

2014 -- S 2805 AS AMENDED

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

TO CREATE AND ESTABLISH THE TIVERTON WASTEWATER DISTRICT

Introduced By: Senators Felag, DiPalma, and Ottiano

Date Introduced: March 25, 2014

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. [Short title.](#)

2 This act shall be known as the "Tiverton Wastewater District Act".

3 SECTION 2. [Legislative findings and intent.](#)

4 It is hereby found and declared that:

5 (1) The 2013 Wastewater Facilities Plan Update recommended providing a wastewater
6 collection system in North Tiverton, portions of eastern Tiverton as well as the Stonebridge area
7 of Tiverton.

8 (2) Provision of sewers in these areas will have a direct beneficial impact on Tiverton's
9 economy.

10 (3) The expansion of sewers will minimize the financial burden to property owners
11 within the district in regard to the wastewater disposal systems.

12 (4) The town as a whole will benefit from the expansion of the collection system through
13 preservation of the town's environment.

14 (5) The passage of Rhode Island's 2007 Cesspool Phase-Out Act set a timetable for the
15 inspection and replacement of cesspools located within two hundred (200) feet of a coastal area,
16 and these cesspools must be replaced by January 1, 2014. This has proven to be cost prohibitive
17 to numerous residents.

18 (6) The act identifies an exemption which applies to cesspools located in areas to be
19 seweraged on or before January 1, 2020.

1 (7) The 2013 Wastewater Facilities Plan recommended creating a sewer district
2 encompassing the existing and future sewer collection areas so that only properties located within
3 the sewer district will be responsible for the costs of design, construction, and operation of the
4 system.

5 (8) Pollution in the storm water outfalls identified in the January 2010 Total Maximum
6 Daily Load (TMDL) study must be addressed by the town.

7 (9) It is further found and declared that there is a potential health hazard from surfacing
8 of wastewater effluent due to poor soil characteristics, underground water movement and the
9 large number of subsurface disposal systems.

10 (10) It is in the best interests of the public health, safety, and welfare that present users of
11 the Tiverton sewer system, as well as future users, to establish the Tiverton wastewater district.

12 SECTION 3. Definitions.

13 As used in this act, the following words and terms have the following meanings, unless
14 the context shall indicate another or different meaning or intent:

15 (1) "Authorized areas" means all properties within Tiverton's census designated place as
16 defined by the 2010 United States Census Bureau; all sewer connections outside the census
17 designated place being served by the wastewater management commission.

18 (2) "Board" means the board of directors of the Tiverton wastewater district;

19 (3) "Bonds and notes" means the bonds, notes, securities or other obligations, or
20 evidences of indebtedness issued by the district pursuant to this act.

21 (4) "District" means the district and instrumentality authorized, created and established
22 pursuant to this act hereof which is known as the Tiverton wastewater district.

23 (5) "District voter" means a resident and ~~registered voter~~ property owner within the
24 census designated place.

25 (6) "Municipality" means any city or town now existing or hereafter created.

26 (7) "Personal property" means all tangible and intangible personal property, including,
27 without limitation, contract rights, accounts receivable, rights and privileges of all kinds, all
28 machinery, equipment, transportation equipment, pipelines, pipes, tools, hydrants, meters, assets,
29 franchises, and all other personal property incidental to and included or necessary for the
30 operation of a ~~water supply and distribution system or water supply facility~~ sewer-collection
31 system. Personal property shall also mean and include any and all interests in such property
32 which are less than full title, such as leasehold interests, security interests and every other interest
33 or right, legal or equitable.

34 (8) "Real property" means land, structures, new or used, franchise and interest in land,

1 including lands under water, riparian rights, space rights and air rights, and all other things and
2 rights included within said term. Real property shall also mean and include any and all interest in
3 such property less than fee simple, such as easements, incorporeal hereditaments and every estate,
4 interest or right, legal or equitable, including terms for years and liens thereon by way of
5 judgments, mortgages or otherwise, and also claims for damages to said real property.

6 SECTION 4. [Creation of the Tiverton wastewater district.](#)

7 Subject to the requirements of section 16 hereof, there is hereby authorized, created and
8 established the Tiverton wastewater district, having distinct existence from the state and any
9 municipality, and not constituting a department of state government or any municipality, which is
10 a public instrumentality to be known as the "Tiverton wastewater district" with such powers as set
11 forth in this act for the purposes of acquiring, constructing, developing, managing, maintaining,
12 repairing and replacing wastewater facilities.

13 SECTION 5. [Territorial limits.](#)

14 The territorial limits of the district shall be consistent with Tiverton's census designated
15 place as defined by the 2010 United States Census Bureau.

16 SECTION 6. [Purposes.](#)

17 The district is authorized, created and established for the following purposes: to acquire,
18 own, develop, operate, maintain, repair, improve, enlarge and extend the wastewater collection,
19 treatment, and disposal facilities within and without the borders of the district.

