

**2024 -- S 2811 SUBSTITUTE A**

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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2024**

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A N A C T

RELATING TO WATERS AND NAVIGATION -- COASTAL RESOURCES MANAGEMENT  
COUNCIL

Introduced By: Senators Euer, DiMario, and Sosnowski

Date Introduced: March 22, 2024

Referred To: Senate Environment & Agriculture

(CRMC)

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 46-23-1 and 46-23-6 of the General Laws in Chapter 46-23 entitled  
2 "Coastal Resources Management Council" are hereby amended to read as follows:

3           **46-23-1. Legislative findings.**

4           (a)(1) Under article 1, § 17 of the Rhode Island Constitution, the people shall continue to  
5 enjoy and freely exercise all the rights of fishery, and the privileges of the shore, to which they  
6 have been heretofore entitled under the charter and usages of this state, including, but not limited  
7 to, fishing from the shore, the gathering of seaweed, leaving the shore to swim in the sea and  
8 passage along the shore; and they shall be secure in their rights to use and enjoyment of the natural  
9 resources of the state with due regard for the preservation of their values; and it is the duty of the  
10 general assembly to provide for the conservation of the air, land, water, plant, animal, mineral and  
11 other natural resources of the state, and to adopt all means necessary and proper by law to protect  
12 the natural environment of the people of the state by providing adequate resource planning for the  
13 control and regulation of the use of the natural resources of the state and for the preservation,  
14 regeneration, and restoration of the natural environment of the state.

15           (2) The general assembly recognizes and declares that the coastal resources of Rhode  
16 Island, a rich variety of natural, commercial, industrial, recreational, and aesthetic assets, are of  
17 immediate and potential value to the present and future development of this state; that unplanned  
18 or poorly planned development of this basic natural environment has already damaged or destroyed,

1 or has the potential of damaging or destroying, the state's coastal resources, and has restricted the  
2 most efficient and beneficial utilization of these resources; that it shall be the policy of this state to  
3 preserve, protect, develop, and, where possible, restore the coastal resources of the state for this  
4 and succeeding generations through comprehensive and coordinated long range planning and  
5 management designed to produce the maximum benefit for society from these coastal resources;  
6 and that preservation and restoration of ecological systems shall be the primary guiding principle  
7 upon which environmental alteration of coastal resources will be measured, judged, and regulated.

8 (b)(1) That effective implementation of these policies is essential to the social and  
9 economic well-being of the people of Rhode Island because the sea and its adjacent lands are major  
10 sources of food and public recreation, because these resources are used by and for industry,  
11 transportation, waste disposal, and other purposes, and because the demands made on these  
12 resources are increasing in number, magnitude, and complexity; and that these policies are  
13 necessary to protect the public health, safety, and general welfare. Pursuant to 16 U.S.C. § 1452  
14 ("The Coastal Zone Management Act"), the general assembly hereby directs the council (referred  
15 to as "CRMC") to exercise effectively its responsibilities in the coastal zone through the  
16 development and implementation of management programs to achieve wise use of the land and  
17 water resources of the coastal zone.

18 (2) Furthermore, that implementation of these policies is necessary in order to secure the  
19 rights of the people of Rhode Island to the use and enjoyment of the natural resources of the state  
20 with due regard for the preservation of their values, and in order to allow the general assembly to  
21 fulfill its duty to provide for the conservation of the air, land, water, plant, animal, mineral, and  
22 other natural resources of the state, and to adopt all means necessary and proper by law to protect  
23 the natural environment of the people of the state by providing adequate resource planning for the  
24 control and regulation of the use of the natural resources of the state and for the preservation,  
25 regeneration, and restoration of the natural environment of the state.

26 (c) That these policies can best be achieved through the creation of a coastal resources  
27 management council as the principal mechanism for management of the state's coastal resources.

