

2016 -- H 7409 SUBSTITUTE A AS AMENDED

=====
LC004326/SUB A
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

—————
A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- RHODE ISLAND BRIDGE
REPLACEMENT, RECONSTRUCTION AND MAINTENANCE FUND -- TOLLS

Introduced By: Representatives DeSimone, Blazejewski, Shekarchi, Carnevale, and
Ucci

Date Introduced: January 28, 2016

Referred To: House Finance

(Governor)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 24-12-9 of the General Laws in Chapter 24-12 entitled "Rhode
2 Island Turnpike and Bridge Authority" is hereby amended to read as follows:

3 **24-12-9. Powers of authority.** -- (a) The authority is hereby authorized and empowered:

4 (1) To adopt bylaws for the regulation of its affairs and the conduct of its business;

5 (2) To adopt an official seal and alter it at pleasure;

6 (3) To maintain an office at such place or places within the state as it may designate;

7 (4) To sue and be sued in its own name, plead and be impleaded; provided, however, that
8 any and all actions at law or in equity against the authority shall be brought only in the county in
9 which the principal office of the authority shall be located;

10 (5) To determine, subject to the approval of the director of transportation, the location
11 and the design standards of the Newport Bridge, the turnpike and any additional new facility to be
12 constructed;

13 (6) To issue bonds of the authority for any of its purposes and to refund its bonds, all as
14 provided in this chapter;

15 (7) To combine for financing purposes the Newport Bridge, the Mount Hope Bridge, the
16 Sakonnet River Bridge, the Jamestown Verrazzano Bridge, the turnpike and any additional
17 facility or facilities, or any two (2) or more of such projects;

18 (8) To borrow money in anticipation of the issuance of bonds for any of its purposes and

1 to issue notes, certificates, or other evidences of borrowing in form as may be authorized by
2 resolution of the authority, the notes, certificates, or other evidence of borrowing to be payable in
3 the first instance from the proceeds of any bonds issued under the provisions of this chapter and
4 to contain on their face a statement to the effect that neither the state, the authority nor any
5 municipality or other political subdivision of the state shall be obligated to pay the same or the
6 interest thereon except from the proceeds of bonds in anticipation of the issuance of which the
7 notes, certificates, or other evidences of borrowing shall have been issued, or from revenues;

8 (9) To fix and revise from time to time, subject to the provisions of this chapter, and to
9 charge and collect tolls for transit over the turnpike and the several parts or sections thereof, and
10 for the use of the Newport Bridge, the Mount Hope Bridge, the Sakonnet River Bridge, the
11 Jamestown Verrazzano Bridge and any additional facility acquired, financed or leased under the
12 provisions of this chapter;

13 (10) To acquire, hold and dispose of real and personal property in the exercise of its
14 powers and the performance of its duties;

15 (11) To acquire in the name of the authority by purchase or otherwise, on such terms and
16 conditions and in such manner as it may deem proper, or by the exercise of the rights of
17 condemnation in the manner as provided by this chapter, public or private lands, including public
18 parks, playgrounds, or reservations, or parts thereof or rights therein, rights-of-way, property,
19 rights, easements and interests as it may deem necessary for carrying out the provisions of this
20 chapter; provided, however, that all public property damaged in carrying out the powers granted
21 by this chapter shall be restored or repaired and placed in its original condition as nearly as
22 practicable;

23 (12) To designate the locations, with the approval of the director of transportation, and
24 establish, limit and control the points of ingress to and egress from the turnpike and any
25 additional facility as may be necessary or desirable in the judgment of the authority to insure the
26 proper operation and maintenance thereof, and to prohibit entrance to and exit from any point or
27 points not so designated;

28 (13) To employ, in its discretion, consulting engineers, attorneys, accountants,
29 construction and financial experts, superintendents, managers, and such other employees and
30 agents as may be necessary in its judgment, and to fix their compensation;

31 (14) To apply for, receive and accept from any federal agency aid and/or grants for or in
32 aid of the repair, maintenance and/or construction of the turnpike, the Newport Bridge, the
33 Sakonnet River Bridge, the Mount Hope Bridge, the Jamestown Verrazzano Bridge or any
34 additional facility, and to receive and accept from the state, from any municipality, or other

1 political subdivision thereof and from any other source aid or contributions of either money,
2 property, labor or other things of value, to be held, used and applied only for the purposes for
3 which the grants and contributions may be made;

4 (15) To construct grade separations at intersections of the turnpike, the approaches and
5 highway connections of the Newport Bridge, the Sakonnet River Bridge, the Mount Hope Bridge,
6 the Jamestown Verrazzano Bridge and any additional facility with public highways, streets, or
7 other public ways or places, and to change and adjust the lines and grades thereof so as to
8 accommodate the same to the design of the grade separation; the cost of the grade separations and
9 any damage incurred in changing and adjusting the lines and grades of the highways, streets,
10 ways, and places shall be ascertained and paid by the authority as a part of the cost of the project;

