

2018 -- S 2355

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO WATERS AND NAVIGATION -- THE CLIMATE CHANGE COASTAL
ADAPTATION TRUST FUND

Introduced By: Senators Lynch Prata, Miller, and Sosnowski

Date Introduced: February 15, 2018

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 46 of the General Laws entitled "WATERS AND NAVIGATION" is
2 hereby amended by adding thereto the following chapter:

3 CHAPTER 23.3

4 THE CLIMATE CHANGE COASTAL ADAPTATION TRUST FUND

5 **46-23.3-1. Purpose and findings.**

6 (a) Purpose. To enable cities and towns and the state to apply for grants awarded for
7 projects that invest in measures that adapt infrastructure on public lands to the impacts of climate
8 change to improve the quality of life and economic prosperity of the citizens of the state.

9 (b) Findings.

10 (1) The findings and purpose set forth in § 46-23.1-1 are fully applicable and adopted
11 herein.

12 (2) The production, transport and use of fossil fuels have significant impacts on the
13 environment.

14 (3) The impacts of climate change upon Rhode Island's built and natural environments
15 are wide-ranging, discernible and documented, and, in many cases growing in severity and
16 include sea level rise, coastal erosion, flooding and storm surge.

17 (4) As of 2016, the range in sea level rise change is projected by the National Oceanic
18 and Atmospheric Administration to be a maximum of approximately one foot (1') in 2035, two

1 feet (2') in 2050 and up to nine feet (9') by 2100.

2 (5) Climate change has and will continue to pose significant risks for state and municipal
3 infrastructure and our environment, public health, welfare, and economic well-being.

4 (6) Providing areas for coastal and estuarine habitats to migrate is essential to preserving
5 coastal and marine wildlife resources.

6 (7) Rhode Island coastal infrastructure is at risk and the state must begin to plan and
7 implement projects to protect it.

8 (8) Reducing the vulnerability of our infrastructure is vital to the economic prosperity and
9 quality of life of the citizens of the state.

10 (9) The state, and Rhode Island cities and towns, need assistance in addressing the
11 impacts of climate change including protecting infrastructure.

12 **46-23.3-2. Definitions.**

13 The definitions set forth in § 46-23.1-2, unless modified herein, shall also apply to the
14 interpretation of this chapter as if fully set forth herein. For the purposes of this chapter, the
15 following definitions shall apply:

16 (1) "Adaptation" means a response to sea level rise, flooding, storm surge and coastal
17 erosion and includes reducing the vulnerability of low-lying infrastructure on public land through
18 measures that include removal, relocation, and redesign of infrastructure, regrading of banks and
19 revegetation, acquisition of that area of land necessary to maintain public access, and preserving
20 or securing lateral access along the shoreline.

21 (2) "Climate change impacts" in Rhode Island includes, but are not limited to, sea level
22 rise, coastal erosion, flooding and storm surge.

23 (3) "Council" means the coastal resources management council.

24 (4) "Department" means the department of environmental management.

25 (5) "Director" means the director of the department of environmental management.

26 (6) "Infrastructure" means and includes roads, parking lots and other paved surfaces,
27 structural shoreline protection facilities, buildings, water control structures, other structures, and
28 remnants of coastal development.

29 (7) "Public land(s)" means property owned by state or municipal governments and lands
30 dedicated to public use.

31 (8) "Structural shoreline protection facilities" means and includes revetments, bulkheads,
32 seawalls, groins, breakwaters, jetties, and other structures, the purpose or effect of which is to
33 control the erosion of coastal features, and includes any sheet pile walls, concrete or stone walls.

34 **46-23.3-3. The Rhode Island climate change coastal adaptation trust fund.**

1 (a) Establishment. There is established within the department, and the council, the Rhode
2 Island coastal adaptation trust fund (the "adaptation trust").

