

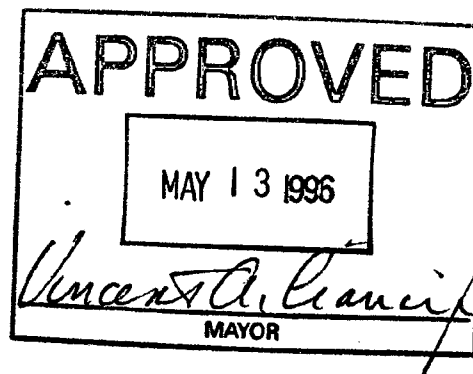
RESOLUTION OF THE CITY COUNCIL

No. 233

Approved May 13, 1996

RESOLVED, that the City Council endorses and urges passage by the General Assembly of Senate Bill 96-S 3016 and House Bill 96-H 8653 Relating to Downtown Management District, in substantially the form attached.

IN CITY COUNCIL
MAY 2 1996
READ AND PASSED
Erlyn V. Fargnoli
ACTING PRES.
Michael R. Christ
CLERK



Concedes Depute

IN CITY COUNCIL
MAR 21 1996
FIRST READING
REFERRED TO COMMITTEE ON
CLERK

THE COMMITTEE ON
State Legislation
Recommends Continuance
John M. Connelley
4/15/96
Clerk

332

THE COMMITTEE ON
State Legislation
Approves Passage of
The Within Resolution
Barbara C. Connelley
4/22/96
Chairman

DDT1275

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

96-H 8653

JANUARY SESSION, A.D. 1996

A N A C T

PROVIDING FOR THE CREATION OF DISTRICT
MANAGEMENT AUTHORITIES

96-H 8653

Introduced By: Reps. Moura, Fox and Costantino

Date Introduced: February 6, 1996

Referred To: Committee on Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 45 of the General Laws entitled "Towns and Cit-
2 ies" is hereby amended by adding thereto the following chapter:

3 CHAPTER 56

4 DISTRICT MANAGEMENT AUTHORITIES

5 45-56-1. Short title. -- This chapter shall be known and may be
6 cited as the "District Management Authorities Act".

7 45-56-2. Legislative findings and purpose. -- It is found and
8 declared that:

9 (a) The continued vitality of the business districts in the towns
10 and cities of the state is essential to retaining existing businesses
11 and attracting new enterprises.

12 (b) The financial condition of certain of the larger municipali-
13 ties of the state do not permit the continued provision of services
14 which in the past have been provided for business districts and paid
15 for by property taxes.

16 (c) This circumstance emphasizes the importance of enabling
17 public-private cooperation to provide security, cleaning and other

1 services in these business districts in order to supplement, but not
2 to substitute for, the services now being provided in by municipali-
3 ties within these districts.

4 (d) The establishment of district management authorities with the
5 power to make special tax assessments, as hereinafter provided, will
6 benefit the health, safety, welfare and prosperity of the people of
7 this state.

8 It is the purpose of this chapter to authorize towns and cities
9 to create district management authorities for the purpose of providing
10 the services and undertaking the activities hereinafter described to
11 supplement the services provided by municipal governments.

12 45-56-3. Definitions and construction. -- (a) As used in this
13 chapter, unless the context otherwise requires the term:

14 (1) "Chief elected officer" means (i) if a municipality is a
15 city, its mayor, or (ii) if a municipality is a town, the elected
16 officer who exercises day-to-day executive authority over the
17 municipality's affairs.

18 (2) "District management authority" means a district management
19 authority established pursuant to the provisions of this chapter.

20 (3) "Management district" means a management district established
21 pursuant to the provisions of this chapter and, as the context may re-
22 quire, includes any subdistrict within the management district.

23 (4) "Municipality" means a city or town of the state of Rhode
24 Island having a population according to the most recent federal census
25 of not less than one hundred thousand (100,000). Where the context
26 requires, "municipality" also means a city or town within which a man-
27 agement district is created pursuant to the provisions of this chap-
28 ter.

29 (5) "Real property" means land and buildings or structures locat-
30 ed thereon but does not include lines, mains, poles easements and
31 rights-of-way owned by public utilities.

32 (6) "State" means state of Rhode Island.

33 (b) References herein to owners or tenants of real property

1 located within a management district or residents of a management dis-
2 trict, or managers of real property located within the management dis-
3 trict shall be construed to include shareholders, members, partners,
4 directors, officers, employees or agents thereof.

5 45-56-5. Creation of district. -- A management district may be
6 created by an ordinance enacted by the city or town council of any
7 municipality (as defined in section 45-56-7 hereof) upon the written
8 petition of persons owning real property located within the proposed
9 district as hereinafter provided management district may contain one
10 or more subdistricts.

11 45-56-4. Contents of petition; signers. -- The written petition
12 shall be signed by persons who own real property located within the
13 proposed district constituting in the aggregate, a majority of the
14 aggregate assessed valuation of all real property, not exempt from
15 taxation by law, located in the proposed district. The written peti-
16 tion shall set forth:

17 (a) A statement requesting the creation of a management district
18 and a district management authority.

19 (b) The name of the district management authority.

20 (c) A description of the proposed management district and any
21 subdistrict and a map delineating the boundaries of the management
22 district and any subdistrict.

23 (d) The purposes for which the district management authority is
24 to be created which may be all of the purposes hereinafter set forth
25 or only those purposes specifically set forth in the petition. The
26 purposes of the district management authority in any subdistrict may
27 be different from those in a management district.

28 (e) Any limitations on the powers of the district management
29 authority which may include limitations on the amount of the special
30 tax assessment which the district management authority is permitted to
31 make.

32 (f) A statement that more than fifty percent (50%) of area of the
33 land located within the proposed district is devoted to commercial and

1 retail uses.

2 (g) The factors upon which the special tax assessment hereinafter
3 provided will be based which factors may be any one or a combination
4 of: (1) assessed valuation as of the date provided in section 44-5-1,
5 (2) square footage of land or improvements, (3) linear footage along
6 street fronts, (4) formulas reflecting that different areas or zones
7 within the management district will have greater or lesser benefit
8 from the activities to be undertaken by the district management
9 authority, (5) formulas establishing different assessment levels for
10 different classes of real property, or (6) any other method which
11 reasonably apportions the expenses of the activities of the district
12 management authority among the owners of real property within the man-
13 agement district which is benefited by the activities of the district
14 management authority. Different factors may be used for the purposes
15 of a special tax assessment in a subdistrict.