11 (16) To vacate or change the location of any portion of any public highway, street, or
12 other public way or place, sewer, pipe, main, conduit, cable, wire, tower, pole, and other
13 equipment and appliance of the state or of any municipality or other political subdivision of the
14 state and to reconstruct the same at such new location as the authority shall deem most favorable
15 for the project and of substantially the same type and in as good condition as the original
16 highway, street, way, place, sewer, pipe, main, conduit, cable, wire, tower, pole, equipment, or
17 appliance, and the cost of the reconstruction and any damage incurred in vacating or changing the
18 location thereof shall be ascertained and paid by the authority as a part of the cost of the project;
19 any public highway, street or other public way or place vacated or relocated by the authority shall
20 be vacated or relocated in the manner provided by law for the vacation or relocation of public
21 roads, and any damages awarded on account thereof shall be paid by the authority as a part of the
22 cost of the project;

23 (17) The authority shall also have the power to make reasonable regulations, subject to
24 the approval of the public utility administrator, for the installation, construction, maintenance,
25 repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers,
26 poles, and other equipment and appliances (herein called "public utility facilities") of any public
27 utility as defined in § 39-1-2, in, on, along, over or under any project. Whenever the authority
28 shall determine that it is necessary that any public facilities which now are, or hereafter may be,
29 located in, on, along, over, or under any project should be relocated in the project, or should be
30 removed from the project, the public utility owning or operating the facilities shall relocate or
31 remove the facilities in accordance with the order of the authority; provided, however, that the
32 cost and expenses of the relocation or removal, including the cost of installing the facilities in a
33 new location, or new locations, and the cost of any lands, or any rights or interests in lands, and
34 any other rights acquired to accomplish the relocation or removal, less the cost of any lands or

1 any rights or interests in lands of any other rights of the public utility paid to the public utility in
2 connection with the relocation or removal of the property, shall be ascertained and paid by the
3 authority as a part of the cost of the project. In case of any relocation or removal of facilities the
4 public utility owning or operating the facilities, its successors or assigns, may maintain and
5 operate the facilities, with the necessary appurtenances, in the new location or new locations, for
6 as long a period, and upon the same terms and conditions, as it had the right to maintain and
7 operate the facilities in their former location or locations;

8 (18) To make reasonable regulations and to grant easements for the installation,
9 construction, maintenance, repair, renewal, relocation, and removal of pipelines, other equipment,
10 and appliances of any corporation or person owning or operating pipelines in, on, along, over, or
11 under the turnpike, whenever the authority shall determine that it is necessary that any facilities
12 which now are, or hereafter may be located in, on, along, over or under the turnpike should be
13 relocated in the turnpike, or should be removed from the turnpike, the corporation or person
14 owning or operating the facilities shall relocate or remove the facilities in accordance with the
15 order of the authority; provided, however, that the cost and expense of the relocation or removal,
16 including the cost of installing the facilities in a new location, or new locations, and the cost of
17 any lands, or any rights or interests in lands, and any other rights acquired to accomplish the
18 relocation or removal, less the cost of any lands or any rights or interests in lands or any other
19 rights of any corporation or person paid to any corporation or person in connection with the
20 relocation or removal of the property, shall be ascertained and paid by the authority as a part of
21 the cost of the project. In case of any relocation or removal of facilities the corporation or person
22 owning or operating the facilities, its successors or assigns, may maintain and operate the
23 facilities, with the necessary appurtenances, in the new location or new locations, for as long a
24 period, and upon the same terms and conditions, as it had the right to maintain and operate the
25 facilities in their former location or locations;

26 (19) To enter upon any lands, waters, and premises for the purpose of making such
27 surveys, soundings, borings, and examinations as the authority may deem necessary or
28 convenient for its purposes, and the entry shall not be deemed a trespass, nor shall an entry for
29 such purposes be deemed an entry under any condemnation proceedings; provided, however, the
30 authority shall pay any actual damage resulting to the lands, water, and premises as a result of the
31 entry and activities as a part of the cost of the project;

32 (20) To enter into contracts or agreements with any board, commission, public
33 instrumentality of another state or the federal government or with any political subdivision of
34 another state relating to the connection or connections to be established between the turnpike or

1 any additional facility with any public highway or turnpike now in existence or hereafter to be
2 constructed in another state, and with respect to the construction, maintenance and operation of
3 interstate turnpikes or expressways;

4 (21) To enter into contracts with the department of transportation with respect to the
5 construction, reconstruction, renovation, acquisition, maintenance, repair, operation or
6 management of any project and with the Rhode Island state police with respect to the policing of
7 any project;

8 (22) To make and enter into all contracts and agreements necessary or incidental to the
9 performance of its duties and the execution of its powers under this chapter; and

10 (23) To do all other acts and things necessary or convenient to carry out the powers
11 expressly granted in this chapter.

12 (24) To grant and/or contract through the transfer of funds of the authority to the
13 department of transportation for the construction, reconstruction, acquisition, maintenance, repair,
14 operation or management by the department of transportation of any project or projects
15 authorized by this chapter, and the department of transportation is authorized to accept any such
16 grant or transfer of funds.

17 (b) Provided, the authority in carrying out the provisions of this section shall hold public
18 hearings prior to the finalization of any specifications or the awarding of any contracts for any
19 project. Provided, further, that any revenue generated by facilities under the control of the
20 authority shall only be used for the purposes of the authority.

21 (c) The authority is authorized to enter into contracts with the state or any department of
22 the state to operate and/or manage toll facilities on state roads or bridges not owned, leased by or
23 under the control of the authority, and to collect tolls from such facilities on behalf of the
24 department of transportation, provided such tolls shall be set by the state acting through the
25 department of transportation pursuant to chapter 13.1 of title 42.

