



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 *Thomas A. Mullaney*
Executive Director/State Budget Officer

Date: May 11, 2015

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

The Governor requests that Article 15 entitled "Relating to the Rhode Island Local Agriculture and Seafood Act and Commercial Feeds" be replaced with the new article attached hereto. This new version of Article 15 removes the proposal to increase the commercial feed products registration fee by \$40.00 for the purpose of funding the local agriculture and seafood small grants and technical assistance program. In place of this increased fee, this article proposes to earmark a share of the revenues received by the Coastal Resources Management Council for the lease of tidal lands for renewable energy projects.

Several additional sections of Chapter 2-25 of the General Laws are added to section 1 to include language referring to the expansion and strengthening of the local food system supports and tracking and addressing the increasing volume and complexity of marine fisheries science, management, and policy issues. Section 2-25-7 on the use of funds is amended to remove language that would have permitted up to ten percent (10%) of program funding to be awarded as one grant and instead leaves the limit at \$20,000. A new section is added that would permit grants of up to \$50,000 to a non-profit entity or person specifically to allow the fishing industry to participate in the review and development of fisheries science, management and policies.

Section 2 replaces the previous section 2 in its entirety. This new section amends Chapter 46-23 entitled Coastal Resources Management Council' to include additional language in § 46-23-1 entitled 'legislative findings' that states that all fees collected for the lease of tidal lands for any renewable energy project with a project cost exceeding \$5.0 million shall be deposited into the Rhode Island local agriculture and seafood fund. The CRMC

estimates that this provision would only affect the Deepwater Wind project, which is estimated to generate \$150,000 in lease revenue by June 30, 2015. This estimated revenue has been included in the FY 2015 departmental revenue estimates for the CRMC. As such, this legislation is estimated to reduce general revenue receipts by \$150,000 in FY 2015 if the law is passed prior to June 30, 2015.

Section 3 – This section states that this act shall take effect upon passage.

A copy of the amended article is attached. If you have any questions regarding this amendment, please feel free to call me or my staff at 222-6300.

TAM: 15-Amend-16

Attachments

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Stephen Whitney, Senate Fiscal Advisor
Michael DiBiase, Director of Administration
Jonathan Womer, Director, Office of Management and Budget
Eric Beane, Deputy Chief of Staff, Governor's Office
Janet Coit, Director, Environmental Management
Gregory Stack, Supervising Budget Analyst
Kimberly Reynolds, Senior Budget Analyst

ARTICLE 15 (Revised 5/12/15)

RELATING TO THE RHODE ISLAND LOCAL AGRICULTURE AND SEAFOOD ACT

SECTION 1. Sections 2-25-2, 2-25-3, 2-25-5, 2-25-6 and 2-25-7 of the General Laws in Chapter 2-25 entitled "The Rhode Island Local Agriculture and Seafood Act" are hereby amended to read as follows:

2-25-2. Legislative findings. -- The general assembly hereby finds and declares:

(1) A viable agricultural and seafood sector in Rhode Island represents part of a secure regional food supply, which in turn lends itself to energy and economic efficiencies;

(2) The federal government and regional entities have established and continue to establish programs and processes to support local agricultural production and increased consumption of locally produced food, and Rhode Island functions in whole or in part in the context of federal and regional programs;

(3) The general public is increasingly interested in locally produced food;

(4) The benefits of local food systems to local communities include open land, jobs, nutritious and safe foods, and youth education opportunities;

(5) Farms and commercial fishing are an integral part of Rhode Island's overall economy;

(6) Encouraging the continued growth of Rhode Island's agricultural and seafood sectors is integral to reducing food insecurity in Rhode Island;

(7) Relationship-based food systems such as farm-to-school programs, community supported agriculture (CSA) programs, farmers' markets, and pick-your-own operations are increasingly popular and offer areas of opportunity for new farmers; ~~and~~

(8) The state of Rhode Island has historically established programs to provide for and regulate the agriculture and commercial fishing sectors.;

(9) Expanding and strengthening the local food system supports a diverse range of economic activities and benefits that extend well beyond fisheries and agricultural industries and

includes new businesses and job growth, increased property values, generation of new revenues and stronger Rhode Island communities; and

(10) Tracking and addressing the increasing volume and complexity of marine fisheries science, management, and policy issues, combined with other threats to marine resources poses increasing challenges to Rhode Island's fishing industry, which need to be met to support the growth and sustainability of this important sector of the state's economy.