20 SECTION 7. [Powers.](#)

21 Except to the extent inconsistent with any specific provision of this act, the district shall
22 have the power:

23 (1) To sue and be sued, complain and defend, in its corporate name;

24 (2) To have a seal which may be altered at pleasure and to use the same by causing it, or
25 a facsimile thereof, to be impressed or affixed or in any other manner reproduced;

26 (3) To purchase, take, receive, lease or otherwise acquire, own, hold, improve, operate,
27 maintain and repair, use or otherwise deal in and with, both real and personal property, or any
28 interest therein, wherever situated;

29 (4) To sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of,
30 all or any part of its real and personal property and assets for such consideration and upon such
31 terms and conditions as the district shall determine;

32 (5) To collect, pump, and treat wastewater within or without its authorized areas as
33 specified in section 5 and section 6 of this act;

34 (6) To fix rates, make assessments and collect charges for the use of its wastewater

1 collection facilities, or for services rendered by, or any commodities furnished by, the district;

2 (7) To make use of such contracts and guarantees, to incur liabilities, and to borrow
3 money at such rates of interest as the district may determine;

4 (8) To make and execute agreements of lease, conditional sales contracts, installment
5 sales contracts, loan agreements, mortgages, construction contracts, operation contracts and other
6 contracts and instruments necessary or convenient in the exercise of the powers and functions of
7 the district granted by this act;

8 (9) To lend money for its purposes, invest and reinvest its funds and at its option to take
9 and hold real and personal property as security for the funds so loaned or invested;

10 (10) To acquire, or contract to acquire, from any person, firm, corporation, municipality,
11 the federal government or the state, or any agency of either the federal government or state by
12 grant, purchase, lease, gift, condemnation or otherwise, or to obtain options for the acquisition of
13 any property, real or personal, improved or unimproved, and interests in land less the fee thereof;
14 and to own, hold, clear, develop, maintain, operate and rehabilitate, sell, assign, exchange,
15 transfer, convey, lease, mortgage, or otherwise dispose or encumber the same for the purposes of
16 carrying out the provisions and intent of this act for such consideration as the district shall
17 determine;

18 (11) To apply for, receive, accept, administer, expend and comply with the conditions,
19 obligations and requirements respecting any grant, gift, loan, including without limitation any
20 grant, gift or loan from agencies of local, state and federal governments, donation or
21 appropriation of any property or money in aid of the purposes of the district and to accept
22 contributions of money, property, labor or other things of value.

23 (12) To accept wastewater and to contract for same outside of the district and from
24 outside the state of Rhode Island;

25 (13) To continue serving all existing customers within the town of Tiverton and the city
26 of Fall River, Massachusetts;

27 (14) To conduct its activities, carry on its operations and have offices and exercise the
28 powers granted by this act within or without the state;

29 (15) To elect or appoint officers and agents of the district, to hire employees and
30 independent contractors, and to define their duties and fix their compensation, and to enter into
31 contracts with the town of Tiverton to do the same, and with the city of Fall River, and
32 neighboring municipalities, except as otherwise expressly limited herein;

33 (16) To make and alter bylaws not inconsistent with this act, for the administration and
34 regulation of the affairs of the district, including the annual and special meetings of the district,

1 and the election of directors. Such bylaws may contain provisions which authorize the
2 indemnification of any person who is or was a director, officer, employee or agent of the district,
3 or who is or was serving at the request of the district as a director, officer, employee or agent of
4 another corporation, partnership, joint venture, trust or other enterprise, provided said
5 indemnification conforms with Rhode Island law;

6 (17) To be a promoter, partner, member, associate or manager of any partnership,
7 enterprise or venture;

8 (18) To enter into a possible contract with the town of Tiverton to manage the town's on-
9 site wastewater management program;

10 (19) To enter into cooperative agreements with cities, counties, towns or wastewater
11 companies within or without the state for interconnection of wastewater facilities or for any other
12 lawful corporate purpose necessary or desirable to effect the purposes of this act; and

13 (20) Establish rules, regulations, policies, procedures, regarding extensions to the sewer
14 system, including but not limited to, financing and construction standards; sanitary sewer
15 standards; service connection standards; inspection programs; discharge standards; pre-treatment
16 standards; wastewater discharge permitting; and metals discharge limits;

17 (21) To establish collection systems service districts, and to conduct referenda within
18 these districts, to determine sewer extensions and cost based assessments;

19 (22) To have and exercise all powers generally incident to quasi-governmental
20 corporations or which are necessary or convenient to affect the purposes of this act.

21 SECTION 8. Building sewers, sewer extensions and connections.

22 (1) Permits

23 No connection of private or proper sewer system shall be made until the owner of the
24 land, or duly authorized agent, has made application in writing to the district for permission to
25 make same, and has been granted such permission;

26 (2) Separate and connecting building sewers.

27 A separate and independent building sewer shall be provided for every building. Where
28 one building stands at the rear of another on an interior lot and no private sewer is available or
29 can be constructed to the rear building through an adjoining alley, court, yard or driveway, the
30 building sewer from the front building may be extended to the rear building and the whole
31 considered as one building sewer. The district does not and will not assume any obligation or
32 responsibility for damage caused by or resulting from any such single connection
33 aforementioned. The rights appurtenant to such single connection or extension from a front
34 building to a rear building shall be recorded with each of the respective deeds. No sewer service

1 connection shall serve more than one building except by permission of the district.

2 (3) Costs

3 All costs and expense incident to the installation and connections of the building sewer
4 shall be borne by the owner. The owner shall indemnify the district from any loss or damage that
5 may directly or indirectly be occasioned by the installation of the building sewer.

6 (4) Service connection standards.

7 Sewer service connection from the public sewer to the street line shall be laid at such
8 depth and gradient and in such location as the district may determine. No sewer service
9 connection shall serve more than one building, except by permission of the district.

10 (5) Prohibited connections.

11 No person shall make or keep a connection of roof downspouts; exterior foundation
12 drains are away drains, or other sources of surface runoff or groundwater to a building sewer or
13 building drain, which in turn is connected directly or indirectly to a public sewer.

14 SECTION 9. [Requirements for excavation.](#)

15 All excavation for building sewer installation shall be adequately guarded with barricades
16 and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public
17 property disturbed in the course of the work shall be restored in a manner satisfactory to the
18 department of public works or state of Rhode Island department of transportation as appropriate
19 in accordance with the street opening permits and regulations.

