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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2026

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Introduced By: Representatives Edwards, Cortvriend, Carson, Bennett, Cotter, Kennedy, Azzinaro, Donovan, Spears, and Tanzi

Date Introduced: February 27, 2026

Referred To: House State Government & Elections

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 42-17.1 of the General Laws entitled "Department of Environmental
2 Management" is hereby amended by adding thereto the following sections:

3 **42-17.1-1.1. Definitions.**

4 For the purpose of this chapter:

5 (1) "Bureau" means the bureau of coastal resources management within the department of
6 environmental management established pursuant to § 42-17.1-4.

7 (2) "Community advisory board" means the advisory board established pursuant to § 42-
8 17.1-6.1.

9 (3) "Department" means the department of environmental management.

10 (4) "Director" means the director of the department of environmental management or the
11 director's duly authorized agent.

12 (5) "Environmental justice focus area" means a census tract that meets one or more of the
13 following criteria:

14 (i) Annual median household income is not more than sixty-five percent (65%) of the
15 statewide annual median household income;

16 (ii) The population of minorities, as defined by § 37-14.1-3, is equal to or greater than forty
17 percent (40%) of the population;

18 (iii) Twenty-five percent (25%) or more of the households lack English language

1 proficiency; or

2 (iv) Minorities, as defined by § 37-14.1-3, comprise twenty-five percent (25%) or more of
3 the population and the annual median household income of the municipality in the proposed area
4 does not exceed one hundred fifty percent (150%) of the statewide annual median household
5 income.

6 **42-17.1-5.1. Bureau of coastal resources management – deputy director.**

7 (a) Within the bureau of coastal resources management established pursuant to § 42-17.1-
8 4, there shall be a deputy director who shall be in the unclassified service and report to the director
9 and who shall:

10 (1) Collaborate with the director to execute all powers, duties and functions for coastal
11 resources management;

12 (2) Prepare an annual budget to address the needs of coastal resources management
13 programs; and

14 (3) Subject to the authority of the director, exercise all powers, duties and functions
15 previously vested in, administered by and/or executed by the coastal resources management
16 council, its executive director, and/or staff.

17 **42-17.1-6.1. Community advisory board.**

18 (a) There is hereby established a community advisory board within the bureau of coastal
19 resources management, which is to work at the direction of the director to advise the director and
20 the bureau regarding policy initiatives and program improvements.

21 (1) The community advisory board shall consist of six (6) appointed or elected members
22 of local government and four (4) members of the public, all appointed by the governor with the
23 advice and consent of the senate.

24 (i) The community advisory board shall consist of the following members of local
25 government: Three (3) appointed or elected officials in a municipality of fewer than twenty-five
26 thousand (25,000) in population according to the most recent census; and three (3) appointed or
27 elected officials in a municipality of more than twenty-five thousand (25,000) in population
28 according to the most recent census; provided, of the six (6) members who shall be appointed or
29 elected local government officials, three (3) members shall be appointed or elected officials of a
30 coastal community, and one member shall be an appointed or elected official in Washington county
31 or Newport county. Further, the governor shall specify to the senate the appointed or elected office
32 that each municipal appointment holds, the population of the municipality represented, and the
33 member being appointed or replaced.

34 (ii) The community advisory board shall consist of the following public members: four (4)

1 members of the public with expertise in coastal policy or residing in or representing indigenous
2 and/or environmental justice focus areas; provided, two (2) members shall reside in a coastal
3 community.

4 (2) The community advisory board shall hold a public hearing with prior written notice at
5 least twice annually.

6 (3) Elected or appointed local government officials shall hold their seats on the community
7 advisory board for only so long as they remain in their elected or appointed office. Each municipal
8 appointment shall cease if the appointed or elected official shall no longer hold or change the office
9 which they held upon appointment.

10 (4) All members of the community advisory board shall serve until their successors are
11 appointed and qualified. Annually in January, the governor shall appoint, with the advice and
12 consent of the senate, a member to succeed the members whose terms shall then next expire for a
13 term of three (3) years commencing on the first day of February next following and until their
14 successor is named and qualified. A member shall be eligible for successive appointments. A
15 vacancy other than by expiration shall be filled in the manner of the original appointment but only
16 for the unexpired portion of the term.

17 (5) If the governor fails to make an appointment or fill an existing vacancy as provided in
18 this section, the director shall make such appointment in accordance with this section and for the
19 same terms specified in this section within thirty (30) days, but without advice and consent of the
20 senate.

21 (6) The members of the community advisory board shall receive no compensation.

22 (7) The director or designee shall serve ex officio as chairperson of the community advisory
23 board. The community advisory board shall annually elect the vice-chairperson and secretary.

24 SECTION 2. Section 42-17.1-4 of the General Laws in Chapter 42-17.1 entitled
25 "Department of Environmental Management" is hereby amended to read as follows:

26 **42-17.1-4. Divisions within department.**

27 Within the department of environmental management there are established the following
28 divisions:

29 (1) A division of parks and recreation that shall carry out those functions of the department
30 relating to the operation and maintenance of parks and recreation areas and the establishment and
31 maintenance of such additional recreation areas as may from time to time be acquired and such
32 other functions and duties as may, from time to time, be assigned by the director;

33 (2) A division of fish and wildlife management that shall carry out those functions of the
34 department relating to the administration and management of hunting and freshwater fishing; the

1 preservation of wetlands, marsh lands, freshwater lakes, streams, ponds, and wildlife; and such
2 other related functions and duties as may be assigned by the director;

3 (3) A division of agriculture that shall carry out those functions of the department relating
4 to agriculture, and such other functions and duties as may from time to time be assigned by the
5 director, including, but not limited to, plant industry, farm viability, marketing and promotion,
6 farmland ecology and protection, plant and animal health and quarantine, pesticides, mosquito
7 abatement, pest survey and response, food policy and security, and, in collaboration with the
8 department of health, public health as it relates to farm production and direct marketing of farm
9 products, and those agreed upon through memorandum of agreement with the department of health
10 or other state agencies. The department of health shall continue to act as the lead agency for all
11 public health issues in the state pursuant to chapter 1 of title 23. Nothing herein contained shall
12 limit the department of health's statutory authority, nor shall any provision herein be construed as
13 a limitation upon the statutory authority of the department of health granted to the department under
14 title 23, nor shall any provision herein be construed to limit the authority of the department of
15 environmental management to enter into memoranda of agreement with any governmental agency.
16 The chief of the division of agriculture shall report directly to the director;

17 (4)(i) A division of coastal resources that shall carry out those functions of the department
18 relating to harbors and harbor lines, pilotage, flood control, shore development, construction of port
19 facilities, and the registration of boats and such other functions and duties as may, from time to
20 time, be assigned by the director, except that the division shall not be responsible for the functions
21 of inspection of dams and reservoirs, approving plans for construction or improvement of dams,
22 reservoirs, and other structures in non-tidal waters, and the operation of stream-gauging stations in
23 cooperation with the United States Geological Survey, ~~and provided, further, that the division and
24 its staff shall be responsible through the director of environmental management to the coastal
25 resources management council, and the chief and the staff of the division shall serve as staff to the
26 council;~~

27 (ii) Within the division of coastal resources, there is established the bureau of coastal
28 resources management. Notwithstanding any provision of law to the contrary, all powers, duties
29 and functions previously vested in, and/or administered by and/or executed by the coastal resources
30 management council, its executive director and/or staff including, but not limited to, those powers
31 and duties in chapter 23 of title 46 entitled ("coastal resources management council") are hereby
32 transferred to and shall be exercised by the bureau of coastal resources management. All general
33 laws governing the powers, duties, and functions vested in, administered by, or executed by the
34 department shall be transferred to the bureau including, but not limited to, those provided for in

1 chapter 17.1 of title 42 entitled (“department of environmental management”); chapter 17.6 of title
2 42 entitled (“administrative penalties for environmental violations”); and chapter 17.7 of title 42
3 entitled (“administrative adjudication for environmental matters”).

4 (iii) Except as provided in this chapter, all existing duly promulgated regulations, guidance,
5 policies, and special area management plans of the coastal resources management council shall
6 continue in validity and enforceability by the department. Further, all prior actions of the coastal
7 resources management council including, but not limited to, the issuance of determinations,
8 permits, assents, licenses, enforcement actions, federal consistency determinations, and
9 certifications shall be considered valid and enforceable by the department.

10 (iv) All state and federal funds appropriated, allocated or transferred by the general
11 assembly and/or any federal agency to the coastal resources management council or its executive
12 director or staff including, but not limited to, all state, federal and local funds received, appropriated
13 or allocated to or by the coastal resources management council are hereby transferred to and shall
14 be administered by the department for the purposes conditioned by the receipt of such funds.

15 (v) All references in the general laws to the coastal resources management council
16 including, but not limited to, "coastal resources management council," "council," "subcommittees,"
17 "commissioner," "chairperson," "executive director," "council staff" its board, members, director,
18 and staff, shall hereafter refer to the department.

19 (vi)(A) Notwithstanding any law to the contrary, all employees of the coastal resources
20 management council shall be considered employees of the bureau and retain civil service status,
21 title, rate of pay and benefits. The director may engage additional staff as the director deems
22 necessary to carry out the department’s duties.

23 (B) There is hereby created the position(s) of staff attorney(s) within the bureau. The
24 director shall hire at least one full-time staff attorney. The staff attorney(s) shall serve in the
25 unclassified service.