16 (h) The name of a nonprofit corporation designated by the peti-
17 tioners as being representative of the business community within the
18 municipality which shall have the appointive powers hereinafter pro-
19 vided for with respect to the governing board. The nonprofit orga-
20 nization will be one which has qualified under section 501(c) of the
21 Internal Revenue Code of 1986, as amended, and has received a determi-
22 nation letter from the Internal Revenue Service confirming its status
23 (which determination letter continues to be in full force and effect).

24 45-56-6. Public hearing on petition. -- The city or town council
25 to which the petition is submitted shall forthwith and in any event no
26 later than ninety (90) days after the receipt thereof hold a public
27 hearing for the purpose of receiving comments from all interested per-
28 sons on the approval of the petition and the creation of a management
29 district and a district management authority pursuant to the petition.
30 Notice of the public hearing shall be given by publication in a news-
31 paper of general circulation within the municipality at least once a
32 week for three (3) successive weeks prior to the date of the hearing.
33 Such notice shall state the date, time and place of the hearing and

1 contain a description of the boundaries of the proposed district, a
2 statement to the effect that it is proposed district, a statement to
3 the effect that it is proposed to create a management district and a
4 district management authority which shall have the power to provide
5 services within the management district and apportion the cost thereof
6 among the owners of real property located therein by means of a spe-
7 cial tax assessment, and the office where a copy of the petition may
8 be examined.

9 45-56-7. Creation of authority. -- After the hearing the city or
10 town council may approve the petition by ordinance which shall contain
11 a finding to the effect that:

12 (i) the petition has been submitted by persons who own real prop-
13 erty located within the proposed district constituting, in the aggre-
14 gate, a majority of the aggregate assessed valuation of all real prop-
15 erty, not exempt from taxation by law, located in the proposed dis-
16 trict, and

17 (ii) a majority of the area of the land located within the pro-
18 posed district is devoted to commercial and retail uses.

19 Thereupon, upon the approval of the petition by the city or town
20 council, a management district and a district management authority
21 shall thereby be created. The city or town council may approve or
22 disapprove the petition and it will have no authority to create a man-
23 agement district or district management authority which differs from
24 that sought by the petition.

25 45-56-8. The authority. -- The district management authority
26 thus created shall be a body corporate and politic and an instru-
27 mentality and agency of the municipality within which the management
28 district is located but having a distinct legal existence therefrom.
29 It is hereby declared that in exercising the powers granted to it
30 hereby, the district management authority will exercise public and
31 essential governmental functions of the municipality. No part of the
32 net earnings of the district management authority will be distribut-
33 able to, or inure to the benefit of, any private person.

1 45-56-9. Purposes of authority. -- Except as its purposes may be
2 limited by the petition, the management district management authority
3 shall have the following purposes within the management district:

4 (a) To provide for the cleaning of the public streets and
5 sidewalks and the removal of snow;

6 (b) To provide for security;

7 (c) To install, repair and maintain public streets and sidewalks
8 and lighting therefor;

9 (d) To install, repair and maintain street signs;

10 (e) To provide for landscaping and the repair and maintenance of
11 public spaces;

12 (f) To provide for refuse collection and removal;

13 (g) To provide for motor vehicle parking;

14 (h) To sponsor and promote recreational, cultural, and retail ac-
15 tivities;

16 (i) To promote the development of the management district includ-
17 ing collecting and disseminating information;

18 (j) To construct public facilities; and

19 (k) To provide such other services and facilities within the man-
20 agement district as may be beneficial to the management district and
21 the property owners, tenants and other occupants therein.

22 45-56-10. Powers of authority. -- Except as its powers may be
23 limited by the petition, the district management authority shall have
24 the power:

25 (a) To have perpetual succession unless a limited period of dura-
26 tion is stated in the petition.

27 (b) To sue and be sued, complain and defend, in its corporate
28 name.

29 (c) To have a corporate seal which may be altered at pleasure,
30 and to use the same by causing it, or a facsimile thereof, to be
31 impressed or affixed or in any other manner reproduced.

32 (d) To purchase, take, receive, lease, take by gift, devise or
33 bequest, or otherwise acquire, own, hold, improve, use and otherwise

1 deal in and with real or personal property or any interest therein,
2 wherever situated, and without restriction as to amount.

3 (e) To sell, convey, mortgage, pledge, lease, exchange, transfer
4 and otherwise dispose of all or any part of its property and assets.

5 (f) To lend money to and use its credit to assist its employees
6 and otherwise assist its employees.

7 (g) To purchase, take, receive, subscribe for, or otherwise ac-
8 quire, own, hold, vote, use, employ, sell, mortgage, lend, pledge or
9 otherwise dispose of, and otherwise use and deal in and with, shares
10 or other interests in, or obligations of domestic or foreign corpora-
11 tions, whether for profit or not for profit, limited liability compa-
12 nies, associations, partnerships or individuals, or direct or indirect
13 obligations of the United States, or of any other government, state,
14 territory, governmental district or municipality or of any instru-
15 mentality thereof.

16 (h) To make contracts and guarantees and incur liabilities, bor-
17 row money at such rates of interest as the district management author-
18 ity may determine, issue its notes, bonds and other obligations, guar-
19 antee debts and secure any of its obligations by mortgage or pledge of
20 all or any of its property, assets and income.

21 (i) To lend money for its purposes, invest and reinvest its
22 funds, and to take and hold real and personal property as security for
23 the payments of funds so loaned or invested.

24 (j) To elect or appoint officers and agents of the district man-
25 agement authority and to define their duties and fix their compensa-
26 tion.

27 (k) To make and alter by-laws, not inconsistent with the petition
28 or with the laws of this state, for the administration and regulation
29 of the affairs of the district management authority.

30 (l) To accept grants or funds from the state and from non-profit
31 corporations.

32 (m) To have an exercise all other powers necessary or convenient
33 to effect any or all of the purposes for which the district management

1 authority is created.

2 45-56-11. By-laws. -- The board of directors of the district man-
3 agement authority may adopt by-laws containing provisions for the
4 regulation and management of the activities of the district management
5 authority.

