastructure bank.](#)

17 (2) "Approved project" means any project or portion thereof that has been issued a
18 certificate of approval by the department, [or other comparable evidence of approval by any other](#)
19 [agency or political subdivision or instrumentality of the state,](#) for financial assistance from the
20 agency;

21 (3) "Board" means board of directors of the agency;

22 (4) "Bond act" means any general or special law authorizing a local governmental unit to
23 incur indebtedness for all or any part of the cost of projects coming within the scope of a water
24 pollution abatement project, [or for other projects related to this chapter,](#) including but not limited
25 to § 45-12-2;

26 (5) "Bonds" means bonds, notes, or other evidence of indebtedness of the agency;

27 (6) "Certificate of approval" means the certificate of approval contemplated by § 46-
28 12.2-8, [or other comparable evidence of approval issued by any agency or political subdivision or](#)
29 [instrumentality of the state;](#)

30 (7) "Chief executive officer" means the mayor in any city, the president of the town
31 council in any town, and the executive director of any authority or commission, unless some other
32 officer or body is designated to perform the functions of a chief executive officer under any bond
33 act or under the provisions of a local charter or other law;

34 (8) "Clean Water Act" or "act" means the Federal Water Pollution Control Act, act of

1 June 30, 1948, ch. 758, as added Oct. 18, 1972, Pub. L. No. 92-500, 86 Stat. 896, as added Dec.
2 27, 1977, Pub. L. No. 95-217, 91 Stat. 1566 (codified at 33 U.S.C. § 1251 et seq., as amended and
3 as hereafter amended from time to time);

4 (9) "Corporation" means any corporate person, including, but not limited to, bodies
5 politic and corporate, corporations, societies, associations, partnerships, sole proprietorships and
6 subordinate instrumentalities of any one or more political subdivisions of the state;

7 (910) "Cost" as applied to any approved project, means any or all costs, whenever
8 incurred, approved by the agency in accordance with section eight of this chapter, of planning,
9 designing, acquiring, constructing, and carrying out and placing the project in operation,
10 including, without limiting the generality of the foregoing, amounts for the following: planning,
11 design, acquisition, construction, expansion, improvement and rehabilitation of facilities;
12 acquisition of real or personal property; demolitions and relocations; labor, materials, machinery
13 and equipment; services of architects, engineers, and environmental and financial experts and
14 other consultants; feasibility studies, plans, specifications, and surveys; interest prior to and
15 during the carrying out of any project and for a reasonable period thereafter; reserves for debt
16 service or other capital or current expenses; costs of issuance of local governmental obligations or
17 non-governmental obligations issued to finance the obligations including, without limitation, fees,
18 charges, and expenses and costs of the agency relating to the loan evidenced thereby, fees of
19 trustees and other depositories, legal and auditing fees, premiums and fees for insurance, letters or
20 lines of credit or other credit facilities securing local governmental obligations or non-
21 governmental obligations and other costs, fees, and charges in connection with the foregoing; and
22 working capital, administrative expenses, legal expenses, and other expenses necessary or
23 incidental to the aforesaid, to the financing of a project and to the issuance therefor of local
24 government obligations under the provisions of this chapter;

25 (~~1011~~) "Department" means the department of environmental management;

26 (~~112~~) "Energy efficiency savings" means the savings derived from the implementation
27 of energy efficient and renewable energy upgrades to public buildings;

28 (~~1311~~) "Financial assistance" means any form of financial assistance ~~other than grants~~
29 provided by the agency to a local governmental unit or corporation in accordance with this
30 chapter for all or any part of the cost of an approved project, including, without limitation, grants,
31 temporary and permanent loans, with or without interest, guarantees, insurance, subsidies for the
32 payment of debt service on loans, lines of credit, and similar forms of financial assistance;
33 provided, however, notwithstanding the foregoing, for purposes of capitalization grant awards
34 made available to the agency, pursuant to the American Recovery and Reinvestment Act of 2009

1 (P.L. 111-5), or as otherwise required in connection with other capitalization grant awards made
2 available to the agency, financial assistance shall also include principal forgiveness and negative
3 interest loans;

4 (1412) "Fully marketable form" means a local governmental obligation in form
5 satisfactory to the agency duly executed and accompanied by an opinion of counsel of recognized
6 standing in the field of municipal law whose opinions have been and are accepted by purchasers
7 of like obligations to the effect that the obligation is a valid and binding obligation of the local
8 governmental unit issuing the obligation, enforceable in accordance with its terms;

9 (1513) "General revenues" , when used with reference to a local governmental unit,
10 means revenues, receipts, assessments, and other moneys of the local governmental unit received
11 from or on account of the exercise of its powers and all rights to receive the same, including
12 without limitation:

13 (i) Taxes,
14 (ii) Wastewater system revenues,
15 (iii) Assessments upon or payments received from any other local governmental unit
16 which is a member or service recipient of the local governmental unit, whether by law, contract,
17 or otherwise,

18 (iv) Proceeds of local governmental obligations and loans and grants received by the
19 local governmental unit in accordance with this chapter,

20 (v) Investment earnings,
21 (vi) Reserves for debt service or other capital or current expenses,
22 (vii) Receipts from any tax, excise, or fee heretofore or hereafter imposed by any general
23 or special law all or a part of the receipts of which are payable or distributable to or for the
24 account of the local governmental unit,

25 (viii) Local aid distributions, and
26 (ix) Receipts, distributions, reimbursements, and other assistance received by or for the
27 account of the local governmental unit from the United States or any agency, department, or
28 instrumentality thereof;

29 (1614) "Loan" means a loan by the agency to a local governmental unit or corporation for
30 costs of an approved project, including, without limitation, temporary and permanent loans, and
31 lines of credit;

32 (1715) "Loan agreement" means any agreement entered into by the agency with a local
33 governmental unit or corporation pertaining to a loan, other financial assistance, ~~or~~ local
34 governmental obligations, or non-governmental obligations, including, without limitation, a loan

1 agreement, trust agreement, security agreement, reimbursement agreement, guarantee agreement,
2 [lease agreement](#), or similar instrument;

3 (18+6) "Local aid distributions" means receipts, distributions, reimbursements, and other
4 assistance payable by the state to or for the account of a local governmental unit, except such
5 receipts, distributions, reimbursements, and other assistance restricted by law to specific
6 statutorily defined purposes;

7 (19+7) "Local governmental obligations" means bonds, notes, [lease obligations](#), and other
8 evidences of indebtedness in fully marketable form issued by a local governmental unit to
9 evidence a loan from the agency in accordance with this chapter or otherwise as provided herein;

10 (20+8) "Local governmental unit" means any town, city, district, commission, agency,
11 authority, board, or other political subdivision or instrumentality of the state or of any political
12 subdivision thereof responsible for the ownership or operation of a water pollution abatement
13 project, including the Narragansett Bay water quality management district commission; and, for
14 purposes of dam safety or dam maintenance projects, any person seeking financial assistance as a
15 joint applicant with any of the above entities;

16 (21+9) "Local interest subsidy trust fund" means the local interest subsidy trust fund
17 established under § 46-12.2-6;

18 (22) ["Non-governmental obligations" means bonds, notes, or other evidences of](#)
19 [indebtedness in fully marketable form issued by a corporation to evidence a loan from the agency](#)
20 [in accordance with this chapter or otherwise as provided herein.](#)