26 (vii) Within ninety (90) business days of the date of passage of this act, the department
27 shall put out for notice and comment revisions of its coastal resources management program
28 (referred to as "red book") and management procedures in order to implement the programmatic
29 change from the council to the department. Within seven (7) days of promulgation of the revised
30 coastal resources management program (referred to as "red book") and management procedures,
31 the department shall submit a coastal zone management act program change request to the National
32 Oceanic and Atmospheric Administration (NOAA) for its approval of the amendments to this
33 statute and corresponding changes to the Rhode Island coastal resources management program.
34 This section shall take effect upon NOAA's approval.

1 (5) A division of planning and development that shall carry out those functions of the
2 department relating to planning, programming, acquisition of land, engineering studies, and such
3 other studies, as the director may direct, and that shall work with the Rhode Island board of
4 education, with educational institutions at all levels, and with the public in the dissemination of
5 information and education relating to natural resources, and shall perform the publication and
6 public relations functions of the department, the functions of inspection of dams and reservoirs,
7 approving plans for construction or improvement of dams, reservoirs, and other structures in non-
8 tidal waters, and the operation of stream-gauging stations in cooperation with the United States
9 Geological Survey;

10 (6) A division of enforcement that shall enforce all of the laws and regulations of the
11 department and the coastal resources management council, that shall cooperate with the other
12 enforcement agencies of the state and its municipalities, and that shall administer all of the policing,
13 enforcing, licensing, registration, and inspection functions of the department and such other
14 functions and duties as may, from time to time, be assigned by the director;

15 (7) A division of forest environment that shall carry out those functions of the department
16 relating to the administration of forests and natural areas, including programs for utilization,
17 conservation, forest fire protection, and improvements of these areas; assisting other agencies and
18 local governments in urban programs relating to trees, forests, green belts, and environment and
19 such other functions and duties as may, from time to time, be assigned by the director;

20 (8)(i) A division of boating safety that shall carry out those functions of the department
21 relating to the development and administration of a coordinated, safe boating program in
22 accordance with the Model Safe Boating Act of 1971 as approved by the National Association of
23 State Boating Law Administrators.

24 (ii) Administration of the division of boating safety shall be the responsibility of the state
25 boating law administrator whose duties shall include:

26 (A) The enforcement of all laws relating to the act; and

27 (B) The powers vested in the state boating law administrator and boating safety
28 enforcement officer shall include the enforcement of laws, rules, and regulations relating to
29 "Regulation of Boats," chapter 22 of title 46, and shall also include the power to:

30 (I) Execute all warrants and search warrants for the violation of laws, rules, and regulations
31 relating to the act.

32 (II) Serve subpoenas issued for the trial of all offenses hereunder.

33 (III) To carry firearms or other weapons, concealed or otherwise, in the course of, and in
34 performance of, their duties under this chapter.

1 (IV) To arrest without warrant and on view any person found violating any law, rule, or
2 regulation relating to the act; take that person before a court having jurisdiction for trial; detain that
3 person in custody at the expense of the state until arraignment; and to make and execute complaints
4 within any district to the justice or clerk of the court against any person for any of the offenses
5 enumerated under the act committed within the district.

6 (V) Boating safety enforcement officers shall not be required to give surety for costs upon
7 any complaint made by them.

8 (iii) The development and administration of a coordinated, safe boating program.

9 (iv) The establishment and enforcement of such rules and regulations as are deemed
10 necessary to achieve the purposes of the Model Safe Boating Act as approved by the state boating
11 law administrators.

12 (v) The state boating law administrator shall serve as the liaison to the United States Coast
13 Guard; and

14 (9) A division of marine fisheries management that shall carry out those functions of the
15 department relating to the administration, management, and harvest of marine animal and plant
16 species found in Rhode Island marine waters, including, but not limited to: stock assessments of
17 marine species; harvest of marine species regulated under a regional federal fisheries management
18 plan; the review of aquaculture applications before the CRMC; a commercial fishing licensing
19 program; fixing seasons, bag limits, size limits, possession limits, and methods of taking on any
20 marine plant and animal species; and such other related functions and duties as may be assigned by
21 the director.

22 SECTION 3. Sections 46-23-1, 46-23-6, 46-23-6.1, 46-23-6.2, 46-23-7, 46-23-7.1, 46-23-
23 7.2, 46-23-7.4, 46-23-7.5, 46-23-8, 46-23-9, 46-23-10, 46-23-13, 46-23-14, 46-23-15, 46-23-15.1,
24 46-23-16, 46-23-18, 46-23-18.1, 46-23-18.2, 46-23-18.3, 46-23-18.4, 46-23-18.5, 46-23-18.6, 46-
25 23-20, 46-23-21, 46-23-22, 46-23-23, 46-23-24 and 46-23-25 of the General Laws in Chapter 46-
26 23 entitled "Coastal Resources Management Council" are hereby amended to read as follows:

27 **46-23-1. Legislative findings.**

28 (a)(1) Under article 1, § 17 of the Rhode Island Constitution, the people shall continue to
29 enjoy and freely exercise all the rights of fishery, and the privileges of the shore, to which they
30 have been heretofore entitled under the charter and usages of this state, including, but not limited
31 to, fishing from the shore, the gathering of seaweed, leaving the shore to swim in the sea and
32 passage along the shore; and they shall be secure in their rights to use and enjoyment of the natural
33 resources of the state with due regard for the preservation of their values; and it is the duty of the
34 general assembly to provide for the conservation of the air, land, water, plant, animal, mineral and

1 other natural resources of the state, and to adopt all means necessary and proper by law to protect
2 the natural environment of the people of the state by providing adequate resource planning for the
3 control and regulation of the use of the natural resources of the state and for the preservation,
4 regeneration, and restoration of the natural environment of the state.

5 (2) The general assembly recognizes and declares that the coastal resources of Rhode
6 Island, a rich variety of natural, commercial, industrial, recreational, and aesthetic assets, are of
7 immediate and potential value to the present and future development of this state; that unplanned
8 or poorly planned development of this basic natural environment has already damaged or destroyed,
9 or has the potential of damaging or destroying, the state's coastal resources, and has restricted the
10 most efficient and beneficial utilization of these resources; that it shall be the policy of this state to
11 preserve, protect, develop, and, where possible, restore the coastal resources of the state for this
12 and succeeding generations through comprehensive and coordinated long range planning and
13 management designed to produce the maximum benefit for society from these coastal resources;
14 and that preservation and restoration of ecological systems shall be the primary guiding principle
15 upon which environmental alteration of coastal resources will be measured, judged, and regulated.

16 (b)(1) That effective implementation of these policies is essential to the social and
17 economic well-being of the people of Rhode Island because the sea and its adjacent lands are major
18 sources of food and public recreation, because these resources are used by and for industry,
19 transportation, waste disposal, and other purposes, and because the demands made on these
20 resources are increasing in number, magnitude, and complexity; and that these policies are
21 necessary to protect the public health, safety, and general welfare. Pursuant to 16 U.S.C. § 1452
22 ("The Coastal Zone Management Act"), the general assembly hereby directs the ~~council~~ [bureau of](#)
23 [coastal resources management, established pursuant to § 42-17.1-4](#), (referred to as "~~CRMC~~" [the](#)
24 ["bureau"](#)) to exercise effectively its responsibilities in the coastal zone through the development
25 and implementation of management programs to achieve wise use of the land and water resources
26 of the coastal zone.

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

1 (c) That these policies can best be achieved through the creation of ~~a coastal resources~~
2 ~~management council~~ the bureau as the principal mechanism for management of the state's coastal
3 resources.

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

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

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

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

21 (e) The ~~coastal resources management council~~ bureau is hereby designated as the lead state
22 agency for purposes of dredging in tidal waters and as such shall have the following duties and
23 responsibilities:

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

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

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

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

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

33 (6) To cooperate and coordinate with the departments of environmental management,
34 transportation, administration, and health, and the economic development corporation in the

1 conduct of these duties and responsibilities.

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

8 (2) ~~Since its establishment in 1971, the CRMC~~ The bureau ~~has had the authority~~ is
9 authorized to manage and plan for the preservation of the coastal resources of the state including,
10 but not limited to, submerged lands. The legislature hereby declares that, in light of the unique size,
11 scope, and overall potential impact upon the environment of large scale filling projects involving
12 twenty-five (25) acres or more, any lease of tidal lands, or any license to use those lands, is subject
13 to approval, disapproval, or conditional approval by the direct enactment of the general assembly
14 by legislative action. The ~~CRMC~~ bureau shall review all requests for leases, licenses to use the
15 land, and other authority to use the land made by any applicant prior to presentation of the request
16 to the general assembly, and the ~~CRMC~~ bureau shall make recommendations on the request to the
17 general assembly. With the exception of any and all projects to fill land of twenty-five (25) acres
18 or more, the general assembly hereby recognizes and declares that the ~~CRMC~~ bureau is delegated
19 the sole and exclusive authority for the leasing of submerged and filled lands and giving licenses
20 for the use of that land. Accordingly, the ~~CRMC~~ bureau will develop, coordinate, and adopt a
21 system for the leasing of submerged and filled lands, and licenses for the use of that land, and will
22 ensure that all leases and licenses are consistent with the public trust. Pursuant thereto, the ~~CRMC~~
23 bureau shall impose a maximum fee of eighty thousand dollars (\$80,000) per annum for any
24 transatlantic cable that makes landfall in Rhode Island. All such fees collected shall be deposited
25 into the Bays, Rivers and Watersheds Fund, established pursuant to § 46-31-12.1, and shall be
26 disbursed according to the purposes of that fund. Nothing contained in this subsection negates,
27 repeals, or alters the provisions, processes, and requirements for the leasing of submerged land for
28 the conduct of aquaculture as set out under chapter 10 of title 20. Therefore, nothing in this chapter
29 shall be construed to limit or impair the authority of the state, or any duly established agency of the
30 state, to regulate filling or dredging affecting tidal lands owned by the state or any other entity, and
31 nothing in this chapter shall be construed to limit or impair the obligation of the applicant to obtain
32 all applicable regulatory approvals. Specifically, and without limiting the foregoing, nothing in this
33 subsection negates, repeals, or alters the provisions, processes, and requirements for water quality
34 certification contained in chapter 12 of this title.

