

2013 -- S 0609 SUBSTITUTE A

LC01737/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- QUASI-PUBLIC
CORPORATIONS ACCOUNTABILITY AND TRANSPARENCY ACT

Introduced By: Senators Sheehan, Ciccone, DiPalma, Sosnowski, and Lynch

Date Introduced: March 06, 2013

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "State Affairs and Government" is
2 hereby amended by adding thereto the following chapter:

3 CHAPTER 155

4 QUASI-PUBLIC CORPORATIONS

5 ACCOUNTABILITY AND TRANSPARENCY ACT

6 **42-155-1. Title. --** This chapter shall be known and may be cited as the "Quasi-Public
7 Corporations Accountability and Transparency Act."

8 **42-155-2. Legislative findings. --** It is hereby found that:

9 (1) Quasi-public corporations are established and empowered by state law, and would
10 not exist but for their relationship with the state.

11 (2) Quasi-public corporations perform essential government functions and/or provide
12 essential government services.

13 (3) Many quasi-public corporations are granted the public power to collect fees and/or
14 generate other revenue and incur debt.

15 (4) Quasi-public corporations manage significant public resources; however, the majority
16 are exempt from many kinds of public oversight, such as executive and legislative budgetary
17 review required of state agencies and departments.

18 (5) It is essential that quasi-public corporations provide more, not less transparency by

1 making their decisions and budgets especially transparent and open to public scrutiny, and by
2 demonstrating a commitment to protecting the interests of Rhode Island taxpayers by achieving
3 the highest standards of transparent, effective and ethical operation.

4 (6) Quasi-public corporations are governed by independent boards that serve a critical
5 oversight function, and there exists a need to strengthen the ability of board members to carry out
6 this oversight role.

7 (7) Rhode Island citizens rely on their government to provide oversight of quasi-public
8 corporations, with a goal of ensuring that these state entities carry out their government missions
9 effectively, and exemplify a commitment to transparent, accountable and effective government.

10 **42-155-3. Definitions. -- As used in this chapter: (a) "quasi-public corporation" means**
11 any body corporate and politic created or to be created pursuant to the general laws, including,
12 but not limited to, the following:

13 (1) Capital center commission;

14 (2) Rhode Island convention center authority;

15 (3) Rhode Island industrial facilities corporation;

16 (4) Rhode Island industrial-recreational building authority;

17 (5) Rhode Island small business loan fund corporation;

18 (6) Quonset point development corporation;

19 (7) Rhode Island airport corporation;

20 (8) 1-195 redevelopment district commission;

21 (9) Rhode Island health and educational building corporation;

22 (10) Rhode Island housing and mortgage finance corporation;

23 (11) Rhode Island higher education assistance authority;

24 (12) Rhode Island student loan authority;

25 (13) Narragansett bay commission;

26 (14) Rhode Island clean water finance agency;

27 (15) Rhode Island water resources board;

28 (16) Rhode Island resource recovery corporation.

29 (17) Rhode Island public rail corporation;

30 (18) Rhode Island public transit authority;

31 (19) Rhode Island turnpike and bridge authority;

32 (20) Rhode Island tobacco settlement financing corporation; and

33 (21) Any subsidiary of the Rhode Island economic development corporation.

34 (b) Cities, towns, and any corporation created by a city or town pursuant to ordinance,

1 and fire and water districts are not subject to the provisions of this chapter.

2 **42-155-4. Role and responsibilities of board members.** -- (g) Board members of quasi-
3 public corporations shall:

4 (1) Execute direct oversight of the corporation and the chief executive and other
5 management in the effective and ethical management of the corporation;

6 (2) Understand, review and monitor the implementation of fundamental financial and
7 management controls and operational decisions of the corporations;

8 (3) Adopt a code of ethics applicable to each officer, director and employee of the
9 corporation that, at a minimum, includes the standards established in chapter 36-14 ("Code of
10 Ethics");

11 (4) Adopt a mission statement expressing the purpose and goals of the corporation, a
12 description of the stakeholders of the corporation and their reasonable expectations from the
13 corporation and a list of measurements by which performance of the corporation and the
14 achievement of its goals may be evaluated. Each corporation shall at least once every three (3)
15 years publish a self-evaluation based on the stated measurements;

16 (5) Adopt and periodically update an indemnification policy which shall be set forth in
17 the bylaws of the corporation: and

18 (6) Perform each of their duties as board members, including, but not limited to, those
19 imposed by this section, in good faith and with that degree of diligence, care and skill which an
20 ordinarily prudent person in like position would use under similar circumstances, and ultimately
21 apply independent judgment in the best interest of the quasi-public corporation, its mission and
22 the public;

23 (b) Board members of quasi-public corporations shall establish and maintain written
24 policies and procedures for the following:

25 (1) Internal accounting and administrative controls in accordance with the provisions of
26 chapter 35-20, the ("Public Corporation Financial Integrity and Accountability Act");

27 (2) Travel, including lodging, meals and incidental expenses, no reimbursement shall
28 exceed the allowable state employee reimbursement amount per day;

29 (3) Grants, charitable and civic donations and/or contributions, provided however that all
30 such grants, donations or contributions shall be voted by the full board during an open meeting
31 and the vote shall be recorded in the minutes of the meeting, together with:

32 (i) The citation to the specific state statute authorizing the action;

33 (ii) An explanation of how the grant, donation or contribution relates to the quasi-public
34 corporation's mission;

1 (iii) The identity of each board member or employee of the quasi-public corporation that
2 will receive any benefit from the grant, donation or contribution including without limitation
3 tickets to events, meals, and golf;

4 (iv) Any disclosure required by chapter 36-14 ("Code of Ethics"); and

5 (v) Each such grant, donation or contribution shall be clearly identified in the financial
6 statements of the quasi-public corporation.

