



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
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Memorandum

To: The Honorable Raymond E. Gallison, Jr.
 Chairman, House Finance Committee

The Honorable Daniel DaPonte
 Chairman, Senate Finance Committee

From: Thomas A. Mullaney
 Executive Director/State Budget Officer

Thomas A. Mullaney

Date: April 23, 2015

Subject: Amendments to the FY 2016 Appropriations Act (15-H-5900)

The Governor requests that Article 24 entitled "Relating to Infrastructure Bank" be replaced with the new, attached version. The new version makes amendments to Sections 1, 4, 5, 6, 7, 9, 11, 17, 18 and 19. The specific statutory purposes and policy rationales underlying these changes from the original version submitted on March 12, 2015 are described below:

Section 1 – § 23-19.16-1 through § 23-19.16-8 are added to this article in a new section 1 to establish a brownfields revolving fund at the Rhode Island Infrastructure Bank (RIIB). Consistent with the original version of Article 24, this new section makes general statements of policy, provides RIIB the authority to receive and disburse federal brownfields funds; to make and enter into binding commitments to provide financial assistance to eligible borrowers; and to levy administrative fees on eligible borrowers as necessary. The insertion of this new section 1 required the renumbering of the remaining 21 sections.

Section 4 – § 35-18-3, "Approval by the general assembly," includes a technical amendment, which deletes "water quality management district" in the Narragansett Bay Commission reference in paragraph (5).

Section 5 – § 39-1-27.7, "System reliability and least-cost procurement" is amended to reduce the extension of requirements associated with the demand side charge. Previously Article 24 extended the demand side charge for 20 years (electric) and 21 years (gas). The new version of article 24 changes this to a 12 year extension. Specifically, in sub-section (c), the date by which the commissioner of the Office of Energy Resources and the Energy Efficiency and Resources Management Council provide findings and recommendations is changed from 2038 to 2030. The date by which the electrical and gas distribution company shall submit a triennial plan for system reliability is also extended to 2030 (paragraph 4).

Section 6 – This amendment’s § 39-2-1.2 entitled “Utility base rate – advertising, demand side management and renewables” is amended in sub-section (b) to alter the extension of the electric demand side charge from 20 years to 12 years (in other words, the electric demand side charge is extended from 2008 to 2021, as opposed to 2030).

The requirement in sub-section (b) that the electric distribution company shall include a charge of 0.3 mills per kilowatt-hour to fund renewable energy programs shall now remain in effect until December 31, 2017. This change corrects a previous version of the proposal wherein there was a financial tie between the Renewable Energy Fund and the RIIB. Also, sub-section (b) amends the original version of the article, which struck “and implemented” from the authority of distribution company (in terms of its role in the demand side charge). The new version reverts to the previous statute, which includes “and implemented.” The new § 39-2-1.2 also re-inserts sub-section (d) into statute, as this sub-section, which allows the executive director of the economic development corporation to enter into contract for the administration of renewable energy programs, was inadvertently struck from existing law. This re-insertion of sub-section (d) resulted in the re-lettering of the remaining sub-sections.

Similar to the change in extension for the electric demand side charge, the new sub-section (e) includes a change in the extension of the gas demand side charge. The article calls for this charge to be in effect until 2022, or 12 years from its expiration date.

The current sub-section (l) is revised to require that each electric distribution company shall remit two percent of the 2014 programmatic proceeds of the electric demand side charge to the Rhode Island Infrastructure Bank, in accordance with the terms of Section 46-12.2-14.1. Previously, the article required the distribution company to remit five percent of monthly programmatic proceeds. This changed requirement is also reflected in the original sub-section (l), which is the new sub-section (m), for gas distribution companies.

Section 7 – § 39-26-7, “Renewable energy development fund,” is amended in sub-section (a), by removing the RIIB’s responsibility to adopt plans and guidelines for the management and use of the Renewable Energy Fund. Also, sub-section (c), paragraph (4) is amended to specify that Renewable Energy Fund money shall be used for implementing and supporting renewable energy-related PACE projects (not any PACE projects), as set forth in chapter 39-26.5.

Paragraph (7) is also amended by removing the RIIB from the list of agencies eligible for receiving income from the Renewable Energy Fund (REF) for administrative costs. Under this version of the article, there is no financial connection between the REF and the RIIB, so there is no need to allocate administrative funds from REF to RIIB.

Section 9 – § 39-26.5-1, “Legislative findings,” is amended in paragraph (4) by inserting “but not limited to” in front of the specifically identified measures (“system reliability

upgrades, alternative fuel infrastructure upgrades, and other eligible environmental and health and safety upgrades”).

The amendments to § 39-26.5-2 “Definitions” include a change to definition (7), “institution,” which now means a “private entity, quasi-public corporation or other public entity” as opposed to just a “private entity or quasi state agency.” This section also includes a technical change to definition (8), “loan loss reserve fund” which removes the underline under “or.” Definition (11), for “PACE assessment” was revised to specify the assessment includes a “line item” on the owner’s property tax bill. This new definition also stipulates that the PACE assessment shall be owed by the current owner of the related PACE property as of the time each PACE assessment comes due. New language to this definition requires that in the event of a transfer of ownership, all PACE assessments coming due after the date of the transfer, by foreclosure or otherwise, shall be owed by the transferee.

Definition (12), “PACE lien,” was modified by replacing “the office” with “the Rhode Island Infrastructure Bank.” This same change was also made in definition (13), “PACE loan.” Definition (15), “PACE project,” was amended by specifying that eligible projects must be determined by rules and regulations promulgated in accordance with this chapter. Definition (18) “Property-assessed clean energy” was abbreviated by replacing “upgrades and other eligible environmental and health and safety upgrades” with “PACE projects.”

§ 39-26.5-6, “Priority of a PACE assessment lien” is revised throughout to replace the word ‘dwelling’ with ‘residential structure’, and in sub-section (a) to read that a PACE lien on a residential unit shall be: subordinate to all liens on the residential unit in existence as of the time the PACE loan is made, as opposed to the time the PACE Loan is created.

Sub-section (c) is revised to stipulate that PACE liens on commercial property shall be senior to all liens on the commercial property in existence at the time the associated PACE loan is made, subject to the consent of the senior mortgage holder on the property, in accordance with § 39-26.5-11 (a) (iv). The required consent of mortgage holders is a new provision to this amendment. Sub-section (c) is also amended to specify that commercial PACE liens are junior to municipal tax liens, which is a departure from the original version of Article 24, which included commercial PACE liens as on parity with municipal tax liens.

Sub-section (d) revises the requirement that PACE assessment payments that become due after the date of transfer by foreclosure or otherwise shall be secured by a PACE lien on the property, instead of “remain a lien” on the PACE property, which was how the requirement was articulated in the original article.

§ 39-26.5-7, “Loan loss reserve fund,” is expanded in sub-section (a) to specify that the RIIB is authorized to create, set up, and administer a PACE loan fund for the purpose of providing financial assistance to residential and commercial property owners for PACE projects.

§ 39-26.5-9, “Monitoring, reporting, compliance, underwriting criteria” is revised to require that the underwriting criteria, standards, and procedures with which,

RIIB shall determine compliance, be set forth in the rules and regulations promulgated in accordance with this chapter.

Existing language in § 39-26.5-11, “Rules and regulations, project applications, project eligibility, agreements with municipalities,” is revised, new requirements are added, and the section is divided into sub-sections (a) and (b). Sub-section (a), which was originally the entire § 39-26.5-11, is revised to reflect that the requirement that RIIB consult with the Office of Energy Resources (OER) on the promulgation of rules and regulations to assure that the PACE program be successfully instituted in Rhode Island is an amendment to existing statute, not original statute. Also, the original version of the article stated the PACE program should not adversely affect the implementation of any other energy program that was coordinated by OER or RIIB; however, the new version of sub-section (a) only specifies those energy programs that are coordinated by RIIB.

Roman numerals (i) through (iv) were added to sub-section (a) in § 39-26.5-11 to outline required components of RIIB’s PACE rules and regulations. Specifically, the rules and regulations should include application requirements and procedures for residential and commercial PACE; necessary qualifications and requirements for proposed PACE projects; the underwriting criteria to be applied in determining the eligibility of properties and property owners for PACE loans; and requirements that all existing lien holders on a property be given notice prior to PACE loans being made, and that all commercial property owners seeking a commercial PACE loan receive consent of the primary mortgage holder on that property prior to being eligible.

Sub-section (b) was added to § 39-26.5-11 to specify that the RIIB be responsible for promulgating agreements, forms and other documents necessary for the efficient administration of the PACE program, including those to be signed by property owners, municipalities, and lenders.

Section 11- § 42-64-13.2, which was struck from statute in the original version of Article 24, is re-inserted into statute. Also, definition (1) was amended to rename the Rhode Island Economic Development Corporation the Rhode Island Commerce Corporation. Paragraph (2) under sub-section (e), “conduct of activities,” struck REF requirements due by January 1, 2009, in light of 2012 legislative changes.

Section 17 – § 46-12.2-1, “Legislative findings” is revised in sub-section (c) to reflect the finding that RIIB’s coordination with other agencies on the administration of revolving loan funds and other financing mechanisms is existing law, not amended law, as was incorrectly expressed in the original article 24.

§ 46-12.2-2, “Definitions” includes an expansion to definition (2), “approved project,” to include “any project approved for financial assistance from the agency, in accordance with state law, and furthermore, shall include water pollution control abatement projects funded outside of the water pollution control revolving fund, the Rhode Island water pollution control revolving fund, or the local interest subsidy trust fund, without the requirement of the issuance of a certificate of approval.” Previous language in this definition, which allowed for “other comparable evidence of approval by any other agency or political subdivision or instrumentality of the state,” was removed.

Definition (9) “Corporation” was amended to mean any corporate person, including, but not limited to, bodies politic and corporate, public departments, public offices, public agencies, public authorities, political subdivisions of the state, corporations, in addition to the previously societies, associations, limited liability companies, partnerships and sole proprietorships.

Definition (12), “energy efficiency savings,” was renamed “projected energy savings,” and was modified to specify that the energy efficiency savings are those derived from the implementation of energy efficient and renewable energy upgrades to public buildings, in accordance with the regulations promulgated in this chapter.

Definition (13), “financial assistance” was modified to mean any form of financial assistance provided by the agency to a local government unit, person, or corporation, in accordance with this chapter; not just financial assistance provided to a local governmental unit or corporation, as was previously specified.

The inclusion of “person” was added to definitions (16), “loan,” and (17), “loan agreement.” Also, definition (17), “loan agreement” was amended to specify that the lease agreements eligible are “financing lease agreements.”

Definition (19), “local government obligations” was amended to include appropriation obligations, in addition to bonds, notes, lease obligations, and other evidences of indebtedness. Also this definition was expanded to include “other financial assistance,” in addition to “evidence of a loan.”

Definition (20), “local government unit” was amended by removing “water quality management district,” from the name of the Narragansett Bay Commission.

Definition (23), “Person,” is amended to solely mean any natural person, as opposed to any natural or corporate person. Also, the inclusion of bodies politic and corporate, public departments, offices, agencies, authorities, and political subdivisions of the state, corporations, societies, associations, and partnerships, etc...” were all removed from this definition.

§ 46-12.2-3, “Establishment, composition, appointment of directors of the Rhode Island Infrastructure Bank,” is amended in sub-section (a) to specify that effective August 1, 2015, and thereafter, the Rhode Island Clean Water Finance Agency be known as the Rhode Island Infrastructure Bank.

Sub-section (c) removes changes to the RIIB board that were originally introduced in article 24 (the original amendment, which would have added the commerce secretary and the director of the Department of Environmental Management to the RIIB board). In lieu of this change, sub-section (f) was added to § 46-12.2-3, which would create a new green infrastructure strategic advisory council, which shall exist to advise the board of directors on advances related to green infrastructure, energy efficiency, and renewable energy.

§ 46-12.2-4, “General powers and duties of agencies,” is altered throughout the section to expand the list of chapters referenced. This section is also revised in paragraph (12), by specifying RIIB’s financial assistance powers include the ability to enter into contracts, which could now include loan agreements with persons. A similar revision is made in paragraph (14), which specifies that RIIB can provide financial assistance to persons, in addition to a local governmental unit or corporation.

§ 46-12.2-4 of this version removes the previous paragraph (15), which required RIIB to be the sole governmental provider of financial assistance with regards to water pollution abatement projects concerning brownfields revolving funds (this power is now articulated in the new section 1 of the legislation, which amends Chapter 19.16). To account for the removal of this paragraph, the remaining paragraphs in § 46-12.2-4 are re-numbered accordingly.

§ 46-12.2-6, “Establishment of the water pollution control revolving fund, the Rhode Island water pollution control revolving fund, and the local interest subsidy trust fund—sources of fund—permitted uses” is amended in sub-section (a)(6) by allowing the RIIB to make and enter into binding commitments to provide financial assistance to persons, in addition to local governmental units and corporations. The inclusion of “persons” is also added the list of parties in sub-section (a) (7) and (d) (1). Moreover, amendments that included “corporation” to functions outlined in sub-sections (d) and (e) were removed to reflect existing statute (“corporation” was incorrectly listed as an amended insertion to existing statute—the inclusion of corporation already exists in statutory language).

§ 46-12.2-8, “Procedures for application, approval, and award of financial assistance,” was amended in sub-section (a) to allow persons, in addition to local governmental unit and corporations, to apply to RIIB for financial assistance related to water pollution abatement. “Persons” was also included in the list of eligible parties in sub-sections (d), (e), (f), and (g) of § 46-12.2-8. Also, sub-section (a) was expanded to specify that “for water pollution abatement projects funded outside of the water pollution control revolving fund, the RI water pollution control revolving fund, or the local interest subsidy trust fund, the agency may provide technical assistance without the requirement of the issuance of a certificate of approval, and such projects shall not be required to be listed on the department’s priority lists as set forth in this chapter.” Sub-section (f) is also expanded to require that no later than December 31, 2015, the agency shall enter into an agreement with the Rhode Island commerce corporation to ensure collaboration for brownfields and energy efficiency related projects to which the agency provides financial assistance to corporations.

§ 46-12.2-9, “Authorization to expend funds available for local grants,” was altered to clarify that “persons” be included in the group of entities to which RIIB may provide financial assistance. Also, this version specifies that RIIB is authorized to expend funds otherwise available for grants to a local government units, persons, or corporations.

§ 46-12.2-10, “Powers of local governmental units,” is altered in paragraph (iv) by removing “financing leases, and appropriation agreements” from this section

of local governmental powers. Paragraph (2) was also amended to specify that lien provisions in this paragraph are subject to the provisions of 39-26.5-6. Paragraph (6) was amended by clarifying that municipalities are authorized to lease from the RIIB—not just to lend, pledge, grant, or convey to the RIIB.

§ 46-12.2-13, “Trust agreements pertaining to local governmental obligations,” is amended by inserting “local governmental” in front of obligations in sub-section (b). Also § 46-12.2-13 includes a technical amendment that inserts “assign, or appropriate” in sub-section (c) regarding the ability of local governmental units to pledge, assign, or appropriate general revenues or wastewater revenues as appropriate. This amendment fixes a typographical error. Sub-section (e) is also amended by adding “or other general revenues,” after “wastewater system revenues.”

§ 46-12.2-14, “Bond of the agency,” is an entirely new section in section 17. This section is added and then amended to expand the RIIB’s authority to issue bonds in accordance with the new programs it will administer (the Efficient Buildings Fund and PACE). Similarly, § 46-12.2-17, “No additional consent required,” and § 46-12.2-25, “Supplemental powers- inconsistent laws,” were added to section 17. § 46-12.2-17, “No additional consent required,” was amended to include non-governmental obligations as eligible to be issued under this chapter. § 46-12.2-25, “Supplemental powers- inconsistent laws,” was amended to add references to Brownfields and PACE statutes.

