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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

WATERS AND NAVIGATION - COASTAL RESOURCES MANAGEMENT COUNCIL -  
THE RHODE ISLAND LOCAL AGRICULTURE AND SEAFOOD ACT

Introduced By: Senators Sosnowski, Walaska, Coyne, McCaffrey, and Gee

Date Introduced: February 25, 2015

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

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

3           **46-23-1. Legislative findings.** -- (a)(1) Under article 1, § 17 of the Rhode Island  
4 Constitution, the people shall continue to enjoy and freely exercise all the rights of fishery, and  
5 the privileges of the shore, to which they have been heretofore entitled under the charter and  
6 usages of this state, including, but not limited to, fishing from the shore, the gathering of  
7 seaweed, leaving the shore to swim in the sea and passage along the shore; and they shall be  
8 secure in their rights to use and enjoyment of the natural resources of the state with due regard for  
9 the preservation of their values; and it is the duty of the general assembly to provide for the  
10 conservation of the air, land, water, plant, animal, mineral and other natural resources of the state,  
11 and to adopt all means necessary and proper by law to protect the natural environment of the  
12 people of the state by providing adequate resource planning for the control and regulation of the  
13 use of the natural resources of the state and for the preservation, regeneration, and restoration of  
14 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

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

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

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

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

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

1 (1) A decrease in the depth of the Providence Channel from forty-four (44) feet in 1971  
2 to twenty-four (24) feet in 1996;

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

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

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

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

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

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

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

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

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

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

33 (2) Since its establishment in 1971, the CRMC has had the authority to manage and plan  
34 for the preservation of the coastal resources of the state including, but not limited to, submerged

1 lands. The legislature hereby declares that, in light of the unique size, scope, and overall potential  
2 impact upon the environment of large scale filling projects involving twenty-five (25) acres or  
3 more, any lease of tidal lands, or any license to use those lands, is subject to approval,  
4 disapproval, or conditional approval by the direct enactment of the general assembly by  
5 legislative action. The CRMC shall review all requests for leases, licenses to use the land, and  
6 other authority to use the land made by any applicant prior to presentation of the request to the  
7 general assembly, and the CRMC shall make recommendations on the request to the general  
8 assembly. With the exception of any and all projects to fill land of twenty-five (25) acres or more,  
9 the general assembly hereby recognizes and declares that the CRMC is delegated the sole and  
10 exclusive authority for the leasing of submerged and filled lands and giving licenses for the use of  
11 that land. Accordingly, the CRMC will develop, coordinate, and adopt a system for the leasing of  
12 submerged and filled lands, and licenses for the use of that land, and will ensure that all leases  
13 and licenses are consistent with the public trust. Pursuant thereto, the CRMC shall impose a  
14 maximum fee of eighty thousand dollars (\$80,000) per annum for any transatlantic cable that  
15 makes landfall in Rhode Island. All such fees collected shall be deposited into the Bays, Rivers  
16 and Watersheds Fund, established pursuant to § 46-31-12.1, and shall be disbursed according to  
17 the purposes of that fund. [All fees collected for the lease of tidal lands for any renewable energy  
18 project with a project cost exceeding five million dollars \(\\$5,000,000\) shall be deposited into the  
19 Rhode Island local agriculture and seafood fund established pursuant to § 2-25-6, and shall be  
20 disbursed according to the purposes of that fund.](#) Nothing contained in this subsection negates,  
21 repeals, or alters the provisions, processes, and requirements for the leasing of submerged land  
22 for the conduct of aquaculture as set out under chapter 10 of title 20. Therefore, nothing in this  
23 chapter shall be construed to limit or impair the authority of the state, or any duly established  
24 agency of the state, to regulate filling or dredging affecting tidal lands owned by the state or any  
25 other entity, and nothing in this chapter shall be construed to limit or impair the obligation of the  
26 applicant to obtain all applicable regulatory approvals. Specifically, and without limiting the  
27 foregoing, nothing in this subsection negates, repeals, or alters the provisions, processes, and  
28 requirements for water quality certification contained in chapter 12 of this title.

29 (3) Definitions.

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

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

33 (iii) "Mean high water" means a line of contour representing the 18.6 year average as  
34 determined by the metonic cycle and/or its equivalent as evidenced by the records, tidal datum,

1 and methodology of the United States Coastal Geodetic Survey within the National Oceanic and  
2 Atmospheric Administration.

3 SECTION 2. Sections 2-25-2, 2-25-3, 2-25-5, 2-25-6 and 2-25-7 of the General Laws in  
4 Chapter 2-25 entitled “The Rhode Island Local Agriculture and Seafood Act” are hereby  
5 amended to read as follows:

6 **2-25-2. Legislative findings.** -- The general assembly hereby finds and declares:

7 (1) A viable agricultural and seafood sector in Rhode Island represents part of a secure  
8 regional food supply, which in turn lends itself to energy and economic efficiencies;

9 (2) The federal government and regional entities have established and continue to  
10 establish programs and processes to support local agricultural production and increased  
11 consumption of locally produced food, and Rhode Island functions in whole or in part in the  
12 context of federal and regional programs;

13 (3) The general public is increasingly interested in locally produced food;

14 (4) The benefits of local food systems to local communities include open land, jobs,  
15 nutritious and safe foods, and youth education opportunities;

16 (5) Farms and commercial fishing are an integral part of Rhode Island's overall economy;

17 (6) Encouraging the continued growth of Rhode Island's agricultural and seafood sectors  
18 is integral to reducing food insecurity in Rhode Island;

19 (7) Relationship-based food systems such as farm-to-school programs, community  
20 supported agriculture (CSA) programs, farmers' markets, and pick-your-own operations are  
21 increasingly popular and offer areas of opportunity for new farmers; ~~and~~

22 (8) The state of Rhode Island has historically established programs to provide for and  
23 regulate the agriculture and commercial fishing sectors;

24 (9) Expanding and strengthening the local food system supports a diverse range of  
25 economic activities and benefits that extend well beyond fisheries and agricultural industries and  
26 includes new businesses and job growth, increased property values, generation of new revenues  
27 and stronger Rhode Island communities; and

28 (10) The increasing volume, complexity and burden of fisheries management policies and  
29 regulations threatens the viability of the Rhode Island fishing industry and serves as a barrier to  
30 growth of this important sector of the state's economy.

