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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO EDUCATION

Introduced By: Senators Pearson, DiPalma, DaPonte, Gallo, and Conley

Date Introduced: March 29, 2017

Referred To: Senate Housing & Municipal Government

(RIIB)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 16-7-41 and 16-7-44 of the General Laws in Chapter 16-7 entitled
2 "Foundation Level School Support [See Title 16 Chapter 97 - The Rhode Island Board Of
3 Education Act]" are hereby amended to read as follows:

4 **16-7-41. Computation of school housing aid.**

5 (a) In each fiscal year the state shall pay to each community a grant to be applied to the
6 cost of school housing equal to the following:

7 The cost of each new school housing project certified to the commissioner of elementary
8 and secondary education not later than July 15 of the fiscal year shall be divided by the actual
9 number of years of the bond issued by the local community or the Rhode Island Health and
10 Educational Building Corporation in support of the specific project, times the school housing aid
11 ratio; and provided, further, with respect to costs of new school projects financed with proceeds
12 of bonds issued by the local community or the Rhode Island Health and Educational Building
13 Corporation in support of the specific project, the amount of the school housing aid payable in
14 each fiscal year shall not exceed the amount arrived at by multiplying the principal and interest of
15 the bonds payable in each fiscal year by the school housing aid ratio and which principal and
16 interest amount over the life of the bonds, shall, in no event, exceed the costs of each new school
17 housing project certified to the commissioner of elementary and secondary education. If a
18 community fails to specify or identify the appropriate reimbursement schedule, the commissioner
19 of elementary and secondary education may at his or her discretion set up to a five (5) year

1 reimbursement cycle for projects under five hundred thousand dollars (\$500,000); up to ten (10)
2 years for projects up to three million dollars (\$3,000,000); and up to twenty (20) years for
3 projects over three million dollars (\$3,000,000).

4 (b) Aid shall be provided for the same period as the life of the bonds issued in support of
5 the project and at the school housing aid ratio applicable to the local community at the time of the
6 bonds issued in support of the project as set forth in § 16-7-39.

7 (c) Aid shall be paid either to the community or in the case of projects financed through
8 the Rhode Island Health and Educational Building Corporation, to the Rhode Island Health and
9 Educational Building Corporation or its designee including, but not limited to, a trustee under a
10 bond indenture or loan and trust agreement, in support of bonds issued for specific projects of the
11 local community in accordance with this section, § 16-7-40 and § 16-7-44. Notwithstanding the
12 preceding, in case of failure of any city, town or district to pay the amount due in support of
13 bonds issued on behalf of a city, town, school or district project financed by the Rhode Island
14 Health and Educational Building Corporation, upon notification by the Rhode Island Health and
15 Educational Building Corporation, the general treasurer shall deduct the amount from aid
16 provided under this section, § 16-7-40, § 16-7-44 and § 16-7-15 through § 16-7-34.3 due the city,
17 town or district and direct said funding to the Rhode Island Health and Educational Building
18 Corporation or its designee. [Aid paid to a community, including, but not limited to, in connection
19 with a project financed through the Rhode Island Infrastructure Bank, in accordance with §46-
20 12.2-4.2\(g\), shall not be pledged or otherwise be available to pay principal or interest on bonds or
21 notes or other forms or indebtedness issued by the Rhode Island Infrastructure Bank, either
22 directly or indirectly through loan agreements, bonds, notes, lease revenue bonds, or capital
23 leases, delivered by a community to the Rhode island Infrastructure Bank.](#)

24 (d) Notwithstanding any provisions of law to the contrary, in connection with the
25 issuance of refunding bonds benefiting any local community, any net interest savings resulting
26 from the refunding bonds issued by such community or a municipal public buildings authority for
27 the benefit of the community or by the Rhode Island health and educational building corporation
28 [or the Rhode Island Infrastructure Bank](#) for the benefit of the community, in each case in support
29 of school housing projects for the community, shall be allocated between the community and the
30 state of Rhode Island, by applying the applicable school housing aid ratio at the time of issuance
31 of the refunding bonds, calculated pursuant to § 16-7-39, that would otherwise apply in
32 connection with school housing projects of the community; provided however, that for any
33 refundings that occur between July 1, 2013 and December 31, 2015, the community shall receive
34 eighty percent (80%) of the total savings and the state shall receive twenty percent (20%). In

1 connection with any such refunding of bonds, the finance director or the chief financial officer of
2 the community shall certify such net interest savings to the commissioner of elementary and
3 secondary education. Notwithstanding § 16-7-44 or any other provision of law to the contrary,
4 school housing projects costs in connection with any such refunding bond issue shall include
5 bond issuance costs incurred by the community, the municipal public buildings authority or the
6 Rhode Island health and educational building corporation or the [Rhode Island Infrastructure](#)
7 [Bank](#), as the case may be, in connection therewith. In connection with any refunding bond issue,
8 school housing project costs shall include the cost of interest payments on such refunding bonds,
9 if the cost of interest payments was included as a school housing cost for the bonds being
10 refunded. A local community or municipal public buildings authority shall not be entitled to the
11 benefits of this subsection (d) unless the net present value savings resulting from the refunding is
12 at least three percent (3%) of the refunded bond issue.

13 (e) Any provision of law to the contrary notwithstanding, the commissioner of
14 elementary and secondary education shall cause to be monitored the potential for refunding
15 outstanding bonds of local communities or municipal public building authorities or of the Rhode
16 Island Health and Educational Building Corporation [or the Rhode Island Infrastructure Bank](#)
17 issued for the benefit of local communities or municipal public building authorities and benefiting
18 from any aid referenced in this section. In the event it is determined by said monitoring that the
19 net present value savings which could be achieved by refunding such bonds of the type
20 referenced in the prior sentence including any direct costs normally associated with such
21 refundings is equal to (i) at least one hundred thousand dollars (\$100,000) and (ii) for the state
22 and the communities or public building authorities at least three percent (3%) of the bond issue to
23 be refunded including associated costs then, in such event, the commissioner (or his or her
24 designee) may direct the local community or municipal public building authority for the benefit
25 of which the bonds were issued, to refund such bonds. Failure of the local community or
26 municipal public buildings authority to timely refund such bonds, except due to causes beyond
27 the reasonable control of such local community or municipal public building authority, shall
28 result in the reduction by the state of the aid referenced in this § 16-7-4.1 associated with the
29 bonds directed to be refunded in an amount equal to ninety percent (90%) of the net present value
30 savings reasonably estimated by the commissioner of elementary and secondary education (or his
31 or her designee) which would have been achieved had the bonds directed to be refunded been
32 refunded by the ninetieth (90th) day (or if such day is not a business day in the state of Rhode
33 Island, the next succeeding business day) following the date of issuance of the directive of the
34 commissioner (or his or her designee) to refund such bonds. Such reduction in the aid shall begin

1 in the fiscal year following the fiscal year in which the commissioner issued such directive for the
2 remaining term of the bond.

3 (f) Payments shall be made in accordance with § 16-7-40 and this section.

4 (g) For purposes of financing or refinancing school facilities in the city of Central Falls
5 through the issuance bonds through the Rhode Island Health and Educational Building
6 Corporation, the city of Central Falls shall be considered an "educational institution" within the
7 meaning of subdivision 45-38.1-3(13) of the general laws.