Section 18– § 46-12.2-4.2, “Establishment of the efficient building fund” is amended in sub-section (a) to specify that this fund provides technical, administrative, and financial assistance to local government units for energy efficient and renewable energy upgrades to public buildings and infrastructure, including, but not limited to, streetlights. This section requires the RIIB to review and provide approval for all applications for projects financed through the efficient buildings fund. Sub-section (b) specifies that OER promulgate rules and regulations establishing a project priority list and the process through which a local governmental unit may submit an application for inclusion of a project on the project priority list. The RIIB shall promulgate rules and regulations to effectuate the provisions of this section which may include, without limitation, forms for financial assistance applications, loan agreements, and other instruments.

The inclusion of a new sub-section (g) in § 46-12.2-4.2 requires that funding assistance provided by the RIIB to a public entity for the purpose of retrofitting a school building shall not be subject to the match established by the state’s existing school construction aid program, and shall be made subject to coordination with the Rhode Island Department of Education.

§ 46-12.2-11, “Authority of local governmental units to issue obligations,” is revised in sub-section (c). In the previous version of the article, the time period of payable obligations read “payable no later than three years after the date of issuance of the obligations...” as this sub-section struck “or one year after the date of completion of the approved project financed by the obligations, as determined by the department.” This latter option is re-inserted into the new version of the article.

§ 46-12.2-12.1, "Power of local governmental units to issue limited obligations payable from energy efficiency savings," is amended in sub-section (a) to clarify that the limited obligations payable solely from an appropriation of general revenues in an amount not to exceed the projected energy savings of the project. This sub-section also stipulates that the energy savings that contribute to the limited obligation are actually "projected" energy savings. Lastly, this section previously referenced "energy efficiency savings," which is broadened in several areas in sub-section (a) to include "energy savings."

§ 46-12.2-14.1, "Electric and gas demand side charge proceeds as further security for debt funding energy efficiency improvements in public buildings," is revised in sub-section (a) to specify that the RIIB shall use the electric and demand side charge proceeds identified in § 39-2-1.2 (l-m) to create a loan loss reserve for the efficient building fund to provide security for loans made by the RIIB, or any bonds of the RIIB issued to fund energy efficiency improvements in public buildings pursuant to Section 46-12.2-4.2.

Also, sub-section (b) is added to § 46-12.2-14.1, which stipulates that after all debts incurred in connection with the Efficient Buildings Fund have been repaid in full, the balance of the surcharge account shall be remitted to the appropriate utilities no longer than twenty years from the Fund's commencement date. This new sub-section also stipulates that once returned to the appropriate utility, the funds must be used for energy-efficiency programmatic purposes.

Section 19– § 46-12.8-2, "Definitions" amends the definition of "approved project," by specifying that approved projects shall include safe drinking water projects funded outside of the drinking water state revolving fund without the requirement of the issuance of a certificate of approval. Definition (i), "financial assistance" is amended to include grants in its list of eligible financial arrangements.

§ 46-12.8-5, "Procedure for application, approval, and award of financial assistance," is expanded in sub-section (a) to allow the agency to provide financial assistance without the requirement of the issuance of a certificate of approval for safe drinking water projects funded outside the drinking water state revolving fund. Sub-section (c) specifies that the department is responsible for, and shall have requisite power to review and approve reports and plans for approved projects, for which financial assistance has been applied or granted from the safe drinking water revolving fund.

A copy of the replacement article is attached. If you have any questions regarding this amendment, please feel free to call Kelly Rogers at the Treasury at 222-5126.

TAM:15-Amend-13
Attachments

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Stephen Whitney, State Fiscal Advisor
Michael DiBiase, Director of Administration
Jonathan Womer, Director of Management and Budget
Gregory Stack, Supervising Budget Analyst

- 1 (1) "Agency" means the Rhode Island infrastructure bank as set forth in chapter 46-12.2;
- 2 (2) "Approved project" means any project approved by the agency for financial assistance;
- 3 (3) "Brownfields project" means a project proposed by a city, town, person or corporation that
4 would provide for the remediation and/or development of a site within the State of Rhode Island defined
5 as a Brownfields site pursuant to Section 101 of the Comprehensive Environmental Response,
6 Compensation, and Liability Act of 1980, as amended;
- 7 (4) "Corporation" means any corporate person, including, but not limited to, bodies politic and
8 corporate, corporations, societies, associations, partnerships, limited liability companies, sole
9 proprietorships and subordinate instrumentalities of any one or more political subdivisions of the state;
- 10 (5) "Department" or "Departments" means, for purposes of this chapter, the department of
11 environmental management and the Rhode Island commerce corporation;
- 12 (6) "Eligible borrower" or "Borrower" means a person, corporation, city, town, or other political
13 subdivision or instrumentality of the state;
- 14 (7) "Eligible project" means a brownfields project, or portion of a brownfields project, that meets
15 the project evaluation criteria;
- 16 (8) "Financial assistance" means any form of financial assistance provided by the agency to an
17 eligible borrower in accordance with this chapter for all or any part of the cost of an approved project,
18 including, without limitation, temporary and permanent loans, with or without interest, grants, guarantees,
19 insurance, subsidies for the payment of debt service on loans, lines of credit, and similar forms of
20 financial assistance;
- 21 (9) "Person" means any natural person;
- 22 (10) "Project evaluation criteria" means the criteria used by the departments to evaluate and rank
23 eligible projects and shall include the extent to which the project generates economic benefits, the extent
24 to which the project would be able to proceed, the cost effectiveness of the project; and
- 25 (11) "Revolving fund" means the brownfields revolving fund established under section 3 of this
26 chapter.

1 § 23-19.16-3. Establishment of the brownfields revolving fund. –(a) There is hereby
2 established a brownfields revolving fund. The agency shall establish and set up on its books the
3 brownfields revolving fund, to be held in trust and to be administered by the agency solely as provided in
4 this section and in any trust agreement securing bonds of the agency. The agency shall deposit the
5 following monies into the fund:

6 (1) Amounts appropriated, transferred, or designated to the agency by the state or federal
7 government or any political subdivision thereof for the purposes of this chapter;

8 (2) Loan repayments and other payments received by the agency pursuant to loan agreements
9 with eligible borrowers executed in accordance with this chapter;

10 (3) Investment earnings on amounts credited to the fund;

11 (4) Proceeds of bonds of the agency to the extent required by any trust agreement for such bonds;

12 (5) Administrative fees levied by the agency;

13 (6) Other amounts required by provisions of this chapter or agreement, or any other law or any
14 trust agreement pertaining to bonds to be credited to the revolving fund; and

15 (7) Any other funds permitted by law which the agency in its discretion shall determine to credit
16 thereto.

17 (b) The agency shall establish and maintain fiscal controls and accounting procedures
18 conforming to generally accepted government accounting standards sufficient to ensure proper accounting
19 for receipts in and disbursements from the brownfields revolving fund.

20 § 23-19.16-4. Administration. –(a) The agency shall have all the powers necessary and
21 convenient to carry out and effectuate the purposes and provisions of this chapter including, without
22 limiting the generality of the preceding statement, the authority:

23 (1) To receive and disburse such funds from the state and federal government as may be
24 available for the purpose of the revolving fund subject to the provisions of this chapter;

25 (2) To make and enter into binding commitments to provide financial assistance to eligible
26 borrowers from amounts on deposit in the revolving fund;

1 (3) To levy administrative fees on eligible borrowers as necessary to effectuate the provisions of
2 this chapter, provided the fees have been previously authorized by an agreement between the agency and
3 the eligible borrower;

4 (4) To engage the services of third-party vendors to provide professional services;

5 (5) To establish one or more accounts within the revolving fund; and

6 (6) Such other authority as granted to the agency under chapter 46-12.2.

7 (b) Subject to the provisions of this chapter, to the provisions of any agreement with the state
8 authorized by § 23-19.16-5; and to any agreements with the holders of any bonds of the agency or any
9 trustee therefor, amounts held by the agency for the account of the revolving fund shall be applied by the
10 agency, either by direct expenditure, disbursement, or transfer to one or more other funds and accounts
11 held by the 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 eligible borrowers to finance costs of approved projects,
14 and to refinance the costs of the projects, subject to such terms and conditions, if any, as are determined
15 by the departments and/or the agency in accordance with §23-19.16-6;

16 (2) To fund reserves for bonds of the agency and to purchase insurance and pay the premiums
17 therefor, and pay fees and expenses of letters or lines of credit and costs of reimbursement to the issuers
18 thereof for any payments made thereon or on any insurance, and to otherwise provide security for, and a
19 source of payment for obligations of the agency, by pledge, lien, assignment, or otherwise as provided in
20 chapter 46-12.2;

21 (3) To pay expenses of the agency and the departments in administering the revolving fund. As
22 part of the annual appropriations bill, the departments shall set forth the gross amount of expenses
23 received from the agency and a complete, specific breakdown of the sums retained and/or expended for
24 administrative expenses;

25 (4) To provide a reserve for, or to otherwise secure, amounts payable by borrowers on loans and
26 obligations outstanding in the event of default thereof; amounts in any account in the revolving fund may

1 be applied to defaults on loans outstanding to the borrower for which the account was established and, on
2 a parity basis with all other accounts, to defaults on any loans or obligations outstanding; and

3 (5) To provide a reserve for, or to otherwise secure, by pledge, lien, assignment, or otherwise as
4 provided in chapter 46-12.2, any bonds of the agency.

5 (c) In addition to other remedies of the agency under any loan agreement or otherwise provided
6 by law, the agency may also recover from a borrower, in an action in superior court, any amount due the
7 agency together with any other actual damages the agency shall have sustained from the failure or refusal
8 of the borrower to make the payments or abide by the terms of the loan agreement.

9 (d) Within ninety (90) days after the end of each fiscal year, the agency shall submit an annual
10 report to the governor, the speaker of the house of representatives, the president of the senate, and the
11 secretary of state of its activities during that fiscal year. The report shall provide: a summary of the
12 agency's meetings including when the agency met, subjects addressed, decisions rendered and meeting
13 minutes; a summary of the agency's actions including a listing of rules, regulations, or procedures adopted
14 or amended, applications received for financial assistance for contracts or agreements entered into,
15 applications and intended use plans submitted to federal agencies for capitalization grants, properties
16 acquired or leased, and bonds issued; a synopsis of any complaints, suspensions, or other legal matters
17 related to the authority of the agency; a consolidated financial statement of all funds received and
18 disbursed by the agency including the source of and recipient of the funds which shall be audited by an
19 independent certified public accountant firm; copies of audits or reports required under federal law; a
20 listing of the staff and/or consultants employed by the agency; a listing of findings and recommendation
21 derived from agency activities; and a summary of performance during the previous fiscal year including
22 accomplishments, shortcomings and remedies. The report shall be posted as prescribed in § 42-20-8.2.
23 The director of the department of administration shall be responsible for the enforcement of this
24 provision. The initial report shall be due no later than January 1, 2017.

25 **§ 23-19.16-5. Payment of state funds.** – (a) Subject to the provisions of subsection (b), upon the
26 written request of the agency, the general treasurer shall pay to the agency, from time to time, from the

1 proceeds of any bonds or notes issued by the state for the purposes of this chapter or funds otherwise
2 lawfully payable to the agency for the purposes of this chapter, such amounts as shall have been
3 appropriated or lawfully designated for the revolving fund. All amounts so paid shall be credited to the
4 revolving fund in addition to any other amounts credited or expected to be credited to the revolving fund.

5 (b) The agency and the state shall enter into, execute, and deliver one or more agreements setting
6 forth or otherwise determining the terms, conditions, and procedures for, and the amount, time, and
7 manner of payment of, all amounts available from the state to the agency under this section.

8 § 23-19.16-6. Procedure for project approval. – The department of environmental
9 management, in consultation with the Rhode Island commerce corporation, shall promulgate rules and
10 regulations establishing the project evaluation criteria and a project priority list and the process through
11 which an eligible borrower may submit an application for inclusion of a Brownfields project on the
12 project priority list. Upon issuance of the project priority list by the department of environmental
13 management, the project priority list shall be used by the Rhode Island infrastructure bank to determine
14 the order in which financial assistance shall be awarded. The Rhode Island infrastructure bank shall
15 promulgate rules and regulations to effectuate the provisions of this section which may include, without
16 limitation, forms for financial assistance applications, loan agreements, and other instruments. All rules
17 and regulations promulgated pursuant to this chapter shall be promulgated in accordance with the
18 provisions of chapter 42-35.

19 § 23-19.16-7. Expenses incurred by the department. – In order to provide for the expenses of
20 the departments under this chapter, the agency shall transfer to the department an amount from the
21 revolving fund equal to the amount authorized by the general assembly.

22 § 23-19.16-8. Severability. – If any provision of this chapter or the application of this chapter to
23 any person, corporations, or circumstances is held invalid, the invalidity shall not affect other provisions
24 or applications of the chapter, which can be given effect without the invalid provision or application, and
25 to this end the provisions of this chapter are declared to be severable.

26 SECTION 2. Sections 24-18-2 and 24-18-3 of the General Laws in Chapter 24-18 entitled

1 “Municipal Road and Bridge Revolving Fund” are hereby amended to read as follows:

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

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

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

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

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

11 **§ 24-18-3. Definitions.** – As used in this chapter, the following terms, unless the context requires
12 a different interpretation, shall have the following meanings:

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

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

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

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

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

23 (6) "Financial assistance" means any form of financial assistance other than grants provided by
24 the agency to a city or town in accordance with this chapter for all or any part of the cost of an approved
25 project, including, without limitation, temporary and permanent loans, with or without interest,
26 guarantees, insurance, subsidies for the payment of debt service on loans, lines of credit, and similar

1 forms of financial assistance;

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

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

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

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

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

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

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

20 **§ 35-3-7.2. Budget officer as capital development officer.** – The budget officer shall be a
21 capital development program officer who shall be responsible for:

22 (1) The review of all capital development requests submitted by the various state departments, as
23 set forth in chapter 6 of title 42, which shall include all independent boards and commissions and the
24 capital development plans of the Narragansett Bay Commission, ~~Rhode Island Clean Water Finance~~
25 ~~Agency~~ Rhode Island infrastructure bank, the Lottery Commission, and all other public corporations, as
26 defined in chapter 18 of this title which plans would be subject to the provisions of § 35-18-3; provided,

1 that, except as provided for in this section, nothing in this section shall be construed to limit the powers of
2 the board of governors for higher education as outlined in chapter 59 of title 16. Capital development
3 requests and plans shall be submitted in such form, with such explanation, in such number of copies, and
4 by such date as the budget officer may require. Copies shall also be provided directly to the house fiscal
5 advisor and the senate fiscal advisor.

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

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

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

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

17 SECTION 4. Section 35-18-3 of the General Laws in Chapter 35-18 entitled "Public Corporation
18 Debt Management" is hereby amended to read as follows:

19 **§ 35-18-3. Approval by the general assembly.** – (a) No elected or appointed state official may
20 enter into any financing lease or into any guarantee with any person without the prior approval of the
21 general assembly unless:

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

24 (2) The general assembly has adjourned for the year with the expectation that it will not meet
25 again until the following year and the governor certifies that action is necessary, because of events
26 occurring after the general assembly has adjourned, to protect the physical integrity of an essential public

1 facility, to ensure the continued delivery of essential public services, or to maintain the credit worthiness
2 of the state in the financial markets.