26 SECTION 2. Title 42 of the General Laws entitled "STATE AFFAIRS AND
27 GOVERNMENT" is hereby amended by adding thereto the following chapter:

28 CHAPTER 13.1

29 THE RHODE ISLAND BRIDGE REPLACEMENT, RECONSTRUCTION AND

30 MAINTENANCE FUND

31 **42-13.1-1. Short title.** -- This chapter shall be known and may be cited as "The Rhode
32 Island Bridge Replacement, Reconstruction and Maintenance Fund Act of 2016".

33 **42-13.1-2. Legislative findings.** -- The general assembly finds that:

34 (1) The state of Rhode Island, through the Rhode Island department of transportation

1 ("the department"), funds the reconstruction, replacement, and maintenance of all bridges in
2 Rhode Island, except the Newport Bridge, the Mount Hope Bridge, the Jamestown-Verrazano
3 Bridge, and the Sakonnet River Bridge.

4 (2) According to the Federal Highway Administration (FHWA) 2015 National Bridge
5 Inventory (NBI) data, there are seven hundred sixty-four (764) bridges in Rhode Island greater
6 than twenty feet (20') in length. Of these NBI bridges, one hundred seventy-seven (177) bridges,
7 or twenty-three percent (23%), are classified as structurally deficient.

8 (3) For the past several decades, Rhode Island has depended on three (3) primary sources
9 for funding all transportation infrastructure construction, maintenance, and operations: federal
10 funds, state bond funds, and motor fuel tax revenue. Of these sources, two (2), federal funds and
11 motor fuel tax revenue, are mutable.

12 (4) The 2008 governor's blue ribbon panel on transportation funding, the 2011 senate
13 special commission on sustainable transportation funding, and the 2013 special legislative
14 commission to study the funding for East Bay bridges determined that there is insufficient
15 revenue available from all existing sources to fund the maintenance and improvement of Rhode
16 Island transportation infrastructure.

17 (5) In 2011, the general assembly adopted a component of the recommended systemic
18 change to transportation funding by dedicating increased resources from the Rhode Island capital
19 plan fund and creating the Rhode Island highway maintenance account, to be funded by an
20 increase in license and registration fees, beginning in FY2014.

21 (6) In 2014, the general assembly adopted changes to the Rhode Island highway
22 maintenance account to provide additional state revenue for transportation infrastructure in future
23 years.

24 (7) Although the state is shifting from long-term borrowing to reliance upon annual
25 revenues to fund transportation infrastructure on a pay-as-you go basis, and although a recurring
26 state source of capital funds has been established, there is still a funding gap between the revenue
27 needed to maintain all bridges in structurally sound and good condition and the annual amounts
28 generated by current dedicated revenue sources.

29 (8) According to the U.S. General Accounting Office, just one fully-loaded five (5) axle
30 tractor trailer has the same impact on the interstate as nine thousand six hundred (9,600)
31 automobiles. The department estimates that tractor trailers cause in excess of seventy percent
32 (70%) of the damage to the state's transportation infrastructure, including Rhode Island bridges,
33 on an annual basis. However, revenue contributions attributable to tractor trailers account for less
34 than twenty percent (20%) of the state's total annual revenues to fund transportation

1 infrastructure.

2 (9) The United States Congress, consistent with its power to regulate interstate commerce
3 and pursuant to 23 USC §129, has authorized states to implement reconstruction or replacement
4 of a toll-free bridge and conversion of the bridge to a toll facility, provided that the state:

5 (i) Has in effect a law that permits tolling on a bridge prior to commencing any such
6 activity; and

7 (ii) Otherwise complies with the requirements of 23 USC §129.

8 **42-13.1-3. Definitions. --** As used in this chapter, the following words and terms shall
9 have the following meanings, unless the context shall indicate another or different meaning:

10 (1) "Availability payment" means a payment by the department under a contract for a toll
11 facility or any other facility, which is based on the availability of the facility at a specified
12 performance level and may include, without limitation, compensation for operations, maintenance
13 and financing of the facility.

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

17 (3) "Large commercial truck" shall be defined pursuant to the Federal Highway
18 Administration (FHWA) vehicle classification schedule as any vehicle within Class 8 - single
19 trailer, three (3) or four (4) axles up to and including Class 13 - seven (7) or more axle multi-
20 trailer trucks, as such classifications may be revised from time to time by the FHWA.

21 (4) "Other vehicle" means any vehicle that has not been defined pursuant to this chapter
22 as a large commercial truck.

23 (5) "Passenger vehicle" shall be defined pursuant to the Federal Highway Administration
24 (FHWA) vehicle classification schedule as any vehicle within Class 1, 2, and 3 as such
25 classifications may be revised from time to time by the FHWA.

26 (6) "Radio frequency identification transponder" or "RFID" means a toll collection
27 system approved by the department that may consist of a toll tag placed inside the vehicle and an
28 overhead antenna which reads the toll tag and collects the toll.

29 (7) "Toll evader" means, for the purposes of this chapter, any registered owner of any
30 large commercial truck that passes through any electronic tolling location as authorized pursuant
31 to §42-13.1-4 and who does not pay the required toll and/or fees, fines, or penalties within the
32 maximum allowable period specified under §42-13.1-11.