21 (23+20) "Person" means any natural or corporate person, including bodies politic and
22 corporate, public departments, offices, agencies, authorities, and political subdivisions of the
23 state, corporations, societies, associations, and partnerships, and subordinate instrumentalities of
24 any one or more political subdivisions of the state;

25 (24+21) "Priority determination system" means the system by which water pollution
26 abatement projects are rated on the basis of environmental benefit and other criteria for funding
27 assistance pursuant to rules and regulations promulgated by the department as they may be
28 amended from time to time;

29 (25) ["Qualified energy conservation bond" or "QECCB" means those bonds designated by](#)
30 [26 USC 54D.](#)

31 (26+22) "Revenues" , when used with reference to the agency, means any receipts, fees,
32 payments, moneys, revenues, or other payments received or to be received by the agency in the
33 exercise of its corporate powers under this chapter, including, without limitation, loan
34 repayments, payments on local governmental obligations, [non-governmental obligations](#), grants,

1 aid, appropriations, and other assistance from the state, the United States, or any agency,
2 department, or instrumentality of either or of a political subdivision thereof, bond proceeds,
3 investment earnings, insurance proceeds, amounts in reserves, and other funds and accounts
4 established by or pursuant to this chapter or in connection with the issuance of bonds, including,
5 without limitation, the water pollution control revolving fund, the Rhode Island water pollution
6 control revolving fund, and the local interest subsidy fund, and any other fees, charges or other
7 income received or receivable by the agency;

8 (27~~23~~) "Rhode Island water pollution control revolving fund" means the Rhode Island
9 water pollution control revolving fund established pursuant to § 46-12.2-6;

10 (28~~24~~) "Trust agreement" means a trust agreement, loan agreement, security agreement,
11 reimbursement agreement, currency or interest rate exchange agreement, or other security
12 instrument, and a resolution, loan order, or other vote authorizing, securing, or otherwise
13 providing for the issue of bonds, loans, or local governmental obligations or non-governmental
14 obligations;

15 (29~~25~~) "Wastewater system revenues" means all rates, rents, fee assessments, charges,
16 and other receipts derived or to be derived by a local governmental unit from wastewater
17 collection and treatment facilities and water pollution abatement projects under its ownership or
18 control, or from the services provided thereby, including, without limitation, proceeds of grants,
19 gifts, appropriations, and loans, including the proceeds of loans or grants awarded by the agency
20 or the department in accordance with this chapter, investment earnings, reserves for capital and
21 current expenses, proceeds of insurance or condemnation, and the sale or other disposition of
22 property; wastewater system revenues may also include rates, rents, fees, charges, and other
23 receipts derived by the local governmental unit from any water supply of distribution facilities or
24 other revenue producing facilities under its ownership or control; wastewater system revenues
25 shall not include any ad valorem taxes levied directly by the local governmental unit on any real
26 and personal property;

27 (30~~26~~) "Water pollution abatement project" or "project" means any project eligible
28 pursuant to Title VI of the Clean Water Act including, but not limited to, wastewater treatment or
29 conveyance project that contributes to removal, curtailment, or mitigation of pollution of the
30 surface water of the state, and conforms with any applicable comprehensive land use plan which
31 has been adopted or any dam safety, removal or maintenance project; it also means a project to
32 enhance the waters of the state, which the agency has been authorized by statute to participate in;
33 it also means a project related to brownfields remediation and/or development subject to
34 consultation with the Rhode Island commerce corporation and department of environmental

1 management, or any other project which the agency has been authorized to participate in;

2 (31~~27~~) "Water pollution control revolving fund" means the water pollution control
3 revolving fund contemplated by title VI of the Water Quality Act and established under § 46-
4 12.2-6;

5 (32~~28~~) "Water Quality Act" means the Water Quality Act of 1987, Pub. L. No. 100-4,
6 101 Stat. 7, 33 U.S.C. § 1251 et seq., as amended from time to time.

7 ~~46-12.2-3. Establishment Of agency --, Composition of agency --, Appointment of~~
8 ~~directors of the Rhode Island infrastructure bank~~ Establishment, Composition
9 Appointment of directors of the Rhode Island infrastructure bank. (a) ~~There is hereby~~
10 ~~created a body politic and corporate and~~ The agency known as the "Rhode Island clean water
11 finance agency" shall now be known as the "Rhode Island infrastructure bank." Whenever in any
12 general law, public law, rule, regulation and/or bylaw, reference is made to the Rhode Island
13 clean water finance agency, by name or otherwise, the reference shall be deemed to refer to and
14 mean the "Rhode Island infrastructure bank." The agency shall take all necessary actions to
15 effectuate this name change, including, but not limited to, changing the name of the agency on
16 file with any government office. The Rhode Island infrastructure bank shall remain a public
17 instrumentality of the state having distinct legal existence from the state and not constituting a
18 department of the state government. ~~to be known as the Rhode Island clean water finance agency.~~
19 The exercise by ~~the~~ this agency of the powers conferred by this chapter shall be deemed to be the
20 performance of an essential public function.

21 (b) Nothing in this act shall be construed to change or modify the corporate existence of
22 the former Rhode Island clean water finance agency, which shall now be known as the "Rhode
23 Island infrastructure bank," or to change or modify any contracts or agreements of any kind by,
24 for, between, or to which the Rhode Island clean water finance agency is a party.

25 ~~(b)~~(c) The powers of the agency shall be exercised by or under the supervision of a board
26 of directors consisting of ~~five-seven~~ (5) (7) members, four (4) of whom shall be members of the
27 public appointed by the governor, with the advice and consent of the senate. The governor in
28 making these appointments shall give due consideration to persons skilled and experienced in
29 law, finance, and public administration and give further due consideration to a recommendation
30 by the general treasurer for one of those appointments. The newly appointed member will serve
31 for a limited term to expire in March of 2006. All appointments made by the governor shall serve
32 for a term of two (2) years. No one shall be eligible for appointment unless he or she is a resident
33 of this state. The members of the board of directors as of the effective date of this act [July 15,
34 2005] who were appointed to the board of directors by members of the general assembly shall

1 cease to be members of the board of directors on the effective date of this act. As of the effective
2 date of this act, the general treasurer or his or her designee, who shall be a subordinate within the
3 general treasurer's department, shall serve on the board of directors as an ex-officio member. The
4 commerce secretary, or his or her designee, and the director of the department of environmental
5 management, or his or her designee, shall also serve on the board of directors as ex officio
6 members. Those members of the board of directors as of the effective date of this act who were
7 appointed to the board of directors by the governor shall continue to serve the balance of their
8 current terms.

9 ~~(e)~~ (d) Each member of the board of directors shall serve until his or her successor is
10 appointed and qualified. The appointed member of the board of directors shall be eligible for
11 reappointment. Any member of the board of directors appointed to fill a vacancy of a public
12 member on the board shall be appointed by the governor, with the advice and consent of the
13 senate, for the unexpired term of the vacant position in the same manner as the member's
14 predecessor as set forth in subsection 46-12.2-3(b). The public members of the board of directors
15 shall be removable by the governor, pursuant to § 36-1-7 and for cause only, and removal solely
16 for partisan or personal reasons unrelated to capacity or fitness for the office shall be unlawful.
17 The governor shall designate one member of the board of directors to be the chairperson of the
18 agency to serve in such capacity during his or her term as a member. The board of directors may
19 elect from among its members such other officers as they deem necessary. Three (3) members of
20 the board of directors shall constitute a quorum. A majority vote of those present shall be required
21 for action. No vacancy in the membership of the board of directors shall impair the right of a
22 quorum to exercise the powers of the board of directors. The members of the board of directors
23 shall serve without compensation, but each member shall be reimbursed for all reasonable
24 expenses incurred in the performance of his or her duties.