20 SECTION 10. [Inadmissible waters.](#)

21 Stormwater, groundwater, roof drainage, street drainage, yard drainage or subsurface
22 drainage shall not be discharged through direct or indirect connections to the public sanitary
23 sewer district.

24 SECTION 11. [Prohibited discharge standards.](#)

25 (1) General prohibitions. No user shall introduce or cause to be introduced into the
26 Wastewater Collection System (WWCS) any pollutant or wastewater which causes pass through
27 or interference at the Fall River Wastewater Treatment Facility (WWTF). These general
28 prohibitions apply to all users of the WWCS whether or not they are subject to categorical
29 pretreatment standards or any other national, state, or local pretreatment standards or
30 requirements.

31 SECTION 12. [Wastewater discharge permit requirements.](#)

32 (1) No significant industrial user shall discharge wastewater into the WWCS without first
33 obtaining a wastewater discharge permit from the district. Any violation of the terms and
34 conditions of a wastewater discharge permit shall be deemed a violation of this chapter and

1 subjects the wastewater discharge permittee to the sanctions established by the district. Obtaining
2 a wastewater discharge permit does not relieve a permittee of its obligation to comply with all
3 federal and state pretreatment standards or requirements or with any other requirements of
4 federal, state, and local law.

5 SECTION 13. [New discharges and changes in discharges.](#)

6 Any person proposing a new discharge into the system, or a substantial change in the
7 volume or character of pollutants that are being discharged into the system shall notify the district
8 at least forty-five (45) days prior to the proposed change or connection. Such notification will not
9 relieve users of liability for any expense, loss or damage to the sewer system, wastewater
10 treatment works or treatment processes.

11 SECTION 14. [Monitoring, sampling and analyses.](#)

12 (1) Inspection powers:

13 (a) ~~Inspections~~. Inspections shall be conducted at the discretion of the district. The district
14 or the duly authorized employees and agents of the district, upon presenting identification and
15 appropriate credentials is authorized:

16 (i) To enter without delay and at reasonable times those premises (public or private) of
17 any person or class of user either receiving services from the district or applying for services from
18 the district in which a discharge source or treatment system is located.

19 (ii) During regular working hours and at other reasonable times, and within reasonable
20 limits and in a reasonable manner, to have access to and to copy any records, inspect any
21 monitoring equipment and sample any effluents which the owner or operator of such discharge
22 source is required to sample, and any rules and regulations adopted pursuant thereto; and

23 (iii) During such on-site inspections, to carry out all inspections, surveillance, and
24 monitoring procedures necessary to determine, independent of information supplied by any
25 person discharging into the facilities, compliance or noncompliance with town pretreatment
26 requirements.

27 (2) User documentation: The district may, by regulation, order, permit, or otherwise,
28 require any person who discharges into the facilities to:

29 (a) Establish and maintain records; make reports;

30 (b) Install, calibrate, use and maintain monitoring equipment or methods (including
31 where appropriate, biological monitoring methods);

32 (c) Sample discharges and amounts (in accordance with the methods, at the locations, at
33 the intervals, and in the manner as the district shall prescribe); and

34 (d) Provide other information relating to discharges into the facilities as the district may

1 reasonably require ensuring compliance with prescribed pretreatment.

2 (3) Enforcement of inspection powers: Any person obstructing, hindering, or in any way
3 causing the obstruction or hindrance of the district or any of its employees or agents in the
4 performance of their duties or who shall refuse to permit said district or any of its employees or
5 agents entrance into said premises, buildings, plant or equipment, or other places belonging to or
6 controlled by any such person, in the performance of his duties as such, shall be subject to civil
7 and/or criminal penalties.

8 SECTION 15. Directors and officers.

9 (1) The powers of the district shall be vested in a board of directors which shall consist of
10 no less than five (5) ~~majority of the board~~ and no more than seven (7).

11 (2) Only residents and registered voters of the town of Tiverton shall be eligible to serve
12 on the board.

13 (3) Within thirty (30) days after the effective date of this act, the town council of Tiverton
14 shall appoint ~~five (5) of~~ the current seven (7) members of the wastewater management
15 commission to the board. Each appointee to the first board shall serve an initial term consistent
16 with his or her current term, plus an extension of one (1) year. Subsequent board members shall
17 be elected by vote of the ~~qualified electors~~ district voters of the wastewater district to staggered 3-
18 year terms.

19 (4) Terms, eligibility requirements, vacancy, the terms of directors, eligibility
20 requirements and filling vacancies are authorized by this subsection. Except for the first board,
21 directors shall serve three (3) year terms a minimum of two (2) directors must reside within the
22 district. If a director ceases to be a resident of Tiverton, the director shall be deemed to have
23 vacated that office and the remainder of the term shall be filled by board appointment. A director
24 shall be eligible for reelection. Any person, who is an appointed or elected official of the town of
25 Tiverton, or a district employee, shall not be eligible for appointment or election as a director.
26 When the term of office of a director expires, the director's successor shall be elected by a
27 plurality vote of the voters of the district at the annual meeting of the district. For the purpose of
28 election the annual meeting shall be held, as required in accordance with the procedures set forth
29 in the district bylaws.

30 (5) The board shall meet at least monthly, shall organize annually, and shall, at its first
31 meeting, elect officers from among its members who shall have the titles of chair, vice-chair,
32 secretary and treasurer. The chair shall preside at meetings of the board. The vice-chair shall act
33 as chair during the absence or disability of the chair and, if a vacancy in the position of chair
34 should occur, shall become chair. The chair and vice-chair shall have a voice and vote in the

1 proceedings of the board. The board may adopt any rules of procedure it deems necessary or
2 appropriate for the proper discharge of its duties, and shall publish all such rules of procedure as
3 adopted or amended.

