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LC03087/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2007

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A N A C T

RELATING TO PUBLIC UTILITIES

Introduced By: Representatives Ajello, Segal, Almeida, Fox, and Giannini

Date Introduced: May 17, 2007

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 39-3 of the General Laws entitled "Regulatory Powers of
2 Administration" is hereby amended by adding thereto the following section:

3 **39-3-11.4. Reasonable return to be included in rates of water utilities owned by**
4 **municipalities.** – Notwithstanding any other provisions of law, any water supply system
5 regulated by the public utilities commission and owned by a municipality shall be given a
6 reasonable rate of return on its annual gross revenues as part of its rates, to be computed at a rate
7 of not less than eight percent (8%) per annum times the annual gross revenues of the water supply
8 system. After the reasonable rate of return is included as part of the water supply system's rates
9 by a final unappealable order of the public utilities commission, any municipality that owns a
10 water supply system regulated by the public utilities commission shall be entitled to be paid by
11 the water supply system, on an annual basis after the effective date of said rates, compensation
12 equal to the aforesaid reasonable rate of return established by the public utilities commission as
13 part of its rates.

14 SECTION 2. Section 39-16-14 of the General Laws in Chapter 39-16 entitled "Kent
15 County Water District" is hereby amended to read as follows:

16 **39-16-14. Payments in lieu of taxes.** – **Payments in lieu of taxes and reasonable**
17 **return.** – (a) The authority shall pay annually, having first made provision for the payment of
18 principal and interest on any bonds outstanding and any other charges payable from revenues due
19 in such year as may be provided in the resolution or resolutions authorizing any bonds, in lieu of

1 any property tax, as a charge upon its earnings or revenues, to each city, town or district, a sum
2 equal in amount to any property tax levied on any property by or on behalf of the city, town, or
3 district during the year next preceding the acquisition of such property by the authority. The
4 authority shall have no power to levy or collect ad valorem property taxes.

5 (b) In addition to the aforesaid payments in lieu of taxes, the Kent County Water
6 Authority shall be given by the public utilities commission a reasonable rate of return on its
7 annual gross revenues, to be computed at a rate of not less than eight percent (8%) per annum
8 times the annual gross revenues of the authority for that portion of the source water not
9 purchased, but supplied from sources owned by the Kent County Water Authority. After the
10 reasonable rate of return is included as part of the Kent County Water Authority's rates by a final
11 unappealable order of the public utilities commission any municipality in which the Kent County
12 Water Authority supplies water shall be entitled to be paid by the Kent County Water Authority,
13 on an annual basis after the effective date of said rates, compensation equal to the aforesaid
14 reasonable rate of return established by the public utilities commission as part of the rates of the
15 Kent County Water Authority, prorated among the municipalities in proportion to the water
16 supplied in each municipality by the Kent County Water Authority, or in accordance with such
17 other reasonable allocation method as may be established by the public utilities commission.
18 Payment of this rate of return shall be voluntary by the Kent County Water Authority.

19 SECTION 3. Section 46-15.3-21 of the General Laws in Chapter 46-15.3 entitled "Public
20 Drinking Water Supply System Protection" is hereby amended to read as follows:

21 **46-15.3-21. Fees, rates and charges.** -- (a) The fees, rates, and charges for drinking
22 water are a mandatory component of water supply system management.

23 (b) The following factors shall be considered in setting fees, rates, and charges:

24 (1) Recovery of all capital and operating costs, fixed and variable of production,
25 conservation, use, management, protection, obtaining, development, procuring, and/or
26 transporting water, and its sale at wholesale or retail;

27 (2) Marginal cost pricing;

28 (3) Emergency and drought period surcharges;

29 (4) Seasonal price structures;

30 (5) Difference in costs based upon different points of delivery;

31 (6) The effect of fees, rates, and charges on use of water and, where applicable, on
32 wastewater costs and charges;

33 (7) The effect of reducing non-account water to levels consistent with stated goals;

34 (8) Preparing, maintaining and implementing water supply system management

1 programs; ~~and~~

2 (9) Notwithstanding any other provisions of law, the Providence water supply board
3 shall transfer to the general fund of the city of Providence an amount equal to five percent (5%)
4 per annum times the annual gross revenues of the Providence water supply board for the fiscal
5 year ending June 30, 2004, and for the next two (2) succeeding fiscal years. This transfer shall not
6 be included as part of the Providence water supply board's rates approved by a final unappealable
7 order of the public utilities commission for same three (3) fiscal years; and

8 (10) Notwithstanding any other provisions of law, any water supply system regulated by
9 the public utilities commission and owned by a municipality shall be given a reasonable rate of
10 return on its annual gross revenues as part of its rates, to be computed at a rate of not less than
11 eight percent (8%) per annum times the annual gross revenues of the water supply system. After
12 the reasonable rate of return is included as part of the water supply system's rates by a final
13 unappealable order of the public utilities commission, any municipality that owns a water supply
14 system regulated by the public utilities commission shall be entitled to be paid by the water
15 supply system, on an annual basis after the effective date of said rates, compensation equal to the
16 aforsaid reasonable rate of return established by the public utilities commission as part of its
17 rates.

18 (c) Notwithstanding the provisions of sections 39-2-2 and 39-2-5, all rates and charges
19 made by water suppliers which decline as quantity used increased are hereby declared to be no
20 longer conducive to sound water supply system management designed to properly conserve,
21 develop, utilize, and protect this finite natural resource. The public utilities commission may
22 order rates for suppliers of water which either do not vary with quantities used or when there is
23 evidence of increasing costs to either the utility or to society, rates which increase as the quantity
24 used increases. If the commission finds that changing rates to comply with this section will cause
25 a hardship to a class of customers, the commission may order that rates for that class of customers
26 be changed to comply with this section over a period of time not to exceed five (5) years.

