

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO WATERS AND NAVIGATION - RHODE ISLAND CLEAN WATER
FINANCE AGENCY

Introduced By: Senators P Fogarty, and Sosnowski

Date Introduced: March 10, 2011

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

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

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

5 (1) "Agency" means the Rhode Island clean water finance agency;

6 (2) "Approved project" means any project or portion thereof that has been issued a
7 certificate of approval by the department for financial assistance from the agency;

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

9 (4) "Bond act" means any general or special law authorizing a local governmental unit to
10 incur indebtedness for all or any part of the cost of projects coming within the scope of a water
11 pollution abatement project, including but not limited to section 45-12-2;

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

13 (6) "Certificate of approval" means the certificate of approval contemplated by section
14 46-12.2-8;

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

1 (8) "Clean Water Act" or "act" means the Federal Water Pollution Control Act, act of
2 June 30, 1948, ch. 758, as added Oct. 18, 1972, Pub. L. No. 92-500, 86 Stat. 896, as added Dec.
3 27, 1977, Pub. L. No. 95-217, 91 Stat. 1566 (codified at 33 U.S.C. section 1251 et seq., as
4 amended and as hereafter amended from time to time);

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

22 (10) "Department" means the department of environmental management;

23 (11) "Financial assistance" means any form of financial assistance other than grants
24 provided by the agency to a local governmental unit in accordance with this chapter for all or any
25 part of the cost of an approved project, including, without limitation, temporary and permanent
26 loans, with or without interest, guarantees, insurance, subsidies for the payment of debt service on
27 loans, lines of credit, and similar forms of financial assistance; provided, however,
28 notwithstanding the foregoing, for purposes of capitalization grant awards made available to the
29 agency, pursuant to the American Recovery and Reinvestment Act of 2009 (P.L. 111-5), or as
30 otherwise required in connection with other capitalization grant awards made available to the
31 agency, financial assistance shall also include principal forgiveness and negative interest loans;

32 (12) "Fully marketable form" means a local governmental obligation in form satisfactory
33 to the agency duly executed and accompanied by an opinion of counsel of recognized standing in
34 the field of municipal law whose opinions have been and are accepted by purchasers of like

1 obligations to the effect that the obligation is a valid and binding obligation of the local
2 governmental unit issuing the obligation, enforceable in accordance with its terms;

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

7 (i) Taxes,

8 (ii) Wastewater system revenues,

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

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

14 (v) Investment earnings,

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

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

19 (viii) Local aid distributions, and

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

23 (14) "Loan" means a loan by the agency to a local governmental unit for costs of an
24 approved project, including, without limitation, temporary and permanent loans, and lines of
25 credit;

26 (15) "Loan agreement" means any agreement entered into by the agency with a local
27 governmental unit pertaining to a loan, other financial assistance, or local governmental
28 obligations including, without limitation, a loan agreement, trust agreement, security agreement,
29 reimbursement agreement, guarantee agreement, or similar instrument;

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

34 (17) "Local governmental obligations" means bonds, notes, and other evidences of

1 indebtedness in fully marketable form issued by a local governmental unit to evidence a loan
2 from the agency in accordance with this chapter or otherwise as provided herein;

3 (18) "Local governmental unit" means any town, city, district, commission, agency,
4 authority, board, or other political subdivision or instrumentality of the state or of any political
5 subdivision thereof responsible for the ownership or operation of a water pollution abatement
6 project, including the Narragansett Bay water quality management district commission; and, for
7 purposes of dam safety or dam maintenance projects, any person seeking financial assistance as a
8 joint applicant with any of the above entities;

9 (19) "Local interest subsidy trust fund" means the local interest subsidy trust fund
10 established under section 46-12.2-6;

11 (20) "Person" means any natural or corporate person, including bodies politic and
12 corporate, public departments, offices, agencies, authorities, and political subdivisions of the
13 state, corporations, societies, associations, and partnerships, and subordinate instrumentalities of
14 any one or more political subdivisions of the state;

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

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

30 (23) "Rhode Island water pollution control revolving fund" means the Rhode Island
31 water pollution control revolving fund established pursuant to section 46-12.2-6;

32 (24) "Trust agreement" means a trust agreement, loan agreement, security agreement,
33 reimbursement agreement, currency or interest rate exchange agreement, or other security
34 instrument, and a resolution, loan order, or other vote authorizing, securing, or otherwise

1 providing for the issue of bonds, loans, or local governmental obligations;

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

14 (26) "Water pollution abatement project" or "project" means any wastewater treatment or
15 conveyance project that contributes to removal, curtailment, or mitigation of pollution of the
16 surface water of the state, and conforms with any applicable comprehensive land use plan which
17 has been adopted or any dam safety, [removal](#) or ~~dam~~ maintenance project; it also means a project
18 to enhance the waters of the state, which the agency has been authorized by statute to participate
19 in;

20 (27) "Water pollution control revolving fund" means the water pollution control
21 revolving fund contemplated by title VI of the Water Quality Act and established under section
22 46-12.2-6;

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

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO WATERS AND NAVIGATION - RHODE ISLAND CLEAN WATER
FINANCE AGENCY

- 1 This act would include dam removal under the definition of a "water pollution abatement
- 2 package".
- 3 This act would take effect upon passage.

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