

# RESOLUTION OF THE CITY COUNCIL

No. 263

Approved May 23, 1996

RESOLVED, That the City Council opposes passage by the General Assembly of House Bill 96-H 8400 relating to "An Act relating to the Narragansett Bay Commission of Rhode Island" in substantially the form attached.

IN CITY  
COUNCIL  
MAY 16 1996  
FINAL READING  
READ AND PASSED  
*Evelyn V. Fargnoli*  
PRESIDENT  
*Jan M. Chagnon*  
CLERK

APPROVED  
MAY 23 1996  
*Vincent A. Cianci*  
MAYOR

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

96-H 8400

JANUARY SESSION, A.D. 1996

A N A C T

RELATING TO  
NARRAGANSETT BAY  
COMMISSION OF RHODE ISLAND

96-H 8400

Introduced By: Reps. Salisbury and Pires

Date Introduced: February 6, 1996

Referred To: Committee on Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. With the exception of Sections 37, 38, 39, 40,  
2   41, 42, 43 and 44 of said Chapter, Chapter 46-25 of the General  
3   Laws entitled "Narragansett Bay Water Quality Management District  
4   Commission" is hereby repealed in its entirety and replaced with  
5   the following:

6           46-25-1. Short title. -- This chapter shall be known as the  
7   "Narragansett Bay Commission of Rhode Island Act."

8           46-25-2. Legislative findings. -- It is hereby found and  
9   declared that:

10           (a) There exists in the Providence metropolitan area and  
11   Narragansett Bay severe water quality problems resulting from the  
12   discharge of pollutants, conventional and unconventional, into  
13   Narragansett Bay.

14           (b) It is further found and declared that Narragansett Bay  
15   may be the greatest natural resource of the state of Rhode  
16   Island, and continuing discharge of these pollutants jeopardizes  
17   the environmental integrity of the entire Narragansett Bay and

1 creates severe and detrimental ecological and economic impact  
2 upon the people of the state of Rhode Island.

3 (c) It is further found and declared that because of the  
4 scope and complexity of the work necessary to correct and  
5 minimize these pollution discharges and the scope of financing  
6 required, local municipal governments in the Providence  
7 metropolitan area have been unable alone to cope properly and  
8 immediately with the magnitude of the pollution discharges.

9 (d) It is further found and declared that economy and  
10 efficiency dictate the desirability for an overall plan for  
11 dealing with pollution discharges in the Narragansett Bay and the  
12 Providence metropolitan area.

13 (e) It is further found and declared that the most  
14 effective and efficient method to combat the discharge of  
15 pollutants in the Narragansett Bay is to create a Narragansett  
16 Bay Commission of Rhode Island, to be charged with the  
17 acquisition, planning, construction, financing, extension,  
18 improvement, and operation and maintenance of publicly owned  
19 sewage treatment facilities in the Narragansett Bay water quality  
20 management district, with appropriate provision for a portion of  
21 the financing of the activities to be undertaken by the pledging  
22 of the full faith and credit of the state of Rhode Island.

23 (f) The most effective and efficient method of effectuating  
24 an overall plan for dealing with discharges in the watershed of  
25 the Narragansett Bay may include the merger, consolidation,  
26 acquisition, operation and management of other sewage treatment  
27 facilities located in the State with or by the Narragansett Bay  
28 Commission of Rhode Island as the said Commission may from time  
29 to time determine.

30 46-25-3. Definitions. -- As used in this chapter, the  
31 following words and terms shall have the following meanings  
32 unless the context shall indicate another or different meaning:

33 (a) "Administrative penalty" shall mean a monetary penalty

1 not to exceed the civil penalty specified in § 46-25-25.2 of this  
2 chapter.

3 (b) "Bonds" and "notes" as used in §§ 46-25-37 - 46-25-44  
4 shall mean and include the general obligation bonds and notes  
5 issued by the state pursuant to §§ 46-25-37 - 46-25-44, all of  
6 which shall be issued in the name of and on behalf of the state.

7 (c) "Bonds" and "notes" as used in §§ 46-25-45 - 46-25-56,  
8 shall mean and include the bonds, notes, securities, or other  
9 obligations or evidences of indebtedness issued by the commission  
10 pursuant to §§ 46-25-45 - 46-25-56, all of which shall be issued  
11 under the name of or known as obligations of the Narragansett Bay  
12 Commission of Rhode Island.

13 (d) "Commission" shall be construed to mean the  
14 Narragansett Bay Commission of Rhode Island.

15 (e) "Compliance schedule" means a schedule of remedial  
16 measures including an enforceable sequence of actions, or  
17 operations leading to compliance with an effluent limitation or  
18 any other limitation, prohibition, or standard.

19 (f) "Fund" shall be construed to mean the Narragansett Bay  
20 water quality management district commission fund to be held by  
21 the commission.

22 (g) "Narragansett Bay water quality management district"  
23 shall mean and include:

24 (1) The city of Providence and those portions of the city  
25 of Cranston and portions of the towns of Johnston, North  
26 Providence, and Lincoln, formerly served by the city of Providence  
27 sewage treatment system as well as the cities of East Providence,  
28 Pawtucket, and Central Falls, the towns of Lincoln and  
29 Cumberland, and that portion of the town of Smithfield lying  
30 northeast of the Douglas Pike, also called state route No. 7;

31 (2) Any other portions of those municipalities as may by  
32 resolution request to be served by the district and which are  
33 accepted by the commission as part of the district; and

1           (3) Any other cities or towns or districts in Rhode Island  
2 or portions thereof as may, from time to time, join the district  
3 pursuant to agreement with the commission, providing for the  
4 acquisition of the sewage treatment facilities of such city,  
5 town, or district, or the merger and consolidation of such  
6 district into the commission, or the management and operation of  
7 the sewage treatment facilities of such city, town or district by  
8 the commission.

9           (h) "Pollutant" shall be construed to mean the same as  
10 defined in § 46-12-1.

11           (i) "Pollution" shall be construed to mean the same as  
12 defined in § 46-12-1.

13           (j) "Person" shall include an individual, firm,  
14 partnership, association, and private or municipal corporation  
15 and federal or state agencies.

16           (k) "Project" shall be construed to mean the Narragansett  
17 Bay water quality management district project, and shall include  
18 the acquisition, ownership, design, operation, construction,  
19 repair, rehabilitation, improvement, development, sale, lease or  
20 disposition of, or the provision of financing for, any sewage  
21 treatment facility.

22           (l) "Sewage" shall be construed to mean the same as  
23 "pollutant" as defined in § 46-12-1.

24           (m) "Sewage treatment facilities" means any sewage  
25 treatment plant, structure, combined sewer overflows, equipment,  
26 interceptors, mains, and pumping stations, or other property,  
27 real, personal, or mixed, for the treatment, storage, collection,  
28 transporting, or disposal of sewage, or any property or system to  
29 be used in whole or in part for any of the aforesaid purposes, or  
30 any other property or system incidental to, or which has to do  
31 with, or the end purpose of which is any of the foregoing;  
32 provided, however, that the term shall not include any system of  
33 lateral sewers within a municipality.

1 (n) "Source" shall mean any building, structure, facility,  
2 or installation from which there is or may be the discharge of  
3 pollutants.

4 (o) "State" shall mean the state of Rhode Island and  
5 Providence Plantations."

6 (p) "Water supplier" shall mean any person, including a  
7 municipal water department or agency, public water system,  
8 special water district, or private water company engaged in the  
9 distribution of water for potable purposes.

10 46-25-4. Establishment of commission -- Purpose. -- (a)  
11 There is hereby authorized, created, and established a public  
12 corporation of the state having a distinct legal existence from  
13 the state and not constituting a department of state government  
14 to be known as "The Narragansett Bay Commission of Rhode Island",  
15 with such powers as are set forth in this chapter, for the  
16 purposes of acquiring, planning, constructing, extending,  
17 improving, and operating and maintaining publicly owned sewage  
18 treatment facilities in the district.

19 (b) It is the intent of the general assembly, by the  
20 passage of this chapter, to vest in the commission all powers,  
21 authority, rights, privileges, and titles which may be necessary  
22 to enable it to accomplish the purposes herein set forth, and  
23 this chapter and the powers herein granted shall be liberally  
24 construed in conformity with those purposes.

25 (c) The commission and its corporate existence shall  
26 continue until terminated by law. Upon termination of the  
27 existence of the commission, all its rights and properties shall  
28 pass to and be vested in the state, and, in accordance with law,  
29 the governor may permit whatever rights and properties he or she  
30 shall see fit to pass to municipalities located within the  
31 district, if the municipality or municipalities accept the rights  
32 or properties.

33 46-25-5. General Powers. -- The commission shall have the

1 following powers, together with all powers incidental thereto or  
2 necessary for the performance of those stated in this chapter:

3 (a) To sue and be sued, complain and defend, in its  
4 corporate name.

5 (b) To have a seal which may be altered at pleasure and to  
6 use the seal by causing it, or a facsimile thereof, to be  
7 impressed or affixed or in any other manner reproduced.

8 (c) To purchase, take, receive, lease, or otherwise  
9 acquire, own, hold, improve, use, and otherwise deal in and with,  
10 real or personal property, or any interest therein, wherever  
11 situated.

12 (d) To make and execute agreements of lease, construction  
13 contracts, operation contracts, and all other contracts and  
14 instruments necessary or convenient in the exercise of the powers  
15 and functions of the commission granted by this chapter.

16 (e) To make guarantees and incur or assume liabilities as  
17 the commission may deem appropriate.

18 (f) To lend money for its purposes, invest and reinvest its  
19 funds and at its option to take and hold real and personal  
20 property for the payment of funds so loaned or invested.

21 (g) To secure the cooperation and assistance of the United  
22 States, and any of its agencies, and of agencies of this state  
23 and its municipalities in the work of the commission.

24 (h) To accept grants, donations, drafts, loans of funds,  
25 and contributions in money, services, materials, or otherwise,  
26 from the United States or any of its agencies, from the state and  
27 its agencies, or from any other source, and to use or expend  
28 those moneys, services, materials, or other contributions in  
29 carrying out the purposes of this chapter.

30 (i) To make assessments and impose reasonable and just user  
31 charges, and to pay for such expenses as may be required by law  
32 or as may be determined by the commission to be necessary for the  
33 maintenance and operation of the project. In addition to the

1 foregoing, the assessments and user charges imposed pursuant to  
2 this chapter by the commission shall be set at a rate sufficient  
3 to enable the commission to pay the debt service cost on not in  
4 excess of fourteen million and fifty-nine thousand dollars  
5 (\$14,059,000) of general obligations bonds of the state and on  
6 bonds and notes of the commission issued pursuant to this  
7 chapter.

8 (j) To establish a sewage pretreatment program, and to  
9 require as a condition, to the grant or reissuance of any  
10 approval, license, or permit required under the program, that the  
11 person applying for the approval, license, or permit, pay to the  
12 commission a reasonable fee based on the cost of reviewing and  
13 acting upon the application and based on the costs of  
14 implementing the program. In addition, where violations of the  
15 provisions of §§ 46-25-25 - 46-25-25.3, or of any permit, rule,  
16 regulation, or order issued pursuant thereto have occurred, the  
17 violator shall reimburse the commission for the actual costs of  
18 implementing and enforcing the terms of the permit, rule,  
19 regulation, or order as a condition to the grant or reissuance of  
20 any approval, license, or permit.

21 (k) To acquire or contract to acquire, from any person, the  
22 federal government or the state, or any agency of either the  
23 federal government or state, or any municipality, by grant,  
24 purchase, lease, gift, condemnation, or otherwise, or to obtain  
25 options for the acquisition of any property, real or personal,  
26 improved or unimproved, and interests in land less than the fee  
27 thereof; and to own, hold, clear, improve, develop, and  
28 rehabilitate, and to sell, assign, exchange, transfer, convey,  
29 lease, mortgage, or otherwise dispose of or encumber the property  
30 for the purposes of carrying out the provisions and intent of  
31 this chapter for such consideration as the commission shall  
32 determine.

33 Without limiting the generality of the foregoing, the

1 commission is expressly empowered to lease or sell any part of  
2 the real or personal property owned or controlled by the  
3 commission to the state, or any department thereof or to any  
4 municipality... The provisions of this section or of any other  
5 laws of this state (other than this chapter) restricting the  
6 power of the state, its departments or any municipality, to  
7 lease, for a term not exceeding ninety-nine (99) years, or sell  
8 property, or requiring or prescribing publication of notice of  
9 intention to lease or sell, advertising for bids, the terms of  
10 contracts of lease or sale, that would in any manner interfere  
11 with the purpose of this section, which is to provide for the  
12 mutual cooperation by and between the commission and the state,  
13 its departments or any municipality, to the fullest extent  
14 possible, are not applicable to leases and sales made pursuant to  
15 this section.

16 (l) To elect or appoint officers and agents of the  
17 commission, and to define their duties and fix their  
18 compensation, including authority to employ attorneys,  
19 accountants, architectural, technical, and engineering  
20 consultants, and such other employees or agents as the commission  
21 shall deem necessary in its judgment.

22 (m) To make and alter bylaws, not inconsistent with this  
23 chapter, for the administration and regulation of the affairs of  
24 the commission, and the bylaws may contain provisions  
25 indemnifying any person who is or was a director or a member of  
26 the commission, in the manner and to the extent provided in  
27 § 7-1.1-4.1 of the Rhode Island Business Corporation Act.

28 (n) To construct, acquire, repair, develop, own, operate,  
29 maintain, extend, improve, rehabilitate, renovate, equip, and  
30 furnish a project and make provision for its management.