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

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

10 (2) The general assembly has adjourned for the year with the expectation that it will not meet
11 again until the following year and the governor certifies that action is necessary, because of events
12 occurring after the general assembly has adjourned, to protect the physical integrity of an essential public
13 facility, to ensure the continued delivery of essential public services, or to maintain the credit worthiness
14 of the state in the financial markets. The certification shall be transmitted to the speaker of the house and
15 the president of the senate, with copies to the chairpersons of the respective finance committees and fiscal
16 advisors.

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

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

22 (2) ~~The Rhode Island Clean Water Finance Agency~~ Rhode Island infrastructure bank;

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

24 (4) The Rhode Island student loan authority;

25 (5) Any public corporation to refund any bond or other obligation issued by the public
26 corporation to finance the acquisition, construction, or improvement of an essential public facility

1 provided that the governor certifies to the speaker of the house and the president of the senate, with copies
2 to the chairpersons of the respective finance committees and fiscal advisors that the refunding shall
3 provide a net benefit to the issuer; provided, however, obligations of the Rhode Island resource recovery
4 corporation outstanding on July 31, 1999, may be refunded by the issuance of obligations on or before
5 August 1, 1999;

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

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

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

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

18 (e) Nothing in this section is intended to expand in any way the borrowing authority of any public
19 corporation under its charter.

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

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

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

1 SECTION 5. Section 39-1-27.7 of the General Laws in Chapter 39-1 entitled "Public Utilities
2 Commission" is hereby amended to read as follows:

3 **§ 39-1-27.7. System reliability and least-cost procurement.** – Least-cost procurement shall
4 comprise system reliability and energy efficiency and conservation procurement as provided for in this
5 section and supply procurement as provided for in § 39-1-27.8, as complementary but distinct activities
6 that have as common purpose meeting electrical and natural gas energy needs in Rhode Island, in a
7 manner that is optimally cost-effective, reliable, prudent and environmentally responsible.

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

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

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

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

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

21 (iv) To effectuate the purposes of this division, the commission may establish standards and/or
22 rates (A) for qualifying distributed generation, demand response, and renewable energy resources; (B) for
23 net-metering; (C) for back-up power and/or standby rates that reasonably facilitate the development of
24 distributed generation; and (D) for such other matters as the commission may find necessary or
25 appropriate.

26 (2) Least-cost procurement, which shall include procurement of energy efficiency and energy

1 conservation measures that are prudent and reliable and when such measures are lower cost than
2 acquisition of additional supply, including supply for periods of high demand.

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

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

7 (1) The commissioner of the office of energy resources and the energy efficiency and resources
8 management council, either or jointly or separately, shall provide the commission findings and
9 recommendations with regard to system reliability and energy efficiency and conservation procurement
10 on or before March 1, 2008, and triennially on or before March 1, thereafter through March 1, 2017³⁰.
11 The report shall be made public and be posted electronically on the website to the office of energy
12 resources.

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

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

21 (4) Each electrical and natural gas distribution company shall submit to the commission on or
22 before September 1, 2008, and triennially on or before September 1, thereafter through September 1,
23 2017³⁰, a plan for system reliability and energy efficiency and conservation procurement. In developing
24 the plan, the distribution company may seek the advice of the commissioner and the council. The plan
25 shall include measurable goals and target percentages for each energy resource, pursuant to standards
26 established by the commission, including efficiency, distributed generation, demand response, combined

1 heat and power, and renewables. The plan shall be made public and be posted electronically on the
2 website to the office of energy resources, and shall also be submitted to the general assembly.

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

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

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

1 heat and power installations in the electric distribution company's annual and triennial energy efficiency
2 program plans.

3 (iii) The energy efficiency annual plan shall include, but not be limited to, a plan for identifying
4 and recruiting qualified combined heat and power projects, incentive levels, contract terms and
5 guidelines, and achievable megawatt targets for investments in combined heat and power systems. In the
6 development of the plan, the energy efficiency and resource management council and the electric
7 distribution company shall factor into the combined heat and power plan and program, the following
8 criteria: (A) Economic development benefits in Rhode Island, including direct and indirect job creation
9 and retention from investments in combined heat and power systems; (B) Energy and cost savings for
10 customers; (C) Energy supply costs; (D) Greenhouse gas emissions standards and air quality benefits; and
11 (E) System reliability benefits.

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

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

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

1 SECTION 6. Section 39-2-1.2 of the General Laws in Chapter 39-2 entitled "Duties of Utilities
2 and Carriers" is hereby amended to read as follows:

3 **§ 39-2-1.2. Utility base rate – Advertising, demand side management and renewables --** (a)

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

14 (b) Effective as of January 1, 2008, and for a period of ~~ten~~ twenty-one (21) years thereafter, each
15 electric distribution company shall include a charges per kilowatt-hour delivered to fund demand side
16 management programs, ~~and~~ ~~†~~The 0.3 mills per kilowatt-hour delivered to fund renewable energy
17 programs shall remain in effect until December 31, 2017. The electric distribution company shall
18 establish and, after July 1, 2007, maintain two (2) separate accounts, one for demand side management
19 programs (the "demand side account"), which shall be funded by the electric demand side charge and
20 administered and implemented by the distribution company, subject to the regulatory reviewing authority
21 of the commission, and one for renewable energy programs, which shall be administered by the economic
22 development corporation Rhode Island commerce corporation pursuant to § 42-64-13.2 and, shall be held
23 and disbursed by the distribution company as directed by the economic development corporation Rhode
24 Island commerce corporation for the purposes of developing, promoting and supporting renewable energy
25 programs.

26 During the ~~ten (10)-year period~~ time periods established in section 39-2-1.2(b), the commission

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

19 (1) The renewable energy investment programs shall be administered pursuant to rules
20 established by the ~~economic development corporation~~. Rhode Island commerce corporation. Said rules
21 shall provide transparent criteria to rank qualified renewable energy projects, giving consideration to:

22 (i) the feasibility of project completion;

23 (ii) the anticipated amount of renewable energy the project will produce;

24 (iii) the potential of the project to mitigate energy costs over the life of the project; and

25 (iv) the estimated cost per kilo-watt hour (kwh) of the energy produced from the project.

26 (c) [Deleted by P.L. 2012, ch. 241, § 14].

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

7 (e) Effective January 1, 2007, and for a period of ~~eleven~~ twenty-two (~~122~~) years thereafter, each
8 gas distribution company shall include, with the approval of the commission, a charge per decatherm
9 delivered to fund demand side management programs (the "gas demand side charge"), including, but not
10 limited to, programs for cost effective energy efficiency, energy conservation, combined heat and power
11 systems, and weatherization services for low income households.

12 (f) ~~The~~ Each gas company shall establish a separate account for demand side management
13 programs (the "gas demand side account"), which shall be funded by the gas demand side charge and
14 administered and implemented by the distribution company, subject to the regulatory reviewing authority
15 of the commission. The commission may establish administrative mechanisms and procedures that are
16 similar to those for electric demand side management programs administered under the jurisdiction of the
17 commissions and that are designed to achieve cost-effectiveness and high life-time savings of efficiency
18 measures supported by the program.

19 (g) The commission may, if reasonable and feasible, except from this demand side management
20 charge:

21 (i) gas used for distribution generation; and

22 (ii) gas used for the manufacturing processes, where the customer has established a self directed
23 program to invest in and achieve best effective energy efficiency in accordance with a plan approved by
24 the commission and subject to periodic review and approval by the commission, which plan shall require
25 annual reporting of the amount invested and the return on investments in terms of gas savings.

26 (h) The commission may provide for the coordinated and/or integrated administration of electric

1 and gas demand side management programs in order to enhance the effectiveness of the programs. Such
2 coordinated and/or integrated administration may after March 1, 2009, upon the recommendation of the
3 office of energy resources, be through one or more third-party entities designated by the commission
4 pursuant to a competitive selection process.

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

13 (j) Effective January 1, 2013~~6~~, the commission shall annually allocate from the administrative
14 funding amount allocated in (i) from the demand-side management program as described in subsection (i)
15 as follows: ~~fifty~~ ~~sixty~~ percent (560%) for the purposes identified in subsection (i) and ~~forty~~ ~~fifty~~ percent
16 (4050%) annually to the office of energy resources for activities associated with planning management,
17 and evaluation of energy efficiency programs, renewable energy programs, system reliability, least-cost
18 procurement, and with regulatory proceedings, contested cases, and other actions pertaining to the
19 purposes, powers and duties of the office of energy resources.

20 (k) On April 15, of each year the office and the council shall submit to the governor, the president
21 of the senate, and the speaker of the house of representatives, separate financial and performance reports
22 regarding the demand-side management programs, including the specific level of funds that were
23 contributed by the residential, municipal, and commercial and industrial sectors to the overall programs;;
24 the businesses, vendors, and institutions that received funding from demand-side management gas and
25 electric funds used for the purposes in section 39-2-1.2; and the businesses, vendors, and institutions that
26 received the administrative funds for the purposes in sections 39-2-1.2(i)-and 39-2-1.2(i) These reports

1 shall be posted electronically on the websites of the office of energy resources and the energy efficiency
2 resources management council.

3 (l) On or after August 1, 2015, at the request of the Rhode Island infrastructure bank, each electric
4 distribution company shall remit two (2) percent of the amount of the 2014 electric demand side charge
5 collections to the Rhode Island infrastructure bank in accordance with the terms of Section 46-12.2-14.1.

6 (m) On or after August 1, 2015, at the request of the Rhode Island infrastructure bank, each gas
7 distribution company shall remit two (2) percent of the amount of the 2014 gas demand side charge
8 collections to the Rhode Island infrastructure bank in accordance with the terms of Section 46-12.2-14.1.

9 SECTION 7. Section 39-26-7 of the General Laws in Chapter 39-26 entitled “Renewable Energy
10 Standard” is hereby amended to read as follows:

11 **§ 39-26-7. Renewable energy development fund** -- (a) There is hereby authorized and created
12 within the ~~economic development corporation~~ Rhode Island commerce corporation a renewable energy
13 development fund for the purpose of increasing the supply of NE-GIS certificates available for
14 compliance in future years by obligated entities with renewable energy standard requirements, as
15 established in this chapter. The fund shall be located at and administered by ~~the Rhode Island economic~~
16 ~~development corporation~~ the Rhode Island commerce corporation ~~in accordance with § 42-64-13.2.~~ The
17 ~~economic development corporation~~ Rhode Island commerce corporation shall:

18 Administer the fund and ~~Adopt~~ plans and guidelines for the management and use of the fund in
19 ~~accordance with § 42-64-13.2~~ coordination with the office of energy resources ~~accordance with section~~
20 ~~42-64-13.2, and.~~

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

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

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

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

5 (3) Providing technical and financial assistance to municipalities for interconnection and
6 feasibility studies, and/or the installation of renewable energy projects;

7 (4) Implementing and supporting renewable energy-related commercial and residential property
8 assessed clean energy projects as set forth in chapter 39-26.5;

9 (45) Issuing assurances and/or guarantees to support the acquisition of renewable energy
10 certificates and/or the development of new renewable energy sources for Rhode Island;

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

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

18 (d) All applications received for the use of the fund shall be reviewed by the Rhode Island
19 commerce corporation in consultation with the office of energy resources and the Rhode Island
20 infrastructure bank.

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

26 SECTION 8. Chapter 39-26.5 of the General Laws entitled "Property Assessed Clean Energy --

1 Residential Program” is hereby renamed “Property Assessed Clean Energy Program”.

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

5 **§ 39-26.5-1. Legislative findings.** -- It is hereby found and declared:

6 (1) Investing in energy efficiency and renewable energy improvements is financially beneficial
7 over time, as well as good for the environment;

8 (2) Upfront costs are a barrier to investments in major energy improvements for both commercial
9 and residential property owners;

10 (3) There are few financing options available that combine easy qualification, an attractive
11 interest rate, and a relatively long repayment term;

12 (4) Property-assessed clean energy, hereinafter referred to as PACE, is a voluntary financing
13 mechanism which allows ~~homeowners~~ both residential and commercial property owners to access
14 affordable, long-term financing for ~~energy upgrades to~~ renewable energy and energy efficiency upgrades
15 including, but not limited to, system reliability upgrades, alternative fuel infrastructure upgrades, and
16 other eligible environmental and health and safety upgrades on their property;

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

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

25 **§ 39-26.5-2. Definitions.** -- As used in this chapter, the following definitions apply:

26 (1) “Commercial property” means a property operated for commercial purposes, or a residential

1 property which contains five (5) or more housing units.

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

7 (3) (1) “Residential property” means a residential structure or mobile home which contains one to
8 four (4) family housing units, or individual units of condominiums or cooperatives,

9 (4) (2) “Eligible net metering system” means a facility generating electricity as defined in § 39-
10 26.4-2.

11 (5) (3) “Eligible renewable energy resources” means resources as defined in § 39-26-5.

12 (6) (4) “Energy efficient projects” means those projects that are eligible under § 39-1-27.7 or
13 projects that have been defined as eligible in the PACE rules and regulations.

14 (7) “Institution” means a private entity, quasi public corporation or other public entity.

15 (8) (5) “Loan loss reserve fund or “LRF” means funds set aside to cover losses in the event of
16 loan defaults.

17 (9) (6) “Municipality and towns and cities” means any Rhode Island town or city with powers set
18 forth in title 45 of the general laws.

19 (7) (10) “Net metering” means using electricity as defined in section 39-26.4-2.

20 (8) “Office of energy resources” or “office” means the Rhode Island office of energy resources
21 within the department of administration.

22 (9) (11) “PACE assessment” or “assessments” means the special line item assessment placed on a
23 PACE property in accordance with § 39-26.5-4 owner’s property tax bill, for the purpose of repaying the
24 associated PACE loan, to be collected by the PACE municipality in which that PACE property is located
25 and remitted to the lender that has financed that PACE Loan. The PACE assessment shall be owed by the
26 current owner of the related PACE property as of the time each PACE assessment comes due. In the event

1 of a transfer of ownership, all PACE assessments coming due after the date of the transfer, by foreclosure
2 or otherwise, shall be owed by the transferee.

3 (12) "PACE lien" means the non-accelerating lien placed on a PACE property in accordance with
4 the rules and regulations promulgated by the Rhode Island infrastructure bank subject to Section 39-26.5-
5 11, in order to secure the repayment of a PACE loan made in connection to that PACE property and to
6 secure the payment of each PACE assessment to be made by that PACE property owner as each
7 assessment comes due.

8 (13) "PACE loan" means a loan, approved by the Rhode Island infrastructure bank, made in
9 accordance with this chapter and the rules and regulations promulgated by the Rhode Island infrastructure
10 bank in accordance therewith.

11 ~~(10)~~ (14) "PACE municipality" means a municipality voluntarily designated by its city or town
12 council as a property-assessed clean energy municipality.

13 ~~(11)~~ "PACE property" means any property which is the subject of a written agreement entered
14 into pursuant to section 39-26.5-4

15 ~~(12)~~ (15) "PACE project" or "Pproject" means a distinct installation of an eligible energy
16 efficiency system, renewable energy net metering system, distributed generation system, alternative fuel
17 infrastructure upgrade, and/or other eligible environmental or health and safety upgrades as determined by
18 rules and regulations promulgated in accordance with this chapter.

19 (16) "PACE property" or "property" means any residential property or commercial property
20 which is the subject of an application filed pursuant to section § 39-26.5-4.

21 (17) "Past due balances" means the sum of the due and unpaid assessments on a PACE Property
22 as of the time the ownership of that PACE property is transferred. "Past due balances" does not mean the
23 unaccelerated balance of the PACE loan at the time that property is transferred.