33 (8) "Toll facility" means equipment or capital improvements funded in whole or in part
34 by toll revenue, or required to effectuate toll collection.

1 (9) "Turnpike and bridge authority" means the Rhode Island turnpike and bridge
2 authority (RITBA), a public instrumentality of the state of Rhode Island, created by the general
3 assembly pursuant to chapter 12 of title 24.

4 **42-13.1-4. Authority to collect tolls on large commercial trucks only. --** (a) The
5 department is hereby authorized to fix, revise, charge, and collect tolls for the privilege of
6 traveling on Rhode Island bridges to provide for replacement, reconstruction, maintenance and
7 operation of Rhode Island bridges. The tolls shall be fixed after conducting a cost-benefit analysis
8 and providing an opportunity for public comment. The tolls shall be collected on large
9 commercial trucks only and shall not be collected on any other vehicle; provided, however, no
10 vehicle shall be tolled other than a tractor or truck tractor as defined in 23 CFR 658.5, pulling a
11 trailer or trailers. No act authorizing tolls on passenger vehicles pursuant to this chapter shall
12 take effect until it has been approved by the majority of those electors voting in a statewide
13 referendum. The secretary of state shall certify the results of the statewide referendum. Tolls on
14 large commercial trucks may be implemented utilizing all-electric toll collection methodologies
15 on a cash-less basis, or utilizing any other methodologies determined by the department.

16 (b) Subject to §42-13.1-14, the department will establish a program to limit the
17 assessment of the tolls upon the same individual large commercial truck using a RFID to once per
18 toll facility, per day in each direction, or an equivalent frequency use program based upon
19 individual large commercial truck use.

20 (c) Subject to §42-13.1-14, the total amount of tolls imposed upon the same individual
21 large commercial truck using a RFID for making a border-to-border through trip on Route 95
22 Connecticut to Route 95 Massachusetts, or the reverse, shall not exceed twenty dollars (\$20.00).

23 (d) Subject to §42-13.1-14, the daily maximum amount of the tolls collected upon the
24 same individual large commercial truck using a RFID shall not exceed forty dollars (\$40.00).

25 (e) Tolls shall not be subject to supervision or regulation by any commission, board,
26 bureau, agency, or official of the state or any municipality or other political subdivision of the
27 state except the department.

28 **42-13.1-5. Collection of tolls on passenger cars and other vehicles expressly**
29 **prohibited. --** Notwithstanding any other provisions of this statute, the department is expressly
30 prohibited from collecting tolls hereunder on other vehicles, herein defined to include
31 motorcycles, passenger cars, and all other vehicles classed one through seven (7) pursuant to the
32 Federal Highway Administration (FHWA) vehicle classification schedule.

33 **42-13.1-6. Rhode Island bridge replacement reconstruction and maintenance fund**
34 **established. --** (a) There is hereby created a special account in the intermodal surface

1 transportation fund, as established in §31-36-20, to be known as the Rhode Island bridge
2 replacement, reconstruction and maintenance fund ("the fund").

3 (b) The fund shall consist of all those monies received by the department under this
4 chapter, including:

5 (1) The monies received through the collection of tolls on bridges in Rhode Island;

6 (2) Any fees, fines or penalties collected pursuant to this chapter; and

7 (3) Investment earnings on amounts credited to the fund.

8 (c) Unexpended balances and any earnings thereon shall not revert to the general fund but
9 shall remain in the Rhode Island bridge replacement, reconstruction and maintenance fund. There
10 shall be no requirement that monies received into the fund during any given calendar year or
11 fiscal year be expended during the same calendar year or fiscal year.

12 **42-13.1-7. Designation of toll bridges.** -- The director of the department may designate
13 any Rhode Island bridge on the National Highway System as a toll bridge in order to facilitate the
14 financing of replacement, reconstruction, and maintenance of Rhode Island's system of bridges.

15 **42-13.1-8. Amount of tolls.** -- The department's authority to fix and adjust the amount of
16 tolls shall be determined by the costs of replacement, reconstruction, maintenance, and operation
17 of Rhode Island's system of bridges and/or any portion or portions thereof, including costs
18 associated with the acquisition, construction, operation and maintenance of the toll facilities and
19 administrative costs in connection therewith.

20 **42-13.1-9. Limitations on use of revenue.** -- All revenue collected pursuant to this
21 chapter and deposited to the Rhode Island bridge replacement, reconstruction and maintenance
22 fund shall be used to pay the costs associated with the operation and maintenance of the toll
23 facility, and the replacement, reconstruction, maintenance and operation of Rhode Island bridges
24 on the National Highway System or any other use permitted under 23 USC §129.

25 **42-13.1-10. Procurement of toll facilities.** -- Without limiting any right of the
26 department to award contracts under any other law, the department shall have the right to procure
27 toll facilities through contracts aggregating the services of design, engineering, construction,
28 finance, operations, maintenance or any combination of the foregoing. Notwithstanding any
29 requirement of law to the contrary, the department may award such contracts on the basis of
30 competitive negotiation in accordance with §37-2-19. Such contracts may include availability
31 payments or any other compensation structure determined appropriate by the department to
32 further the objectives of this chapter.