28 (d) The general assembly recognizes and declares that maintenance dredging is required to  
29 remove natural silt accumulations; Rhode Island has not had a general maintenance dredging policy  
30 and programs for ports, port facilities, channels, harbors, public and private marinas and boating  
31 facilities, recreational facilities and habitat areas; other major coastal states have maintenance  
32 dredging policies and in-water maintenance dredge disposal sites; as a result of the lack of a general  
33 maintenance dredging policy and program and as a result there has been:

34 (1) A decrease in the depth of the Providence Channel from forty-four (44) feet in 1971 to

1 twenty-four (24) feet in 1996;

2 (2) Navigational restrictions on ocean going vessels through the state's waterways and  
3 channels; and

4 (3) A decrease in the number of available slips and moorings at marinas throughout the  
5 state; and the lack of a maintenance dredging policy and programs have significant adverse  
6 environmental and economic effects on the state and therefore it is in the best interest of the state,  
7 the cities and towns of the state, and the citizens thereof for the state to have a general maintenance  
8 dredging policy and programs to resolve issues related to dredge maintenance and disposal and  
9 avoid future significant direct and indirect adverse impact on the environment and economy of the  
10 state.

11 (e) The coastal resources management council is hereby designated as the lead state agency  
12 for purposes of dredging in tidal waters and as such shall have the following duties and  
13 responsibilities:

14 (1) To coordinate the interest of the state with regard to dredging;

15 (2) To formulate and adopt a state policy with regard to dredging which integrates those  
16 interests;

17 (3) To cooperate with, negotiate, and to enter into agreements on behalf of the state with  
18 the federal government and with other public bodies and private parties with regard to dredging;

19 (4) To act as the initial and primary point of contact for all applications to the state for  
20 dredging projects in tidal waters;

21 (5) To develop, prepare, adopt pursuant to § 46-23-11, implement, and maintain a  
22 comprehensive plan for dredge material management; and

23 (6) To cooperate and coordinate with the departments of environmental management,  
24 transportation, administration, and health, and the economic development corporation in the  
25 conduct of these duties and responsibilities.

26 (f)(1) The legislature recognizes that under Article I, § 17, the submerged lands of the state  
27 are impressed with a public trust and that the state is responsible for the protection of the public's  
28 interest in these lands. The state maintains title in fee to all soil within its boundaries that lies below  
29 the high water mark, and it holds that land in trust for the use of the public. In benefiting the public,  
30 the state preserves certain public rights which include, but are not limited to, fishery, commerce,  
31 and navigation in these waters and the submerged lands that they cover.

32 (2)(i) Since its establishment in 1971, the CRMC has had the authority to manage and plan  
33 for the preservation of the coastal resources of the state including, but not limited to, submerged  
34 lands. The legislature hereby declares that, in light of the unique size, scope, and overall potential

1 impact upon the environment of large scale filling projects involving twenty-five (25) acres or  
2 more, or any and all projects involving the lease of tidal lands of twenty-five (25) acres or more,  
3 any lease of tidal lands, or any license to use those lands, is subject to approval, disapproval, or  
4 conditional approval by the direct enactment of the general assembly by legislative action. The  
5 CRMC shall review all requests for leases, licenses to use the land, and other authority to use the  
6 land made by any applicant prior to presentation of the request to the general assembly, and the  
7 CRMC shall make recommendations on the request to the general assembly. An appropriate fee for  
8 such use and/or lease may be recommended. ~~With the exception of any and all projects to fill land~~  
9 ~~of twenty-five (25) acres or more, the general assembly hereby recognizes and declares that the~~  
10 ~~CRMC is delegated the sole and exclusive authority for the leasing of submerged and filled lands~~  
11 ~~and giving licenses for the use of that land. Accordingly, the CRMC will develop, coordinate, and~~  
12 ~~adopt a system for the leasing of submerged and filled lands, and licenses for the use of that land,~~  
13 ~~and will ensure that all leases and licenses are consistent with the public trust. Pursuant thereto, the~~

14 (ii) The CRMC shall impose a maximum fee of eighty thousand dollars (\$80,000) per  
15 annum for any transatlantic telephone or fiber-optic communication cable that makes landfall in  
16 Rhode Island. All such fees collected shall be deposited into the Bays, Rivers and Watersheds Fund,  
17 established pursuant to § 46-31-12.1, and shall be disbursed according to the purposes of that fund.