31 (o) To prepare or cause to be prepared plans,  
32 specifications, designs, and estimates of costs of construction,  
33 reconstruction, rehabilitations, improvement, alteration, or

1 repair of a project, and to modify the same.

2 (p) To issue orders of general or specific applicability to  
3 carry out the purposes of the project.

4 (q) To have and exercise all powers necessary or convenient  
5 to effect its purposes.

6 (r) To impose administrative penalties in accordance with  
7 the provisions of § 46-25-25.4.

8 (s) To secure certain payments on bonds and notes of the  
9 commission, in whole or in part, by insurance or by letters or  
10 lines of credit or other credit facilities.

11 (t) To enter into agreements, contracts, and other  
12 arrangements with the state and any of its departments, agencies,  
13 boards or commissions relating to the execution or performance of  
14 any function or purpose of the commission, including, but not  
15 limited to, investments, employee compensation and employee  
16 benefits, and the state and its departments, agencies, boards and  
17 commissions are hereby authorized to enter into such agreements,  
18 contracts and other arrangements with the commission, and upon  
19 the request of the commission shall enter into such agreements,  
20 contracts and other arrangements with the commission.

21 46-25-6. Composition of commission -- Appointment of  
22 members. -- (a) The commission shall consist of twenty-three (23)  
23 members to be appointed in the following manner: ten (10) members  
24 shall be appointed by the governor from the public as herein  
25 provided. Two (2) members shall be appointed by the mayor of the  
26 city of Providence; one member each shall be appointed by the  
27 mayor of the town of North Providence, the mayor of the town of  
28 Johnston, mayor of the city of Pawtucket, mayor of the town of  
29 Cumberland, town administrator of the town of Lincoln, mayor of  
30 the city of Central Falls, and mayor of the city of East  
31 Providence. Two (2) members of the house of representatives to  
32 be appointed by the speaker, and two (2) members of the senate to  
33 be appointed by the majority leader.

1 (b) The appointments to the commission shall be made as  
2 follows:

3 (1) The governor shall appoint two (2) members of the  
4 commission to serve until the first day of April, 1981, two (2)  
5 members to serve until the first day of April, 1982, four (4)  
6 members to serve until the first day of April, 1983, one (1)  
7 member to serve until the first day of April, 1993, one (1)  
8 member to serve until the first day of April, 1994, and all to  
9 serve until their successors are appointed and qualified. In the  
10 month of March in each year thereafter, the governor, with the  
11 advice and consent of the senate, shall appoint successors to the  
12 members of the commission whose term is expiring in that year,  
13 each member so appointed to hold office for a three (3) year  
14 period commencing on the first day of April in the year of  
15 appointment and continuing until the first day of April in the  
16 third year after his or her appointment and until his or her  
17 successor is appointed and qualified. Any vacancy for a public  
18 member, which may occur in the commission, shall be filled by the  
19 governor for the remainder of the unexpired term.

20 (2) The mayor of the city of Providence shall appoint one  
21 member of the commission to serve until the first day of April,  
22 1982, and one member to serve until the first day of April, 1983,  
23 and all to serve until their successors are appointed and  
24 qualified. The mayor of the town of North Providence and the  
25 mayor of the town of Johnston each shall appoint a member to  
26 serve until the first day of April, 1981, each member so  
27 appointed shall serve until his or her successor is appointed and  
28 qualified. The Mayor of the city of Pawtucket shall appoint one  
29 (1) member of the commission to serve until the first day of  
30 April, 1993, and such member so appointed shall serve until his  
31 or her successor is appointed and qualified. The town  
32 administrator of the town of Lincoln and the mayor of the city of  
33 Central Falls shall each appoint one (1) member of the commission

1 to serve until the first day of April, 1994, and each member so  
2 appointed shall serve until his or her successor is appointed and  
3 qualified. The mayors of the town of Cumberland and the city of  
4 East Providence shall each appoint one (1) member of the  
5 commission to serve until the first day of April, 1995, and each  
6 member so appointed shall serve until his or her successor is  
7 appointed and qualified. In the month of March in each year  
8 thereafter, the respective mayors and town administrator shall  
9 appoint a successor to the member of the commission whose term is  
10 expiring, each member so appointed to hold office for a three (3)  
11 year period, commencing on the first day of April in the year of  
12 appointment and continuing until the first day of April in the  
13 third year after his or her appointment and until his or her  
14 successor is appointed and qualified. The legislative members so  
15 appointed by the speaker of the house of representatives and the  
16 majority leader of the senate shall hold office for a three (3)  
17 year period and until their successor is appointed and qualified.  
18 Any vacancy which may occur in the commission shall be filled by  
19 the appointing authority who originally appointed the member, and  
20 the appointment shall be for the remainder of the unexpired term.

21 (3) Members of the commission shall be eligible for  
22 reappointment.

23 46-25-7. Officers of the commission -- Quorum and vote  
24 required. -- Annually in the month of April thereafter, the  
25 commission shall elect one of its members as chairperson, and one  
26 of its members as vice chairperson. Twelve (12) members of the  
27 commission shall constitute a quorum. No vacancy in the  
28 membership of the commission shall impair the right of a quorum  
29 to exercise all the rights and perform all of the duties of the  
30 commission.

31 46-25-8. Compensation -- Personnel. -- (a) The members of  
32 the commission shall be paid fifty dollars (\$50.00) for  
33 attendance at a full commission meeting, up to a maximum of three

1 thousand dollars (\$3,000) per year as compensation, and shall be  
2 reimbursed for actual expenses incurred in carrying out their  
3 duties under this chapter, except that full time state and  
4 municipal employees shall not be paid for meetings held wholly  
5 during their normal working hours.

6 (b) Notwithstanding the provisions of any other law, no  
7 officer or employee of the state shall be deemed to have  
8 forfeited or shall forfeit his or her office or employment by  
9 reason of his or her acceptance of membership on the commission  
10 or his or her service thereto.

11 (c) The commissioners shall employ an executive director  
12 who shall also be the secretary and who shall administer, manage,  
13 and direct the affairs and business of the commission, subject to  
14 the policies, control, and direction of the commissioners. The  
15 commissioners may employ technical experts and other officers,  
16 agents, and attorneys and fix their qualifications, duties, and  
17 compensation. The commissioners may employ other employees,  
18 permanent and temporary. Employees of the commission shall not,  
19 by reason of their employment, be deemed to be employees of the  
20 state for any purpose, and any provision of the general laws to  
21 the contrary notwithstanding, including, without limiting the  
22 generality of the foregoing, chapters 29, 39, and 42 of title 28  
23 and chapters 4, 8, 9, and 10 of title 36. The commissioners may  
24 delegate to one or more of its agents or employees such  
25 administrative duties as it may deem proper.

26 (d) The secretary shall keep a record of the proceedings of  
27 the commission and shall be custodian of all books, documents,  
28 and papers filed with the commission and of its minute book and  
29 seal. He or she shall have authority to cause to be made copies  
30 of all minutes and other records and documents of the commission,  
31 and to give certificates under the seal of the commission to the  
32 effect that the copies are true copies and all persons dealing  
33 with the commission may rely upon the certificates.

1 (e) The department of administration may furnish the  
2 commission with suitable offices and telephone service in the  
3 state house, state office building, or some other convenient  
4 location, for the transaction of its business.

5 (f) The commissioners of the commission shall, at regular  
6 intervals conduct business meetings for the purpose of carrying  
7 out its general business. The meetings shall be subject to the  
8 provisions of chapter 46 of title 42 entitled "open meetings".

9 46-25-9. Appropriated moneys and advances from general

10 fund. -- (1) The commission is authorized to accept such moneys  
11 as may be appropriated from time to time by the general assembly  
12 for the carrying out of its duties hereunder; provided, however,  
13 that any such appropriation shall be considered as a loan to the  
14 commission from the general fund of the state and shall be  
15 returned thereto at such time as may be stipulated in the act  
16 appropriating the money.

17 (2) The commission is further authorized to accept advances  
18 or loans of funds from the general fund of the state:

19 (a) In anticipation of the receipt of federal funds, and

20 (b) For the purpose of meeting debt service liabilities and  
21 providing for the construction, maintenance, or operation of the  
22 project during such periods of time as the fund may be  
23 insufficient for those purposes and, at the request of the  
24 commission, the director of the department of administration is  
25 authorized and empowered, with the approval of the governor, to  
26 make those advances. Provided, however, that the advances shall  
27 be returned to the general fund at such time or times as the  
28 director shall have specified, and that the total amount of the  
29 advances outstanding and unreturned at any one time shall not  
30 exceed three million dollars (\$3,000,000). The state controller  
31 is hereby authorized and directed to draw his or her orders upon  
32 the general treasurer for the payment of the advances upon  
33 receipt by the controller of proper vouchers signed by the

1 director of the department of administration and approved by the  
2 governor.

3 46-25-10. Acquisition, merger and consolidation of sewer  
4 treatment facilities of cities, towns, and districts and the  
5 commission. -- (a) Subject to the agreement of the commission  
6 and a city, town or district, the sewage treatment facilities of  
7 such city, town or district shall be merged with and into the  
8 commission or acquired by the commission. Upon such merger or  
9 acquisition, the district or any commission or other governing  
10 authority established by such city or town or the state to manage  
11 and operate such sewage treatment facilities shall cease to  
12 exist; provided, however, that all actions shall be taken which  
13 are necessary to preserve any federal funds or federal assistance  
14 currently available to or expected to become available to the  
15 city, town or district for sewage treatment facilities. The  
16 existence of the commission shall continue unaffected and  
17 unimpaired by said merger or acquisition, and the commission  
18 shall continue to be governed by this chapter.

19 (b) The district, the city or town and any commission or  
20 governing authority established by such city or town or the state  
21 to manage and operate such sewage treatment facilities are hereby  
22 authorized to and may pass such resolutions, enter into such  
23 agreements and do all things deemed useful and necessary by it to  
24 effectuate the merger or acquisition; and the commission is  
25 hereby authorized and may pass such resolutions, enter into such  
26 agreements and do all things useful and necessary by it to  
27 effectuate the merger or acquisition.

28 (c) Upon completion, the merger or acquisition shall be  
29 certified to the secretary of state by the executive director of  
30 the commission.

31 (d) In accordance with the terms of the merger or  
32 acquisition agreement, on the effective date of the merger or  
33 acquisition, all property, real, personal and mixed, and all

1 debts due on whatever account, all other choses in action, and  
2 all and every other interest of or belonging to or due to the  
3 district or city or town related to such sewage treatment  
4 facilities, shall be taken and deemed to be transferred to and  
5 vested in the commission without further act or deed; all persons  
6 employed by the district or city or town related to such sewage  
7 treatment facilities on the date of the merger or acquisition  
8 shall be deemed employees of the commission; and the title to any  
9 real estate, or any interest therein, vested in the district or  
10 city or town related to such sewage treatment facilities shall  
11 not revert or be in any way impaired by reason of the merger or  
12 acquisition. In accordance with the terms of the merger or  
13 acquisition agreement, the commission shall also be responsible  
14 and liable for all the liabilities and obligations of the  
15 district or city or town related to such sewage treatment  
16 facilities; and any claim existing or action or proceeding  
17 pending by or against the district or city or town related to  
18 such sewage treatment facilities may be prosecuted as if the  
19 merger or acquisition had not taken place, or the commission may  
20 be substituted in its place. Neither the rights of creditors nor  
21 any liens upon the property of the district or city or town  
22 related to such sewage treatment facilities shall be impaired by  
23 the merger or acquisition. The merger or acquisition as provided  
24 for herein shall not impair the obligation of any contract or  
25 agreement nor abate any suit, action or other proceeding lawfully  
26 commenced by or against the district or city or town related to  
27 such sewage treatment facilities, or any of its members or  
28 officers in relation to the discharge of their official duties,  
29 but a court of competent jurisdiction may, on motion filed within  
30 twelve (12) months after the effective date of the merger or  
31 acquisition, allow such a suit, action or proceeding to be  
32 maintained by or against the commission or any of its  
33 commissioners in relation to the discharge of their official

1 duties.

2 (e) Upon completion of the acquisition, merger or  
3 consolidation, the district or any commission or other governing  
4 authority established by a city or town or the state to manage  
5 and operate the sewage treatment facilities shall cease to exist  
6 and any ordinance, charter provision, public law, general law, or  
7 bylaw governing such district, commission, governing authority or  
8 sewage treatment facility shall be repealed in its entirety.

9 (f) Employees of such sewage treatment facility, district,  
10 commission, or other governing authority who subsequently become  
11 employees of the commission as a result of such acquisition,  
12 merger or consolidation, shall be able to utilize their term of  
13 service with such sewage treatment facility, district, commission  
14 or other governing authority, as determined by the personnel  
15 administrator, for the purposes of longevity computation as it  
16 applies to wages, vacation time, and longevity increases.  
17 Provided, however, accrued vacation, sick leave, and all other  
18 benefits with the municipality, sewage treatment facility,  
19 district or other governing authority shall not be transferred.

20 (g) Any sewer use fees, charges, and assessments in effect  
21 prior to the merger or acquisition shall remain in effect and may  
22 be assessed and collected by the commission in accordance with  
23 §§ 46-25-5(i), 46-25-5(j), 46-25-21, 46-25-22 and 46-25-22.1.

24 46-25-11. Power to acquire land. -- For any purpose of this  
25 chapter, the commission may, at any time and from time to time,  
26 take by eminent domain or acquire by purchase or otherwise, such  
27 land, water rights, easements, and other property or interests in  
28 property, public and private, as it may determine necessary or  
29 desirable for the purposes of this chapter.

30 46-25-12. Interests in land taken. -- Any taking under this  
31 chapter may be in fee or otherwise, perpetual in duration or for  
32 a limited period of time, as the commission shall determine and  
33 set forth in the order of taking.