33 **42-13.1-11. Penalty for nonpayment of toll.** -- (a) The department shall have the
34 authority to establish and collect fees, fines, and penalties from registered owners of large

1 commercial trucks who use or attempt to use any toll facility established under §42-13.1-4,
2 without paying the toll at the rate then in force for such use.

3 (b) Any fee, fine, or penalty shall be in addition to the toll or tolls initially incurred and
4 shall be no less than an amount sufficient to cover the cost of administration and collection of
5 said fines, fees, and penalties.

6 (c) The registered owner of the large commercial truck subject to toll shall be primarily
7 responsible for all tolls, fees, fines, and penalties assessed pursuant to the provisions of this
8 chapter.

9 (d) Prior to the collection of any toll on large commercial trucks, the department shall
10 establish a maximum allowable period for the payment of tolls and any subsequent fees, fines,
11 and penalties assessed.

12 **42-13.1-12. Additional penalties -- Toll evasion.** -- Any toll evader who fails or refuses
13 to pay or prepay the required toll and such fees, fines, and penalties as assessed under §42-13.1-
14 11 and within the maximum allowable period specified therein, shall be required to pay a fine not
15 to exceed three thousand dollars (\$3,000) and shall pay the toll amount due and any
16 administrative costs, or shall have their registration suspended until payment is made in full for
17 the violation. A toll evader under this subsection shall receive a traffic violation summons which
18 shall be subject to the jurisdiction of the traffic tribunal. All amounts due under this subsection
19 shall be remitted to the Rhode Island bridge replacement, reconstruction and maintenance fund.

20 **42-13.1-13. Conformance to statute, rules, and regulations.** -- All programs and
21 funding proposals shall conform to applicable federal law, rules and regulations. The department
22 shall promulgate state rules and regulations to carry out the purposes of this chapter. Included
23 within said rules and regulations shall be a provision requiring any public comment period to
24 continue for at least thirty (30) days and a provision requiring advance notification to be provided
25 to the governor, speaker of the house of representatives and president of the senate prior to any
26 announcement of public hearing or public comment period establishing or modifying the amount
27 of tolls to be collected. In promulgating these rules and regulations, the department shall establish
28 policies and procedures that promote procedural transparency.

29 **42-13.1-14. Severability.** -- If a part of this chapter is held unconstitutional or invalid, all
30 valid parts that are severable from the invalid or unconstitutional part remain in effect. If a part of
31 this chapter is held unconstitutional or invalid in one or more of its applications, the part remains
32 in effect in all constitutional and valid applications that are severable from the invalid
33 applications. This severability clause shall be applicable to each provision of this chapter,
34 regardless of whether or not any particular provision references this section.

1 **42-13.1-15. Bridge preservation and salt mitigation.** -- (a) In any fiscal year when the
2 department fails to complete appropriate bridge maintenance, no new construction and design
3 contracts subject to reporting under §42-13.1-16 shall be awarded for the subsequent year or until
4 proof of appropriate bridge maintenance is provided.

5 (b) The director must submit detailed information regarding bridge maintenance activities
6 undertaken during the fiscal year to the governor, office of management and budget, the speaker
7 of the house, and the president of the senate no later than thirty (30) days after the fiscal year
8 ends, beginning with fiscal year 2017. The information shall also be posted on the department's
9 website.

10 (c) Notwithstanding the provisions of §42-13.1-16, bridge maintenance requirements may
11 be waived if the director certifies that:

12 (1) Certain bridges are in a state of disrepair such that maintenance activities will not
13 forestall further deterioration; or

14 (2) Certain bridges have a maintenance plan that does not require any activities during
15 any given calendar year; or

16 (3) Certain bridges have been modified such that maintenance to prevent salt erosion and
17 deterioration is no longer required; or

18 (4) The department has not used salt on certain bridges or has stopped using salt for
19 winter maintenance as a long-term change in practice; or

20 (5) Other specific circumstances exist to eliminate the need for maintenance activities in
21 any given calendar year.

22 (d) Failure to comply is subject to the penalties contained in §35-3-24.

23 **42-13.1-16. Reporting.** -- The department shall submit to the office of management and
24 budget, the house fiscal advisor, and the senate fiscal advisor, a report on the progress of
25 implementation of this chapter within thirty (30) days of the close of each of the fiscal quarters of
26 each year. The reports shall also be posted on the department's website. The reports shall include,
27 at a minimum:

28 (1) Construction and design contracts of five hundred thousand dollars (\$500,000) or
29 greater planned to be advertised in the upcoming federal fiscal year, their value and expected
30 award date;

31 (2) Construction and design contracts of five hundred thousand dollars (\$500,000) or
32 greater awarded in the prior federal fiscal year, date of award, value, and expected substantial
33 completion date;

34 (3) Expected final cost of:

1 (i) Any construction contracts of five hundred thousand dollars (\$500,000) or greater that
2 reached substantial completion in the prior federal fiscal year; and

3 (ii) Any design contracts of five hundred thousand dollars (\$500,000) or greater
4 completed in the prior federal fiscal year; and

5 (4) Total number of workers employed through the contract and the number of the
6 workers in that total with a Rhode Island address.