25 ~~(d)~~ (e) Notwithstanding any other provision of general or special law to the contrary, any
26 member of the board of directors, who is also an officer or employee of the state or of a local
27 governmental unit or other public body, shall not thereby be precluded from voting for or acting
28 on behalf of the agency, the state, or local governmental unit or other public body on any matter
29 involving the agency, the state, or that local governmental unit or other public body, and any
30 director, officer, employee, or agent of the agency shall not be precluded from acting for the
31 agency on any particular matter solely because of any interest therein which is shared generally
32 with a substantial segment of the public.

33 **46-12.2-4 General powers and duties of agency.** – (a) The agency shall have all powers
34 necessary or convenient to carry out and effectuate the purposes and provisions of this ~~chapter~~

1 ~~and chapter~~ [chapter, chapter](#) 24-18 [and chapter 39-26.5](#), including, without limiting the generality
2 of the foregoing, the powers and duties:

3 (1) To adopt and amend bylaws, rules, regulations, and procedures for the governance of
4 its affairs, the administration of its financial assistance programs, and the conduct of its business;

5 (2) To adopt an official seal;

6 (3) To maintain an office at such place or places as it may determine;

7 (4) To adopt a fiscal year;

8 (5) To adopt and enforce procedures and regulations in connection with the performance
9 of its functions and duties;

10 (6) To sue and be sued;

11 (7) To employ personnel as provided in § 46-12.2-5, and to engage accounting,
12 management, legal, financial, consulting and other professional services;

13 (8) Except as provided in this chapter, to receive and apply its revenues to the purposes
14 of this chapter without appropriation or allotment by the state or any political subdivision thereof;

15 (9) To borrow money, issue bonds, and apply the proceeds thereof, as provided in this
16 chapter and chapter 24-18, and to pledge or assign or create security interests in revenues, funds,
17 and other property of the agency and otherwise as provided in this chapter and chapter 24-18, to
18 pay or secure the bonds; and to invest any funds held in reserves or in the water pollution control
19 revolving fund, the Rhode Island water pollution control revolving fund, the municipal road and
20 bridge fund established under chapter 24-18, any [other funds established in accordance with this](#)
21 [chapter](#), or the local interest subsidy trust fund, or any revenues or funds not required for
22 immediate disbursement, in such investments as may be legal investments for funds of the state;

23 (10) To obtain insurance and to enter into agreements of indemnification necessary or
24 convenient to the exercise of its powers under this chapter and chapter 24-18;

25 (11) To apply for, receive, administer, and comply with the conditions and requirements
26 respecting any grant, gift, or appropriation of property, services, or moneys;

27 (12) To enter into contracts, arrangements, and agreements with other persons, and
28 execute and deliver all instruments necessary or convenient to the exercise of its powers under
29 this chapter and chapter 24-18; such contracts and agreements may include without limitation,
30 loan agreements with a local governmental unit [or corporation](#), capitalization grant agreements,
31 intended use plans, operating plans, and other agreements and instruments contemplated by title
32 VI of the Clean Water Act, 33 U.S.C. § 1381 et seq., or this chapter, agreement and instruments
33 contemplated by chapter 24-18, grant agreements, contracts for financial assistance or other forms
34 of assistance from the state or the United States, and trust agreements and other financing

1 agreements and instruments pertaining to bonds;

2 (13) To authorize a representative to appear on its own behalf before other public bodies,
3 including, without limiting the generality of the foregoing, the congress of the United States, in
4 all matters relating to its powers and purposes;

5 (14) To provide financial assistance to a local governmental unit, or, subject to
6 consultation with the Rhode Island commerce corporation, to a corporation to finance costs of
7 approved projects, and to thereby acquire and hold local governmental obligations and non-
8 governmental obligations at such prices and in such manner as the agency shall deem advisable,
9 and sell local governmental obligations and non-governmental obligations acquired or held by it
10 at prices without relation to cost and in such manner as the agency shall deem advisable, and to
11 secure its own bonds with such obligations all as provided in this chapter and chapter 24-18;

12 (15) To be the sole Rhode Island governmental provider of financial assistance with
13 regards to those water pollution abatement projects concerning brownfields revolving funds.

14 ~~(15)~~ (16) To establish and collect such fees and charges as the agency shall determine to
15 be reasonable;

16 ~~(16)~~ (17) To acquire, own, lease as tenant, or hold real, personal or mixed property or any
17 interest therein for its own use; and to improve, rehabilitate, sell, assign, exchange, lease as
18 landlord, mortgage, or otherwise dispose of or encumber the same;

19 ~~(17)~~ (18) To do all things necessary, convenient, or desirable for carrying out the
20 purposes of this chapter and chapter 24-18 or the powers expressly granted or necessarily implied
21 by this chapter and chapter 24-18;

22 ~~(18)~~ (19) To conduct a training course for newly appointed and qualified members and
23 new designees of ex-officio members within six (6) months of their qualification or designation.
24 The course shall be developed by the executive director, approved by the board of directors, and
25 conducted by the executive director. The board of directors may approve the use of any board of
26 directors or staff members or other individuals to assist with training. The training course shall
27 include instruction in the following areas: the provisions of chapters 46-12.2, 42-46, 36-14, and
28 38-2; and the agency's rules and regulations. The director of the department of administration
29 shall, within ninety (90) days of the effective date of this act [July 15, 2005], prepare and
30 disseminate, training materials relating to the provisions of chapters 42-46, 36-14 and 38-2; and

31 ~~(19)~~ (20) Upon the dissolution of the water resources board (corporate) pursuant to § 46-
32 15.1-22, to have all the powers and duties previously vested with the water resources board
33 (corporate), as provided pursuant to chapter 46-15.1.

34 ~~(20)~~ (21) To meet at the call of the chair at least eight (8) times per year. All meetings

1 shall be held consistent with chapters 42-46.

2 [\(22\) To be the sole issuer of QECCBs from the state of Rhode Island's allocation,](#)
3 [including any portions of which have been reallocated to the state by local governments, for any](#)
4 [project authorized to be financed with the proceeds thereof under the applicable provisions of 26](#)
5 [USC 54D.](#)

6 (b) Notwithstanding any other provision of this chapter, the agency shall not be
7 authorized or empowered:

8 (1) To be or to constitute a bank or trust company within the jurisdiction or under the
9 control of the department of banking and insurance of the state, or the commissioner thereof, the
10 comptroller of the currency of the United States of America, or the Treasury Department thereof;
11 or

12 (2) To be or constitute a bank, banker or dealer in securities within the meaning of, or
13 subject to the provisions of, any securities, securities exchange, or securities dealers' law of the
14 United States or the state.