1 (3) Definitions.

2 (i) “Bureau of coastal resources management” or “bureau” means the subdivision of the
3 department of environmental management established pursuant to § 42-17.1-4.

4 (ii) “Filled land” means portions of tidal lands which have been rendered by the acts of
5 man to be no longer subject to tidal action or beneath tidal waters.

6 (iii) “Mean high water” means a line of contour representing the 18.6 year average as
7 determined by the metonic cycle and/or its equivalent as evidenced by the records, tidal datum, and
8 methodology of the United States Coastal Geodetic Survey within the National Oceanic and
9 Atmospheric Administration.

10 (iv) “Tidal Lands” means those lands that are below the mean high water.

11 **46-23-6. Powers and duties — Rights-of-way.**

12 In order to properly manage coastal resources the ~~council~~ bureau has the following powers
13 and duties:

14 (1) **Planning and management.**

15 (i) The primary responsibility of the ~~council~~ bureau shall be the continuing planning for
16 and management of the resources of the state’s coastal region. The ~~council~~ bureau shall be able to
17 make any studies of conditions, activities, or problems of the state’s coastal region needed to carry
18 out its responsibilities.

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

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

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

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

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

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

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

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

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

34 (I) To accept and administer loans and grants from the federal government and from other

1 sources, public or private, for the carrying out of any of its functions, which loans or grants shall
2 not be expended for other than the purposes for which provided.

3 (J) To encourage, participate in, or conduct studies, investigations, research, and
4 demonstrations relating to dredging, disposal of dredge materials and transportation thereof in the
5 tidal waters of the state as the ~~coastal resources management council~~ [bureau](#) may deem advisable
6 and necessary for the discharge of its duties under this chapter.

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

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

12 (M) To apply for, accept and expend grants and bequests of funds, for the purpose of
13 carrying out the lawful responsibilities of the ~~coastal resources management council~~ [bureau](#).

14 (iii) An initial series of resources management activities shall be initiated through this basic
15 process, then each phase shall continuously be recycled and used to modify the ~~council's~~ [bureau's](#)
16 resources management programs and keep them current.

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

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

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

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

23 (D) Water quality standards set by the director of the department of environmental
24 management.

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

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

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

29 (v) The ~~council~~ [bureau](#) shall prepare, adopt, administer, and cause to be implemented,
30 including specifically through its powers of coordination as set forth in subdivision (3) of this
31 section, a marine resources development plan and such special area management plans as the
32 ~~council~~ [bureau](#) may determine to be appropriate or desirable as follows:

33 (A) *Marine resources development plan.*

34 (I) The purpose of the marine resources development plan shall be to provide an integrated

1 strategy for: (a) improving the health and functionality of Rhode Island's marine ecosystem; (b)
2 providing for appropriate marine-related economic development; and (c) promoting the use and
3 enjoyment of Rhode Island's marine resources by the people of the state.

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

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

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

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

19 (VI) The marine resources development plan shall be adopted by the council in accordance
20 with the provisions of this subsection by July 1, 2005, shall as appropriate incorporate the
21 recommendations of the Governor's Narragansett Bay and Watershed Planning Commission, and
22 shall be made consistent with systems level plans as appropriate, in order to effectuate the purposes
23 of systems level planning. The ~~council~~ [bureau](#) shall update the marine resources development plan
24 at least once every five (5) years.

25 (VII) The ~~council~~ [bureau](#) shall administer its programs, regulations, and implementation
26 activities in a manner consistent with the marine resources development plan.

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

29 (B) *Special area management plans.*

30 (I) The ~~council~~ [bureau](#) shall adopt such special area management plans as deemed
31 necessary and desirable to provide for the integration and coordination of the protection of natural
32 resources, the promotion of reasonable coastal-dependent economic growth, and the improved
33 protection of life and property in the specific areas designated ~~council~~ [bureau](#) as requiring such
34 integrated planning and coordination.

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

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

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

11 **(2) Implementation.**

12 (i) The ~~council~~ bureau is authorized to formulate policies and plans and to adopt regulations
13 necessary to implement its various management programs. With respect to such policies and plans
14 which relate to matters where the ~~coastal resources management council~~ bureau and the department
15 of environmental management have concurrent jurisdiction and upon formulation of the plans and
16 regulations, the ~~council~~ bureau shall, prior to adoption, submit the proposed plans or regulations to
17 the director of the department of environmental management for the director's review. The director
18 shall review and submit comments to the ~~council~~ bureau within thirty (30) days of submission to
19 the director by the ~~council~~ bureau. The comments of the director shall include findings with regard
20 to the consistency of the policies, plans and/or regulations with the requirements of laws
21 administered by the department. The ~~council~~ bureau shall consider the director's comments prior
22 to adoption of any such policies, plans or regulations and shall respond in writing to findings of the
23 director with regard to the consistency of said policies, plans and/or regulations with the
24 requirements of laws administered by the department.

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

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

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

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

2 (B) The ~~e~~ouncil bureau shall be authorized to approve, modify, set conditions for, or reject
3 any such proposal.

4 (iii) The authority of the ~~e~~ouncil bureau over land areas (those areas above the mean high
5 water mark) shall be limited to two hundred feet (200') from the coastal physiographic feature or
6 to that necessary to carry out effective resources management programs. This shall be limited to
7 the authority to approve, modify, set conditions for, or reject the design, location, construction,
8 alteration, and operation of specified activities or land uses when these are related to a water area
9 under the agency's jurisdiction, regardless of their actual location. The ~~e~~ouncil's bureau's authority
10 over these land uses and activities shall be limited to situations in which there is a reasonable
11 probability of conflict with a plan or program for resources management or damage to the coastal
12 environment. These uses and activities are:

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

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

15 (C) Minerals extraction.

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

18 (E) Coastal wetlands and all directly associated contiguous areas which are necessary to
19 preserve the integrity of the wetlands including any freshwater wetlands located in the vicinity of
20 the coast. The actual determination of freshwater wetlands located in coastal vicinities and under
21 the jurisdiction of the coastal resources management council shall be designated on such maps that
22 are agreed to in writing and made available for public use by the coastal resources management
23 council and the director, department of environmental management, within three (3) months of
24 [August 6, 1996]. The ~~CRMC~~ bureau shall have exclusive jurisdiction over the wetlands areas
25 described in this section notwithstanding any provision of chapter 1, title 2 or any other provision,
26 except as provided in subsection (iv) of this section. Within six (6) months of [August 6, 1996] the
27 council in cooperation with the director shall develop rules and regulations for the management
28 and protection of freshwater wetlands, affected by an aquaculture project, outside of those
29 freshwater wetlands located in the vicinity of the coast and under the exclusive jurisdiction of the
30 director of the department of environmental management. For the purpose of this chapter, a "coastal
31 wetland" means any salt marsh bordering on the tidal waters of this state, whether or not the tidal
32 waters reach the littoral areas through natural or artificial watercourses, and those uplands directly
33 associated and contiguous thereto which are necessary to preserve the integrity of that marsh.
34 Marshes shall include those areas upon which grow one or more of the following: smooth cordgrass

1 (spartina alterniflora), salt meadow grass (spartina patens), spike grass (distichlis spicata), black
2 rush (juncus gerardi), saltworts (salicornia spp.), sea lavender (limonium carolinianum), saltmarsh
3 bulrushes (scirpus spp.), hightide bush (iva frutescens), tall reed (phragmites communis), tall
4 cordgrass (spartina pectinata), broadleaf cattail (typha latifolia), narrowleaf cattail (typha
5 angustifolia), spike rush (eleocharis rostellata), chairmaker's rush (scirpus americana), creeping
6 bentgrass (agrostis palustris), sweet grass (hierochloe odorata), and wild rye (etlymus virginicus).

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

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

12 (iv) Notwithstanding the provisions of subsections (ii) and (iii) above, the department of
13 environmental management shall maintain jurisdiction over the administration of chapter 1, title 2,
14 including permitting of freshwater wetlands alterations and enforcement, with respect to all
15 agricultural activities undertaken by a farmer, as that term is defined in § 2-1-22(j), wherever
16 located; provided, however, that with respect to activities located partially or completely within
17 two hundred feet (200') of the coastal physiographic feature, the department shall exercise
18 jurisdiction in consultation with the ~~eouncil~~ [bureau](#).

19 (3) **Coordination.** The ~~eouncil~~ [bureau](#) has the following coordinating powers and duties:

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

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

24 (iii) Conducting or sponsoring coastal research.