24 ~~(13)~~ (18) "Property-assessed clean energy" or "PACE" is a voluntary financing mechanism
25 which allows both residential and commercial property owners to access affordable, long-term financing
26 for energy efficiency and renewable energy improvements to their property PACE projects.

1 (19) “Rhode Island infrastructure bank” means the Rhode Island infrastructure bank (“RIIB”).
2 For the purposes of this chapter, Rhode Island infrastructure bank shall include other related state
3 agencies and/or third party administrators, as may be engaged by the Rhode Island infrastructure bank for
4 the purposes of providing the services established by the rules and regulations promulgated in accordance
5 with section 39-26.5-11.

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

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

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

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

1 transferee.

2 (c) A PACE lien on a commercial property shall be: senior to all liens on the commercial property
3 in existence at the time the associated PACE loan is made, subject to the consent of the senior mortgage
4 holder on the property, in accordance with § 39-26.5-11(a)(iv); senior to all liens created or recorded after
5 the time the PACE lien is created; but junior to a municipal tax lien.

6 (d) At the time of a transfer of property ownership of a commercial property, including by
7 foreclosure, the past due balances of any PACE assessments under this chapter shall be due for payment.
8 Unless otherwise agreed by the PACE lender, all payments on the of PACE assessments that become due
9 after the date of transfer by foreclosure or otherwise shall remain be secured by a PACE lien on the PACE
10 property and shall be the responsibility of the transferee.

11 **§ 39-26.5-7 Loan loss reserve fund.** – (a) The Rhode Island infrastructure bank is hereby
12 authorized to create, set up on its books, and administer a PACE loan fund for the purpose of providing
13 financial assistance to residential and commercial property owners for PACE projects. Additionally, The
14 office shall Rhode Island infrastructure bank may enter into an agreement contract with an one or more
15 approved institutions, approved financial institution to create one or more Loan Loss Reserve Funds
16 (LRF).

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

24 **§ 39-26.5-8. Assistance to municipalities.** – The office Rhode Island infrastructure bank shall:

25 (1)(a) Commencing on/or before July 1, 2014 and thereafter publish Publish on its website a list
26 of the types of PACE eligible energy efficiency, and renewable energy, other projects as defined in rules

1 and regulations promulgated under 39-26.5-11;

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

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

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

8 **§ 39-26.5-9. Monitoring, reporting, compliance, underwriting criteria.** – The Rhode Island
9 infrastructure bank shall determine compliance with the underwriting criteria, standards, and procedures
10 set forth in the rules and regulations promulgated in accordance with established within this chapter and
11 shall include an accounting of the PACE program in the annual report due on April 15th of each year to
12 the general assembly under subsection 39-2-1.2(k) under § 46-12.2-24.1. The report shall describe the
13 implementation and operation of the PACE program receipts, disbursements and earnings.

14 **§ 39-26.5-11. Rules and regulations, project applications, project eligibility, agreements with**
15 **municipalities.** – (a) The Rhode Island infrastructure bank shall consult with the office of energy
16 resources to promulgate rules and regulations, in accordance with this section, and in accordance with
17 chapter 42-35. The office is authorized to promulgate necessary rules and regulations, in order to assure
18 that PACE programs shall be successfully instituted in Rhode Island; Such rules and regulations should
19 ensure that the PACE program does not adversely affect the implementation of any other energy program
20 in whose coordination the Rhode Island Infrastructure bank office is involved. Such rules and regulations
21 shall include, but not be limited to, the following:

22 (i) The necessary application requirements and procedures for any residential property
23 owner or commercial property owner seeking PACE financing;

24 (ii) The necessary qualifications and requirements for a proposed PACE projects;

25 (iii) The underwriting criteria to be applied in determining the eligibility of properties and
26 property owners for PACE loans; and

1 (iv) Requirements that all existing lien holders on a property be given notice prior to a PACE
2 loan being made in connection with that property and that all commercial property
3 owners seeking a commercial PACE loan receive consent of the primary mortgage holder
4 on that property prior to being eligible.

5 (b) The Rhode Island infrastructure bank shall be responsible for promulgating agreements, forms
6 and other documents necessary for the efficient administration of the PACE program.

7 SECTION 10. Section 39-26.5-4 of Chapter 39-26.5 in the General Laws entitled “Property
8 Assessed Clean Energy – Residential Program” is hereby repealed.

9 ~~39-26.5-4. Written agreements, consent of residential property owners, energy savings analysis.~~
10 ~~After January 1, 2014, a PACE municipality may enter into a written agreement with any residential~~
11 ~~property owner within the municipality who has:~~

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

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

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

16 ~~The agreement will require the residential property owner to consent to be subject to the terms of~~
17 ~~the lien as set forth in Section 39-26.5-6.~~

18 SECTION 11. Section 42-64-13.2 of chapter 42-64 of the General Laws entitled “Rhode Island
19 Commerce Corporation” is hereby amended to read as follows:

20 42-64-13.2 Renewable energy investment coordination -(a) Intent. - To develop an integrated
21 organizational structure to secure for Rhode Island and its people the full benefits of cost-effective
22 renewable energy development from diverse sources.

23 (b) Definitions. - For purposes of this section, the following words and terms shall have
24 the meanings set forth in RIGL 42-64-3 unless this section provides a different meaning. Within
25 this section, the following words and terms shall have the following meanings:

26 (1) “Corporation” means the Rhode Island ~~economic development corporation~~ commerce

1 corporation.

2 (2) "Municipality" means any city or town, or other political subdivision of the state.

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

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

13 (d) *Duties.* - The corporation shall, with regards to renewable energy project investment:

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

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

20 (e) *Conduct of activities.*

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

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

1 (A) Goals for renewable energy facility investment which is beneficial, prudent, and from diverse
2 sources;

3 (B) A plan for a period of five (5) years, annually upgraded as appropriate, to meet the
4 aforementioned goals; and

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

7 (f) Reporting. - On March 1, of each year after the effective date of this chapter, the corporation
8 shall submit to the governor, the president of the senate, the speaker of the house of representatives, and
9 the secretary of state, a financial and performance report. These reports shall be posted electronically on
10 the general assembly and the secretary of state's websites as prescribed in § 42-20-8.2. The reports shall
11 set forth:

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

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

18 (3) A summary of performance during the prior year including accomplishments and
19 shortcomings; project investments, the cost-effectiveness of renewable energy investments by the
20 corporation; and recommendations for improvement.

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

23 **§ 42-155-3. Definitions. [Effective January 1, 2015].** - (a) As used in this chapter, "quasi-
24 public corporation" means any body corporate and politic created, or to be created, pursuant to the general
25 laws, including, but not limited to, the following:

26 (1) Capital center commission;

- 1 (2) Rhode Island convention center authority;
- 2 (3) Rhode Island industrial facilities corporation;
- 3 (4) Rhode Island industrial-recreational building authority;
- 4 (5) Rhode Island small business loan fund corporation;
- 5 (6) Quonset development corporation;
- 6 (7) Rhode Island airport corporation;
- 7 (8) I-195 redevelopment district commission;
- 8 (9) Rhode Island health and educational building corporation;
- 9 (10) Rhode Island housing and mortgage finance corporation;
- 10 (11) Rhode Island higher education assistance authority;
- 11 (12) Rhode Island student loan authority;
- 12 (13) Narragansett bay commission;
- 13 (14) ~~Rhode Island Clean Water Finance Agency~~ Rhode Island infrastructure bank;
- 14 (15) Rhode Island water resources board;
- 15 (16) Rhode Island resource recovery corporation;
- 16 (17) Rhode Island public rail corporation;
- 17 (18) Rhode Island public transit authority;
- 18 (19) Rhode Island turnpike and bridge authority;
- 19 (20) Rhode Island tobacco settlement financing corporation; and
- 20 (21) Any subsidiary of the Rhode Island commerce corporation.

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

25 (c) The Rhode Island commerce corporation, being subject to similar transparency and
26 accountability requirements set forth in chapter 64 of title 42; the Rhode Island public rail corporation

1 established in chapter 64.2 of title 42; Block Island power authority; and the Pascoag utility district shall
2 not be subject to the provisions of this chapter.

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

5 **§ 45-12-33. Borrowing for road and bridge projects financed through the "municipal road
6 and bridge revolving fund".** – (a) In addition to other authority previously granted, during calendar year
7 2014 a city or town may authorize the issuance of bonds, notes, or other evidences of indebtedness to
8 evidence loans from the municipal road and bridge revolving fund administered by the ~~Rhode Island~~
9 ~~Clean Water Finance Agency~~ Rhode Island infrastructure bank in accordance with chapter 18 of title 24
10 of the general laws.

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

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

20 The bonds, notes, or other evidences of indebtedness may be issued under this section by any
21 political subdivision without obtaining the approval of its electors, notwithstanding the provisions of §§
22 45-12-19 and 45-12-20 and notwithstanding any provision of its charter to the contrary.

23 SECTION 14. Sections 46-6.1-3 and 46-6.1-9 of the General Laws in Chapter 46-6.1 entitled
24 "Maintenance of Marine Waterways and Boating Facilities" are hereby amended to read as follows:

25 **§ 46-6.1-3. Purpose.** – The purposes of this chapter are:

26 (1) To establish an integrated, coherent plan for dredging and dredge material management,

1 which includes beneficial use, dewatering, in-water disposal, and upland disposal as appropriate, that sets
2 forth the state's program for these activities and provides guidance to persons planning to engage in these
3 activities and to designate the council as the lead agency for implementing the purposes of this chapter.

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

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

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

15 (ii) Beneficial use in upland areas;

16 (iii) Disposal.

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

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

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

23 **§ 46-6.1-9. Cooperation of other agencies.** – (a) In order to accomplish the purposes of this
24 chapter to provide for beneficial use, dewatering, and disposal of dredged material:

25 (1) State agencies, departments, corporations, authorities, boards, commissions, including, but
26 not limited to, the department of administration, the department of transportation, the ~~Rhode Island Clean~~

1 ~~Water Finance Agency~~ Rhode Island infrastructure bank, the economic development corporation, the
2 Narragansett Bay commission, and the Rhode Island resource recovery corporation, and political
3 subdivisions, shall cooperate with the council in developing and implementing the comprehensive plan
4 for dredged material management;

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

9 (3) The economic development corporation shall:

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

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

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

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

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

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

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

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

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

9 (d) It is further found that there is a need to establish a fund that shall provide to communities
10 financial assistance to create and adopt a community septic system management plan and provide the
11 corpus of a fund within the existing State SRF as administered by the ~~Clean Water Finance Agency~~
12 Rhode Island infrastructure bank that shall enable communities to offer to homeowners within those
13 communities the opportunity to access low-cost loans for repair or replacement of failed or poorly
14 functioning septic systems.

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

17 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, 46-
18 12.2-9, 46-12.2-10, 46-12.2-11, 46-12.2-14 46-12.2-17, and 46-12.2-25 of the General Laws in Chapter
19 46-12.2 entitled “Rhode Island Clean Water Financing Agency” are hereby amended to read as follows:

20 **§ 46-12.2-1. Legislative findings.** – (a) It is hereby found that there exists and will in the future
21 exist within the state of Rhode Island the need to construct facilities and to facilitate projects for the
22 abatement of pollution caused by wastewater ~~and for the enhancement of the waters of the state, and for~~
23 the completion of renewable energy and energy efficiency projects in order to save property owners
24 money and to encourage job and business growth in Rhode Island. ~~And that the traditional source for~~
25 ~~funding construction of such facilities and projects under the grant program of title II of the Clean Water~~
26 ~~Act, 33 U.S.C. §§1281-1299, will terminate at the end of fiscal year 1990.~~

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

6 (c) It is hereby further found that to secure maximum benefit to the state from funding programs
7 available under federal and state law and, to the extent permissible to attract private capital, for water
8 pollution abatement projects, for safe drinking water projects, for municipal road and bridge projects, and
9 other infrastructure related projects, it is necessary to establish a finance agency to administer the
10 revolving loan funds and other financing mechanisms, and for the finance agency to work with those state
11 agencies with relevant expertise, these agencies shall include the department of environmental
12 management, Rhode Island department of transportation, the Rhode Island office of energy resources and
13 other federal and state agencies for proper administration of the revolving loan funds and other financing
14 mechanisms.

15 (d) It is hereby further found that cities and towns can lower the costs of borrowing for road and
16 bridge projects through cooperation with the Rhode Island infrastructure bank and that greater
17 coordination among cities and towns will enable more efficient allocation of infrastructure resources by
18 the state of Rhode Island.

19 (e) It is hereby further found that the geographic size of and population of Rhode Island, while
20 often derided as an impediment to economic growth, are potential assets, not handicaps, to better
21 infrastructure development.

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

25 (g) It is hereby further found that expanding the Rhode Island clean water finance agency and
26 renaming it the Rhode Island infrastructure bank provides the best avenue towards fostering the creation

1 of jobs and the realization of energy cost savings through the facilitation of infrastructure improvements.

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

4 (1) "Agency" means the ~~Rhode Island clean water finance agency~~ Rhode Island infrastructure
5 bank.

6 (2) "Approved project" means any project or portion thereof that has been issued a certificate of
7 approval by the department, for financial assistance from the agency, and also includes any project
8 approved for financial assistance from the agency in accordance with state law, and, furthermore, shall
9 include water pollution abatement projects funded outside of the water pollution control revolving fund,
10 the Rhode Island water pollution control revolving fund, or the local interest subsidy trust fund, without
11 the requirement of the issuance of a certificate of approval;

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

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

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

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

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

22 (8) "Clean Water Act" or "act" means the Federal Water Pollution Control Act, act of June 30,
23 1948, ch. 758, as added Oct. 18, 1972, Pub. L. No. 92-500, 86 Stat. 896, as added Dec. 27, 1977, Pub. L.
24 No. 95-217, 91 Stat. 1566 (codified at 33 U.S.C. § 1251 et seq., as amended and as hereafter amended
25 from time to time);

26 (9) "Corporation" means any corporate person, including, but not limited to, bodies politic and

1 corporate, public departments, public offices, public agencies, public authorities, political subdivisions of
2 the state, corporations, societies, associations, limited liability companies, partnerships and sole
3 proprietorships;

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

21 (4011) "Department" means the department of environmental management;

22 (4112) "Projected energy efficiency savings" means, at the time a loan agreement is entered into
23 between the agency and a local governmental unit, the savings projected to be derived from the
24 implementation of energy efficient and renewable energy upgrades to public buildings, as determined in
25 accordance with the rules and regulations promulgated by the Rhode Island infrastructure bank pursuant
26 to this chapter;

1 (1311) "Financial assistance" means any form of financial assistance ~~other than grants~~ provided
2 by the agency to a local governmental unit, person or corporation in accordance with this chapter for all
3 or any part of the cost of an approved project, including, without limitation, grants, temporary and
4 permanent loans, with or without interest, guarantees, insurance, subsidies for the payment of debt service
5 on loans, lines of credit, and similar forms of financial assistance; provided, however, notwithstanding the
6 foregoing, for purposes of capitalization grant awards made available to the agency, pursuant to the
7 American Recovery and Reinvestment Act of 2009 (P.L. 111-5), or as otherwise required in connection
8 with other capitalization grant awards made available to the agency, financial assistance shall also include
9 principal forgiveness and negative interest loans;

10 (1412) "Fully marketable form" means a local governmental obligation in form satisfactory to
11 the agency duly executed and accompanied by an opinion of counsel of recognized standing in the field of
12 municipal law whose opinions have been and are accepted by purchasers of like obligations to the effect
13 that the obligation is a valid and binding obligation of the local governmental unit issuing the obligation,
14 enforceable in accordance with its terms;