4 (6) Meetings of the board shall be conducted in accordance with chapter 46 of title 42 of
5 the general laws of Rhode Island, "The Rhode Island Open Meetings Act," as the same may be
6 amended from time to time.

7 (7) The compensation, if any, to be paid to the district directors and the officers of the
8 board shall be determined by the district voters at the annual meeting of the district.

9 SECTION 16. Transfer of assets and liabilities.

10 Upon the effective date of this act, the district shall acquire and take legal title to all
11 wastewater-related real property, personal property, accounts, plants, assets, franchises, rights and
12 privileges, including, without limitation lands, buildings, pipes, collections systems, pump
13 stations, tools, equipment, and apparatus, held by the town of Tiverton. The district shall assume
14 all outstanding liabilities, debts, bonds, notes, and other wastewater obligations of the town of
15 Tiverton. The Tiverton town council is hereby authorized to assign, sell, lease, or otherwise
16 transfer the same to the district. The district shall not assume responsibility over the town of
17 Tiverton's storm water system.

18 SECTION 17. Rates.

19 (1) The governing body shall establish just and reasonable rates, fees, charges, and
20 assessments that provide the revenue required to perform its public services, for the following
21 purposes: to pay current expenses for operation and maintenance; to provide for repairs,
22 replacements, and renewals; to provide for the payment of interest on the indebtedness created or
23 assumed by the district; to provide for the principal payments on serial indebtedness created or
24 assumed by the district; to provide for contingency and capital reserve allowances; to maintain
25 such reserves as may be required by any trust agreement or resolution.

26 (2) The governing body may establish assessments within service zones whenever the
27 construction and maintenance or the cost of the service is substantially uniform. If the cost of
28 construction and maintenance, or the cost of the service exceeds the average, the governing body
29 may establish higher assessments for that zone, but the assessments shall be uniform throughout
30 that zone.

31 (3) In order to provide for the collection and enforcement of its rates, fees, charges, and
32 assessments, the governing body is hereby granted all powers and privileges with respect to such
33 collection and enforcement held by the town of liens for unpaid taxes and of the ability to block
34 vehicle registrations. All unpaid charges shall be a lien upon the real estate of the person.

1 (4) Shut off of water supply for nonpayment of sewer user fees, charges, and
2 assessments.

3 (a) Notwithstanding the provision of this section, the district is authorized to order any
4 water supplier which services any person assessed by the district pursuant to this section to
5 terminate the water supply service of any person for nonpayment of sewer user fees, charges, and
6 assessments. The district shall abide by the rules and regulations of the public utilities
7 commission governing water shut-offs.

8 (b) Upon notification by the district to terminate service, the water supplier shall, within
9 fourteen (14) days, terminate said service and notify the district that said termination has
10 occurred. Upon notification by the district, the water supplier shall restore the water supply in
11 accordance with the water supplier's policy on water supply restoration.

12 (c) The district shall have the authority to assess any person any fees, charges and
13 assessments affiliated with the shut off and restoration of service.

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

18 (5) Not later than one hundred eighty (180) days following the end of the district's fiscal
19 year, the board shall make an annual report of its activities for the preceding fiscal year, including
20 its budget and operation plans.

21 SECTION 18. Taxes.

22 Taxes, Assessments, Penalty for nonpayment:

23 (1) Directors of the district, at any of the meetings of the district, have the power to order
24 taxes, and provide for assessing and collecting taxes on the ratable real estate and tangible
25 personal property of the district, as they deem necessary for the purpose of:

26 a) Operating and maintaining a wastewater collection, pumping, and treatment system;

27 b) For designing and constructing a wastewater collection system;

28 c) For acquiring and leasing real estate and other property and property rights necessary
29 for a wastewater system, and replacing, laying, and maintaining pipes, and other structures
30 connected with them, and purchasing implements, machinery, and other appliances;

31 d) For the payment of the current expenses of the district;

32 e) For the payment of officers, employees, and other agents as the district and the board
33 are authorized to elect, appoint, or otherwise choose under this act; and

34 f) For the payment of any indebtedness that has been or may be incurred by the district.

1 The taxes so ordered shall be assessed by the assessor of the district on the taxable inhabitants
2 and the property in the district according to the last valuation made by the assessors of the town
3 or towns wherein the property to be assessed lies, next previous to the assessment, adding,
4 however, any taxable property which may have been omitted by the town assessors or afterwards
5 acquired, using the assessed valuation made by the assessor of the town where such property lies.
6 In all cases where the town assessors have included property within and without the district in one
7 valuation, the assessor of the district shall make an equitable valuation of that portion of the
8 property lying within the district; and in the assessing and collecting of taxes, proceedings shall
9 be had by the officers of the district, as near as may be, as are required to be held by the
10 corresponding officers of town assessing and collecting town taxes. All taxes assessed against any
11 person in the district shall constitute a lien upon his or her real estate for a period of three (3)
12 years after the assessment, and, if the real estate be not alienated, then until taxes are collected, as
13 provided in chapter 9-1, et seq., of title 44 of the general laws. The collector of taxes for the
14 district shall, for the purpose of collecting taxes assessed by the district, have the same powers
15 and authority as are now by law conferred on collectors of taxes for towns in this state. Directors
16 of the district may provide for a maximum flexibility deduction, from the tax assessed against any
17 person if paid by the appointed time, or for a penalty, by way of percentage on the tax if not paid
18 at the appointed time, not exceeding twelve percent (12%) per annum, as they deem necessary to
19 insure punctual payment.