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

26 (v) Serving as the lead state agency and initial and primary point of contact for dredging
27 activities in tidal waters and in that capacity, integrating and coordinating the plans and policies of
28 other state agencies as they pertain to dredging in order to develop comprehensive programs for
29 dredging as required by subparagraph (1)(ii)(H) of this section and chapter 6.1 of this title. The
30 Rhode Island resource recovery corporation prior to purchasing cover material for the state landfill
31 shall first contact the ~~CRMC~~ [bureau](#) to see if there is a source of suitable dredged material available
32 which shall be used in place of the purchase cover material. Other state agencies engaged in the
33 process of dump closures shall also contact the ~~CRMC~~ [bureau](#) to see if there is a source of suitable
34 dredged material available, which shall be used in place of the purchase cover material. In addition,

1 cities and towns may contact the ~~CRMC~~ [bureau](#) prior to closing city or town controlled dump sites
2 to see if there is a source of suitable dredge material available, which may be used in place of the
3 purchase cover material.

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

6 (4) **Operations.** The ~~council~~ [bureau](#) is authorized to exercise the following operating
7 functions, which are essential to management of coastal resources:

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

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

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

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

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

18 (vi) The ~~council~~ [bureau](#) may require an owner or operator of a commercial wharf or pier of
19 a marine commercial facility, as defined in 300.3 of the Rhode Island coastal resources
20 management program, but not including those facilities defined in 300.4 of the Rhode Island coastal
21 resources management program, and which is capable of offloading cargo, and is or will be subject
22 to a new use or a significant intensification of an existing use, to demonstrate that the commercial
23 wharf or pier is fit for that purpose. For the purposes of this subsection, a "commercial wharf or
24 pier" means a pier, bulkhead, wharf, docking facility, or underwater utilities. The ~~council~~ [bureau](#)
25 may order said owner or operator to provide an engineering certification to the ~~council's~~ [bureau's](#)
26 satisfaction that the commercial wharf or pier is fit for the new use or intensification of an existing
27 use. If the ~~council~~ [bureau](#) determines that the commercial wharf or pier is not fit, it may order the
28 owner or operator to undertake the necessary work to make the commercial wharf or pier safe,
29 within a reasonable time frame. If the ~~council~~ [bureau](#) determines that the commercial wharf or pier,
30 because of its condition, is an immediate threat to public health and safety it may order the
31 commercial wharf or pier closed until the necessary work to make the commercial wharf or pier
32 safe has been performed and approved by the ~~council~~ [bureau](#). All work performed must conform
33 to the ~~council's~~ [bureau's](#) management program. The ~~council~~ [bureau](#) is also given the authority to
34 develop regulations to carry out this provision and to impose administrative penalties of five

1 thousand dollars (\$5,000) per day up to a maximum of twenty thousand dollars (\$20,000) consistent
2 with § 46-23-7.1 where there has been a violation of the orders under this provision.

3 (5) **Rights-of-way.**

4 (i) The ~~council~~ [bureau](#) is responsible for the designation of all public rights-of-way to the
5 tidal water areas of the state, and shall carry on a continuing discovery of appropriate public rights-
6 of-way to the tidal water areas of the state.

7 (ii) The ~~council~~ [bureau](#) shall maintain a complete file of all official documents relating to
8 the legal status of all public rights-of-way to the tidal water areas of the state.

9 (iii)(A) The ~~council~~ [bureau](#) has the power to designate for acquisition and development,
10 and posting, and all other functions of any other department for tidal rights-of-way and land for
11 tidal rights-of-way, parking facilities, and other ~~council~~ [bureau](#) related purposes.

12 (B) Further, the ~~council~~ [bureau](#) has the power to develop and prescribe a standard sign to
13 be used by the cities and towns to mark designated rights-of-way.

14 (iv) In conjunction with this subdivision, every state department controlling state-owned
15 land close to or adjacent to discovered rights-of-way is authorized to set out the land, or so much
16 of the land that may be deemed necessary for public parking.

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

20 (vi) In designating rights-of-way, the ~~council~~ [bureau](#) shall consider the following matters
21 in making its designation:

22 (A) Land evidence records;

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

24 (C) The payment of taxes;

25 (D) The creation of a dedication;

26 (E) Public use;

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

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

29 (vii) A determination by the ~~council~~ [bureau](#) that a parcel is a right-of-way shall be decided
30 by substantial evidence. A copy of the final ~~council~~ [bureau](#) determination, and all official
31 documents related to the ~~council~~ [bureau](#) determination, shall be provided to the municipality in
32 which the right-of-way is located.

33 (viii) Municipalities shall be required to identify and maintain a current list of public rights-
34 of-way to the tidal water areas in their municipality that have been designated by the ~~council~~ [bureau](#)

1 in accordance with this section. Municipal identification of the ~~council's~~ bureau's designated public
2 rights-of-way shall also be incorporated and displayed on official maps in accordance with § 45-
3 23.1-1. Non-compliance with this municipal responsibility shall have no effect on the ~~council~~
4 bureau designation process or final determinations by the ~~council~~ bureau that are set forth in this
5 section.

6 (ix) The ~~council~~ bureau shall be notified whenever by the judgment of the governing body
7 of a coastal municipality, a public right-of-way to tidal water areas located in such municipality has
8 ceased to be useful to the public, and such governing body proposes an order of abandonment of
9 such public right-of-way. Said notice shall be given not less than sixty (60) days prior to the date
10 of such abandonment.

11 **(6) Preexisting residential boating facilities.**

12 (i) The council is hereby authorized and empowered to issue assent for preexisting
13 residential boating facilities constructed prior to January 1, 1985. These assents may be issued for
14 preexisting residential boating facilities, even though such facilities do not meet current standards
15 and policies of the council; provided, however, that the council finds that such facilities do not pose
16 any significant risk to the coastal resources of the state of Rhode Island and do not endanger human
17 safety.

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

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

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

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

25 (iii) The applicant, to be eligible for this provision, shall apply no later than January 31,
26 1999.

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

29 (v) It is the specific intent of this subsection to require that all preexisting residential
30 boating facilities constructed on January 1, 1985, or thereafter conform to this chapter and the plans,
31 rules and regulations of the ~~council~~ bureau.

32 **(7) Lease of filled lands which were formerly tidal lands to riparian or littoral owners.**

33 (i) Any littoral or riparian owner in this state who desires to obtain a lease from the state
34 of Rhode Island of any filled lands adjacent to his or her upland shall apply to the ~~council~~ bureau,

1 which may make the lease. Any littoral or riparian owner who wishes to obtain a lease of filled
2 lands must obtain pre-approval, in the form of an assent, from the ~~council~~ [bureau](#). Any lease granted
3 by the ~~council~~ [bureau](#) shall continue the public's interest in the filled lands including, but not limited
4 to, the rights of navigation, fishery, and commerce. The public trust in the lands shall continue and
5 run concurrently with the leasing of the lands by the state to private individuals, corporations, or
6 municipalities. Upon the granting of a lease by the ~~council~~ [bureau](#), those rights consistent with the
7 public trust and secured by the lease shall vest in the lessee. The ~~council~~ [bureau](#) may approve a
8 lease of filled lands for an initial term of up to fifty (50) years, with, or without, a single option to
9 renew for an additional term of up to fifty (50) years.

10 (ii) The lessor of the lease, at any time, for cause, may by express act cancel and annul any
11 lease previously made to the riparian owner when it determines that the use of the lands is violating
12 the terms of the lease or is inconsistent with the public trust, and upon cancellation the lands, and
13 rights in the land so leased, shall revert to the state.

14 (8) "*Marinas*" as defined in the coastal resources management program in effect as of June
15 1, 1997, are deemed to be one of the uses consistent with the public trust. Subdivision (7) is not
16 applicable to:

17 (i) Any riparian owner on tidal waters in this state (and any successor in interest to the
18 owner) which has an assent issued by the council to use any land under water in front of his or her
19 lands as a marina, which assent was in effect on June 1, 1997;

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

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

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

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

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

34 **46-23-6.1. Newport "cliff walk" — Public right-of-way — Legal studies.**

1 The ~~council~~ [bureau](#) is hereby directed to carry out any and all legal studies which it shall
2 deem necessary in order to designate the Newport “cliff walk”, so called, as a public right-of-way
3 pursuant to § 46-23-6(5).

4 **46-23-6.2. Abandonment of rights-of-way.**

5 No city or town shall abandon a right-of-way designated as such by the ~~council~~ [bureau](#)
6 unless the ~~council~~ [bureau](#) approved the abandonment.

7 **46-23-7. Violations.**

8 (a)(1) In any instances wherein there is a violation of the coastal resources management
9 program, or a violation of regulations or decisions of the ~~council~~ [bureau](#), the ~~commissioner of~~
10 ~~coastal resources management~~ [deputy director of the bureau of coastal resources management](#) shall
11 have the power to order any person to cease and desist or to remedy any violation of any provisions
12 of this chapter, or any rule, regulation, assent, order, or decision of the ~~council~~ [bureau](#) whenever
13 the ~~commissioner~~ [deputy director](#) of ~~coastal resources management~~ [the bureau of coastal resources](#)
14 [management](#) shall have reasonable grounds to believe that such violation has occurred.

15 (2) ~~Council~~ [Bureau](#) staff, conservation officers within the department of environmental
16 management, and state and municipal police shall be empowered to issue written cease and desist
17 orders in any instance where activity is being conducted which constitutes a violation of any
18 provisions of this chapter, or any rule, regulation, assent, order, or decision of the ~~council~~ [bureau](#).