15 **46-12.2-6. Establishment of the water pollution control revolving fund, the Rhode**
16 **Island water pollution control revolving fund and the local interest subsidy trust fund –**
17 **Sources of funds – Permitted uses.** – (a) The agency shall be the instrumentality of the state for

18 administration of the water pollution control revolving fund, the Rhode Island water pollution
19 control revolving fund, and the local interest subsidy trust fund, and such other funds it holds or
20 for which it is responsible, and, in conjunction with the department, is empowered to and shall
21 take all action necessary or appropriate to secure to the state the benefits of title VI of the Clean
22 Water Act, 33 U.S.C. § 1381 et seq., and other federal or state legislation pertaining to the funds
23 and to the financing of approved projects. Without limiting the generality of the foregoing and
24 other powers of the agency provided in this chapter, the agency is empowered to and shall:

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

29 (2) Administer the Rhode Island water pollution control revolving fund and the local
30 interest subsidy trust fund, and receive and disburse such funds from the state as may be available
31 for the purpose of the funds subject to the provisions of this chapter.

32 (3) In cooperation with the department, prepare, and submit to appropriate federal
33 agencies applications for capitalization grants under title VI of the Clean Water Act, 33 U.S.C. §
34 1381 et seq., and enter into capitalization grant agreements, operating agreements, and other

1 agreements with appropriate federal and state agencies, and accept and disburse, as provided
2 herein, any capitalization grant awards made under title VI of the Clean Water Act, 33 U.S.C. §
3 1381 et seq.

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

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

9 (6) Subject to the provisions of this chapter both to make, and enter into binding
10 commitments to provide financial assistance to a local governmental units or corporation from
11 amounts on deposit in the water pollution control revolving fund, the Rhode Island water
12 pollution control revolving fund and from other funds of the agency; and to provide, and enter
13 into binding commitments to provide subsidy assistance for loans ~~and~~, local governmental
14 obligations and non-governmental obligations from amounts on deposit in the local interest
15 subsidy trust fund.

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

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

28 (1) All federal capitalization grant awards received under title VI of the Clean Water
29 Act, 33 U.S.C. § 1381 et seq., provided the agency shall transfer to the department the amount
30 allowed by § 603(d)(7) of the Water Quality Act, 33 U.S.C. § 1383(d)(7), to defray
31 administration expenses;

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

34 (3) To the extent required by federal law, loan repayments and other payments received

1 by the agency on any loans, ~~and~~ local governmental obligations and non-governmental
2 obligations;

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

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

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

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

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

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

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

27 (2) At its discretion, and to the extent allowed by law, loan repayments and other
28 payments received by the agency on any loans, ~~and~~ local governmental obligations and non-
29 governmental obligations;

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

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

33 (5) All other monies which are specifically designated for this fund, including, amounts
34 from the Rhode Island Clean Water Act environmental trust fund, gifts, bequests, administrative,

1 civil and criminal penalties, or other funds from any public or private sources; and

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

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

13 (1) To provide financial assistance to a local governmental unit~~s~~ or corporation to
14 finance costs of approved projects, and to refinance the costs of the projects, subject to such terms
15 and conditions, if any, as are determined by the department and/or the agency in accordance with
16 § 46-12.2-8;

17 (2) To purchase or refinance debt obligations of the a local governmental unit~~s~~ or
18 corporation, or to provide guarantees, insurance or similar forms of financial assistance for the
19 obligations;

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

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

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

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

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

13 (2) Loan repayments and other payments received on loans, ~~and~~ local governmental
14 obligations, and non-governmental obligations;

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

16 (4) Proceeds of agency bonds;

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

20 (6) Any other amounts permitted by law.

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

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

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

1 governmental unit or corporation for which the account was established and, on a parity basis
2 with all other accounts, to defaults on any loans, ~~or~~ local governmental obligations, or non-
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 § 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 **46-12.2-8. Procedures for application, approval, and award of financial assistance. –**

11 (a) Any local governmental unit or corporation may apply to the agency for financial assistance in
12 accordance with this chapter to finance all or any part of the cost of a water pollution abatement
13 project. The agency shall not award financial assistance to a local governmental unit or
14 corporation until and unless the department shall have issued a certificate of approval of the
15 project or portion thereof.

16 (b) If the department shall determine, in accordance with rules and regulations
17 promulgated pursuant to this chapter, that an application for financial assistance or portion thereof
18 shall be approved, it shall deliver to the agency a certificate of approval of the project or a portion
19 thereof which shall specify the project or portion thereof eligible for financial assistance and such
20 other terms, conditions and limitations with respect to the construction and operation of the
21 project as the department shall determine. The agency shall specify, among other things, the type
22 and amount of financial assistance to be provided, the costs thereof eligible for financial
23 assistance, the amounts, if any, of the financial assistance, to be provided from the water pollution
24 control revolving fund and/or the Rhode Island water pollution control revolving fund, the
25 amount, if any, of subsidy assistance to be granted from the local interest subsidy trust fund, the
26 amount, if any, of other financial assistance permitted by this chapter to be provided, and such
27 other terms, conditions, and limitations on the financial assistance, the expenditure of loan
28 proceeds, and the construction and operation of the project as the agency shall determine or
29 approve.

30 (c) Any water pollution abatement project or portion thereof included on the priority list
31 established by the department for federal fiscal year 1989 or any federal fiscal year thereafter
32 shall be eligible for financial assistance in accordance with this chapter.

33 (d) In addition to the authority provided by law, the department shall be responsible for,
34 and shall have all requisite power to, review and approve reports and plans for water pollution

1 abatement projects and approved projects, or any part thereof, for which financial assistance has
2 been applied or granted in accordance with this chapter, to enter into contracts with a local
3 governmental units [or corporation](#) relative to approved projects, including, without limiting the
4 generality of the foregoing, the costs of approved projects eligible for financial assistance, grants,
5 and other terms, conditions and limitations with respect to the construction and operation of the
6 project, and to inspect the construction and operation thereof of projects in compliance with
7 approved plans. Without limiting the generality of the foregoing, in connection with the exercise
8 of its powers and performance of its duties under this chapter, the department shall have all the
9 powers provided by law to the department and its director. The department shall adopt rules,
10 regulations, procedures, and guidelines to carry out the purposes of this chapter and for the proper
11 administration of its powers and duties under this chapter. The rules, regulations, procedures, and
12 guidelines shall include among other things, criteria for determining those water pollution
13 abatement projects to be approved for financial assistance (the criteria shall include the priority
14 determination system), specification of eligible costs of the projects, and provisions for
15 compliance by projects constructed in whole or in part with funds directly made available under
16 this chapter by federal capitalization grants with the requirements of the Clean Water Act, 33
17 U.S.C. § 1351 et seq., and other federal laws applicable to the project. The department shall
18 cooperate with the agency in the development of capitalization grant applications, operating
19 plans, and intended use plans for federal capitalization grant awards under title VI of the Clean
20 Water Act, 33 U.S.C. § 1381 et seq., and may enter into such agreements and other undertakings
21 with the agency and federal agencies as necessary to secure to the state the benefits of title VI of
22 the Clean Water Act, 33 U.S.C. § 1381 et seq. In order to provide for the expenses of the
23 department under this chapter, the agency shall transfer to the department for application to the
24 expenses an amount from the water pollution control revolving fund equal to the maximum
25 amount authorized by federal law, and such additional amounts as may be needed from the Rhode
26 Island water pollution control fund and from any other monies available. The agency and the
27 department shall enter into an operating agreement and amend the same, from time to time,
28 allocating their respective rights, duties, and obligations with respect to the award of financial
29 assistance and grants to finance approved projects under this chapter and establishing procedures
30 for the application, approval, and oversight of projects, financial assistance, and grants.