20 SECTION 19. [Bonds and notes of the district.](#)

21 (1) The district shall have the power and is hereby authorized to issue from time to time
22 its negotiable bonds and notes in one or more series in such principal amounts as, in the opinion
23 of the district shall be necessary to provide sufficient funds for achieving its purposes, including
24 the payment of interest on bonds and notes of the district, the establishment of reserves to secure
25 such bonds and notes and the making of all other expenditures of the district incident to and
26 necessary or convenient to carrying out its corporate purposes and powers;

27 (2) All bonds and notes issued by the district may be secured by the full faith and credit
28 of the district and may be payable solely out of revenues, earnings and receipts of the district.
29 Such bonds and notes may be executed and delivered by the district at any time from time to
30 time, may be in such form and denominations, including interest coupons, if any, to be attached to
31 them, and of such tenor and maturities, and may be in bearer form or in registered form, as to
32 principal and interest, or at such discount in lieu of interest, or as to principal alone, all as the
33 district may determine. Such bonds and notes may provide for authentication of bonds and notes
34 by a directors or fiscal agent;

1 (3) Bonds may be payable in such installments, and at such times not exceeding fifty (50)
2 years from the date thereof, as shall be determined by the district;

3 (4) Except for notes issued pursuant to section 20, notes, and any renewals thereof, may
4 be payable in such installments and at such times not exceeding ten (10) years from the date of
5 the original issue of such notes, as shall be determined by the district;

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

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

16 (7) Any bonds or notes of the district may be sold from time to time at such prices, at
17 public or private sale, and such manner as shall be determined by the district, and the district shall
18 pay all expenses, premiums and commissions that it shall deem necessary or advantageous in
19 connection with the issuance and sale thereof;

20 (8) Moneys of the district, including proceeds from the sale of bonds or notes, and
21 revenues, receipts and income from any of its water supply facilities, may be invested and
22 reinvested in such obligations, securities and other investments consistent herewith as shall be
23 specified in the resolution under which such bonds or notes are authorized.

24 (9) Issuance by the district of one or more series of bonds or notes for one or more
25 purposes shall not preclude it from issuing other bonds and notes, but the proceedings
26 whereunder any subsequent bonds or notes may be issued shall recognize and protect a prior
27 pledge or mortgage made for a prior issue of bonds or notes unless in the proceedings authorizing
28 such prior issue the right is reserved to issue subsequent bonds or notes on a parity with such
29 prior issue;

30 (10) The district is authorized to issue bonds or notes for the purpose of refunding its
31 bonds or notes then outstanding, including the payment of any redemption premium thereon and
32 any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase or
33 maturity of such bonds or notes, payment of any expenses of issuance of such bonds or notes,
34 payment of any expenses of redeeming bonds or notes being refunded, reserves for debt service,

1 and, if deemed advisable by the district, for the additional purpose of paying all or part of the cost
2 of acquiring, constructing, reconstructing, rehabilitating, or improving any wastewater treatment,
3 conveyance or other appurtenant facility. The proceeds of any issuance of bonds or notes for the
4 purpose of refunding outstanding bonds or notes may be applied, in the discretion of the district,
5 to the purchase, retirement at maturity, or redemption of such outstanding bonds or notes either
6 on their earliest or subsequent redemption date, and may, pending such application, be placed in
7 escrow. Any such escrowed proceeds may be invested and reinvested in obligations of or
8 guaranteed by the United States of America, or in certificates of deposit or time deposits secured
9 or guaranteed by the state of Rhode Island or the United States, or an instrumentality thereof,
10 maturing at such time or times as shall be appropriate to assure the prompt payment, as to
11 principal, interest and redemption premium, if any, of the outstanding bonds or notes to be so
12 refunded. The interest, income and profits, if any, earned or realized on any such investment may
13 be applied to the payment of the outstanding bonds or notes to be so refunded. After the terms of
14 the escrow have been fully satisfied and carried out, any balance of such proceeds and interest,
15 income and profits, if any, earned or realized on the investments thereof may be returned to the
16 district for use by it in furtherance of its purposes. The portion of the proceeds of bonds or notes
17 issued for the additional purpose of paying all or part of the cost of acquiring, constructing,
18 reconstructing, rehabilitating, developing or improving any water supply facility, may be invested
19 and reinvested in such obligations, securities and other investments consistent herewith as shall
20 be specified in the resolutions under which such bonds or notes are authorized and which shall
21 mature not later than the times when such proceeds will be needed for such purpose. The income,
22 interest, and profits, if any, earned or realized on such investments may be applied to the payment
23 of all parts of such costs, or to the making of such loans, or may be used by the district otherwise
24 in furtherance of its purposes. All such bonds or notes shall be issued and secured and shall be
25 subject to the provisions of this act in the same manner and to the same extent as any other bonds
26 or notes issued pursuant to this act.

27 (11) The directors of the district, and other persons executing such bonds or notes, shall
28 not be subject to personal liability by reason of the issuance thereof.