19 (3) Conservation officers within the department of environmental management, ~~council~~
20 [bureau](#) staff, and state and municipal police shall have authority to apply to a court of competent
21 jurisdiction for a warrant to enter on private land to investigate possible violations of this chapter;
22 provided, that they have reasonable grounds to believe that a violation has been committed, is being
23 committed, or is about to be committed.

24 (b) Any order or notice issued pursuant to subsection (a) shall be eligible for recordation
25 under chapter 13 of title 34, and shall be recorded in the land evidence records in the city/town
26 wherein the property subject to the order is located, and any subsequent transferee of the property
27 shall be responsible for complying with the requirements of the order and notice.

28 (c) The ~~coastal resources management council~~ [bureau](#) shall discharge of record any notice
29 filed pursuant to subsection (b) within thirty (30) days after the violation has been remedied.

30 **46-23-7.1. Administrative penalties.**

31 Any person who violates, or refuses or fails to obey, any notice or order issued pursuant to
32 § 46-23-7(a); or any assent, order, or decision of the ~~council~~ [bureau](#), may be assessed an
33 administrative penalty by the ~~chairperson or executive director~~ [deputy director of the bureau](#) in
34 accordance with the following:

1 (1) The ~~chairperson or executive director~~ deputy director of the bureau is authorized to
2 assess an administrative penalty of not more than ten thousand dollars (\$10,000) for each violation
3 of this section, and is authorized to assess additional penalties of not more than one thousand
4 (\$1,000) for each day during which this violation continues after receipt of a cease-and-desist order
5 from the ~~council~~ bureau pursuant to § 46-23-7(a), but in no event shall the penalties in aggregate
6 exceed fifty thousand dollars (\$50,000). Prior to the assessment of a penalty under this subdivision,
7 the property owner or person committing the violation shall be notified by certified mail or personal
8 service that a penalty is being assessed. The notice shall include a reference to the section of the
9 law, rule, regulation, assent, order, or permit condition violated; a concise statement of the facts
10 alleged to constitute the violation; a statement of the amount of the administrative penalty assessed;
11 and a statement of the party's right to an administrative hearing.

12 (2) The party shall have twenty-one (21) days from receipt of the notice within which to
13 deliver to the ~~council~~ bureau a written request for a hearing. This request shall specify in detail the
14 statements contested by the party. The ~~executive~~ deputy director of the bureau shall designate a
15 person to act as hearing officer. If no hearing is requested, then after the expiration of the twenty-
16 one (21) day period, the ~~council~~ bureau shall issue a final order assessing the penalty specified in
17 the notice. The penalty is due when the final order is issued. If the party shall request a hearing,
18 any additional daily penalty shall not commence to accrue until the ~~council~~ bureau issues a final
19 order.

20 (3) If a violation is found to have occurred, the ~~council~~ bureau may issue a final order
21 assessing not more than the amount of the penalty specified in the notice. The penalty is due when
22 the final order is issued.

23 (4) The party may within thirty (30) days appeal the final order, of fine assessed by the
24 ~~council~~ bureau to the superior court which shall hear the assessment of the fine de novo.

25 **46-23-7.2. Proceedings for enforcement.**

26 The superior court shall have jurisdiction to enforce the provisions of this chapter, the
27 coastal resource management program, or any rule, regulation, assent, or order issued pursuant
28 thereto. Proceedings under this section may follow the course of equity, and shall be instituted and
29 prosecuted in the name of and at the direction of the ~~chairperson and council~~ deputy director of the
30 bureau by the attorney general or counsel designated by the ~~council~~ bureau. Proceedings provided
31 in this section shall be in addition to, and may be utilized in lieu of, other administrative or judicial
32 proceedings authorized by this chapter.

33 **46-23-7.4. Penalty for blocking or posting of rights-of-way.**

34 Any person who shall post or block any tidal water, public right-of-way, as designated by

1 the ~~council~~ bureau, shall be punished by a fine not exceeding one thousand dollars (\$1,000) or by
2 imprisonment for not more than three (3) months or both; and each day the posting or blocking
3 continues or is repeated shall be deemed a separate offense. The ~~chairperson~~ deputy director of the
4 ~~council~~ bureau, through ~~council's~~ the bureau's legal counsel or the attorney general, may apply to
5 any court of competent jurisdiction for an injunction to prevent the unlawful posting or blocking of
6 any tidal water, public right-of-way.

7 **46-23-7.5. Prosecution of criminal violations.**

8 The ~~chairperson and anyone designated by the chairperson~~ deputy director of the bureau
9 or the deputy director's designee, without being required to enter into any recognizance or to give
10 surety for cost, may institute proceedings in the name of the state. It shall be the duty of the attorney
11 general and/or the solicitor of the city or town in which the alleged violation has occurred to conduct
12 the prosecution of all the proceedings. The ~~chairperson~~ deputy director may delegate his or her
13 authority to bring prosecution by complaint and warrant to any law enforcement officials authorized
14 by law to bring complaints for the issuance of search or arrest warrants pursuant to chapters 5 and
15 6 of title 12.

16 **46-23-8. Gifts, grants, and donations.**

17 The ~~council~~ bureau is authorized to receive any gifts, grants, or donations made for any of
18 the purposes of its program, which shall be deposited as general revenues, and to disburse and
19 administer the gifts, grants, or donations amounts appropriated in accordance with the terms
20 thereof. The ~~council~~ bureau is authorized to receive any sums provided by an applicant for use by
21 the ~~council~~ bureau in its hearing process, which shall be deposited as general revenues, and to
22 disburse and administer the general revenue amounts appropriated in accordance with the rules and
23 regulations promulgated by the ~~council~~ bureau.

24 **46-23-9. Subpoena.**

25 The ~~council~~ bureau is hereby authorized and empowered to summon witnesses and issue
26 subpoenas in substantially the following form:

27 Sc.

28 To _____ of

29 _____ greeting:

30 You are hereby required, in the name of the state of Rhode Island, to make your appearance
31 before the commission on _____ in the
32 _____ city of
33 _____ on the
34 _____ day of

1 _____ to give evidence of what you know relative to a
2 matter upon investigation by the commission on _____
3 and produce and then and there have and give the following:

4 Hereof fail not, as you will answer to default under the penalty of the law in that behalf
5 made and provided.

6 Dated at _____ the
7 _____ day of
8 _____ in the year
9 _____.

10 **46-23-10. Cooperation of departments.**

11 All other departments and agencies and bodies of state government are hereby authorized
12 and directed to cooperate with and furnish such information as the ~~council~~ [bureau](#) shall require.

13 **46-23-13. Application and hearing fees.**

14 The ~~council~~ [bureau](#) shall be authorized to establish reasonable fees for applications and
15 hearings. All fees collected by the ~~council~~ [bureau](#), including fees collected for leases, shall be
16 deposited as general revenues. The state controller is hereby authorized and directed to draw his or
17 her orders upon the general treasurer for payment of such sum or sums as may be necessary from
18 time to time and upon receipt by him or her of duly authenticated vouchers presented by the
19 ~~commissioner of coastal resources management~~ [deputy director of the bureau](#).

20 **46-23-14. Expert testimony.**

21 The ~~council~~ [bureau](#) shall be authorized to engage its own expert and outside consultants,
22 and the ~~council~~ [bureau](#) shall be empowered to use that testimony in making its decisions.

23 **46-23-15. Federal grants and interstate cooperation.**

24 The ~~council~~ [bureau](#) is authorized to accept any federal grants. It is further given the power
25 to administer land and water use regulations as necessary to fulfill their responsibilities under the
26 Federal Coastal Zone Management Act, 16 U.S.C. § 1451 et seq., and to acquire fee simple and
27 less than fee simple interests under any federal or state program. The ~~council~~ [bureau](#) is authorized
28 to coordinate and cooperate with other states in furtherance of its purposes. The ~~council~~ [bureau](#)
29 may expend those grants and appropriations. The ~~coastal resources management council~~ [bureau](#) for
30 the purposes of the federal Coastal Zone Management Act, 16 U.S.C. § 1451 et seq., is the coastal
31 zone agency under §§ 301 through 313 and §§ 318 and 6217 of said act.

32 **46-23-15.1. Coordination of harbor safety and enforcement patrols.**

33 Coastal municipalities which share a common boundary along their public waters may
34 enter into a binding memorandum of agreement allowing for harbormasters and other officials

1 charged with enforcement of harbor management plan harbor ordinances from one coastal
2 municipality to enforce the harbor ordinances of the bordering coastal municipality upon the public
3 waters of the bordering coastal municipality when the coastal municipalities have harbor
4 management plans approved by the ~~coastal resources management council~~ [bureau](#) and the
5 memorandum of agreement is approved by the respective town or city councils. This binding
6 memorandum of agreement shall specify how each coastal municipality is to receive any fines
7 collected under this reciprocal enforcement agreement and the jurisdiction in which any disputes
8 arising out of this reciprocal enforcement agreement shall be litigated.