31 **2-25-3. Legislative intent.** -- The general assembly intends:

32 (1) To support and develop more robust and self-sustaining agricultural and seafood  
33 sectors that also promotes emerging agricultural industries;

34 (2) That policies and programs of the state will support and promote the Rhode Island

1 agriculture and seafood industries as a vital component of the state's economy and essential  
2 steward of our land and coastal waters;

3 (3) That current policies and programs pertaining to the viability of Rhode Island's  
4 agricultural and seafood industries be reviewed and confirmed or changed in order to assure the  
5 long-term economic prosperity of the industries; ~~and~~

6 (4) That Rhode Island will promote processing and consumption of agricultural and  
7 seafood products from within Rhode Island; and

8 (5) That Rhode Island's fishing industry has the resources to participate in matters  
9 concerning fisheries management regulations and policies.

10 **2-25-5. Small grants and technical assistance program established.** -- The department  
11 of environmental management shall establish the local agriculture and seafood small grants and  
12 technical assistance program. Through the program the department shall:

13 (1) Assist in the marketing of Rhode Island grown agricultural products and local seafood  
14 for the purpose of sale and promotion within the state of Rhode Island or United States;

15 (2) Enhance the economic competitiveness of Rhode Island grown agricultural products  
16 and local seafood;

17 (3) Provide financial and technical assistance support to organizations and farmers for  
18 activities and programs which enhance the economic viability of local agriculture, and support the  
19 development of a locally based, safe and sustainable food system;

20 (4) Provide individual farm grants to small or beginning Rhode Island farmers that  
21 support the entry or sustainability within the respective industry;

22 (5) Provide grant funding up to fifty thousand dollars (\$50,000) to allow the fishing  
23 community to fully participate in the development of fisheries management policies and  
24 regulations;

25 ~~(5)(6)~~ Work with the state department of health to further develop and support food  
26 safety related programs and standards pertaining to local agriculture and seafood; and

27 ~~(6)(7)~~ Perform other activities necessary to facilitate the success and viability of the  
28 state's agricultural and seafood sectors.

29 **2-25-6. Local agriculture and seafood small grants and technical assistance fund**  
30 **established and solicitation of funding.** -- (a) For the purpose of paying the costs to the

31 department of environmental management of administering the local agriculture and seafood  
32 small grants and technical assistance program and for the purpose of carrying out the purposes of  
33 the program as stated in subdivisions 2-25-5(3) ~~and~~, 2-25-5(4) and 2-25-5(5) a restricted receipt  
34 account is hereby created and known as the "local agriculture and seafood small grants and

1 technical assistance fund."

2 (b) The program shall be empowered to apply for and receive from any federal, state, or  
3 local agency, private foundation, or individual, any grants, appropriations, or gifts in order to  
4 carry out the purposes of the program established in § 2-25-5.

5 **2-25-7. Use of funds.** -- (a) A non-profit entity or small or beginning farmer may apply to  
6 the department of environmental management for a grant to be used to fulfill the purposes of the  
7 program as stated in subdivisions 2-25-5(3) and 2-25-5(4). Any grant disbursed under this  
8 program shall not exceed twenty thousand dollars (\$20,000) per year. Applications for grants  
9 authorized under this section shall:

10 (1) Provide a brief summary of the nonprofit entity or small or beginning farmer's  
11 mission, goals, history, programs, and major accomplishments, success stories and qualifications;

12 (2) Briefly describe the proposed project or program, the capacity to carry out the  
13 program and who will benefit from the program;

14 (3) Describe the expected outcomes and the indicators of those outcomes;

15 (4) Outline the timeline to be used in the implementation of the program or project; and

16 (5) Provide a program or project budget.

17 (b) A nonprofit entity or person may apply to the department for a grant to be used to  
18 fulfill the purposes of the program as stated in § 2-25-5(5). Applications for grants authorized  
19 under this section shall conform to specifications as determined by the department of  
20 environmental management. Any funds not disbursed under § 2-25-5(5) shall be disbursed for the  
21 purposes of the program as stated in §§ 2-25-5(3) and 2-25-5(4).

22 ~~(b)~~(c) The funds shall also be used by the department to provide administrative and  
23 technical support of the program, and to leverage program funds with other potential federal, state  
24 or nonprofit funding sources, and shall serve to develop, implement and enforce when appropriate  
25 food safety related standards and programs related to local agriculture and seafood in  
26 coordination with the Rhode Island department of health and appropriate federal agencies.

27 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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WATERS AND NAVIGATION - COASTAL RESOURCES MANAGEMENT COUNCIL -  
THE RHODE ISLAND LOCAL AGRICULTURE AND SEAFOOD ACT

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1           This act would establish a dedicated funding stream for the "Local Agriculture and  
2 Seafood Grants Program", and would expand the program to include support to the fishing  
3 community, to fully participate in the development of fisheries management policies and  
4 regulations, by depositing all fees collected for the lease of tidal lands from certain renewable  
5 energy projects into the Rhode Island local agriculture and seafood fund and made available as  
6 grants to qualified nonprofit entities or persons.

7           This act would take effect upon passage.

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