15 (1513) "General revenues" , when used with reference to a local governmental unit, means
16 revenues, receipts, assessments, and other moneys of the local governmental unit received from or on
17 account of the exercise of its powers and all rights to receive the same, including without limitation:

18 (i) Taxes,

19 (ii) Wastewater system revenues,

20 (iii) Assessments upon or payments received from any other local governmental unit which is a
21 member or service recipient of the local governmental unit, whether by law, contract, or otherwise,

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

24 (v) Investment earnings,

25 (vi) Reserves for debt service or other capital or current expenses,

26 (vii) Receipts from any tax, excise, or fee heretofore or hereafter imposed by any general or

1 special law all or a part of the receipts of which are payable or distributable to or for the account of the
2 local governmental unit,

3 (viii) Local aid distributions, and

4 (ix) Receipts, distributions, reimbursements, and other assistance received by or for the account
5 of the local governmental unit from the United States or any agency, department, or instrumentality
6 thereof;

7 (1614) "Loan" means a loan by the agency to a local governmental unit, person, or corporation
8 for costs of an approved project, including, without limitation, temporary and permanent loans, and lines
9 of credit;

10 (1715) "Loan agreement" means any agreement entered into by the agency with a local
11 governmental unit, person, or corporation pertaining to a loan, other financial assistance, ~~or~~ local
12 governmental obligations, or non-governmental obligations, including, without limitation, a loan
13 agreement, trust agreement, security agreement, reimbursement agreement, guarantee agreement,
14 financing lease agreement, appropriation agreement or similar instrument;

15 (1816) "Local aid distributions" means receipts, distributions, reimbursements, and other
16 assistance payable by the state to or for the account of a local governmental unit, except such receipts,
17 distributions, reimbursements, and other assistance restricted by law to specific statutorily defined
18 purposes;

19 (1917) "Local governmental obligations" means bonds, notes, financing lease obligations,
20 appropriation obligations, and other evidences of indebtedness in fully marketable form issued by a local
21 governmental unit to evidence a loan, or other financial assistance, from the agency in accordance with
22 this chapter or otherwise as provided herein;

23 (2018) "Local governmental unit" means any town, city, district, commission, agency, authority,
24 board, or other political subdivision or instrumentality of the state or of any political subdivision thereof
25 ~~responsible for the ownership or operation of a water pollution abatement project~~, including the
26 Narragansett Bay ~~water quality management district~~ commission; and, for purposes of dam safety or dam

1 maintenance projects, any person seeking financial assistance as a joint applicant with any of the above
2 entities;

3 (2119) "Local interest subsidy trust fund" means the local interest subsidy trust fund established
4 under § 46-12.2-6;

5 (22) "Non-governmental obligations" means bonds, notes, or other evidences of indebtedness in
6 fully marketable form issued by a person or corporation to evidence a loan, or other financial assistance,
7 from the agency in accordance with this chapter or otherwise as provided herein.

8 (2320) "Person" means any natural ~~or corporate person, including bodies politic and corporate,~~
9 ~~public departments, offices, agencies, authorities, and political subdivisions of the state, corporations,~~
10 ~~societies, associations, and partnerships, and subordinate instrumentalities of any one or more political~~
11 ~~subdivisions of the state;~~

12 (2421) "Priority determination system" means the system by which water pollution abatement
13 projects are rated on the basis of environmental benefit and other criteria for funding assistance pursuant
14 to rules and regulations promulgated by the department as they may be amended from time to time;

15 (25) "Qualified energy conservation bond" or "QECCB" means those bonds designated by 26 USC
16 54D.

17 (2622) "Revenues" , when used with reference to the agency, means any receipts, fees, payments,
18 moneys, revenues, or other payments received or to be received by the agency in the exercise of its
19 corporate powers under this chapter, including, without limitation, loan repayments, payments on local
20 governmental obligations, non-governmental obligations, grants, aid, appropriations, and other assistance
21 from the state, the United States, or any agency, department, or instrumentality of either or of a political
22 subdivision thereof, bond proceeds, investment earnings, insurance proceeds, amounts in reserves, and
23 other funds and accounts established by or pursuant to this chapter or in connection with the issuance of
24 bonds, including, without limitation, the water pollution control revolving fund, the Rhode Island water
25 pollution control revolving fund, and the local interest subsidy fund, and any other fees, charges or other
26 income received or receivable by the agency;

1 (2723) "Rhode Island water pollution control revolving fund" means the Rhode Island water
2 pollution control revolving fund established pursuant to § 46-12.2-6;

3 (2824) "Trust agreement" means a trust agreement, loan agreement, security agreement,
4 reimbursement agreement, currency or interest rate exchange agreement, or other security instrument, and
5 a resolution, loan order, or other vote authorizing, securing, or otherwise providing for the issue of bonds,
6 loans, or local governmental obligations or non-governmental obligations;

7 (2925) "Wastewater system revenues" means all rates, rents, fee assessments, charges, and other
8 receipts derived or to be derived by a local governmental unit from wastewater collection and treatment
9 facilities and water pollution abatement projects under its ownership or control, or from the services
10 provided thereby, including, without limitation, proceeds of grants, gifts, appropriations, and loans,
11 including the proceeds of loans or grants awarded by the agency or the department in accordance with this
12 chapter, investment earnings, reserves for capital and current expenses, proceeds of insurance or
13 condemnation, and the sale or other disposition of property; wastewater system revenues may also include
14 rates, rents, fees, charges, and other receipts derived by the local governmental unit from any water
15 supply of distribution facilities or other revenue producing facilities under its ownership or control;
16 wastewater system revenues shall not include any ad valorem taxes levied directly by the local
17 governmental unit on any real and personal property;

18 (3026) "Water pollution abatement project" or "project" means any project eligible pursuant to
19 Title VI of the Clean Water Act including, but not limited to, wastewater treatment or conveyance project
20 that contributes to removal, curtailment, or mitigation of pollution of the surface water of the state, and
21 conforms with any applicable comprehensive land use plan which has been adopted or any dam safety,
22 removal or maintenance project; it also means a project to enhance the waters of the state, which the
23 agency has been authorized by statute to participate in; it also means any other project to which the
24 agency has been authorized to provide financial assistance;

25 (3127) "Water pollution control revolving fund" means the water pollution control revolving fund
26 contemplated by title VI of the Water Quality Act and established under § 46-12.2-6;

1 (3228) "Water Quality Act" means the Water Quality Act of 1987, Pub. L. No. 100-4, 101 Stat. 7,
2 33 U.S.C. § 1251 et seq., as amended from time to time.

3 ~~§ 46-12.2-3. Establishment Of agency —, Composition of agency —, Appointment of~~
4 ~~directors of the Rhode Island infrastructure bank~~ Establishment, Composition Appointment of
5 directors of the Rhode Island infrastructure bank.— (a) There is hereby created a body politic and
6 corporate and public instrumentality of the state, having a distinct legal existence from the state and not
7 constituting a department of the state government, to be known as the Rhode Island clean water finance
8 agency, and, effective August 1, 2015 and thereafter, to be known as the Rhode Island infrastructure
9 bank. Effective August 1, 2015, whenever, in any general law, public law, rule, regulation, bylaw and/or
10 otherwise, any reference is made to the Rhode Island clean water finance agency, by name or otherwise,
11 the reference shall be deemed to refer to and mean the "Rhode Island infrastructure bank." The agency
12 shall take all necessary actions to effectuate this name change, including, but not limited to, changing the
13 name of the agency on file with any government office. The exercise by the agency of the powers
14 conferred by this chapter shall be deemed to be the performance of an essential public function.

15 (b) Nothing in this act shall be construed to change or modify the corporate existence of the
16 former Rhode Island clean water finance agency, or to change or modify any contracts or agreements of
17 any kind by, for, or to which the Rhode Island clean water finance agency is a party thereto.

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

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

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

21 (d) (e) Notwithstanding any other provision of general or special law to the contrary, any
22 member of the board of directors, who is also an officer or employee of the state or of a local
23 governmental unit or other public body, shall not thereby be precluded from voting for or acting on behalf
24 of the agency, the state, or local governmental unit or other public body on any matter involving the
25 agency, the state, or that local governmental unit or other public body, and any director, officer,
26 employee, or agent of the agency shall not be precluded from acting for the agency on any particular

1 matter solely because of any interest therein which is shared generally with a substantial segment of the
2 public.

3 (f) In addition to the board of directors, there is hereby created a green infrastructure strategic
4 advisory council (the “advisory council”). The advisory council shall exist to advise the board of directors
5 on advances related to green infrastructure, energy efficiency, and renewable energy and to make
6 recommendations on potential opportunities for new programs and/or updates to existing programs. The
7 advisory council shall consist of: the executive director of the Rhode Island Infrastructure Bank, or
8 designee, the chairperson of the Rhode Island Infrastructure Bank board of directors, or designee, the
9 secretary of commerce, or designee, the director of the department of environmental management, or
10 designee, the commissioner of the office of energy resources, or designee, the director of the department
11 of health, or designee, the director of the department of transportation, or designee and the executive
12 director of Rhode Island housing, or designee. The chairperson of the Rhode Island Infrastructure Bank,
13 or designee, shall serve as chairperson of the advisory council.

14 **§ 46-12.2-4 General powers and duties of agency.** – (a) The agency shall have all powers
15 necessary or convenient to carry out and effectuate the purposes and provisions of this ~~chapter~~ and
16 ~~chapter~~ chapter, chapter 23-19.16, chapter 24-18 and chapter 39-26.5, including, without limiting the
17 generality of the foregoing, the powers and duties:

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

20 (2) To adopt an official seal;

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

22 (4) To adopt a fiscal year;

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

25 (6) To sue and be sued;

26 (7) To employ personnel as provided in § 46-12.2-5, and to engage accounting, management,

1 legal, financial, consulting and other professional services;

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

4 (9) To borrow money, issue bonds, and apply the proceeds thereof, as provided in this chapter,
5 chapter 23-19.16, chapter 24-18 and chapter 39-26.5, and to pledge or assign or create security interests in
6 revenues, funds, and other property of the agency and otherwise as provided in this chapter, chapter 23-
7 19.16, chapter 24-18 and chapter 39-26.5, to pay or secure the bonds; and to invest any funds held in
8 reserves or in the water pollution control revolving fund, the Rhode Island water pollution control
9 revolving fund, the municipal road and bridge fund established under chapter 24-18, any other funds
10 established in accordance with this chapter, or the local interest subsidy trust fund, or any revenues or
11 funds not required for immediate disbursement, in such investments as may be legal investments for
12 funds of the state;

13 (10) To obtain insurance and to enter into agreements of indemnification necessary or convenient
14 to the exercise of its powers under this chapter, chapter 23-19.16, chapter 24-18 and chapter 39-26.5;

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

17 (12) To enter into contracts, arrangements, and agreements with other persons, and execute and
18 deliver all instruments necessary or convenient to the exercise of its powers under this chapter, chapter
19 23-19.16, chapter 24-18 and chapter 39-26.5; such contracts and agreements may include without
20 limitation, loan agreements with a local governmental unit, person or corporation, capitalization grant
21 agreements, intended use plans, operating plans, and other agreements and instruments contemplated by
22 title VI of the Clean Water Act, 33 U.S.C. § 1381 et seq., or this chapter, chapter 23-19.16 and chapter
23 39-26.5, agreements and instruments contemplated by chapter 24-18, grant agreements, contracts for
24 financial assistance or other forms of assistance from the state or the United States, and trust agreements
25 and other financing agreements and instruments pertaining to bonds;

26 (13) To authorize a representative to appear on its own behalf before other public bodies,

1 including, without limiting the generality of the foregoing, the congress of the United States, in all matters
2 relating to its powers and purposes;

3 (14) To provide financial assistance to a local governmental unit, person, or, to a corporation to
4 finance costs of approved projects, and to thereby acquire and hold local governmental obligations and
5 non-governmental obligations at such prices and in such manner as the agency shall deem advisable, and
6 sell local governmental obligations and non-governmental obligations acquired or held by it at prices
7 without relation to cost and in such manner as the agency shall deem advisable, and to secure its own
8 bonds with such obligations all as provided in this chapter, chapter 23-19.16, chapter 24-18 and chapter
9 39-26.5. Furthermore, in connection with a recommendation by the Rhode Island commerce corporation,
10 this power shall include the power to designate a commercial project as a high priority, and to provide
11 that project with financial assistance as soon as practicable;

12 (15) To establish and collect such fees and charges as the agency shall determine to be
13 reasonable;

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

17 (17) To do all things necessary, convenient, or desirable for carrying out the purposes of this
18 chapter, chapter 23-19.16, chapter 24-18 and chapter 39-26.5, or the powers expressly granted or
19 necessarily implied by this chapter, chapter 23-19.16, chapter 24-18 and chapter 39-26.5;

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

1 [July 15, 2005], prepare and disseminate, training materials relating to the provisions of chapters 42-46,
2 36-14 and 38-2; and

3 (19) Upon the dissolution of the water resources board (corporate) pursuant to § 46-15.1-22, to
4 have all the powers and duties previously vested with the water resources board (corporate), as provided
5 pursuant to chapter 46-15.1.

6 (20) To meet at the call of the chair at least eight (8) times per year. All meetings shall be held
7 consistent with chapters 42-46.

8 (21) To be the sole issuer of QECEBs from the state of Rhode Island's allocation, including any
9 portions of which have been reallocated to the state by local governments, for any project authorized to be
10 financed with the proceeds thereof under the applicable provisions of 26 USC 54D.

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

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

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

19 **§ 46-12.2-6. Establishment of the water pollution control revolving fund, the Rhode Island**
20 **water pollution control revolving fund and the local interest subsidy trust fund – Sources of funds –**

21 **Permitted uses.** – (a) The agency shall be the instrumentality of the state for administration of the water
22 pollution control revolving fund, the Rhode Island water pollution control revolving fund, and the local
23 interest subsidy trust fund, and such other funds it holds or for which it is responsible, and, in conjunction
24 with the department, is empowered to and shall take all action necessary or appropriate to secure to the
25 state the benefits of title VI of the Clean Water Act, 33 U.S.C. § 1381 et seq., and other federal or state
26 legislation pertaining to the funds and to the financing of approved projects. Without limiting the

1 generality of the foregoing and other powers of the agency provided in this chapter, the agency is
2 empowered to and shall:

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

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

10 (3) In cooperation with the department, prepare, and submit to appropriate federal agencies
11 applications for capitalization grants under title VI of the Clean Water Act, 33 U.S.C. § 1381 et seq., and
12 enter into capitalization grant agreements, operating agreements, and other agreements with appropriate
13 federal and state agencies, and accept and disburse, as provided herein, any capitalization grant awards
14 made under title VI of the Clean Water Act, 33 U.S.C. § 1381 et seq.

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

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

20 (6) Subject to the provisions of this chapter both to make, and enter into binding commitments to
21 provide financial assistance to local governmental units, persons or corporations from amounts on deposit
22 in the water pollution control revolving fund, the Rhode Island water pollution control revolving fund and
23 from other funds of the agency; and to provide, and enter into binding commitments to provide subsidy
24 assistance for loans ~~and~~, local governmental obligations and non-governmental obligations from amounts
25 on deposit in the local interest subsidy trust fund.