6 45-56-12. Governing board. -- (a) The activities of the district
7 management authority shall be managed by a board of directors which
8 shall consist of nine members.

9 (b) All of the directors shall be owners or tenants of real prop-
10 erty located within the management district or residents of the man-
11 agement district, or manages of real property located within the man-
12 agement district.

13 (c) Two (2) of the directors shall be appointed by the chief
14 elected officer of the municipality within which the district manage-
15 ment authority is located, one (1) of whom shall be the owner of real
16 property located within the district; and seven (7) of the directors
17 shall be appointed by the representative business organization which
18 was designated in the petition submitted pursuant to section 45-56-5
19 hereof, four (4) of whom shall be the owners of real property located
20 within the district.

21 (d) The directors shall serve for terms of three (3) years which
22 shall expire on the 31st day of March. The chief elected officer shall
23 assign to the persons initially appointed by him or her terms of one
24 (1) and three (3) years so that the term of one (1) of the directors
25 appointed shall expire on the 31st day of March, 1994 and the term of
26 the other shall expire on the 31st day of March, 1996. The business
27 organization designated in the petition filed pursuant to section
28 45-56-5 hereof shall assign to the persons initially appointed by it
29 terms of one (1), two (2) and three (3) years so that the terms of two
30 of the directors appointed by the business organization shall expire
31 on the 31st day of March in 1997; the terms of three of the directors
32 so appointed shall expire on the 31st day of March in 1998; and the
33 terms of the remaining two of the directors so appointed shall expire

1 on the 31st day of March in 1999. Beginning in 1997, the appointing
2 authorities will appoint, directors, to succeed the directors whose
3 terms are then expiring, who will serve for terms of three (3) years
4 and thereafter until their successors are appointed and shall have
5 qualified.

6 (e) Directors will receive no compensation for the performance of
7 their duties but may be reimbursed for their reasonable expenses in
8 carrying out such duties.

9 45-56-13. Officers. -- (a) The officers of a district management
10 authority shall consist of a chairman, a treasurer and a secretary,
11 each of whom shall be elected by the board of directors. Such other
12 officers and assistant officers and agents as may be deemed necessary
13 may be elected or appointed by the board of directors at such time and
14 in such manner as may be prescribed by the by-laws. Any two (2) or
15 more officers may be held by the same person.

16 (b) All officers and agents of the district management authority
17 shall have such authority and perform such duties in the management of
18 the district management authority as may be provided in the by-laws,
19 or as may be determined by resolution or vote of the board of direc-
20 tors, subject to any limitations on such authority contained in the
21 by-laws.

22 45-56-14. Annual budget. -- (a) Not later than sixty (60) days
23 prior to the beginning of each fiscal year, the district management
24 authority shall annually prepare an operating budget containing:

25 (i) an estimate of surplus from its current fiscal year available
26 for expenditure in the ensuing fiscal year;

27 (ii) an estimate of receipts for the ensuing fiscal year from the
28 special tax assessment hereinafter provided for;

29 (iii) an estimate of receipts for the ensuing fiscal year from
30 all other sources; and

31 (iv) an estimate of expenditures for the ensuing fiscal year for
32 the carrying on of the district management authority's activities
33 including debt service, if any.

1 **(b) Prior to the adoption of the budget, the district management**
2 **authority shall hold a public hearing thereon at which all interested**
3 **persons may be heard. Notice of the public hearing shall be given by**
4 **publication in a newspaper of general circulation within the municipi-**
5 **pality at least once a week for three successive weeks prior to the**
6 **date of the hearing.**

7 **45-56-15. Special tax assessments. -- Each district management**
8 **authority shall have the power to apportion the annual operating**
9 **expenses of the district management authority among the owners of**
10 **ratable real property, not otherwise exempt by law, located within the**
11 **management district by a special tax assessment. The special tax**
12 **assessment will be based on the factors set forth in the petition**
13 **approved by the city or town council. The rate of the special tax**
14 **assessment with respect to any sub-district may vary in amount from**
15 **the rate of the special tax assessment generally applicable to the**
16 **owners of ratable real property within the management district. The**
17 **special tax assessments made by a district management authority shall**
18 **not be considered to be a tax of the municipality for purposes of**
19 **section 44-5-2 of the general laws.**

20 **45-56-16. Limit on assessments. -- The total of the special tax**
21 **assessments levied on the ratable real property within the management**
22 **district shall not exceed ten (10) percent of the total of the real**
23 **property taxes levied on the ratable real property within the manage-**
24 **ment district, not exempt from taxation, for the fiscal year of the**
25 **municipality that ends within or with the fiscal year of the district**
26 **management authority.**

27 **45-56-17. Collection of assessments. -- The assessments made by**
28 **any district management authority shall be collected by the tax col-**
29 **lector of the municipality within which the management district is**
30 **located for the account of the district management authority. The**
31 **assessments so collected shall not be commingled with funds of the**
32 **municipality and forthwith upon their collection, shall be remitted to**
33 **the district management authority. Assessments shall be a lien on the**

1 real property of the persons against whom the assessments are made in
2 the same manner as taxes assessed by a municipality under section
3 44-9-1 of the general laws. Tax collectors of municipalities within
4 which management districts are created shall have the same powers with
5 respect to assessments and their collection as are granted to them by
6 chapter 44-9 of the general laws with respect to municipal property
7 taxes except that these powers shall be exercised for and on behalf of
8 the district management authority.

9 45-56-18. Petition for relief from assessment. -- (a) Any person
10 aggrieved on any ground whatsoever by any assessment against him or
11 her by a district management authority in any municipality may within
12 three (3) months after the last day appointed for the payment without
13 penalty of the assessment, or the first installment thereof, if the
14 assessment is payable in installments, file a notice of appeal with
15 the district management authority and within thirty (30) days there-
16 after, file a petition in the superior court for the county within
17 which the municipality is located for relief from the assessment, to
18 which petition the district management authority shall be made a party
19 respondent, and the clerk of the superior court shall thereupon issue
20 a citation substantially in the following form:

21 THE STATE OF RHODE ISLAND

22 AND PROVIDENCE PLANTATIONS

23 To the sheriff of the several counties, or to the deputies,
24 Greetings:

25 We command you to summon the Treasurer of (the district manage-
26 ment authority): to wit, _____ of
27 _____ (if to be found in your precinct) to answer
28 the complaint of _____ on the return day hereof
29 (said return day being the _____ day of _____, A.D.
30 19____) in the superior court to be holden at the county courthouse in
31 _____ as by petition filed in court is fully set
32 forth; and to show cause why said petition should not be granted.

