

**2019 -- S 0994 SUBSTITUTE A**

LC002857/SUB A

**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2019**

A N A C T

RELATING TO WATERS AND NAVIGATION - RHODE ISLAND INFRASTRUCTURE  
BANK

Introduced By: Senators DiPalma, Seveney, Euer, and Felag

Date Introduced: June 20, 2019

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 46-12.2-2 of the General Laws in Chapter 46-12.2 entitled "Rhode  
2 Island Infrastructure Bank" is hereby amended to read as follows:

3 **46-12.2-2. Definitions.**

4 As used in this chapter, unless the context clearly indicates otherwise, the following  
5 words and phrases shall have the following meanings:

6 (1) "Agency" means the Rhode Island clean water finance agency, and, effective  
7 September 1, 2015, and thereafter, shall mean the Rhode Island infrastructure bank;

8 (2) "Approved project" means any project or portion thereof that has been issued a  
9 certificate of approval by the department for financial assistance from the agency, and also  
10 includes any project approved for financial assistance from the agency in accordance with state  
11 law, and, furthermore, shall include water pollution abatement projects funded outside of the  
12 water pollution control revolving fund, the Rhode Island water pollution control revolving fund,  
13 or the local interest subsidy trust fund, without the requirement of the issuance of a certificate of  
14 approval; and, furthermore, shall include resiliency related infrastructure projects, and projects  
15 which may, subject to compliance with all state and federal requirements, include state and  
16 federal infrastructure located within the state of Rhode Island;

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

18 (4) "Bond act" means any general or special law authorizing a local governmental unit to

1 incur indebtedness for all or any part of the cost of projects coming within the scope of a water  
2 pollution abatement project, or for other projects related to this chapter, including but not limited  
3 to, § 45-12-2;

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

5 (6) "Certificate of approval" means the certificate of approval contemplated by § 46-12.2-  
6 8;

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

11 (8) "Clean Water Act" or "act" means the Federal Water Pollution Control Act, act of  
12 June 30, 1948, ch. 758, as added Oct. 18, 1972, Pub. L. No. 92-500, 86 Stat. 896, as added Dec.  
13 27, 1977, Pub. L. No. 95-217, 91 Stat. 1566 (codified at 33 U.S.C. § 1251 et seq., as amended and  
14 as hereafter amended from time to time);

15 (9) "Corporation" means any corporate person, including, but not limited to: corporations,  
16 societies, associations, limited liability companies, partnerships and sole proprietorships;

17 (10) "Cost" as applied to any approved project, means any or all costs, whenever  
18 incurred, approved by the agency in accordance with § 46-12.2-8, of planning, designing,  
19 acquiring, constructing, and carrying out and placing the project in operation, including, without  
20 limiting the generality of the foregoing, amounts for the following: planning, design, acquisition,  
21 construction, expansion, improvement, and rehabilitation of facilities; acquisition of real or  
22 personal property; demolitions and relocations; labor, materials, machinery and equipment;  
23 services of architects, engineers, and environmental and financial experts and other consultants;  
24 feasibility studies, plans, specifications, and surveys; interest prior to and during the carrying out  
25 of any project and for a reasonable period thereafter; reserves for debt service or other capital or  
26 current expenses; costs of issuance of local governmental obligations or non-governmental  
27 obligations issued to finance the obligations including, without limitation, fees, charges, and  
28 expenses and costs of the agency relating to the loan evidenced thereby, fees of trustees and other  
29 depositories, legal and auditing fees, premiums and fees for insurance, letters or lines of credit or  
30 other credit facilities securing local governmental obligations or non-governmental obligations  
31 and other costs, fees, and charges in connection with the foregoing; and working capital,  
32 administrative expenses, legal expenses, and other expenses necessary or incidental to the  
33 aforesaid, to the financing of a project and to the issuance therefor of local government  
34 obligations under the provisions of this chapter;

1 (11) "Department" means the department of environmental management;

2 (12) "Financial assistance" means any form of financial assistance provided by the  
3 agency to a local governmental unit, person, or corporation in accordance with this chapter for all  
4 or any part of the cost of an approved project, including, without limitation: grants, temporary and  
5 permanent loans, with or without interest, guarantees, insurance, subsidies for the payment of  
6 debt service on loans, lines of credit, and similar forms of financial assistance; provided,  
7 however, notwithstanding the foregoing, for purposes of capitalization grant awards made  
8 available to the agency, pursuant to the American Recovery and Reinvestment Act of 2009 (P.L.  
9 111-5), or as otherwise required in connection with other capitalization grant awards made  
10 available to the agency, financial assistance shall also include principal forgiveness and negative  
11 interest loans;

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

17 (14) "General revenues", when used with reference to a local governmental unit, means  
18 revenues, receipts, assessments, and other moneys of the local governmental unit received from  
19 or on account of the exercise of its powers and all rights to receive the same, including without  
20 limitation:

21 (i) Taxes;

22 (ii) Wastewater system revenues;

23 (iii) Assessments upon or payments received from any other local governmental unit that  
24 is a member or service recipient of the local governmental unit, whether by law, contract, or  
25 otherwise;

26 (iv) Proceeds of local governmental obligations and loans and grants received by the  
27 local governmental unit in accordance with this chapter;

28 (v) Investment earnings;

29 (vi) Reserves for debt service or other capital or current expenses;

30 (vii) Receipts from any tax, excise, or fee heretofore or hereafter imposed by any general  
31 or special law all or a part of the receipts of which are payable or distributable to or for the  
32 account of the local governmental unit;

33 (viii) Local aid distributions; and

34 (ix) Receipts, distributions, reimbursements, and other assistance received by or for the