26 (7) Establish and maintain fiscal controls and accounting procedures conforming to generally

1 accepted government accounting standards sufficient to ensure proper accounting for receipts in and
2 disbursements from the water pollution control revolving fund, the Rhode Island water pollution control
3 revolving fund, the local interest subsidy trust fund and other funds it holds or for which it is responsible
4 and, adopt such rules, regulations, procedures, and guidelines which it deems necessary to ~~assure~~ ensure
5 that local governmental units, persons and corporations administer and maintain approved project
6 accounts and other funds and accounts relating to financial assistance in accordance with generally
7 accepted government accounting standards.

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

12 (1) All federal capitalization grant awards received under title VI of the Clean Water Act, 33
13 U.S.C. § 1381 et seq., provided the agency shall transfer to the department the amount allowed by §
14 603(d)(7) of the Water Quality Act, 33 U.S.C. § 1383(d)(7), to defray administration expenses;

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

16 (3) To the extent required by federal law, loan repayments and other payments received by the
17 agency on any loans, ~~and~~ local governmental obligations and non-governmental obligations;

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

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

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

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

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

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

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

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

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

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

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

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

24 (d) Except to the extent limited by federal law, and subject to the provisions of this chapter, to
25 the provisions of any agreement with the state authorized by § 46-12.2-7, and to any agreements with the
26 holders of any bonds of the agency or any trustee therefor, amounts held by the agency for the account of

1 either the water pollution control revolving fund or the Rhode Island water pollution control revolving
2 fund shall be applied by the agency, either by direct expenditure, disbursement, or transfer to one or more
3 other funds and accounts held by the agency or maintained under any trust agreement pertaining to bonds,
4 either alone or with other funds of the agency, to the following purposes:

5 (1) To provide financial assistance to a local governmental units, person, or corporation to
6 finance costs of approved projects, and to refinance the costs of the projects, subject to such terms and
7 conditions, if any, as are determined by the department and/or the agency in accordance with § 46-12.2-8;

8 (2) To purchase or refinance debt obligations of a local governmental units or corporation, or to
9 provide guarantees, insurance or similar forms of financial assistance for the obligations;

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

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

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

23 (e) The agency shall also establish and set up on its books a special fund, designated the local
24 interest subsidy trust fund, to be held in trust and to be administered by the agency solely as provided in
25 this chapter and in any trust agreement securing bonds of the agency. The agency may maintain a separate
26 account in the local interest subsidy trust fund for each local governmental unit, person, or corporation

1 which has received a loan from the agency, in accordance with this chapter, to separately account for or
2 otherwise segregate all or any part of the amounts credited to the fund and receipts in and disbursements
3 from the fund. To the extent that the agency is required by this chapter, by any loan agreement or by any
4 trust agreement, it shall, and, to the extent that it is permitted, it may in its discretion, credit to the local
5 interest subsidy trust fund, and to one or more of the accounts or subaccounts therein:

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

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

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

10 (4) Proceeds of agency bonds;

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

14 (6) Any other amounts permitted by law.

15 (f) Subject to any agreement with the state authorized by § 46-12.2-7, to the provisions of § 46-
16 12.2-8, and to any agreement with the holders of any bonds of the agency or any trustee therefor, amounts
17 held by the agency for the account of the local interest subsidy trust fund shall be applied by the agency,
18 either by direct expenditure, disbursement, or transfer to one or more other funds and accounts held by the
19 agency or maintained under any trust agreement pertaining to bonds, either alone or with other funds of
20 the agency, to the following purposes:

21 (1) To pay or provide for all or a portion of the interest otherwise payable by a local
22 governmental units, persons or corporations on loans, ~~and~~ local governmental obligations, and non-
23 governmental obligations, in the amounts and on terms determined by the agency in accordance with §
24 46-12.2-8;

25 (2) To provide a reserve for, or to otherwise secure, amounts payable by a local governmental
26 units, persons or corporations on loans, ~~and~~ local governmental obligations and non-governmental

1 obligations outstanding in the event of default thereof; amounts in any account in the local interest
2 subsidy trust fund may be applied to defaults on loans outstanding to the local governmental unit, person
3 or corporation for which the account was established and, on a parity basis with all other accounts, to
4 defaults on any loans, ~~or~~ local governmental obligations, or non-governmental obligations outstanding;
5 and

6 (3) To provide a reserve for, or to otherwise secure, by pledge, lien, assignment, or otherwise as
7 provided in § 46-12.2-14, any bonds of the agency.

8 (g) Subject to any express limitation of this chapter pertaining to expenditure or disbursement of
9 funds or accounts held by the agency, funds or accounts held by the agency may be transferred to any
10 other fund or account held by the agency and expended or disbursed for purposes permitted by the fund or
11 account.

12 **§ 46-12.2-8. Procedures for application, approval, and award of financial assistance.** – (a)

13 Any local governmental unit, person or corporation may apply to the agency for financial assistance in
14 accordance with this chapter to finance all or any part of the cost of a water pollution abatement project.
15 The agency shall not award financial assistance to a local governmental unit, person, or corporation until
16 and unless the department shall have issued a certificate of approval of the project or portion thereof.
17 Notwithstanding the foregoing, for water pollution abatement projects funded outside of the water
18 pollution control revolving fund, the Rhode Island water pollution control revolving fund, or the local
19 interest subsidy trust fund, the agency may provide financial assistance without the requirement of the
20 issuance of a certificate of approval, and such projects shall not be required to be listed on the
21 department's priority list as set forth in this chapter.

22 (b) If the department shall determine, in accordance with rules and regulations promulgated
23 pursuant to this chapter, that an application for financial assistance or portion thereof shall be approved, it
24 shall deliver to the agency a certificate of approval of the project or a portion thereof which shall specify
25 the project or portion thereof eligible for financial assistance and such other terms, conditions and
26 limitations with respect to the construction and operation of the project as the department shall determine.

1 The agency shall specify, among other things, the type and amount of financial assistance to be provided,
2 the costs thereof eligible for financial assistance, the amounts, if any, of the financial assistance, to be
3 provided from the water pollution control revolving fund and/or the Rhode Island water pollution control
4 revolving fund, the amount, if any, of subsidy assistance to be granted from the local interest subsidy trust
5 fund, the amount, if any, of other financial assistance permitted by this chapter to be provided, and such
6 other terms, conditions, and limitations on the financial assistance, the expenditure of loan proceeds, and
7 the construction and operation of the project as the agency shall determine or approve.

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

11 (d) In addition to the authority provided by law, the department shall be responsible for, and shall
12 have all requisite power to, review and approve reports and plans for water pollution abatement projects
13 and approved projects, or any part thereof, for which financial assistance has been applied or granted in
14 accordance with this chapter, to enter into contracts with a local governmental units, persons or
15 corporations relative to approved projects, including, without limiting the generality of the foregoing, the
16 costs of approved projects eligible for financial assistance, grants, and other terms, conditions and
17 limitations with respect to the construction and operation of the project, and to inspect the construction
18 and operation thereof of projects in compliance with approved plans. Without limiting the generality of
19 the foregoing, in connection with the exercise of its powers and performance of its duties under this
20 chapter, the department shall have all the powers provided by law to the department and its director. The
21 department shall adopt rules, regulations, procedures, and guidelines to carry out the purposes of this
22 chapter and for the proper administration of its powers and duties under this chapter. The rules,
23 regulations, procedures, and guidelines shall include among other things, criteria for determining those
24 water pollution abatement projects to be approved for financial assistance (the criteria shall include the
25 priority determination system), specification of eligible costs of the projects, and provisions for
26 compliance by projects constructed in whole or in part with funds directly made available under this

1 chapter by federal capitalization grants with the requirements of the Clean Water Act, 33 U.S.C. § 1351 et
2 seq., and other federal laws applicable to the project. The department shall cooperate with the agency in
3 the development of capitalization grant applications, operating plans, and intended use plans for federal
4 capitalization grant awards under title VI of the Clean Water Act, 33 U.S.C. § 1381 et seq., and may enter
5 into such agreements and other undertakings with the agency and federal agencies as necessary to secure
6 to the state the benefits of title VI of the Clean Water Act, 33 U.S.C. § 1381 et seq. In order to provide for
7 the expenses of the department under this chapter, the agency shall transfer to the department for
8 application to the expenses an amount from the water pollution control revolving fund equal to the
9 maximum amount authorized by federal law, and such additional amounts as may be needed from the
10 Rhode Island water pollution control fund and from any other monies available. The agency and the
11 department shall enter into an operating agreement and amend the same, from time to time, allocating
12 their respective rights, duties, and obligations with respect to the award of financial assistance and grants
13 to finance approved projects under this chapter and establishing procedures for the application, approval,
14 and oversight of projects, financial assistance, and grants.

15 (e) Upon issuance of a certificate of approval, the agency shall award as soon as practicable the
16 financial assistance to the local governmental unit, person or corporation for any approved project
17 specified in the certificate; provided, however, the agency may decline to award any financial assistance
18 which the agency determines will have a substantial adverse effect on the interests of holders of bonds or
19 other indebtedness of the agency or the interests of other participants in the financial assistance program,
20 or for good and sufficient cause affecting the finances of the agency. All financial assistance shall be
21 made pursuant to a loan agreement between the agency and the local governmental unit, person or
22 corporation, acting by and through the officer or officers, board, committee, or other body authorized by
23 law, or otherwise its chief executive officer, according to the terms and conditions of the certificate of
24 approval and such other terms and conditions as may be established by the agency, and each loan shall be
25 evidenced and secured by the issue to the agency of local governmental obligations or non-governmental
26 obligations in fully marketable form in principal amount, bearing interest at the rate or rates specified in

1 the applicable loan agreement, and shall otherwise bear such terms and conditions as authorized by this
2 chapter and the loan agreement.

3 (f) The agency shall adopt rules, regulations, procedures, and guidelines for the proper
4 administration of its financial assistance programs and the provision of financial assistance under this
5 chapter. The rules, regulations, procedures, and guidelines shall be consistent with the requirements of
6 title VI of the Clean Water Act, 33 U.S.C. § 1381 et seq., and any rules, regulations, procedures, and
7 guidelines adopted by the department, and may include, without limitation, forms of financial assistance
8 applications, loan agreements, and other instruments, and provision for submission to the agency and the
9 department by a local governmental unit, person or corporation of the information regarding the proposed
10 water pollution abatement project, the wastewater system of which it is a part, and the local governmental
11 unit, person, or corporation as the agency or the department shall deem necessary, to determine the
12 eligibility of a project for financial assistance under this chapter, the financial feasibility of a project, and
13 the sufficiency of general revenues or wastewater system revenues to secure and pay the loan and the
14 local governmental obligations or non-governmental obligations issued to evidence the project. The
15 agency shall, no later than December 31, 2015, enter into an agreement with the Rhode Island commerce
16 corporation to ensure collaboration for brownfields and energy efficiency related projects to which the
17 agency provides financial assistance to corporations.

18 (g) Subject to the provisions of any trust agreement securing bonds of the agency, when the
19 agency shall have awarded a loan eligible for subsidy assistance from funds held by the agency for the
20 credit of the local interest subsidy trust fund, the agency shall credit to the applicable account in the fund
21 maintained in accordance with § 46-12.2-6(e), the amount, if any, as provided in the loan agreement to
22 defray all or a portion of the interest otherwise payable by the local governmental unit, person or
23 corporation on the loan.

24 (h) In addition to other remedies of the agency under any loan agreement or otherwise provided
25 by law, the agency may also recover from a local governmental unit, person, or corporation, in an action
26 in superior court, any amount due the agency together with any other actual damages the agency shall

1 have sustained from the failure or refusal of the local governmental unit, person, or corporation to make
2 the payments.

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

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

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

13 (i) Issue local governmental obligations as provided herein: (A) if and to the amount authorized
14 by a bond act; ~~or~~ (B) without limitation as to the amount, if issued as limited obligations, pursuant to §46-
15 12.2-12 or §46-12.2-12.1; or (C) without limitation as to the amount, if issued as a financing lease or
16 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 department,
19 if applicable, in effect from time to time and the requirements of any other applicable law;

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

24 (iv) Authorize, execute, deliver, and comply with loan agreements, trust agreements, grant
25 agreements, and other agreements, and instruments with the agency, the department, and other persons
26 relating to financial assistance and grants hereunder, and the issue of local governmental obligations to

1 evidence loans, and perform the same;

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

5 (vi) Fix, revise, charge, and collect such fees, rates, rents, assessments, and other charges of
6 general or special application for the costs and/or use of any approved project, ~~the~~ any wastewater system
7 ~~of which it is a part~~, and any other revenue producing facilities from which the local governmental unit
8 may derive wastewater system revenues or other general revenues, or for the services provided thereby, as
9 it shall deem necessary to meet its obligations under any loan agreement or local governmental
10 obligations outstanding or otherwise to provide for the costs and/or operation of the project and any
11 wastewater ~~the~~ system.

12 (2) In order to provide for the collection and enforcement of fees, rates, rents, assessments, and
13 other charges for the operation of any approved project, any ~~the~~ wastewater system ~~of which it is a part~~,
14 and any other revenue producing facilities from which the local governmental units may derive
15 wastewater system revenues or other general revenues, in addition to any other authority provided by law
16 or any bond act applicable to a particular local governmental unit, local governmental units are hereby
17 granted all the powers and privileges granted to them by the general laws of the state with respect to any
18 similar fee, rate, rent, assessment, or other charge. All unpaid fees, rates, rents, assessments, and other
19 charges shall be a lien upon the real estate served for which the unpaid fees, rates, rents, assessments, or
20 other charges have been made. A lien shall arise and attach as of the due date of each unpaid fee, rate,
21 rent, assessment, or other charge. Subject to the provisions of section 39-26.5-6, the lien shall be superior
22 to any other lien other than a tax lien, encumbrance, or interest in the real estate, whether by way of
23 mortgage, attachment, or otherwise, except easements and restrictions. In the case of a life estate, the
24 interest of the tenant for life shall first be liable for the unpaid fees, rates, rents, assessments, or other
25 charges. The local governmental unit may enforce the lien by advertising and selling any real estate liable
26 for unpaid fees, rents, assessments, and other charges in the manner provided for the enforcement of liens

1 for unpaid taxes by chapter 9 of title 44, as amended from time to time.

2 (3) Any city or town and any other local governmental unit acting by and through the officer or
3 officers, board, committee, other body authorized by law, or otherwise the chief executive officer, may
4 enter into agreements with the agency or the department, if applicable, regarding the operation of a
5 pricing system adopted under any applicable law for the services provided by any approved project, the
6 wastewater system of which it is a part, and any other revenue producing facilities from which the local
7 governmental unit may derive wastewater system revenues or other general revenues. The agreements
8 may include, without limitation, provisions defining the costs of services, the approved project, and the
9 wastewater system and other facilities, and covenants or agreements, regarding the fixing and collection
10 of fees, rates, rents, assessments and other charges for the costs and the maintenance of the pricing system
11 at levels sufficient to pay or provide for all the costs and any payments due the agency under any loan
12 agreement or local governmental obligations.

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

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

26 (6) Any municipality, notwithstanding any contrary provision of any charter, other laws or

1 ordinances, general, special or local, or of any rule or regulations of the state or any municipality, is
2 authorized and empowered to lend, pledge, grant, convey to, or lease from the agency, at its request, upon
3 terms and conditions that the chief executive officer, if any, or where no chief executive officer exists, the
4 city or town council of the municipality, may deem reasonable and fair and without the necessity for any
5 advertisement, order of court, or other action or formality, any real property or personal property which
6 may be necessary or convenient to effectuation of the authorized purpose of the agency, including other
7 real property already devoted to public use.