9 **46-23-16. Length of permits, licenses, and easements.**

10 The ~~council~~ [bureau](#) is authorized to grant permits, licenses, and easements for any term of
11 years or in perpetuity. Permits, licenses, or easements which are issued by the council for the filling
12 of the submerged or submersible lands of the state of Rhode Island remain subject to the public
13 trust, and no title is conveyed by such documents. All such permits, licenses, and easements shall
14 clearly state that no title is being conveyed. Permits, licenses or easements issued by the ~~council~~
15 [bureau](#) are valid only with the conditions and stipulation under which they are granted and imply
16 no guarantee of renewal. The initial application or an application for renewal may be subject to
17 denial or modification. If an application is granted, said permit, license and easement may be
18 subject to revocation and/or modification for failure to comply with the conditions and stipulations
19 under which the same was issued or for other good cause. The division of coastal resources of the
20 department of environmental management shall transfer all of the records and files of the former
21 division of harbours and rivers to the ~~council~~ [bureau](#).

22 **46-23-18. Prohibited activities.**

23 (a) No person, either as principal, agent or servant nor any firm, corporation, or any other
24 entity shall, without a permit issued by the ~~coastal resources management council~~ [bureau](#), construct
25 a marina within two thousand feet (2000') of a shellfish management area as defined by rules and
26 regulations of the department of environmental management. Such permit shall include any permit
27 required under subsection (b).

28 (b) No person, either as principal, agent, or servant, or any firm, corporation or any other
29 entity, shall, within the tidal waters of the state, conduct or cause to conduct dredging,
30 transportation and/or disposal of dredge materials without a permit issued by the ~~coastal resources~~
31 ~~management council~~ [bureau](#), a water quality certification issued by the department of
32 environmental management pursuant to chapter 12 of this title and any permit required by the army
33 corps of engineers. In addition, no person, either as principal, agent, or servant, nor any firm,
34 corporation or any other entity, shall dispose of dredge materials other than in tidal waters without

1 any permit, approval or certification that may otherwise be required.

2 **46-23-18.1. Permitting.**

3 (a) Any person, either as principal, agent, or servant, or any firm, corporation or any other
4 entity desiring to conduct any activity or activities specified in § 46-23-18 shall file an application
5 for a permit with the ~~coastal resources management council~~ [bureau](#) upon forms furnished by ~~coastal~~
6 ~~resources management council~~ [bureau](#).

7 (b) A hearing shall be held on the application within thirty (30) days of filing.

8 (c) The applicant shall bear the burden of proving that the activity or activities specified in
9 the application will cause no significant adverse impact upon the environment or natural resources
10 of the state, and the ~~coastal resources management council~~ [bureau](#) shall be empowered to deny the
11 application if the applicant does not demonstrate, in addition to other requirements of this chapter,
12 that the activity or activities will not:

13 (i) Significantly adversely affect any shellfish management area as designated by the
14 department of environmental management or the marine fisheries council;

15 (ii) Be in a significant conflict with the marine ecology within or adjacent to the state's
16 territorial waters; or

17 (iii) Significantly harm or destroy existing fishing grounds.

18 (d) With respect to an application seeking a permit from the ~~coastal resources management~~
19 ~~council~~ [bureau](#) to conduct or cause to conduct dredging, transportation and/or disposal of dredge
20 material, the applicant shall also satisfy the ~~council~~ [bureau](#) that the proposal in the application is
21 consistent with a comprehensive program developed pursuant to § 46-23-6(1)(ii)(H).

22 (e) In determining whether an applicant has met the burden of proof under subsection (c),
23 the ~~coastal resources management council~~ [bureau](#) shall apply standards that conform with the
24 federal Environmental Protection Agency's applicable standards and guidelines for the
25 management of dredge materials, including, but not limited to, the federal Environmental
26 Protection Agency's rules, regulations and guidelines for deviating from said standards.

27 (f) The applicant shall, at least three (3) days before commencing any dredging, give
28 written notice to the ~~coastal resources management council~~ [bureau](#) of the intent to commence the
29 activities specified in the permit.

30 **46-23-18.2. Rules and regulations.**

31 The ~~council~~ [bureau](#), upon recommendation by the ~~coastal resources advisory committee~~
32 [community advisory board established pursuant to § 42-17.1-6.1](#), shall issue reasonable rules and
33 regulations governing the dredging, transporting and disposal of all dredge materials in accordance
34 with this chapter.

1 **46-23-18.3. Sites for disposal of spoil from dredge operations, selection.**

2 (a) The council, upon recommendation of the coastal resources advisory committee, on or
3 before the first day of January, 1999 and [the bureau](#) periodically thereafter as necessary, shall
4 consistent with the comprehensive programs required in § 46-23-6(1)(ii)(H) identify and establish
5 one or more in-water disposal sites to be used for the purpose of disposal of dredge materials from
6 marinas and yacht clubs.

7 (b) The council, upon recommendation of the coastal resources advisory committee, on or
8 before the first day of January, 2002 and [the bureau](#) periodically thereafter as necessary, shall
9 consistent with the comprehensive programs required in § 46-23-6(1)(ii)(H) identify and establish
10 one or more in-water disposal sites to be used for the purpose of disposal of dredge materials from
11 all sources not otherwise delineated in (a) above.

12 **46-23-18.4. Enforcement.**

13 The provisions of §§ 46-23-18 through 46-23-18.3 shall be enforced by the ~~coastal~~
14 ~~resources management council~~ [bureau](#). Nothing herein shall be deemed to abrogate the department
15 of environmental management's authority to enforce its water quality standards adopted pursuant
16 to § 46-12-3(7) or (24).

17 **46-23-18.5. Fees for disposal.**

18 The ~~council~~ [bureau](#) is authorized to impose a fee of not less than thirty-five dollars (\$35.00)
19 per cubic yard for the disposal of dredge materials at the sites established by the ~~council~~ [bureau](#)
20 pursuant to § 46-23-18.3. The amount of the fee established by the ~~council~~ [bureau](#) pursuant to the
21 section shall be reviewed by the ~~council~~ [bureau](#) on an annual basis and revised as the ~~council~~ [bureau](#)
22 deems necessary, but in no event shall the fee be set at an amount less than thirty-five dollars
23 (\$35.00) per cubic yard of material.

24 **46-23-18.6. ~~Coastal Resources Management Council Dredge Fund~~ Bureau of Coastal**
25 **Resources Management Dredge Fund.**

26 There is hereby created a separate fund to be held by the ~~coastal resources management~~
27 ~~council~~ [bureau of coastal resources management within the department of environmental](#)
28 [management](#) to be known as the dredge fund. All amounts pursuant to § 46-23-18.5 must be
29 deposited into the fund and shall not be deposited into the general fund of the state, and shall be
30 kept by the general treasurer of the state in a separate fund for the ~~coastal resources management~~
31 ~~council~~ [bureau](#), and shall be paid out by the treasurer upon the order of the ~~council~~ [bureau](#), without
32 the necessity of appropriation or re-appropriation by the general assembly. Funds must be used to
33 create additional dredging and disposal options and for the management of said disposal options.

34 **46-23-20. Administrative hearings.**

1 All contested cases, all contested enforcement proceedings, and all contested
2 administrative fines shall be heard by the bureau ~~administrative hearing officers, or by~~
3 ~~subcommittees as provided in § 46-23-20.1, pursuant to the regulations promulgated by the council;~~
4 ~~provided, however, that no proceeding and hearing prior to the appointment of the hearing officers~~
5 ~~shall be subject to the provisions of this section.~~ Notwithstanding the foregoing, the ~~commissioner~~
6 deputy director of ~~coastal resources management~~ the bureau shall be authorized, in his or her
7 discretion, to resolve contested licensing and enforcement proceedings through informal
8 disposition pursuant to regulations promulgated by the ~~council~~ bureau.

9 **46-23-21. Notice of permit — Recordation.**

10 A notice of permit shall be eligible for recordation under chapter 13 of title 34 as
11 determined by the ~~executive~~ deputy director of the bureau, and shall be recorded at the expense of
12 the applicant in the land evidence records of the city or town where the property subject to permit
13 is located, and any subsequent transferee of the property shall be responsible for complying with
14 the terms and conditions of the permit. The clerk of the various cities and towns shall record any
15 orders, findings, or decisions of the ~~council~~ bureau at no expense to the ~~council~~ bureau.

16 **46-23-22. Solid waste disposal licenses — Hearings.**

17 The ~~chairperson~~ deputy director of the ~~coastal resources management council~~ bureau and
18 the commissioner of the environmental protection branch of the department of environmental
19 management shall coordinate concurrent hearings on solid waste disposal license applications;
20 provided, however, that the ~~chairperson~~ deputy director and the commissioner of the environmental
21 protection branch of the department of environmental management may designate a hearing officer
22 or subcommittee to hear all matters pertaining to the application and; provided further, that the
23 hearing officer may be from the department of environmental management, the ~~coastal resources~~
24 ~~management council~~ bureau, ~~hearing officer~~, a subcommittee, or an ad hoc hearing officer. The
25 ~~commissioner~~ deputy director of the bureau ~~coastal resources management with the approval of the~~
26 ~~chairperson~~ may waive jurisdiction in those instances where the ~~commissioner~~ deputy director finds
27 that there is no substantive coastal resources issue or that another agency or branch has adjudicated
28 or addressed the issue.

29 **46-23-23. Municipal comprehension plan consideration.**

30 The ~~coastal resources management council~~ bureau shall conform to the requirements of the
31 Comprehensive Planning and Land Use Regulation Act, § 45-22.2.

32 **46-23-24. Lien on property.**

33 The ~~executive~~ deputy director of the bureau may record the notice of fee or final order of
34 fine as a lien on the subject property in the land evidence records of the town or city in which said

1 property is located. Recordation of said fee or final order of fine shall be the only manner by which
2 said lien may be perfected against the subject property.