7 **42-13.1-17. Equality of opportunity.** -- No bid under this chapter shall be deemed
8 complete nor awarded if the bid fails to include a specific written plan for the bidder to be in
9 conformity with §37-14.1-6, ensuring that minority business enterprises reach a minimum of ten
10 percent (10%) of the dollar value of the bid. Pursuant to §§37-14.1-1 and 37-14.1-3, for the
11 purposes of chapter 13.1 of title 42, women shall be included in the definition of "minority
12 business enterprise." The aforementioned written plan should be submitted on forms created and
13 distributed by the director of administration.

14 SECTION 3. Section 42-13-2 of the General Laws in Chapter 42-13 entitled "Department
15 of Transportation" is hereby amended to read as follows:

16 **42-13-2. Organization and functions of the department.** -- (a) The department shall be
17 organized in accordance with a project management-based program and shall utilize an asset
18 management system.

19 (1) A project management-based program, manages the delivery of the department's
20 portfolio of transportation improvement projects from project conception to the project
21 completion. Project management activities include:

- 22 (i) Managing and reporting on the delivery status of portfolio projects;
- 23 (ii) Developing overall workload and budget for the portfolio;
- 24 (iii) Developing and implementing the tools to estimate the resources necessary to
25 deliver the projects; and
- 26 (iv) Developing and implementing processes and tools to improve the management of
27 the projects.

28 (2) Asset management is the process used for managing transportation infrastructure by
29 improving decision making for resource allocation. Asset management activities include a
30 systemic process based on economic, engineering and business principles which includes the
31 following functions:

- 32 (i) Completing a comprehensive inventory of system assets;
- 33 (ii) Monitoring system performance; and
- 34 (iii) Performing analysis utilizing accurate data for managing various assets within the

1 transportation network.

2 (b) The director of transportation shall appoint a chief operating officer to oversee the
3 day-to-day operations of the department.

4 (c) The department shall be organized into such divisions as are described in this section
5 and such other divisions, subdivision, and agencies as the director shall find are necessary to
6 carry out the responsibilities of the department, including: office of audit; division of finance;
7 division of planning; division of project management; division of operations and maintenance;
8 office of civil rights; office of safety; office of external affairs; office of legal; office of personnel;
9 office of information services.

10 (d) The director may assign such other responsibilities as he or she shall find appropriate
11 and may reassign functions other than as set out in this section if he or she finds the reassignment
12 necessary to the proper and efficient functioning of the department or of the state's transportation
13 system.

14 (e) The department shall submit a report annually no later than March 31 to the speaker
15 of the house, the president of the senate, and the house and senate fiscal advisors concerning the
16 status of the ten (10) year transportation plan.

17 (f) Any functions, duties and staff relating to the Rhode Island department of
18 transportation's external audit section shall be transferred to the Rhode Island department of
19 administration's bureau of audits, or its successor, upon passage.

20 (1) The chief of the bureau of audits, or its successor, who shall be the administrative
21 head of the bureau of audits, or its successor, shall supervise, coordinate, and/or conduct audits,
22 civil and administrative investigations, and inspections or oversight reviews, when necessary,
23 relating to programs and operations listed in §42-13-2.

24 (2) The bureau of audits' (or its successor's) authorization shall include, but not be
25 limited to, evaluating the efficiency of operations and internal controls, preventing and detecting
26 fraud, waste, abuse or mismanagement in the expenditure of public funds, whether state, federal
27 or those revenues collected by the use of tolls and related to any and all transportation related
28 programs and operations as well as the procurement of any supplies, services, or construction, by
29 the department of transportation or related institutions of the department of transportation.
30 Investigations may include the expenditures by nongovernmental agencies of federal, state, and
31 local public funds. As deemed necessary or expedient by the bureau of audits, or its successor,
32 audits may be made relative to the financial affairs or the economy and efficiency of management
33 of the department of transportation or related institutions.

34 SECTION 4. This section consists of a Joint Resolution submitted pursuant to chapter 18

1 of title 35.

2 WHEREAS, The Rhode Island Department of Transportation ("RIDOT") has undertaken
3 five (5) major transportation projects, and these projects were either substantially completed or
4 nearing completion in the year 2016; and

5 WHEREAS, The construction of these projects was deemed critical in order to preserve
6 and maintain the public safety and continued economic success and viability of the State of
7 Rhode Island, its ports and infrastructure; and

8 WHEREAS, RIDOT explored various options to finance the costs of the five (5) major
9 transportation projects and determined that the federal-aid financing program authorized in
10 federal law by Section 311 of the National Highway System Designation Act of 1995 and
11 commonly referred to as the Grant Anticipation Revenue Vehicle Program ("GARVEE
12 Program") represented the best financing mechanism for the State of Rhode Island inasmuch as
13 the GARVEE Program accelerated the funding and construction of the five (5) major
14 transportation projects; and

15 WHEREAS, The General Assembly, in Chapter 376, Article 36, Section 8 of the Rhode
16 Island Public Laws of 2003, authorized the Rhode Island Economic Development Corporation,
17 now the Rhode Island Commerce Corporation ("Commerce Corporation"), to issue bonds
18 ("GARVEE Bonds") or other debt instruments on behalf of RIDOT and such GARVEE Bonds
19 are secured by future appropriations for federal-aid transportation projects whereby such amounts
20 are used to cover an assortment of bond-related costs, including principal and interest payments,
21 issuance costs, insurance, and other costs incidental to financing; and

