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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- RHODE ISLAND RESOURCE
RECOVERY CORPORATION ARBITRATION

Introduced By: Representatives Carnevale, Ucci, Fellela, Petrarca, and DaSilva

Date Introduced: March 01, 2012

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 28 of the General Laws entitled "LABOR AND LABOR
2 RELATIONS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 9.8

4 RHODE ISLAND RESOURCE RECOVERY CORPORATION ARBITRATION

5 **28-9.8-1. Short title.** – This chapter may be cited as the “Rhode Island Resource
6 Recovery Corporation Arbitration Act”.

7 **28-9.8-2. Statement of policy.** – (a) The protection of the public health, safety, and
8 welfare demands that the full-time employees of the Rhode Island resource recovery corporation
9 of the state of Rhode Island not be accorded the right to strike or engage in any work stoppage or
10 slowdown. This necessary prohibition does not require the denial to such state employees of other
11 well recognized rights of labor, such as the right to organize, to be represented by an organization
12 of their choice, and the right to bargain collectively concerning wages, rates of pay, and other
13 terms and conditions of employment.

14 (b) It is declared to be the public policy of this state to accord to the full-time employees
15 all of the rights of labor other than the right to strike or engage in any work stoppage or
16 slowdown. To provide for the exercise of these rights, a method of arbitration of disputes is
17 established.

18 (c) The establishment of this method of arbitration shall not, in any way, be deemed to be

1 recognition by the state of compulsory arbitration as a superior method of settling labor disputes
2 between employees who possess the right to strike and their employers, but rather is a recognition
3 solely of the necessity to provide some alternative mode of settling disputes where employees
4 must as a matter of public policy be denied the usual right to strike.

5 **28-9.8-3. Definitions.** – As used in this chapter, the following terms, unless the context
6 requires a different interpretation, have the following meanings:

7 (1) Rhode Island resource recovery corporation employees” means the full-time
8 employees of the Rhode Island resource recovery corporation of the state of Rhode Island.

9 (2) “State authorities” means the proper officials of the state whose duty or duties it is to
10 establish the wages, salaries, rates of pay, hours, working conditions, and other terms and
11 conditions of employment of Rhode Island resource recovery corporation.

12 **28-9.8-4. Right to organize and bargain collectively.** – The Rhode Island resource
13 recovery corporation employees shall have the right to bargain collectively with the state of
14 Rhode Island and to be represented by an organization in the collective bargaining as to wages,
15 rates of pay, hours, working conditions, and all other terms and conditions of employment.

16 **28-9.8-5. Recognition of bargaining agent.** – The organization selected by the majority
17 of the Rhode Island resource recovery corporation employees shall be recognized by the state as
18 the sole and exclusive bargaining agent or all of the Rhode Island resource recovery corporation
19 employees unless and until recognition of the organization is withdrawn by vote of a majority of
20 the Rhode Island resource recovery corporation employees. The labor organization or state may
21 designate any person or persons to negotiate or bargain on its behalf provided, that the person or
22 persons so designated shall be given authority to enter into and conclude an effective and binding
23 collective-bargaining agreement.

24 **28-9.8-6. Obligation to bargain.** – It shall be the obligation of the state, acting through
25 state authorities, to meet and confer in good faith with the designated representative or
26 representatives of the bargaining agent, including any legal counsel selected by the bargaining
27 agent, within ten (10) days after receipt of written notice from the bargaining agent of the request
28 for a meeting for collective bargaining purposes. This obligation includes the duty to cause any
29 agreement resulting from the negotiations to be reduced to a written contract; provided, that no
30 contract shall exceed the term of three (3) years.

31 **28-9.8-7. Unresolved issues submitted to arbitration.** – In the event that the bargaining
32 agent and the state authorities are unable, within thirty (30) days from, and including the date of
33 their first meeting to reach an agreement on a contract, any unresolved issues shall be submitted
34 to arbitration.

1 **28-9.8.8. Arbitration board -- Composition.** – (a) Within five (5) days from the
2 expiration of the thirty (30) day period referred to in section 28-9.8-7, the bargaining agent and
3 the state authorities shall each select and name one arbitrator and shall immediately notify each
4 other, in writing, of the name and address of the person selected.