2-25-3. Legislative intent. -- The general assembly intends:

(1) To support and develop more robust and self-sustaining agricultural and seafood sectors that also promotes emerging agricultural industries;

(2) That policies and programs of the state will support and promote the Rhode Island agriculture and seafood industries as a vital component of the state's economy and essential steward of our land and coastal waters;

(3) That current policies and programs pertaining to the viability of Rhode Island's agricultural and seafood industries be reviewed and confirmed or changed in order to assure the long-term economic prosperity of the industries; and

(4) That Rhode Island will promote processing and consumption of agricultural and seafood products from within Rhode Island; and

(5) That Rhode Island's fishing industry has the resources to participate in matters concerning fisheries science, management, and policies, and other governmental decisions that affect fishermen.

2-25-5. Small grants and technical assistance program established. -- The department of environmental management shall establish the local agriculture and seafood small grants and technical assistance program. Through the program the department shall:

(1) Assist in the marketing of Rhode Island grown agricultural products and local seafood for the purpose of sale and promotion within the state of Rhode Island or United States;

(2) Enhance the economic competitiveness of Rhode Island grown agricultural products and local seafood;

(3) Provide financial and technical assistance support to organizations, farmers, and fishermen for activities and programs which enhance the economic viability of local agriculture and seafood, and support the development of a locally based, safe and sustainable food system;

(4) Provide individual grants to small or beginning Rhode Island farmers and fishermen that support the entry or sustainability within the respective agriculture or seafood industry;

(5) Work with the state department of health to further develop and support food safety related programs and standards pertaining to local agriculture and seafood; ~~and~~

(6) Perform other activities necessary to facilitate the success and viability of the state's agricultural and seafood sectors; ~~and~~

(7) Provide grant funding to allow the fishing industry to participate in the review and development of fisheries science, management and policies, and to participate in other governmental decisions that affect fishermen.

2-25-6. Local agriculture and seafood small grants and technical assistance fund established and solicitation of funding. -- (a) For the purpose of paying the costs to the department of environmental management of administering the local agriculture and seafood small grants and technical assistance program and for the purpose of carrying out the purposes of the program as stated in subdivisions 2-25-5(3) ~~and~~, 2-25-5(4) and 2-25-5(7) a restricted receipt account is hereby created and known as the "local agriculture and seafood small grants and technical assistance fund."

(b) The program shall be empowered to apply for and receive from any federal, state, or local agency, private foundation, or individual, any grants, appropriations, or gifts in order to carry out the purposes of the program established in § 2-25-5.

2-25-7. Use of funds. -- (a) A non-profit entity or small or beginning farmer or fishermen may apply to the department of environmental management for a grant to be used to fulfill the

purposes of the program as stated in subdivisions 2-25-5(3) and 2-25-5(4). Any grant disbursed under this program shall not exceed twenty thousand dollars (\$20,000) per year. Applications for grants authorized under this section shall:

(1) Provide a brief summary of the nonprofit entity or small or beginning farmer or fishermen's mission, goals, history, programs, and major accomplishments, success stories and qualifications;

(2) Briefly describe the proposed project or program, the capacity to carry out the program and who will benefit from the program;

(3) Describe the expected outcomes and the indicators of those outcomes;

(4) Outline the timeline to be used in the implementation of the program or project; and

(5) Provide a program or project budget.

(b) A nonprofit entity or person may apply to the department for a grant to be used to fulfill the purposes of the program as stated in § 2-25-5(7). Applications for grants authorized under this section shall conform to specifications as determined by the department of environmental management and shall not exceed a total of fifty thousand dollars (\$50,000) per year. Any funds not disbursed under § 2-25-5(7) shall be disbursed for the purposes of the program as stated in §§ 2-25-5(3) and 2-25-5(4).