22 WHEREAS, GARVEE Bonds may be issued as special, limited obligations payable
23 solely from federal transportation funds, subject to annual appropriation by the State, without a
24 full faith and credit pledge by the State; and the holders of the GARVEE Bonds may not look to
25 any other revenues of the Commerce Corporation, the State or RIDOT for the payment of the
26 GARVEE Bonds; and

27 WHEREAS, The original Public Corporation Debt Management authorization in Article
28 36 of the FY 2003 Budget as Enacted included a total of \$709.6 million in GARVEE funding to
29 be distributed across five (5) projects, as follows: \$126.2 million for the Sakonnet River Bridge;
30 \$348.3 million for the Route I-195 Relocation; \$85.4 million for the Washington Bridge; \$42.5
31 million for the Freight Rail Improvement Program (FRIP); and \$107.2 million for Route 403; and

32 WHEREAS, Interest rates are at historical lows and the existing revenue available to
33 RIDOT is insufficient to fund the necessary program to replace, reconstruct, and maintain Rhode
34 Island's bridges and otherwise bring the State's transportation infrastructure into a state of good

1 repair; and

2 WHEREAS, It would be in the best interests of the State to maximize all potential
3 sources of revenue to provide a more robust infrastructure program; now, therefore be it

4 RESOLVED AND ENACTED, That the Governor of the State of Rhode Island or the
5 Director of the Rhode Island Department of Transportation or the Director of the Rhode Island
6 Department of Administration or the Chief Executive Officer or the Chief Operating Officer of
7 the Commerce Corporation each be and each hereafter are, acting singly, authorized and
8 empowered by the Rhode Island General Assembly to enter into a financing lease, guarantee, loan
9 and trust agreement, indenture or other obligations or contracts or agreements and to take such
10 other actions as such official shall deem necessary or appropriate in order to issue or facilitate the
11 refinancing and restructuring by the Commerce Corporation of the previously issued GARVEE
12 Bonds pursuant to the authorization granted in Chapter 376, Article 36, Section 8 of the Rhode
13 Island Public Laws of 2003; and be it further

14 RESOLVED, That the Commerce Corporation or any subsidiary thereof or other
15 instrumentality, agency or quasi-public corporation otherwise authorized and empowered to
16 refinance and restructure the bonds specified in this Joint Resolution each be and each hereafter
17 are, acting singly, authorized and empowered by the Rhode Island General Assembly to provide
18 for the necessary security for such bonds consistent with the provisions of this Joint Resolution
19 and Act, including any action to pledge, assign or otherwise transfer the right to receive all or any
20 portion of future Federal Highway Administration (FHWA) appropriations for federal-aid
21 transportation projects or other revenues permitted by the laws of the State of Rhode Island to
22 secure or provide for the payment of any such GARVEE or other bonds; and be it further

23 RESOLVED, That notwithstanding the amount of total debt service referenced in
24 Chapter 376, Article 36, Section 8 of the Rhode Island Public Laws of 2003 and Chapter 241,
25 Article 7, Section 5 of the Rhode Island Public Laws of 2012, any refinancing and restructuring
26 may be structured to provide a net benefit to RIDOT with the approval of the Governor; and be it
27 further

28 RESOLVED, That no other changes in allocations or expenditure are authorized beyond
29 the amendments included in this Joint Resolution; and be it further

30 RESOLVED, That this General Assembly hereby approves refinancing and restructuring
31 of the existing GARVEE bonds in order to provide funding for critical and immediate
32 transportation infrastructure needs; and be it further

33 RESOLVED, That this Joint Resolution shall take effect immediately upon its passage by
34 the General Assembly.

1 SECTION 5. This section consists of a Joint Resolution submitted pursuant to chapter 18
2 of title 35.

3 WHEREAS, The Rhode Island Department of Transportation ("the Department") has
4 completed a detailed review of available funding sources for transportation reconstruction,
5 maintenance, and repair and has determined that the funding available to carry out an immediate
6 program of bridge reconstruction and preventative maintenance (the "program") is insufficient;
7 and

8 WHEREAS, The limitation in funding has occurred, in part, due to the absence of a state-
9 funded capital investment program in transportation infrastructure, and the level funding of
10 federal appropriations to the state, along with a reduction in federal funding through the
11 elimination of federal earmarks and expiration of additional special federal funds; and

12 WHEREAS, Congress has enacted the Fixing America's Surface Transportation (FAST)
13 Act, which provides an increase in available federal funding; and

14 WHEREAS, The Department has explored various options to finance the costs of a
15 robust infrastructure program and concluded that the federal-aid financing program authorized in
16 federal law by Section 311 of the National Highway System Designation Act of 1995 and
17 commonly referred to as the Grant Anticipation Revenue Vehicle Program ("GARVEE
18 Program") represents the best financing mechanism for the State of Rhode Island inasmuch as the
19 GARVEE Program accelerates the funding available to ensure that more Rhode Island bridges do
20 not become structurally deficient; and

21 WHEREAS, The GARVEE Program allows a state to issue bonds ("GARVEE Bonds")
22 or other debt instruments backed by future appropriations for federal-aid transportation projects
23 whereby such amounts are used to cover an assortment of bond-related costs, including principal
24 and interest payments, issuance costs, insurance, and other costs incidental to financing; and