29 (12) Bonds or notes issued under any of the provisions of this act shall require the
30 approval of the annual or a special meeting of the district voters, but otherwise shall not require
31 the consent of any department, division, commission, board, body, bureau or agency of the state,
32 and may be issued without any other proceedings or the happening of any conditions or things
33 other than those proceedings, conditions or things which are specifically required by this act and
34 by the provisions of the resolution authorizing the issuance of such bonds or notes or the trust

1 agreement securing the same;

2 (13) The district, subject to such agreements with noteholders or bondholders as may then
3 be in force, shall have the power out of any funds available thereof to purchase bonds or notes of
4 the district, which shall thereupon be cancelled, at a price not exceeding:

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

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

10 (14) Whether or not the bonds and notes are of such form and character as to be
11 negotiable instruments under Rhode Island law, the bonds and notes are hereby made negotiable
12 instruments within the meaning of and for all purposes of Rhode Island law, subject only to the
13 provisions of the bonds and notes for registration;

14 (15) If a director or officer of the district whose signature appears on bonds, notes or
15 coupons shall cease to be a director or officer before the delivery of such bonds or notes, such
16 signature shall, nevertheless, be valid and sufficient for all purposes, the same as if such director
17 or officer had remained in office until such delivery;

18 (16) Any bonds or notes issued under authority of this act may be issued by the district in
19 the form of lines of credit, loans or other banking arrangements and under such terms and
20 conditions not inconsistent with this act, and under such agreements with the purchasers or
21 makers thereof, as the district may determine to be in the best interest of the district;

22 (17) The district may at any time deposit with a trustee, a sum sufficient, with amounts
23 then on deposit, including the debt service reserve fund, to purchase direct or guaranteed
24 obligations of the United States of America which are adequate to pay the entire principal amount
25 of the bonds or notes of a series, together with the interest to maturity, or to an applicable
26 redemption date specified by the district to the trustee and any applicable redemption premium; or
27 the district may deposit direct or guaranteed obligations of the United States of America in lieu of
28 money for their purchase. The obligations are deemed adequate if the principal and interest
29 payable on them are sufficient to pay the previously mentioned sums when due. Upon any deposit
30 of money and a request by the district, the trustee shall purchase direct or guaranteed obligations
31 of the United States of America. When adequate direct or guaranteed obligations of the United
32 States of America are held by the director pursuant to this section, the bond resolution or
33 indenture shall cease to be in effect with respect to such series of bonds or notes. The obligations
34 and their proceeds shall be held in trust for the benefit of the bondholders or note holders, and the

1 trustee shall, on behalf of the district, call bonds or notes for redemption on the applicable
2 redemption date. Any compensation or expenses of the trustee in carrying out this section shall be
3 paid by the district, and any surplus funds held by the trustee under this section shall be remitted
4 by the trustee to the district;

5 (18) The district may covenant in any resolution, trust indenture or other agreement that
6 as long as bonds or notes are outstanding the district shall establish and maintain its rates and
7 charges adequate at all times to pay and provide for all operating expenses of the district, all
8 payments of principal, redemption premium, if any, and interest on bonds, notes or other
9 evidences of indebtedness of or assumed by the district, all renewals, repairs, or replacements to
10 the property of the district deemed necessary, and all other amounts which the district may by
11 law, resolution or contract be obligated to pay. On or before the last day of the district's fiscal
12 year, the district shall review the adequacy of its rates and charges to satisfy the above
13 requirements for the next succeeding fiscal year. If the review indicates that the rates and charges
14 are, or are likely to be, insufficient to meet the requirements of this act, the district shall promptly
15 take such steps as are necessary to cure or avoid deficiency, including but not limited to, raising
16 its rates and charges;

17 (19) It shall be lawful for any bank or trust company to act as a depository or trustee of
18 the proceeds of bonds, notes, revenues or other moneys under any such trust agreement or
19 resolution and to furnish such indemnification or to pledge such securities and issue such letters
20 of credit as may be required by the district. Any pledge of revenues or other property made by the
21 district under this act shall be valid and binding and shall be deemed continuously perfected from
22 the time when the pledge is made; the revenues, moneys, rights and proceeds so pledged and then
23 held or thereafter acquired or received by the district shall immediately be subject to the lien of
24 such pledge without any physical delivery or segregation thereof or further act; and the lien of
25 any such pledge shall be valid and binding against all parties having claims of any kind in tort,
26 contract or otherwise against the district, irrespective of whether such parties have notice thereof.
27 Neither the resolution, any trust agreement nor any other agreement by which a pledge is created
28 need be filed or recorded except in the records of the district.

29 SECTION 20. [Short-term notice.](#)

30 Money borrowed by the district for the purpose of providing temporary financing of the
31 district operations pending the issuance of bonds or other notes shall be evidenced by notes or
32 other obligations. The principal and interest of all notes or other obligations of the district so
33 issued under the provisions of section 12 shall be payable no later than the fifth anniversary of the
34 date of issue thereof, and shall be payable from the following:

- 1 (1) From the proceeds of bonds subsequently issued; or
- 2 (2) From the proceeds of subsequent borrowings which comply with the provisions
3 hereof; or
- 4 (3) From general revenues of the district which may be equal and proportionate with, but
5 not superior to, that securing bonds then outstanding or subsequently issued. Notwithstanding any
6 other provisions of this act, all such notes shall be deemed to be negotiable instruments under the
7 laws of the state subject only to the provisions for registration contained therein. Such notes or
8 other obligations or any issue thereof shall be in a form and contain such other provisions as the
9 district may determine and such notes or resolutions or proceedings authorizing such notes or
10 other obligations or any issue thereof may contain, in addition to any provisions, conditions,
11 covenants or limitations authorized by this act, any provisions, conditions, covenants or
12 limitations which the district is authorized to include in any resolution or resolutions authorizing
13 bonds or notes or in any trust indenture relating thereto. The district may issue such notes or other
14 obligations in such manner either publicly or privately on such terms as it may determine to be in
15 its best interests.