3 **46-23-25. Issuance of beach vehicle registration permits.**

4 (a) The ~~coastal resources management council~~ bureau may issue beach vehicle registration
5 permits in accordance with § 31-8-1.1 of the general laws and adopt regulations that the ~~council~~
6 bureau deems necessary to carry out the provisions of this section. The ~~council~~ bureau may appoint
7 responsible citizens or corporations of the state, engaged in operating sporting goods stores to act
8 as agents with authority to issue permits in the manner and under the conditions as set forth below.
9 Before an appointment shall occur, that citizen or corporation of the state shall deliver to the ~~council~~
10 bureau a bond with a surety company authorized to do business in the state of Rhode Island. The
11 requirements and conditions of the bond shall be established by the regulations.

12 (b) Any person or corporation appointed by the council as provided in section (a) above
13 shall, upon the application of any person entitled to receive a permit under this chapter and upon
14 payment of the specified permit fee, register and issue to the person a beach vehicle registration
15 permit in the form prescribed and furnished by the ~~council~~ bureau. The permit shall bear the name,
16 place of residence, and signature of the registrant, and the vehicle make, model, year, and license
17 plate number and shall authorize the registrant to own and operate a beach vehicle in the state of
18 Rhode Island during those seasons and in those manners and according to those conditions as shall
19 be provided by regulations established by the ~~council~~ bureau.

20 SECTION 4. Sections 46-23-2, 46-23-2.1, 46-23-3, 46-23-4, 46-23-4.1, 46-23-5, 46-23-
21 12, 46-23-20.1, 46-23-20.2, 46-23-20.3, 46-23-20.4, 46-23-20.5 and 46-23-20.6 of the General
22 Laws in Chapter 46-23 entitled "Coastal Resources Management Council" are hereby repealed.

23 ~~**46-23-2. Coastal resources management council created — Appointment of members.**~~

24 ~~(a) There is hereby created the coastal resources management council. The coastal~~
25 ~~resources management council shall consist of ten (10) members. Nine (9) members shall be~~
26 ~~appointed by the governor, with advice and consent of the senate, and one member shall serve ex~~
27 ~~officio. All current appointments to the coastal resources management council made by the~~
28 ~~governor with advice and consent of the senate are hereby validated and ratified and those~~
29 ~~appointees shall serve until a new seven member (7) council is selected pursuant to subsection (b)~~
30 ~~of this section or for the remainder of their term, whichever shall occur first.~~

31 ~~(1) Six (6) of the members shall be appointed or elected officials of local government: three~~
32 ~~(3) of whom shall be appointed or elected officials in a municipality of fewer than twenty five~~
33 ~~thousand (25,000) in population, three (3) of whom shall be appointed or elected officials in a~~
34 ~~municipality of more than twenty five thousand (25,000) in population. The populations are to be~~

1 ~~determined by the latest federal census. Elected or appointed municipal officials shall hold seats on~~
2 ~~the council only so long as they remain in their elected or appointed office. Each municipal~~
3 ~~appointment shall cease if the appointed or elected official shall no longer hold or change the office~~
4 ~~which they held upon appointment. At least five (5) out of the six (6) appointed or elected members~~
5 ~~must be appointed or elected in a coastal municipality. When the governor submits his or her~~
6 ~~appointments to the senate for advice and consent, the governor shall specify the appointed or~~
7 ~~elected office that each municipal appointment holds; the population of the municipality~~
8 ~~represented; and the member being replaced.~~

9 ~~(2) — (4) [Deleted by P.L. 2025, ch. 304, § 1 and P.L. 2025, ch. 313, § 1.]~~

10 ~~(b) Notwithstanding subsection (a) of this section, on March 1, 2026, all current members~~
11 ~~of the coastal resources management council shall have their terms expire. In anticipation thereof,~~
12 ~~prior to March 1, 2026, the governor shall appoint a coastal resources management council that~~
13 ~~shall consist of seven (7) voting members, one of whom shall be the director of the department of~~
14 ~~environmental management who shall serve ex officio. The six (6) remaining members shall be~~
15 ~~public members appointed by the governor with the advice and consent of the senate. All appointed~~
16 ~~members shall possess background, qualifications, and expertise in environmental and coastal~~
17 ~~management matters, provided that one of whom shall be an engineer; one of whom shall be a~~
18 ~~coastal biologist; and one of whom shall be a representative of an environmental organization.~~
19 ~~Current or past service on the coastal resources management council shall not disqualify an~~
20 ~~individual from reappointment pursuant to this subsection. Notwithstanding the foregoing, if the~~
21 ~~seven member (7) council is not seated by March 1, 2026, in accordance with this section, the~~
22 ~~members appointed pursuant to subsection (a) of this section shall continue to serve until such time~~
23 ~~as all members are appointed and confirmed in accordance with this section.~~

24 ~~(c) In addition to the foregoing voting members, the coastal resources management council~~
25 ~~may include a varying number of other members who may serve in an advisory capacity without~~
26 ~~the right to vote and who may be invited to serve by either the governor or the voting members.~~
27 ~~These advisory members may represent the federal agencies such as the navy, coast guard, corps~~
28 ~~of engineers, public health service, and the Federal Water Pollution Control Administration, and~~
29 ~~such regional agencies as the New England River Basins Commission and the New England~~
30 ~~Regional Commission and any other group or interest not otherwise represented.~~

31 ~~(d) There may be established a coastal resources advisory committee which committee,~~
32 ~~appointed by the executive director of the coastal resources management council, may include, but~~
33 ~~not be limited to, representation from the following groups: one of whom may be a representative~~
34 ~~of the university of Rhode Island graduate school of oceanography and the college of resources~~

1 development, one of whom may be a representative of the Sea Grant National College Program,
2 one of whom may be a representative of the army corps of engineers, one of whom may be a
3 representative of the federal environmental protection agency's Narragansett Bay laboratory, one
4 of whom shall be a representative of the coastal resources management council, one of whom may
5 be the director of the department of environmental management; one of whom may be a member
6 of the Rhode Island Marine Trade Association and one of whom may be a representative of a
7 regional environmental group. The coastal resources management council shall have the authority
8 to appoint such additional members to the advisory committee as is deemed necessary or advisable
9 by the advisory committee or the council. It shall be the responsibility of the committee to advise
10 the coastal resources management council on environmental coastal resources management issues
11 relating to dredging and permitting related thereto, including, but not limited to, those issues
12 defined in §§ 46-23-18.1—46-23-18.3, inclusive.

13 (e) The council shall have the authority to form committees of other advisory groups as
14 needed from both its own members and others.

15 **46-23-2.1. Members—Term of office—Vacancies.**

16 (a)(1) Subject to the provisions of § 46-23-2, all members shall serve until their successors
17 are appointed and qualified.

18 (2) Term limits on the coastal resources management council shall be determined by the
19 governor as follows: Two (2) appointees shall serve an initial term of three (3) years and shall be
20 eligible for reappointment in accordance with this section; two (2) appointees shall serve an initial
21 term of two (2) years and shall be eligible for reappointment in accordance with this section; and
22 two (2) appointees shall serve an initial term of one year and shall be eligible for reappointment in
23 accordance with this section.

24 (3) After the expiration of the terms of all initial members pursuant to this subsection,
25 succeeding appointments shall be for a term of three (3) years, and during the month of January,
26 the governor shall appoint, with the advice and consent of the senate, a member to succeed the
27 member whose term will then next expire for a term of three (3) years commencing on the first day
28 of February next following and until a successor is named and qualified.

29 (b) The members are eligible for successive appointments.

30 (c) Elected or appointed municipal officials shall hold seats on the coastal resources
31 management council, only so long as they remain in their elected or appointed office.

32 (d) A vacancy other than by expiration shall be filled in the manner of the original
33 appointment but only for the unexpired portion of the term. Any person appointed to fill said
34 vacancy shall complete the unexpired term and shall then be eligible for reappointment pursuant to

1 ~~this section. The governor shall have the power to remove their appointee for just cause.~~

2 ~~**46-23-3. Oath of members.**~~

3 ~~Each appointed member of the council, before entering upon his or her duties, shall take~~
4 ~~an oath to administer the duties of his or her office faithfully and impartially, and the oath shall be~~
5 ~~filed in the office of the secretary of state.~~

6 ~~**46-23-4. Officers of the council—Quorum and vote required for action.**~~

7 ~~The governor shall select from the appointed members a chairperson and vice chairperson.~~
8 ~~The coastal resources management council shall thereupon select a secretary from among its~~
9 ~~membership or staff. The council may engage staff, including legal counsel, as it deems necessary.~~
10 ~~A quorum shall consist of six (6) members of the council provided, however, for the council~~
11 ~~appointed pursuant to § 46-23-2(b) a quorum shall consist of four (4) members of the council. A~~
12 ~~majority vote of those present shall be required for action.~~

13 ~~**46-23-4.1. Executive director of coastal resources management.**~~

14 ~~The governor shall appoint, with the advice and consent of the senate, an executive director~~
15 ~~of coastal resources management who shall be an employee of the council and who shall not be a~~
16 ~~member of the council. The executive director shall coordinate and liaison with the director of the~~
17 ~~department of environmental management, and the executive director's staff shall be at the same~~
18 ~~staff level as the other executive directors, and the executive director shall work directly with the~~
19 ~~other division leaders. The executive director of coastal resources management shall be in the~~
20 ~~unclassified service. The primary duty and responsibility of the executive director shall be to~~
21 ~~continue planning for and management of the resources of the state's coastal region.~~