5 (b) The two (2) arbitrators selected and named shall, within ten (10) days from and after
6 the expiration of the five (5) day period above, agree upon and select and name a third arbitrator.
7 If, on the expiration of the period allowed, the arbitrators are unable to agree upon the selection of
8 a third arbitrator, the chief justice of the Rhode Island supreme court shall select a resident of
9 Rhode Island, or a person whose place of business or principal place of employment is in Rhode
10 Island, as the third arbitrator upon request, in writing, from either the bargaining agent or the state
11 authorities.

12 (c) The third arbitrator, whether selected as a result of agreement between the two (2)
13 previously selected arbitrators or selected by the chief justice, shall act as chairperson of the
14 arbitration board.

15 **28-9.8.9. Hearings.** – (a) (1) The arbitration board shall, acting through its chairperson,
16 call a hearing to be held within ten (10) days after the date of the appointment of the chairperson,
17 and shall, acting through its chairperson, give at least seven (7) days notice, in writing, to each of
18 the other two (2) arbitrators, the bargaining agent, and the state authorities of the time and place
19 of the hearing.

20 (2) The hearing shall be informal, and the rules of evidence prevailing in judicial
21 proceedings shall not be binding. Any and all documentary evidence and other data deemed
22 relevant by the arbitrators may be received in evidence.

23 (3) The arbitrators shall have the power to administer oaths and to require by subpoena
24 the attendance and testimony of witnesses, and the production of books, records, and other
25 evidence relative or pertinent to the issues presented to them for determination. (b) The hearing
26 conducted by the arbitrators shall be concluded within twenty (20) days of the time of
27 commencement, and within ten (10) days after the conclusion of the hearings, the arbitrators shall
28 make written findings and a written opinion upon the issues presented, a copy of which shall be
29 mailed or otherwise delivered to the bargaining agent or its attorney or otherwise delegated
30 representative and to the state authorities. A majority decision of the arbitrators shall be binding
31 upon both the bargaining agent and the state authorities.

32 **28-9.8-10. Factors to be considered by arbitration board.** – The arbitrators shall
33 conduct the hearings and render their decision upon the basis of a prompt, peaceful, and just
34 settlement of wage or hour disputes between the Rhode Island resource recovery corporation

1 employees and the state. The factors, among others, to be given weight by the arbitrators in
2 arriving at a decision shall include:

3 (1) Comparison of wage rates or hourly conditions of employment of the Rhode Island
4 resource recovery corporation employees with prevailing wage rates or hourly conditions of
5 employment of skilled employees of the building trades and industry in the state.

6 (2) Comparison of wage rates or hourly conditions of employment of the Rhode Island
7 resource recovery corporations employees with wage rates or hourly conditions of employment
8 Resource Recovery employees in other states.

9 (3) Interest and welfare of the public.

10 (4) Comparison of peculiarities of employment in regard to other trades or professions,
11 specifically:

12 (i) Hazards of employment;

13 (ii) Physical qualifications;

14 (iii) Educational qualifications;

15 (iv) Mental qualifications;

16 (v) Job training and skills.

17 **28-9.8-11. Fees and expenses of arbitration.** – Fees and necessary expenses of
18 arbitration shall be equally borne by the bargaining agent and the state. Notwithstanding any
19 other remedies which a court appointed arbitrator appointed by the chief justice pursuant to
20 section 28-9.8-8 may have, the arbitrator or a party who has paid its share of the fees and
21 necessary expenses of a court appointed arbitrator may petition the superior court for sanctions
22 against the party failing to make timely payment of its share of the arbitrator's fees and expenses,
23 and the superior court is authorized to enforce the sanctions against the nonpaying party,
24 including, but not limited to, contempt powers pursuant to section 8-6-1.

25 **28-9.8-12. Collective bargaining contract.** – Any agreements actually negotiated
26 between the bargaining agent and the state authorities either before or within thirty (30) days after
27 arbitration shall constitute the collective bargaining contract governing Rhode Island resource
28 recovery employees and the state for the period stated in the agreement; provided, that the period
29 shall not exceed three (3) years. Any collective-bargaining agreement negotiated under the terms
30 and provisions of this chapter shall specifically provide that the Rhode Island resource recovery
31 corporation employees who are subject to its terms shall have no right to engage in any work
32 stoppage, slowdown, or strike, the consideration for the provision being the right to a resolution
33 of disputed questions.