18 (iii) Nothing contained in this subsection negates, repeals, or alters the provisions,  
19 processes, and requirements for the leasing of submerged land for the conduct of aquaculture as set  
20 out under chapter 10 of title 20. Therefore, nothing in this chapter shall be construed to limit or  
21 impair the authority of the state, or any duly established agency of the state, to regulate filling or  
22 dredging affecting tidal lands owned by the state or any other entity, and nothing in this chapter  
23 shall be construed to limit or impair the obligation of the applicant to obtain all applicable  
24 regulatory approvals. Specifically, and without limiting the foregoing, nothing in this subsection  
25 negates, repeals, or alters the provisions, processes, and requirements for water quality certification  
26 contained in chapter 12 of this title.

27 (3) Definitions.

28 (i) "Filled land" means portions of tidal lands which have been rendered by the acts of man  
29 to be no longer subject to tidal action or beneath tidal waters.

30 (ii) "Tidal Lands" means those lands that are below the mean high water.

31 (iii) "Mean high water" means a line of contour representing the 18.6 year average as  
32 determined by the metonic cycle and/or its equivalent as evidenced by the records, tidal datum, and  
33 methodology of the United States Coastal Geodetic Survey within the National Oceanic and  
34 Atmospheric Administration.

1           **46-23-6. Powers and duties — Rights-of-way.**

2           In order to properly manage coastal resources the council has the following powers and  
3 duties:

4           (1) Planning and management.(i) The primary responsibility of the council shall be the  
5 continuing planning for and management of the resources of the state's coastal region. The council  
6 shall be able to make any studies of conditions, activities, or problems of the state's coastal region  
7 needed to carry out its responsibilities.

8           (ii) The resources management process shall include the following basic phases:

9           (A) Identify all of the state's coastal resources, water, submerged land, air space, fin fish,  
10 shellfish, minerals, physiographic features, and so forth.

11           (B) Evaluate these resources in terms of their quantity, quality, capability for use, and other  
12 key characteristics.

13           (C) Determine the current and potential uses of each resource.

14           (D) Determine the current and potential problems of each resource.

15           (E) Formulate plans and programs for the management of each resource, identifying  
16 permitted uses, locations, protection measures, and so forth.

17           (F) Carry out these resources management programs through implementing authority and  
18 coordination of state, federal, local, and private activities.

19           (G) Formulation of standards where these do not exist, and reevaluation of existing  
20 standards.

21           (H) To develop comprehensive programs for dredging in tidal waters and related beneficial  
22 use, disposal, monitoring dewatering and transportation of dredge materials.

23           (I) To accept and administer loans and grants from the federal government and from other  
24 sources, public or private, for the carrying out of any of its functions, which loans or grants shall  
25 not be expended for other than the purposes for which provided.

26           (J) To encourage, participate in, or conduct studies, investigations, research, and  
27 demonstrations relating to dredging, disposal of dredge materials and transportation thereof in the  
28 tidal waters of the state as the coastal resources management council may deem advisable and  
29 necessary for the discharge of its duties under this chapter.

30           (K) To collect and disseminate information relating to dredging, disposal of dredge  
31 materials and transportation thereof within the tidal waters of the state.

32           (L) To work with the appropriate federal and state agencies to develop as provided for in  
33 this chapter and in chapter 6.1 of this title, a comprehensive plan for dredging in tidal waters and  
34 related beneficial use, disposal, monitoring dewatering and transportation of dredge materials.

1 (M) To apply for, accept and expend grants and bequests of funds, for the purpose of  
2 carrying out the lawful responsibilities of the coastal resources management council.

3 (iii) An initial series of resources management activities shall be initiated through this basic  
4 process, then each phase shall continuously be recycled and used to modify the council's resources  
5 management programs and keep them current.

6 (iv) Planning and management programs shall be formulated in terms of the characteristics  
7 and needs of each resource or group of related resources. However, all plans and programs shall be  
8 developed around basic standards and criteria, including:

9 (A) The need and demand for various activities and their impact upon ecological systems.

10 (B) The degree of compatibility of various activities.