33 Hereof fail not, and make true return of this writ with your

1 doings thereon.

2 Witness, the seal of our superior court, at _____ this
3 day of _____ in the year, A.D. 19 _____.

4 _____, Clerk

5 (b) Said petition shall be subject to the provisions of section
6 44-5-26 through section 44-5-31 of the general laws insofar as the
7 same may be applicable.

8 45-56-19. Agreements with the state. -- The state and a district
9 management authority may enter into agreements pursuant to which the
10 state agrees with the district management authority that the district
11 management authority will thereafter undertake services previously
12 provided by the state in consideration of the state's paying to the
13 district management authority of such sums as the parties may agree
14 to.

15 45-56-20. Agreements with municipalities -- Maintenance of
16 expenditures. -- (a) A municipality and a district management author-
17 ity may enter into agreements:

18 (i) with respect to parcels or property upon which they respec-
19 tively hold liens with respect to the disposition of the liens, of the
20 parcel of property subject thereto and of the proceeds of a tax sale
21 thereof;

22 (ii) pursuant to which the municipality agrees with the district
23 management authority that the district management authority will
24 thereafter undertake services previously provided by the municipality
25 in consideration of the municipality's paying to the district manage-
26 ment authority of such sums as the parties may agree to.

27 (b) The services provided by a district management authority will
28 be supplemental of the services theretofore provided by the munici-
29 pality within the management district. A municipality within which a
30 management district is located will not diminish in quality or quan-
31 tity the services provided in the management district during the
32 fiscal year of the municipality immediately preceding the date upon
33 which the management district is created.

1 45-56-21. Amendment. -- At any time after the approval of a
2 petition and the creation of a district management authority, the
3 boundaries of the management district and the purposes and powers of
4 the district management authority may be amended by the filing of a
5 petition therefor. The petition will set forth the amendments sought;
6 it will be signed by the owners of real property as provided in
7 section 45-55-5 hereof and will be heard and acted upon by the city or
8 town council in the same manner as petitions are required to be heard
9 and acted upon pursuant to sections 45-5-6 and 45-5-7 hereof. Upon
10 the approval of the petition for amendment by the city or town coun-
11 cil, the boundaries of the management district and the purposes and
12 powers of the district management authority will be as set forth in
13 the petition for amendment.

14 45-56-22. Dissolution. -- (a) Any district management authority
15 may be dissolved and the designation of a management district termi-
16 nated by ordinance of the city or town council of the municipality
17 within which it is located adopted after public hearing as provided in
18 section 45-5-6.

19 (b) Any district management authority must be dissolved and the
20 designation of a business district terminated by ordinance of the city
21 or town council of the municipality within which it is located upon
22 the receipt of a written petition therefor signed by persons who own
23 real property located within the district constituting, in the aggre-
24 gate, not less than a majority of the aggregate valuation of all real
25 property, not exempt from taxation, located within the management dis-
26 trict.

27 (c) Any district management authority and the designation of a
28 management district will be automatically dissolved and terminated,
29 respectively, as of the end of the third full fiscal year after its
30 creation and designation and after it has actually commenced providing
31 services hereunder unless the continuance of the existence of the dis-
32 trict management authority and the designation of the district for
33 another three (3) fiscal years is approved in a writing which is filed

1 with the clerk of the municipality within which the management dis-
2 trict is located and is signed by persons who own real property locat-
3 ed within the proposed district constituting, in the aggregate, not
4 less than a majority of the aggregated assessed valuation of all real
5 property, not exempt from taxation, located in the district.

6 (d) Any such dissolution and termination occurring under the
7 provisions of subsections (a) and (b) hereof will be effective as of
8 the end of the fiscal year within which the ordinance of the city or
9 town council is enacted.

10 (e) Upon its dissolution, the district management authority will
11 proceed to wind up its affairs and, after all of the indebtedness of
12 the district management authority has been paid or its payment pro-
13 vided for, the remaining property and assets of the district manage-
14 ment authority shall be paid over to the municipality unless another
15 disposition thereof, benefitting the management district, has been
16 directed by the district management authority's board of directors.

17 45-56-23. Exemption from taxation. -- (a) Any notes, bonds or
18 other obligations issued by any district management authority, their
19 transfer and the income therefrom (including any profits made on the
20 sale thereof), shall at all times be free from taxation by the state
21 or any political subdivision or other instrumentality of the state.

22 (b) The exercise of the powers granted by this chapter will be in
23 all respects for the benefit of the people of this state and of the
24 municipalities within which the district management authorities shall
25 undertake their activities, the increase of their commerce, welfare
26 and prosperity and for the improvement of their health and living con-
27 ditions and will constitute the performance of essential governmental
28 functions and the district management authorities will not be required
29 to pay any real or personal property taxes or assessments upon or in
30 respect of any property owned by them levied by any municipality or
31 other political subdivision of the state.

32 45-56-24. Credit of municipality not pledged. -- Bonds, notes
33 and other obligations of a district management authority shall not be

1 deemed to constitute the debt or a pledge of the faith and credit of
2 the municipality.

3 45-56-25. Exemption from liability. -- No member of the board of
4 directors of a district management authority and no officer thereof
5 shall be held civilly liable for any breach of his or her duties as
6 such member or officer except for liability (i) for acts or omissions
7 not in good faith or which involve intentional misconduct or knowing
8 violation of law, or (ii) for any transaction from which such member
9 or officer derived an improper personal benefit, or (iii) for any
10 malicious, willful or wanton act.

11 45-56-26. Applicability of other laws. -- District management
12 authority will not be subject to laws or ordinances relating to the
13 purchasing of property or services or the making of contracts.
14 Employees of district management authorities shall not be considered
15 to be public or municipal employees.