7 (4) Credit card use, provided, however that pursuant to section 35-20-10, no credit card
8 shall be used for personal use;

9 (5) Employee reimbursement, including requests by management for business expenses,
10 and expenses classified as gifts or entertainment;

11 (6) Personnel, including hiring, dismissing, promoting and compensating employees of
12 the quasi-public corporation; a requirement of board approval in an open meeting before a
13 position may be created or a vacancy filled;

14 (7) Marketing expenses; and

15 (8) Lobbyists' expenses;

16 (c) The written policies and procedures required by this section and any additional
17 written policies and procedures that the board may adopt shall be approved by the board during
18 an open meeting and the vote shall be recorded in the minutes of the meeting.

19 (d) Any board member who fails to attend more than fifty percent (50%) of all meetings
20 held during any calendar year shall be deemed to have resigned, unless the board member
21 requests in writing to the chairperson to serve the remaining term of his or her appointment,
22 setting forth the reason or reasons for the absences, and the majority of the board members
23 approve the request.

24 (e) No board member shall serve in a paid or voluntary capacity as an officer, employee
25 or consultant of the quasi-public corporation.

26 **42-155-5. Executive compensation.** -- (a) Each quasi-public corporation shall establish a
27 committee on executive compensation which shall meet independently of management and which
28 shall:

29 (1) Recommend to the full board the compensation packages of the executive and senior
30 management of the corporation. The compensation package of the executive officer shall be
31 based on a comprehensive and objective analysis of comparable compensation of similar officers
32 of state government, other authorities, quasi-public corporations, and private-sector employees
33 with similar functions and responsibilities. The committee may retain a consultant to assist in the
34 comparability study. When calculating compensation, the committee shall consider the value of

1 the retirement plan in the overall compensation package;

2 (2) Prepare clear written job descriptions and clear written expectations of job
3 performance for the executive officer and senior management;

4 (3) Conduct the job performance review of the executive officer at least annually; and

5 (4) Negotiate the employment contract of the executive officer which shall be approved
6 by the full board during an open meeting.

7 **42-155-6. Transparency requirements established. --** The following shall be public
8 record, available to the public upon request and posted directly or via direct link, on the website
9 of each quasi-public corporation:

10 (1) Job descriptions of the executive director and management;

11 (2) Employment contracts of the executive director and management;

12 (3) Compensation comparability studies of the executive;

13 (4) Quarterly financial statements;

14 (5) Capital improvement plans;

15 (6) Operating budgets;

16 (7) Strategic plan;

17 (8) Agendas and minutes of the open meetings of the board;

18 (9) Quarterly contracting reports required by section 42-90-1;

19 (10) Regulations;

20 (11) Enabling legislation;

21 (12) Mission statement;

22 (13) Board members;

23 (14) Organizational chart;

24 (15) By-laws of the quasi-public corporation;

25 (16) All reports and audits required by this chapter; and

26 (17) Within ten (10) business days of execution, a copy of each contract for legal,
27 medical, accounting, engineering, or any other professional, financial, technical, or consultant
28 services for the quasi-public corporation, consistent with the provisions of chapter 38-2 et seq.
29 (Access to Public Records Act).

30 **42-155-7. Audit of quasi-public corporations. --** (a) Commencing July 1, 2013, and
31 every three (3) years thereafter, each quasi-public corporation shall be subject to a performance
32 audit conducted in compliance with the generally acceptable governmental auditing standards, by
33 the chief of the bureau of audits or a certified public accounting firm qualified in
34 performance audits. The chief of the bureau of audits shall establish a rotating schedule

1 identifying the year in which each quasi-public corporation shall be audited. The schedule shall
2 be posted on the website of the bureau of audits.

3 (b) If the audit is not directly performed by the chief of the bureau of audits, the selection
4 of the auditor and the scope of the audit shall be subject to the approval of the chief of the bureau
5 of audits.

6 (c) The audit shall be conducted in conformance with subsections 35-7-3(b) through (d).

7 (d) Each quasi-public corporation shall be responsible for all costs associated with its
8 own audit.

9 (e) The results of the audit shall be made public upon completion and posted on the
10 websites of the bureau of audits and the quasi-public corporation.

11 **42-155-8. Outside employment.** -- No employee of a quasi-public corporation may
12 accept outside employment which will impair his or her judgment as to duties and responsibilities
13 in the course of employment with the quasi-public corporation. Generally, outside employment is
14 barred if the private employer can benefit from the official actions of the employee of the quasi-
15 public corporation.

16 **42-155-9. Purchases.** -- Notwithstanding any other provision of the general or public
17 laws, to the contrary, the corporation shall be considered a public agency and subject to the
18 provisions of chapter 37-2 ("State Purchases").

19 **42-155-10. Rules and regulations.** -- When issuing rules and regulations or any
20 amendments to rules and regulations or when adopting by-laws or amendments to by-laws each
21 quasi-public corporation shall be subject to the provisions of chapter 42-35 ("The Administrative
22 Procedures Act").

23 **42-155-11. Severability.** -- If any provision of this chapter or of any rule or regulation
24 made under this chapter, or its application to any person or circumstance is held invalid by a court
25 of competent jurisdiction, the remainder of the chapter, rule, or regulation and the application of
26 the provision to other persons or circumstances shall not be affected by this invalidity. The
27 invalidity of any section or sections or parts of any section or sections shall not affect the validity
28 of the remainder of the chapter.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- QUASI-PUBLIC
CORPORATIONS ACCOUNTABILITY AND TRANSPARENCY ACT

- 1 This act would impose standards of accountability and transparency on quasi-public
- 2 corporations.
- 3 This act would take effect upon passage.

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