1 account of the local governmental unit from the United States or any agency, department, or  
2 instrumentality thereof;

3 (15) "Loan" means a loan by the agency to a local governmental unit, or person, or  
4 corporation for costs of an approved project, including, without limitation, temporary and  
5 permanent loans, and lines of credit;

6 (16) "Loan agreement" means any agreement entered into by the agency with a local  
7 governmental unit, person, or corporation pertaining to a loan, other financial assistance, local  
8 governmental obligations, or non-governmental obligations, including, without limitation: a loan  
9 agreement, trust agreement, security agreement, reimbursement agreement, guarantee agreement,  
10 financing lease agreement, appropriation agreement, or similar instrument;

11 (17) "Local aid distributions" means receipts, distributions, reimbursements, and other  
12 assistance payable by the state to or for the account of a local governmental unit, except such  
13 receipts, distributions, reimbursements, and other assistance restricted by law to specific  
14 statutorily defined purposes;

15 (18) "Local governmental obligations" means bonds, notes, financing lease obligations,  
16 appropriation obligations, and other evidences of indebtedness in fully marketable form issued by  
17 a local governmental unit to evidence a loan or other financial assistance, from the agency in  
18 accordance with this chapter or otherwise as provided herein;

19 (19) "Local governmental unit" means any town, city, district, commission, agency,  
20 authority, board, bodies politic and corporate, public corporation, or other political subdivision or  
21 instrumentality of the state or of any political subdivision thereof, including the Narragansett Bay  
22 commission; and, for purposes of dam safety or dam maintenance projects, any person seeking  
23 financial assistance as a joint applicant with any of the above entities;

24 (20) "Local interest subsidy trust fund" means the local interest subsidy trust fund  
25 established under § 46-12.2-6;

26 (21) "Non-governmental obligations" means bonds, notes, or other evidences of  
27 indebtedness in fully marketable form issued by a person or corporation to evidence a loan, or  
28 other financial assistance, from the agency in accordance with this chapter or otherwise as  
29 provided herein;

30 (22) "Person" means any natural person;

31 (23) "Priority determination system" means the system by which water pollution  
32 abatement projects are rated on the basis of environmental benefit and other criteria for funding  
33 assistance pursuant to rules and regulations promulgated by the department as they may be  
34 amended from time to time;

1 (24) "Projected energy efficiency savings" means, at the time a loan agreement is entered  
2 into between the agency and a local governmental unit, the savings projected to be derived from  
3 the implementation of energy efficient and renewable-energy upgrades to public buildings, as  
4 determined in accordance with the rules and regulations promulgated by the Rhode Island  
5 infrastructure bank pursuant to this chapter;

6 (25) "Qualified energy conservation bond" or "QECCB" means those bonds designated by  
7 26 U.S.C. § 54D;

8 (26) "Revenues", when used with reference to the agency, means any receipts, fees,  
9 payments, moneys, revenues, or other payments received or to be received by the agency in the  
10 exercise of its corporate powers under this chapter, including, without limitation: loan  
11 repayments, payments on local governmental obligations, non-governmental obligations, grants,  
12 aid, appropriations, and other assistance from the state, the United States, or any agency,  
13 department, or instrumentality of either or of a political subdivision thereof, bond proceeds,  
14 investment earnings, insurance proceeds, amounts in reserves, and other funds and accounts  
15 established by or pursuant to this chapter or in connection with the issuance of bonds, including,  
16 without limitation, the water pollution control revolving fund, the Rhode Island water pollution  
17 control revolving fund, and the local interest subsidy fund, and any other fees, charges or other  
18 income received or receivable by the agency;

19 (27) "Rhode Island water pollution control revolving fund" means the Rhode Island water  
20 pollution control revolving fund established pursuant to § 46-12.2-6;

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

26 (29) "Wastewater system revenues" means all rates, rents, fee assessments, charges, and  
27 other receipts derived or to be derived by a local governmental unit from wastewater collection  
28 and treatment facilities and water pollution abatement projects under its ownership or control, or  
29 from the services provided thereby, including, without limitation: proceeds of grants, gifts,  
30 appropriations, and loans, including the proceeds of loans or grants awarded by the agency or the  
31 department in accordance with this chapter, investment earnings, reserves for capital and current  
32 expenses, proceeds of insurance or condemnation, and the sale or other disposition of property;  
33 wastewater system revenues may also include rates, rents, fees, charges, and other receipts  
34 derived by the local governmental unit from any water supply of distribution facilities or other

1 revenue producing facilities under its ownership or control; wastewater system revenues shall not  
2 include any ad valorem taxes levied directly by the local governmental unit on any real and  
3 personal property;

4 (30) "Water pollution abatement project" or "project" means any project eligible pursuant  
5 to Title VI of the Clean Water Act including, but not limited to, a wastewater treatment or  
6 conveyance project that contributes to removal, curtailment, or mitigation of pollution of the  
7 surface water of the state, and conforms with any applicable comprehensive land use plan which  
8 has been adopted or any dam safety, removal or maintenance project; it also means a project to  
9 enhance the waters of the state, which the agency has been authorized by statute to participate in;  
10 it also means any other project to which the agency has been authorized to provide financial  
11 assistance;

12 (31) "Water pollution control revolving fund" means the water pollution control  
13 revolving fund contemplated by title VI of the Water Quality Act and established under § 46-  
14 12.2-6;

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

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO WATERS AND NAVIGATION - RHODE ISLAND INFRASTRUCTURE  
BANK

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1           This act would expand the definition of “approved project” to include resiliency related  
2 infrastructure projects and projects which may include state and federal infrastructures within the  
3 state of Rhode Island.

4           This act would take effect upon passage.

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