16 45-56-27. Notice of creation of district -- Actions to contest.
17 -- Notice of the creation of a management district and a district man-
18 agement authority shall be given by publication in a newspaper of gen-
19 eral circulation within the municipality at some time subsequent to
20 the approval of the petition by the city or town council as provided
21 in section 45-56-7 hereof. Actions to contest the validity of the
22 proceedings for the creation of the management district and the dis-
23 trict management authority must be commenced within sixty (60) days
24 after the date of the notice and no action thereafter commenced shall
25 raise any question concerning the validity of the proceedings and the
26 creation of the management district and the district management
27 authority. After the expiration of the sixty (60) day period, the
28 validity of the proceedings and the creation of the management dis-
29 trict and the district management authority shall be conclusively pre-
30 sumed.

96-H 8653

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

DDT1275

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
AN ACT

PROVIDING FOR THE CREATION OF DISTRICT
MANAGEMENT AUTHORITIES

- 1 This act provides for the creation of district management
2 authorities.
3 The act would take effect upon passage.

DT1275

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

96-S 3016

JANUARY SESSION, A.D. 1996

A N A C T

PROVIDING FOR THE CREATION OF DISTRICT
MANAGEMENT AUTHORITIES

96-S 3016

Introduced By: Senators Roney, Goodwin, and KellsDate Introduced: February 6, 1996Referred To: Senate Committee on Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 45 of the General Laws entitled "Towns and Cit-
2 ies" is hereby amended by adding thereto the following chapter:

CHAPTER 56

DISTRICT MANAGEMENT AUTHORITIES

5 45-56-1. Short title. -- This chapter shall be known and may be
6 cited as the "District Management Authorities Act".

7 45-56-2. Legislative findings and purpose. -- It is found and
8 declared that:

9 (a) The continued vitality of the business districts in the towns
10 and cities of the state is essential to retaining existing businesses
11 and attracting new enterprises.

12 (b) The financial condition of certain of the larger municipali-
13 ties of the state do not permit the continued provision of services
14 which in the past have been provided for business districts and paid
15 for by property taxes.

16 (c) This circumstance emphasizes the importance of enabling
17 public-private cooperation to provide security, cleaning and other

1 services in these business districts in order to supplement, but not
2 to substitute for, the services now being provided in by municipali-
3 ties within these districts.

4 (d) The establishment of district management authorities with the
5 power to make special tax assessments, as hereinafter provided, will
6 benefit the health, safety, welfare and prosperity of the people of
7 this state.

8 It is the purpose of this chapter to authorize towns and cities
9 to create district management authorities for the purpose of providing
10 the services and undertaking the activities hereinafter described to
11 supplement the services provided by municipal governments.

12 45-56-3. Definitions and construction. -- (a) As used in this
13 chapter, unless the context otherwise requires the term:

14 (1) "Chief elected officer" means (i) if a municipality is a
15 city, its mayor, or (ii) if a municipality is a town, the elected
16 officer who exercises day-to-day executive authority over the
17 municipality's affairs.

18 (2) "District management authority" means a district management
19 authority established pursuant to the provisions of this chapter.

20 (3) "Management district" means a management district established
21 pursuant to the provisions of this chapter and, as the context may re-
22 quire, includes any subdistrict within the management district.

23 (4) "Municipality" means a city or town of the state of Rhode
24 Island having a population according to the most recent federal census
25 of not less than one hundred thousand (100,000). Where the context
26 requires, "municipality" also means a city or town within which a man-
27 agement district is created pursuant to the provisions of this chap-
28 ter.

29 (5) "Real property" means land and buildings or structures locat-
30 ed thereon but does not include lines, mains, poles easements and
31 rights-of-way owned by public utilities.

32 (6) "State" means state of Rhode Island.

33 (b) References herein to owners or tenants of real property

1 located within a management district or residents of a management dis-
2 trict, or managers of real property located within the management dis-
3 trict shall be construed to include shareholders, members, partners,
4 directors, officers, employees or agents thereof.

5 45-56-5. Creation of district. -- A management district may be
6 created by an ordinance enacted by the city or town council of any
7 municipality (as defined in section 45-56-7 hereof) upon the written
8 petition of persons owning real property located within the proposed
9 district as hereinafter provided management district may contain one
10 or more subdistricts.

11 45-56-4. Contents of petition; signers. -- The written petition
12 shall be signed by persons who own real property located within the
13 proposed district constituting in the aggregate, a majority of the
14 aggregate assessed valuation of all real property, not exempt from
15 taxation by law, located in the proposed district. The written peti-
16 tion shall set forth:

17 (a) A statement requesting the creation of a management district
18 and a district management authority.

19 (b) The name of the district management authority.

20 (c) A description of the proposed management district and any
21 subdistrict and a map delineating the boundaries of the management
22 district and any subdistrict.

23 (d) The purposes for which the district management authority is
24 to be created which may be all of the purposes hereinafter set forth
25 or only those purposes specifically set forth in the petition. The
26 purposes of the district management authority in any subdistrict may
27 be different from those in a management district.

28 (e) Any limitations on the powers of the district management
29 authority which may include limitations on the amount of the special
30 tax assessment which the district management authority is permitted to
31 make.

32 (f) A statement that more than fifty percent (50%) of area of the
33 land located within the proposed district is devoted to commercial and

1 retail uses.

2 (g) The factors upon which the special tax assessment hereinafter
3 provided will be based which factors may be any one or a combination
4 of: (1) assessed valuation as of the date provided in section 44-5-1,
5 (2) square footage of land or improvements, (3) linear footage along
6 street fronts, (4) formulas reflecting that different areas or zones
7 within the management district will have greater or lesser benefit
8 from the activities to be undertaken by the district management
9 authority, (5) formulas establishing different assessment levels for
10 different classes of real property, or (6) any other method which
11 reasonably apportions the expenses of the activities of the district
12 management authority among the owners of real property within the man-
13 agement district which is benefited by the activities of the district
14 management authority. Different factors may be used for the purposes
15 of a special tax assessment in a subdistrict.

16 (h) The name of a nonprofit corporation designated by the peti-
17 tioners as being representative of the business community within the
18 municipality which shall have the appointive powers hereinafter pro-
19 vided for with respect to the governing board. The nonprofit orga-
20 nization will be one which has qualified under section 501(c) of the
21 Internal Revenue Code of 1986, as amended, and has received a determi-
22 nation letter from the Internal Revenue Service confirming its status
23 (which determination letter continues to be in full force and effect).