31 (e) Upon issuance of a certificate of approval, the agency shall award as soon as
32 practicable the financial assistance to the local governmental unit [or corporation](#) for any approved
33 project specified in the certificate; provided, however, the agency may decline to award any
34 financial assistance which the agency determines will have a substantial adverse effect on the

1 interests of holders of bonds or other indebtedness of the agency or the interests of other
2 participants in the financial assistance program, or for good and sufficient cause affecting the
3 finances of the agency. All financial assistance shall be made pursuant to a loan agreement
4 between the agency and the local governmental unit [or corporation](#), acting by and through the
5 officer or officers, board, committee, or other body authorized by law, or otherwise its chief
6 executive officer, according to the terms and conditions of the certificate of approval and such
7 other terms and conditions as may be established by the agency, and each loan shall be evidenced
8 and secured by the issue to the agency of local governmental obligations [or non-governmental](#)
9 [obligations](#) in fully marketable form in principal amount, bearing interest at the rate or rates
10 specified in the applicable loan agreement, and shall otherwise bear such terms and conditions as
11 authorized by this chapter and the loan agreement.

12 (f) The agency shall adopt rules, regulations, procedures, and guidelines for the proper
13 administration of its financial assistance programs and the provision of financial assistance under
14 this chapter. The rules, regulations, procedures, and guidelines shall be consistent with the
15 requirements of title VI of the Clean Water Act, 33 U.S.C. § 1381 et seq., and any rules,
16 regulations, procedures, and guidelines adopted by the department, and may include, without
17 limitation, forms of financial assistance applications, loan agreements, and other instruments, and
18 provision for submission to the agency and the department by a local governmental unit [or](#)
19 [corporation](#) of the information regarding the proposed water pollution abatement project, the
20 wastewater system of which it is a part, and the local governmental unit or corporation as the
21 agency or the department shall deem necessary, to determine the eligibility of a project for
22 financial assistance under this chapter, the financial feasibility of a project, and the sufficiency of
23 general revenues or wastewater system revenues to secure and pay the loan and the local
24 governmental obligations [or non-governmental obligations](#) issued to evidence the project.

25 (g) Subject to the provisions of any trust agreement securing bonds of the agency, when
26 the agency shall have awarded a loan eligible for subsidy assistance from funds held by the
27 agency for the credit of the local interest subsidy trust fund, the agency shall credit to the
28 applicable account in the fund maintained in accordance with § 46-12.2-6(e), the amount, if any,
29 as provided in the loan agreement to defray all or a portion of the interest otherwise payable by
30 the local governmental unit [or corporation](#) on the loan.

31 (h) In addition to other remedies of the agency under any loan agreement or otherwise
32 provided by law, the agency may also recover from a local governmental unit [or corporation](#), in
33 an action in superior court, any amount due the agency together with any other actual damages
34 the agency shall have sustained from the failure or refusal of the local governmental unit or

1 corporation to make the payments.

2 **46-12.2-9. Authorization to expend funds available for local grants.** – In addition to
3 the financial assistance provided by the agency to a local governmental units or corporation for
4 approved projects in accordance with this chapter, the department is hereby authorized to expend
5 funds otherwise available for grants a local governmental units or corporation to the extent
6 permitted by federal and state law.

7 **46-12.2-10. Powers of local governmental units.** – Notwithstanding any provision of
8 general law, special law or municipal charter to the contrary:

9 (1) In addition to authority granted otherwise by this chapter and in any bond act or other
10 law, a local governmental unit, acting by and through the officer or officers, board, committee, or
11 other body authorized by law, if any, or otherwise the chief executive officer, shall have the
12 power to:

13 (i) Issue local governmental obligations as provided herein: (A) if and to the amount
14 authorized by a bond act; ~~or~~ (B) without limitation as to the amount, if issued as limited
15 obligations, pursuant to §46-12.2-12 or §46-12.2-12.1; or (C) without limitation as to the amount,
16 if issued as a financing lease or other appropriation obligation;

17 (ii) Plan, design, acquire, construct, operate, maintain, and otherwise undertake any ~~water~~
18 ~~pollution abatement~~ project subject to the rules, regulations, procedures, and guidelines of the
19 department, if applicable, in effect from time to time and the requirements of any other applicable
20 law;

21 (iii) Apply for, accept, and expend, financial assistance and grants for the purpose of
22 financing costs of ~~water pollution abatement~~ projects subject to the rules, regulations, procedures,
23 and guidelines of the agency and the department, if applicable, in effect from time to time, the
24 provisions of the applicable loan agreement, and the requirements of other applicable law;

25 (iv) Authorize, execute, deliver, and comply with loan agreements, trust agreements,
26 grant agreements, financing leases, appropriation agreements, and other agreements, and
27 instruments with the agency, the department, and other persons relating to financial assistance
28 and grants hereunder, and the issue of local governmental obligations to evidence loans, and
29 perform the same;

30 (v) Receive, apply, pledge, assign, and grant security interests in its general revenues and
31 wastewater system revenues to secure its obligations under local governmental obligations and
32 other financial assistance; and

33 (vi) Fix, revise, charge, and collect such fees, rates, rents, assessments, and other charges
34 of general or special application for the costs and/or use of any approved project, ~~the~~ any

1 wastewater system ~~of which it is a part~~, and any other revenue producing facilities from which the
2 local governmental unit may derive ~~wastewater system~~ revenues, or for the services provided
3 thereby, as it shall deem necessary to meet its obligations under any loan agreement or local
4 governmental obligations outstanding or otherwise to provide for the costs and/or operation of the
5 project and any wastewater ~~the~~ system.

6 (2) In order to provide for the collection and enforcement of fees, rates, rents,
7 assessments, and other charges for the operation of any approved project, any ~~the~~ wastewater
8 system ~~of which it is a part~~, and any other revenue producing facilities from which the local
9 governmental units may derive ~~wastewater system~~ revenues, in addition to any other authority
10 provided by law or any bond act applicable to a particular local governmental unit, local
11 governmental units are hereby granted all the powers and privileges granted to them by the
12 general laws of the state with respect to any similar fee, rate, rent, assessment, or other charge.
13 All unpaid fees, rates, rents, assessments, and other charges shall be a lien upon the real estate
14 served for which the unpaid fees, rates, rents, assessments, or other charges have been made. A
15 lien shall arise and attach as of the due date of each unpaid fee, rate, rent, assessment, or other
16 charge. The lien shall be superior to any other lien other than a tax lien, encumbrance, or interest
17 in the real estate, whether by way of mortgage, attachment, or otherwise, except easements and
18 restrictions. In the case of a life estate, the interest of the tenant for life shall first be liable for the
19 unpaid fees, rates, rents, assessments, or other charges. The local governmental unit may enforce
20 the lien by advertising and selling any real estate liable for unpaid fees, rents, assessments, and
21 other charges in the manner provided for the enforcement of liens for unpaid taxes by chapter 9 of
22 title 44, as amended from time to time.