~~(b)~~(c) The funds shall also be used by the department to provide administrative and technical support of the program, and to leverage program funds with other potential federal, state or nonprofit funding sources, and shall serve to develop, implement and enforce when appropriate food safety related standards and programs related to local agriculture and seafood in coordination with the Rhode Island department of health and appropriate federal agencies.

SECTION 2. Section 46-23-1 of the General Laws in Chapter 46-23 entitled "Coastal Resources Management Council" is hereby amended to read as follows:

46-23-1. Legislative findings. -- (a)(1) Under article 1, § 17 of the Rhode Island Constitution, the people shall continue to enjoy and freely exercise all the rights of fishery, and

the privileges of the shore, to which they have been heretofore entitled under the charter and usages of this state, including, but not limited to, fishing from the shore, the gathering of seaweed, leaving the shore to swim in the sea and passage along the shore; and they shall be secure in their rights to use and enjoyment of the natural resources of the state with due regard for the preservation of their values; and it is the duty of the general assembly to provide for the conservation of the air, land, water, plant, animal, mineral and other natural resources of the state, and to adopt all means necessary and proper by law to protect the natural environment of the people of the state by providing adequate resource planning for the control and regulation of the use of the natural resources of the state and for the preservation, regeneration, and restoration of the natural environment of the state.

(2) The general assembly recognizes and declares that the coastal resources of Rhode Island, a rich variety of natural, commercial, industrial, recreational, and aesthetic assets, are of immediate and potential value to the present and future development of this state; that unplanned or poorly planned development of this basic natural environment has already damaged or destroyed, or has the potential of damaging or destroying, the state's coastal resources, and has restricted the most efficient and beneficial utilization of these resources; that it shall be the policy of this state to preserve, protect, develop, and, where possible, restore the coastal resources of the state for this and succeeding generations through comprehensive and coordinated long range planning and management designed to produce the maximum benefit for society from these coastal resources; and that preservation and restoration of ecological systems shall be the primary guiding principle upon which environmental alteration of coastal resources will be measured, judged, and regulated.

(b)(1) That effective implementation of these policies is essential to the social and economic well-being of the people of Rhode Island because the sea and its adjacent lands are major sources of food and public recreation, because these resources are used by and for industry, transportation, waste disposal, and other purposes, and because the demands made on these

resources are increasing in number, magnitude, and complexity; and that these policies are necessary to protect the public health, safety, and general welfare. Pursuant to 16 U.S.C. § 1452 ("The Coastal Zone Management Act"), the general assembly hereby directs the council (referred to as "CRMC") to exercise effectively its responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone.

(2) Furthermore, that implementation of these policies is necessary in order to secure the rights of the people of Rhode Island to the use and enjoyment of the natural resources of the state with due regard for the preservation of their values, and in order to allow the general assembly to fulfill its duty to provide for the conservation of the air, land, water, plant, animal, mineral, and other natural resources of the state, and to adopt all means necessary and proper by law to protect the natural environment of the people of the state by providing adequate resource planning for the control and regulation of the use of the natural resources of the state and for the preservation, regeneration, and restoration of the natural environment of the state.

(c) That these policies can best be achieved through the creation of a coastal resources management council as the principal mechanism for management of the state's coastal resources.

(d) The general assembly recognizes and declares that maintenance dredging is required to remove natural silt accumulations; Rhode Island has not had a general maintenance dredging policy and programs for ports, port facilities, channels, harbors, public and private marinas and boating facilities, recreational facilities and habitat areas; other major coastal states have maintenance dredging policies and in-water maintenance dredge disposal sites; as a result of the lack of a general maintenance dredging policy and program and as a result there has been:

(1) A decrease in the depth of the Providence Channel from forty-four (44) feet in 1971 to twenty-four (24) feet in 1996;

(2) Navigational restrictions on ocean going vessels through the state's waterways and channels; and

(3) A decrease in the number of available slips and moorings at marinas throughout the state; and the lack of a maintenance dredging policy and programs have significant adverse environmental and economic effects on the state and therefore it is in the best interest of the state, the cities and towns of the state, and the citizens thereof for the state to have a general maintenance dredging policy and programs to resolve issues related to dredge maintenance and disposal and avoid future significant direct and indirect adverse impact on the environment and economy of the state.