8 **§ 46-12.2-11 Authority of local governmental units to issue obligations – Terms.** – (a) In
9 addition to the powers of any local governmental unit provided in any bond act, whenever a local
10 governmental unit has applied for and accepted a loan from the agency and entered into a loan agreement
11 therefor, any local governmental obligations issued by the local governmental unit to evidence the loan
12 may be issued in accordance with, and subject to the limitations of this chapter, notwithstanding the
13 provisions of the bond act authorizing the obligation or any other general or special law or provision of
14 municipal charter to the contrary. The provisions of this chapter shall apply to the issuance of local
15 governmental obligations under authority of any bond act heretofore enacted and under authority of any
16 bond act hereafter enacted unless the bond act expressly provides that the provisions of this chapter shall
17 not so apply. Notwithstanding the foregoing, no local governmental obligation issued as a general
18 obligation bond shall be issued unless authorized by a vote of the body or bodies required by the charter,
19 ordinances, or laws governing the local governmental unit, or the applicable bond act for the authorization
20 of indebtedness of the local governmental unit.

21 (b) Local governmental obligations issued by any local governmental unit shall be dated, may
22 bear interest at such rate or rates, including rates variable, from time to time, subject to such minimum or
23 maximum rate, if any, as may be determined by such index or other method of determination provided in
24 the applicable loan agreement, shall mature in such amount or amounts and at such time or times, not later
25 than the maximum dates, if any, provided herein, and may be made redeemable in whole or in part before
26 maturity at the option of the local governmental unit or at the option of the agency, at such price or prices

1 and under such terms and conditions as may be fixed in the loan agreement prior to the issue of the local
2 governmental obligations. Local governmental obligations may be issued as serial bonds or term bonds or
3 any combination thereof with such provision, if any, for sinking funds for the payment of bonds as the
4 local governmental unit and the agency may agree. The local governmental obligations may be sold at
5 private sale and may be in such form, payable to the bearer thereof or the registered owner, whether
6 certificated or uncertificated, be in such denominations, payable at such place or places, within or without
7 the state, and otherwise bear such terms and conditions, not inconsistent with this chapter, as provided in
8 the applicable loan agreement or as the agency and the local governmental unit shall otherwise agree. The
9 local governmental obligations may be issued in principal amount equal to the loan evidenced thereby or
10 at such discount as the agency and the local governmental unit shall agree.

11 (c) Local governmental obligations shall be payable within a period not exceeding the greater of
12 the period, if any, specified in the applicable bond act or the useful life of the approved project financed
13 by such obligations as determined by the department, or, if incurred to finance more than one project, the
14 average useful life of the projects. Except as otherwise provided in this chapter, the local governmental
15 obligations shall be payable by such equal, increasing, or decreasing installments of principal, annual or
16 otherwise, as will extinguish the obligations at maturity, the first installment to be payable no later than
17 ~~one~~ three years after the date of issuance of the obligations or one year after the date of completion of the
18 approved project financed by the obligations, as determined by the department, whichever date is later,
19 and the remaining installments of principal, if any, to be in such amounts and payable on such dates as the
20 agency and the local governmental unit shall agree.

21 (d) If a local governmental unit has authorized borrowing in accordance with this chapter and the
22 issuance of local governmental obligations to evidence the borrowing under any bond act, the local
23 governmental unit may, subject to the applicable loan agreement and with the approval of the agency,
24 issue notes to the agency to evidence of the loan. The issuance of the notes shall be governed by the
25 provisions of this chapter relating to the issue of bonds other than notes, to the extent applicable, provided
26 the maturity date of the notes shall not exceed five (5) years from the date of issue of the notes, ~~or the~~

1 ~~expected date of completion of the approved project financed thereby as determined by the department, if~~
2 ~~later.~~ Notes issued for less than the maximum maturity date may be renewed by the issue of other notes
3 maturing no later than the maximum maturity date.

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

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

21 **§ 46-12.2-13 Trust agreements pertaining to local governmental obligations.** – (a)

22 Notwithstanding any general or special law to the contrary, local governmental obligations issued in
23 accordance with this chapter may be secured by one or more trust agreements, including, or in addition to
24 the applicable loan agreement, between the local governmental unit and a corporate trustee, which may be
25 a trust company or bank having the powers of a trust company within or without the state, or directly
26 between the agency and the local governmental unit. Any trust agreement shall be in such form and shall

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

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

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

1 letters, or lines of credit or other credit facilities of any payments made thereunder.

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

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

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

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

25 **§ 46-12.2-14 Bonds of the agency.** – (a) The agency may provide by resolution of the board of
26 directors for the issuance, from time to time, of bonds of the agency for any of its corporate purposes,

1 including those set forth in this chapter and chapters 23-19.16, 24-18, and 39-26.5, or for the borrowing
2 of money in anticipation of the issuance of the bonds. Bonds issued by the agency may be issued as
3 general obligations of the agency or as special obligations payable solely from particular revenues or
4 funds as may be provided for in any trust agreement or other agreement securing bonds. The agency may
5 also provide by resolution of the board of directors for the issuance, from time to time, of temporary notes
6 in anticipation of the revenues to be collected or received by the agency, including, without limitation, in
7 anticipation of any payments to the agency from the state pursuant to § 46-12.2-7, or in anticipation of the
8 receipt of other grants or aid. The issue of notes shall be governed by the provisions of this chapter and
9 chapters 23-19.16, 24-18, and 39-26.5, as applicable, relating to the issue of bonds of the agency other
10 than temporary notes as these chapters may be applicable; provided, however, that notes issued in
11 anticipation of revenues shall mature no later than one year from their respective dates, or the date of
12 expected receipt of the revenues, if later, and notes issued in anticipation of grants, or other aid and
13 renewals thereof, shall mature no later than six (6) months after the expected date of receipt of the grant
14 or aid.

15 (b) The bonds of each issue shall be dated, may bear interest at such rate or rates, including rates
16 variable from time to time as determined by such index, banker's loan rate, or other method determined by
17 the agency, and shall mature or otherwise be payable at such time or times, as may be determined by the
18 agency, and may be made redeemable before maturity at the option of the agency or the holder thereof at
19 such price or prices and under such terms and conditions as may be fixed by the agency. The agency shall
20 determine the form of bonds, and the manner of execution of the bonds, and shall fix the denomination or
21 denominations of the bonds, and the place or places of payment of principal, redemption premium, if any,
22 and interest, which may be paid at any bank or trust company within or without the state. In case any
23 officer whose signature or a facsimile of whose signature shall appear on any bonds shall cease to be the
24 officer before the delivery thereof, the signature or facsimile shall nevertheless be valid and sufficient for
25 all purposes as if the officer had remained in office until delivery. The agency may provide for
26 authentication of bonds by a trustee, fiscal agent, registrar, or transfer agency. Bonds may be issued in

1 bearer or in registered form, or both, and, if notes, may be made payable to the bearer or to order, as the
2 agency may determine. The agency may also establish and maintain a system of registration for any
3 bonds whereby the name of the registered owner, the rights evidenced by the bonds, the transfer of the
4 bonds, and the rights and other similar matters, are recorded in books or other records maintained by or on
5 behalf of the agency, and no instrument evidencing the bond or rights need be delivered to the registered
6 owner by the agency. A copy of the books or other records of the agency pertaining to any bond
7 registered under a registration system certified by an authorized officer of the agency or by the agent of
8 the agency maintaining the system shall be admissible in any proceeding without further authentication.
9 The board of directors may by resolution delegate to any member or officer of the agency, or any
10 combination thereof, the power to determine any of the matters set forth in this section. In the discretion
11 of the agency, bonds of the agency may be issued with such terms as will cause the interest thereon to be
12 subject to federal income taxation. The agency may sell its bonds in such manner, either at public or
13 private sale, for the price, at the rate or rates of interest, or at discount in lieu of interest, as it may
14 determine will best effect the purposes of this chapter or chapter 24-18, as applicable,.

15 (c) The agency may issue interim receipts or temporary bonds, exchangeable for definitive bonds,
16 when the bonds shall have been executed and are available for delivery. The agency may also provide for
17 the replacement of any bonds which shall have become mutilated or shall have been destroyed or lost.
18 The agency, by itself or through such agency as it may select, may purchase and invite offers to tender for
19 purchase any bonds of the agency at any time outstanding; provided, however, that no purchase by the
20 agency shall be made at a price, exclusive of accrued interest, if any, exceeding the principal amount
21 thereof or, if greater, the redemption price of the bonds when next redeemable at the option of the agency,
22 and may resell any bonds so purchased in such manner and for such price as it may determine will best
23 effect the purposes of this chapter or chapters 23-19.16, 24-18, and 39-26.5, as applicable,.

24 (d) In the discretion of the board of directors, any bonds issued under this section may be secured
25 by a trust agreement in such form and executed in such manner as may be determined by the board of
26 directors, between the agency and the purchasers or holders of the bonds, or between the agency and a

1 corporate trustee which may be any trust company or bank having the powers of a trust company within
2 or without the state. The trust agreement may pledge or assign, in whole or in part, any loan agreements,
3 ~~and local governmental obligations, and non-governmental obligations,~~ and the revenues, funds, and other
4 assets or property held or to be received by the agency, including without limitation all moneys and
5 investments on deposit from time to time in the water pollution control revolving fund, the Rhode Island
6 water pollution control revolving fund, and the local interest subsidy trust fund, or the municipal road and
7 bridge revolving fund, as applicable, and any contract or other rights to receive the same, whether then
8 existing or thereafter coming into existence and whether then held or thereafter acquired by the agency,
9 and the proceeds thereof. The trust agreement may contain such provisions for protecting and enforcing
10 the rights, security, and remedies of the bondholders as may be reasonable and proper including, without
11 limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the
12 event thereof which may include the acceleration of maturities, restrictions on the individual right of
13 action by bondholders, and covenants setting forth the duties of and limitations on the agency in relation
14 to the custody, safeguarding, investment, and application of moneys, the enforcement of loan agreements,
15 ~~and local governmental obligations, and non-governmental obligations,~~ the issue of additional or
16 refunding bonds, the fixing, revision, charging, and collection of charges, the use of any surplus bond
17 proceeds, the establishment of reserves, and the making and amending of contracts.

18 (e) In the discretion of the board of directors, any bonds issued under authority of this chapter or
19 chapters 23-19.16, 24-18, and 39-26.5 may be issued by the agency in the form of lines of credit or other
20 banking arrangements under terms and conditions, not inconsistent with this chapter or chapters 23-19.16,
21 24-18, and 39-26.5, and under such agreements with the purchasers or makers thereof or any agent or
22 other representative of such purchasers or makers, as the board of directors may determine to be in the
23 best interests of the agency. In addition to other security provided herein or otherwise by law, bonds
24 issued by the agency under any provision of this chapter or chapters 23-19.16, 24-18, and 39-26.5, may be
25 secured, in whole or in part, by financial guarantees, by insurance, or by letters or lines of credit issued to
26 the agency or a trustee or any other person, by any bank, trust company, insurance or surety company, or

1 other financial institution, within or without the state, and the agency may pledge or assign, in whole or in
2 part, any loan agreements, and local governmental obligations, and non-governmental obligations, and the
3 revenues, funds, and other assets and property held or to be received by the agency, and any contract or
4 other rights to receive the same, whether then existing or thereafter coming into existence and whether
5 then held or thereafter acquired by the agency, and the proceeds thereof, as security for the guarantees or
6 insurance or for the reimbursement by the agency to any issuer of the line or letter of credit.

7 (f) It shall be lawful for any bank or trust company to act as a depository or trustee of the
8 proceeds of bonds, revenues, or other moneys under a trust agreement of the agency, and to furnish
9 indemnification and to provide security as may be required by the agency. It is hereby declared that any
10 pledge or assignment made by the agency under this chapter or chapters 23-19.16, 24-18, and 39-26.5 is
11 an exercise of the governmental powers of the agency, and loan agreements, local governmental
12 obligations, non-governmental obligations, revenues, funds, assets, property, and contract or other rights
13 to receive the same and the proceeds thereof, which are subject to the lien of a pledge or assignment
14 created under this chapter or chapters 23-19.16, 24-18, and 39-26.5 shall not be applied to any purposes
15 not permitted by the pledge or assignment.

16 (g) Any holder of a bond issued by the agency under the provisions of this chapter or chapters 23-
17 19.16, 24-18, and 39-26.5, and any trustee or other representative under a trust agreement securing the
18 trustee or representative, except to the extent the rights herein given may be restricted by the trust
19 agreement, may bring suit upon the bonds in the superior court and may, either at law or in equity, by
20 suit, action, mandamus, or other proceeding for legal or equitable relief, protect and enforce any and all
21 rights under the laws of the state or granted hereunder or under the trust agreement, and may enforce and
22 compel performance of all duties required by this chapter, chapter 23-19.16, chapter 24-18, chapter 39-
23 26.5, or by the trust agreement, to be performed by the agency or by any officer thereof.

24 **§ 46-12.2-17 No additional consent required.** – Except as provided in this section, bonds, local
25 governmental obligations, and non-governmental obligations may be issued under this chapter or chapter
26 24-18 without obtaining the consent of any executive office, department, division, commission, board,

1 bureau, or agency of the state or any political subdivision thereof, and without any other proceedings or
2 the happening of any condition, or acts other than those proceedings, conditions, or acts which are
3 specifically required therefor hereunder or under any applicable bond act, and the validity of and security
4 for any bonds issued by the agency pursuant to this chapter or chapter 24-18, and any local governmental
5 obligations and non-governmental obligations issued in accordance herewith, shall not be affected by the
6 existence or nonexistence of any consent or other proceedings, conditions, or acts. Nothing in this chapter
7 or chapter 24-18 shall exempt the agency from the provisions of chapter 10.1 of title 42 entitled "Public
8 Finance Management Board," and the Narragansett Bay ~~water quality management~~ Commission shall not
9 issue any bonds, notes, or other indebtedness without the approval of the division of public utilities as
10 required by § 39-3-15.

11 **§ 46-12.2-25 Supplemental powers – Inconsistent laws.** – The provisions of this chapter,
12 chapter 23-19.16, chapter 24-18, and chapter 39-26.5 shall be deemed to provide an additional,
13 alternative, and complete method for accomplishing the purposes of these chapters, and shall be deemed
14 and construed to be supplemental and additional to, and not in derogation of, powers conferred upon the
15 agency, the department, and local governmental units by other laws; provided, however, that insofar as
16 the provisions of these chapters are inconsistent with the provisions of any general or special law,
17 municipal charter, administrative order or regulations, the provisions of these chapters shall be
18 controlling. Any amounts appropriated by these chapters to the agency or the department shall be in
19 addition to any other amounts appropriated to the agency or the department by any other law.

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

22 **§ 46-12.2-4.2 Establishment of the efficient buildings fund.** – (a) There is hereby authorized and
23 created within the Rhode Island infrastructure bank an efficient buildings fund for the purpose of
24 providing technical, administrative and financial assistance to local governmental units for energy
25 efficient and renewable energy upgrades to public buildings and infrastructure, including, but not limited

1 to, streetlights. The Rhode Island infrastructure bank shall review and approve all applications for projects
2 to be financed through the efficient buildings fund.

3 The office of energy resources shall promulgate rules and regulations establishing a project
4 priority list for efficient buildings fund and the process through which a local governmental unit may
5 submit an application for inclusion of a project on the project priority list. Upon issuance of the project
6 priority list by the office of energy resources, the project priority list shall be used by the Rhode Island
7 infrastructure bank to determine the order in which financial assistance shall be awarded. The Rhode
8 Island infrastructure bank shall promulgate rules and regulations to effectuate the provisions of this
9 section which may include, without limitation, forms for financial assistance applications, loan
10 agreements, and other instruments. All rules and regulations promulgated pursuant to this chapter shall be
11 promulgated in accordance with the provisions of chapter 42-35. Eligibility for receipt of this financial
12 assistance by a local governmental unit shall be conditioned upon that local governmental unit
13 reallocating their remaining proportional QECB allocation to the state of Rhode Island.