23 (3) Any city or town and any other local governmental unit acting by and through the
24 officer or officers, board, committee, other body authorized by law, or otherwise the chief
25 executive officer, may enter into agreements with the agency or the department, if applicable,
26 regarding the operation of a pricing system adopted under any applicable law for the services
27 provided by any approved project, the wastewater system of which it is a part, and any other
28 revenue producing facilities from which the local governmental unit may derive wastewater
29 system revenues. The agreements may include, without limitation, provisions defining the costs
30 of services, the approved project, and the wastewater system and other facilities, and covenants or
31 agreements, regarding the fixing and collection of fees, rates, rents, assessments and other
32 charges for the costs and the maintenance of the pricing system at levels sufficient to pay or
33 provide for all the costs and any payments due the agency under any loan agreement or local
34 governmental obligations.

1 (4) Any city or town and any other local governmental unit acting by and through the
2 officer or officers, board, committee, or other body authorized by law, or otherwise the chief
3 executive officer, may enter into agreements with the agency and the department, if applicable,
4 regarding the operation of an enterprise fund established for any approved project, any the
5 wastewater system ~~of which it is a part~~, and any other revenue producing facilities from which the
6 local governmental unit may derive ~~wastewater system~~ revenues. The agreements may include,
7 without limitation, fiscal and accounting controls and procedures, provisions regarding the
8 custody, safeguarding, and investment of ~~wastewater system~~ revenues, and other amounts
9 credited thereto, the establishment of reserves and other accounts and funds, and the application
10 of any surplus funds.

11 (5) The provisions of any charter, other laws or ordinances, general, special, or local, or
12 of any rule or regulation of the state or any municipality, restricting or regulating in any manner
13 the power of any municipality to lease (as lessee or lessor) or sell property, real, personal, or
14 mixed, shall not apply to leases and sales made with the agency pursuant to this chapter.

15 (6) Any municipality, notwithstanding any contrary provision of any charter, other laws
16 or ordinances, general, special or local, or of any rule or regulations of the state or any
17 municipality, is authorized and empowered to lease, lend, pledge, grant, or convey to the agency,
18 at its request, upon terms and conditions that the chief executive officer, if any, or where no chief
19 executive officer exists, the city or town council of the municipality, may deem reasonable and
20 fair and without the necessity for any advertisement, order of court, or other action or formality,
21 any real property or personal property which may be necessary or convenient to effectuation of
22 the authorized purpose of the agency, including public roads and other real property already
23 devoted to public use; and, subject to what has been stated, the municipality consents to the use of
24 all lands owned by the municipality which are deemed by the agency to be necessary for the
25 construction or operation of any project.

26 **46-12.2-11 Authority of local governmental units to issue obligations – Terms. –** (a)
27 In addition to the powers of any local governmental unit provided in any bond act, whenever a
28 local governmental unit has applied for and accepted a loan from the agency and entered into a
29 loan agreement therefor, any local governmental obligations issued by the local governmental
30 unit to evidence the loan may be issued in accordance with, and subject to the limitations of this
31 chapter, notwithstanding the provisions of the bond act authorizing the obligation or any other
32 general or special law or provision of municipal charter to the contrary. The provisions of this
33 chapter shall apply to the issuance of local governmental obligations under authority of any bond
34 act heretofore enacted and under authority of any bond act hereafter enacted unless the bond act

1 expressly provides that the provisions of this chapter shall not so apply. Notwithstanding the
2 foregoing, no local governmental obligation issued as a general obligation bond shall be issued
3 unless authorized by a vote of the body or bodies required by the charter, ordinances, or laws
4 governing the local governmental unit, or the applicable bond act for the authorization of
5 indebtedness of the local governmental unit.

6 (b) Local governmental obligations issued by any local governmental unit shall be dated,
7 may bear interest at such rate or rates, including rates variable, from time to time, subject to such
8 minimum or maximum rate, if any, as may be determined by such index or other method of
9 determination provided in the applicable loan agreement, shall mature in such amount or amounts
10 and at such time or times, not later than the maximum dates, if any, provided herein, and may be
11 made redeemable in whole or in part before maturity at the option of the local governmental unit
12 or at the option of the agency, at such price or prices and under such terms and conditions as may
13 be fixed in the loan agreement prior to the issue of the local governmental obligations. Local
14 governmental obligations may be issued as serial bonds or term bonds or any combination thereof
15 with such provision, if any, for sinking funds for the payment of bonds as the local governmental
16 unit and the agency may agree. The local governmental obligations may be sold at private sale
17 and may be in such form, payable to the bearer thereof or the registered owner, whether
18 certificated or uncertificated, be in such denominations, payable at such place or places, within or
19 without the state, and otherwise bear such terms and conditions, not inconsistent with this
20 chapter, as provided in the applicable loan agreement or as the agency and the local governmental
21 unit shall otherwise agree. The local governmental obligations may be issued in principal amount
22 equal to the loan evidenced thereby or at such discount as the agency and the local governmental
23 unit shall agree.

24 (c) Local governmental obligations shall be payable within a period not exceeding the
25 greater of the period, if any, specified in the applicable bond act or the useful life of the approved
26 project financed by such obligations as determined by the department, or, if incurred to finance
27 more than one project, the average useful life of the projects. Except as otherwise provided in this
28 chapter, the local governmental obligations shall be payable by such equal, increasing, or
29 decreasing installments of principal, annual or otherwise, as will extinguish the obligations at
30 maturity, the first installment to be payable no later than ~~one~~ three years after the date of issuance
31 of the obligations ~~or one year after the date of completion of the approved project financed by the~~
32 ~~obligations, as determined by the department~~, whichever date is later, and the remaining
33 installments of principal, if any, to be in such amounts and payable on such dates as the agency
34 and the local governmental unit shall agree.

1 (d) If a local governmental unit has authorized borrowing in accordance with this chapter
2 and the issuance of local governmental obligations to evidence the borrowing under any bond act,
3 the local governmental unit may, subject to the applicable loan agreement and with the approval
4 of the agency, issue notes to the agency to evidence of the loan. The issuance of the notes shall be
5 governed by the provisions of this chapter relating to the issue of bonds other than notes, to the
6 extent applicable, provided the maturity date of the notes shall not exceed five (5) years from the
7 date of issue of the notes, ~~or the expected date of completion of the approved project financed~~
8 ~~thereby as determined by the department, if later.~~ Notes issued for less than the maximum
9 maturity date may be renewed by the issue of other notes maturing no later than the maximum
10 maturity date.

11 (e) A local governmental unit may issue local governmental obligations to refund or pay
12 at maturity or earlier redemption any local governmental obligations outstanding under any loan
13 agreement, or to refund or pay any other debt of the local governmental unit issued to finance the
14 approved project to which the loan agreement pertains. The refunding local governmental
15 obligations may be issued in sufficient amounts to pay or provide for the principal of the
16 obligations refunded, any redemption premium thereon, any interest accrued and to accrue to the
17 date of payment of the obligations, the costs of issuance of the refunding obligations and any
18 reserves required by the applicable loan agreement. The issue of refunding local governmental
19 obligations, the amount and dates of maturity or maturities and other details thereof, the security
20 therefor, and the rights, duties, and obligations of the local governmental unit in respect to the
21 same shall be governed by the provisions of this chapter relating to the issue of local
22 governmental obligations other than refunding obligations as this chapter may be applicable.