3 (b) Climate change coastal adaptation trust fund grants. Factors to be taken into account
4 by the technical committee for the purposes of granting monies to municipalities and the state for
5 coastal adaptation grants, determining the eligibility of projects for financial assistance, and in
6 prioritizing the selection of projects by the technical committee shall include, but need not be
7 limited to:

8 (1) Consistency with the following where applicable: the council's projections for sea
9 level rise, the coastal habitat restoration strategy, the state coastal nonpoint pollution control plan,
10 Federal Flood Risk Management Standards, pertinent elements of the state guide plan, the goals
11 of the executive climate change coordinating council (EC4), and strict compliance with the
12 coastal resources management program and the department of environmental management
13 regulations,

14 (2) The ability and authority of the applicant to carry out and properly maintain the
15 adaptation project;

16 (3) Whether the project will enhance public access;

17 (4) The severity of the risk and/or extent of degradation to infrastructure on public land;

18 (5) The extent of the use by the public of the land;

19 (6) The proposed milestones to ensure that the project is completed as designed and
20 approved;

21 (7) Whether the adaptation project can also be shown to create or replace habitat losses
22 that benefit fish and wildlife resources;

23 (8) Potential water quality improvements;

24 (9) Potential improvements to fish and wildlife habitats for species which are identified
25 as rare or endangered by the Rhode Island natural history survey or the federal Endangered
26 Species Act [16 U.S.C. §1531 et seq.];

27 (10) The level and extent of collaboration by partners (e.g., municipality, nongovernment
28 organization, watershed council, federal agency, etc.); and

29 (11) Overall potential benefits to the public and estimated length of time frame of benefit.

30 **46-23.3-4. Ineligible projects.**

31 Funds in the climate change coastal adaptation trust fund shall not be used for:

32 (1) Mitigating any current, planned or future projects that degrade, fill, or otherwise
33 destroy coastal or estuarine habitats;

34 (2) Fulfilling any liability for restoration required by any local, state or federal agency

1 pursuant to an environmental or public health enforcement action; or

2 (3) Elevating or replacing infrastructure in a vulnerable area, constructing or
3 reconstructing structural shoreline protection facilities or for structures associated with upgrades
4 to existing roadways.

5 **46-23.3-5. Allocation of the trust.**

6 Funds from the trust shall be used to carry out the purposes of this chapter as follows:

7 (1) The administrative, personnel and equipment expenses required to carry out the
8 activities of the program as described in this chapter. The department and the council shall be
9 responsible for submitting annual budget requests for its administrative and implementation costs
10 of the program;

11 (2) The design, planning, engineering, construction, and monitoring of adaptation
12 projects as described in this chapter; and

13 (3) The climate change coastal adaptation projects that are approved by the department
14 and the council upon recommendation of the technical advisory committee. Only grants approved
15 through the process established by the agencies shall be eligible for funding under this program.

16 **46-23.3-6. Technical advisory committee.**

17 Members of the technical advisory committee shall include representatives from the
18 department, the council, statewide planning, and Rhode Island emergency management authority.
19 The technical advisory committee shall serve as an advisory board to the department, council and
20 the program staff throughout this process.

21 **46-23.3-7. Disbursement process.**

22 (a) The department and the council shall establish and execute an annual process for the
23 solicitation, evaluation and award of grants for projects that meet the requirements set forth in this
24 chapter.

25 (b) The department and the council shall submit to the governor and the general assembly
26 during annual budget preparations a list of adaptation project proposals that have received a
27 positive review by the technical advisory committee and require funds from the trust to proceed
28 with the design, planning, construction and/or monitoring during the ensuing year.

29 (c) Nothing contained in this chapter is intended to abrogate or affect the existing powers
30 of the department of environmental management or the coastal resources management council.

31 **46-23.3-8. Financing of the fund.**

32 (a) The fund shall consist of the following sources:

33 (1) Sums the legislature may appropriate;

34 (2) Monies received from federal, state, or other sources for the purpose of coastal

1 adaptation:

2 (3) Monies received from any private donor for the climate change coastal adaptation
3 trust fund; and

4 (4) Any interest earned on the monies in the fund.

5 **46-23.3-9. Regulations.**

6 The council and the director may adopt all rules and regulations necessary for the
7 administration and enforcement of this chapter.

8 SECTION 2. This act shall take effect on July 1, 2018.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO WATERS AND NAVIGATION -- THE CLIMATE CHANGE COASTAL
ADAPTATION TRUST FUND

1 This act would establish the Rhode Island coastal adaptation trust fund. The trust would
2 enable cities and towns and the state to apply for grants to fund projects that invest in measures
3 that adapt infrastructure on public lands to address the impacts of climate change.

4 This act would take effect on July 1, 2018.

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