1           46-25-13. Eminent domain procedure. -- (a) If for any of  
2 the purposes of this chapter, the commission shall find it  
3 necessary to acquire any property, whether for immediate or  
4 future use, the commission may find and determine that the  
5 property, whether a fee simple absolute or a lesser interest, is  
6 required for the project, and upon that determination, the  
7 property shall be deemed to be required for public use until  
8 otherwise determined by the commission; and with the exceptions  
9 hereinafter specifically noted, the determination shall not be  
10 affected by the fact that the property has theretofore been taken  
11 for, or is then devoted to, a public use; but the public use in  
12 the hands or under the control of the commission shall be deemed  
13 superior to the public use in the hands of any other person,  
14 association, or corporation; provided further, however, that no  
15 real property or interest, estate, or right therein belonging to  
16 the state shall be acquired without consent of the state; and no  
17 real property or interest, estate, or right therein belonging to  
18 any municipality shall be acquired without the consent of the  
19 municipality; and no real property, or interest or estate  
20 therein, belonging to a public utility corporation may be  
21 acquired without the approval of the public utility commission or  
22 another regulatory body having regulatory power over such public  
23 utility corporation.

24           (b) The commission may proceed to acquire and is hereby  
25 authorized to and may proceed to acquire property, whether a fee  
26 simple absolute or a lesser interest, by the exercise of the  
27 right of eminent domain in the manner prescribed in this chapter.

28           (c) Nothing herein contained shall be construed to prohibit  
29 the commission from bringing any proceedings to remove a cloud on  
30 title or such other proceedings as it may, in its discretion,  
31 deem proper and necessary, or from acquiring property by  
32 negotiation or purchase.

33           (d) The necessity for the acquisition of property under

1 this chapter shall be conclusively presumed upon the adoption by  
2 the commission of a vote determining that the acquisition of the  
3 property or any interest therein described in that vote is  
4 necessary for the acquisition, construction, or operation of the  
5 project. Within six (6) months after its passage, the commission  
6 shall cause to be filed in the appropriate land evidence records  
7 a copy of its vote together with a statement signed by the  
8 chairperson or vice-chairperson of the commission that the  
9 property is taken pursuant to this chapter, and also a  
10 description of the real property indicating the nature and extent  
11 of the estate or interest therein taken as aforesaid and a plat  
12 thereof, which copy of the vote and statement of the chairperson  
13 or vice-chairperson shall be certified by the secretary of the  
14 commission and the description and plat shall be certified by the  
15 city or town clerk for the city or town within which the real  
16 properties lies.

17 (e) Forthwith thereafter the commission shall cause to be  
18 filed in the superior court in and for the county within which  
19 the real property lies a statement of the sum of money estimated  
20 to be just compensation for the property taken, and shall deposit  
21 in the superior court to the use of the persons entitled thereto  
22 the sum set forth in the statement. The commission shall satisfy  
23 the court that the amount so deposited with the court is  
24 sufficient to satisfy the just claims of all persons having an  
25 estate or interest in the real property. Whenever the commission  
26 satisfies the court that the claims of all persons interested in  
27 the real property taken have been satisfied, the unexpended  
28 balance shall be ordered repaid forthwith to the commission.

29 (f) Upon the filing of the copy of the vote, statement,  
30 description, and plat in the land evidence records and upon the  
31 making of the deposit in accordance with the order of the  
32 superior court, title to the real property in fee simple absolute  
33 or such lesser estate or interest therein specified in said

1 resolution shall vest in the commission, and that real property  
2 shall be deemed to be condemned and taken for the use of the  
3 commission and the right to just compensation for the condemned  
4 property shall vest in the persons entitled thereto, and the  
5 commission thereupon may take possession of the real property.  
6 No sum so paid unto the court shall be charged with clerks' fees  
7 of any nature.

8 (g) After the filing of the copy of the vote, statement,  
9 description, and plat, notice of the taking of that land or other  
10 real property shall be served upon the owners of or persons  
11 having any estate or interest in the real property by the sheriff  
12 or his or her deputies of the county in which the real estate is  
13 situated by leaving a true and attested copy of the vote,  
14 statement, description, and plat with each of those persons  
15 personally, or at the last and usual place of abode in this state  
16 with some person living there, and in case any of those persons  
17 are absent from this state and have no last and usual place of  
18 abode therein occupied by any person, the copy shall be left with  
19 the person or persons, if any, in charge of, or having possession  
20 of the real property taken of the absent persons, and another  
21 copy thereof shall be mailed to the address of the person, if the  
22 address is known to the officer serving the notice.

23 (h) After the filing of the vote, description, and plat,  
24 the commission shall cause a copy thereof to be published in some  
25 newspaper having general circulation in the city or town in which  
26 the real property lies at least once a week for three (3)  
27 successive weeks.

28 (i) If any party shall agree with the commission upon the  
29 price to be paid for the value of the real property so taken and  
30 of appurtenant damage to any remainder or for the value of his or  
31 her estate, right, or interest therein, the court, upon  
32 application of the parties in interest, may order that the sum  
33 agreed upon be paid forthwith from the money deposited, as the

1 just compensation to be awarded in the proceedings; provided,  
2 however, that no payment shall be made to any official or  
3 employee of the commission for any property or interest therein  
4 acquired from the official or employee unless the amount of the  
5 payment is determined by the court to constitute just  
6 compensation to be awarded in the proceedings.

7 (j) Any owner of, or person entitled to any estate or right  
8 in, or interested in any part of the real property so taken, who  
9 cannot agree with the commission upon the price to be paid for  
10 his or her estate, right or interest in the real property so  
11 taken and the appurtenant damage to the remainder, may, within  
12 three (3) months after personal notice of the taking, or if he or  
13 she has no personal notice, may within one year from the time the  
14 sum of money estimated to be just compensation is deposited in  
15 the superior court to the use of the persons entitled thereto,  
16 apply by petition to the superior court for the county in which  
17 the real property is situated, setting forth the taking of his or  
18 her land or his or her estate or interest therein and praying for  
19 an assessment of damages by the court or by a jury. Upon the  
20 filing of the petition the court shall cause twenty (20) days'  
21 notice of the pendency thereof to be given to the commission by  
22 serving the chairperson or vice-chairperson of the commission  
23 with a certified copy thereof.

24 (k) After the service of notice the court may proceed to  
25 the trial thereof. The trial shall be conducted as other civil  
26 actions at law are tried. The trial shall determine all  
27 questions of fact relating to the value of the real property, and  
28 any estate or interest therein, and the amount thereof and the  
29 appurtenant damage to any remainder and the amount thereof, and  
30 the trial and decision or verdict of the court or jury shall be  
31 subject to all rights to except to rulings, to move for new  
32 trial, and to appeal, as are provided by law. Upon the entry of  
33 judgment in those proceedings execution shall be issued against  
34 the money so deposited in court and in default thereof against

1 any other property of the commission.

2 (l) In case two (2) or more petitioners make claim to the  
3 same real property, or to any estate or interest therein, or to  
4 different estate or interests in the same real property, the  
5 court shall, upon motion, consolidate their several petitions for  
6 trial at the same time, and may frame all necessary issues for  
7 the trial thereof.

8 (m) If any real property or any estate or interest therein,  
9 in which any minor or other person not capable in law to act in  
10 his or her own behalf is interested, is taken under the  
11 provisions of this chapter, the superior court, upon the filing  
12 therein of a petition by or in behalf of the minor or person or  
13 by the commission may appoint a guardian ad litem for the minor  
14 or other person. Guardians may, with the advice and consent of  
15 the superior court, and upon such terms as the superior court may  
16 prescribe, release to the commission all claims for damages for  
17 the land of the minor or other person or for any such estate or  
18 interest therein. Any lawfully appointed, qualified, and acting  
19 guardian or other fiduciary of the estate of any such minor or  
20 other person, with the approval of the court of probate within  
21 this state having jurisdiction to authorize the sale of lands and  
22 properties within this state of the minor or other person, may  
23 before the filing of any such petition, agree with the minor or  
24 other person for any taking of his or her real property or of his  
25 or her interest or estate therein, and may, upon receiving the  
26 amount, release to the commission all claims for damages for the  
27 minor or other person for the taking.

28 (n) In case any owner of or any person having an estate or  
29 interest in the real property shall fail to file his or her  
30 petition as above provided, the superior court for the county in  
31 which the real property is situated, in its discretion, may  
32 permit the filing of the petition subsequent to the period of one  
33 year following the time of the deposit in the superior court of

1 the sum of money estimated to be just compensation for the  
2 property taken; provided, the person shall have had no actual  
3 knowledge of the taking of the land in season to file the  
4 petition; and provided, no other person or persons claiming to  
5 own the real property or estate or interest therein shall have  
6 been paid the value thereof; and provided, no judgment has been  
7 rendered against the commission for the payment of the value to  
8 any other person or persons claiming to own the real estate.

9 (o) If any real property or any estate or interest therein  
10 is unclaimed or held by a person or persons whose whereabouts are  
11 unknown, after making inquiry satisfactory to the superior court  
12 for the county in which the real property lies, the commission,  
13 after the expiration of two (2) years from the first publication  
14 of the copy of the vote, statement, description, and plat, may  
15 petition the court that the value of the estate or interest of  
16 the unknown person or persons be determined. After such notice  
17 by publication to such person or persons as the court in its  
18 discretion may order, and after hearing on the petition, the  
19 court shall fix the value of the estate or interest and shall  
20 order the sum to be deposited in the registry of the court in a  
21 special account to accumulate for the benefit of the person or  
22 persons, if any, entitled thereto. The receipt of the clerk of  
23 the superior court therefor shall constitute a discharge of the  
24 commission from all liability in connection with the taking.  
25 When the person entitled to the money deposited shall have  
26 satisfied the superior court of his or her right to receive that  
27 money, the court shall cause it to be paid over to him or her,  
28 with all accumulations thereon.

29 (p) The superior court shall have power to make such orders  
30 with respect to encumbrances, liens, taxes, and other charges on  
31 the land, if any, as shall be just and equitable.

32 (q) Whenever in the opinion of the commission a substantial  
33 saving in the cost of acquiring title can be effected by

1 conveying other real property, title to which is in the  
2 commission, to the person or persons from whom the estate or  
3 interest in real property is being purchased or taken, or by the  
4 construction or improvement by the commission of any work or  
5 facility upon the remaining real property of the person or  
6 persons from whom the estate or interest in real property is  
7 being purchased or taken, the commission shall be and hereby is  
8 authorized to convey that other real property to the person or  
9 persons from whom the estate or interest in real property is  
10 being purchased or taken and to construct or improve any work or  
11 facility upon the remaining land of the person or persons.

12 (r) At any time during the pendency of any proceedings for  
13 the assessment of damages for property or interests therein taken  
14 or to be taken by eminent domain by the commission, the  
15 commission or any owner may apply to the court for an order  
16 directing an owner or the commission, as the case may be, to show  
17 cause why further proceedings should not be expedited, and the  
18 court may upon that application make an order requiring that the  
19 hearings proceed and that any other steps be taken with all  
20 possible expedition.

21 46-25-14. Annual report. -- In the month of January, the  
22 commission shall make an annual report to the governor and to the  
23 general assembly of its activities for the preceding fiscal year.  
24 Each report shall set forth a complete statement covering its  
25 operations during the year.

26 46-25-15. Cooperation with federal government. -- (a) The  
27 commission shall have full and complete authority to cooperate  
28 with and assist the federal government in all matters relating to  
29 the planning, constructing, equipping, maintenance, and operation  
30 of the project in the event that the federal government should  
31 make any federal funds or federal assistance available therefor.

32 (b) The commission or any officers or executives designated  
33 by it, may act as an agent of the federal government in

1 accordance with the requirements of any federal legislation  
2 related to the federal assistance.

3 (c) The commission is hereby authorized to accept the  
4 provisions of any federal legislation related to federal  
5 assistance, and may file written evidence of each acceptance with  
6 the federal government. Each acceptance shall be duly signed by  
7 the chairperson or such other person or persons as the commission  
8 may designate.

9 (d) The commission may enter into all necessary contracts  
10 and agreements with the federal or state governments, or any  
11 agency thereof, necessary or incident to the project, and all the  
12 contracts and agreements shall be signed in the name of the  
13 commission by the chairperson or some other person or persons  
14 designated by the commission.

15 46-25-16. Application for federal and state aid. --

16 Whenever it shall be necessary to obtain assistance from the  
17 federal or state governments in the form of loans, advances,  
18 grants, subsidies, and otherwise, directly or indirectly, for the  
19 execution of the project, the commission may make all necessary  
20 applications for those purposes. All the applications shall be  
21 made in writing in the name of the commission, and shall be duly  
22 signed by the chairperson or such other person or persons as the  
23 commission may designate.

24 46-25-17. Use of federal and state funds. -- The commission

25 may, for the purpose of carrying out the project or any part  
26 thereof herein authorized, accept or use any federal or state  
27 funds or assistance, or both, provided therefor under any federal  
28 or state law. In the event that federal or state funds or  
29 assistance are made available for execution of the project, the  
30 project shall be carried out and executed in all respects subject  
31 to the provisions of the appropriate federal and state laws  
32 providing for the construction of the projects, and the rules and  
33 regulations made pursuant thereto, and to such terms, conditions,

1 rules and regulations, not inconsistent with the federal and  
2 state law, rules, and regulations, as the commission may  
3 establish to insure the proper execution of the project. The  
4 commission shall be eligible to receive the proceeds of any bonds  
5 or notes issued pursuant to chapter 289 of the public laws of  
6 1986, chapter 1837 of the public laws of 1947, as amended by  
7 chapter 2515 of the public laws of 1950, as amended by 2966 of  
8 the public laws of 1952, as amended by chapter 267 of the public  
9 laws of 1966 and as amended by chapter 92 of the public laws of  
10 1971, and/or chapter 434 of the public laws of 1990.