8 **16-7-44. School housing project costs.**

9 School housing project costs, the date of completion of school housing projects, and the
10 applicable amount of school housing project cost commitments shall be in accordance with the
11 regulations of the commissioner of elementary and secondary education and the provisions of §§
12 16-7-35 -- 16-7-47; provided, however, that school housing project costs shall include the
13 purchase of sites, buildings, and equipment, the construction of buildings, and additions or
14 renovations of existing buildings and/or facilities. School housing project costs shall include the
15 cost of interest payment on any bond issued after July 1, 1988, provided that such bond is
16 approved by the voters on or before June 30, 2003, or issued by a municipal public building
17 authority or by the appropriate approving authority on or before June 30, 2003. Except as
18 provided in § 16-7-41(d) and §46-12.2-4.2(g), those projects approved after June 30, 2003,
19 interest payments may only be included in project costs provided that the bonds for these projects
20 are issued through the Rhode Island Health and Educational Building Corporation. School
21 housing project costs shall exclude: (1) any bond issuance costs incurred by the municipality or
22 regional school district; (2) demolition costs for buildings, facilities, or sites deemed surplus by
23 the school committee; and (3) restrictions pursuant to § 16-7-44.1 below. A building, facility, or
24 site is declared surplus by a school committee when the committee no longer has such building,
25 facility, or site under its direct care and control and transfers control to the municipality, § 16-2-
26 15. The board of regents for elementary and secondary education will promulgate rules and
27 regulations for the administration of this section. These rules and regulations may provide for the
28 use of lease revenue bonds, capital leases, or capital reserve funding, to finance school housing
29 provided that the term of any bond, or capital lease shall not be longer than the useful life of the
30 project and these instruments are subject to the public review and voter approval otherwise
31 required by law for the issuance of bonds or capital leases. Cities or towns issuing bonds, or
32 leases issued by municipal public buildings authority for the benefit of a local community
33 pursuant to chapter 50 of title 45 shall not require voter approval. Effective January 1, 2008, and
34 except for interim finance mechanisms, refunding bonds, borrowing from the school building

1 authority capital fund, and bonds issued by the Rhode Island Health and Educational Building
2 Corporation [or the Rhode Island Infrastructure Bank](#) to finance school housing projects for towns,
3 cities, or regional school districts borrowing for which has previously been authorized by an
4 enabling act of the general assembly, all bonds, notes and other forms of indebtedness issued in
5 support of school housing projects shall require passage of an enabling act by the general
6 assembly.

7 SECTION 2. Sections 24-18-3 and 24-18-7 of the General Laws in Chapter 24-18
8 entitled "Municipal Road and Bridge Revolving Fund" are hereby amended to read as follows:

9 **24-18-3. Definitions.**

10 As used in this chapter, the following terms, unless the context requires a different
11 interpretation, shall have the following meanings:

12 (1) "Agency" means the Rhode Island infrastructure bank as set forth in chapter 46-12.2;

13 (2) "Annual construction plan" means the finalized list of approved projects to commence
14 construction each calendar year;

15 (3) "Approved project" means any project approved by the agency for financial
16 assistance;

17 (4) "Department" means the department of transportation, or, if the department shall be
18 abolished, the board, body, or commission succeeding to the principal functions thereof or upon
19 whom the powers given by chapter 5 of title 37 to the department shall be given by law.

20 (5) "Eligible project" means an infrastructure plan, or portion of an infrastructure plan,
21 that meets the project evaluation criteria;

22 (6) "Financial assistance" means any form of financial assistance other than grants
23 provided by the agency to a city or town in accordance with this chapter for all or any part of the
24 cost of an approved project, including, without limitation, temporary and permanent loans, with
25 or without interest, guarantees, insurance, subsidies for the payment of debt service on loans,
26 lines of credit, and similar forms of financial assistance;

27 (7) "Infrastructure plan" means a project proposed by a city or town that would make
28 capital improvements to roads, bridges and appurtenances thereto consistent with project
29 evaluation criteria;

30 (8) "Market rate" means the rate the city or town would receive in the open market at the
31 time of the original loan agreement as determined by the agency in accordance with its rules and
32 regulations;

33 (9) "Project evaluation criteria" means the criteria used by the department to evaluate
34 infrastructure plans and rank eligible projects and shall include, [but not be limited to:](#)

- 1 (i) ~~The~~ The extent to which the project generates economic benefits; ;
- 2 (ii) ~~The~~ The extent to which the project would be able to proceed at an earlier date; ;
- 3 (iii) ~~The~~ The likelihood that the project would provide mobility benefits; ;
- 4 (iv) ~~The~~ The cost effectiveness of the project; ;
- 5 (v) ~~The~~ The likelihood that the project would increase safety; ; and
- 6 (vi) ~~The~~ The project's readiness to proceed within the forthcoming calendar year;

7 (10) "Project priority list" means the list of eligible projects ranked in the order in which

8 financial assistance shall be awarded by the agency pursuant to § 24-18-7;

9 (11) "Revolving fund" means the municipal road and bridge revolving fund established

10 under § 24-18-4; and

11 (12) "Subsidy assistance" means credit enhancements and other measures to reduce the

12 borrowing costs for a city or town.

13 **24-18-7. Procedure for project approval.**

14 (a) By September 1, 2013, the department shall promulgate rules and regulations

15 establishing the project evaluation criteria and the process through which a city or town may

16 submit an infrastructure plan. By December 31, 2013, the agency shall promulgate rules and

17 regulations to effectuate the provisions of this chapter which may include, without limitation,

18 forms for financial assistance applications, loan agreements, and other instruments. All rules and

19 regulations promulgated pursuant to this chapter shall be promulgated in accordance with the

20 provisions of chapter 42-35.

21 (b) ~~Beginning with the calendar year 2013 and for each calendar year thereafter, cities~~

22 Cities and towns shall ~~have from September 15th through October 15th to~~ submit ~~an~~

23 infrastructure ~~plan~~ plans to the department in accordance with the department's rules and

24 regulations promulgated pursuant to subsection (a) of this section. ~~In the event that October 15th~~

25 ~~is a Saturday, Sunday, or a general holiday as enumerated in § 25-1-1, the deadline shall be~~

26 ~~extended through the next day that is not a Saturday, Sunday, or a general holiday as enumerated~~

27 ~~in § 25-1-1.~~

28 (c) ~~By the end of each calendar year, the~~ The department shall evaluate all submitted

29 infrastructure plans and, in accordance with the project evaluation criteria, identify all eligible

30 projects, and ~~after a public hearing, the department~~ shall finalize and provide the agency and

31 statewide planning with a project priority list ~~for the forthcoming calendar year.~~ The agency shall

32 not award financial assistance to any project not listed on the project priority list.

33 (d) ~~By the end of each calendar year, the agency shall determine the maximum amount of~~

34 ~~financial assistance available for the forthcoming calendar year, provided that it shall not exceed~~

1 ~~an amount of twenty million dollars (\$20,000,000); and provided further that the~~ The agency shall
2 not obligate more than fifty percent (50%) of available funding in any calendar year to any one
3 city or town unless there are no other eligible projects on the project priority list.

4 (e) Upon issuance of the project priority list, the agency shall award financial assistance
5 to cities and towns for approved projects ~~provided, however, that the agency does not exceed its~~
6 ~~maximum annual amount of financial assistance~~. The agency may decline to award financial
7 assistance to an approved project which the agency determines will have a substantial adverse
8 effect on the interests of holders of bonds or other indebtedness of the agency or the interests of
9 other participants in the financial assistance program, or for good and sufficient cause affecting
10 the finances of the agency. All financial assistance shall be made pursuant to a loan agreement
11 between the agency and the city or town, acting by and through the officer or officers, board,
12 committee, or other body authorized by law, or otherwise its chief executive officer, according to
13 terms and conditions as determined by the agency, and each loan shall be evidenced and secured
14 by the issue to the agency of city or town obligations in fully marketable form in principal
15 amount, bearing interest at the rate or rates specified in the applicable loan agreement, and shall
16 otherwise bear such terms and conditions as authorized by this chapter and/or the loan agreement.