11 (C) The capability of coastal resources to support various activities.

12 (D) Water quality standards set by the director of the department of environmental  
13 management.

14 (E) Consideration of plans, studies, surveys, inventories, and so forth prepared by other  
15 public and private sources.

16 (F) Consideration of contiguous land uses and transportation facilities.

17 (G) Whenever possible consistency with the state guide plan.

18 (v) The council shall prepare, adopt, administer, and cause to be implemented, including  
19 specifically through its powers of coordination as set forth in subdivision (3) of this section, a  
20 marine resources development plan and such special area management plans as the council may  
21 determine to be appropriate or desirable as follows:

22 (A) Marine resources development plan.

23 (I) The purpose of the marine resources development plan shall be to provide an integrated  
24 strategy for: (a) improving the health and functionality of Rhode Island's marine ecosystem; (b)  
25 providing for appropriate marine-related economic development; and (c) promoting the use and  
26 enjoyment of Rhode Island's marine resources by the people of the state.

27 (II) The marine resources development plan shall include specific goals and objectives  
28 necessary to accomplish its purposes, performance measures to determine progress toward  
29 achieving such goals and objectives, and an implementation program.

30 (III) The marine resources development plan shall be prepared in cooperation with the  
31 department of environmental management, the statewide planning program, and the commerce  
32 corporation, with the involvement of such other state agencies as may be appropriate, and with such  
33 technical support as may be necessary and appropriate from the Narragansett Bay Estuary Program,  
34 the Coastal Institute at the University of Rhode Island, and Rhode Island Sea Grant.

1 (IV) The plan shall be responsive to the requirements and principles of the federal coastal  
2 zone management act as amended, including, but not limited to, the expectations of the act for  
3 incorporating the federal Clean Water Act into coastal zone management programs.

4 (V) The marine resources development plan shall take into account local land use  
5 management responsibilities as provided for under title 45 and harbor management responsibilities,  
6 and the preparation of the plan shall include opportunities for involvement and/or comment by  
7 cities and towns.

8 (VI) The marine resources development plan shall be adopted by the council in accordance  
9 with the provisions of this subsection by July 1, 2005, shall as appropriate incorporate the  
10 recommendations of the Governor's Narragansett Bay and Watershed Planning Commission, and  
11 shall be made consistent with systems level plans as appropriate, in order to effectuate the purposes  
12 of systems level planning. The council shall update the marine resources development plan at least  
13 once every five (5) years.

14 (VII) The council shall administer its programs, regulations, and implementation activities  
15 in a manner consistent with the marine resources development plan.

16 (VIII) The marine resources development plan and any updates thereto shall be adopted as  
17 appropriate as elements of the state guide plan pursuant to § 42-11-10.

18 (B) Special area management plans.

19 (I) The council shall adopt such special area management plans as deemed necessary and  
20 desirable to provide for the integration and coordination of the protection of natural resources, the  
21 promotion of reasonable coastal-dependent economic growth, and the improved protection of life  
22 and property in the specific areas designated council as requiring such integrated planning and  
23 coordination.

24 (II) The integrated planning and coordination herein specified shall include, but not be  
25 limited to, federal agencies, state agencies, boards, commissions, and corporations, including  
26 specifically the commerce corporation, and cities and towns, shall utilize to the extent appropriate  
27 and feasible the capacities of entities of higher education, including Rhode Island Sea Grant, and  
28 shall provide for the participation of advocacy groups, community-based organizations, and private  
29 persons.

30 (III) The council shall administer its programs, regulations, and implementation activities  
31 in a manner consistent with special area management plans.

32 (IV) Special area management plans and any updates thereto shall be adopted as  
33 appropriate as elements of the state guide plan pursuant to § 42-11-10.