11 46-25-18. Receipt and deposit of federal funds. -- (a) All  
12 moneys paid to the commission by the federal government for the  
13 purpose of executing the project shall be received by the  
14 executive director of the commission and applied in the following  
15 order of priority (1) for the payment of debt service on, or the  
16 recall, or the redemption of outstanding bonds and notes issued  
17 by the state in anticipation of the federal project payments or  
18 (2) if no bonds or notes of the state issued in anticipation of  
19 federal project payments are outstanding, then the moneys shall  
20 be deposited in the fund to be used for the purposes for which  
21 the federal government granted the moneys.

22 (b) To the extent permitted by federal law, any federal  
23 funds or assistance to the state in any one federal fiscal year  
24 for sewer projects funded under the Federal Water Pollution  
25 Control Act, [33 U.S.C. § 1251 et seq.], as amended, shall be  
26 allocated so that fifty percent (50%) of the federal funds or  
27 assistance so received shall be assigned to this project.  
28 Provided, however, that more than fifty percent (50%) of the  
29 federal funds may be assigned to this project if the remaining  
30 fifty percent (50%) is not fully obligated for other projects in  
31 the state outside the district.

32 46-25-19. Sewer connections. -- The commission shall have  
33 full and complete power and authority to limit, deny, or cause

1 appropriate direct or indirect connections to be made between any  
2 building or property located in the district generating sanitary  
3 or industrial wastewater, and any public sewer or appurtenance  
4 thereof discharging to the project. The commission shall  
5 prescribe such rules and regulations for sewer connections as in  
6 the opinion of the commission are necessary and appropriate for  
7 the maintenance and operation of the project. No person shall  
8 make any connection from any structure to any sewer or  
9 appurtenance thereto discharging to the project without first  
10 being granted a written permit from the commission, in accordance  
11 with the rules and regulations. The commission shall also have  
12 full and complete power and authority to compel any person in the  
13 district, for the purpose of sewage disposal, to establish a  
14 direct connection on his or her property, or at the boundary  
15 thereof, to any publicly owned sewer discharging to the district  
16 sewer project, and to cause the connection to be made at the  
17 expense of the person, firm, or corporation. The term  
18 "appurtenance", as used herein, shall be construed to include  
19 adequate pumping facilities, whenever the pumping facilities  
20 shall be necessary to deliver sewage into the project.

21 46-25-20. Pipes along highway or railroad. -- Whenever the  
22 commission shall lay or install any pipes or other equipment  
23 under any public highway, private way, right-of-way, or tracks,  
24 the commission shall, as far as possible, restore the public  
25 highway, private way, right-of-way, or tracks, to its former  
26 condition. Nothing in this chapter shall authorize the  
27 commission to condemn any portion of the right-of-way of any  
28 railroad, or other public service company, except for the purpose  
29 of crossing the same, either above or below grade, and of  
30 maintaining suitable and convenient supports for the crossing, in  
31 such manner as not to render unsafe, or to impair the usefulness  
32 of, the right-of-way for the railroad or the purposes of the  
33 public service company.

1           46-25-21. Sewer, user fees, charges, and assessments. --

2           For the purpose of causing the project and its operation,  
3           maintenance, and improvements to be self liquidating, the  
4           commission shall assess any person having a direct or an indirect  
5           connection to the project the reasonable charges for the use,  
6           operation, maintenance, and improvements of the project.

7           46-25-21.1. Petition in superior court for relief from  
8           assessment. -- Any person aggrieved on any ground whatsoever by  
9           any sewer use fee, charge, or assessment against him or her may  
10          within three (3) years after the first day designated for the  
11          payment of said sewer use fee, charge, or assessment, or the  
12          first installment thereof, if payable in installments, file an  
13          appeal with the commission, and within sixty (60) days after a  
14          final decision of said commission, where such person has timely  
15          appealed the assessment, file a petition in the superior court  
16          for the county in which the property lies for relief from the  
17          sewer use fee, charge, or assessment, to which petition the  
18          commission shall be made a party respondent; provided, however,  
19          that all such appeals must be made no later than six (6) months  
20          after the person assessed said fee has transferred the property  
21          to a third party.

22          For the purpose of this section an aggrieved person shall be  
23          the person who has been assessed the sewer use fee, charge or  
24          assessment that is being contested. The right to contest an  
25          assessment shall be personal to the person assessed and shall not  
26          be assignable or transferable.

27          This remedy shall be exclusive. Any person alleging an  
28          illegal, erroneous, incorrect, or void fee, charge, or assessment  
29          against him or her shall be confined to the remedies stated  
30          herein. No petition shall, before judgment, stay any proceedings  
31          for collecting the sewer use fee, charge, or assessment. The  
32          commission may promulgate regulations to effectuate this  
33          provision and to eliminate frivolous appeals.

1           46-25-22. Payment of permit fees, sewer user fees, charges,  
2 assessments, penalties and other administrative charges. -- The  
3 commission shall proceed under the provisions of this chapter to  
4 collect the permit fees, sewer user fees, charges, assessments,  
5 penalties and other administrative charges from any person so  
6 assessed. Each person so assessed shall pay the permit fees,  
7 sewer user fees, charges, assessments, penalties and other  
8 administrative charges within the time frame prescribed by the  
9 rules and regulations of the commission. The commission may  
10 collect the permit fees, sewer user fees, charges, assessments,  
11 penalties and other administrative charges in the same manner in  
12 which taxes are collected by municipalities, with no additional  
13 fees, charges, assessments, or penalties other than those  
14 provided for in chapter 9 of title 44 and shall have the same  
15 rights and remedies as those provided to municipalities in  
16 chapter 9 of title 44. Provided, however, that such permit fees,  
17 sewer user fees, charges, assessments, penalties and other  
18 administrative charges against residential condominium occupants  
19 or residential condominium associations shall be set at a  
20 residential rate and not at a business, commercial, or other  
21 rate. All unpaid permit fees, sewer user fees, charges,  
22 assessments, penalties and other administrative charges shall be  
23 a lien upon the real estate of the person.

24           46-25-23. Shut off of water supply for nonpayment of permit  
25 fees, sewer user fees, charges, assessments, penalties and other  
26 administrative charges. -- (a) Notwithstanding the provisions of  
27 § 46-25-22, the commission is authorized to order any water  
28 supplier which services any person assessed by the commission  
29 pursuant to § 46-25-22 to terminate the water supply service of  
30 any person for nonpayment of permit fees, sewer user fees,  
31 charges, assessments, penalties and other administrative charges  
32 related to said account. The commission will abide by the rules  
33 and regulations of the Public Utilities Commission governing

1 water shut-offs.

2 (b) Upon notification by the commission to terminate  
3 service, the water supplier shall within fourteen (14) days  
4 terminate said service and notify the commission that said  
5 termination has occurred. Upon notification by the commission,  
6 the water supplier shall restore the water supply in accordance  
7 with the water supplier's policy on water supply restoration.

8 (c) The commission shall have the authority to assess any  
9 person any fees, charges, assessments and administrative charges  
10 affiliated with the shut off and restoration of service.

11 (d) When service is provided to a residence occupied by a  
12 tenant, the tenant may, after paying the permit fees, sewer user  
13 fees, charges, assessments, penalties and other administrative  
14 charges in order to restore or prevent termination of service,  
15 deduct the amount paid from the rent due the landlord. The  
16 tenant shall provide the landlord with a copy of the receipt from  
17 the commission when making a deduction from the rent.

18 46-25-24. Appropriation of revenues. -- All moneys received  
19 by the commission for the use of the facilities of the project,  
20 shall be paid over to the executive director of the commission  
21 and deposited by him or her in the fund. All moneys in the fund  
22 are hereby appropriated, in addition to all other sums  
23 appropriated by the provisions of this chapter, to be expended by  
24 the commission for administration and all other expenses relating  
25 to the planning, constructing, equipping, operation, and  
26 maintenance of the project. Any unexpended balance remaining in  
27 the fund at the end of any fiscal year, shall be carried forward  
28 and made available for expenditure in the succeeding fiscal  
29 years.

30 46-25-24.1 Notice of Entry. -- Authorized agents and  
31 employees of the commission may enter upon any lands, waters and  
32 premises in the district for the purpose of making surveys,  
33 soundings, test pits, drillings, borings and examinations as the

1 commission may deem necessary or convenient for the purposes of  
2 this act, and such entry shall not be deemed a trespass, nor  
3 shall an entry for such purposes be deemed an entry under any  
4 condemnation proceedings which may be then pending. The  
5 commission shall give at least fifteen (15) days notice of its  
6 intent to enter such lands, waters or premises to the record  
7 owner(s) of the property and to the municipality wherein the  
8 property lies, and shall state in that notice the amount it  
9 proposes to pay as just compensation for such entry. Following  
10 such entry, the commission shall pay the amount of compensation  
11 previously proposed and shall reimburse the owner for any actual  
12 damage resulting to such lands, waters and premises as a result  
13 of such activities. If the owner of said lands believes that the  
14 amount paid is insufficient to provide just compensation, the  
15 owner may petition to the superior court to have the amount  
16 increased. The provisions of this section shall in no way expand  
17 the powers of the commission to take any of the properties  
18 investigated by eminent domain.

19 46-25-25. Orders as to pretreatment of sewage. -- (a)  
20 Without limiting the generality of the foregoing, the authority  
21 hereby vested in the commission shall include the authority to  
22 limit, reject, or prohibit any direct or indirect discharge of  
23 pollutants or combination of pollutants, as defined by applicable  
24 federal or state law, into the facilities of the project; to  
25 require that any person or class of user shall cause pollutants  
26 from his or her property, prior to their entry into the  
27 facilities of the project, to be submitted to such pretreatment  
28 standards and requirements as the commission may prescribe by  
29 rule or regulation. The commission shall prescribe such rules  
30 and regulations for pretreatment as in the opinion of the  
31 commission (1) Are required by applicable federal or state law,  
32 (2) Are required under the terms of the project's federal  
33 permit(s), or

1 (3) Are necessary and appropriate for the project.

2 (b) Further, the commission shall have the authority to  
3 issue or deny permits to any person for the direct or indirect  
4 discharge of any pollutants into the facilities of the project;  
5 to require the development of a compliance schedule by each  
6 person to insure compliance with such pretreatment as the  
7 commission may prescribe. No person shall discharge any  
8 pollutant into the facilities, except as in compliance with the  
9 provisions of this section, and any rules and regulations  
10 promulgated hereunder, and pursuant to the terms and conditions  
11 of a permit.

12 (c) The commission may, by regulation, order, permit, or  
13 otherwise require any person who discharges into the facilities  
14 of the project to:

15 (1) Establish and maintain such records;

16 (2) Make such reports;

17 (3) Install, calibrate, use, and maintain such monitoring  
18 equipment or methods, including where appropriate, biological  
19 monitoring methods;

20 (4) Sample such discharges and effluents, in accordance  
21 with such methods, at such locations, at such intervals, and in  
22 such manner as the commission shall prescribe; and

23 (5) Provide such other information relating to discharges  
24 into the facilities of the project as the commission may  
25 reasonably require to insure compliance with prescribed  
26 pretreatment. The information shall include, but not be limited  
27 to, those records, reports, and procedures required by applicable  
28 federal law.

29 (d) Notwithstanding any other provision of this section,  
30 the commission shall have the authority, and shall prescribe the  
31 appropriate procedures, after informal notice to the discharger,  
32 immediately and effectively to halt or prevent any discharge of  
33 pollutants into the facilities of the project which reasonably

1 appears to present an imminent endangerment to the health or  
2 welfare of persons. The commission shall also have the  
3 authority, and shall prescribe the appropriate procedures, which  
4 shall include notice to the affected discharger and an  
5 opportunity to respond, to hold, or prevent any discharge into  
6 the facilities of the project which presents or may present an  
7 endangerment to the environment or which threatens to interfere  
8 with the operation of the project. Procedures prescribed under  
9 this subsection which comply in form with those provided in § 42-  
10 17.1-2(u) shall be deemed to be appropriate.

11 46-25-25.1. Inspection powers. -- (a) The commission is  
12 authorized to carry out all inspection, surveillance, and  
13 monitoring procedures necessary to determine, independent of  
14 information supplied by any person who discharges into the  
15 facilities of the project, compliance or noncompliance by the  
16 person with the pretreatment requirements prescribed by the  
17 commission.

18 (b) The commission or the duly authorized employees and  
19 agents of the commission, upon presenting identification and  
20 appropriate credentials, is authorized:

21 (1) To enter, without delay and at reasonable times, those  
22 premises (public or private) of any person or class of user,  
23 either receiving services from the commission or applying to  
24 services from the commission, in which a discharge source or  
25 treatment system is located or in which records required to be  
26 maintained pursuant to § 46-25-25, are kept;

27 (2) During regular working hours and at other reasonable  
28 times, and within reasonable limits and in a reasonable manner,  
29 to have access to and to copy any records, inspect any monitoring  
30 equipment or method required pursuant to § 46-25-25, and sample  
31 any effluents which the owner or operator of the discharge source  
32 is required to sample under § 46-25-25, and any rules and  
33 regulations adopted pursuant thereto.

1 (c) Any person obstructing, hindering, or in any way  
2 causing to be obstructed or hindered the commission or any of its  
3 employees or agents in the performance of their duties, or who  
4 shall refuse to permit the commission or any of its employees or  
5 agents entrance into any premises, buildings, plant, or  
6 equipment, or other places belonging to or controlled by the  
7 person, in the performance of his or her duties as such, shall be  
8 subject to the civil and criminal penalties set forth in §§ 46-  
9 25-25.2 and 46-25-25.3.