17 SECTION 3. Section 39-2-1.2 of the General Laws in Chapter 39-2 entitled "Duties of
18 Utilities and Carriers" is hereby amended to read as follows:

19 **39-2-1.2. Utility base rate -- Advertising, demand-side management and renewables.**

20 (a) In addition to costs prohibited in § 39-1-27.4(b), no public utility distributing or
21 providing heat, electricity, or water to or for the public shall include as part of its base rate any
22 expenses for advertising, either direct or indirect, which promotes the use of its product or
23 service, or is designed to promote the public image of the industry. No public utility may furnish
24 support of any kind, direct or indirect, to any subsidiary, group, association, or individual for
25 advertising and include the expense as part of its base rate. Nothing contained in this section shall
26 be deemed as prohibiting the inclusion in the base rate of expenses incurred for advertising,
27 informational or educational in nature, which is designed to promote public safety conservation of
28 the public utility's product or service. The public utilities commission shall promulgate such rules
29 and regulations as are necessary to require public disclosure of all advertising expenses of any
30 kind, direct or indirect, and to otherwise effectuate the provisions of this section.

31 (b) Effective as of January 1, 2008, and for a period of fifteen (15) years thereafter, each
32 electric-distribution company shall include a charge per kilowatt-hour delivered to fund demand-
33 side management programs. The 0.3 mills per kilowatt-hour delivered to fund renewable energy
34 programs shall remain in effect until December 31, 2022. The electric-distribution company shall

1 establish and, after July 1, 2007, maintain, two (2) separate accounts, one for demand-side
2 management programs (the "demand-side account"), which shall be funded by the electric
3 demand-side charge and administered and implemented by the distribution company, subject to
4 the regulatory reviewing authority of the commission, and one for renewable-energy programs,
5 which shall be administered by the Rhode Island commerce corporation pursuant to § 42-64-13.2
6 and shall be held and disbursed by the distribution company as directed by the Rhode Island
7 commerce corporation for the purposes of developing, promoting, and supporting renewable
8 energy programs.

9 During the time periods established in subsection (b), the commission may, in its
10 discretion, after notice and public hearing, increase the sums for demand-side management and
11 renewable resources. In addition, the commission shall, after notice and public hearing, determine
12 the appropriate charge for these programs. The office of energy resources and/or the administrator
13 of the renewable energy programs may seek to secure for the state an equitable and reasonable
14 portion of renewable energy credits or certificates created by private projects funded through
15 those programs. As used in this section, "renewable-energy resources" shall mean: (1) Power
16 generation technologies, as defined in § 39-26-5, "eligible renewable-energy resources",
17 including off-grid and on-grid generating technologies located in Rhode Island, as a priority; (2)
18 Research and development activities in Rhode Island pertaining to eligible renewable-energy
19 resources and to other renewable-energy technologies for electrical generation; or (3) Projects and
20 activities directly related to implementing eligible renewable-energy resources projects in Rhode
21 Island. Technologies for converting solar energy for space heating or generating domestic hot
22 water may also be funded through the renewable-energy programs. Fuel cells may be considered
23 an energy efficiency technology to be included in demand-sided management programs. Special
24 rates for low-income customers in effect as of August 7, 1996, shall be continued, and the costs of
25 all of these discounts shall be included in the distribution rates charged to all other customers.
26 Nothing in this section shall be construed as prohibiting an electric-distribution company from
27 offering any special rates or programs for low-income customers which are not in effect as of
28 August 7, 1996, subject to the approval by the commission.

29 (1) The renewable energy investment programs shall be administered pursuant to rules
30 established by the Rhode Island commerce corporation. Said rules shall provide transparent
31 criteria to rank qualified renewable-energy projects, giving consideration to:

- 32 (i) the feasibility of project completion;
- 33 (ii) the anticipated amount of renewable energy the project will produce;
- 34 (iii) the potential of the project to mitigate energy costs over the life of the project; and

1 (iv) the estimated cost per kilo-watt hour (kwh) of the energy produced from the project.

2 (c) [Deleted by P.L. 2012, ch. 241, art. 4, § 14].

3 (d) The executive director of the commerce corporation is authorized and may enter into
4 a contract with a contractor for the cost-effective administration of the renewable-energy
5 programs funded by this section. A competitive bid and contract award for administration of the
6 renewable-energy programs may occur every three (3) years and shall include, as a condition, that
7 after July 1, 2008, the account for the renewable-energy programs shall be maintained and
8 administered by the commerce corporation as provided for in subsection (b).

9 (e) Effective January 1, 2007, and for a period of sixteen (16) years thereafter, each gas-
10 distribution company shall include, with the approval of the commission, a charge per deca therm
11 delivered to fund demand-side management programs (the "gas demand-side charge"), including,
12 but not limited to, programs for cost-effective energy efficiency, energy conservation, combined
13 heat and power systems, and weatherization services for low-income households.

14 (f) Each gas company shall establish a separate account for demand-side management
15 programs (the "gas demand-side account"), which shall be funded by the gas demand-side charge
16 and administered and implemented by the distribution company, subject to the regulatory
17 reviewing authority of the commission. The commission may establish administrative
18 mechanisms and procedures that are similar to those for electric demand-side management
19 programs administered under the jurisdiction of the commission and that are designed to achieve
20 cost-effectiveness and high, life-time savings of efficiency measures supported by the program.

21 (g) The commission may, if reasonable and feasible, except from this demand-side
22 management charge:

23 (i) Gas used for distribution generation; and

24 (ii) Gas used for the manufacturing processes, where the customer has established a self-
25 directed program to invest in and achieve best-effective energy efficiency in accordance with a
26 plan approved by the commission and subject to periodic review and approval by the
27 commission, which plan shall require annual reporting of the amount invested and the return on
28 investments in terms of gas savings.

29 (h) The commission may provide for the coordinated and/or integrated administration of
30 electric and gas demand-side management programs in order to enhance the effectiveness of the
31 programs. Such coordinated and/or integrated administration may after March 1, 2009, upon the
32 recommendation of the office of energy resources, be through one or more third-party entities
33 designated by the commission pursuant to a competitive selection process.

34 (i) Effective January 1, 2007, the commission shall allocate from demand-side

1 management gas and electric funds authorized pursuant to this section, an amount not to exceed
2 two percent (2%) of such funds on an annual basis for the retention of expert consultants, and
3 reasonable administration costs of the energy efficiency and resources management council
4 associated with planning, management, and evaluation of energy-efficiency programs, renewable-
5 energy programs, system reliability least-cost procurement, and with regulatory proceedings,
6 contested cases, and other actions pertaining to the purposes, powers, and duties of the council,
7 which allocation may by mutual agreement, be used in coordination with the office of energy
8 resources to support such activities.

9 (j) Effective January 1, 2016, the commission shall annually allocate from the
10 administrative funding amount allocated in (i) from the demand-side management program as
11 described in subsection (i) as follows: fifty percent (50%) for the purposes identified in
12 subsection (i) and fifty percent (50%) annually to the office of energy resources for activities
13 associated with planning, management, and evaluation of energy-efficiency programs, renewable-
14 energy programs, system reliability, least-cost procurement, and with regulatory proceedings,
15 contested cases, and other actions pertaining to the purposes, powers, and duties of the office of
16 energy resources.