16 SECTION 21. [Security for bonds or notes.](#)

17 (1) The principal of and interest on any bonds or notes issued by the district may be
18 secured by a pledge of any revenues and receipts of the district and may be secured by a mortgage
19 or other instrument covering all or any parts of one or more wastewater treatment, conveyance or
20 other appurtenant facilities, including all or part of any additions, improvements, extensions to or
21 enlargements of such facilities thereafter made.

22 (2) The resolution under which the bonds or notes are authorized to be issued and any
23 such mortgage, lease, sales agreement or loan agreement, or other instrument may contain
24 agreements and provisions respecting the maintenance of the facilities covered thereby, the fixing
25 and collection of rents, payments or repayments or other revenues there from, including moneys
26 received in repayment of loans, and interest thereon, the creation and maintenance of special
27 funds from such rents or other revenues and the rights and remedies available in the event of
28 default, all as the district shall deem advisable.

29 (3) Each pledge, agreement, mortgage or other instrument made for the benefit or
30 security of any bonds or notes of the district shall continue in effect until the principal of and
31 interest on the bonds or notes for the benefit of which the same was made shall have been fully
32 paid, or until provision shall have been made for such payment in the manner provided in the
33 resolutions under which such bonds or notes were authorized.

34 (4) The district may provide in any proceedings under which bonds or notes may be

1 authorized that any wastewater treatment, conveyance or other appurtenant facility or part thereof
2 may be constructed, reconstructed, rehabilitated or improved by the district, or any lessee,
3 vendee, obligor or any designee of the district and may also provide in such proceedings for the
4 time and manner of and requisitions for disbursements to be made for the cost of such
5 construction, and for all such certificates and approvals of construction and disbursements as the
6 district shall deem necessary and provide for in such proceedings.

7 (5) Any resolution under which bonds or notes of the district are authorized to be issued
8 (and any trust indenture established thereby) may contain provisions for vesting in a trustee or
9 directors such properties, rights, powers and duties in trust as the district may determine including
10 any or all of the rights, powers and duties of the trustee appointed by the holders of any issue or
11 bonds and notes pursuant to section 27; in which event the provisions of section 27 authorizing
12 the appointment of directors by such holders of bonds or notes shall not apply.

13 SECTION 22. [Reserve funds and appropriations.](#)

14 To assure the contained operation and solvency of the district for the carrying out of its
15 corporate purposes:

16 (1) The district may create and establish one or more special funds (herein referred to as
17 "capital reserve funds"), and may pay into each such capital reserve fund:

18 (a) Any moneys appropriated and made available by the state, or any municipality for the
19 purpose of such fund;

20 (b) Proceeds from the sale of notes or bonds to the extent provided in the resolution or
21 resolutions of the district authorizing the issuance thereof; and

22 (c) Any other moneys that may be made available to the district for the purpose of such
23 fund from any other source. All moneys held in a capital reserve fund, except as hereinafter
24 provided, shall be used solely for the payment of the principal of bonds secured in whole or in
25 part by such fund or of the sinking fund payments hereinafter mentioned with respect to such
26 bonds, the purchase or redemption of such bonds, the payment of interest on such bonds or the
27 payment of any redemption premium required to be paid when such bonds are redeemed prior to
28 maturity, provided that moneys in such fund shall not be withdrawn therefrom except for the
29 purpose of making (with respect to bonds secured in whole or in part by such fund) payment
30 when due of principal, interest, redemption premiums and the sinking fund payments hereinafter
31 mentioned, for the payment of which other moneys of the district are not available if such
32 withdrawal would reduce the amount of such fund to less than the minimum capital reserve
33 requirement established for such fund as hereinafter provided. Any income or interest earned by,
34 or incremental to, any capital reserve fund due to the investment of the funds thereof may be

1 transferred by the district to other funds or accounts of the district if such transfer would not
2 reduce the amount of the capital reserve fund below the minimum capital reserve fund
3 requirement for such fund.

4 (2) The district shall not at any time issue bonds secured in whole or in part by a capital
5 reserve fund if, upon the issuance of such bonds, the amount of such capital reserve fund would
6 be less than the minimum capital reserve required for such fund, unless the district, at the time of
7 issuance of such bonds, shall deposit in such fund from the proceeds of the bonds so to be issued,
8 or from other sources, an amount that, together with the amount then in such fund, is not less than
9 the minimum capital reserve fund requirement for such fund. For the purpose of this section, the
10 term "minimum capital reserve fund requirement" shall mean, as of any particular date of
11 computation, an amount of money, as provided in the resolution or resolutions of the district
12 authorizing the bonds or notes with respect to which such fund is established, equal to not more
13 than the greatest of the respective amounts, for the current or any future fiscal year of the district,
14 of annual debt service on the bonds of the district secured in whole or in part by such fund, such
15 annual debt service for any fiscal year being the amount of money equal to the sum of:

16 (a) The interest payable during such fiscal year on all bonds secured in whole or in part
17 by such fund outstanding on the date of computation; plus

18 (b) The principal amount of all such bonds and bond anticipation notes outstanding on
19 said date of computation that mature during such fiscal year; plus

20 (c) All amounts specified in any resolution of the district authorizing such bonds as
21 payable during such fiscal year as a sinking fund payment with respect to any of such bonds that
22 mature after such fiscal year, all calculated on the assumption that such bonds will, after said date
23 of computation, cease to be outstanding by reason, but only by reason, of the payment of bonds
24 when due and application in accordance with the resolution authorizing those bonds of all of such
25 sinking fund payments payable at or after said date of computation.