27 (d) Notwithstanding the provisions of sections 39-2-2 and 39-2-5, the public utilities
28 commission may order a reduction in rates consistent with the amount by which a supplier
29 exceeds the stated goals for non-account water. Non-account water shall be defined as the
30 difference between the metered supply and the metered consumption for a specific period
31 including an allowance for firefighting. No estimates for non-metered usage, except for the
32 firefighting allowance, shall be included in the calculation of accounted for water.

33 SECTION 4. Section 6 of Chapter 102 of the Public Laws of 1981, entitled "An Act to
34 Create the Bristol County Water Authority and to provide for its Powers and Duties" As

1 Amended, is hereby amended to read as follows:

2 Sec. 6 . POWERS.

3 (A) Except to the extent inconsistent with any specific provision of this act, the authority
4 shall have the power:

5 (1) to sue and be sued, complain and defend in its corporate name;

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

8 (3) to purchase, take, receive, lease or otherwise acquire, own, hold, improve, operate,
9 maintain and repair, use or otherwise deal in and with, real or personal property, or any interest
10 therein, wherever situated;

11 (4) to sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of,
12 all or any part of its property and assets for such consideration and upon such terms and
13 conditions as the authority shall determine;

14 (5) to produce, distribute and sell water within or without the territorial limits of the
15 county;

16 (6) to fix rates and collect charges for the use of the facilities of, or services rendered by
17 or any commodities furnished by, the authority, and to include in the aforesaid rates and charges a
18 reasonable rate of return to be computed at a rate of not less than eight percent (8%) per annum
19 times the annual gross revenues of the authority for that portion of the source water not
20 purchased, but supplied from sources owned by the Bristol County Water Authority. If such
21 reasonable rate of return is included by the authority as part of its rates and charges, the towns of
22 Bristol, Warren and Barrington shall be paid by the authority, on an annual basis after the
23 effective date of said reasonable rate of return, compensation equal to the aforesaid reasonable
24 rate of return, prorated among each of Bristol, Warren and Barrington, in proportion to the water
25 supplied by the authority to the ratepayers in each such municipality;

26 (7) to make such contracts and guarantees and to incur liabilities, borrow money at such
27 rates of interest as the authority may determine;

28 (8) to make and execute agreements of lease, conditional sales contracts, installments
29 sales contracts, loan agreements, mortgages, construction contracts, operation contracts and other
30 contracts and instruments necessary or convenient in the exercise of the powers and functions of
31 the authority granted by this act;

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

34 (10) to acquire, or contract to acquire, from any person, firm, corporation, municipality,

1 the federal government or the state, or any agency of either the federal government or state by
2 grant, purchase, lease, gift, condemnation or otherwise, or to obtain options for the acquisition of
3 any property, real or personal, improved or unimproved, and interests in land less the fee thereof,
4 and, to own, hold, clear, develop, maintain, operate and rehabilitate, sell, assign, exchange,
5 transfer, convey, lease, mortgage, or otherwise dispose or encumber the same for the purposes of
6 carrying out the provisions and intent of this act for such consideration as the authority shall
7 determine;

8 (11) to conduct its activities, carry on its operations and have offices and exercise its
9 powers granted by this act within or without the county or state;

10 (12) to elect or appoint officers and agents of the authority and to define their duties and
11 fix their compensation, except as otherwise expressly limited herein;

12 (13) to make and alter by-laws not inconsistent with this act, for the administration and
13 regulation of the affairs of the authority and such by-laws may contain provisions, indemnifying
14 any person who is or was a director, officer, employee or agent of the authority, or is or was
15 serving at the request of the authority as a director, officer, employee or agent of another
16 corporation, partnership, joint venture, trust or other enterprise in the manner and to the extent
17 provided in section 7-1.1-4.1 of the Rhode Island Business Corporation Act;

18 (14) to be a promoter, partner, member associate or manager of any partnership,
19 enterprise or venture;

20 (15) to enter into cooperative agreements with cities, counties, town or water companies
21 within or without the county for the interconnection of water facilities or for any other lawful
22 corporation purpose necessary or desirable to effect the purposes of this act;

23 (16) to have and exercise all powers necessary or convenient to effect its purposes.

24 (b) Notwithstanding any provision herein to the contrary, prior to the authority, first
25 acquiring or contracting to acquire any water supply facility, the authority shall present to the
26 local governing bodies of Barrington, Bristol, and Warren a plan setting forth in general terms the
27 method and means by which the authority intends to accomplish the purposes set forth in Section
28 5 hereof, and the authority shall not thereafter first acquire any water supply facility until such
29 plan shall have been approved by the local governing bodies of Barrington, Bristol and Warren.
30 Nothing contained in this Section (b) however shall thereafter require the authority to secure the
31 approval of the local governing bodies of Barrington, Bristol and Warren for any particular
32 acquisition or disposition of any water supply facility or any part thereof, and the authority shall
33 be empowered from time to time, to amend the plan previously approved and such amendment
34 shall be effective upon delivery of written notice thereof to the town clerks of each of Barrington,

1 Bristol and Warren.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PUBLIC UTILITIES

- 1 This act would allow the payment by water supply systems owned by municipalities at a
2 reasonable rate of return to the municipality, which rate would be a percentage of the system's
3 annual gross revenues. The rate would be set and approved by the public utilities commission.
4 This act would take effect upon passage

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