17 (k) On April 15, of each year, the office and the council shall submit to the governor, the
18 president of the senate, and the speaker of the house of representatives, separate financial and
19 performance reports regarding the demand-side management programs, including the specific
20 level of funds that were contributed by the residential, municipal, and commercial and industrial
21 sectors to the overall programs; the businesses, vendors, and institutions that received funding
22 from demand-side management gas and electric funds used for the purposes in this section; and
23 the businesses, vendors, and institutions that received the administrative funds for the purposes in
24 subsections (i) and (j). These reports shall be posted electronically on the websites of the office of
25 energy resources and the energy efficiency resource management council.

26 (l) On or after August 1, 2015, at the request of the Rhode Island infrastructure bank,
27 each electric-distribution company, except for the Pascoag Utility District and Block Island
28 Power Company, shall remit two percent (2%) of the amount of the 2014 electric demand-side
29 charge collections to the Rhode Island infrastructure bank ~~in accordance with the terms of § 46-~~
30 ~~12.2-14.1.~~

31 (m) On or after August 1, 2015, at the request of the Rhode Island infrastructure bank,
32 each gas-distribution company shall remit two percent (2%) of the amount of the 2014 gas
33 demand-side charge collections to the Rhode Island infrastructure bank ~~in accordance with the~~
34 ~~terms of § 46-12.2-14.1.~~

1 SECTION 4. Sections 39-26.5-2, 39-26.5-4.1, 39-26.5-6 and 39-26.5-11 of the General
2 Laws in Chapter 39-26.5 entitled "Property Assessed Clean Energy Program" are hereby
3 amended to read as follows:

4 **39-26.5-2. Definitions.**

5 As used in this chapter, the following definitions apply:

6 (1) "Commercial property" means a property operated for commercial purposes, or a
7 residential property which contains five (5) or more housing units.

8 (2) "Distributed generation system" means an electrical generation facility located in the
9 electric distribution company's load zone with a nameplate capacity no greater than five
10 megawatts (5 MW), using eligible renewable energy resources as defined by § 39-26-5, including
11 biogas created as a result of anaerobic digestion, but, specifically excluding all other listed
12 eligible biomass fuels, and connected to an electrical power system owned, controlled, or
13 operated by the electric distribution company.

14 (3) "Dwelling" means a residential structure or mobile home which contains one to four
15 (4) family housing units, or individual units of condominiums or cooperatives.

16 (4) "Eligible net-metering system" means a facility generating electricity as defined in §
17 39-26.4-2.

18 (5) "Eligible renewable energy resources" means resources as defined in § 39-26-5.

19 (6) "Energy efficiency projects" means those projects that are eligible under § 39-1-27.7
20 or projects that have been defined as eligible in the PACE rules and regulations.

21 (7) "Institution" means a private entity or quasi-state agency.

22 (8) "Loan loss reserve fund" or "(LRF)" means funds set aside to cover losses in the event
23 of loan defaults.

24 (9) "Municipality" or "towns and cities" means any Rhode Island town or city with
25 powers set forth in title 45 of the general laws.

26 (10) "Net metering" means using electricity as defined in § 39-26.4-2.

27 (11) "PACE assessment" or "assessment" means the special assessment placed on a
28 PACE property owner's property tax [or other municipal assessment](#) bill in accordance with this
29 chapter, to be collected by [or on behalf of](#) the PACE municipality in which that PACE property is
30 located and remitted to [the Rhode Island Infrastructure Bank or to](#) the lender that has financed
31 that PACE project. The PACE assessment shall be owed by the current owner of the related
32 PACE property as of the time each PACE assessment comes due. In the event of a transfer of
33 ownership, all PACE assessments coming due after the date of the transfer, by foreclosure or
34 otherwise, shall be owed by the transferee.

1 (12) "PACE lien" means the non-accelerating lien placed on a PACE property in
2 accordance with the rules and regulations promulgated by the Rhode Island infrastructure bank
3 pursuant to this chapter, in order to secure the repayment of a PACE assessment made in
4 connection with that PACE property and to secure the repayment of each PACE assessment to be
5 made by that PACE property owner as each assessment comes due.

6 (13) "PACE municipality" means a municipality voluntarily designated by its city or
7 town council as a property-assessed clean energy municipality.

8 (14) "PACE project" or "project" means a distinct installation of an eligible energy
9 efficiency system, renewable energy net-metering system, distributed generation system,
10 alternative fuel infrastructure upgrade, and/or other eligible environmental health and
11 environmental safety upgrades.

12 (15) "PACE property" or "property" means any residential property or commercial
13 property which is the subject of an approved application for a PACE project filed pursuant to this
14 chapter.

15 (16) "Past due balances" means the sum of the due and unpaid assessments on a PACE
16 property as of the time the ownership of that PACE property is transferred. "Past due balances"
17 does not mean the unaccelerated balance of the PACE loan at the time that property is transferred.

18 (17) "Property-assessed clean energy" or "PACE" is a voluntary financing mechanism
19 which allows both residential and commercial property owners to access affordable, long-term
20 financing for energy upgrades, and other eligible environmental health and environmental safety
21 upgrades on their property.

22 (18) "Rhode Island infrastructure bank" means the Rhode Island infrastructure bank
23 ("RIIB"). For the purposes of this chapter, Rhode Island infrastructure bank shall include other
24 related state agencies and/or third party administrators, as may be engaged by the Rhode Island
25 infrastructure bank for the purposes of providing the services envisioned by the rules and
26 regulations promulgated in accordance with § 39-26.5-11.

27 **39-26.5-4.1. Financing agreements -- PACE assessments -- PACE liens.**

28 (a) The Rhode Island infrastructure bank [or a third-party capital provider](#) may enter into a
29 financing agreement with a qualifying PACE property owner. After such agreement is entered
30 into, and upon notice from the Rhode Island infrastructure bank, the PACE municipality shall: (i)
31 place a caveat on the land records indicating that a PACE assessment and lien is anticipated upon
32 completion of the PACE project for such property; or (ii) at the direction of the Rhode Island
33 infrastructure bank, levy the PACE assessment and file a lien on the land records on the estimated
34 costs of the PACE project prior to the completion or upon the completion of said PACE project.

1 (b) PACE assessments levied pursuant to this chapter and the interest, fees and any
2 penalties thereon shall constitute a lien against the qualifying PACE property on which they are
3 made until they are paid. Such lien shall be collected in the same manner as the property taxes of
4 the PACE municipality on real property, including, in the event of default or delinquency, with
5 respect to any penalties, fees and remedies. Each such lien may be recorded and released in the
6 manner provided for property tax liens and if the property is commercial property as defined
7 herein it shall be subject to the consent of existing mortgage holders. The PACE lien shall take
8 precedence over all other liens or encumbrances except a lien for taxes of the municipality on real
9 property, or if the subject property is residential property as defined herein the PACE lien shall be
10 subject to any prior recorded mortgage which lien for taxes or pre-recorded residential mortgage
11 shall have priority over such PACE assessment lien. To the extent PACE assessments are paid in
12 installments and any such installment is not paid when due, the PACE assessment lien may be
13 foreclosed to the extent of any unpaid installment payments and any penalties, interest, and fees
14 related thereto. In the event such PACE assessment lien is foreclosed, such PACE assessment lien
15 shall survive the judgment of foreclosure to the extent of any unpaid installment payments of the
16 PACE assessment secured by such PACE assessment lien that were not the subject of such
17 judgment.