(e) The coastal resources management council is hereby designated as the lead state agency for purposes of dredging in tidal waters and as such shall have the following duties and responsibilities:

(1) To coordinate the interest of the state with regard to dredging;

(2) To formulate and adopt a state policy with regard to dredging which integrates those interests;

(3) To cooperate with, negotiate, and to enter into agreements on behalf of the state with the federal government and with other public bodies and private parties with regard to dredging;

(4) To act as the initial and primary point of contact for all applications to the state for dredging projects in tidal waters;

(5) To develop, prepare, adopt pursuant to § 46-23-11, implement, and maintain a comprehensive plan for dredge material management; and

(6) To cooperate and coordinate with the departments of environmental management, transportation, administration, and health, and the economic development corporation in the conduct of these duties and responsibilities.

(f)(1) The legislature recognizes that under Article I, § 17, the submerged lands of the state are impressed with a public trust and that the state is responsible for the protection of the public's interest in these lands. The state maintains title in fee to all soil within its boundaries that lies below the high water mark, and it holds that land in trust for the use of the public. In

benefiting the public, the state preserves certain public rights which include, but are not limited to, fishery, commerce, and navigation in these waters and the submerged lands that they cover.

(2) Since its establishment in 1971, the CRMC has had the authority to manage and plan for the preservation of the coastal resources of the state including, but not limited to, submerged lands. The legislature hereby declares that, in light of the unique size, scope, and overall potential impact upon the environment of large scale filling projects involving twenty-five (25) acres or more, any lease of tidal lands, or any license to use those lands, is subject to approval, disapproval, or conditional approval by the direct enactment of the general assembly by legislative action. The CRMC shall review all requests for leases, licenses to use the land, and other authority to use the land made by any applicant prior to presentation of the request to the general assembly, and the CRMC shall make recommendations on the request to the general assembly. With the exception of any and all projects to fill land of twenty-five (25) acres or more, the general assembly hereby recognizes and declares that the CRMC is delegated the sole and exclusive authority for the leasing of submerged and filled lands and giving licenses for the use of that land. Accordingly, the CRMC will develop, coordinate, and adopt a system for the leasing of submerged and filled lands, and licenses for the use of that land, and will ensure that all leases and licenses are consistent with the public trust. Pursuant thereto, the CRMC shall impose a maximum fee of eighty thousand dollars (\$80,000) per annum for any transatlantic cable that makes landfall in Rhode Island. All such fees collected shall be deposited into the Bays, Rivers and Watersheds Fund, established pursuant to § 46-31-12.1, and shall be disbursed according to the purposes of that fund. All fees collected for the lease of tidal lands for any renewable energy project with a project cost exceeding five million dollars (\$5,000,000) shall be deposited into the Rhode Island local agriculture and seafood fund established pursuant to § 2-25-6, and shall be disbursed according to the purposes of that fund. Nothing contained in this subsection negates, repeals, or alters the provisions, processes, and requirements for the leasing of submerged land for the conduct of aquaculture as set out under chapter 10 of title 20. Therefore, nothing in this

chapter shall be construed to limit or impair the authority of the state, or any duly established agency of the state, to regulate filling or dredging affecting tidal lands owned by the state or any other entity, and nothing in this chapter shall be construed to limit or impair the obligation of the applicant to obtain all applicable regulatory approvals. Specifically, and without limiting the foregoing, nothing in this subsection negates, repeals, or alters the provisions, processes, and requirements for water quality certification contained in chapter 12 of this title.

(3) Definitions.

(i) "Filled land" means portions of tidal lands which have been rendered by the acts of man to be no longer subject to tidal action or beneath tidal waters.

(ii) "Tidal Lands" means those lands that are below the mean high water.

(iii) "Mean high water" means a line of contour representing the 18.6 year average as determined by the metonic cycle and/or its equivalent as evidenced by the records, tidal datum, and methodology of the United States Coastal Geodetic Survey within the National Oceanic and Atmospheric Administration.

SECTION 3. This act shall take effect upon passage.