14 (b) The Rhode Island infrastructure bank shall have all the powers necessary and convenient to
15 carry out and effectuate the purposes and provisions of this section including, without limiting the
16 generality of the preceding statement, the authority:

17 (1) To receive and disburse such funds from the state and federal government as may be
18 available for the purpose of the fund subject to the provisions of this section;

19 (2) To make and enter into binding commitments to provide financial assistance to eligible
20 borrowers from amounts on deposit in the fund;

21 (3) To levy administrative fees on eligible borrowers as necessary to effectuate the provisions of
22 this section, provided the fees have been previously authorized by an agreement between the Rhode
23 Island infrastructure bank and the eligible borrower;

24 (4) To engage the services of third-party vendors to provide professional services;

25 (5) To establish one or more accounts within the fund; and

26 (6) Such other authority as granted to the Rhode Island infrastructure bank under this chapter.

1 (c) Subject to the provisions of this section and to any agreements with the holders of any bonds
2 of the Rhode Island infrastructure bank or any trustee therefor, amounts held by the Rhode Island
3 infrastructure bank for the account of the fund shall be applied by the Rhode Island infrastructure bank,
4 either by direct expenditure, disbursement, or transfer to one or more other funds and accounts held by the
5 Rhode Island infrastructure bank or maintained under any trust agreement pertaining to bonds, either
6 alone or with other funds of the Rhode Island infrastructure bank, to the following purposes:

7 (1) To provide financial assistance to local governmental units to finance costs of approved
8 projects, as set forth in subsection (a), and to refinance the costs of the projects, subject to such terms and
9 conditions, if any, as are determined by the Rhode Island infrastructure bank;

10 (2) To fund reserves for bonds of the Rhode Island infrastructure bank and to purchase insurance
11 and pay the premiums therefor, and pay fees and expenses of letters or lines of credit and costs of
12 reimbursement to the issuers thereof for any payments made thereon or on any insurance, and to
13 otherwise provide security for, and a source of payment for obligations of the Rhode Island infrastructure
14 bank, by pledge, lien, assignment, or otherwise as provided in this chapter;

15 (3) To pay expenses of the Rhode Island infrastructure bank in administering the fund;

16 (4) To provide a reserve for, or to otherwise secure, amounts payable by borrowers on loans and
17 obligations outstanding in the event of default thereof; amounts in any account in the fund may be applied
18 to defaults on loans outstanding to the borrower for which the account was established and, on a parity
19 basis with all other accounts, to defaults on any loans or obligations outstanding; and

20 (5) To provide a reserve for, or to otherwise secure, by pledge, lien, assignment, or otherwise as
21 provided in this chapter, any bonds of the Rhode Island infrastructure bank.

22 (d) In addition to other remedies of the Rhode Island infrastructure bank under any loan
23 agreement or otherwise provided by law, the Rhode Island infrastructure bank may also recover from a
24 borrower, in an action in superior court, any amount due the Rhode Island infrastructure bank together
25 with any other actual damages the Rhode Island infrastructure bank shall have sustained from the failure
26 or refusal of the borrower to make the payments or abide by the terms of the loan agreement.

1 (e) The Rhode Island infrastructure bank may create one or more loan loss reserve funds to serve
2 as further security for any loans made by the Rhode Island infrastructure bank or any bonds of the Rhode
3 Island infrastructure bank issued to fund energy efficiency improvements in public buildings in
4 accordance with this section.

5 (f) To the extent possible, and in accordance with law, the infrastructure bank shall encourage the
6 use of project labor agreements and local hiring on projects funded under this section.

7 (g) Any financial assistance provided by the Rhode Island infrastructure bank to a public entity
8 for the purpose of retrofitting a school building shall not be subject to the match established by R.I. Gen.
9 Laws §§ 16-7-35 to 16-7-47, and shall be made subject to coordination with the Rhode Island Department
10 of Education.

11 § 46-12.2-12.1 Power of local governmental units to issue limited obligations payable from
12 energy savings. – (a) If required by the applicable loan agreement, and notwithstanding any general or
13 special law or municipal charter to the contrary, local governmental obligations shall be issued as limited
14 obligations payable solely from an appropriation of general revenues in an amount not to exceed the
15 projected energy savings of the project. Notwithstanding section 45-12.2-2 or any general or special law
16 or municipal charter to the contrary, all local governmental units shall have the power to issue such local
17 governmental obligations pursuant to this section without limit as to amount, and the amount of principal
18 and premium, if any, and interest on the obligations shall not be included in the computation of any limit
19 on the indebtedness of the local governmental unit or on the total taxes which may be levied or assessed
20 by the local governmental unit in any year or on any assessment, levy, or other charge made by the local
21 governmental unit on any other political subdivision or instrumentality of the state. This section shall
22 constitute the bond act for the issuance of such local governmental obligations by local governmental
23 units. Any local governmental obligations issued in accordance with this section shall recite on its face
24 that it is a limited obligation payable solely from an appropriation of general revenues in an amount not to
25 exceed the projected energy savings pledged to its payment.

26 (b) The issuance of local governmental obligations in accordance with this section, the maturity

1 or maturities and other terms thereof, the security therefor, the rights of the holders thereof, and the rights,
2 duties, and obligation of the local governmental unit in respect of the same shall be governed by the
3 provisions of this chapter relating to the issue of local governmental obligations to the extent applicable
4 and not inconsistent with this section.

5 (c) A local government unit may appropriate general revenues on an annual basis to pay any local
6 governmental obligation provided that an event of non-appropriation shall not be an event of default
7 under any local governmental obligation.

8 **§ 46-12.2-14.1 Electric and gas demand side charge proceeds as further security for debt**
9 **funding energy efficiency improvements in public buildings.** – (a) Upon receipt of the electric and gas
10 demand side charge proceeds identified in §§ 39-2-1.2(1-m), the Rhode Island infrastructure bank shall
11 deposit the electric and gas demand side charge proceeds in a loan loss reserve fund to provide security
12 for any loans made by the Rhode Island infrastructure bank or any bonds of the Rhode Island
13 infrastructure bank issued to fund energy efficiency improvements in public buildings pursuant to Section
14 46-12.2-4.2. The funds in the loan loss reserve fund described therein shall only be used after all other
15 available loan loss reserve funds have been applied.

16 (b) After all loans and bonds in connection with the efficient buildings fund have been repaid in
17 full, the balance of the loan loss reserve fund, including any accrued interest, shall be remitted to the
18 electric and gas utilities described in Section 39-2-1.2, to be used for energy efficiency programmatic
19 purposes.

20 SECTION 19. Sections 46-12.8-1, 46-12.8-2 and 46-12.8-5 of the General Laws in Chapter 46-
21 12.10 entitled “Water Projects Revolving Loan Fund” are hereby amended to read as follows:

22 **§ 46-12.8-1 Legislative findings.** – (a) It is hereby found that there exists and will in the future
23 exist within the state of Rhode Island the need to construct and reconstruct facilities related to and acquire
24 watershed protection land in connection with the provision of safe drinking water throughout the state of
25 Rhode Island.

26 (b) It is hereby further found that to provide financial assistance for the acquisition, design,

1 planning, construction, enlargement, repair, protection or improvement of public drinking water supplies
2 or treatment facilities, including any of those actions required under the federal Safe Drinking Water Act
3 of 1974, 42 U.S.C., §§ 300f – 300j-9, including the Safe Drinking Water Act (SDWA) amendments of
4 1996 (Pub. L. 104-182) and any amendments thereto, it is necessary to establish a revolving loan fund
5 program to provide a perpetual source of low cost financing for safety drinking water projects.

6 (c) It is hereby further found that to secure maximum benefit to the state from a safe drinking
7 water revolving loan fund, it is necessary to place such fund within the jurisdiction and control of the
8 Rhode Island ~~clean water finance agency~~ infrastructure bank, which agency presently runs the state's
9 revolving fund with respect to the state's wastewater pollution abatement program, which agency shall
10 exclusively administer the financing portion of the safe drinking water revolving loan fund, but which
11 shall nevertheless work, as necessary, with the department of environmental management, the water
12 resources board, the Rhode Island department of health, the division of public utilities and carriers and
13 any other agency or instrumentality of the state or federal government with responsibility for the
14 development or supervision of water supply facilities within the state.

15 **§ 46-12.8-2 Definitions.** – (a) "Agency" means the Rhode Island ~~clean water finance agency~~
16 infrastructure bank.

17 (b) "Approved project" means any project or portion thereof of a governmental unit or privately
18 organized water supplier that has been issued a certificate of approval by the department for financial
19 assistance through the agency; and, notwithstanding the foregoing, shall include safe drinking water
20 projects funded outside of the drinking water state revolving fund without the requirement of the issuance
21 of a certificate of approval.

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

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

26 (e) "Local governmental unit" means any town, city, district, commission, agency, authority,

1 board of other political subdivision or instrumentality of the state or of any political subdivision thereof
2 responsible for the ownership or operation of water supply facilities within the state.

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

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

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

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

21 **§ 46-12.8-5 Procedure for application, approval, and award of financial assistance.** – (a) Any local
22 governmental unit or privately organized water supplier may apply to the agency for financial assistance
23 in accordance with this chapter to finance all or any part of the cost of an approved project. The agency
24 shall not award financial assistance to such local government unit or privately organized water supplier
25 hereunder until and unless the department shall have issued a certificate of approval of the project or

1 portion thereof for which such financial assistance has been sought. Notwithstanding the foregoing, for
2 safe drinking water projects funded outside of the drinking water state revolving fund, the Agency may
3 provide financial assistance without the requirement of the issuance of a certificate of approval.

4 (b) If the department shall determine, in accordance with rules and regulations promulgated
5 pursuant to this chapter, that an application for financial assistance or portion thereof shall be approved, it
6 shall deliver to the agency a certificate of approval of the project or a portion thereof which shall specify
7 the project or portion thereof eligible for financial assistance and such other terms, conditions and
8 limitations with respect to the construction and operation of the project as the department shall determine.
9 The agency shall specify, among other things, the type and amount of financial assistance to be provided
10 from the safe drinking water revolving loan fund, the amount, if any, of subsidy assistance to be granted,
11 the amount, if any, of other financial assistance permitted by this chapter to be provided, and such other
12 terms, conditions, and limitations on the financial assistance, the expenditure of loan proceeds, and the
13 construction and operation of the project as the agency shall determine or approve.

14 (c) In addition to the authority provided by law, the department shall be responsible for, and shall
15 have all requisite power to, review and approve reports and plans for safe drinking water projects and
16 approved projects, or any part thereof, for which financial assistance has been applied or granted in
17 accordance with this chapter from the safe drinking water revolving fund, to enter into contracts with
18 local governmental units and private water companies relative to approved projects, including, without
19 limiting the generality of the foregoing, the costs of approved projects eligible for financial assistance,
20 grants, and other terms, conditions and limitations with respect to the construction and operation of the
21 project, and to inspect the construction and operation of approved projects in compliance with approved
22 plans. Without limiting the generality of the foregoing, in connection with the exercise of its powers and
23 performance of its duties under this chapter, the department shall have all the powers provided by law to
24 the department and its director. The department shall adopt rules, regulations, procedures, and guidelines
25 to carry out the purposes of this chapter and for the proper administration of its powers and duties under
26 this chapter. The rules, regulations, procedures, and guidelines shall include among other things, criteria

1 for determining those safe drinking water projects, to be approved for financial assistance from the
2 drinking water state revolving fund and specification of eligible costs of the projects. In order to provide
3 for the expenses of the department under this chapter, the agency shall transfer to the department for
4 application to the expenses an amount from the safe drinking water revolving loan fund equal to an
5 amount as the agency and the department shall reasonably determine. The agency and the department
6 shall enter into an operating agreement and amend the same, from time to time, allocating their respective
7 rights, duties, and obligations with respect to the award of financial assistance and grants to finance
8 approved projects under this chapter and establishing procedures for the application, approval, and
9 oversight of projects, financial assistance, and grants.

10 (d) Upon issuance of a certificate of approval, the agency shall award as soon as practicable the
11 financial assistance from the drinking water state revolving fund to the local governmental unit or
12 privately organized water supplies for any approved project specified in the certificate; provided,
13 however, the agency may decline to award any financial assistance which the agency determines will
14 have a substantial adverse effect on the interests of holders of bonds, notes or other evidences of
15 indebtedness of the agency or the interests of other participants in the financial assistance program, or for
16 other good and sufficient cause affecting the finances of the agency. All financial assistance shall be made
17 pursuant to a loan agreement between the agency and the local governmental unit or privately organized
18 water supplier, acting by and through the officer or officers, board, committee, or other body authorized
19 by law, or otherwise its chief executive officer, according to the terms and conditions of the certificate of
20 approval and such other terms and conditions as may be established by the agency, and each loan shall be
21 evidenced and secured by the issue to the agency of the local governmental obligations or obligations of
22 the privately organized water supplier, in fully marketable form in principal amount, bearing interest at
23 the rate or rates specified in the applicable loan agreement, and shall otherwise bear such terms and
24 conditions as authorized by this chapter and the loan agreement.

25 (e) The agency shall adopt rules, regulations, procedures, and guidelines for the proper
26 administration of its financial assistance programs and the provision of financial assistance under this

1 chapter. The rules, regulations, procedures, and guidelines shall be consistent with any rules, regulations,
2 procedures, and guidelines adopted by the department, and may include, without limitation, forms of
3 financial assistance applications, loan agreements, and other instruments, and provisions for submission
4 to the agency and the department by a local governmental unit or a privately organized water supplier of
5 the information regarding the proposed safe drinking water project, the distribution system of which it is a
6 part, and the local governmental unit or privately organized water supplies as the agency or the
7 department shall deem necessary to determine the eligibility of a project, for financial assistance under
8 this chapter, the financial feasibility of a project, and the sufficiency of general revenues or system
9 revenues to secure and pay the loan and the local governmental obligations or obligations of the privately
10 organized water supplier issued to evidence the same.

11 (f) In addition to other remedies of the agency under any loan agreement or otherwise provided
12 by law, the agency may also recover from a local governmental unit or privately organized water supplier,
13 in an action in superior court, any amount due the agency together with any other actual damages the
14 agency shall have sustained from the failure or refusal of the local governmental unit or privately
15 organized water supplier to make the payments.

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

18 **§ 46-15.1-22 Discontinuation of borrowing authority and abolishment of water resources**
19 **board (corporate).** – (a) Notwithstanding any law to the contrary, including, but not limited to, § 46-
20 15.1-10, upon the effective date of this section, the water resources board (corporate), established as a
21 body politic and corporate and public instrumentality pursuant to this chapter, shall be prohibited from
22 borrowing money or issuing bonds for any purpose.

23 (b) The water resources board (corporate) shall continue to repay existing debt until all such debt
24 is fully repaid. Upon the repayment by the water resources board (corporate) of all such existing
25 obligations, the water resources board (corporate) shall be dissolved and all existing functions and duties
26 of the water resources board (corporate) shall be transferred to the Rhode Island ~~clean water finance~~

1 agency infrastructure bank, a body politic and corporate and public instrumentality of the state established
2 pursuant to chapter 46-12.2.

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

5 **§ 46-15.3-25. Transfer of charges to Rhode Island Clean Water Finance Agency Rhode**
6 **Island infrastructure bank Transfer of charges to Rhode Island infrastructure bank. –**

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

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