THE CITY OF PROVIDENCE

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RESOLUTION OF THE CITY COUNCIL

No. 298

Approved April 30, 1995

RESOLVED, That the City Council endorses and urges passage by the General Assembly of Senate Bill 95-S0983 and House Bill 95-H 6234 relating to Public Water Supply Systems contingent upon the bills being amended in substantially the form attached.

IN CITY COUNCIL
APR 20 1995
READ AND PASSED

Evelyn V. Fargnoli
PRES.

Michael R. Clement
CLERK

APPROVED
APR 30 1995

Vincent A. Cianci
MAYOR

IN CITY COUNCIL

READ AND PASSED

PRES.

CLERK

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 1995

AN ACT
RELATING TO

PUBLIC WATER SUPPLY SYSTEMS

Introduced By:

Date Introduced:

Referred To:

It is enacted by the General Assembly as follows:

SECTION 1. Title 46 of the general laws of Rhode Island entitled "Waters and Navigation" is hereby amended by adding thereto the following chapter:

CHAPTER 29

PUBLIC WATER SUPPLY SYSTEMS

46-29-1. Short title. -- This chapter shall be referred to as the "Public Water Supply Systems Act of 1995."

46-29-2. Legislative findings, intent, and objectives. -- It is hereby found and declared that:

(a) Water is vital to life and comprises an invaluable natural resource which is not to be abused by any segment of the state's population or its economy. It is the policy of the state to restore, enhance, and maintain the chemical, physical, and biological integrity of its waters to protect health;

(b) It is further found and declared that the waters of this state are a critical renewable resource which must be protected to insure the availability of safe and potable drinking water for present and future needs;

(c) It is further found and declared that public water supply systems have the responsibility to provide safety and potable drinking water to the state's population;

(d) It is further found and declared that financial and regulatory pressures may force some small public water supply systems into economically losing propositions;

(e) It is further found and declared that economy and efficiency dictate the desirability to combine small public water supply systems with other public water supply systems;

(f) The objectives of this chapter are:

(1) To establish a mechanism to combine small public water supply systems and/or annex small systems to adjacent water supplies in order to provide viable water supplies capable of meeting federal and state drinking water regulations current at all times.

(2) To enable each local jurisdiction, city, town, water authority, water district, small suppliers to petition the adjacent supplier for the purpose of merging or annexing with said supplier in an economically fair method.

(3) No merger nor annexation shall proceed without the consent of the governing board of each respective entity or, in the case of a municipally owned system, a vote of the majority of the entire town or city council or, in the case of a private supplier, the consent of the owner of the enterprise in question and the governing board of the petitioned governing agency.

46-29-3. Definitions. -- As used in this chapter, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning.

(a) "Public water supply system" shall be construed to mean the same as defined in section 46-13-2.

(b) "Governing agency" shall mean the public water supply system into which the small public water supply system is being merged.

46-29-4. Financial Responsibility. -- (a) The financial obligation for the upgrading of the public water supply system to be annexed and the continued management and operational responsibility to bring that system into compliance with the applicable regulations and on parity with the existing facilities of the governing agency must be fairly and equitably allocated to the new customers by identifying:

(1) capital costs

(2) Operational expenses

(3) management support

and adding it to the governing agency's existing rate structure currently in effect.

(b) Each year the supplemental rate/surcharge/fee to be paid by the new customers shall be added to the rate apportioned to the existing customers of the governing agency and shall represent the amortized cost of the capital expenditures and the appropriate ongoing operational costs adjusted for inflation. Said rate/surcharge/fee shall in no event be less than the rate levied on the pre-annexation customer base, nor shall it be more than one hundred percent (100%) of said pre-annexation rate. This legislation is not intended to limit the governing agency from recovering all costs of service from its basic customer base.

(c) The supplemental rate/surcharge/fee shall terminate when the contractual obligation for amortizing the upgrading of the system petitioning annexation has been discharged or no later than thirty (30) years from the date of financing said improvements, whichever comes first. When the obligation of annexation has been completed, the customers and parcels of land within the annexation area shall be subject to the same rules and regulations as all other customers of the governing agency.