34 (2) Implementation.(i) The council is authorized to formulate policies and plans and to

1 adopt regulations necessary to implement its various management programs. With respect to such  
2 policies and plans which relate to matters where the coastal resources management council and the  
3 department of environmental management have concurrent jurisdiction and upon formulation of  
4 the plans and regulations, the council shall, prior to adoption, submit the proposed plans or  
5 regulations to the director of the department of environmental management for the director's  
6 review. The director shall review and submit comments to the council within thirty (30) days of  
7 submission to the director by the council. The comments of the director shall include findings with  
8 regard to the consistency of the policies, plans and/or regulations with the requirements of laws  
9 administered by the department. The council shall consider the director's comments prior to  
10 adoption of any such policies, plans or regulations and shall respond in writing to findings of the  
11 director with regard to the consistency of said policies, plans and/or regulations with the  
12 requirements of laws administered by the department.

13 (ii)(A) The council shall have exclusive jurisdiction below mean high water for all  
14 development, operations, and dredging, consistent with the requirements of chapter 6.1 of this title  
15 and except as necessary for the department of environmental management to exercise its powers  
16 and duties and to fulfill its responsibilities pursuant to §§ 42-17.1-2 and 42-17.1-24, and any  
17 person, firm, or governmental agency proposing any development or operation within, above, or  
18 beneath the tidal water below the mean high water mark, extending out to the extent of the state's  
19 jurisdiction in the territorial sea, shall be required to demonstrate that its proposal would not:

20 (I) Conflict with any resources management plan or program;

21 (II) Make any area unsuitable for any uses or activities to which it is allocated by a  
22 resources management plan or program adopted by the council; or

23 (III) Significantly damage the environment of the coastal region.

24 (B) The council shall be authorized to approve, modify, set conditions for, or reject any  
25 such proposal.

26 (iii) The authority of the council over land areas (those areas above the mean high water  
27 mark) shall be limited to two hundred feet (200') from the coastal physiographic feature or to that  
28 necessary to carry out effective resources management programs. This shall be limited to the  
29 authority to approve, modify, set conditions for, or reject the design, location, construction,  
30 alteration, and operation of specified activities or land uses when these are related to a water area  
31 under the agency's jurisdiction, regardless of their actual location. The council's authority over  
32 these land uses and activities shall be limited to situations in which there is a reasonable probability  
33 of conflict with a plan or program for resources management or damage to the coastal environment.

34 These uses and activities are:



1 (A) Power generating over forty (40) megawatts and desalination plants.

2 (B) Chemical or petroleum processing, transfer, or storage.

3 (C) Minerals extraction.

4 (D) Shoreline protection facilities and physiographical features, and all directly associated  
5 contiguous areas which are necessary to preserve the integrity of the facility and/or features.

6 (E) Coastal wetlands and all directly associated contiguous areas which are necessary to  
7 preserve the integrity of the wetlands including any freshwater wetlands located in the vicinity of  
8 the coast. The actual determination of freshwater wetlands located in coastal vicinities and under  
9 the jurisdiction of the coastal resources management council shall be designated on such maps that  
10 are agreed to in writing and made available for public use by the coastal resources management  
11 council and the director, department of environmental management, within three (3) months of  
12 [August 6, 1996]. The CRMC shall have exclusive jurisdiction over the wetlands areas described  
13 in this section notwithstanding any provision of chapter 1, title 2 or any other provision, except as  
14 provided in subsection (iv) of this section. Within six (6) months of [August 6, 1996] the council  
15 in cooperation with the director shall develop rules and regulations for the management and  
16 protection of freshwater wetlands, affected by an aquaculture project, outside of those freshwater  
17 wetlands located in the vicinity of the coast and under the exclusive jurisdiction of the director of  
18 the department of environmental management. For the purpose of this chapter, a “*coastal wetland*”  
19 means any salt marsh bordering on the tidal waters of this state, whether or not the tidal waters  
20 reach the littoral areas through natural or artificial watercourses, and those uplands directly  
21 associated and contiguous thereto which are necessary to preserve the integrity of that marsh.  
22 Marshes shall include those areas upon which grow one or more of the following: smooth cordgrass  
23 (*spartina alterniflora*), salt meadow grass (*spartina patens*), spike grass (*distichlis spicata*), black  
24 rush (*juncus gerardi*), saltworts (*salicornia* spp.), sea lavender (*limonium carolinianum*), saltmarsh  
25 bulrushes (*scirpus* spp.), hightide bush (*iva frutescens*), tall reed (*phragmites communis*), tall  
26 cordgrass (*spartina pectinata*), broadleaf cattail (*typha latifolia*), narrowleaf cattail (*typha*  
27 *angustifolia*), spike rush (*eleocharis rostellata*), chairmaker’s rush (*scirpus americana*), creeping  
28 bentgrass (*agrostis palustris*), sweet grass (*hierochloe odorata*), and wild rye (*etlymus virginicus*).