24 45-56-6. Public hearing on petition. -- The city or town council
25 to which the petition is submitted shall forthwith and in any event no
26 later than ninety (90) days after the receipt thereof hold a public
27 hearing for the purpose of receiving comments from all interested per-
28 sons on the approval of the petition and the creation of a management
29 district and a district management authority pursuant to the petition.
30 Notice of the public hearing shall be given by publication in a news-
31 paper of general circulation within the municipality at least once a
32 week for three (3) successive weeks prior to the date of the hearing.
33 Such notice shall state the date, time and place of the hearing and

1 contain a description of the boundaries of the proposed district, a
2 statement to the effect that it is proposed district, a statement to
3 the effect that it is proposed to create a management district and a
4 district management authority which shall have the power to provide
5 services within the management district and apportion the cost thereof
6 among the owners of real property located therein by means of a spe-
7 cial tax assessment, and the office where a copy of the petition may
8 be examined.

9 45-56-7. Creation of authority. -- After the hearing the city or
10 town council may approve the petition by ordinance which shall contain
11 a finding to the effect that:

12 (i) the petition has been submitted by persons who own real prop-
13 erty located within the proposed district constituting, in the aggre-
14 gate, a majority of the aggregate assessed valuation of all real prop-
15 erty, not exempt from taxation by law, located in the proposed dis-
16 trict, and

17 (ii) a majority of the area of the land located within the pro-
18 posed district is devoted to commercial and retail uses.

19 Thereupon, upon the approval of the petition by the city or town
20 council, a management district and a district management authority
21 shall thereby be created. The city or town council may approve or
22 disapprove the petition and it will have no authority to create a man-
23 agement district or district management authority which differs from
24 that sought by the petition.

25 45-56-8. The authority. -- The district management authority
26 thus created shall be a body corporate and politic and an instru-
27 mentality and agency of the municipality within which the management
28 district is located but having a distinct legal existence therefrom.
29 It is hereby declared that in exercising the powers granted to it
30 hereby, the district management authority will exercise public and
31 essential governmental functions of the municipality. No part of the
32 net earnings of the district management authority will be distribut-
33 able to, or inure to the benefit of, any private person.

1 45-56-9. Purposes of authority. -- Except as its purposes may be
2 limited by the petition, the management district management authority
3 shall have the following purposes within the management district:

4 (a) To provide for the cleaning of the public streets and
5 sidewalks and the removal of snow;

6 (b) To provide for security;

7 (c) To install, repair and maintain public streets and sidewalks
8 and lighting therefor;

9 (d) To install, repair and maintain street signs;

10 (e) To provide for landscaping and the repair and maintenance of
11 public spaces;

12 (f) To provide for refuse collection and removal;

13 (g) To provide for motor vehicle parking;

14 (h) To sponsor and promote recreational, cultural, and retail ac-
15 tivities;

16 (i) To promote the development of the management district includ-
17 ing collecting and disseminating information;

18 (j) To construct public facilities; and

19 (k) To provide such other services and facilities within the man-
20 agement district as may be beneficial to the management district and
21 the property owners, tenants and other occupants therein.

22 45-56-10. Powers of authority. -- Except as its powers may be
23 limited by the petition, the district management authority shall have
24 the power:

25 (a) To have perpetual succession unless a limited period of dura-
26 tion is stated in the petition.

27 (b) To sue and be sued, complain and defend, in its corporate
28 name.

29 (c) To have a corporate seal which may be altered at pleasure,
30 and to use the same by causing it, or a facsimile thereof, to be
31 impressed or affixed or in any other manner reproduced.

32 (d) To purchase, take, receive, lease, take by gift, devise or
33 bequest, or otherwise acquire, own, hold, improve, use and otherwise

1 deal in and with real or personal property or any interest therein,
2 wherever situated, and without restriction as to amount.

3 (e) To sell, convey, mortgage, pledge, lease, exchange, transfer
4 and otherwise dispose of all or any part of its property and assets.

5 (f) To lend money to and use its credit to assist its employees
6 and otherwise assist its employees.

7 (g) To purchase, take, receive, subscribe for, or otherwise ac-
8 quire, own, hold, vote, use, employ, sell, mortgage, lend, pledge or
9 otherwise dispose of, and otherwise use and deal in and with, shares
10 or other interests in, or obligations of domestic or foreign corpora-
11 tions, whether for profit or not for profit, limited liability compa-
12 nies, associations, partnerships or individuals, or direct or indirect
13 obligations of the United States, or of any other government, state,
14 territory, governmental district or municipality or of any instru-
15 mentality thereof.

16 (h) To make contracts and guarantees and incur liabilities, bor-
17 row money at such rates of interest as the district management author-
18 ity may determine, issue its notes, bonds and other obligations, guar-
19 antee debts and secure any of its obligations by mortgage or pledge of
20 all or any of its property, assets and income.

21 (i) To lend money for its purposes, invest and reinvest its
22 funds, and to take and hold real and personal property as security for
23 the payments of funds so loaned or invested.

24 (j) To elect or appoint officers and agents of the district man-
25 agement authority and to define their duties and fix their compensa-
26 tion.

27 (k) To make and alter by-laws, not inconsistent with the petition
28 or with the laws of this state, for the administration and regulation
29 of the affairs of the district management authority.

30 (l) To accept grants or funds from the state and from non-profit
31 corporations.

32 (m) To have an exercise all other powers necessary or convenient
33 to effect any or all of the purposes for which the district management

1 authority is created.

2 45-56-11. By-laws. -- The board of directors of the district man-
3 agement authority may adopt by-laws containing provisions for the
4 regulation and management of the activities of the district management
5 authority.

6 45-56-12. Governing board. -- (a) The activities of the district
7 management authority shall be managed by a board of directors which
8 shall consist of nine members.

9 (b) All of the directors shall be owners or tenants of real prop-
10 erty located within the management district or residents of the man-
11 agement district, or manages of real property located within the man-
12 agement district.

13 (c) Two (2) of the directors shall be appointed by the chief
14 elected officer of the municipality within which the district manage-
15 ment authority is located, one (1) of whom shall be the owner of real
16 property located within the district; and seven (7) of the directors
17 shall be appointed by the representative business organization which
18 was designated in the petition submitted pursuant to section 45-56-5
19 hereof, four (4) of whom shall be the owners of real property located
20 within the district.