18 (c) Any PACE municipality may assign to the Rhode Island infrastructure bank any and
19 all liens filed by the PACE municipality, as provided in the written agreement between the
20 participating municipality and the Rhode Island infrastructure bank. The Rhode Island
21 infrastructure bank may sell or assign, for consideration, any and all liens received from the
22 participating municipality. The consideration received by the Rhode Island infrastructure bank
23 shall be negotiated between the Rhode Island infrastructure bank and the assignee. The assignee
24 or assignees of such liens shall have and possess the same powers and rights at law or in equity as
25 the Rhode Island infrastructure bank and the participating municipality and its tax collector would
26 have had if the lien had not been assigned with regard to the precedence and priority of such lien,
27 the accrual of interest and the fees and expenses of collection. The assignee shall have the same
28 rights to enforce such liens as any private party holding a lien on real property, including, but not
29 limited to, foreclosure and a suit on the debt. Costs and reasonable attorneys' fees incurred by the
30 assignee as a result of any foreclosure action or other legal proceeding brought pursuant to this
31 section and directly related to the proceeding shall be taxed in any such proceeding against each
32 person having title to any property subject to the proceedings. Such costs and fees may be
33 collected by the assignee at any time after demand for payment has been made by the assignee.

34 **39-26.5-6. Priority of PACE lien.**

1 (a) A PACE lien on a residential property shall be: subordinate to all liens on the
2 residential property in existence at the time the residential PACE lien is filed; subordinate to a
3 first mortgage on the residential property recorded after such PACE lien is filed; and superior to
4 any other lien on the residential recorded after such PACE lien is filed. This subsection shall not
5 affect the status or priority of any other municipal or statutory lien.

6 (b) At the time of a transfer of property ownership of a residential property, including by
7 foreclosure, the past due balances of any special assessment under this chapter shall be due for
8 payment. In the event of a foreclosure action, the past due balances shall include all payments on
9 a PACE assessment that are due and unpaid as of the date of the foreclosure. Unless otherwise
10 agreed by the PACE lender, all payments on the PACE assessment that become due after the date
11 of transfer by foreclosure or otherwise shall continue to be secured by a PACE lien on the PACE
12 property and shall be the responsibility of the transferee.

13 (c) A PACE lien on a commercial property shall be: senior to all liens on the commercial
14 property in existence at the time the PACE lien is filed, subject to the consent of the ~~senior~~
15 existing mortgage ~~holder~~ holders on the property; senior to all liens filed or recorded after the
16 time the PACE lien is created; but junior to a municipal tax lien.

17 (d) At the time of a transfer of property ownership of a commercial property, including
18 by tax sale, in accordance with §44-9-32, or foreclosure, the past due balances of any PACE
19 assessment under this chapter shall be due for payment. Unless otherwise agreed by the PACE
20 lender, all payments of PACE assessments that become due after the date of transfer by tax sale,
21 in accordance with §44-9-32, or foreclosure, or otherwise shall be secured by a PACE lien on the
22 PACE property and shall be the responsibility of the transferee.

23 **39-26.5-11. Rules and regulations.**

24 (a) The Rhode Island infrastructure bank shall consult with the office of energy resources
25 to promulgate rules and regulations, in accordance with this section, and in accordance with
26 chapter 35 of title 42. Such rules and regulations should ensure that the PACE program does not
27 adversely affect the implementation of any other energy program in whose coordination the
28 Rhode Island infrastructure bank or the office of energy resources is involved. Such rules and
29 regulations shall include, but not be limited to, the following:

30 (1) The necessary application requirements and procedures for any residential property
31 owner or commercial property owner seeking PACE financing;

32 (2) The necessary qualifications and requirements for a proposed PACE project;

33 (3) The underwriting criteria to be applied in determining the eligibility of properties and
34 property owners for PACE projects; and

1 (4) Requirements that all existing lien holders on a property be given notice prior to a
2 PACE assessment and lien being filed in connection with that property and that all commercial
3 property owners seeking a commercial PACE loan receive consent of the ~~primary~~ existing
4 mortgage ~~holder~~ holders on that property prior to being eligible.

5 (b) The Rhode Island infrastructure bank shall be responsible for promulgating
6 agreements, forms and other documents necessary for the efficient administration of the PACE
7 program.

8 SECTION 5. Sections 46-12.2-2 and 46-12.2-4.2 of the General Laws in Chapter 46-12.2
9 entitled "Rhode Island Infrastructure Bank" are hereby amended to read as follows:

10 **46-12.2-2. Definitions.**

11 As used in this chapter, unless the context clearly indicates otherwise, the following
12 words and phrases shall have the following meanings:

13 (1) "Agency" means the Rhode Island clean water finance agency, and, effective
14 September 1, 2015 and thereafter, shall mean the Rhode Island infrastructure bank;

15 (2) "Approved project" means any project or portion thereof that has been issued a
16 certificate of approval by the department for financial assistance from the agency, and also
17 includes any project approved for financial assistance from the agency in accordance with state
18 law, and, furthermore, shall include water pollution abatement projects funded outside of the
19 water pollution control revolving fund, the Rhode Island water pollution control revolving fund,
20 or the local interest subsidy trust fund, without the requirement of the issuance of a certificate of
21 approval;

22 (3) "Board" means board of directors of the agency;

23 (4) "Bond act" means any general or special law authorizing a local governmental unit to
24 incur indebtedness for all or any part of the cost of projects coming within the scope of a water
25 pollution abatement project, or for other projects related to this chapter, including but not limited
26 to § 45-12-2;

27 (5) "Bonds" means bonds, notes, or other evidence of indebtedness of the agency;

28 (6) "Certificate of approval" means the certificate of approval contemplated by § 46-12.2-
29 8;

30 (7) "Chief executive officer" means the mayor in any city, the president of the town
31 council in any town, and the executive director of any authority or commission, unless some other
32 officer or body is designated to perform the functions of a chief executive officer under any bond
33 act or under the provisions of a local charter or other law;

34 (8) "Clean Water Act" or "act" means the Federal Water Pollution Control Act, act of

1 June 30, 1948, ch. 758, as added Oct. 18, 1972, Pub. L. No. 92-500, 86 Stat. 896, as added Dec.
2 27, 1977, Pub. L. No. 95-217, 91 Stat. 1566 (codified at 33 U.S.C. § 1251 et seq., as amended and
3 as hereafter amended from time to time);

4 (9) "Corporation" means any corporate person, including, but not limited to, ~~bodies~~
5 ~~politic and corporate, public departments, public offices, public agencies, public authorities,~~
6 ~~political subdivisions of the state,~~ corporations, societies, associations, limited liability
7 companies, partnerships and sole proprietorships;

8 (10) "Cost" as applied to any approved project, means any or all costs, whenever
9 incurred, approved by the agency in accordance with section eight of this chapter, of planning,
10 designing, acquiring, constructing, and carrying out and placing the project in operation,
11 including, without limiting the generality of the foregoing, amounts for the following: planning,
12 design, acquisition, construction, expansion, improvement and rehabilitation of facilities;
13 acquisition of real or personal property; demolitions and relocations; labor, materials, machinery
14 and equipment; services of architects, engineers, and environmental and financial experts and
15 other consultants; feasibility studies, plans, specifications, and surveys; interest prior to and
16 during the carrying out of any project and for a reasonable period thereafter; reserves for debt
17 service or other capital or current expenses; costs of issuance of local governmental obligations or
18 non-governmental obligations issued to finance the obligations including, without limitation, fees,
19 charges, and expenses and costs of the agency relating to the loan evidenced thereby, fees of
20 trustees and other depositories, legal and auditing fees, premiums and fees for insurance, letters or
21 lines of credit or other credit facilities securing local governmental obligations or non-
22 governmental obligations and other costs, fees, and charges in connection with the foregoing; and
23 working capital, administrative expenses, legal expenses, and other expenses necessary or
24 incidental to the aforesaid, to the financing of a project and to the issuance therefor of local
25 government obligations under the provisions of this chapter;