34 **28-9.8-13. Request for collective bargaining.** – Whenever wages, rates of pay, or any

1 other matter requiring appropriation of money by the state are included as a matter of collective
2 bargaining conducted under the provisions of this chapter, it is the obligation of the bargaining
3 agent to serve written notice of request for collective bargaining on the state authorities at least
4 one hundred twenty (120) days before the last day on which money can be appropriated by the
5 state to cover the contract period which is the subject of the collective bargaining procedure.

6 **28-9.8-14. Writ of certiorari to the supreme court.** – The sole avenue of review of a
7 decision of an arbitration panel issued pursuant to this chapter shall be by petition for writ of
8 certiorari to the supreme court. In the event a decision of the arbitration panel is sought to be
9 reviewed by writ of certiorari to the supreme court, the matter shall be given priority by the
10 supreme court.

11 **28-9.8-15. Attorneys' fees, costs, and interest.** – In the event either the bargaining agent
12 or the state authorities files a petition for writ of certiorari to the supreme court of the state of
13 Rhode Island for a review or modification of a majority decision of the arbitrators, which by the
14 provisions of section 28-9.8-9 is binding upon both the bargaining agent and the state authorities,
15 the party against whom the decision of the supreme court is adverse, if the supreme court finds
16 the appeal or petition to be frivolous, shall pay reasonable attorneys' fees and costs to the
17 successful party as determined by the supreme court, and the supreme court shall in its final
18 decision or judgment award the costs and reasonable attorneys' fees. If the final decision affirms
19 the award of money, the award, if retroactive, shall bear interest at the rate of eight percent (8%)
20 per annum from the effective retroactive date.

21 **28-9.8-16. Severability.** – If any provision of this chapter, or its application to any person
22 or circumstances, is held unconstitutional or otherwise invalid, the remaining provisions of this
23 chapter and the application of the provisions to other persons or circumstances, other than those
24 to which it is held invalid, shall not be affected by the invalidity.

25 **28-9.8-17. Affirmative action provisions.** – The commissioners of the Rhode Island
26 resource recovery corporation shall include proposals for affirmative action provisions as a
27 subject for all collective bargaining negotiations. The proposals shall include at a minimum, but
28 not limited to, the following personnel actions; recruitment; new hires; promotions; transfers;
29 terminations; training and education; layoffs and return from layoff.

30 SECTION 2. Section 23-19-8 of the General Laws in Chapter 23-19 entitled "Rhode
31 Island resource recovery corporation" is hereby amended to read as follows:

32 **23-19-8. Employment of executive director and support services -- Books and**
33 **records.** -- (a) The commissioners shall employ an executive director who shall administer,
34 manage, and direct the offices and business of the corporation, subject to the policies, control, and

1 direction of the commissioners. The commissioners may employ technical experts and other
2 officers, agents, and staff, and fix their qualifications, duties, and compensation. The executive
3 director and the technical experts, officers, agents, and staff and attorneys so employed shall not
4 be subject to the provisions of the classified service. The board of commissioners may delegate to
5 one or more of its agents or employees those administrative duties that it may deem proper to
6 accomplish its purposes. The corporation may request that the director of the department of
7 environmental management provide within the department of environmental management
8 facilities, administrative support, staff services, and any other services that shall be necessary for
9 the proper performance of the powers and duties of the corporation.

10 (b) The executive director shall also be the secretary and shall keep a record of the
11 proceedings of the corporation and shall be custodian of all books, documents, and papers filed
12 with the corporation and of its minutes, books, and seal. The executive director shall have the
13 authority to cause to be made copies of all minutes and other records and documents of the
14 corporation, and to give certificate under the seal of the corporation that the copies are true copies
15 and all persons dealing with the corporation may rely upon the certificate, except in the case
16 where a secretary's certificate is required to attest to an action of the executive director, in which
17 instance the deputy executive director shall have the authority to give certificate under the seal of
18 the corporation as secretary.

19 (c) Notwithstanding any other provisions of this section, or any provision of general or
20 public laws to the contrary, nothing in this chapter shall be construed to prevent full-time
21 employees of the Rhode Island resource recovery corporation from availing themselves of the
22 provision of chapter 28-9.8, the "Rhode Island Resource Recovery Corporation Arbitration Act."

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- RHODE ISLAND RESOURCE
RECOVERY CORPORATION ARBITRATION

- 1 This act would authorize all full-time employees of the Rhode Island resource recovery
- 2 corporation to collectively bargain and engage in grievance and interest arbitrations.
- 3 This act would take effect upon passage.

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