

2018 -- S 2838

LC005517

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO WATERS AND NAVIGATION -- THE MUNICIPAL WATER SUPPLY
SYSTEMS TRANSACTIONS ACT

Introduced By: Senator Maryellen Goodwin

Date Introduced: May 03, 2018

Referred To: Senate Judiciary

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 32

4 MUNICIPAL WATER SUPPLY SYSTEMS TRANSACTIONS ACT

5 **46-32-1. Short title.**

6 This act shall be known and may be cited as the "Municipal Water Supply Systems
7 Transactions Act."

8 **46-32-2. Legislative findings.**

9 (a) The purpose of this chapter is to authorize municipal water supply systems and
10 regional water quality management district commissions to enter into transactions with other
11 municipal water supply systems and regional water quality management district commissions as
12 well as any public or private operator of a water supply system or water quality management
13 system, notwithstanding the provisions of any charter, other laws or ordinances, general, special,
14 or local, or of any rule or regulation of any state public body, restricting or regulating in any
15 manner the power of any municipal water supply system, regional water quality management
16 district commission, or public or private operator of a water supply system or water quality
17 management system.

18 (b) It is hereby found and declared that:

1 (1) Municipal water supply systems and regional water quality management district
2 commissions providing the protection, development, management, financial security, and use of
3 water should be integrated with each other or with other public or private operators of water
4 supply systems or water quality management systems in a manner that serves the citizens of
5 Rhode Island most efficiently and cost-effectively.

6 (2) It is in the state's economic and environmental interests to coordinate the efforts of
7 municipal water supply systems and regional water quality management district commissions
8 with each other or with other public or private operators of water supply systems or water quality
9 management systems to collect, treat, distribute, store and protect water supplies, and to collect,
10 dispose and treat sewage and waste water.

11 (3) Coordination of municipal water supply systems and regional water quality
12 management district commissions with each other or with other public or private operators of
13 water supply systems or water quality management systems provides efficiencies inuring to the
14 benefit of the state's citizens in the form of reliable, cost-effective, high-quality water that
15 protects public health, promotes environmental stewardship, reduces redundancy, maintains
16 customer confidence, and supports a prosperous economy.

17 (4) It is in the economic and environmental interests of Rhode Island citizens to develop
18 and facilitate efficient planning for the delivery of drinking water and sewage collection, disposal,
19 and treatment services through relationships vested with the operating, financing and regulatory
20 powers to provide appropriate means for addressing such needs.

21 **46-32-3. Powers to enter into transactions.**

22 (a) Notwithstanding the provisions of any charter, other laws or ordinances, general,
23 special, or local, or of any rule or regulation restricting or regulating in any manner the power of
24 municipal water supply systems or regional water quality management district commissions, such
25 municipal water supply systems and regional water quality management district commissions are
26 authorized to enter into transactions ("transactions") with other municipal water supply systems,
27 regional water quality management district commissions, and public or private operators of water
28 supply systems or water quality management systems to facilitate the coordination of their
29 operations for the purposes aforesaid.

30 (b) Upon the consummation of a transaction, subject to § 46-32-5, the resulting, surviving
31 entity shall be considered a "public utility" as defined in § 39-1-2 with respect to such municipal
32 water supply system.

33 (c) Notwithstanding the foregoing, §§ 39-3-24, 39-3-25 or any other general law to the
34 contrary, neither the Rhode Island public utilities commission nor the Rhode Island division of

1 public utilities and carriers shall have any jurisdiction, authority, or other power to approve,
2 reject, review, or in any way affect any transaction.

3 **46-32-4. Rate determinations.**

4 (a) Any existing rates and charges, which are in effect at the time a transaction is
5 consummated, shall continue in full force and effect until otherwise determined by this section.

6 (b) Upon consummation of a transaction, rates and charges shall be established such as to
7 provide revenues sufficient at all times to pay, as the same shall become due, any and all
8 payments required to be made to a municipality that has entered into a transaction, the principal
9 and interest on any notes or bonds, together with the maintenance of proper reserves therefore, in
10 addition to paying, as the same shall become due, all expenses of operating and maintaining the
11 water supply system, together with proper reserves for depreciation, maintenance, and
12 contingencies and all other obligations and indebtedness.

13 (c) The Rhode Island public utilities commission and the Rhode Island division of public
14 utilities and carriers shall recognize and apply all payments made to a municipality pursuant to a
15 transaction in its review and approval of rates, including, but not limited to, those payments and
16 fees referenced in §§ 46-32-3 and 46-32-5, respectively.

17 (d) Subject to the foregoing, for the five (5) years following a transaction, neither the
18 Rhode Island public utilities commission nor the Rhode Island division of public utilities and
19 carriers shall have any jurisdiction, authority or power to approve, reject, review, or in any way
20 affect percentage increases in rates of a transacting party. However, percentage increases in rates
21 applicable to affected residential, commercial, industrial and whole sale ratepayers during the five
22 (5) years following a transaction may not exceed, in total, the percentage rate increase for such
23 ratepayers during the five (5) years prior to the transaction. Notwithstanding the foregoing, the
24 Rhode Island public utilities commission and the Rhode Island division of public utilities and
25 carriers shall have the authority to increase such rate to cure, avoid, or otherwise respond to a
26 water shortage or other water emergency. Nothing herein shall be construed to limit any party to a
27 transaction from recovering all payments, rates, rents, assessments, fees and other costs or
28 charges of all costs of service from all water users in its system.

29 **46-32-5. Special provisions applicable to transactions.**

30 (a) Each party to a transaction shall pay its own reasonably incurred fees, costs and
31 expenses, including, but not limited to, legal, accounting, and engineering fees. Notwithstanding
32 the foregoing, in the event a transaction is consummated, the terms of such transaction may
33 provide for reimbursement of the aforesaid fees, costs, and expenses, which may be financed to
34 the extent permitted under applicable law. In the event that the transacting parties' costs are

1 financed, payment of such costs shall not be subject to review and approval by the Rhode Island
2 public utilities commission or the Rhode Island division of public utilities and carriers.

3 (b) In any transaction, the transacting parties are authorized to assume such debts related
4 to such properties and assets being transferred as such parties shall deem appropriate. Such debts
5 may include notes, bonds, and any other outstanding debts.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO WATERS AND NAVIGATION -- THE MUNICIPAL WATER SUPPLY
SYSTEMS TRANSACTIONS ACT

1 This act would authorize any municipal water supply system and any regional water
2 quality management district commission to enter into an agreement called a "transaction"
3 enabling certain water supply systems to merge and be deemed a public utility pursuant to chapter
4 1 of title 39.

5 This act would take effect upon passage.

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