21 (d) The directors shall serve for terms of three (3) years which
22 shall expire on the 31st day of March. The chief elected officer shall
23 assign to the persons initially appointed by him or her terms of one
24 (1) and three (3) years so that the term of one (1) of the directors
25 appointed shall expire on the 31st day of March, 1994 and the term of
26 the other shall expire on the 31st day of March, 1996. The business
27 organization designated in the petition filed pursuant to section
28 45-56-5 hereof shall assign to the persons initially appointed by it
29 terms of one (1), two (2) and three (3) years so that the terms of two
30 of the directors appointed by the business organization shall expire
31 on the 31st day of March in 1997; the terms of three of the directors
32 so appointed shall expire on the 31st day of March in 1998; and the
33 terms of the remaining two of the directors so appointed shall expire

1 on the 31st day of March in 1999. Beginning in 1997, the appointing
2 authorities will appoint, directors, to succeed the directors whose
3 terms are then expiring, who will serve for terms of three (3) years
4 and thereafter until their successors are appointed and shall have
5 qualified.

6 (e) Directors will receive no compensation for the performance of
7 their duties but may be reimbursed for their reasonable expenses in
8 carrying out such duties.

9 45-56-13. Officers. -- (a) The officers of a district management
10 authority shall consist of a chairman, a treasurer and a secretary,
11 each of whom shall be elected by the board of directors. Such other
12 officers and assistant officers and agents as may be deemed necessary
13 may be elected or appointed by the board of directors at such time and
14 in such manner as may be prescribed by the by-laws. Any two (2) or
15 more officers may be held by the same person.

16 (b) All officers and agents of the district management authority
17 shall have such authority and perform such duties in the management of
18 the district management authority as may be provided in the by-laws,
19 or as may be determined by resolution or vote of the board of direc-
20 tors, subject to any limitations on such authority contained in the
21 by-laws.

22 45-56-14. Annual budget. -- (a) Not later than sixty (60) days
23 prior to the beginning of each fiscal year, the district management
24 authority shall annually prepare an operating budget containing:

25 (i) an estimate of surplus from its current fiscal year available
26 for expenditure in the ensuing fiscal year;

27 (ii) an estimate of receipts for the ensuing fiscal year from the
28 special tax assessment hereinafter provided for;

29 (iii) an estimate of receipts for the ensuing fiscal year from
30 all other sources; and

31 (iv) an estimate of expenditures for the ensuing fiscal year for
32 the carrying on of the district management authority's activities
33 including debt service, if any.

1 **(b) Prior to the adoption of the budget, the district management**
2 **authority shall hold a public hearing thereon at which all interested**
3 **persons may be heard. Notice of the public hearing shall be given by**
4 **publication in a newspaper of general circulation within the municipi-**
5 **pality at least once a week for three successive weeks prior to the**
6 **date of the hearing.**

7 **45-56-15. Special tax assessments. -- Each district management**
8 **authority shall have the power to apportion the annual operating**
9 **expenses of the district management authority among the owners of**
10 **ratable real property, not otherwise exempt by law, located within the**
11 **management district by a special tax assessment. The special tax**
12 **assessment will be based on the factors set forth in the petition**
13 **approved by the city or town council. The rate of the special tax**
14 **assessment with respect to any sub-district may vary in amount from**
15 **the rate of the special tax assessment generally applicable to the**
16 **owners of ratable real property within the management district. The**
17 **special tax assessments made by a district management authority shall**
18 **not be considered to be a tax of the municipality for purposes of**
19 **section 44-5-2 of the general laws.**

20 **45-56-16. Limit on assessments. -- The total of the special tax**
21 **assessments levied on the ratable real property within the management**
22 **district shall not exceed ten (10) percent of the total of the real**
23 **property taxes levied on the ratable real property within the manage-**
24 **ment district, not exempt from taxation, for the fiscal year of the**
25 **municipality that ends within or with the fiscal year of the district**
26 **management authority.**

27 **45-56-17. Collection of assessments. -- The assessments made by**
28 **any district management authority shall be collected by the tax col-**
29 **lector of the municipality within which the management district is**
30 **located for the account of the district management authority. The**
31 **assessments so collected shall not be commingled with funds of the**
32 **municipality and forthwith upon their collection, shall be remitted to**
33 **the district management authority. Assessments shall be a lien on the**

1 real property of the persons against whom the assessments are made in
2 the same manner as taxes assessed by a municipality under section
3 44-9-1 of the general laws. Tax collectors of municipalities within
4 which management districts are created shall have the same powers with
5 respect to assessments and their collection as are granted to them by
6 chapter 44-9 of the general laws with respect to municipal property
7 taxes except that these powers shall be exercised for and on behalf of
8 the district management authority.

9 45-56-18. Petition for relief from assessment. -- (a) Any person
10 aggrieved on any ground whatsoever by any assessment against him or
11 her by a district management authority in any municipality may within
12 three (3) months after the last day appointed for the payment without
13 penalty of the assessment, or the first installment thereof, if the
14 assessment is payable in installments, file a notice of appeal with
15 the district management authority and within thirty (30) days there-
16 after, file a petition in the superior court for the county within
17 which the municipality is located for relief from the assessment, to
18 which petition the district management authority shall be made a party
19 respondent, and the clerk of the superior court shall thereupon issue
20 a citation substantially in the following form:

21 THE STATE OF RHODE ISLAND

22 AND PROVIDENCE PLANTATIONS

23 To the sheriff of the several counties, or to the deputies,

24 Greetings:

25 We command you to summon the Treasurer of (the district manage-
26 ment authority): to wit, _____ of
27 _____ (if to be found in your precinct) to answer
28 the complaint of _____ on the return day hereof
29 (said return day being the _____ day of _____, A.D.
30 19____) in the superior court to be holden at the county courthouse in
31 _____ as by petition filed in court is fully set
32 forth; and to show cause why said petition should not be granted.
33 Hereof fail not, and make true return of this writ with your

1 doings thereon.

2 Witness, the seal of our superior court, at _____ this
3 day of _____ in the year, A.D. 19 _____.

4 _____, Clerk

5 (b) Said petition shall be subject to the provisions of section
6 44-5-26 through section 44-5-31 of the general laws insofar as the
7 same may be applicable.