22 ~~**46-23-5. Expenses of members.**~~

23 ~~(a) The members of the council and the chairperson shall not be compensated for their~~
24 ~~service on the board, but the members and chairperson shall be reimbursed for their actual expenses~~
25 ~~necessarily incurred in the performance of their duties.~~

26 ~~(b) [Deleted by P.L. 2005, ch. 117, art. 21, § 34.]~~

27 ~~**46-23-12. Representation from coastal communities.**~~

28 ~~Upon the expiration of a term of a member appointed by the governor, as an appointed or~~
29 ~~elected official of local government from a coastal municipality as set out in § 46-23-2, the governor~~
30 ~~shall appoint an appointed or elected official of a coastal municipality which, at the time of the~~
31 ~~governor's appointment, has no appointed or ex officio representation on the council.~~

32 ~~**46-23-20.1. Hearing officers—Appointment—Compensation—Subcommittee.**~~

33 ~~(a) The governor, with the advice and consent of the senate, shall appoint two (2) hearing~~
34 ~~officers who shall be attorneys at law, who, prior to their appointment, shall have practiced law for~~

1 a period of not less than five (5) years for a term of five (5) years; provided, however, that the initial
2 appointments shall be as follows: one hearing officer shall be appointed for a term of three (3) years
3 and one hearing officer shall be appointed for a term of five (5) years. The appointees shall be
4 addressed as hearing officers.

5 (b) ~~The governor shall designate one of the hearing officers as chief hearing officer. The~~
6 ~~hearing officers shall hear proceedings as provided by this section, and the council, with the~~
7 ~~assistance of the chief hearing officer, may promulgate such rules and regulations as shall be~~
8 ~~necessary or desirable to effect the purposes of this section.~~

9 (c) ~~A hearing officer shall be devoted full time to these administrative duties, and shall not~~
10 ~~otherwise practice law while holding office nor be a partner nor an associate of any person in the~~
11 ~~practice of law.~~

12 (d) ~~Compensation for hearing officers shall be determined by the unclassified pay board.~~

13 (e) ~~Whenever the chairperson of the coastal resources management council or, in the~~
14 ~~absence of the chairperson, the commissioner of coastal resources makes a finding that the hearing~~
15 ~~officers are otherwise engaged and unable to hear a matter in a timely fashion, he or she may~~
16 ~~appoint a subcommittee which will act as hearing officers in any contested case coming before the~~
17 ~~council. The subcommittee shall consist of at least one member; provided, however, that in all~~
18 ~~contested cases an additional member shall be a resident of the coastal community affected. The~~
19 ~~city or town council of each coastal community shall, at the beginning of its term of office, appoint~~
20 ~~a resident of that city or town to serve as an alternate member of the aforesaid subcommittee should~~
21 ~~there be no existing member of the coastal resources management council from that city or town~~
22 ~~available to serve on the subcommittee. Any member of the subcommittee actively engaged in~~
23 ~~hearing a case shall continue to hear the case, even though his or her term may have expired, until~~
24 ~~the case is concluded and a vote taken thereon. Hearings before subcommittees shall be subject to~~
25 ~~all rules of practice and procedure as govern hearings before hearing officers.~~

26 **46-23-20.2. Clerk.**

27 The commissioner of coastal resources or his or her designee shall serve as clerk to the
28 hearing officers. The clerk shall have general charge of the office, keep a full record of proceedings,
29 file and preserve all documents and papers, prepare such papers and notices as may be required,
30 and perform such other duties as required. The commissioner shall have the power to issue
31 subpoenas for witnesses and documents and to administer oaths in all cases before any hearing
32 officer or pertaining to the duties of his or her office.

33 **46-23-20.3. Prehearing procedure.**

34 (a) ~~Prior to the commencement of any hearing, the hearing officer may in his or her~~

1 ~~discretion direct the parties or their attorneys to appear before him or her for such conferences as~~
2 ~~shall be necessary. At the conferences, the hearing officer may order any party to file, prior to the~~
3 ~~commencement of any formal hearing, exhibits that the party intends to use in the hearing, and the~~
4 ~~names and addresses of witnesses that the party intends to produce in its direct case, together with~~
5 ~~a short statement of the testimony of each witness. Following entry of an order, a party shall not be~~
6 ~~permitted, except in the discretion of the hearing officer, to introduce into evidence, in the party's~~
7 ~~direct case, exhibits which are not filed in accordance with the order. At the conference, the hearing~~
8 ~~officer may designate a date before which he or she requires any party to specify what issues are~~
9 ~~conceded, and further proof of conceded issues shall not be required. The hearing officer shall also~~
10 ~~require the parties to simplify the issues, to consider admissions of fact and of documents which~~
11 ~~will avoid unnecessary proof, and to limit the number of expert witnesses. The hearing officer shall~~
12 ~~enter an order reciting the concessions and agreements made by the parties, and shall enter an order~~
13 ~~on such other matters as are pertinent to the conduct of the hearing, and unless modified, the hearing~~
14 ~~shall be conducted by the order.~~

15 ~~(b) The hearing officer may also order the parties to file, prior to the commencement of~~
16 ~~any hearing, the testimony of any or all of their respective witnesses, and to submit the testimony~~
17 ~~to the hearing officer and the opposing party or the opposing counsel by such date as the hearing~~
18 ~~officer shall determine. The witness shall testify under oath, and all of the testimony shall be in a~~
19 ~~question and answer format. Save for good cause shown, said testimony shall be the direct~~
20 ~~examination of the witness; provided, however, that the witness shall be available at the hearing~~
21 ~~for cross examination by the opposing party or opposing counsel.~~

22 ~~(c) The council, with the assistance of the chief hearing officer, shall promulgate, by~~
23 ~~regulation, such other prehearing procedures and/or hearing procedures as deemed necessary,~~
24 ~~including the use of portions of the superior court civil rules of discovery where such are not~~
25 ~~inconsistent with the applicable provisions of the Administrative Procedures Act, chapter 35 of title~~
26 ~~42.~~

27 **46-23-20.4. Hearings — Orders.**

28 ~~(a) Subject to the provisions of this chapter, every hearing for the adjudication of a violation~~
29 ~~or for a contested matter shall be held before a hearing officer or a subcommittee. The chief hearing~~
30 ~~officer shall assign a hearing officer to each matter not assigned to a subcommittee. After due~~
31 ~~consideration of the evidence and arguments, the hearing officer shall make written proposed~~
32 ~~findings of fact and proposed conclusions of law which shall be made public when submitted to the~~
33 ~~council for review. The council may, in its discretion, adopt, modify, or reject the findings of fact~~
34 ~~and/or conclusions of law; provided, however, that any modification or rejection of the proposed~~

1 ~~findings of fact or conclusions of law shall be in writing and shall state the rationales therefor.~~

2 ~~(b) The director of the department of environmental management and the coastal resources~~
3 ~~management council shall promulgate such rules and regulations, not inconsistent with law, as to~~
4 ~~assure uniformity of proceedings as applicable.~~

5 ~~**46-23-20.5. Ex parte consultations.**~~

6 ~~Council members shall have no communication directly or indirectly, with a hearing officer~~
7 ~~relating to any issue of fact or of law on any matter then pending before the hearing officer.~~

8 ~~**46-23-20.6. Oaths — Subpoenas — Powers of hearing officers.**~~

9 ~~The hearing officers are hereby severally authorized and empowered to administer oaths,~~
10 ~~and the hearing officers, in all cases of every nature pending before them, are hereby authorized~~
11 ~~and empowered to summon and examine witnesses and to compel the production and examination~~
12 ~~of papers, books, accounts, documents, records, certificates and other legal evidence that may be~~
13 ~~necessary or proper for the determination and decision of any question before or the discharge of~~
14 ~~any duty required by law of the hearing officer. All subpoenas and subpoena duces tecum shall be~~
15 ~~signed by a hearing officer or the commissioner of coastal resources, and shall be served as~~
16 ~~subpoenas are served in civil cases in the superior court; and witnesses so subpoenaed shall be~~
17 ~~entitled to the same fees for attendance and travel as are provided for witnesses in civil cases in the~~
18 ~~superior court. In cases of contumacy or refusal to obey the command of the subpoena so issued,~~
19 ~~the superior court shall have jurisdiction upon application of the council with proof by affidavit of~~
20 ~~the fact, to issue a rule or order returnable, in not less than two (2) nor more than five (5) days,~~
21 ~~directing the person to show cause why he or she should not be adjudged in contempt. Upon return~~
22 ~~of such order, the justice, before whom the matter is brought for hearing, shall examine under oath~~
23 ~~the person, and the person shall be given an opportunity to be heard, and if the justice shall~~
24 ~~determine that the person has refused without reasonable cause or legal excuse to be examined or~~
25 ~~to answer legal or pertinent questions, he or she may impose a fine upon the offender or forthwith~~
26 ~~commit the offender to the adult correctional institutions, there to remain until he or she submits to~~
27 ~~do the act which he or she was so required to do, or is discharged according to law.~~

28 SECTION 5. This act shall take effect upon passage.

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LC004941
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

- 1 This act would reorganize the coastal resources management council under the department
- 2 of environmental management and create the bureau of coastal resources management.
- 3 This act would take effect upon passage.

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LC004941

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