

2016 -- S 2173

=====
LC004145
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

—————
A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

Introduced By: Senators P Fogarty, Satchell, McCaffrey, and Archambault

Date Introduced: January 27, 2016

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 42-17.1-4 and 42-17.1-8 of the General Laws in Chapter 42-17.1
2 entitled "Department of Environmental Management" are hereby amended to read as follows:

3 **42-17.1-4. Divisions within department. --** Within the department of environmental
4 management there are established the following divisions:

5 (1) A division of parks and recreation that shall carry out those functions of the
6 department relating to the operation and maintenance of parks and recreation areas and the
7 establishment and maintenance of such additional recreation areas as may from time to time be
8 acquired and such other functions and duties as may from time to time be assigned by the
9 director;

10 (2) A division of fish and wildlife that shall carry out those functions of the department
11 relating to the administration of hunting, fishing, and shell fisheries; the preservation of wetlands,
12 marsh lands, [freshwater lakes, streams, ponds](#) and wildlife; and such other functions and duties as
13 may from time to time be assigned by the director;

14 (3) A division of agriculture that shall carry out those functions of the department
15 relating to agriculture, and such other functions and duties as may from time to time be assigned
16 by the director, including, but not limited to, plant industry, farm viability, marketing and
17 promotion, farmland ecology and protection, plant and animal health and quarantine, pesticides,
18 mosquito abatement, pest survey and response, food policy and security, and, in collaboration

1 with the department of health, public health as it relates to farm production and direct marketing
2 of farm products, and those agreed upon through memorandum of agreement with the department
3 of health or other state agencies. The department of health shall continue to act as the lead agency
4 for all public health issues in the state pursuant to chapter 1 of title 23. Nothing herein contained
5 shall limit the department of health's statutory authority, nor shall any provision herein be
6 construed as a limitation upon the statutory authority of the department of health granted to the
7 department under title 23 of the general laws, nor shall any provision herein be construed to limit
8 the authority of the department of environmental management to enter into memoranda of
9 agreement with any governmental agency. The chief of the division of agriculture shall report
10 directly to the director.

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

21 (5) A division of planning and development that shall carry out those functions of the
22 department relating to planning, programming, acquisition of land, engineering studies, and such
23 other studies, as the director may direct, and that shall work with the board of governors for
24 higher education and the board of regents for elementary and secondary education, with
25 educational institutions at all levels, and with the public in the dissemination of information and
26 education relating to natural resources, and shall perform the publication and public relations
27 functions of the department, the functions of inspection of dams and reservoirs, approving plans
28 for construction or improvement of dams, reservoirs, and other structures in non-tidal waters, and
29 the operation of stream-gauging stations in cooperation with the United States Geological Survey;

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

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

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

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

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

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

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

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

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

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

27 (V) Boating safety enforcement officers shall not be required to give surety for costs
28 upon any complaint made by him or her.

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

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

33 (v) The state boating law administrator shall serve as the liaison to the United States
34 Coast Guard.

1 **42-17.1-8. Designation and assignment of functions.** -- Whenever the duties of the head
2 of any existing department, division, board, commission, or other agency or of any other officer
3 are prescribed by law, and the duties of such person have been or shall in the future be transferred
4 to the department of environmental management under this chapter, the director of the department
5 of environmental management may designate some officer or other subordinate within his or her
6 department to perform such duties; provided, however, that any other provision of this chapter
7 notwithstanding, the functions, powers and duties of the chief of the division of parks and
8 recreation as set forth in title 32, entitled "Parks and Recreational Areas," as amended, in chapter
9 22.5 of title 23, entitled "Drowning Prevention and Lifesaving," as amended, and in any other
10 general or public law, and the functions, powers, and duties of the chief of the division of harbors
11 and rivers as set forth in title 46, entitled "Waters and Navigation," as amended, and in any other
12 general or public law, shall not be diminished; provided further, however, that all planning and
13 law enforcement functions, powers, duties, and personnel shall be transferred to the divisions
14 established by §§ 42-17.1-4(5) and 42-17.1-4(6) of this chapter. [Provided, that oversight of and](#)
15 [over all freshwater lakes, streams, and ponds within the state shall be with a newly created](#)
16 [position within the division of fish and wildlife.](#)

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

=====
LC004145
=====

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 provide for the creation of a new position in the fish and wildlife division
2 of the department of environmental management, and would place oversight of freshwater lakes,
3 streams, and ponds, in the fish and wildlife division.

4 This act would take effect upon passage.

=====
LC004145
=====