26 (3) In computing the amount of the capital reserve funds for the purpose of this section,
27 securities in which all or a portion of such funds shall be invested, shall be valued as provided in
28 the proceedings under which the bonds are authorized but in no event shall be valued at a value
29 greater than par;

30 (4) The district may create and establish such other fund or funds as may be necessary or
31 desirable for its corporate purposes;

32 (5) The district may by resolution permit the issuance of bonds and notes to carry out the
33 purposes of this act without establishing a capital reserve fund pursuant to this section and
34 without complying with the limitations set forth in this section. Bonds and notes issued pursuant

1 to this paragraph may be secured by such other funds or methods as the district may in its
2 discretion determine by resolution.

3 SECTION 23. [Trust funds.](#)

4 All moneys received as proceeds from the sale of bonds or notes as revenues, receipts or
5 income therefrom, shall be trust funds to be held and applied solely as provided in the
6 proceedings under which such bonds or notes are authorized. Any officer with whom or any bank
7 or trust company with which such moneys shall be deposited as trustee hereof shall hold and
8 apply the same for the purposes thereof, subject to the applicable provisions of this act, the
9 proceedings authorizing the bonds or notes and the trust agreement securing such bonds or notes,
10 if any.

11 SECTION 24. [Notes and bonds as legal investments.](#)

12 The notes and bonds of the district are hereby made securities in which all public officers
13 and bodies of this state and all municipalities and municipal subdivisions, all insurance
14 companies and associations, and other persons carrying on an insurance business, all banks,
15 bankers, trust companies, savings banks and savings associations, including savings and loan
16 associations, building and loan associations, investment companies and other persons carrying on
17 a banking business, all administrators, guardians, executors, directors and other fiduciaries, and
18 all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or
19 other obligations of the state, may properly and legally invest funds, including capital, in their
20 control or belonging to them.

21 SECTION 25. [Agreement of the sale.](#)

22 The state does hereby pledge to agree with the holders of any bonds or notes issued under
23 this act, that the state will not limit or alter the rights hereby vested in the district to fulfill the
24 terms of any agreements made with the holders until such bonds or notes, together with the
25 interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in
26 connection with any action or proceeding by or on behalf of such holders, are fully met and
27 discharged. The district is authorized to include this pledge and agreement of the state in any
28 agreement with the holders of such bonds or notes.

29 SECTION 26. [Credit of state.](#)

30 Obligations issued under the provisions of this act, shall not constitute a debt, liability or
31 obligation of the state or of any political subdivision thereof other than the district or a pledge of
32 the full faith and credit of the state or any political subdivision thereof other than the district, but
33 shall be payable solely from the revenues or assets of the district. Each obligation issued under
34 this act shall contain on the face thereof a statement to the effect that the district shall not be

1 obligated to pay the same or interest thereon except from revenues or assets pledged therefor and
2 that neither the full faith and credit, nor the taxing power of the state, or any political subdivision
3 thereof, other than the district is pledged to the payment of the principal of or the interest on such
4 obligation.

5 SECTION 27. [Remedies of bondholders and noteholders.](#)

6 Any holder of a bond or note issued by the district under the provisions of this act or of
7 any of the coupons appertaining thereto and any trustee under a trust agreement or resolution
8 securing the same, except to the extent the rights herein given may be restricted by such trust
9 agreement or resolution securing the same, may bring suit upon the bonds or notes or coupons
10 and may, either at law or in equity, by suit, action, mandamus, or other proceedings for legal or
11 equitable relief, including proceedings for the appointment of a receiver to take possession and
12 control of the business and properties of the district, to operate and maintain the same, to make
13 any necessary repairs, renewals and replacements in respect thereof and to fix, revise and collect
14 fees and charges, protect and enforce and compel the performance of all duties required by this
15 act or by such trust agreement or resolution to be performed by the district or by any officer
16 thereof.

17 SECTION 28. [Authorization to accept appropriate moneys.](#)

18 The district is authorized to accept such moneys as may be appropriated from time to
19 time by the general assembly, any municipality, or any other source, for effectuating its corporate
20 purposes including, without limitation, the payment of the initial expenses of administration and
21 operation and the establishment of reserves or contingency funds to be available for the payment
22 of the principal of and the interest on any bonds, notes or other obligations of the district.

23 SECTION 29. [Exemption from taxation.](#)

24 The exercise of the powers granted by this act will be in all respects for the benefit of the
25 people of this state, the increase of their commerce, welfare and prosperity and for the
26 improvement of their health, safety and welfare and will in all respects constitute the performance
27 of an essential governmental function. Therefore, the district shall not be required to pay taxes or
28 assessments of any kind upon or in respect to any of its operations, real or personal property, or
29 any wastewater treatment, conveyance or other appurtenant facilities, or on account of
30 instruments recorded by it or on its behalf, or upon any earnings, revenues, moneys or other
31 income derived by the district. The bonds and notes of the district and the income therefrom shall
32 at all times be exempt from taxation.

33 Bonds and notes issued by the district and their transfer and the income therefrom,
34 including any profit made on the sale or exchange thereof, shall at all times be exempt from

1 taxation by the state and all political subdivisions of the state. The district shall not be required to
2 pay any transfer tax of any kind on account of instruments recorded by it or on its behalf.

3 SECTION 30. [Right to alter, amend, or repeal.](#)

4 The right to alter, amend or repeal this act is hereby expressly reserved to the general
5 assembly, but no such alteration, amendment or repeal shall operate to impair the obligation of
6 any contract made by the district under any power conferred by this act.

7 SECTION 31. This act shall take effect upon passage.

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LC005201
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

TO CREATE AND ESTABLISH THE TIVERTON WASTEWATER DISTRICT

- 1 This act would create and establish the Tiverton wastewater district.
- 2 This act would take effect upon passage.

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LC005201
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