46-29-5. Merger - Effective date - Transfer of assets and assumption of liabilities. -- (a) Subject to the approval of the governing board of the public water supply system and in the case of a municipally owned system, the approval of the majority of the entire town or city council, the public water supply system

shall be merged with and into the governing agency. Upon such merger, the governing board of the governing agency and in the case of a-municipally owned system, by a vote of the majority of the entire town or city council, agrees to accept and the governing board of the public water supply system agrees to transfer to the governing agency all rights and benefits accrued to the public water supply system arising out of federal assistance or federal funding available to public water supply systems.

(b) It shall be the obligation of the governing board of the public water supply system to disclose to the governing agency all obligations, liabilities, and lawsuits pending against such entity. The governing agency shall have the right to include such obligations into the construction of the supplemental rate/surcharge/fee to fairly apportion such costs to the customer base of the public water supply system.

The existence of the public water supply system shall continue unaffected and unimpaired by said merger and the public water supply system shall continue to be governed by appropriate municipal and state laws, rules, and regulations.

(c) The governing board of the public drinking water system is hereby authorized to and shall pass such resolutions, enter into such agreements and do all things deemed useful and necessary by it to effectuate the merger; and the governing board of the governing agency is hereby authorized and may pass such resolutions, enter into such agreements and do all things useful and necessary by it to effectuate the merger. Nothing in sub-section (c) shall permit the governing agency of municipally owned systems to enter any agreements or pass resolutions which require city or town council approval;

(d) Upon completion, the merger shall be certified to the secretary of state by the chief executive officer of the governing agency.

(e) Upon the merger of the public water supply system and the governing agency, the governing agency shall assume responsibility for the planning, construction, operation and maintenance of the appropriate facilities, water mains and appurtenances of the public water supply system.

(f) The governing agency shall also be responsible and liable for all liabilities and obligations of the public water supply system pertaining to water supply; and any claim existing or action or proceeding pending by or against the public water supply system may be prosecuted as if the merger had not taken place, or the governing agency may be substituted in its place. Neither the rights of creditors nor any liens upon the property of the public water supply system shall be impaired by the merger. The merger as provided for herein shall not impair the obligation of any contract or agreement or alter existing bargaining units nor abate any suit, action or other proceeding lawfully commenced by or against the public water supply system, or any of its governing board in relation to the discharge of their official duties, but a court of competent jurisdiction may, on motion filed within twelve (12) months after the effective date of the merger, allow such h a suit, action or proceeding to be maintained by or against the merging public water supply system or any of its governing board in relation to the discharge of their official duties. Upon completion of the merger, all user charges, fees or rates assessed by the governing agency as a result of the merger shall be subject to the approval of the public utilities commission.

46-29-6. Liberal construction. -- The provisions of this chapter shall be construed liberally in order to accomplish the purposes hereof, and where any specific power is given to any agency by the provisions hereof, the statement thereof shall not be deemed to exclude or impair any power otherwise in this chapter conferred upon that agency.

46-29-7. Severability of provisions. -- If any provisions of this chapter or of any rule, regulation or order made thereunder, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the remainder of this chapter, rule, regulation or order, and the application of such provision to other persons or circumstances shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this chapter shall not affect the validity of the remainder of this chapter and is hereby declared to be the legislative intent that this chapter would have been enacted if such invalid parts had not been included therein.

SECTION 2. This Act shall take effect upon its passage.

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
AN ACT
PERTAINING TO PUBLIC WATER SUPPLY SYSTEMS

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This act would provide for the annexation of small public water systems who frequently lack the technical and financial ability to meet current and future drinking water standards. This act would provide for annexation in a fair and equitable manner to all parties.

This act would take effect upon passage.

S. H.

AN ACT PERTAINING TO PUBLIC WATER SUPPLY SYSTEMS

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Presented by