10 46-25-25.2. Civil Penalties. -- (a) Any person who shall  
11 violate the provisions of §§ 46-25-25 - 46-25-25.3, or of any  
12 permit, rule, regulation, or order issued pursuant thereto, shall  
13 be subject to a civil penalty of not more than twenty-five  
14 thousand dollars (\$25,000) per day for each violation.

15 (b) The commission shall, in the same manner as cities and  
16 towns authorized under the provisions of § 45-6-2.3(a)(4), issue  
17 regulations to obtain actual costs and reasonable attorney's fees  
18 incurred by the commission in seeking compliance, penalties, or  
19 damages.

20 46-25-25.3. Criminal Penalties. -- Any person who shall be  
21 found guilty of violating, willfully or with criminal negligence,  
22 any of the provisions of §§ 46-25-25 - 46-25-25.3 or of any  
23 permit rule, or regulations issued pursuant thereto, or an order  
24 of the commission, shall be punished by a fine of not more than  
25 twenty-five thousand dollars (\$25,000) or by imprisonment for not  
26 more than one (1) year or by both a fine or imprisonment; and  
27 every person shall be deemed guilty of a separate and distinct  
28 offense for each day during which the violation shall be repeated  
29 or continued. Further, the person shall be liable for all  
30 damages directly related to the violation, including additional  
31 costs of handling and treating any prohibited wastes, and shall  
32 reimburse the commission for actual enforcement costs incurred by  
33 the commission, including reasonable attorney's fees and

1 administrative costs.

2 (a) No person shall knowingly make any false statement,  
3 representation, or certification in any application, record,  
4 report, plan, or other document filed or required to be  
5 maintained under § 46-25-25 or 46-25-25.1 or by any permit, rule,  
6 regulation, or order issued under those sections, or shall  
7 falsify, tamper with, or knowingly render inaccurate any  
8 monitoring device or method required to be maintained under those  
9 sections or by any permit, rule, regulation, or order issued  
10 under those sections.

11 (b) No person shall discharge into any outlet within the  
12 district any sewage waste or other pollutants without a permit,  
13 except where suitable treatment has been provided in accordance  
14 with this chapter or the rules and regulations of the commission.

15 (c) No person shall construct or maintain any privy, privy  
16 vault, septic tank, cesspool, or other facility intended or used  
17 for the disposal of sewage waste or other pollutants within the  
18 district, except as otherwise provided by law or the rules and  
19 regulations of the commission.

20 (d) No person shall maliciously, willfully, or negligently  
21 breach, damage, destroy, uncover, deface, or tamper with any  
22 structure, appurtenance, or equipment or dump garbage, refuse, or  
23 other material on land or right-of-way which is a part of the  
24 facilities of the project.

25 (e) No person shall uncover, make any connection with, or  
26 opening into, use, alter, or disturb any interceptor or  
27 appurtenance thereof, without first obtaining a written permit  
28 from the commission.

29 (f) No person shall discharge or cause to be discharged any  
30 unpolluted waters such as stormwater, groundwater, roof runoff,  
31 subsurface drainage, uncontaminated cooling water, or unpolluted  
32 industrial process waters to any facilities of the project other  
33 than those discharges as are connected to an existing combined

1 sewer in those areas in which a combined sewer is the only  
2 available means for disposal of unpolluted waters.

3 46-25-25.4. Enforcement authority and procedure. -- (a) The  
4 commission shall have authority to seek legal or equitable relief  
5 in the federal court or in the superior court of Providence  
6 county to enforce the requirements of §§ 307(b) and (c),  
7 402(b)(8) and other applicable sections of the Federal Water  
8 Pollution Control Act, also known as the Clean Water Act [33  
9 U.S.C. § 1251 et seq.], and any regulations implementing those  
10 sections or authorized by this chapter and/or by chapter 12 of  
11 this title. Whenever, on the basis of any information available  
12 to the commission, the commission has reasonable grounds to  
13 believe that a person has violated any provision of §§ 46-25-25  
14 through 46-25-25.6 or any permit, rule, regulation or order  
15 issued pursuant thereto the commission may institute  
16 administrative, civil or criminal proceedings in the name of the  
17 commission. The commission shall not be required to enter into  
18 any recognizance or to give surety for costs prior to instituting  
19 such proceedings. The commission has the authority to order any  
20 person who violates any provision of §§ 46-25-25 through 46-25-  
21 25.6, any permit, rule, regulation or order issued pursuant  
22 thereto to cease and desist the violation, or to remedy the  
23 violation and to impose administrative penalties. The commission  
24 may impose administrative penalties only in accordance with the  
25 notice and hearing provisions of § 42-35-1 et seq., and § 46-25-  
26 25, and the commission's rules and regulations. It shall be the  
27 duty of the attorney general to carry out all such criminal  
28 proceedings initiated by the commission.

29 (b) The superior court for Providence County shall have  
30 jurisdiction to enforce the provisions of §§ 46-25-25 - 46-25-  
31 25.6, and any rule, regulation, permit, or administrative order  
32 issued pursuant thereto. Proceedings for enforcement may be  
33 instituted and prosecuted in the name of the commission. In any

1 proceeding on which injunctive relief is sought, it shall not be  
2 necessary for the commission to show that without that relief,  
3 the injury which will result will be irreparable or that the  
4 remedy at law is inadequate. Proceedings provided in this  
5 section shall be in addition to and may be utilized in lieu, of  
6 other administrative or judicial proceedings authorized by this  
7 chapter.

8 46-25-25.5 Public access to information. -- (a) Any permit,  
9 or permit application, or effluent data shall be available to the  
10 public for inspection and copying.

11 (b) Other records, reports, or information obtained under  
12 this section also may be made available to the public for  
13 inspection and copying, provided, that upon a showing,  
14 satisfactory to the commission, by any person that the records,  
15 reports, or information or any part thereof, except as provided  
16 in subsection (a) of this section, would, if made public, divulge  
17 methods or processes entitled to protection as trade secrets of  
18 the person, the commission shall consider, treat, and protect the  
19 record, report, or information, or part thereof, as confidential;  
20 provided, however, that the record, report, or information  
21 accorded confidential treatment may be disclosed or transmitted  
22 to other officers, employees, or authorized representatives of  
23 this state or of the United States concerned with carrying out  
24 § 46-25-25 et seq., or when relevant in any proceeding under  
25 those sections.

26 46-25-25.6. Municipal ordinances. -- (a) Any municipality  
27 within the district, which has connected or connects its sewers  
28 with the facilities of the project, shall adopt appropriate rules  
29 and regulations, pertaining to sewer usage, no less restrictive  
30 than the rules and regulations pertaining to sewer usage so  
31 adopted by the commission. The municipal rules and regulations  
32 shall include procedures for monitoring and enforcing compliance,  
33 and shall be submitted to the commission prior to their adoption.

1 The commission shall have the authority to refuse service or  
2 connection to any municipality that fails to comply with this  
3 section.

4 (b) The commission shall retain the authority to seek  
5 judicial relief for noncompliance by affected dischargers when  
6 any municipality has failed to seek that relief, or when the  
7 municipality has acted to seek that relief but has sought a  
8 penalty which the commission finds to be insufficient. Nothing  
9 in this section shall in any way limit the authority granted the  
10 commission under §§ 46-25-25 - 46-25-25.4.

11 46-25-26. Rules and regulations -- Notice of rule  
12 review. -- The commission may adopt rules and regulations, or any  
13 amendment to existing rules and regulations, according to the  
14 provisions of chapter 35 of title 42. The commission shall also  
15 give notice thereof, prior to the effective date thereof, by  
16 sending, by registered or certified mail, a copy thereof to each  
17 person interested therein who shall have registered with the  
18 commission his or her name and address, with a request to be so  
19 notified. Review of those rules may be had as provided in  
20 chapter 35 of title 42.

21 46-25-27. Notice of rate hearings -- Before the commission  
22 shall establish or amend any user charges or fees in accordance  
23 with this chapter, the commission shall cause a public hearing to  
24 be held for the purpose of the establishment or amendment thereof  
25 in accordance with the provisions of chapter 35 of title 42. The  
26 commission shall give not less than twenty (20) days' notice of  
27 the holding of such hearing by advertising the same in one or  
28 more newspapers published in the county of Providence and by  
29 giving at least twenty (20) days' notice thereof by registered or  
30 certified mail to each person interested therein who shall have  
31 registered with the commission his name and address with a  
32 request to be so notified.

33 46-25-28. Conduct of hearings. -- At all hearings held

1 under the provisions of this chapter, the commission and the  
2 members thereof, shall have the right to administer oaths. All  
3 persons testifying at the hearings shall do so under oath and  
4 under penalty of perjury. The commission shall have the right to  
5 issue subpoenas to compel the appearance of witnesses and/or the  
6 production of any books, records, or other documents. Any person  
7 may be represented by counsel at the hearing. The commission may  
8 adjourn the hearings from time to time, whenever the adjournment  
9 shall, in its opinion, be necessary or desirable. The testimony  
10 adduced at the hearing shall be transcribed by a stenographer.

11 46-25-29. Notice of decisions by commission. -- Within a  
12 reasonable time following the conclusion of the hearing, the  
13 commission shall render its decision and findings and shall give  
14 notice thereof by publication in some newspaper published in the  
15 county of Providence, and by mailing a copy thereof by registered  
16 or certified mail to each person interested therein who shall  
17 have registered with the commission his or her name and address  
18 with a request to be so notified.

19 46-25-30. Review of decisions. -- Any person aggrieved by  
20 any decision may obtain a judicial review thereof in accordance  
21 with chapter 35 of title 42.

22 46-25-31. Notice of hearings on orders. -- Before adopting  
23 or entering any order application to any one or more specific  
24 persons, the commission shall give to each of the persons, by  
25 registered or certified mail, twenty (20) days' notice in writing  
26 of the time and place of a hearing to be afforded each of the  
27 persons should he or she or it desire the hearing. The notice  
28 shall state the time and place of the holding of the hearing.

29 46-25-32. Procedure for hearings on orders. -- The  
30 provisions of §§ 46-25-27 - 46-25-30, inclusive, relative to  
31 hearings and judicial review, shall be applicable to all hearings  
32 and decisions under § 46-25-31.

33 46-25-33. Commission expenses as cost of project. -- The

1 expenses of the commission in the performance of its duties  
2 hereunder shall be construed to be costs of operation and  
3 maintenance of the project.

4 46-25-34. Cooperation and coordination with other  
5 agencies. -- In the performance of its duties hereunder, the  
6 commission shall be entitled to ask for and to receive from the  
7 Providence water supply board or any other commission, board,  
8 officer, or agency of the state, such information, cooperation,  
9 assistance and advice as shall be reasonable and proper in view  
10 of the nature of the functions. Each municipality within the  
11 district shall make available to the commission the names and  
12 addresses of the users of sewage services within the  
13 municipality, and shall assist the commission in providing  
14 administrative support for the billing of users at a reasonable  
15 cost to the commission.

16 46-25-35. Legislative recommendations. -- The commission  
17 may, from time to time, recommend to the general assembly the  
18 advisability of the enactment of any legislation relating to the  
19 project.

20 46-25-36. [Repealed].

21

\* \* \*

22 46-25-38.1 Narragansett Bay environmental enforcement  
23 fund. -- There is hereby established a separate fund within the  
24 "Narragansett Bay water quality management district commission  
25 fund" to be called the "Narragansett Bay environmental  
26 enforcement fund". This fund shall be administered by the  
27 executive director of the commission. The fund shall consist of  
28 such sums as the commission may, from time to time, deposit, or  
29 the sums recovered by any administrative or civil enforcement  
30 action brought under the authority of this chapter. All interest  
31 earned on the sums shall become part of the fund. All sums in  
32 the fund shall be expended in accordance with § 46-25-24 for the  
33 purposes set forth below:



1 specified in the resolutions under which bonds or notes of the  
2 commission are issued.

3 \* \* \*

4 46-25-44.1 Payment of state bond issue expenses, interest  
5 and principal. -- The executive director of the commission shall  
6 pay from the fund, amounts payable for the expenses, interest and  
7 principal of bonds or notes of the state issued under the  
8 authority of this chapter. In the event that the executive  
9 director of the commission shall fail to pay such amounts when  
10 due, controller may draw his or her orders upon the general  
11 treasurer for the payment of the expenses, interest and principal  
12 out of the fund as set forth in § 46-25-44 hereof.

13 46-25-45. Bonds and notes of the commission. -- (a) The  
14 commission shall have the power and is hereby authorized to  
15 issue, from time to time, its negotiable bonds and notes in one  
16 or more series in such principal amounts as in the opinion of the  
17 commission shall be necessary to provide sufficient funds for  
18 achieving its purposes, including the payment of interest on  
19 bonds and notes of the commission to the extent permitted by law,  
20 the establishment of reserves to secure the bonds and notes  
21 (including the reserve funds created pursuant to § 46-25-49), and  
22 the making of all other expenditures of the commission incident  
23 to and necessary or convenient to carrying out its corporate  
24 purposes and powers.

25 (b) The bonds and notes may be executed and delivered by  
26 the commission at any time, from time to time, may be in such  
27 form and denominations and of such tenor and maturities, and may  
28 be in bearer or registered form, as to principal and interest or  
29 as to principal alone, all as the commission, in its sole  
30 discretion, may determine.

31 (c) Bonds may be payable in such installments, and at such  
32 times not exceeding fifty (50) years from the date thereof, as  
33 shall be determined by the commission.