26 (11) "Department" means the department of environmental management;

27 (12) "Projected energy efficiency savings" means, at the time a loan agreement is entered
28 into between the agency and a local governmental unit, the savings projected to be derived from
29 the implementation of energy efficient and renewable energy upgrades to public buildings, as
30 determined in accordance with the rules and regulations promulgated by the Rhode Island
31 infrastructure bank pursuant to this chapter;

32 (13) "Financial assistance" means any form of financial assistance provided by the
33 agency to a local governmental unit, person or corporation in accordance with this chapter for all
34 or any part of the cost of an approved project, including, without limitation, grants, temporary and

1 permanent loans, with or without interest, guarantees, insurance, subsidies for the payment of
2 debt service on loans, lines of credit, and similar forms of financial assistance; provided,
3 however, notwithstanding the foregoing, for purposes of capitalization grant awards made
4 available to the agency, pursuant to the American Recovery and Reinvestment Act of 2009 (P.L.
5 111-5), or as otherwise required in connection with other capitalization grant awards made
6 available to the agency, financial assistance shall also include principal forgiveness and negative
7 interest loans;

8 (14) "Fully marketable form" means a local governmental obligation in form satisfactory
9 to the agency duly executed and accompanied by an opinion of counsel of recognized standing in
10 the field of municipal law whose opinions have been and are accepted by purchasers of like
11 obligations to the effect that the obligation is a valid and binding obligation of the local
12 governmental unit issuing the obligation, enforceable in accordance with its terms;

13 (15) "General revenues", when used with reference to a local governmental unit, means
14 revenues, receipts, assessments, and other moneys of the local governmental unit received from
15 or on account of the exercise of its powers and all rights to receive the same, including without
16 limitation:

17 (i) Taxes,

18 (ii) Wastewater system revenues,

19 (iii) Assessments upon or payments received from any other local governmental unit
20 which is a member or service recipient of the local governmental unit, whether by law, contract,
21 or otherwise,

22 (iv) Proceeds of local governmental obligations and loans and grants received by the
23 local governmental unit in accordance with this chapter,

24 (v) Investment earnings,

25 (vi) Reserves for debt service or other capital or current expenses,

26 (vii) Receipts from any tax, excise, or fee heretofore or hereafter imposed by any general
27 or special law all or a part of the receipts of which are payable or distributable to or for the
28 account of the local governmental unit,

29 (viii) Local aid distributions, and

30 (ix) Receipts, distributions, reimbursements, and other assistance received by or for the
31 account of the local governmental unit from the United States or any agency, department, or
32 instrumentality thereof;

33 (16) "Loan" means a loan by the agency to a local governmental unit, or person, or
34 corporation for costs of an approved project, including, without limitation, temporary and

1 permanent loans, and lines of credit;

2 (17) "Loan agreement" means any agreement entered into by the agency with a local
3 governmental unit, person, or corporation pertaining to a loan, other financial assistance, local
4 governmental obligations, or non-governmental obligations, including, without limitation, a loan
5 agreement, trust agreement, security agreement, reimbursement agreement, guarantee agreement,
6 financing lease agreement, appropriate agreement, or similar instrument;

7 (18) "Local aid distributions" means receipts, distributions, reimbursements, and other
8 assistance payable by the state to or for the account of a local governmental unit, except such
9 receipts, distributions, reimbursements, and other assistance restricted by law to specific
10 statutorily defined purposes;

11 (19) "Local governmental obligations" means bonds, notes, financing lease obligations,
12 appropriation obligations, and other evidences of indebtedness in fully marketable form issued by
13 a local governmental unit to evidence a loan or other financial assistance, from the agency in
14 accordance with this chapter or otherwise as provided herein;

15 (20) "Local governmental unit" means any town, city, district, commission, agency,
16 authority, board, [bodies politic and corporate, public corporation](#), or other political subdivision or
17 instrumentality of the state or of any political subdivision thereof, including the Narragansett Bay
18 commission; and, for purposes of dam safety or dam maintenance projects, any person seeking
19 financial assistance as a joint applicant with any of the above entities;

20 (21) "Local interest subsidy trust fund" means the local interest subsidy trust fund
21 established under § 46-12.2-6;

22 (22) "Non-governmental obligations" means bonds, notes, or other evidences of
23 indebtedness in fully marketable form issued by a person or corporation to evidence a loan, or
24 other financial assistance, from the agency in accordance with this chapter or otherwise as
25 provided herein.

26 (23) "Person" means any natural person;

27 (24) "Priority determination system" means the system by which water pollution
28 abatement projects are rated on the basis of environmental benefit and other criteria for funding
29 assistance pursuant to rules and regulations promulgated by the department as they may be
30 amended from time to time;

31 (25) "Qualified energy conservation bond" or "QECCB" means those bonds designated by
32 26 U.S.C. § 54D.

33 (26) "Revenues", when used with reference to the agency, means any receipts, fees,
34 payments, moneys, revenues, or other payments received or to be received by the agency in the

1 exercise of its corporate powers under this chapter, including, without limitation, loan
2 repayments, payments on local governmental obligations, non-governmental obligations, grants,
3 aid, appropriations, and other assistance from the state, the United States, or any agency,
4 department, or instrumentality of either or of a political subdivision thereof, bond proceeds,
5 investment earnings, insurance proceeds, amounts in reserves, and other funds and accounts
6 established by or pursuant to this chapter or in connection with the issuance of bonds, including,
7 without limitation, the water pollution control revolving fund, the Rhode Island water pollution
8 control revolving fund, and the local interest subsidy fund, and any other fees, charges or other
9 income received or receivable by the agency;

10 (27) "Rhode Island water pollution control revolving fund" means the Rhode Island water
11 pollution control revolving fund established pursuant to § 46-12.2-6;

12 (28) "Trust agreement" means a trust agreement, loan agreement, security agreement,
13 reimbursement agreement, currency or interest rate exchange agreement, or other security
14 instrument, and a resolution, loan order, or other vote authorizing, securing, or otherwise
15 providing for the issue of bonds, loans, or local governmental obligations or non-governmental
16 obligations;

17 (29) "Wastewater system revenues" means all rates, rents, fee assessments, charges, and
18 other receipts derived or to be derived by a local governmental unit from wastewater collection
19 and treatment facilities and water pollution abatement projects under its ownership or control, or
20 from the services provided thereby, including, without limitation, proceeds of grants, gifts,
21 appropriations, and loans, including the proceeds of loans or grants awarded by the agency or the
22 department in accordance with this chapter, investment earnings, reserves for capital and current
23 expenses, proceeds of insurance or condemnation, and the sale or other disposition of property;
24 wastewater system revenues may also include rates, rents, fees, charges, and other receipts
25 derived by the local governmental unit from any water supply or distribution facilities or other
26 revenue producing facilities under its ownership or control; wastewater system revenues shall not
27 include any ad valorem taxes levied directly by the local governmental unit on any real and
28 personal property;

29 (30) "Water pollution abatement project" or "project" means any project eligible pursuant
30 to Title VI of the Clean Water Act including, but not limited to, wastewater treatment or
31 conveyance project that contributes to removal, curtailment, or mitigation of pollution of the
32 surface water of the state, and conforms with any applicable comprehensive land use plan which
33 has been adopted or any dam safety, removal or maintenance project; it also means a project to
34 enhance the waters of the state, which the agency has been authorized by statute to participate in;

1 it also means any other project to which the agency has been authorized to provide financial
2 assistance;

3 (31) "Water pollution control revolving fund" means the water pollution control
4 revolving fund contemplated by title VI of the Water Quality Act and established under § 46-
5 12.2-6;

6 (32) "Water Quality Act" means the Water Quality Act of 1987, Pub. L. No. 100-4, 101
7 Stat. 7, 33 U.S.C. § 1251 et seq., as amended from time to time.