29 (F) Sewage treatment and disposal and solid waste disposal facilities.

30 (G) Beneficial use, dewatering, and disposal of dredged material of marine origins, where  
31 such activities take place within two hundred feet (200') of mean high water or a coastal  
32 physiographic feature, or where there is a reasonable probability of conflict with a plan or program  
33 for resources management or damage to the coastal environment.

34 (iv) Notwithstanding the provisions of subsections (ii) and (iii) above, the department of

1 environmental management shall maintain jurisdiction over the administration of chapter 1, title 2,  
2 including permitting of freshwater wetlands alterations and enforcement, with respect to all  
3 agricultural activities undertaken by a farmer, as that term is defined in § 2-1-22(j), wherever  
4 located; provided, however, that with respect to activities located partially or completely within  
5 two hundred feet (200') of the coastal physiographic feature, the department shall exercise  
6 jurisdiction in consultation with the council.

7 (3) Coordination. The council has the following coordinating powers and duties:

8 (i) Functioning as a binding arbitrator in any matter of dispute involving both the resources  
9 of the state's coastal region and the interests of two (2) or more municipalities or state agencies.

10 (ii) Consulting and coordinating actions with local, state, regional, and federal agencies  
11 and private interests.

12 (iii) Conducting or sponsoring coastal research.

13 (iv) Advising the governor, the general assembly, and the public on coastal matters.

14 (v) Serving as the lead state agency and initial and primary point of contact for dredging  
15 activities in tidal waters and in that capacity, integrating and coordinating the plans and policies of  
16 other state agencies as they pertain to dredging in order to develop comprehensive programs for  
17 dredging as required by subparagraph (1)(ii)(H) of this section and chapter 6.1 of this title. The  
18 Rhode Island resource recovery corporation prior to purchasing cover material for the state landfill  
19 shall first contact the CRMC to see if there is a source of suitable dredged material available which  
20 shall be used in place of the purchase cover material. Other state agencies engaged in the process  
21 of dump closures shall also contact the CRMC to see if there is a source of suitable dredged material  
22 available, which shall be used in place of the purchase cover material. In addition, cities and towns  
23 may contact the CRMC prior to closing city or town controlled dump sites to see if there is a source  
24 of suitable dredge material available, which may be used in place of the purchase cover material.

25 (vi) Acting as the state's representative to all bodies public and private on all coastal and  
26 aquaculture related matters.

27 (4) Operations. The council is authorized to exercise the following operating functions,  
28 which are essential to management of coastal resources:

29 (i) Issue, modify, or deny permits for any work in, above, or beneath the areas under its  
30 jurisdiction, including conduct of any form of aquaculture.

31 (ii) Issue, modify, or deny permits for dredging, filling, or any other physical alteration of  
32 coastal wetlands and all directly related contiguous areas which are necessary to preserve the  
33 integrity of the wetlands, including, but not limited to, the transportation and disposal of dredge  
34 materials in the tidal waters.

1 (iii) Grant licenses, permits, and easements for the use of coastal resources which are held  
2 in trust by the state for all its citizens, and impose fees for private use of these resources.

3 (iv) Determining the need for and establishing pierhead, bulkhead, and harbor lines.

4 (v) Enforcing and implementing riparian rights in the tidal waters after judicial decisions.