1 (d) Except as provided in § 46-25-46 hereof, notes may be  
2 payable in such installments and at such times not exceeding ten  
3 (10) years from the date of the original issue of such notes, as  
4 shall be determined by the commission.

5 (e) Bonds and notes may be payable at such places, whether  
6 within or without the state of Rhode Island, may bear interest at  
7 such rate or rates payable at such time or times and at such  
8 place or places evidenced in such manner, and may contain such  
9 provisions not inconsistent herewith, all as shall be provided in  
10 the proceedings of the commission under which they shall be  
11 authorized to be issued.

12 (f) There may be retained, by provision made in the  
13 proceedings under which any bonds or notes of the commission are  
14 authorized to be issued, an option to redeem all or any part  
15 thereof at such prices and upon such notice, and on such further  
16 terms and conditions, as shall be set forth on the record of the  
17 proceedings and on the face of the bonds and notes.

18 (g) Any bonds or notes of the commission may be sold, from  
19 time to time, at such prices, at public or private sale, and in  
20 such matter as shall be determined by the commission, and the  
21 commission shall pay all expenses, premiums, and commissions that  
22 it shall deem necessary or advantageous in connection with the  
23 issuance and sale thereof.

24 (h) Moneys of the commission, including proceeds from the  
25 sale of bonds or notes, and revenues, receipts, and income from  
26 any of its sewage treatment facilities, may be invested and  
27 reinvested in such obligations, securities, and other investments  
28 consistent with this chapter, and to the extent permitted by the  
29 general laws of the state of Rhode Island, and/or as shall be  
30 specified in the resolutions under which the bonds or notes are  
31 authorized.

32 (i) Issuance by the commission of one or more series of  
33 bonds or notes for one or more purposes shall not preclude it

1 from issuing other bonds or notes, but the proceedings whereunder  
2 any subsequent bonds or notes may be issued shall recognize and  
3 protect a prior pledge or mortgage made for a prior issue of  
4 bonds or notes, unless in the proceedings authorizing the prior  
5 issue, the right is reserved to issue subsequent bonds or notes  
6 on a parity with the prior issue.

7 (j) The commission is authorized to issue bonds or notes  
8 for the purpose of refunding its bonds or notes then outstanding,  
9 including the payment of any redemption premium thereon and any  
10 interest accrued or to accrue to the earliest or subsequent date  
11 of redemption, purchase or maturity, of the bonds or notes, and,  
12 if deemed advisable by the commission, for the additional purpose  
13 of paying all or part of the cost of acquiring, financing,  
14 extending, operating, maintaining, constructing, reconstructing,  
15 rehabilitating, developing, planning, or improving any sewage  
16 treatment facility. The proceeds of bonds or notes issued for  
17 the purpose of refunding outstanding bonds or notes may be  
18 applied, in the discretion of the commission, to the purchase,  
19 retirement at maturity, or redemption of the outstanding bonds or  
20 notes either on their earliest or a subsequent redemption date,  
21 and may, pending an application, be placed in escrow. Any  
22 escrowed proceeds may be invested and reinvested in obligations  
23 of the United States of America, and, to the extent permitted by  
24 the proceedings authorizing the issuance of the bonds to be  
25 refunded, in obligations guaranteed by the United States, or in  
26 certificates of deposit or time deposits secured or guaranteed by  
27 the state of Rhode Island or the United States, or an  
28 instrumentality of either, maturing at such time or times as  
29 shall be appropriate to assure the prompt payment, as to  
30 principal, interest, and redemption premium, if any, of the  
31 outstanding bonds or notes to be so refunded. To the extent  
32 permitted by applicable laws, the interest, income, and profits,  
33 if any, earned or realized on any investment may also be applied

1 to the payment of the outstanding bonds or notes to be so  
2 refunded. After the terms of the escrow have been fully  
3 satisfied and carried out, any balance of the proceeds and  
4 interest, income, and profits, if any, earned or realized on the  
5 investments thereof, may be returned to the commission for its  
6 use. The portion of the proceeds of revenue bonds or revenue  
7 notes issued for the additional purpose of paying all or part of  
8 the cost of acquiring, financing, extending, operating,  
9 maintaining, constructing, reconstructing, rehabilitating,  
10 developing, planning, or improving any sewage treatment facility,  
11 may be invested and reinvested in such obligations, securities,  
12 and other investments consistent herewith as shall be specified  
13 in the resolutions under which the bonds or notes are authorized,  
14 and which shall mature not later than the times when the proceeds  
15 will be needed for such purposes. To the extent permitted by  
16 applicable laws, the interest, income, and profits, if any,  
17 earned or realized on the investments may be applied to the  
18 payment of all parts of the costs or may be used by the  
19 commission otherwise in furtherance of its purposes.

20 (k) The members, the chairperson of the commission, the  
21 executive director, and other persons executing the bonds or  
22 notes shall not be subject to personal liability or  
23 accountability by reason of the issuance thereof.

24 (l) Bonds or notes may be issued under the provisions of  
25 this section without obtaining the consent of any department,  
26 division, commission, board, body, bureau, or agency of the state  
27 of Rhode Island, and without any other proceedings or the  
28 happening of any conditions or things other than those  
29 proceedings, conditions, or things which are specifically  
30 required by this section and by the provisions of the resolution  
31 authorizing the issuance of the bonds or notes or the trust  
32 agreement securing the bonds or notes.

33 (m) The commission, subject to such agreements with

1 noteholders or bondholders as may then be in force, shall have  
2 the power, out of any funds available therefor, to purchase bonds  
3 or notes of the commission, which shall thereupon be cancelled,  
4 at a price not exceeding:

5 (1) If the bonds or notes are then redeemable, the  
6 redemption price then applicable plus accrued interest to the  
7 next interest payment date, or

8 (2) If the bonds or notes are not then redeemable, the  
9 redemption price applicable on the earliest date that the bonds  
10 or notes become subject to redemption, plus the interest that  
11 would have accrued to such date.

12 (n) Whether or not the bonds and notes are of such form and  
13 character as to be negotiable instruments under the terms of the  
14 Rhode Island Uniform Commercial Code, the bonds and notes are  
15 hereby made negotiable instruments within the meaning of and for  
16 all the purposes of the Rhode Island Uniform Commercial Code.

17 (o) If a member or officer of the commission whose  
18 signature appears on bonds, notes, or coupons shall cease to be a  
19 member or officer before the delivery of the bonds or notes, the  
20 signature shall, nevertheless, be valid and sufficient for all  
21 purposes, the same as if the member or officer had remained in  
22 office until the delivery.

23 46-25-46. Notes of the commission issued in anticipation of  
24 user fees or state or federal funds. -- Pursuant to the  
25 provisions of this chapter, the commission is hereby authorized  
26 and empowered to issue notes in anticipation of the receipt of  
27 user fees or state or federal funds. The principal and interest  
28 of notes of the commission issued in anticipation of the receipts  
29 of state or federal funds shall be payable no later than the  
30 fourth anniversary of the date of issue thereof, and shall be  
31 payable from state or federal which the commission reasonably  
32 anticipates receiving or any other funds either legally available  
33 to the commission or appropriated for that purpose. The

1 principal and interest of notes of the commission, issued in  
2 anticipation of user fees, shall be payable within one year of  
3 the date of issue thereof and may be renewed, provided that the  
4 period from the date of an original note to the maturity of any  
5 note issued to renew the same debt shall not exceed one year, and  
6 further provided that the principal amount of the notes shall not  
7 exceed in the aggregate eighty percent (80%) of the actual  
8 receipts received by the commission from user fees in its next  
9 prior fiscal year.

10 46-25-47. Sale of rights to uncollected assessments and  
11 user fees that are due and payable. -- The executive director,  
12 with the approval of the chairperson of the commission, is  
13 authorized to sell to a bank or other financial institution the  
14 rights of the commission to receive assessment and user fees  
15 which are due and payable as of the end of the commission's  
16 fiscal year and are uncollected at the time of the sale. Terms  
17 and conditions of the sale shall be determined by the executive  
18 director, with the approval of the chairperson. Any agreement  
19 between the commission and a bank or other financial institution,  
20 executed under this section, shall be filed with the secretary of  
21 state, but need not be filed or recorded under the Uniform  
22 Commercial Code.

23 46-25-48. Security for bonds or notes of the commission. --  
24 (a) The principal of and interest on any bonds or notes issued by  
25 the commission, may be secured by a pledge of the full faith and  
26 credit of the commission and may be payable solely from any  
27 revenues, earnings and receipts of the commission, and may be  
28 secured by a mortgage or other instrument covering all or any  
29 part of one or more sewage treatment facilities, including all or  
30 part of any additions, improvements, extensions to language, or  
31 enlargements of such facilities thereafter made or such other  
32 property pledged for payment. Notes of the commission may also  
33 be payable from the proceeds of bonds subsequently issued or from

1 the proceeds of notes subsequently issued which comply with the  
2 provisions hereof.

3 (b) The resolution under which the bonds or notes are  
4 authorized to be issued and any such mortgage, lease, sales  
5 agreement, or loan agreement, or other instrument may contain  
6 agreements and provisions respecting the maintenance of the  
7 facilities covered thereby, the fixing and collection of rents,  
8 payments or repayments, or other revenues, therefrom, including  
9 moneys received in repayment of loans, and interest thereon, the  
10 creation and maintenance of special funds from such rents or  
11 other revenues, agreements relating to disclosure matters and  
12 compliance with federal tax and securities laws, and the rights  
13 and remedies available in the event of default, all as the  
14 commission shall deem advisable.

15 (c) Each pledge, agreement, mortgage, or other instrument  
16 made for the benefit or security of any of the bonds or notes of  
17 the commission shall continue in effect until the principal of  
18 and interest on the bonds or notes for the benefit of which the  
19 same was made shall have been fully paid, or until provision  
20 shall have been made for the payment in the manner provided in  
21 the resolutions under which the bonds or notes were authorized.  
22 The revenues, moneys, or property so pledged by the commission  
23 shall immediately be subject to the lien of that pledge without  
24 any physical delivery thereof or further act, and the lien of any  
25 such pledge shall be valid and binding as against all parties  
26 having claims of any kind in tort, contract, or otherwise against  
27 the commission, irrespective of whether the parties have notice  
28 thereof. Neither the resolution nor any other instrument by  
29 which a pledge is created need be recorded.

30 (d) The commission may provide, in any proceedings under  
31 which bonds or notes may be authorized, that any sewage treatment  
32 facility or part thereof may be constructed, reconstructed,  
33 rehabilitated, or improved by the commission, or any lessee,

1 vendee, obligor, or any designee of the commission, and may also  
2 provide in proceedings for the time and manner of and  
3 requisitions for disbursements to be made for the cost of such  
4 construction, and for all such certificates and approvals of  
5 construction and disbursements as the commission shall deem  
6 necessary and provide for in proceedings.

7 (e) Any resolution under which bonds or notes of the  
8 commission are authorized to be issued (and any trust indenture  
9 established thereby) may contain provisions for vesting in a  
10 trustee or trustees such properties, rights, powers, and duties  
11 in trust as the commission may determine, including any or all of  
12 the rights, powers, and duties of the trustee appointed by the  
13 holders of any issue of bonds or notes pursuant to § 46-25-54, in  
14 which event the provisions of § 46-25-54 authorizing the  
15 appointment of a trustee by holders of bonds or notes shall not  
16 apply.

17 46-25-49. Reserve funds and appropriations. -- To assure  
18 the continued operation and solvency of the commission for the  
19 carrying out of its corporate purposes:

20 (a) The commission may create and establish one or more  
21 special funds (herein referred to as "capital reserve funds"),  
22 and may pay into each capital reserve fund:

23 (1) Proceeds from the sale of notes or bonds, to the  
24 extent provided in the resolution or resolutions of the  
25 commission authorizing the issuance thereof, and

26 (2) Any other moneys that may be made available to the  
27 commission for the purpose of the fund from any other source.  
28 All moneys held in a capital reserve fund, except as hereinafter  
29 provided, shall be used solely for the payment of the principal  
30 of bonds issued by the commission secured in whole or in part by  
31 the fund or of the sinking fund payments hereinafter mentioned  
32 with respect to the bonds, the purchase or redemption of the  
33 bonds, the payment of interest on the bonds, or the payment of

1 amount of money equal to the sum of:

2 (1) The interest payable during the fiscal year on all  
3 bonds secured in whole or in part by the fund outstanding on the  
4 date of computation; plus

5 (2) The principal amount of all the bonds and bond  
6 anticipation notes outstanding on the date of computation that  
7 mature during the fiscal year; plus

8 (3) All amounts specified in any resolution of the  
9 commission authorizing the bonds as payable during the fiscal  
10 year as a sinking fund payment with respect to any of the bonds  
11 that mature after the fiscal year, all calculated on the  
12 assumption that the bonds will after the date of computation,  
13 cease to be outstanding by reason, but only by reason, of the  
14 payment of bonds when due and application in accordance with the  
15 resolution authorizing those bonds of all of the sinking fund  
16 payments payable at or after the date of computation.

17 (c) In computing the amount of the capital reserve funds  
18 for the purpose of this section, securities in which all or a  
19 portion of the funds shall be invested, shall be valued as  
20 provided in the proceedings under which the bonds are authorized,  
21 but in no event shall be valued at a value greater than par.

22 (d) The commission may create and establish such other fund  
23 or funds as may be necessary or desirable for its purposes,  
24 including but not limited to, providing for an insurance reserve  
25 fund and a replacement reserve fund.