8 **46-12.2-4.2. Establishment of the efficient buildings fund.**

9 (a) There is hereby authorized and created within the Rhode Island infrastructure bank an
10 efficient buildings fund for the purpose of providing technical, administrative and financial
11 assistance to local governmental units for energy efficient and renewable energy upgrades to
12 public buildings and infrastructure, including, but not limited to, streetlights. The Rhode Island
13 infrastructure bank shall review and approve all applications for projects to be financed through
14 the efficient buildings fund.

15 The office of energy resources shall promulgate rules and regulations establishing a
16 project priority list for efficient buildings fund and the process through which a local
17 governmental unit may submit an application for inclusion of a project on the project priority list.
18 Upon issuance of the project priority list by the office of energy resources, the project priority list
19 shall be used by the Rhode Island infrastructure bank to determine the order in which financial
20 assistance shall be awarded. The Rhode Island infrastructure bank shall promulgate rules and
21 regulations to effectuate the provisions of this section which may include, without limitation,
22 forms for financial assistance applications, loan agreements, and other instruments. All rules and
23 regulations promulgated pursuant to this chapter shall be promulgated in accordance with the
24 provisions of chapter 35 of title 42. Eligibility for receipt of this financial assistance by a local
25 governmental unit shall be conditioned upon that local governmental unit reallocating their
26 remaining proportional QECB allocation to the state of Rhode Island.

27 (b) The Rhode Island infrastructure bank shall have all the powers necessary and
28 convenient to carry out and effectuate the purposes and provisions of this section including,
29 without limiting the generality of the preceding statement, the authority:

30 (1) To receive and disburse such funds from the state and federal government as may be
31 available for the purpose of the fund subject to the provisions of this section;

32 (2) To make and enter into binding commitments to provide financial assistance to
33 eligible borrowers from amounts on deposit in the fund;

34 (3) To levy administrative fees on eligible borrowers as necessary to effectuate the

1 provisions of this section, provided the fees have been previously authorized by an agreement
2 between the Rhode Island infrastructure bank and the eligible borrower;

3 (4) To engage the services of third-party vendors to provide professional services;

4 (5) To establish one or more accounts within the fund; and

5 (6) Such other authority as granted to the Rhode Island infrastructure bank under this
6 chapter.

7 (c) Subject to the provisions of this section and to any agreements with the holders of any
8 bonds of the Rhode Island infrastructure bank or any trustee therefor, amounts held by the Rhode
9 Island infrastructure bank for the account of the fund shall be applied by the Rhode Island
10 infrastructure bank, either by direct expenditure, disbursement, or transfer to one or more other
11 funds and accounts held by the Rhode Island infrastructure bank or maintained under any trust
12 agreement pertaining to bonds, either alone or with other funds of the Rhode Island infrastructure
13 bank, to the following purposes:

14 (1) To provide financial assistance to local governmental units to finance costs of
15 approved projects, as set forth in subsection (a), and to refinance the costs of the projects, subject
16 to such terms and conditions, if any, as are determined by the Rhode Island infrastructure bank;

17 (2) To fund reserves for bonds of the Rhode Island infrastructure bank and to purchase
18 insurance and pay the premiums therefor, and pay fees and expenses of letters or lines of credit
19 and costs of reimbursement to the issuers thereof for any payments made thereon or on any
20 insurance, and to otherwise provide security for, and a source of payment for obligations of the
21 Rhode Island infrastructure bank, by pledge, lien, assignment, or otherwise as provided in this
22 chapter;

23 (3) To pay expenses of the Rhode Island infrastructure bank in administering the fund;

24 (4) To provide a reserve for, or to otherwise secure, amounts payable by borrowers on
25 loans and obligations outstanding in the event of default thereof; amounts in any account in the
26 fund may be applied to defaults on loans outstanding to the borrower for which the account was
27 established and, on a parity basis with all other accounts, to defaults on any loans or obligations
28 outstanding; and

29 (5) To provide a reserve for, or to otherwise secure, by pledge, lien, assignment, or
30 otherwise as provided in this chapter, any bonds of the Rhode Island infrastructure bank.

31 (d) In addition to other remedies of the Rhode Island infrastructure bank under any loan
32 agreement or otherwise provided by law, the Rhode Island infrastructure bank may also recover
33 from a borrower, in an action in superior court, any amount due the Rhode Island infrastructure
34 bank together with any other actual damages the Rhode Island infrastructure bank shall have

1 sustained from the failure or refusal of the borrower to make the payments or abide by the terms
2 of the loan agreement.

3 (e) The Rhode Island infrastructure bank may create one or more loan loss reserve funds
4 to serve as further security for any loans made by the Rhode Island infrastructure bank or any
5 bonds of the Rhode Island infrastructure bank issued to fund energy efficiency improvements in
6 public buildings in accordance with this section.

7 (f) To the extent possible, and in accordance with law, the ~~infrastructure bank~~ [Rhode](#)
8 [Island Infrastructure Bank](#) shall encourage the use of project labor agreements for projects over
9 ten million dollars (\$10,000,000) and local hiring on projects funded under this section.

10 (g) ~~Any financial assistance provided by the Rhode Island infrastructure bank to a public~~
11 ~~entity for the purpose of retrofitting a school building shall not be subject to the match established~~
12 ~~by Rhode Island general laws §§ 16-7-35 to 16-7-47, and shall be made subject to coordination~~
13 ~~with the Rhode Island department of education.~~ [Notwithstanding any provisions to the contrary in](#)
14 [chapter 7 of title 16, but subject to § 16-7-41\(c\), any approved project as set forth in subsection \(a\)](#)
15 [of this section that is also an "approved project" as defined in § 16-7-36 shall be eligible for](#)
16 [school housing aid assistance under § 16-7-35 through 16-7-47, and shall include the payment of](#)
17 [interest on bonds, lease revenue bonds, capital leases, or capital reserve funding issued by a local](#)
18 [governmental unit.](#)

19 SECTION 6. Sections 46-15.3-4 and 46-15.3-11 of the General Laws in Chapter 46-15.3
20 entitled "Public Drinking Water Supply System Protection" are hereby amended to read as
21 follows:

22 **46-15.3-4 Definitions.**

23 As used in this chapter, the following words and phrases shall have the following
24 meanings, unless the context shall indicate another or different meaning or intent:

25 (1) "Aquifer" means a geologic formation, group of formations, or part of a formation
26 capable of yielding a significant amount of groundwater to wells, springs, or surface water.

27 (2) "Commercial agricultural producers" means purveyors of at least two thousand five
28 hundred dollars (\$2,500) of agricultural products during a calendar year.

29 (3) "Eligible expenditure" means, [but is not limited to](#), the acquisition of a fee simple
30 interest or of a conservation restriction, as that term is defined in § 34-39-2(a), or other interest in
31 watershed lands, including, but not limited to, costs and expenses relating to the improvement of
32 the lands or interests therein, maintenance of the lands or roads or interests therein, and taxes
33 thereon, or the funding of the construction of physical improvements that directly protect the
34 quality and safety of public drinking water [systems](#) ~~supply~~. No funds under this section shall be

1 used to extend service lines or expand system capacity.