5 (vi) The council may require an owner or operator of a commercial wharf or pier of a  
6 marine commercial facility, as defined in 300.3 of the Rhode Island coastal resources management  
7 program, but not including those facilities defined in 300.4 of the Rhode Island coastal resources  
8 management program, and which is capable of offloading cargo, and is or will be subject to a new  
9 use or a significant intensification of an existing use, to demonstrate that the commercial wharf or  
10 pier is fit for that purpose. For the purposes of this subsection, a “*commercial wharf or pier*” means  
11 a pier, bulkhead, wharf, docking facility, or underwater utilities. The council may order said owner  
12 or operator to provide an engineering certification to the council’s satisfaction that the commercial  
13 wharf or pier is fit for the new use or intensification of an existing use. If the council determines  
14 that the commercial wharf or pier is not fit, it may order the owner or operator to undertake the  
15 necessary work to make the commercial wharf or pier safe, within a reasonable time frame. If the  
16 council determines that the commercial wharf or pier, because of its condition, is an immediate  
17 threat to public health and safety it may order the commercial wharf or pier closed until the  
18 necessary work to make the commercial wharf or pier safe has been performed and approved by  
19 the council. All work performed must conform to the council’s management program. The council  
20 is also given the authority to develop regulations to carry out this provision and to impose  
21 administrative penalties of five thousand dollars (\$5,000) per day up to a maximum of twenty  
22 thousand dollars (\$20,000) consistent with § 46-23-7.1 where there has been a violation of the  
23 orders under this provision.

24 (5) Rights-of-way.(i) The council is responsible for the designation of all public rights-of-  
25 way to the tidal water areas of the state, and shall carry on a continuing discovery of appropriate  
26 public rights-of-way to the tidal water areas of the state.

27 (ii) The council shall maintain a complete file of all official documents relating to the legal  
28 status of all public rights-of-way to the tidal water areas of the state.

29 (iii)(A) The council has the power to designate for acquisition and development, and  
30 posting, and all other functions of any other department for tidal rights-of-way and land for tidal  
31 rights-of-way, parking facilities, and other council related purposes.

32 (B) Further, the council has the power to develop and prescribe a standard sign to be used  
33 by the cities and towns to mark designated rights-of-way.

34 (iv) In conjunction with this subdivision, every state department controlling state-owned

1 land close to or adjacent to discovered rights-of-way is authorized to set out the land, or so much  
2 of the land that may be deemed necessary for public parking.

3 (v) No use of land for public parking shall conflict with existing or intended use of the land,  
4 and no improvement shall be undertaken by any state agency until detailed plans have been  
5 submitted to and approved by the governing body of the local municipality.

6 (vi) In designating rights-of-way, the council shall consider the following matters in  
7 making its designation:

8 (A) Land evidence records;

9 (B) The exercise of domain over the parcel such as maintenance, construction, or upkeep;

10 (C) The payment of taxes;

11 (D) The creation of a dedication;

12 (E) Public use;

13 (F) Any other public record or historical evidence such as maps and street indexes;

14 (G) Other evidence as set out in § 42-35-10.

15 (vii) A determination by the council that a parcel is a right-of-way shall be decided by  
16 substantial evidence.

17 (viii) The council shall be notified whenever by the judgment of the governing body of a  
18 coastal municipality, a public right-of-way to tidal water areas located in such municipality has  
19 ceased to be useful to the public, and such governing body proposes an order of abandonment of  
20 such public right-of-way. Said notice shall be given not less than sixty (60) days prior to the date  
21 of such abandonment.

22 (6) Pre-existing residential boating facilities.(i) The council is hereby authorized and  
23 empowered to issue assent for pre-existing residential boating facilities constructed prior to January  
24 1, 1985. These assents may be issued for pre-existing residential boating facilities, even though  
25 such facilities do not meet current standards and policies of the council; provided, however, that  
26 the council finds that such facilities do not pose any significant risk to the coastal resources of the  
27 state of Rhode Island and do not endanger human safety.

28 (ii) In addition to the above criteria, the applicant shall provide clear and convincing  
29 evidence that:

30 (A) The facility existed in substantially the same configuration as it now exists prior to  
31 January 1, 1985;

32 (B) The facility is presently intact and functional; and

33 (C) The facility presents no significant threat to the coastal resources of the state of Rhode  
34 Island or human safety.

1 (iii) The applicant, to be eligible for this provision, shall apply no later than January 31,  
2 1999.