25 WHEREAS, Among other advantages, GARVEE Bonds may be issued as special
26 revenue bonds without a full faith and credit pledge by the State of Rhode Island; and

27 WHEREAS, This General Assembly finds that the reconstruction, maintenance, and
28 repair of the transportation infrastructure of the state is critical for economic development and the
29 general welfare of both businesses and residents; and

30 WHEREAS, The General Assembly has studied the issue of sustainable transportation
31 funding and has determined that no single approach, instrument or method is able to provide
32 sufficient revenue to maintain the state transportation system in a state of good repair; and

33 WHEREAS, The Department has determined that GARVEE bonds should be utilized to
34 fund the bridge replacement, reconstruction, and maintenance component of the ten-year capital

1 program known as RhodeWorks; and

2 WHEREAS, In connection with the issuance of GARVEE Bonds, the State of Rhode
3 Island, acting by and through RIDOT, may elect to receive in lieu of certain monies which would
4 otherwise have been received as reimbursement from FHWA for project costs for bridges in the
5 RhodeWorks program, debt service payments to repay indebtedness in the form of bonds or notes
6 issued to finance the costs of the construction and financing bridges in the RhodeWorks program;
7 and

8 WHEREAS, The Rhode Island Public Corporation Debt Management Act (R.I. General
9 Laws §35-18-1, et seq.) requires the General Assembly to provide its consent to the issuance of
10 certain obligations for essential public facilities of the type referenced herein; and

11 WHEREAS, The design, construction, equipping and completion of these improvements
12 will be financed in whole or in part through revenue bonds issued pursuant to the GARVEE
13 Program by the Rhode Island Commerce Corporation ("Commerce Corporation") or through
14 revenue bonds issued pursuant to the GARVEE Program by another agency, instrumentality or
15 quasi-public corporation established by the State of Rhode Island now or hereafter and otherwise
16 authorized and empowered pursuant to law to issue bonds of the type referenced herein for the
17 types of projects enumerated herein, with such issuance having an expected term of fifteen (15)
18 years, and annual revenues for the operation and maintenance of the bridges to be included in the
19 annual operating budget of RIDOT; and

20 WHEREAS, The capital costs and anticipated bond issuance amounts associated with
21 these projects are estimated to be three hundred million dollars (\$300,000,000); now, therefore,
22 be it

23 RESOLVED AND ENACTED, That the bridges in the RhodeWorks program are each
24 essential public facilities and critical to ensure the economic viability of the citizens, businesses,
25 transportation, marine trades and port facilities of the State of Rhode Island and otherwise in the
26 best interests of the State of Rhode Island, and that this General Assembly hereby approves
27 financing not to exceed three hundred million dollars (\$300,000,000) in principal amount of
28 GARVEE Bonds, the repayment of which shall be derived from and supported by FHWA funds
29 due the State of Rhode Island. The term of the GARVEE bonds shall not exceed fifteen (15) years
30 and the total debt service on the GARVEE bonds shall not exceed four hundred ninety million
31 dollars (\$490,000,000); and be it further

32 RESOLVED, That the Governor of the State of Rhode Island or the Director of the
33 Rhode Island Department of Transportation or the Director of the Rhode Island Department of
34 Administration or the Chief Executive Officer or the Chief Operating Officer of the Commerce

1 Corporation each be and each hereafter are, acting singly, authorized and empowered by the
2 Rhode Island General Assembly to enter into a financing lease, guarantee, loan and trust
3 agreement, indenture or other obligations or contracts or agreements and to take such other
4 actions as such official shall deem necessary or appropriate in order to issue or facilitate the
5 issuance of the GARVEE Bonds and to provide the Commerce Corporation or any subsidiary
6 thereof or other instrumentality, agency or quasi-public corporation otherwise authorized and
7 empowered to issue the bonds specified in this Joint Resolution for the RhodeWorks program
8 with the necessary debt service payments up to the amount specified above and the necessary
9 security for such bonds consistent with the provisions of this Joint Resolution, including any
10 action to pledge, assign or otherwise transfer the right to receive all or any portion of future
11 FHWA appropriations for federal-aid transportation projects or other revenues permitted by the
12 laws of the State of Rhode Island to secure or provide for the payment of any such GARVEE
13 Bonds; and be it further

14 RESOLVED, That this Joint Resolution shall take effect immediately upon its passage.

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

=====
LC004326/SUB A
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- RHODE ISLAND BRIDGE
REPLACEMENT, RECONSTRUCTION AND MAINTENANCE FUND -- TOLLS

1 This act would authorize the Rhode Island Turnpike and Bridge Authority to enter into
2 contracts to operate and manage toll facilities on state roads and to impose tolls on such roads.
3 The act would also authorize the collection of tolls on large commercial trucks only and would
4 expressly prohibit tolls on passenger cars and other vehicles. The act would establish a fund to
5 receive monies collected from such tolls, and would also limit the use of such monies to pay costs
6 of operating the toll facilities and for the repair and maintenance of Rhode Island bridges. This
7 act also contains two (2) Joint Resolutions by the General Assembly to authorize the issuance and
8 refinancing of certain Grant Anticipation Revenue Vehicle bonds, commonly referred to as
9 "GARVEE" bonds

10 This act would take effect upon passage.

=====
LC004326/SUB A
=====