23 (f) Except as otherwise provided in § 46-12.2-12 and § 46-12.2-12.1, the applicable bond
24 act, or by agreement between the agency and a local governmental unit, all local governmental
25 obligations issued in accordance with this section shall be general obligations of the local
26 governmental unit issuing the obligations for which its full faith and credit are pledged and for the
27 payment of which all taxable property in the local governmental unit shall be subject to ad
28 valorem taxation without limit as to rate or amount except as otherwise provided by law.

29 **46-12.2-13 Trust agreements pertaining to local governmental obligations.** – (a)
30 Notwithstanding any general or special law to the contrary, local governmental obligations issued
31 in accordance with this chapter may be secured by one or more trust agreements, including, or in
32 addition to the applicable loan agreement, between the local governmental unit and a corporate
33 trustee, which may be a trust company or bank having the powers of a trust company within or
34 without the state, or directly between the agency and the local governmental unit. Any trust

1 agreement shall be in such form and shall be executed as provided in the applicable loan
2 agreement or as otherwise agreed to between the agency and the local governmental unit.

3 (b) Any trust agreement directly or indirectly securing local governmental obligations
4 may, in addition to other security provided by law, pledge or assign, and create security interests
5 in, all or any part of the general revenues of the local governmental unit. Any trust agreement
6 may contain such provisions for protecting and enforcing the rights, security, and remedies of the
7 agency, or other holders of the local governmental obligations, as may be determined by the
8 agency including, without limitation, provisions defining defaults and providing for remedies in
9 the event thereof, which may include the acceleration of maturities [to the extent permitted by law](#),
10 and covenants setting forth the duties of, and limitations on, the local governmental unit in
11 relation to the custody, safeguarding, investment, and application of moneys, including general
12 revenues and wastewater system revenues, the issue of additional and refunding local
13 governmental obligations and other bonds, notes, or obligations on a parity or superior thereto,
14 the establishment of reserves, the establishment of sinking funds for the payment of local
15 governmental obligations, and the use of surplus proceeds of local governmental obligations. A
16 trust agreement securing local governmental obligations issued in accordance with § 46-12.2-12
17 may also include covenants and provisions not in violation of law regarding the acquisition,
18 construction, operation, and carrying out of the approved project financed by the obligations, the
19 wastewater system of which it is a part, and any other revenue producing facilities from which the
20 local governmental unit may derive wastewater system revenues, the fixing and collection of
21 wastewater system revenues, and the making and amending of contracts relating thereto.

22 (c) In addition to other security provided herein or otherwise by law, any local
23 governmental obligations issued under authority of this chapter may be secured, in whole or in
24 part, by insurance or by letters or lines of credit or other credit facilities issued by any insurance
25 company, bank, trust company, or other financial institution, within or without the state, and a
26 local governmental unit may pledge [subject to applicable voter approval requirements](#), ~~or~~ assign
27 appropriate any of its general revenues or wastewater system revenues, as appropriate, as security
28 for the reimbursement to the issuers of insurance, letters, or lines of credit or other credit facilities
29 of any payments made thereunder.

30 (d) Any trust agreement may set forth the rights and remedies of the agency or other
31 holders of the local governmental obligations secured thereby and of any trustee or other
32 fiduciary thereunder.

33 (e) In addition to any other remedies provided under the applicable loan agreement or
34 otherwise by law, the agency and any other holder of local governmental obligations issued under

1 the provisions of this chapter, and any trustee under any trust agreement securing the obligations
2 may bring suit in the superior court upon the local governmental obligations, and may, either at
3 law or in equity, by suit, action, mandamus, or other proceeding for legal or equitable relief,
4 including, in the case of local governmental obligations issued in accordance with § 46-12.2-12,
5 proceedings for the appointment of a receiver to take possession and control of the approved
6 project financed thereby, the wastewater system of which it is a part, or any other revenue
7 producing facilities from which the local governmental unit may derive wastewater system
8 revenues, to operate and maintain the system or facility in compliance with law, to make any
9 necessary repairs, renewals, and replacements and to fix, revise, and collect wastewater system
10 revenues, protect, and enforce any and all rights under the laws of the state or granted in this
11 chapter or under any trust agreement, and may enforce and compel the performance of all duties
12 required by this chapter, the loan agreement, the applicable bond act, or the trust agreement to be
13 performed by the local governmental unit or any officer thereof.

14 (f) A pledge of general revenues or wastewater system revenues in accordance with this
15 chapter shall constitute a sufficient appropriation thereof for the purposes of any provision for
16 appropriation for so long as the pledge shall be in effect, and, notwithstanding any general or
17 special law or municipal charter to the contrary, the revenues shall be applied as required by the
18 pledge and the trust agreement evidencing the revenues without further appropriation.

19 (g) A pledge or assignment of general revenues, other than wastewater system revenues,
20 may be made only to secure general obligations of a local governmental unit.

21 SECTION 18. Chapter 46-12.2 of the General Laws entitled “Rhode Island Clean Water
22 Financing Agency” is hereby amended by adding thereto the following sections:

23 **46-12.2-4.2 Establishment of the efficient buildings fund. – (a) The Rhode Island**
24 **infrastructure bank shall be authorized to create a fund, to be known as the efficient buildings**
25 **fund, and, in consultation with the office of energy resources including with regards to the**
26 **development of a project priority list, to provide technical, funding and administrative assistance**
27 **to public entities for energy efficient and renewable energy upgrades to public buildings and**
28 **infrastructure. Eligibility for receipt of this support by a municipality shall be conditioned upon**
29 **that municipality reallocating their remaining proportional QECCB allocation to the state of Rhode**
30 **Island.**

31 **(b) The Rhode Island infrastructure bank may create one or more loan loss reserve funds**
32 **to serve as further security for the debt funding the efficient buildings fund.**

33 **(c) To the extent possible, and consistent with law, the infrastructure bank shall**
34 **encourage the use of project labor agreements and local hiring on appropriate projects.**

1 **46-12.2-12.1 Power of local governmental units to issue limited obligations payable**
2 **from energy efficiency savings.** – (a) If required by the applicable loan agreement, and
3 notwithstanding any general or special law or municipal charter to the contrary, local
4 governmental obligations shall be issued as limited obligations payable solely from energy
5 efficiency savings pledged to their payment. Notwithstanding § 45-12.2-2 or any general or
6 special law or municipal charter to the contrary, all local governmental units shall have the power
7 to issue local governmental obligations payable solely from energy efficiency savings pursuant to
8 this section without limit as to amount, and the amount of principal and premium, if any, and
9 interest on the obligations shall not be included in the computation of any limit on the
10 indebtedness of the local governmental unit or on the total taxes which may be levied or assessed
11 by the local governmental unit in any year or on any assessment, levy, or other charge made by
12 the local governmental unit on any other political subdivision or instrumentality of the state. This
13 chapter shall constitute the bond act for the issuance of the local governmental obligations
14 payable solely from energy efficiency savings by local governmental units. Any local
15 governmental obligations issued in accordance with this section that is payable solely from
16 energy efficiency savings shall recite on its face that it is a limited obligation payable solely from
17 energy efficiency savings pledged to its payment.