2 (4) "Ground water" means water found underground which completely fills the open
3 spaces between particles of sand, gravel, clay, silt, and consolidated rock fractures. The zone of
4 materials filled with groundwater is called the zone of saturation.

5 (5) "Ground water recharge" means the processes of addition of water to the zone of
6 saturation, that zone beneath the water table.

7 (6) "Raw water" means water in its natural state prior to any treatment.

8 (7) "Recharge area" means an area in which water is absorbed that eventually reaches the
9 zone of saturation.

10 (8) "Sale" means all retail sales of potable water to end users for any purpose in the
11 ordinary course of business by a supplier, except for sales exempt pursuant to § 46-15.3-5(c), (d)
12 and (e).

13 (9) "Source" means the raw water upon which a public water supply system abounds, and
14 refers to both groundwater and surface water.

15 (10) "Supplier(s) of public drinking water" and "supplier(s)" mean any city, town,
16 district, or other municipal, quasi municipal, or public or private corporation or company engaged
17 in the sale of potable water and the water supply business in Rhode Island; ~~provided, however,~~
18 ~~that only suppliers which withdraw water from wells, reservoirs, springs, or other original sources~~
19 ~~in potable quality shall be entitled to disbursements pursuant to § 46-15.3-11.~~

20 (11) "The fund" means the water quality protection funds as described in § 46-15.3-10.

21 (12) "Watersheds" means those land areas which, because of their topography, soil type,
22 and drainage patterns, act as collectors of raw waters which replenish or regorge existing or
23 planned public drinking water supplies.

24 (13) "Non-billed water" means the difference between water produced by a supplier and
25 water sold by the same supplier.

26 (14) "Leakage" means the difference between non-billed water and the total of the
27 estimated or measured allowances for fire fighting, meter inaccuracy, theft, system usage, main
28 flushing, sewer cleaning, storm drain cleaning, and other allowances that may be developed by
29 the water resources board.

30 **46-15-3-11. Disbursements from the funds.**

31 (a) ~~Only suppliers which withdraw water from wells, reservoirs, springs, or other original~~
32 ~~sources of potable water shall be entitled to disbursements from the first of the two (2) mentioned~~
33 ~~funds created under § 46-15.3-10 administered by the water resources board.~~ From amounts
34 available from bond proceeds or otherwise collected and held by the water resources board

1 pursuant to this chapter, that board shall disburse to each supplier contributing to the fund a
2 proportional amount based upon each supplier's pro rata contribution to the first of the two
3 mentioned funds created under §46-15.3-10 ~~withdrawal of water by volume from wells,~~
4 ~~reservoirs, springs, or other original sources of water~~ averaged over the three (3) calendar years
5 preceding disbursement as determined by the water resources board. Suppliers shall be required
6 to expend this money for any eligible expenditure as defined in §46-15.3-4 including, but not
7 limited to, as follows:

8 ~~(1) Not less than fifty five percent (55%) shall be spent~~ for acquisition of land or rights in
9 land or physical improvements to acquired land required to protect the quality of raw water of the
10 water supply system. Expenditures for maintenance, administration, and payment of taxes on land
11 acquired under this chapter shall be included within this subdivision.

12 ~~(2) Any remaining funds may be used for any eligible expenditures as defined in § 46-~~
13 ~~15.3-4.~~

14 (b) The city of Providence shall make expenditures from amounts available in the fund
15 held by the city of Providence based on the same ~~formula as in subdivisions (a)(1) and (a)(2)~~
16 requirements set forth in subsection (a) above; provided, however, the city of Providence shall be
17 exempt from participating in the use of an alternate deicing mixture within the Scituate watershed
18 unless drinking water supply sodium levels exceed fifteen (15) ppm (parts per million) for three
19 (3) consecutive years or seventeen (17) ppm (parts per million) for one year. The city of
20 Providence will monitor sodium levels and report sodium testing results to the Rhode Island
21 department of health and the public on a yearly basis. If drinking water supply sodium levels
22 exceed fifteen (15) ppm for three (3) consecutive years or seventeen (17) ppm for one year, the
23 city of Providence shall immediately participate in the use of an alternative deicing mixture
24 within the Scituate watershed. In December of 2008, the city of Providence will provide a three
25 (3) year report to the Rhode Island department of environmental management, the general
26 assembly and the public. Every three (3) years, the city of Providence will submit a report to the
27 general assembly on monitoring data for sodium levels within the Scituate watershed. This report
28 will include monitoring data from the previous three (3) year period.

29 (c) In making decisions about the expenditure of money under the provisions of this
30 chapter, suppliers shall take into account the following factors:

- 31 (1) The likelihood of development of the specific parcel proposed for acquisition;
32 (2) The existing land uses, as well as the likelihood of development, in the watershed;
33 (3) The potential threat to public drinking water sources posed by development in the
34 watershed including, but not limited to, the intensity of development, the types of land uses,

1 proximity to reservoirs and/or well heads, and the buffering and filtration capacity of the natural
2 systems;

3 (4) Whether alternative protection measures are available and/or have been attempted,
4 including local land use regulations;

5 (5) The number of persons who presently depend on the sources for their drinking water,
6 as well as the number of persons who may depend on it in the future;

7 (6) The anticipated cost of the parcel proposed to be purchased, and whether less than a
8 fee interest may be acquired which would reduce the cost significantly while still providing
9 protection to the source;

10 (7) Other cost effectiveness considerations, including whether protection of the source
11 can be provided by the construction of physical improvements;

12 (8) Whether acquisition of the specific parcel, and the protection of the watershed of
13 which it is a part, is consistent with other planning considerations;

14 (9) Proposed management techniques for the parcel proposed to be acquired which will
15 maximize its capacity to protect the source.

16 (d) The costs of issuance of notes and bonds authorized by § 46-15.3-10 may be payable
17 from any monies in the water quality protection funds.

18 SECTION 7. Section 46-12.2-14.1 of the General Laws in Chapter 46-12.2 entitled
19 "Rhode Island Infrastructure Bank" is hereby repealed.

20 ~~**46-12.2-14.1. Electric and gas demand side charge proceeds as further security for**~~
21 ~~**debt funding energy efficiency improvements in public buildings.**~~

22 ~~(a) Upon receipt of the electric and gas demand side charge proceeds identified in §§ 39-~~
23 ~~2-1.2(l) and 39-2-1.2(m), the Rhode Island infrastructure bank shall deposit the electric and gas~~
24 ~~demand side charge proceeds in a loan loss reserve fund to provide security for any loans made~~
25 ~~by the Rhode Island infrastructure bank or any bonds of the Rhode Island infrastructure bank~~
26 ~~issued to fund energy efficiency improvements in public buildings pursuant to § 46-12.2-4.2. The~~
27 ~~funds in the loan loss reserve fund described therein shall only be used after all other available~~
28 ~~loan loss reserve funds have been applied.~~

29 ~~(b) After all loans and bonds in connection with the efficient buildings fund have been~~
30 ~~repaid in full, the balance of the loan loss reserve fund, including any accrued interest, shall be~~
31 ~~remitted to the electric and gas utilities described in § 39-2-1.2, to be used for energy efficiency~~
32 ~~programmatic purposes.~~

33 SECTION 8. This act shall take effect upon passage.

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LC001744/SUB A/3
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO EDUCATION

1 This act would amend several sections relative to the eligibility and award process for
2 projects that receive financial assistance from PACE (Property Assessment Clean Energy)
3 programs and the Rhode Island infrastructure bank.

4 This act would take effect upon passage.

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LC001744/SUB A/3
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