26 (e) The commission may by resolution permit the issuance of  
27 bonds and notes to carry out the purposes of this chapter without  
28 establishing a capital reserve fund pursuant to this section and  
29 without complying with the limitations set forth in this section.  
30 Bonds and notes issued pursuant to this subsection may be secured  
31 by such other funds or methods as the commission may in its  
32 discretion determine by resolution.

33 46-25-50. Trust funds. -- All moneys received pursuant to

1 the issuance of bonds or notes or as revenues, receipts or  
2 income, shall be trust funds if such is provided for in the  
3 proceedings under which the bonds or notes are authorized. Any  
4 officer with whom, or any bank or trust company with which,  
5 moneys shall be deposited as trustee hereof shall hold and apply  
6 the same for the purposes thereof, subject to the applicable  
7 provisions of this chapter, the proceedings authorizing the bonds  
8 or notes, and the trust agreement securing the bonds or notes, if  
9 any.

10 46-25-51. Exemption from taxation. -- The commission, its  
11 projects, property, and moneys shall at all time be free from  
12 taxation of every kind by the state and by the municipalities and  
13 all political subdivisions of the state. Bonds and notes of the  
14 commission, and the income (including gain from sale or exchange)  
15 therefrom, shall at all times be free from taxation of every kind  
16 of the state and the municipalities and all political  
17 subdivisions thereof. The commission shall not be required to  
18 pay any transfer tax of any kind on account of instruments  
19 recorded by it or on its behalf.

20 46-25-52. Notes and bonds of the commission as legal  
21 investments. -- The notes and bonds of the commission are hereby  
22 made securities in which all public officers, state agencies,  
23 public corporations, and bodies of this state, and all  
24 municipalities and municipal subdivisions, all insurance  
25 companies and associations, and other persons carrying on an  
26 insurance business, all banks, bankers, trust companies, savings  
27 banks and savings associations, including savings and loan  
28 associations, building and loan associations, investment  
29 companies and other persons carrying on a banking business, all  
30 administrators, guardians, executors, trustees and other  
31 fiduciaries, and all other persons whatsoever who are now or may  
32 hereafter be authorized to invest in bonds or other obligations  
33 of the state of Rhode Island, may properly and legally invest

1 funds, including capital, in their control or belonging to them.

2 46-25-53. Agreement of the state of Rhode Island. -- The  
3 state of Rhode Island does hereby pledge to and agree with the  
4 holders of any bonds or notes issued under §§ 46-25-45 - 46-25-  
5 55, that the state will not limit or alter the rights hereby  
6 vested in the commission to fulfill the terms of any agreements  
7 made with the holders until the bonds or notes, together with the  
8 interest thereon, with interest on any unpaid installments of  
9 interest, and all costs and expenses in connection with any  
10 action or proceeding by or on behalf of the holders, are fully  
11 met and discharged. The commission is authorized to include this  
12 pledge and agreement of the state in any agreement with the  
13 holders of the bonds or notes.

14 46-25-54. Credit of the state of Rhode Island. -- Bonds and  
15 notes of the commission issued under the provisions of §§ 46-25-  
16 45 - 46-25-55 shall not constitute a debt, liability, or  
17 obligation of the state or of any political subdivision thereof,  
18 other than the commission, or a pledge of the faith and credit of  
19 the state or any political subdivision, other than the  
20 commission, but shall be payable solely from the revenues or  
21 assets of the commission. Each bond or note issued pursuant to  
22 §§ 46-25-45 - 46-25-55 shall contain on the face thereof a  
23 statement to the effect that the commission shall not be  
24 obligated to pay the bond or note or interest thereon except from  
25 revenues or assets pledged therefor, and that neither the faith  
26 and credit nor the taxing power of the state or any political  
27 subdivision thereof, other than the commission, is pledged to the  
28 payment of the principal of or the interest on the bond or note.

29 46-25-55. Remedies of bondholders and noteholders. -- (a)  
30 In the event that the commission shall default in the payment of  
31 principal of or interest on any bonds or notes, issued pursuant  
32 to the provisions of §§ 46-25-45 - 46-25-55, after the bonds or  
33 notes shall become due, whether at maturity or upon call for

1 redemption, and the default shall continue for a period of thirty  
2 (30) days, or in the event that the commission shall fail or  
3 refuse to comply with the provisions of this chapter, or shall  
4 default in any agreement made with the holders of an issue of  
5 bonds or notes of the commission, the holders of twenty-five  
6 percent (25%) of the aggregate principal amount of the bonds or  
7 notes of the issue then outstanding, by instrument or instruments  
8 filed in the office of the secretary of state and proved or  
9 acknowledged in the same manner as a deed to be recorded, may  
10 appoint a trustee to represent the holders of the bonds or notes  
11 for the purposes herein provided.

12 (b) The trustee may, and upon written request of the  
13 holders of twenty-five percent (25%) of the aggregate principal  
14 amount of the revenue bonds or revenue notes then outstanding  
15 shall, in his or her or its own name:

16 (1) Enforce all rights of the bondholders or noteholders,  
17 including the right to require the commission to collect rent,  
18 interest, repayments, and payments on the leases, mortgages, loan  
19 agreements, and sales agreements held by it to carry out any  
20 agreement as to, or pledge of, the rent, interest repayments, and  
21 payments, and to require the commission to carry out any other  
22 agreements with the holders of the bonds or notes and to perform  
23 its duties under this chapter;

24 (2) Enforce all rights of the bondholders or noteholders so  
25 as to carry out any contract as to, or pledge of, revenues, and  
26 to require the commission to carry out and perform the terms of  
27 any contract with the holders of its bonds or notes or its duties  
28 under this chapter;

29 (3) Bring suit upon all or any part of the bonds or notes;

30 (4) By action or suit, require the commission to account as  
31 if it were the trustee of an express trust for the holders of the  
32 bonds or notes;

33 (5) By action or suit, enjoin any acts or things which may

1 be unlawful or in violation of the rights of the holders of the  
2 bonds or notes;

3 (6) Declare all the bonds or notes due and payable and, if  
4 all defaults shall be made good, then, with the consent of the  
5 holders of twenty-five percent (25%) of the aggregate principal  
6 amount of the bonds or notes then outstanding, to annul the  
7 declaration and its consequences.

8 (c) The trustees shall, in addition to the foregoing have  
9 and possess all the powers necessary or appropriate for the  
10 exercise of any functions specifically set forth herein or  
11 incident to the general representation of bondholders or  
12 noteholders in the enforcement and protection of their rights.

13 (d) The superior court of Providence County shall have  
14 jurisdiction of any suit, action, or proceeding by the trustee on  
15 behalf of bondholders or noteholders.

16 46-25-56. Other statutes and ordinances. -- Nothing herein  
17 contained shall restrict or limit the powers of the commission  
18 arising under any laws of this state, or any ordinances of any  
19 municipality, except if the powers are expressly contrary to the  
20 provisions of this chapter. This chapter shall be construed to  
21 provide a complete additional alternative method for doing the  
22 things authorized hereby, and shall be regarded as supplemental  
23 and in addition to the powers conferred by other laws. The  
24 issuance of all bonds, notes, and other obligations of the  
25 commission, under the provisions of §§ 46-25-45 - 46-25-55, need  
26 not comply with the requirements of any other statute applicable  
27 to the issue of the bonds, notes, and other obligations. No  
28 proceedings or notice of approval shall be required for the  
29 issuance of any bonds, notes, or other obligations, or any  
30 instrument of security therefor except as herein provided.

31 46-25-57. Inconsistent provisions. -- Insofar as the  
32 provisions of this chapter are inconsistent with the provisions  
33 of any other law or ordinance, general, special or local, the

1 provisions of this chapter shall be controlling.

2 46-25-58. Severability. -- If any provisions of this  
3 chapter or of any rule, regulation, or order made thereunder, or  
4 the application thereof to any person or circumstances, is held  
5 invalid by a court of competent jurisdiction, the remainder of  
6 this chapter, rule, regulation, or order, and the application of  
7 the provision to other persons or circumstances shall not be  
8 affected thereby. The invalidity of any section or sections or  
9 parts of any section or sections of this chapter shall not affect  
10 the validity of the remainder of this chapter, and it is hereby  
11 declared to be the legislative intent that this chapter would  
12 have been enacted if the invalid parts had not been included  
13 therein.

14 46-25-59. Liberal construction -- The provisions of this  
15 chapter shall be construed liberally in order to accomplish the  
16 purposes hereof, and where any specific power is given to the  
17 commission by the provisions hereof, the statement thereof shall  
18 not be deemed to exclude or impair any power otherwise in this  
19 chapter conferred upon the commission.

20 SECTION 2. The headings for sections 37, 38, 39, 40, 42 and  
21 44 of Chapter 46-25 of the General Laws formerly entitled  
22 "Narragansett Bay Water Quality Management District Commission"  
23 and now entitled "Narragansett Bay Commission of Rhode Island"  
24 are hereby amended as follows. The amendments are for  
25 clarification only and shall not affect the construction of said  
26 sections:

27 46-25-37. Bonds of the state authorized -- Maturity --  
28 Certification and execution. --

29 46-25-38. Proceeds of bonds of the state: Narragansett Bay  
30 water quality management district commission fund. --

31 46-25-39. Temporary notes of the state. --

32 46-25-40. Advances from general fund in anticipation of the  
33 issue of notes or bonds of the state. --

1           46-25-42. Terms and conditions of sales of bonds and notes  
2 of the state -- Applications of premiums and accrued interest --  
3 Validity not affected by change in office. --

4           46-25-44. Payment of state bond issue expenses, interest,  
5 and principal. --

6           SECTION 3. Chapter 46-25.1 of the General Laws entitled  
7 "Merger of Blackstone Valley District Commission and Narragansett  
8 Bay Water Quality Management District Commission" and Chapter  
9 46-25.2 of the General Laws entitled "Acquisition, Merger and  
10 Consolidation of Sewer Treatment Facilities of Cities, Towns and  
11 Districts and the Narragansett Bay Water Quality Management  
12 District Commission" are hereby repealed in their entirety.

13           SECTION 4. Chapter 36-9 of the General Laws entitled  
14 "Retirement System - Membership and Service Credits" is  
15 amended by amending § 36-9-36 and adding the following sections:

16           36-9-36. Narragansett Bay Water Quality Management District  
17 Commission of Rhode Island - Merger -New Employees. -- In the  
18 event that the Narragansett Bay Water Quality Management  
19 Commission of Rhode Island, hereinafter referred to as  
20 "commission" shall acquire a sewage treatment facility,  
21 hereinafter referred to as "facility", of any city, town or  
22 district, or in the event of the merger or consolidation of a  
23 facility into or with the commission, then any employee of the  
24 facility who subsequently becomes and remains an employee of the  
25 commission who is a collectively bargained employee (within the  
26 meaning of section 410(b)(3)(A) of the Internal Revenue Code [26  
27 U.S.C. § 410(b)(3)(A)] may elect to be treated as a Transferred  
28 Employee pursuant to § 36-9-44 of the General Laws and subject to  
29 the provisions of the classified service of the state, shall be a  
30 member of the state retirement system as provided in chapters 8,9  
31 and 10 of this title and shall be granted service credits for his  
32 or her term of service with the facility prior to the transfer,  
33 provided (1) an actuarial study is made to determine the cost to

1 include each new member of the system and (2) the contributions  
2 of both the employer and employee made prior to the transfer are  
3 paid to the state employees' retirement fund.

4 If said employee elects not to have his or her funds  
5 transferred then that employee shall not receive credit for any  
6 prior service.

7 Each employee shall have (6) months from the time he/she  
8 becomes an employee of the commission to decide whether or not  
9 the employee wishes to have their funds transferred and receive  
10 credit for their prior service.

11 \* \* \*

12 36-9-44. Narragansett Bay Water Quality Management District  
13 Commission of Rhode Island-- Transferred employees. -- (a)

14 Definitions. -- For the purposes of this section:

15 (i) "Commission" means the Narragansett Bay Commission of  
16 Rhode Island, a public corporation of the state of Rhode Island.

17 (ii) "Employee Contribution Accumulation" means an amount  
18 equal to the total member contributions of the Transferred  
19 Employees which were picked up and paid by the Commission to the  
20 trust maintained by the Commission to receive such contributions  
21 during the Interim Period plus actual earnings on such  
22 contributions. The Employee Contribution Accumulation  
23 attributable to each Transferred employee shall be treated as  
24 such employee's accumulated contributions for purposes of Chapter  
25 9 and 10 of this title.

26 (iii) "Employee Contribution Accumulation" means an amount  
27 equal to the Required Contributions applicable to the Interim  
28 Period.

29 (iv) "Interim Period" means the period from the transfer  
30 Date to the date that the requirement of subsection (c) is  
31 satisfied.

32 (v) "Required Contribution" means the amount or amounts  
33 required to be contributed to the retirement system by the

1 Commission in addition to the member contributions of the  
2 Transferred Employees in order to fund the benefits attributable  
3 to the Transferred Employees earned after the Transfer Date in  
4 accordance with the provisions of this section. The amount of  
5 the required contribution for any relevant period following the  
6 Transfer Date shall be an amount determined by multiplying the  
7 rate percent established in accordance with §36-10-2 for the  
8 period by the compensation paid by the Commission to the  
9 Transferred Employees during such period. The Commission shall  
10 make its Required Contribution, other than the Required  
11 Contribution for the Interim Period, in bi-weekly installments,  
12 each to be made within three (3) business days following the pay  
13 day. The Required Contribution applicable to the Interim Period  
14 shall be made in accordance with the provisions of section (c) of  
15 this chapter.

16 (vi) "Transfer Date" means the effective date of this  
17 section.