3 (iv) The council is directed to develop rules and regulations necessary to implement this  
4 subdivision.

5 (v) It is the specific intent of this subsection to require that all pre-existing residential  
6 boating facilities constructed on January 1, 1985, or thereafter conform to this chapter and the plans,  
7 rules and regulations of the council.

8 (7) Lease of filled lands which were formerly tidal lands to riparian or littoral owners.(i)  
9 Any littoral or riparian owner in this state who desires to obtain a lease from the state of Rhode  
10 Island of any filled lands adjacent to his or her upland shall apply to the council, which may make  
11 the lease. Any littoral or riparian owner who wishes to obtain a lease of filled lands must obtain  
12 pre-approval, in the form of an assent, from the council. Any lease granted by the council shall  
13 continue the public's interest in the filled lands including, but not limited to, the rights of  
14 navigation, fishery, and commerce. The public trust in the lands shall continue and run concurrently  
15 with the leasing of the lands by the state to private individuals, corporations, or municipalities.  
16 Upon the granting of a lease by the council, those rights consistent with the public trust and secured  
17 by the lease shall vest in the lessee. The council may approve a lease of filled lands for an initial  
18 term of up to fifty (50) years, with, or without, a single option to renew for an additional term of  
19 up to fifty (50) years. [An appropriate fee for such use and/or lease may be required.](#)

20 [\(ii\) Consistent with § 46-23-1\(f\) et seq., large-scale filling projects involving twenty-five](#)  
21 [\(25\) acres or more, or any and all projects involving the lease of tidal lands of twenty-five \(25\)](#)  
22 [acres or more, any lease of tidal lands, or any license to use those lands, is subject to approval,](#)  
23 [disapproval, or conditional approval by the direct enactment of the general assembly by legislative](#)  
24 [action.](#)

25 ~~(iii)~~(iii) The lessor of the lease, at any time, for cause, may by express act cancel and annul  
26 any lease previously made to the riparian owner when it determines that the use of the lands is  
27 violating the terms of the lease or is inconsistent with the public trust, [or a fee for such lease has](#)  
28 [not been paid,](#) and upon cancellation the lands, and rights in the land so leased, shall revert to the  
29 state. [Any fees paid shall not be returned.](#)

30 (8) "Marinas" as defined in the coastal resources management program in effect as of June  
31 1, 1997, are deemed to be one of the uses consistent with the public trust. Subdivision (7) is not  
32 applicable to:

33 (i) Any riparian owner on tidal waters in this state (and any successor in interest to the  
34 owner) which has an assent issued by the council to use any land under water in front of his or her

1 lands as a marina, which assent was in effect on June 1, 1997;

2 (ii) Any alteration, expansion, or other activity at a marina (and any successor in interest)  
3 which has an assent issued by the council, which assent was in effect on June 1, 1997; and

4 (iii) Any renewal of assent to a marina (or successor in interest), which assent was issued  
5 by the council and in effect on June 1, 1997.

6 (9) "*Recreational boating facilities*" including marinas, launching ramps, and recreational  
7 mooring areas, as defined by and properly permitted by the council, are deemed to be one of the  
8 uses consistent with the public trust. Subdivision (7) is not applicable to:

9 (i) Any riparian owner on tidal waters in this state (and any successor in interest to the  
10 owner) which has an assent issued by the council to use any land under water in front of his or her  
11 lands as a recreational boating facility; any alteration, expansion or other activity at a recreational  
12 boating facility (and any successor in interest) which has an assent issued by the council, which  
13 assent was in effect as of June 1, 1997; and

14 (ii) Any renewal of assent to a recreational boating facility (or successor in interest), which  
15 assent was issued by the council and in effect on June 1, 1997.

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

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LC004338/SUB A  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO WATERS AND NAVIGATION -- COASTAL RESOURCES MANAGEMENT  
COUNCIL

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1           This act would provide that the legislature would be the body that negotiates on behalf of  
2 the state for all activities occurring in, on and over state submerged land extending beyond twenty-  
3 five (25) acres.

4           This act would take effect upon passage.

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LC004338/SUB A  
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