18 (b) The issue of local governmental obligations in accordance with this section, the
19 maturity or maturities and other terms thereof, the security therefor, the rights of the holders
20 thereof, and the rights, duties, and obligation of the local governmental unit in respect of the same
21 shall be governed by the provisions of this chapter relating to the issue of local governmental
22 obligations to the extent applicable and not inconsistent with this section.

23 (c) A local government unit may appropriate general revenues on an annual basis to pay
24 any financing, lease, or appropriation obligation, provided that an event of non-appropriation
25 shall not be an event of default under any financing lease or appropriation obligation.

26 **46-12.2-14.1 Electric and gas demand side charge proceeds as further security for**
27 **debt funding energy efficiency improvements in public buildings.** – Upon receipt of the
28 electric and gas demand side charge proceeds identified in §§ 39-2-1.2(1-m) (collectively, the
29 “surcharge proceeds”), the Rhode Island infrastructure bank shall forward these funds back to the
30 remitting distribution companies subject to the following limitations:

31 The Rhode Island infrastructure bank shall maintain a separate account to exclusively
32 hold the surcharge proceeds (the “surcharge account”);

33 At no point shall the balance of the surcharge account be less than two times the balance
34 required to make all debt service payments, on debts that are secured by the surcharge account,

1 [coming due in the next one hundred eighty five \(185\) days;](#)

2 [The surcharge account shall only be used to secure debt incurred in connection with](#)
3 [Section 46-12.2-4.2 or to prevent a default in connection therewith;](#)

4 [Any lien arising against the surcharge account in connection with debt incurred by the](#)
5 [Rhode Island infrastructure bank shall have a first priority.](#)

6 SECTION 19. Sections 46-12.8-1 and 46-12.8-2 of the General Laws in Chapter 46-
7 12.10 entitled "Water Projects Revolving Loan Fund" are hereby amended to read as follows:

8 **46-12.8-1 Legislative findings.** – (a) It is hereby found that there exists and will in the
9 future exist within the state of Rhode Island the need to construct and reconstruct facilities related
10 to and acquire watershed protection land in connection with the provision of safe drinking water
11 throughout the state of Rhode Island.

12 (b) It is hereby further found that to provide financial assistance for the acquisition,
13 design, planning, construction, enlargement, repair, protection or improvement of public drinking
14 water supplies or treatment facilities, including any of those actions required under the federal
15 Safe Drinking Water Act of 1974, 42 U.S.C., §§ 300f – 300j-9, including the Safe Drinking
16 Water Act (SDWA) amendments of 1996 (Pub. L. 104-182) and any amendments thereto, it is
17 necessary to establish a revolving loan fund program to provide a perpetual source of low cost
18 financing for safety drinking water projects.

19 (c) It is hereby further found that to secure maximum benefit to the state from a safe
20 drinking water revolving loan fund, it is necessary to place such fund within the jurisdiction and
21 control of the Rhode Island ~~clean water finance agency~~ [infrastructure bank](#), which agency
22 presently runs the state's revolving fund with respect to the state's wastewater pollution abatement
23 program, which agency shall exclusively administer the financing portion of the safe drinking
24 water revolving loan fund, but which shall nevertheless work, as necessary, with the department
25 of environmental management, the water resources board, the Rhode Island department of health,
26 the division of public utilities and carriers and any other agency or instrumentality of the state or
27 federal government with responsibility for the development or supervision of water supply
28 facilities within the state.

29 **46-12.8-2 Definitions.** – (a) "Agency" means the Rhode Island ~~clean water finance~~
30 ~~agency~~ [infrastructure bank](#).

31 (b) "Approved project" means any project or portion thereof of a governmental unit or
32 privately organized water supplier that has been issued a certificate of approval by the department
33 for assistance through the agency.

34 (c) "Department" means the department of health.

1 (d) "Local governmental obligations" means bonds, notes or other evidences of
2 indebtedness in fully marketable form issued by a governmental unit to evidence a loan from the
3 agency in accordance with this chapter or otherwise as provided herein.

4 (e) "Local governmental unit" means any town, city, district, commission, agency,
5 authority, board of other political subdivision or instrumentality of the state or of any political
6 subdivision thereof responsible for the ownership or operation of water supply facilities within
7 the state.

8 (f) "Obligations of private water companies" means bonds, notes or other evidences of
9 indebtedness, of private water companies, in fully marketable form.

10 (g) "Privately organized water supplier" means any water company not owned or
11 operated by a local governmental unit, existing under the laws of the state, and in the business of
12 operating a safe drinking water facility.

13 (h) "Water supply facility or facilities" means water reservoirs, wells and well sites,
14 transmission or distribution system, any and all real estate or interests in real estate held in
15 connection therewith, all equipment and improvements held in connection therewith, and any
16 property or interests therein, real, personal or mixed, used or held on to be used in connection
17 therewith.

18 (i) "Financial assistance" means any form of financial assistance other than grants
19 provided by the agency to a local governmental unit or private water company in accordance with
20 this chapter for all or any part of the cost of an approved project, including, without limitation,
21 temporary and permanent loans, with or without interest, guarantees, insurance, subsidies for the
22 payment of debt service on loans, lines of credit, and similar forms of financial assistance;
23 provided, however, notwithstanding the foregoing, for purposes of capitalization grant awards
24 made available to the agency pursuant to the American Recovery and Reinvestment Act of 2009
25 (P.L. 111-5), or as otherwise required in connection with other capitalization grant awards made
26 available to the agency, financial assistance shall also include principal forgiveness and negative
27 interest loans.

28 SECTION 20. Section 46-15.1-22 of the General Laws in Chapter 46-15.1 entitled
29 "Water Supply Facilities" is hereby amended to read as follows:

30 **46-15.1-22 Discontinuation of borrowing authority and abolishment of water**
31 **resources board (corporate).** – (a) Notwithstanding any law to the contrary, including, but not
32 limited to, § 46-15.1-10, upon the effective date of this section, the water resources board
33 (corporate), established as a body politic and corporate and public instrumentality pursuant to this
34 chapter, shall be prohibited from borrowing money or issuing bonds for any purpose.

1 (b) The water resources board (corporate) shall continue to repay existing debt until all
2 such debt is fully repaid. Upon the repayment by the water resources board (corporate) of all such
3 existing obligations, the water resources board (corporate) shall be dissolved and all existing
4 functions and duties of the water resources board (corporate) shall be transferred to the Rhode
5 Island ~~clean water finance agency~~ [infrastructure bank](#), a body politic and corporate and public
6 instrumentality of the state established pursuant to chapter 46-12.2.

7 SECTION 21. Section 46-15.3-25 of the General Laws in Chapter 46-15.3 entitled
8 “Public Drinking Water Supply System Protection” is hereby amended to read as follows:

9 ~~46-15.3-25. Transfer of charges to Rhode Island Clean Water Finance Agency~~
10 ~~Rhode Island infrastructure bank~~ **Transfer of charges to Rhode Island infrastructure bank.**

11 = Notwithstanding any law, rule or regulation to the contrary, upon the dissolution of the water
12 resources board (corporate) pursuant to § 46-15.1-22, any charges remitted to the water resources
13 board (corporate) pursuant to this chapter shall be remitted to the Rhode Island ~~clean water~~
14 ~~finance agency~~ [infrastructure bank](#), a body politic and corporate and public instrumentality of the
15 state established pursuant to chapter 46-12-2.

16 SECTION 22. This article shall take effect upon passage.