18 (vii) "Transferred Employee" means any individual who was  
19 an employee of the Commission on the date immediately preceding  
20 the Transfer Date, was an active member of the retirement system  
21 on the date immediately preceding the Transfer Date, and who,  
22 from and after the Transfer Date, is an employee of the  
23 Commission who is continuously a collectively bargained employee  
24 (within the meaning of the regulations issued under section  
25 410(b) (3) (a) of the Internal Revenue Code [26 U.S.C. §  
26 410(b) (3) (a)] .

27 (b) Subject to subsections (c), (d) and (e) of this  
28 section, the period of service of any Transferred Employee with  
29 the Commission after the Transfer Date shall be treated as  
30 service as an employee of the state of Rhode Island for purposes  
31 of Chapters 8, 9 and 10 of this title.

32 (c) The provisions of subsection (b) of this section shall  
33 not apply unless within ninety (90) days following the date of

1 enactment of this section, the Commission transfers, or causes to  
2 have transferred from a trustee or other custodian, to the  
3 retirement system, an amount equal to the sum of the employee  
4 contribution accumulation and the employer contribution  
5 accumulation.

6 (d) Notwithstanding the foregoing, any individual who is a  
7 Transferred employee shall not be treated as an employee of the  
8 state of Rhode Island under subsection (b) for any period of  
9 employment during which he or she elects to participate in any  
10 other retirement income benefit funded by the Commission under a  
11 retirement plan sponsored by the Commission and intended to  
12 qualify under § 401(a) or 408(k) [26 U.S.C. 401(a) or 480(k)] of  
13 the United States Internal Revenue Code.

14 (e) Provided the requirement of subsection (c) of this  
15 section is satisfied:

16 (i) Any retirement or death benefit provided to or on  
17 behalf of a Transferred Employee during the interim period by the  
18 Commission, or a trust established and maintained by the  
19 Commission shall be considered provided by the retirement system  
20 and the amount of benefit paid by the Commission or the trustee,  
21 shall reduce the amount required to be transferred to the  
22 retirement system under subsection (c) of this section.

23 (ii) Subsection (b) shall continue to apply after the  
24 date of transfer specified in subsection (c) with respect to the  
25 period for which the Commission thereafter makes its required  
26 contribution to the retirement system. In the event that the  
27 Commission ceases to make its required contribution, the  
28 Transferred Employees shall be considered inactive members of the  
29 retirement system as of the date of such cessation.

30 (iii) The member contributions of the Transferred  
31 Employees shall be considered picked up and paid by the  
32 Commission to the retirement system after the interim period  
33 pursuant to the provisions of § 414(h)(2) [26 U.S.C. 414(h)(2)]

1 of the United States Internal Revenue Code. The contributions so  
2 picked up shall be treated as employer contributions in  
3 determining the tax treatment under the United States Internal  
4 Revenue Code, and shall not be included as gross income of the  
5 Transferred Employee until such time as they are distributed.

6 (iv) All Transferred Employees who are contributing  
7 members of the employees' retirement system shall continue as  
8 members unless they elect to cease contributions as of  
9 October 31, 1996. Any Transferred Employee who has contributed  
10 for at least ten (10) years may elect to participate in an  
11 alternative retirement program and still maintain vested rights  
12 to a pension within the employees' retirement system. All  
13 Transferred Employees shall have ninety (90) days to make their  
14 election to participate in an alternative retirement program.

15 36-9-45. Narragansett Bay Commission of Rhode Island -  
16 Uninterrupted state service.-- Transferred Employees, as defined  
17 in § 36-9-44, who return to employment with the State of Rhode  
18 Island directly from uninterrupted employment with the Commission  
19 shall have their length of service at the Commission deemed to be  
20 uninterrupted active state service for purposes of service  
21 credits in the retirement system.

22 36-9-46. Narragansett Bay Commission of Rhode Island -  
23 Transferred Employees - Bumping Rights.-- In the event of an  
24 adverse employer initiated action by the Commission, Transferred  
25 Employees who have bumping rights pursuant to an existing  
26 collective bargaining agreement shall be entitled to exercise  
27 their bumping rights. An adverse employer initiated action is  
28 defined as a layoff, job abolishment, privatization or  
29 subcontract of functions.

30 SECTION 5. Section 39-1-2 of Chapter 39-1 entitled "Public  
31 Utilities and Carriers" is hereby amended as follows:

32 39-1-2. Definitions.-- Terms used in this title shall be  
33 construed as follows, unless another meaning is expressed or is

1 clearly apparent from the language or context.

2 \* \* \*

3 (7) "Public utility" means and includes every company  
4 operating or doing business in intrastate commerce and in this  
5 state as a railroad, street railway, common carrier, gas,  
6 liquefied natural gas, electric, water, telephone, telegraph, and  
7 pipeline company, and every company owning, leasing, maintaining,  
8 managing, or controlling any plant or equipment or any part of  
9 any plant or equipment within this state for generating,  
10 manufacturing, producing, transmitting, distributing, delivering,  
11 or furnishing natural or manufactured gas, steam, electrical, or  
12 nuclear energy, heat, light or power, directly or indirectly to  
13 or for the public, or any cars or equipment employed on or in  
14 connection with any railroad or street railway for public or  
15 general use within this state, or any pipes, mains, poles, wires,  
16 conduits, fixtures, through, over, across, under, or along any  
17 public highways, parkways or streets, public lands, waters, or  
18 parks for the transmission, transportation, or distribution of  
19 gas or electric current for sale to the public for light, heat,  
20 cooling, or power for providing audio or visual telephonic or  
21 telegraphic communication service within this state or any pond,  
22 lake, reservoir, stream, well, or distributing plant or system  
23 employed for the distribution of water to the consuming public  
24 within this state including the water supply board of the city of  
25 Providence; provided, that, except as provided in § 39-16-9 and  
26 in chapter 2072 of the public laws, 1933, as amended, this  
27 definition shall not be construed to apply to any public  
28 waterworks or water service owned and furnished by an city, town,  
29 water district, fire district, or any other municipal or quasi-  
30 municipal corporation, excepting the water supply board of the  
31 city of Providence, unless any city, town, water district, fire  
32 district, municipal, or quasi-municipal corporation obtains water  
33 from a source owned or leased by the water resources board,

1 either directly or indirectly, or obtains a loan from the board  
2 pursuant to the provisions of chapter 15 of title 46, or sells  
3 water, on a wholesale or retail basis, inside and outside the  
4 territorial limits of the city or town, water district, fire  
5 district, municipal or quasi-municipal corporation, except,  
6 however, that a public waterworks or water service owned and  
7 furnished by any city, town, water district, fire district, or  
8 any other municipal or quasi-municipal corporation which sells  
9 water, on a wholesale or retail basis, inside and outside its  
10 territorial limits shall not be construed as a public utility if  
11 it has fewer than 1500 total customer service connections and  
12 provided outside sales do not exceed ten percent (10%) of the  
13 total water service connections or volumetric sales and provided  
14 the price charged to outside customers, per unit of water, is not  
15 greater than the price charged to inside customers for the same  
16 unit of water, nor to the Rhode Island public transit authority,  
17 or to the production and/or distribution of steam, heat, or water  
18 by Rhode Island port authority and economic development  
19 corporation in the town of North Kingstown; and the term "public  
20 utility" shall also mean and include the Narragansett Bay water  
21 quality management district commission; and provided that the  
22 ownership or operation of a facility by a company which dispenses  
23 alternative fuel or energy sources at retail for use as a motor  
24 vehicle fuel or energy source, and the dispensing of alternative  
25 fuel or energy sources at retail from such a facility, does not  
26 make the company a public utility within the meaning of this  
27 title solely because of that ownership, operation, or sale; and  
28 provided further that this exemption shall not apply to presently  
29 regulated public utilities which sell natural gas or are  
30 dispensers of other energy sources; and provided further, that  
31 the term "public utility" shall not include any company;

32 (i) Producing or distributing steam or heat from a  
33 fossil fuel fired cogeneration plant located at the university of

1 Rhode Island South Kingstown, Rhode Island and

2 (ii) Producing and/or distributing thermal energy  
3 and/or electricity to a state owned facility from a plant located  
4 on an adjacent site regardless of whether distribution lines  
5 cross a public highway.

6 SECTION 6. Section 46-12.2-17 of Chapter 46-12.2 of the  
7 General Laws entitled "Rhode Island Clean Water Finance Agency"  
8 is hereby amended as follows:

9 46-12.2-17. No additional consent required. -- Except as  
10 provided in this section, bonds and local governmental  
11 obligations may be issued under this chapter without obtaining  
12 the consent of any executive office, department, division,  
13 commission, board, bureau, or agency of the state or any  
14 political subdivision thereof, and without any other proceedings  
15 or the happening of any condition, or acts other than those  
16 proceedings or the happening of any condition, or acts other than  
17 those proceedings, conditions, or acts which are specifically  
18 required therefor hereunder or under any applicable bond act, and  
19 the validity of and security for any bonds issued by the agency  
20 pursuant to this chapter, and any local governmental obligations  
21 issued in accordance herewith, shall not be affected by the  
22 existence or nonexistence of any consent or other proceedings,  
23 conditions, or acts. Nothing in this chapter shall exempt the  
24 agency from the provisions of chapter 10.1 of title 42 entitled  
25 "Public Finance Management Board," ~~and the Narragansett Bay water~~  
26 ~~quality management district commission shall not issue any bonds,~~  
27 ~~notes, or other indebtedness without the approval of the division~~  
28 ~~of public utilities as required by 5-39-3-15.~~

29 \* \* \*

30 SECTION 7. Section 35-4-20 of Chapter 35-4 of the General  
31 Laws entitled "State Funds" is amended as follows:

32 35-4-20. Funds subject to contribution. -- A contribution  
33 of moneys based upon the annual statewide cost allocation plan,

1 representing the estimated pro rata share of statewide indirect  
2 costs paid from the general fund, shall be made from the moneys  
3 and trust funds enumerated below.

4 ~~(1) Narragansett Bay water quality management district~~  
5 ~~commission funds, as set forth in §§ 46-25-22 and 46-25-24,~~

6 ~~(2) water development fund as set forth in § 46-15-24,~~

7 ~~(3) Blackstone Valley district Commission fund as set forth~~  
8 ~~in §§ 46-21-23 and 46-21-24.~~

9 SECTION 8. This act shall take effect on July 1, 1996 or  
10 upon passage, whichever date is later, provided, however, that  
11 the general treasurer shall transfer the Narragansett Bay water  
12 quality management district commission fund to the Narragansett  
13 Bay Commission of Rhode Island on a date to be specified by the  
14 executive director of the Narragansett Bay Commission of Rhode  
15 Island in a notice to the general treasurer to be delivered to  
16 the general treasurer not less than forty-five (45) days before  
17 the date set forth in the notice for the transfer of the fund,  
18 but the transfer, in any event shall be accomplished no later  
19 than July 1, 1997.

20 SECTION 9. Notwithstanding Section 1, the members of the  
21 Narragansett Bay water quality management district commission and  
22 the officers thereof appointed, qualified, and in office  
23 immediately prior to the passage of this act shall be and  
24 continue as members of the Narragansett Bay commission of Rhode  
25 Island during the remainder of the terms for which they were  
26 appointed or until their resignation, death, incapacity, or other  
27 removal from office. All property or rights to property held by  
28 the Narragansett Bay water quality management district commission  
29 shall transfer to and be held by the Narragansett Bay commission  
30 of Rhode Island without any necessity for any document of  
31 transfer or recording thereof. Any act taken by the Narragansett  
32 Bay water quality management district commission prior to the  
33 passage of this act, valid at the time such act was taken, shall,

1 subject to such discretion as the commission may lawfully  
2 exercise to the continuance or modification thereof, remain valid  
3 and shall be considered to have been taken by the Narragansett  
4 Bay commission of Rhode Island. The secretary of the commission  
5 shall maintain the books and records of the Narragansett Bay  
6 water quality management district commission as the books and  
7 records of the Narragansett Bay Commission of Rhode Island. The  
8 authority granted and obligations imposed by sections 37, 38, 39,  
9 40, 41, 42, 43 and 44 of chapter 46-25 of the General Laws shall  
10 apply to the Narragansett Bay commission of Rhode Island as the  
11 successor to the Narragansett Bay water quality management  
12 district commission. Except as otherwise set forth herein, in  
13 any action, suit or other proceeding to which the Narragansett  
14 Bay water quality management district commission was a party  
15 immediately prior to the passage of this act, the Narragansett  
16 Bay Commission of Rhode Island shall be substituted as a party;  
17 provided further that any regulatory proceeding under state law  
18 relating to the commission's rates shall be dismissed for lack of  
19 jurisdiction and any outstanding orders relating to the  
20 commission's rates shall be of no further force and effect. To  
21 the extent in any such proceeding the powers and duties of the  
22 Narragansett Bay Commission of Rhode Island after the passage of  
23 this act are in issue, the commission shall be regarded as having  
24 the powers and duties set forth in this act, as it may be amended  
25 from time to time; provided that the commission shall in any  
26 event have the power to carry out any agreement validly  
27 undertaken by the Narragansett Bay water quality management  
28 district commission for the duration of such agreement without  
29 regard to any amendment thereof or extension thereto occurring  
30 after the passage of this act.

# 96-H 8400

EXPLANATION OF

AN ACT

RELATING TO  
NARRAGANSETT BAY  
COMMISSION OF RHODE ISLAND

1           This act would change the name of the Narragansett Bay  
2 Water Quality Management District Commission to the Narragansett  
3 Bay Commission of Rhode Island. This act would also make various  
4 technical changes and clarify and revise the authority of the  
5 commission by repealing and replacing the Narragansett Bay Water  
6 Quality Management District Commission Act in its entirety,  
7 except for provisions which were approved by the electorate.