8 45-56-19. Agreements with the state. -- The state and a district
9 management authority may enter into agreements pursuant to which the
10 state agrees with the district management authority that the district
11 management authority will thereafter undertake services previously
12 provided by the state in consideration of the state's paying to the
13 district management authority of such sums as the parties may agree
14 to.

15 45-56-20. Agreements with municipalities -- Maintenance of
16 expenditures. -- (a) A municipality and a district management author-
17 ity may enter into agreements:

18 (i) with respect to parcels or property upon which they respec-
19 tively hold liens with respect to the disposition of the liens, of the
20 parcel of property subject thereto and of the proceeds of a tax sale
21 thereof;

22 (ii) pursuant to which the municipality agrees with the district
23 management authority that the district management authority will
24 thereafter undertake services previously provided by the municipality
25 in consideration of the municipality's paying to the district manage-
26 ment authority of such sums as the parties may agree to.

27 (b) The services provided by a district management authority will
28 be supplemental of the services theretofore provided by the munici-
29 pality within the management district. A municipality within which a
30 management district is located will not diminish in quality or quan-
31 tity the services provided in the management district during the
32 fiscal year of the municipality immediately preceding the date upon
33 which the management district is created.

1 45-56-21. Amendment. -- At any time after the approval of a
2 petition and the creation of a district management authority, the
3 boundaries of the management district and the purposes and powers of
4 the district management authority may be amended by the filing of a
5 petition therefor. The petition will set forth the amendments sought;
6 it will be signed by the owners of real property as provided in
7 section 45-55-5 hereof and will be heard and acted upon by the city or
8 town council in the same manner as petitions are required to be heard
9 and acted upon pursuant to sections 45-5-6 and 45-5-7 hereof. Upon
10 the approval of the petition for amendment by the city or town coun-
11 cil, the boundaries of the management district and the purposes and
12 powers of the district management authority will be as set forth in
13 the petition for amendment.

14 45-56-22. Dissolution. -- (a) Any district management authority
15 may be dissolved and the designation of a management district termi-
16 nated by ordinance of the city or town council of the municipality
17 within which it is located adopted after public hearing as provided in
18 section 45-5-6.

19 (b) Any district management authority must be dissolved and the
20 designation of a business district terminated by ordinance of the city
21 or town council of the municipality within which it is located upon
22 the receipt of a written petition therefor signed by persons who own
23 real property located within the district constituting, in the aggre-
24 gate, not less than a majority of the aggregate valuation of all real
25 property, not exempt from taxation, located within the management dis-
26 trict.

27 (c) Any district management authority and the designation of a
28 management district will be automatically dissolved and terminated,
29 respectively, as of the end of the third full fiscal year after its
30 creation and designation and after it has actually commenced providing
31 services hereunder unless the continuance of the existence of the dis-
32 trict management authority and the designation of the district for
33 another three (3) fiscal years is approved in a writing which is filed

1 with the clerk of the municipality within which the management dis-
2 trict is located and is signed by persons who own real property locat-
3 ed within the proposed district constituting, in the aggregate, not
4 less than a majority of the aggregated assessed valuation of all real
5 property, not exempt from taxation, located in the district.

6 (d) Any such dissolution and termination occurring under the
7 provisions of subsections (a) and (b) hereof will be effective as of
8 the end of the fiscal year within which the ordinance of the city or
9 town council is enacted.

10 (e) Upon its dissolution, the district management authority will
11 proceed to wind up its affairs and, after all of the indebtedness of
12 the district management authority has been paid or its payment pro-
13 vided for, the remaining property and assets of the district manage-
14 ment authority shall be paid over to the municipality unless another
15 disposition thereof, benefitting the management district, has been
16 directed by the district management authority's board of directors.

17 45-56-23. Exemption from taxation. -- (a) Any notes, bonds or
18 other obligations issued by any district management authority, their
19 transfer and the income therefrom (including any profits made on the
20 sale thereof), shall at all times be free from taxation by the state
21 or any political subdivision or other instrumentality of the state.

22 (b) The exercise of the powers granted by this chapter will be in
23 all respects for the benefit of the people of this state and of the
24 municipalities within which the district management authorities shall
25 undertake their activities, the increase of their commerce, welfare
26 and prosperity and for the improvement of their health and living con-
27 ditions and will constitute the performance of essential governmental
28 functions and the district management authorities will not be required
29 to pay any real or personal property taxes or assessments upon or in
30 respect of any property owned by them levied by any municipality or
31 other political subdivision of the state.

32 45-56-24. Credit of municipality not pledged. -- Bonds, notes
33 and other obligations of a district management authority shall not be

1 deemed to constitute the debt or a pledge of the faith and credit of
2 the municipality.

3 45-56-25. Exemption from liability. -- No member of the board of
4 directors of a district management authority and no officer thereof
5 shall be held civilly liable for any breach of his or her duties as
6 such member or officer except for liability (i) for acts or omissions
7 not in good faith or which involve intentional misconduct or knowing
8 violation of law, or (ii) for any transaction from which such member
9 or officer derived an improper personal benefit, or (iii) for any
10 malicious, willful or wanton act.

11 45-56-26. Applicability of other laws. -- District management
12 authority will not be subject to laws or ordinances relating to the
13 purchasing of property or services or the making of contracts.
14 Employees of district management authorities shall not be considered
15 to be public or municipal employees.

16 45-56-27. Notice of creation of district -- Actions to contest.
17 -- Notice of the creation of a management district and a district man-
18 agement authority shall be given by publication in a newspaper of gen-
19 eral circulation within the municipality at some time subsequent to
20 the approval of the petition by the city or town council as provided
21 in section 45-56-7 hereof. Actions to contest the validity of the
22 proceedings for the creation of the management district and the dis-
23 trict management authority must be commenced within sixty (60) days
24 after the date of the notice and no action thereafter commenced shall
25 raise any question concerning the validity of the proceedings and the
26 creation of the management district and the district management
27 authority. After the expiration of the sixty (60) day period, the
28 validity of the proceedings and the creation of the management dis-
29 trict and the district management authority shall be conclusively pre-
30 sumed.

96-S 3016

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

DT1275

EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

AN ACT

PROVIDING FOR THE CREATION OF DISTRICT
MANAGEMENT AUTHORITIES

- 1 This act provides for the creation of district management
2 authorities.
3 The act would take effect upon passage.